

Special Admission of Foreign Counsel to the Bahamas Bar (Single Matter)

A. Detailed Procedure

- 1. Engage Local Counsel and Confirm Eligibility:** Retain a Bahamian attorney to act as instructing local counsel for the case. Only Bahamian citizens can be fully admitted to the Bar, so a foreign lawyer must seek special admission for a particular case. Ensure the foreign attorney meets the qualification criteria (e.g. admitted to practice in a common-law jurisdiction as required by the First Schedule of the Legal Profession Act) and is in good standing (no suspensions or disbarments). Local counsel will sponsor the application and remain on record in the proceedings. (*Authority: Legal Profession Act 1992, Sections 10(2)(c) and 11; requires non-citizens to apply for special admission*)
- 2. Canvass Local King's Counsel Availability:** Before formally applying, exhaust the option of hiring local senior counsel. The Bar Council will expect evidence that no suitably qualified Bahamian lawyer is available or willing to handle the matter. Contact all relevant Bahamian Queen's/King's Counsel (KC) or other senior attorneys in the field, describe the case, and inquire if they can act. Document their responses (e.g. letters or emails indicating unavailability or conflicts). This step demonstrates "non-availability of local counsel," a practical requirement for special admissions. **Tip:** Include copies of these inquiry letters or emails in the application to prove that local KCs were canvassed. The Bar Council has stated that if qualified local counsel are able to do the work, special admission will likely be denied, so this evidence is crucial.
- 3. Prepare a Formal Letter of Application:** Draft a letter addressed to the Bahamas Bar Association Bar Council requesting special admission of the foreign attorney for your specific case. The letter should identify the case by name and number, the client represented, and the foreign lawyer's name and qualifications. Explain why you seek this attorney's admission – emphasize the attorney's expertise and the case's needs. Use the statutory language of "interests of justice": for example, **"In light of the complexity and novelty of the issues in [Case X], we respectfully submit that the interests of justice require the ad hoc admission of [Foreign Counsel's Name], [Foreign Counsel's qualifications], to appear in this matter."** If available, note any unique

expertise (e.g. “[Name] is a specialist in [relevant field] with [years] of experience, which will greatly assist the Court”). Additionally, formally request an opportunity to be heard if the Bar Council is inclined to refuse the application. Under Section 12(2) of the Act, the Council must allow the applicant to “show cause” (in writing or orally) before rejecting an application. Including a phrase such as “Should the Council be minded to refuse this application, we respectfully request the opportunity to make representations pursuant to section 12(2) of the Legal Profession Act” signals your expectation of that right. (Authority: Legal Profession Act, Section 11 (interests of justice test) and Section 12(2) (right to be heard); Bar Association requirement for a formal application letter.

4. **Draft the Supporting Affidavit of Local Counsel:** Prepare an affidavit by the instructing Bahamian attorney in support of the application. This affidavit must comprehensively cover the case details and justify the need for foreign counsel. Include the following points (as required by the Bar rules):
 - a. **Parties and Nature of the Case:** Identify the parties in the proceedings and briefly describe the nature of the matter (e.g. civil commercial dispute, criminal appeal, constitutional claim)
 - b. **Stage of Proceedings:** State the current stage (e.g. “discovery is ongoing,” “matter set for trial on [date],” or “on appeal”) This gives context for urgency or timing.
 - c. **Complexity and Specialty:** Explain why the case is complex or novel. Highlight any specialized area of law or technical evidence involved. For example, note if it involves unusual points of law, large financial stakes, or cross-border issues requiring expertise not commonly found locally.
 - d. **Efforts to Find Local Counsel:** Document the canvassing of local counsel. The affidavit should affirm that you consulted available local Senior Counsel/KCs and that no local attorney with the requisite expertise was able to take the case. Include details (e.g. “I contacted all King’s Counsel currently in active practice in The Bahamas – see copies of inquiry letters and their responses exhibited – and none is available to act in this matter”).

- e. **Interests of Justice:** State your opinion that it is in the interest of justice for the foreign attorney to be admitted. Refer to the factors above (complexity, lack of local availability) to support this. *Common wording: “Given the foregoing, I verily believe that the interests of justice will be served by the admission of [Name] as counsel in this case.”* This directly addresses the legal test in Section 11 of the Act.
 - f. Ensure the affidavit is sworn (notarized) and that all referenced documents (exhibits), such as correspondence with local KCs or any expert CV, are attached. *(Authority: Bahamas Bar Association guidance mandates such an affidavit and lists the required contents)*
5. **Compile All Required Supporting Documents:** Gather the following documents that must accompany the application, as stipulated by the Legal Profession Act and Bar rules:
- a. **Applicant’s Credentials:** A certificate of good standing from the foreign lawyer’s home bar or law society, issued by the relevant authority. This should confirm that the attorney is admitted to practice in that jurisdiction and is not suspended or disbarred. (For example, a letter or certificate from the governing Bar stating the attorney’s status in good standing.)
 - b. **Character References:** Two character reference letters for the foreign attorney. These should be from persons of reputable standing (often senior lawyers or judges) who can attest to the attorney’s character, professionalism, and competence. Ideally, the references should be recent and on letterhead, addressed to “The Bahamas Bar Council” or “To Whom It May Concern,” and speak to the lawyer’s ethical conduct and expertise.
 - c. **Curriculum Vitae (CV):** The résumé/CV of the foreign counsel detailing qualifications, years of experience, areas of specialization, notable cases, etc.. This helps the Bar Council assess the lawyer’s expertise. Emphasize any qualifications relevant to the case (e.g. if the matter is an admiralty case and the lawyer is a renowned admiralty specialist, ensure the CV highlights this).
 - d. **Applicant’s Affidavit (if required by Act):** Although not explicitly listed on the Bar’s website, Section 12(1) of the Legal Profession Act requires the applicant to provide an affidavit verifying their credentials. In practice, many of these points

are covered by the certificate of good standing and references, but it is prudent to include a short affidavit by the foreign attorney attesting that: (a) all supporting certificates (e.g. good-standing certificate) are true and relate to them, and (b) they have not been disqualified or disciplined in any other jurisdiction. This affidavit should cite the applicable law (Section 12(1)) and confirm the attorney is not suspended or barred from practice anywhere. *(Authority: Legal Profession Act, Section 12(1)(a)&(b) requires these declarations.)*

- e. **Notice to Opposing Counsel:** Proof that you have notified all counsel of record on the other side of your intention to seek this special admission. This is typically done by sending a formal letter or email to opposing counsel informing them that you will be applying to have [Foreign Lawyer] admitted for the case. Include a copy of this notice letter/email and any acknowledgment received as part of the application. The Bar expects such notice as a courtesy and to allow opposing counsel the chance to object if they wish. (If opposing counsel have no objection, sometimes they will say so in writing – such a statement can be included to show the application is unopposed.)

Sample Notice Language: “Pursuant to Section 12 of the Legal Profession Act and the Rules of the Bahamas Bar, please be advised that we intend to apply for the special admission of [Name], an attorney of [Jurisdiction], to appear as counsel for [Party] in the above-captioned matter. Kindly inform us by [date] if you have any objections to this application.” *(While not mandated to obtain consent, providing notice is required and any response can be forwarded to the Bar Council.)*

Ensure all documents are up-to-date and properly labeled for submission. Keep at least one set of copies for your records.

- 6. **Submit the Application to the Bahamas Bar Association:** Lodge the complete application package with the Bar Association by the required deadline. Prepare 1 original and 10 copies of everything (the letter, affidavits, and all attachments) for the Bar Council. Deliver or courier these to the Bar Association’s office (addressed to the Bar Council) and pay the requisite fee. The special admission processing fee is \$1,000.00 (non-refundable). Payment can be made via the Bar’s online portal or by bank

draft/certified cheque payable to “Bahamas Bar Association” (contact the Bar office for accepted payment methods). Include proof of payment with your application (e.g. a copy of the receipt). It is wise to submit the application well in advance of any court hearing date – at least several weeks prior – to allow time for processing. After submission, the Bar Association may confirm receipt and perhaps give an estimate of when the Council will review the application.

7. **Attend to Bar Council Review (Determination Stage):** The Bar Council will consider the application, usually at a Council meeting. By law, the Council must be satisfied that the foreign attorney is “qualified...in accordance with the First Schedule” (i.e. holds the necessary legal qualifications for admission) and that “the interests of justice so require” special admission for this case. They will weigh factors such as the complexity of the matter and availability of local counsel. Be prepared to provide further information if requested. If any questions or minor deficiencies arise (for example, if a reference letter needs clarification), respond promptly. Notably, if the Bar Council is inclined to refuse the application, it must give the applicant an opportunity to be heard or to submit additional representations before making a final decision. In practice, the Bar Council may invite the local attorney (and sometimes the applicant) to a meeting or may ask for written submissions to “show cause” why the application should be granted. If you receive such an invitation or inquiry, take it seriously – address any concerns (for instance, if the Council feels local counsel might suffice, further emphasize the specialist knowledge of the foreign attorney or why local counsel declined). *(Authority: Legal Profession Act, Section 11 (Council may specially admit if “interests of justice” require) Section 12(2) (right to make representations if refusal contemplated) Bar Council practices as reported: applications hinge on whether expertise can be locally sourced)*

8. **Bar Council Decision:** If the Council approves the special admission, they will issue a formal determination to that effect. The Legal Profession Act stipulates that the Bar Council shall notify the Chief Justice of its determination to specially admit the attorney for the specified proceedings. You (the local counsel) will typically receive a letter or email from the Bar Association confirming approval. If the Council refuses the application, they should provide reasons. In case of an adverse decision, the applicant can consider revising the application or, in extreme cases, seeking judicial review of the

Council's decision (as was done in **Re Mottley** in 1987 when a refusal was quashed for lack of reasons). However, such challenges are rare – the focus should be on satisfying the Council's requirements at the outset.

9. Pay Call Fee and Schedule Admission Hearing: Upon approval, coordinate with the Supreme Court to have the foreign attorney formally admitted for the case. The Bar Council's notice to the Chief Justice will facilitate this, but it is incumbent on the applicant to ensure all court formalities are met. First, verify with the Bar Association or Registrar if any additional court fee is required at this stage (often the \$1,000 Bar fee covers the process, but Section 13(1) of the Act mentions a "prescribed fee" upon being called). If there is a nominal Supreme Court enrollment fee or stamp duty, pay it at the Registry and obtain a receipt. Next, schedule the Call hearing: contact the Registrar of the Supreme Court to fix a date and time for the special admission to be pronounced. This might be set on a regular call day or a convenient date for the Chief Justice (or a judge designated by the Chief Justice). You will typically file a Notice of Motion or Petition for Admission (attaching the Bar Council's approval letter) with the court, though in many cases the Bar Council's communication suffices and the Registrar will set the matter on the court list. Confirm the dress code (usually court attire – gown and wig – is expected for the moving counsel and the admittee). Notify opposing counsel of the hearing date as a courtesy (they may attend or send no objection). *(Authority: Legal Profession Act, Section 13(1) – upon notice from Bar Council and payment of fee, the Chief Justice "shall admit the person by calling him to the Bar"*

10. Appear in Court for the Call to the Bar: On the scheduled day, the foreign attorney must appear before the Chief Justice (or presiding judge) to take the oath and be admitted. Typically, the Bahamian attorney will move the application in open court by briefly introducing the applicant and the Bar Council's approval (e.g., "May it please the Court, I, [Local Counsel], move that [Foreign Counsel], having been approved by the Bar Council for special admission, be called to the Bar for the purpose of [Case]."). The Chief Justice will then administer the Oath of Counsel as required by law. The oath (per the Third Schedule of the Act) is a promise to faithfully demean oneself as counsel and attorney of the Supreme Court of The Bahamas. The foreign counsel should repeat the oath as directed (or read it from a card) and formally swear/affirm to it. After swearing in,

the attorney signs the Roll of Attorneys. In the case of a special admission, the name is entered on the Supplementary Roll (a separate section of the Roll for temporary admissions). The Registrar will record next to the name the particular proceeding for which the person is admitted. Once this is done, the Chief Justice will declare the person admitted for that case only. No certificate of enrollment is issued for special admissions (full certificates are only for general admissions) The foreign counsel is now authorized to appear in the case as co-counsel. (*Authority: Legal Profession Act, Section 13(2) (oath and signing Roll); Section 17 (Supplementary Roll for specially admitted counsel)*)

11. Comply with Immigration Requirements: Ensure the foreign attorney has permission to work in The Bahamas for the case's duration. Special admission to the Bar is a legal requirement, but separately, the attorney must secure a work permit to perform legal work in the country. The Bahamas' immigration laws require any non-Bahamian working (even temporarily) to have an approved work permit Typically, a Short-Term Work Permit (up to 90 days) is appropriate for visiting counsel. The Bahamian law firm or client should apply to the Department of Immigration on the attorney's behalf before the attorney arrives in The Bahamas The application will include a letter explaining the need (often referencing the special Bar admission and the case), along with the permit fee (currently a \$200 processing fee for up to 30 days, and additional fees depending on length of stay) and supporting documents (passport copy, etc). If the attorney's work in The Bahamas will extend beyond 90 days, a long-term work permit or series of renewals may be required Coordinate this in parallel with the Bar admission process – often the grant of special admission will bolster the work permit application. **Important:** Do not overlook the immigration step – the Bar Council has noted that the policy is to favor local attorneys whenever possible, analogous to immigration policy. Practicing in The Bahamas without a valid work permit can violate immigration laws even if the Bar admission is in hand. Thus, have the short-term work permit approved by the time the attorney needs to appear in court.

