



Western Australia

# **Legal Profession Uniform Law Application Act 2022**

Compare between:

[01 Jul 2022, 00-b0-03] and [24 Oct 2023, 00-c0-04]





Western Australia

## **Legal Profession Uniform Law Application Act 2022**

**An Act to —**

- **apply the Legal Profession Uniform Law (with modifications) as a law of Western Australia; and**
- **provide for the tabling and disallowance of amendments made to the Legal Profession Uniform Law; and**
- **provide for local matters that are ancillary to, or affect the operation of, the Legal Profession Uniform Law as a law of Western Australia; and**
- **otherwise provide for the regulation of legal practice in Western Australia; and**
- **repeal the *Legal Profession Act 2008* and the *Law Society Public Purposes Trust Act 1985*; and**
- **make savings and transitional arrangements; and**
- **make consequential amendments to various Acts, and for related purposes.**

## **Part 1 — Preliminary**

### **1. Short title**

This is the *Legal Profession Uniform Law Application Act 2022*.

### **2. Commencement**

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) section 359(2) —
  - (i) if the *Industrial Relations Legislation Amendment Act 2021* section 69 comes into operation on or before the day fixed under paragraph (c) — on the day fixed under paragraph (c); or
  - (ii) otherwise — immediately after the *Industrial Relations Legislation Amendment Act 2021* section 69 comes into operation;
- (c) the rest of the Act — on a day fixed by proclamation.

### **3. Terms used**

- (1) In this Act —

***accountant*** means a member of —

- (a) Chartered Accountants Australia and New Zealand ARBN 084 642 571; or
- (b) CPA Australia Ltd ACN 008 392 452; or
- (c) the Institute of Public Accountants Ltd ACN 004 130 643;

***amend***, in relation to a Victorian Act, includes replace a provision of the Act;

***amending Act*** means a Victorian Act, other than the *Legal Profession Uniform Law Application Amendment Act 2019* (Victoria), that amends —

- (a) the *Legal Profession Uniform Law Application Act 2014* (Victoria) Schedule 1; or
- (b) the Uniform Regulations; or
- (c) the Uniform Rules;

***Board*** means the Legal Practice Board established under section 30(1);

***Board member*** has the meaning given in section 38;

***community representative*** has the meaning given in section 62(1)(b);

***contentious business*** means legal services by an Australian legal practitioner in or for the purposes of any action, suit or proceedings before a court, but does not include the administration of estates and trusts;

***costs determination*** means a legal costs determination made under section 133;

***department*** means the department of the Public Service principally assisting the Attorney General in the administration of this Act;

***elected Board member*** has the meaning given in section 38(e);

***Guarantee Fund*** means the Solicitors' Guarantee Fund established under section 194(1);

***judicial officer*** means a person empowered to exercise jurisdiction in a court, whether or not the person is sitting as a court;

***law library*** means the library that may be established under section 244(1);

***Law Mutual Fund*** means the fund continued under section 179(1);

***Law Society*** means the Law Society of Western Australia (Inc.);

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**Legal Aid Commission** means the Legal Aid Commission of Western Australia established under the *Legal Aid Commission Act 1976* section 6(1);

**Legal Contribution Trust** means the Legal Contribution Trust established under section 101(1);

**Legal Costs Committee** means the Legal Costs Committee established under section 83;

**legal member** has the meaning given in section 62(1)(a);

**Legal Profession Uniform Framework** means the uniform framework for regulation of the legal profession as described in the Intergovernmental Agreement or any uniform or national framework for regulation of the legal profession that succeeds that framework;

**Legal Profession Uniform Law (WA)** means the provisions applying in the State because of section 6;

**Legal Services and Complaints Committee** means the Legal Services and Complaints Committee established under section 57(1);

**Legal Services and Complaints Officer** means the person appointed to the office of Legal Services and Complaints Officer established under section 79(1);

**local approved form** means a form approved for the purposes of this Act under section 253(1);

**local legal practitioner** means an Australian legal practitioner whose home jurisdiction is this State;

**non-contentious business** means legal services other than contentious business;

**old Act** means the *Legal Profession Act 2008* —

- (a) as in force immediately before the day on which section 260(a) comes into operation; and
- (b) repealed under section 260(a);

**PII management committee** means the PII management committee that may be established under section 184;

**PII scheme** means a PII scheme approved under the local regulations made under section 162;

**Principal Registrar** has the meaning given in the *Supreme Court Act 1935* section 4(1);

**registered company auditor** has the meaning given in the Corporations Act section 9;

**statutory body** means a body established or continued under a written law for a public purpose;

**trust account arrangement** has the meaning given in section 200(1);

**Trust Interest Account** means the account referred to in section 201(2);

**Uniform Regulations** means —

- (a) the Legal Profession Uniform Regulations as in force under the *Legal Profession Uniform Law Application Act 2014* (Victoria) Schedule 1 Part 9.1 immediately before the day on which this definition comes into operation (as amended or repealed by regulations to which paragraph (b), or an Act to which paragraph (c), applies); and
- (b) the Legal Profession Uniform Regulations made under the *Legal Profession Uniform Law (WA)* Part 9.1 on and after the day on which this definition comes into operation; and
- (c) the Legal Profession Uniform Regulations made by a provision of an amending Act;

**Uniform Rules** means —

- (a) the Legal Profession Uniform Rules as in force under the *Legal Profession Uniform Law Application Act 2014* (Victoria) Schedule 1 Part 9.2 immediately before the day on which this definition comes into operation (as amended or repealed by rules to which paragraph (b), or an Act to which paragraph (c), applies); and

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- (b) the Legal Profession Uniform Rules made under the *Legal Profession Uniform Law (WA)* Part 9.2 on and after the day on which this definition comes into operation; and
- (c) the Legal Profession Uniform Rules made by a provision of an amending Act;

**Uniform Rules (WA)** means the *Legal Profession Uniform Rules (WA)* applying as subsidiary legislation of the State under section 14(2);

**Western Australian Bar Association** means the Western Australian Bar Association (Inc.).

- (2) Terms used in this Act and also in the *Legal Profession Uniform Law (WA)* have the same meanings in this Act as they have in the Law unless the contrary intention appears.

**4. Act binds Crown**

This Act binds the Crown in right of Western Australia and, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

**5. Application of *Interpretation Act 1984* to Act and Uniform Law**

The *Interpretation Act 1984* —

- (a) applies to this Act; but
- (b) does not apply to the *Legal Profession Uniform Law (WA)*.

Note for this paragraph:

See the *Legal Profession Uniform Law (WA)* section 7.



## Part 2 — Legal Profession Uniform Law

### Division 1 — Application of Legal Profession Uniform Law in the State

#### 6. Application of Uniform Law as law of the State

(1) In this section —

*Legal Profession Uniform Law* means the Legal Profession Uniform Law set out in the *Legal Profession Uniform Law Application Act 2014* (Victoria) Schedule 1 as in force on 21 June 2021 —

- (a) as amended by the *Legal Profession Uniform Law Application Amendment Act 2019* (Victoria) Part 2 (when that Part comes into operation in the State under section 7(2)); and
  - (b) as amended by each provision that —
    - (i) is in an amending Act that has effect for the purposes of this Part under section 9; and
    - (ii) has come into operation for the purposes of this Part under section 10;
- and
- (c) as modified by Part 7 Division 3 Subdivision 1 and the local regulations made under section 127(1)(b).

(2) The Legal Profession Uniform Law —

- (a) applies as a law of the State; and
- (b) as so applying, may be referred to as the *Legal Profession Uniform Law (WA)*; and
- (c) so applies as if it were an Act.

Notes for this section:

- 1. See section 12 for how this Act interacts with the *Legal Profession Uniform Law (WA)* in the event of an inconsistency.
- 2. See also Part 16 Division 2.

**7. Commencement of Uniform Law as law of the State**

- (1) For the purposes of the *Legal Profession Uniform Law (WA)* section 2, the Law as in force on 21 June 2021 comes into operation in the State on the day (***commencement day***) on which this section comes into operation.
- (2) For the purposes of paragraph (a) of the definition of ***Legal Profession Uniform Law*** in section 6(1), a provision of the *Legal Profession Uniform Law Application Amendment Act 2019* (Victoria) Part 2 comes into operation in the State —
  - (a) if the provision has come into operation in Victoria before commencement day — on commencement day; or
  - (b) in any other case — on the day on which the provision comes into operation in Victoria under section 2(2) of that Act.

**8. Tabling amending Acts**

An amending Act must be laid before each House of Parliament within 18 sitting days of the House after the day on which the Act receives the Royal Assent.

**9. Disallowance of amending Acts**

- (1) In this section —

***disallowance period***, in relation to a disallowance resolution notice of which is given in a House of Parliament, means the period of 30 sitting days of the House after the day on which the notice is given;

***disallowance resolution*** means a resolution that an amending Act be disallowed;

***notice period***, in relation to an amending Act laid before a House of Parliament under section 8, means the period of 14 sitting days of the House after the day on which the amending Act is laid before it.

- (2) An amending Act has effect for the purposes of this Part if the amending Act is laid before each House of Parliament under section 8 and either —
- (a) no notice of a disallowance resolution is given in either House within the notice period; or
  - (b) at least 1 notice of a disallowance resolution is given in a House within the notice period and, for each such notice, 1 of the following applies —
    - (i) the notice is withdrawn or discharged within the disallowance period;
    - (ii) the disallowance resolution is lost in the House or not agreed to within the disallowance period.
- (3) For the purposes of this section and section 8 —
- (a) the period specified in section 8, a notice period or a disallowance period continues to run even though a House of Parliament is prorogued or dissolved or expires; and
  - (b) notice of a disallowance resolution given in a House of Parliament, or a motion that an amending Act be disallowed in the House, does not lapse even though the House is prorogued or dissolved or expires.

## **10. Commencement of amending Acts**

- (1) In this section —
- amending provision*** means a provision of an amending Act that amends —
- (a) the *Legal Profession Uniform Law Application Act 2014* (Victoria) Schedule 1; or
  - (b) the Uniform Regulations; or
  - (c) the Uniform Rules.

- (2) If, under section 9(2), an amending Act has effect for the purposes of this Part, the Governor must declare that fact by proclamation as soon as practicable.
- (3) If an amending provision has come into operation in Victoria before the proclamation is published in the *Gazette*, the amending provision comes into operation for the purposes of this Part on a day fixed by the proclamation.
- (4) If an amending provision has not come into operation in Victoria before the proclamation is published in the *Gazette*, the amending provision comes into operation for the purposes of this Part when the amending provision comes into operation in Victoria in accordance with the amending Act.

**11. Tabling of amending Act taken to be publication for Standing Orders**

- (1) In this section —  
*parliamentary committee* means a committee established by either or both of the Houses of Parliament.
- (2) If a Standing Order of a House of Parliament provides that on the publication of an instrument under a written law the instrument is referred to a parliamentary committee for consideration, the laying of an amending Act before the House under section 8 is taken to be publication of the amending Act for the purposes of the Standing Order.
- (3) This section does not apply if the Standing Orders of the House provide specifically for an amending Act to be considered by a parliamentary committee.

**12. Interaction between Uniform Law and this Act**

If a provision of this Act is inconsistent with the *Legal Profession Uniform Law (WA)*, the provision of this Act prevails to the extent of the inconsistency.

**13. No double jeopardy**

A person is not liable to be punished for an offence against the *Legal Profession Uniform Law (WA)* if —

- (a) the act or omission that constitutes the offence also constitutes an offence against a law of another participating jurisdiction; and
- (b) the person has been punished for the offence under the law of the other jurisdiction.

**Division 2 — Application of Uniform Regulations and Uniform Rules**

**14. Application of Uniform Regulations and Uniform Rules as laws of the State for Uniform Law and Act**

- (1) The Uniform Regulations —
  - (a) subject to subsections (3) and (4), apply as subsidiary legislation of the State; and
  - (b) as so applying —
    - (i) may be referred to as the *Legal Profession Uniform Regulations (WA)*; and
    - (ii) are the Uniform Regulations for the purposes of the *Legal Profession Uniform Law (WA)* (despite the definition of **Uniform Regulations** in section 6(1) of the Law).
- (2) The Uniform Rules —
  - (a) subject to subsections (3) and (4), apply as subsidiary legislation of the State; and
  - (b) as so applying —
    - (i) may be referred to as the *Legal Profession Uniform Rules (WA)*; and
    - (ii) are the Uniform Rules for the purposes of the *Legal Profession Uniform Law (WA)* (despite the

definition of **Uniform Rules** in section 6(1) of the Law).

- (3) The Uniform Regulations made under the *Legal Profession Uniform Law (WA)* Part 9.1, and the Uniform Rules made under the *Legal Profession Uniform Law (WA)* Part 9.2, on and after the day on which this section comes into operation apply as subsidiary legislation of the State subject to subsection (5) and section 16.
- (4) The Uniform Regulations or Uniform Rules made by a provision of an amending Act apply as subsidiary legislation of the State if —
  - (a) the amending Act has effect for the purposes of this Part under section 9; and
  - (b) the provision has come into operation for the purposes of this Part under section 10.
- (5) If a provision of the Uniform Regulations or Uniform Rules (the **subsidiary provision**) is made under or for the purposes of a provision inserted into the *Legal Profession Uniform Law Application Act 2014* (Victoria) Schedule 1 by a provision of an amending Act (the **amending Act provision**) —
  - (a) the subsidiary provision does not come into operation for the purposes of its application as subsidiary legislation of the State under subsection (1) or (2) until the later of —
    - (i) the day on which the amending Act provision comes into operation for the purposes of this Part under section 10; or
    - (ii) the day on which the subsidiary provision comes into operation in Victoria;
  - and
  - (b) if the amending Act provision does not come into operation for the purposes of this Part under section 10 because the amending Act does not have effect for the

purposes of the Part under section 9 — the subsidiary provision does not apply as subsidiary legislation of the State.

**15. Publication of Uniform Regulations and Uniform Rules**

- (1) The Uniform Regulations and Uniform Rules made on or after the day on which this section comes into operation must be published in the *Gazette* no later than 18 days after the day on which the regulations or rules are made.
- (2) However, subsection (1) does not apply to a provision of an amending Act that amends the Uniform Regulations or Uniform Rules.

**16. Tabling and disallowance of Uniform Regulations and Uniform Rules**

- (1) The Uniform Regulations or Uniform Rules (the ***published legislation***) published under section 15(1) must be laid before each House of Parliament within 6 sitting days of the House after the day on which the published legislation is published in the *Gazette*.
- (2) Subsections (3) and (4) apply if —
  - (a) the published legislation is not laid before each House of Parliament in accordance with subsection (1); or
  - (b) both of the following apply —
    - (i) notice of a resolution to disallow the published legislation laid before a House of Parliament under subsection (1) is given within 14 sitting days of the House after the published legislation is laid before the House under subsection (1);
    - (ii) the resolution to disallow the published legislation is agreed to by the House.

- (3) The published legislation ceases to have effect as subsidiary legislation of the State on the day on which this subsection starts to apply.
- (4) If the published legislation amended or repealed the Uniform Regulations or Uniform Rules that were in operation immediately before the published legislation came into operation, the Uniform Regulations or Uniform Rules amended or repealed are revived on the day on which this subsection starts to apply.
- (5) For the purposes of this section —
  - (a) the period specified in subsection (2)(b) continues to run even though a House of Parliament is prorogued or dissolved or expires; and
  - (b) notice of the resolution to disallow the published legislation does not lapse even though the House is prorogued or dissolved or expires.
- (6) If a resolution is agreed to under subsection (2)(b), notice of the resolution must be published in the *Gazette* within 21 days after the day on which the motion is passed.

**17. Interpretation Act 1984 s. 41 and 42 do not apply to Uniform Regulations and Uniform Rules**

The *Interpretation Act 1984* sections 41 and 42 do not apply to the Uniform Regulations and Uniform Rules.

**Division 3 — Matters specified for *Legal Profession Uniform Law (WA)***

**18. Meaning of this jurisdiction in Uniform Law**

In the *Legal Profession Uniform Law (WA)* —

***this jurisdiction*** means the State of Western Australia.



**19. Costs assessor: Uniform Law s. 6**

For the purposes of paragraph (b) of the definition of *costs assessor* in the *Legal Profession Uniform Law (WA)* section 6(1), each taxing officer of the Supreme Court has the responsibility of conducting costs assessments.

**20. Designated local regulatory authorities: Uniform Law s. 6**

For the purposes of the definition of *designated local regulatory authority* in the *Legal Profession Uniform Law (WA)* section 6(1), a person or body specified in column 2 of the Table is the designated local regulatory authority for the provision of the Law specified opposite it in column 1.

**Table**

<b>Column 1</b> <b>Provision of <i>Legal Profession Uniform Law (WA)</i></b>	<b>Column 2</b> <b>Designated local regulatory authority</b>
Section 14	Board
Part 2.2	Board
Chapter 3, other than section 82(4)	Board
Section 82(4)	Legal Services and Complaints Committee
Chapters 4, 5, 6 and 7	Board
Section 421(2)(f)	Board
Section 436(1)	Board or Legal Services and Complaints Committee

<b>Column 1</b> <b>Provision of <i>Legal Profession Uniform Law</i> (WA)</b>	<b>Column 2</b> <b>Designated local regulatory authority</b>
Sections 436(2) and 437(1)	Board
Section 437(2)	Board or Legal Services and Complaints Committee
Section 446	Board
Part 9.6	Board or Legal Services and Complaints Committee
Sections 453(1) and 466(7)	Board or Legal Services and Complaints Committee
Schedule 3	Board

**21. Designated local roll authority: Uniform Law s. 6**

For the purposes of the definition of *designated local roll authority* in the *Legal Profession Uniform Law* (WA) section 6(1), the Principal Registrar is the designated local roll authority for the purposes of sections 23, 24 and 462 of the Law.

**22. Designated tribunals: Uniform Law s. 6**

For the purposes of the definition of *designated tribunal* in the *Legal Profession Uniform Law* (WA) section 6(1), a court or tribunal specified in column 2 of the Table is the designated tribunal for the provision of the Law specified opposite it in column 1.

**Table**

<b>Column 1</b> <b>Provision of <i>Legal Profession Uniform Law (WA)</i></b>	<b>Column 2</b> <b>Designated tribunal</b>
Sections 23, 100, 101, 119, 120 and 198	State Administrative Tribunal
Sections 247 and 248	Supreme Court
Part 5.4 Division 3 and Part 5.5	State Administrative Tribunal
Section 314	State Administrative Tribunal
Parts 6.5 and 6.6	State Administrative Tribunal
Sections 453, 456 and 457	A court that would have jurisdiction to order payment of the pecuniary penalty if it were a debt
Section 474(2)	Any designated tribunal referred to in this Table

**23. Fidelity authority: Uniform Law s. 6**

For the purposes of the definition of *fidelity authority* in the *Legal Profession Uniform Law (WA)* section 6(1), the specified entity is the Legal Contribution Trust.

**24. Nominated fund and nominated trust authority: Uniform Law s. 149**

For the purposes of the *Legal Profession Uniform Law (WA)* section 149(6) —

- (a) the Trust Interest Account is the ***nominated fund*** for the purposes of section 149 of the Law; and
- (b) the Legal Contribution Trust is the ***nominated trust authority*** for the purposes of section 149 of the Law.

**25. Unclaimed money to be dealt with under *Unclaimed Money Act 1990*: Uniform Law s. 167**

For the purposes of the *Legal Profession Uniform Law (WA)* section 167, unclaimed money is to be dealt with in accordance with the *Unclaimed Money Act 1990*.

**26. Fidelity fund: Uniform Law s. 222**

For the purposes of the *Legal Profession Uniform Law (WA)* section 222, the Guarantee Fund is the ***fidelity fund*** for the purposes of Part 4.5 of the Law.

**27. Specified fund: Uniform Law s. 365**

For the purposes of the *Legal Profession Uniform Law (WA)* section 365(3), the Guarantee Fund is the specified fund.

**28. Issuing authority: Uniform Law s. 377**

For the purposes of the *Legal Profession Uniform Law (WA)* section 377(1), a magistrate is an issuing authority authorised to issue search warrants.

**29. Specified manner for payment of pecuniary penalties: Uniform Law s. 456**

- (1) For the purposes of the *Legal Profession Uniform Law (WA)* section 456(a), a pecuniary penalty ordered under the Law is to be paid to the Board.

- (2) Despite the *Legal Profession Uniform Law (WA)* section 299(1)(f), a specified amount ordered to be paid under that section is to be paid to the Board.

## **Part 3 — Local authorities**

### **Division 1 — Legal Practice Board**

#### **Subdivision 1 — Establishment and functions**

#### **30. Establishment of Board**

- (1) The Legal Practice Board is established.
- (2) The Board is a body corporate with perpetual succession.
- (3) Proceedings may be taken by or against the Board in its corporate name.

#### **31. Relationship to Crown**

The Board does not represent, and is not an agent of, the Crown.

#### **32. Functions**

The Board has the functions conferred on it by this Act, the *Legal Profession Uniform Law (WA)* or another Act.

#### **33. Powers**

- (1) The Board has all the powers it needs to perform its functions.
- (2) Without limiting subsection (1), the Board may, for the purpose of performing its functions —
  - (a) acquire, hold, manage, improve, develop and dispose of any real or personal property; and
  - (b) enter into leases, contracts and arrangements; and
  - (c) provide, take and arrange security; and
  - (d) employ and engage staff; and
  - (e) charge fees for the services it provides; and

- (f) if an external investigation is carried out as a result of a request from the Legal Contribution Trust under section 103(1)(d) — require the Trust to pay all or part of the costs of the investigation; and
- (g) do anything incidental to any of its powers.

**34. Board to pay State contribution to fund Legal Profession Uniform Framework**

Each financial year the Board must pay the Legal Services Council the State's contribution to the funding of the Legal Profession Uniform Framework as required by the Intergovernmental Agreement.

**35. Board to pay contributions to Guarantee Fund into Fund**

The Board must pay into the Guarantee Fund any annual contributions to the Fund it receives under section 116(1)(d) or 120(1)(d).

**36. Delegation of powers and duties under this Act**

- (1) The Board may delegate any of the Board's powers or duties under another provision of this Act to —
  - (a) a Board member; or
  - (b) a committee appointed under section 53(2)(a); or
  - (c) a person employed or engaged by the Board; or
  - (d) a person or class of persons prescribed by the local regulations.
- (2) The delegation must be in writing executed by the Board.
- (3) A committee or person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (4) A committee or person exercising or performing a power or duty that has been delegated to that committee or person under

this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.

- (5) Nothing in this section limits the ability of the Board to perform a function through an officer or agent.
- (6) This section does not apply to a power to execute documents.

Note for this subsection:

Authority to execute documents on behalf of the Board can be given under section 55.

**37. Delegation of functions under Uniform Law: Uniform Law s. 406**

For the purposes of the *Legal Profession Uniform Law (WA)* section 406, the Board may delegate —

- (a) any of its Chapter 5 functions to —
  - (i) the Legal Services and Complaints Committee;  
or
  - (ii) the Legal Services and Complaints Officer;  
or
- (b) any of its other functions under the Law to a person, or class of persons, prescribed by the local regulations.

**Subdivision 2 — Membership**

**38. Board members**

The Board consists of the following members (each of whom is a ***Board member***) —

- (a) the Attorney General;
- (b) the Solicitor General or, if there is no Solicitor General, the State Solicitor;
- (c) a current or former judge of the Supreme Court appointed by the Attorney General;



- (d) subject to section 41, each Queen's Counsel, and each Senior Counsel —
  - (i) whose home jurisdiction is this State; and
  - (ii) who is not a full-time judicial officer; and
  - (iii) who has, in writing, nominated themselves as a member;
- (e) 12 local legal practitioners of at least 3 years' standing and practice who are elected as members (***elected Board members***).

**39. Term of office**

Subject to section 41 and the local regulations, an elected Board member holds office for a term of 2 years from the date of becoming a member and is eligible for re-election.

**40. Who may vote in election**

Any local legal practitioner is eligible to vote in an election for an elected Board member.

**41. Removal or resignation**

- (1) The Attorney General may remove an elected Board member from office if the member is absent without leave of the Board from 3 consecutive meetings of the Board of which the member has had notice.
- (2) The Board may grant leave of absence to a Board member on such terms and conditions as it considers appropriate.
- (3) A Board member may resign from office by notice in writing given to the Board.

**42. Chairperson and deputy chairperson**

- (1) The Board members must elect —
  - (a) a member to be chairperson of the Board; and

- (b) a member to be deputy chairperson of the Board.
- (2) A chairperson or deputy chairperson holds office for 1 year unless they resign or cease to be a Board member.
- (3) A Board member must not hold office as —
  - (a) chairperson for more than 5 consecutive annual terms; or
  - (b) deputy chairperson for more than 5 consecutive annual terms.
- (4) The deputy chairperson may act as chairperson —
  - (a) if the chairperson is unable to act because of illness, absence or other cause; or
  - (b) if requested to do so by the chairperson; or
  - (c) during a vacancy in the office of chairperson.
- (5) While acting as chairperson of the Board the deputy chairperson has, and may perform, the functions of chairperson.
- (6) An act or omission of the deputy chairperson acting in the chairperson's place cannot be questioned on the ground that the occasion to act in the chairperson's place had not arisen or had ceased.
- (7) The chairperson of the Board is to be paid such remuneration and allowances as the Board may determine.

**43. Casual vacancies**

If a casual vacancy occurs in the office of an elected Board member, the Board may appoint a local legal practitioner to act as a Board member for the balance of the term of that elected member.

### **Subdivision 3 — Practice and procedures**

#### **44. Meetings**

- (1) Meetings of the Board may be convened at the times and places that the Board determines.
- (2) Unless the Board determines otherwise, the presence of a person at a meeting of the Board need not be by attendance in person but may be by telephone or other means of instantaneous communication.
- (3) The chairperson of the Board, if present, is to preside at a meeting of the Board.
- (4) If neither the chairperson, nor the deputy chairperson acting as the chairperson, is presiding under subsection (3), the members present at the meeting are to appoint 1 of their number to preside.
- (5) A person appointed under subsection (4) has, and may perform, the functions of chairperson.

#### **45. Quorum**

A quorum for a meeting of the Board is 4 Board members.

#### **46. Voting**

- (1) Each Board member at a meeting of the Board has 1 vote.
- (2) All questions at a meeting of the Board are to be decided by a majority of the votes of the members present.
- (3) In the case of an equality of votes, the person presiding has a casting vote in addition to a deliberative vote.

#### **47. Procedures**

- (1) The Board must ensure that minutes of its meetings are kept.

- (2) Subject to this Act, the Board may determine its own procedures.
- (3) The Board is not required to conduct any proceedings in a formal manner.

#### **Subdivision 4 — Financial and reporting provisions**

#### **48. Application of funds**

The money received by the Board under this Act and the *Legal Profession Uniform Law (WA)* must be applied by the Board for the purposes of this Act and the Law, which include —

- (a) paying the funding contribution under section 34; and
- (b) providing services and facilities for the purposes of section 60; and
- (c) the administration and enforcement of the local regulations and the Uniform Rules (WA); and
- (d) the payment of the law library contribution under section 245(2).

#### **49. Accounts and records**

- (1) The Board must —
  - (a) cause to be kept proper accounts of the financial transactions of the Board; and
  - (b) cause to be kept proper records of the business of the Board; and
  - (c) prepare financial statements in accordance with Australian Accounting Standards.
- (2) Unless the Board determines otherwise, the financial statements must be prepared on an accrual basis.

#### **50. Audit**

The accounts and financial statements of the Board must be audited at least once a year, at the expense of the Board, by an

auditor appointed by the Board with the approval of the Attorney General.

**51. Annual reports**

- (1) The Board must, on or before 31 December in each year —
  - (a) cause an annual report to be prepared in relation to the activities of the Board in the year ending on the preceding 30 June; and
  - (b) give a copy of the report to the Attorney General together with a copy of the financial statements and the auditor's report for the year.
- (2) The annual report must include details of —
  - (a) the number, nature and outcome of —
    - (i) inquiries undertaken by the Board; and
    - (ii) matters that have been brought before the State Administrative Tribunal by the Board under this Act or the *Legal Profession Uniform Law (WA)*; and
    - (iii) any appeals that have been made from decisions of the State Administrative Tribunal referred to in subparagraph (ii);and
  - (b) the number and nature of inquiries and matters referred to in paragraph (a) that are outstanding; and
  - (c) any trends or special problems that may have emerged; and
  - (d) a forecast of the workload of the Board in the year after the year to which the report relates; and
  - (e) any proposals for improving the operation of the Board.
- (3) The executive officer of the State Administrative Tribunal must provide the Board with information it may request for the purpose of preparing its annual report.

- (4) The Attorney General must, within 14 days after the day on which a copy of an annual report, financial statement and auditor's report is given to the Attorney General by the Board, cause a copy of the reports and statement to be laid before each House of Parliament or dealt with under section 258.

**52. Reports relating to operation and effectiveness of aspects of Uniform Law**

The Board, on its own initiative, may prepare and give a report to the Attorney General on its views as to the operation and effectiveness of the *Legal Profession Uniform Law (WA)* Chapter 5, the carrying out of Chapter 5 functions, or any other matter connected with those functions or with the Law.

**Subdivision 5 — Miscellaneous**

**53. Committees**

- (1) This section does not apply in relation to the Legal Services and Complaints Committee.
- (2) The Board may —
- (a) appoint committees of Board members; and
  - (b) discharge, alter or reconstitute any committee.
- (3) A committee must comply with any direction or requirement of the Board.
- (4) A committee may, with the approval of the Board, invite any person, including a member of staff, to participate in a meeting of the committee but such a person cannot vote on any resolution before the committee.
- (5) Subject to subsections (2) to (4), a committee may determine its own procedures.

**54. Secretary of Board**

- (1) The Board may employ or engage a person to be the secretary of the Board.
- (2) The secretary has the functions that the Board directs the secretary to perform.

**55. Execution of documents by Board**

- (1) The Board must have a common seal.
- (2) A document is duly executed by the Board if —
  - (a) the common seal of the Board is affixed to it in accordance with subsections (3) and (4); or
  - (b) it is signed on behalf of the Board by a person or persons authorised to do so under subsection (5).
- (3) The common seal of the Board must not be affixed to any document except as authorised by the Board.
- (4) The common seal of the Board must be affixed to a document in the presence of 2 Board members, each of whom must sign the document to attest that the common seal was so affixed.
- (5) The Board may, by writing under its seal, authorise 1 or more of its members or staff members to sign documents on behalf of the Board, either generally or subject to the conditions or restrictions that are specified in the authorisation.
- (6) A document purporting to be executed in accordance with this section is taken to be duly executed unless the contrary is shown.
- (7) When a document is produced bearing a seal purporting to be the common seal of the Board, the seal is taken to be the common seal of the Board unless the contrary is shown.

**56. Local regulations may be made about matters for Board**

The local regulations may make provision for or in relation to the following —

- (a) the election of Board members;
- (b) the annual election of the chairperson and deputy chairperson of the Board;
- (c) the meetings and proceedings of the Board or a committee of the Board.

**Division 2 — Legal Services and Complaints Committee**

**Subdivision 1 — Establishment and functions**

**57. Establishment of Legal Services and Complaints Committee**

- (1) The Legal Services and Complaints Committee is established.
- (2) The Legal Services and Complaints Committee is a committee of the Board.

**58. Functions**

- (1) The Legal Services and Complaints Committee has the functions conferred on it by this Act, the *Legal Profession Uniform Law (WA)* or another Act.
- (2) Without limiting subsection (1), it is a function of the Legal Services and Complaints Committee —
  - (a) to carry out a Chapter 5 function delegated to the Committee by the Board under section 37(a)(i); and
  - (b) to supervise and direct the Legal Services and Complaints Officer in the performance of the functions of that office; and
  - (c) to comment on, and make recommendations in respect of, this Act and the *Legal Profession Uniform Law (WA)* to the extent that they may affect the functions of the Legal Services and Complaints Committee.



- (3) A community representative may also report independently, as an individual, to the Attorney General on any aspect of —
  - (a) a complaint under consideration by the Legal Services and Complaints Committee under functions delegated under section 37(a)(i); or
  - (b) the Uniform Rules (WA) as they relate to disciplinary matters or the conduct of legal practice; or
  - (c) the activities of the Legal Services and Complaints Officer or the Legal Services and Complaints Committee.
- (4) The Board must not direct or impose any requirement on the Legal Services and Complaints Committee as to the performance of its functions, unless directing or imposing the requirement is permitted by the *Legal Profession Uniform Law (WA)* section 408 or 411.

**59. Powers**

The Legal Services and Complaints Committee has all the powers it needs to perform its functions.

**60. Support**

The Board must ensure that the Legal Services and Complaints Committee is provided with any services and facilities that are reasonably necessary to enable the Committee to perform its functions.

**61. Delegation to Legal Services and Complaints Officer**

- (1) The Legal Services and Complaints Committee may delegate any power or duty of the Committee under another provision of this Act or the *Legal Profession Uniform Law (WA)* to the Legal Services and Complaints Officer.
- (2) The delegation must be in writing signed by the chairperson of the Legal Services and Complaints Committee.

- (3) The delegation may expressly authorise the Legal Services and Complaints Officer to further delegate the power or duty to a member of staff referred to in section 82.
- (4) A person to whom a power or duty is delegated as authorised under subsection (3) cannot delegate that power or duty.
- (5) A person exercising or performing a power or duty that has been delegated to the person under, or as authorised under, this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (6) A person exercising or performing a power or duty that has been delegated to the person under, or as authorised under, this section must do so in accordance with —
  - (a) in the case of a delegation to the Legal Services and Complaints Officer — any directions given to the Legal Services and Complaints Officer by the Legal Services and Complaints Committee; or
  - (b) in the case of a delegation to a member of staff — any directions given to the member of staff by the Legal Services and Complaints Officer.
- (7) Nothing in this section limits the ability of the Legal Services and Complaints Committee to perform a function through an officer or agent.

### **Subdivision 2 — Membership**

#### **62. Legal Services and Complaints Committee members**

- (1) The Legal Services and Complaints Committee consists of —
  - (a) at least 7 Australian legal practitioners (***legal members***) appointed in writing by the Board, a majority of whom are Board members; and
  - (b) at least 2 representatives of the community (***community representatives***) appointed in writing by the Attorney

General, none of whom is to be a person who is or has been an Australian lawyer.

- (2) The Attorney General must consult with the Minister responsible for the administration of the *Fair Trading Act 2010* before appointing a community representative.
- (3) A person must not be appointed as a community representative if the appointment would result in the number of community representatives on the Legal Services and Complaints Committee exceeding one-quarter of the total membership of the Committee.

**63. Term of office of legal members**

- (1) A legal member —
  - (a) holds office for a term specified in the instrument of appointment; and
  - (b) is eligible for reappointment.
- (2) However —
  - (a) subject to section 65, a legal member is not eligible to hold office for more than 6 years in total; and
  - (b) a legal member's term is otherwise subject to this Act.

**64. Term of office of community representatives**

- (1) A community representative —
  - (a) holds office for a term of not more than 3 years specified in the instrument of appointment; and
  - (b) is eligible for reappointment.
- (2) However —
  - (a) subject to section 65, a community representative is not eligible to hold office for more than 6 years in total; and
  - (b) a community representative's term is otherwise subject to this Act.

**65. Termination of office may be deferred**

Despite the term of office of a Legal Services and Complaints Committee member having expired by effluxion of time, unless the Attorney General otherwise directs, the member continues in office —

- (a) until the member is reappointed, or a successor is appointed; and
- (b) in any event for the purpose of completing any part-heard proceedings.

**66. Deputies of community representatives**

- (1) The Attorney General may appoint 1 or more persons as deputies of the community representatives (*deputy community representatives*) on the Legal Services and Complaints Committee.
- (2) A person appointed as a deputy community representative —
  - (a) must be eligible for appointment as a community representative; and
  - (b) is appointed on the terms applicable to a community representative.
- (3) A person appointed as a deputy community representative may, with the concurrence of the chairperson of the Legal Services and Complaints Committee, act in the place of a community representative at a meeting of the Committee.
- (4) While acting as a community representative, a deputy community representative has and may perform the functions of a community representative.
- (5) An act or omission of a deputy community representative acting in a community representative's place cannot be questioned on the ground that the occasion to act in the community representative's place had not arisen or had ceased.

**67. Chairperson and deputy chairperson**

- (1) The Board —
  - (a) must appoint a legal member who is a Board member as chairperson of the Legal Services and Complaints Committee; and
  - (b) may appoint a legal member who is a Board member as deputy chairperson of the Legal Services and Complaints Committee.
- (2) The deputy chairperson may act as chairperson —
  - (a) if the chairperson is unable to act because of illness, absence or other cause; or
  - (b) if requested to do so by the chairperson; or
  - (c) during a vacancy in the office of chairperson.
- (3) While acting as chairperson of the Legal Services and Complaints Committee the deputy chairperson has, and may perform, the functions of chairperson.
- (4) An act or omission of the deputy chairperson acting in the chairperson's place cannot be questioned on the ground that the occasion to act in the chairperson's place had not arisen or had ceased.

**68. Removal or resignation**

- (1) The Board may remove a legal member from office if the member is absent without leave of the Attorney General or the Legal Services and Complaints Committee from 3 consecutive meetings of the Committee of which the member has had notice.
- (2) The Attorney General may remove a community representative from office —
  - (a) if the community representative is a bankrupt or a person whose affairs are under insolvency laws; or

- (b) on the grounds of —
    - (i) mental or physical incapacity to carry out the community representative's duties in a satisfactory manner; or
    - (ii) neglect of duty; or
    - (iii) misconduct;or
  - (c) if the community representative is absent without leave of the Attorney General or the Legal Services and Complaints Committee from 3 consecutive meetings of the Committee of which the representative has had notice.
- (3) A Legal Services and Complaints Committee member may resign from office by notice in writing given to —
    - (a) for a legal member — the Board; or
    - (b) for a community representative — the Attorney General.
  - (4) A reference in this section (other than in subsection (2)(c)) to a community representative includes a reference to a deputy community representative appointed under section 66(1).

**69. Leave of absence**

- (1) The Attorney General may grant leave of absence to a Legal Services and Complaints Committee member on such terms and conditions as the Attorney General considers appropriate.
- (2) The Legal Services and Complaints Committee may grant leave of absence to a Committee member on such terms and conditions as the Committee considers appropriate.

**70. Remuneration and allowances**

A community representative is to be paid such remuneration and allowances as the Attorney General from time to time, after

consultation with the Public Sector Commissioner, may determine.

### **Subdivision 3 — Practice and procedures**

#### **71. Meetings**

- (1) Meetings of the Legal Services and Complaints Committee may be convened —
  - (a) by the chairperson of the Committee; or
  - (b) by the Legal Services and Complaints Officer; or
  - (c) at the times and places that the Committee determines.
- (2) The chairperson of the Legal Services and Complaints Committee, if present, is to preside at a meeting of the Committee.
- (3) If neither the chairperson, nor the deputy chairperson acting as the chairperson, is presiding under subsection (2), the members present at the meeting are to appoint 1 of their number to preside.
- (4) A person appointed under subsection (3) has, and may perform, the functions of the chairperson.

#### **72. Quorum**

- (1) A quorum for a meeting of the Legal Services and Complaints Committee is 3 members, of whom —
  - (a) 2 are legal members; and
  - (b) 1 is a community representative.
- (2) Subsection (3) applies if —
  - (a) an investigation by the Legal Services and Complaints Committee under the *Legal Profession Uniform Law (WA)* Chapter 5 has commenced; and

- (b) either —
  - (i) a Legal Services and Complaints Committee member present at that commencement fails to continue to participate in the proceedings; or
  - (ii) because a community representative fails to continue to participate in the proceedings, no quorum can be convened.
- (3) The determination of the matter may be completed by the remaining members.

**73. Divisions**

- (1) The Legal Services and Complaints Committee may sit and exercise jurisdiction as 1 or more Divisions if a quorum is present.
- (2) A reference in this Act to a meeting of the Legal Services and Complaints Committee includes, unless the context otherwise requires, a reference to a meeting when the Committee is constituted by a Division.
- (3) A determination made by the Legal Services and Complaints Committee when sitting as a Division is taken to be a determination of the Committee as a whole.

**74. Voting**

- (1) Each Legal Services and Complaints Committee member at a meeting of the Committee has 1 vote.
- (2) All questions at a meeting of the Legal Services and Complaints Committee are to be decided by a majority of the votes of the members present.
- (3) In the case of an equality of votes, the person presiding has a casting vote in addition to a deliberative vote.



**75. Procedures**

- (1) The Legal Services and Complaints Committee must ensure that minutes of its meetings are kept.
- (2) Subject to this Act, the Legal Services and Complaints Committee may determine its own procedures.
- (3) The Legal Services and Complaints Committee is not required to conduct any proceedings in a formal manner.

**Subdivision 4 — Reporting provisions**

**76. Annual reports**

- (1) The chairperson of the Legal Services and Complaints Committee must, on or before 31 December in each year —
  - (a) cause an annual report to be prepared in relation to the activities of the Committee in the year ending on the preceding 30 June; and
  - (b) give a copy of the report to the Attorney General.
- (2) The annual report must include details of —
  - (a) the number, nature and outcome of —
    - (i) inquiries undertaken by the Legal Services and Complaints Committee; and
    - (ii) matters that have been brought before the State Administrative Tribunal by the Legal Services and Complaints Committee under this Act or the *Legal Profession Uniform Law (WA)*; and
    - (iii) any appeals that have been made from decisions of the State Administrative Tribunal referred to in subparagraph (ii);and
  - (b) the number and nature of inquiries and matters referred to in paragraph (a) that are outstanding; and

- (c) any trends or special problems that may have emerged; and
  - (d) a forecast of the workload of the Legal Services and Complaints Committee in the year after the year to which the report relates; and
  - (e) any proposals for improving the operation of the Legal Services and Complaints Committee.
- (3) The Legal Services and Complaints Officer must provide the Legal Services and Complaints Committee with information it may request for the purpose of preparing its annual report.
- (4) The Attorney General must, within 14 days after the day on which a copy of an annual report is given to the Attorney General by the chairperson of the Legal Services and Complaints Committee, cause a copy of the report to be laid before each House of Parliament or dealt with under section 258.

**77. Reports relating to functions**

- (1) In this section —  
*function report* means a report about —
  - (a) matters relating to the Legal Services and Complaints Committee's functions; and
  - (b) the operation and effectiveness of the provisions of this Act or the *Legal Profession Uniform Law (WA)* regulating the conduct and discipline of Australian legal practitioners.
- (2) The Legal Services and Complaints Committee must, when requested by the Attorney General or the Board —
  - (a) prepare a function report; and
  - (b) give the report to the Attorney General or the Board at the time, and in the manner, requested.

- (3) If a function report must be prepared under subsection (2)(a) —
  - (a) a Legal Services and Complaints Committee member may request that the report include certain matters that the member considers appropriate; and
  - (b) the Legal Services and Complaints Committee must comply with the request.
- (4) The Legal Services and Complaints Committee may prepare and give a function report to the Attorney General or the Board on its own initiative.

#### **Subdivision 5 — Local regulations**

#### **78. Local regulations about Legal Services and Complaints Committee**

The local regulations may make provision for or in relation to the functions of the Legal Services and Complaints Committee.

#### **Division 3 — Legal Services and Complaints Officer**

#### **79. Legal Services and Complaints Officer**

- (1) An office of Legal Services and Complaints Officer is established.
- (2) The Board must appoint an Australian legal practitioner with experience in the conduct of a law practice to the office of Legal Services and Complaints Officer.

#### **80. Term of appointment**

A person appointed to the office of Legal Services and Complaints Officer —

- (a) holds office for a term of not more than 5 years specified in the instrument of appointment; and
- (b) is eligible for reappointment.

**81. Functions**

- (1) The Legal Services and Complaints Officer has the following functions —
  - (a) to carry out a Chapter 5 function delegated to the Officer by the Board under section 37(a)(ii);
  - (b) to carry out any power or duty delegated to the Officer under section 61;
  - (c) another function conferred on the Officer by this Act, the *Legal Profession Uniform Law (WA)* or another Act.
- (2) The Legal Services and Complaints Officer may —
  - (a) appear at any investigation, inquiry or hearing under the *Legal Profession Uniform Law (WA)* Chapter 5; and
  - (b) appear in person or be represented by an Australian legal practitioner at the investigation, inquiry or hearing.

**Division 4 — Staff of Legal Services and Complaints Committee and Legal Services and Complaints Officer**

**82. Staff**

The Board may employ or engage staff for the purpose of assisting the Legal Services and Complaints Committee and the Legal Services and Complaints Officer in the performance of their functions.

**Division 5 — Legal Costs Committee**

**Subdivision 1 — Establishment and functions**

**83. Establishment of Legal Costs Committee**

The Legal Costs Committee is established.

**84. Functions**

The Legal Costs Committee has the functions conferred on it by this Act or another Act.

**85. Powers**

The Legal Costs Committee has all the powers it needs to perform its functions.

**Subdivision 2 — Membership**

**86. Legal Costs Committee members**

- (1) The Legal Costs Committee consists of the following members appointed by the Governor —
  - (a) a chairperson who is —
    - (i) a judge of the Supreme Court or the District Court; or
    - (ii) an Australian legal practitioner of at least 8 years' standing and practice;
  - (b) 2 local legal practitioners in private practice nominated by the Attorney General under section 87;
  - (c) 3 persons who are not Australian lawyers, at least 1 of whom must be an accountant.
- (2) At least 1 Australian legal practitioner Legal Costs Committee member must have experience in contentious business.
- (3) At least 1 Australian legal practitioner Legal Costs Committee member must have experience in non-contentious business.

**87. Nominations**

- (1) If a nomination for appointment under section 86(1)(b) or 90(2)(b) is required to be made, the Attorney General must, by written notice —
  - (a) request the Law Society to submit to the Attorney General a list containing the names of not fewer than twice the number of Australian legal practitioners in private practice to be appointed; and

- (b) specify a time within which the list must be submitted, which must be at least 28 days after the day on which the notice is given.
- (2) If the Law Society has been requested by notice under subsection (1) to submit a list, the Attorney General —
  - (a) must, if the list is submitted within the time specified in the notice, nominate for appointment 1 or more, as the case requires, of the practitioners whose names appear on the list; and
  - (b) may, if the list is not submitted within the time specified in the notice, nominate for appointment a practitioner or practitioners that the Attorney General considers appropriate.

**88. Term of office**

- (1) Subject to section 91, a Legal Costs Committee member —
  - (a) holds office for a term of not more than 3 years specified in the instrument of appointment; and
  - (b) is eligible for reappointment.
- (2) Subject to section 91, the deputy chairperson appointed under section 89(1) or a deputy member appointed under section 90(1) —
  - (a) holds office for a term specified in the instrument of appointment; and
  - (b) is eligible for reappointment.

**89. Deputy chairperson**

- (1) The Governor may appoint a Legal Costs Committee member as deputy chairperson of the Committee if the member is eligible to be appointed as the chairperson of the Committee under section 86(1)(a).

- (2) The deputy chairperson may act as chairperson —
  - (a) if the chairperson is unable to act because of illness, absence or other cause; or
  - (b) if requested to do so by the chairperson; or
  - (c) during a vacancy in the office of chairperson.
- (3) While acting as chairperson of the Legal Costs Committee the deputy chairperson has, and may perform, the functions of chairperson.
- (4) An act or omission of the deputy chairperson acting in the chairperson's place cannot be questioned on the ground that the occasion to act in the chairperson's place had not arisen or had ceased.

**90. Deputy members**

- (1) The Governor may appoint a person as a deputy of a Legal Costs Committee member.
- (2) A deputy member appointed under subsection (1) must be —
  - (a) eligible to be appointed as the member for whom the person is a deputy; and
  - (b) in the case of a deputy of a member appointed under section 86(1)(b) — nominated under section 87.
- (3) A deputy of a member is, if the member is unable to act because of illness, absence or other cause, entitled to act in the place of that member and while so acting is taken to be a Legal Costs Committee member.
- (4) An act or omission of a deputy member acting in the place of a Legal Costs Committee member cannot be questioned on the ground that the occasion to act in the member's place had not arisen or had ceased.

**91. Removal or resignation**

- (1) In this section —  
*member* includes a deputy member appointed under section 90(1).
- (2) The Governor may remove a Legal Costs Committee member from office —
  - (a) if the member is a bankrupt or a person whose affairs are under insolvency laws; or
  - (b) on the grounds of —
    - (i) mental or physical incapacity to carry out the member's duties in a satisfactory manner; or
    - (ii) neglect of duty; or
    - (iii) misconduct.
- (3) A Legal Costs Committee member may resign office by notice in writing given to the Governor.

**92. Leave of absence**

The Attorney General may grant leave of absence to a Legal Costs Committee member or deputy member on such terms and conditions as the Attorney General considers appropriate.

**93. Remuneration and allowances**

A Legal Costs Committee member or deputy member is to be paid such remuneration and allowances as the Attorney General from time to time, after consultation with the Public Sector Commissioner, may determine.

**Subdivision 3 — Practice and procedures**

**94. Meetings**

- (1) Meetings of the Legal Costs Committee may be convened at the times and places that the Committee determines.



- (2) The presence of a person at a meeting of the Legal Costs Committee need not be by attendance in person but may be by telephone or other means of instantaneous communication.
- (3) The chairperson of the Legal Costs Committee, if present, is to preside at a meeting of the Committee.
- (4) If neither the chairperson, nor the deputy chairperson acting as the chairperson, is presiding under subsection (3), the members present at the meeting are to appoint 1 of their number to preside.
- (5) A person appointed under subsection (4) has, and may perform, the functions of chairperson.

**95. Quorum**

A quorum for a meeting of the Legal Costs Committee is 4 members, of whom —

- (a) 2 are Australian legal practitioners; and
- (b) 2 are members appointed under section 86(1)(c).

**96. Voting**

- (1) Each Legal Costs Committee member has 1 vote.
- (2) All questions at a meeting of the Legal Costs Committee are to be decided by a majority of the votes of the members present.
- (3) In the case of an equality of votes —
  - (a) if the chairperson is present — the chairperson has a casting vote in addition to a deliberative vote; or
  - (b) if the chairperson is not present but the deputy chairperson is present — the deputy chairperson has a casting vote in addition to a deliberative vote; or
  - (c) if the chairperson and deputy chairperson are not present — the question remains unresolved until the next meeting at which either the chairperson or deputy chairperson is present.

**97. Procedures**

- (1) The Legal Costs Committee must ensure that minutes of its meetings are kept.
- (2) Subject to this Act, the Legal Costs Committee may determine its own procedures.

**Subdivision 4 — Financial provisions**

**98. Funds**

- (1) The funds available for the purpose of enabling the Legal Costs Committee to perform its functions consist of —
  - (a) money from time to time appropriated by Parliament; and
  - (b) other money lawfully made available to the Legal Costs Committee.
- (2) Funds referred to in subsection (1) are to be credited to the Legal Costs Committee Account established under subsection (3).
- (3) An account called the Legal Costs Committee Account is to be established —
  - (a) as an agency special purpose account under the *Financial Management Act 2006* section 16; or
  - (b) with the approval of the Treasurer, at a bank as defined in the *Financial Management Act 2006* section 3.
- (4) The Legal Costs Committee Account is to be charged with —
  - (a) the remuneration and allowances payable under section 93; and
  - (b) all other expenditure lawfully incurred by the Legal Costs Committee in the performance of its functions.

**99. Application of *Financial Management Act 2006* and *Auditor General Act 2006***

The provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Legal Costs Committee and its operations.

**Subdivision 5 — Staff and facilities**

**100. Use of staff and facilities of departments**

- (1) In this section —

***administered statutory body*** means a body established or continued for a public purpose under a written law administered by the Attorney General;

***employing authority*** has the meaning given in the *Public Sector Management Act 1994* section 5;

***government entity*** means —

- (a) the department; or
- (b) an administered statutory body.

- (2) The Legal Costs Committee may make use of the services of any officer or employee in a government entity —

- (a) by arrangement with the employing authority of the officer or employee; and
- (b) with the approval of the Attorney General.

- (3) The Legal Costs Committee may make use of any facilities of a government entity —

- (a) by arrangement with —
  - (i) if the entity is the department — the chief executive officer of the department; or

- (ii) if the entity is an administered statutory body —  
the administered statutory body;
- and
- (b) with the approval of the Attorney General.

## **Division 6 — Legal Contribution Trust**

### **Subdivision 1 — Establishment and functions**

#### **101. Establishment of Legal Contribution Trust**

- (1) The Legal Contribution Trust is established.
- (2) The Legal Contribution Trust is a body corporate with perpetual succession.
- (3) Proceedings may be taken by or against the Legal Contribution Trust in its corporate name.

#### **102. Relationship to Crown**

The Legal Contribution Trust does not represent, and is not an agent of, the Crown.

#### **103. Functions**

- (1) The Legal Contribution Trust has the following functions —
  - (a) to receive and invest money paid to it under this Act, the *Legal Profession Uniform Law (WA)* or another Act;
  - (b) to apply money resulting from investments in the manner and for the purposes provided for by Part 8;
  - (c) to administer and control the Guarantee Fund;
  - (d) to make a request to the Board that an external investigation be carried out under the *Legal Profession Uniform Law (WA)* Part 4.2;
  - (e) another function conferred or imposed on it by this Act, the *Legal Profession Uniform Law (WA)* or another Act.

- (2) The Legal Contribution Trust may employ or engage persons to provide any professional, technical or other assistance that the Trust considers necessary to enable it to perform its functions.

**104. Powers**

The Legal Contribution Trust has all the powers it needs to perform its functions.

**Subdivision 2 — Membership**

**105. Constitution of Legal Contribution Trust**

- (1) The Legal Contribution Trust consists of the following 3 trustees appointed by the Governor —
- (a) 1 Australian lawyer nominated in writing by the Law Society to represent the Law Society;
  - (b) 1 Australian lawyer nominated in writing by the Board to represent the Board;
  - (c) 1 person who is not an Australian lawyer and is nominated in writing by the Attorney General.
- (2) Subject to section 108, a trustee holds office during the pleasure of the person by whom the trustee was nominated.
- (3) The Attorney General must, as the occasion requires, give a written notice to the Law Society or the Board (as the case requires) that states they must nominate an Australian lawyer for the purposes of this section.
- (4) A nomination must be made within the period specified in the notice under subsection (3) (being a period of at least 1 month) or within any further period that the Attorney General may allow.
- (5) If the Attorney General has not been given the required nomination at the expiry of the period specified in the notice under subsection (3) or any further period allowed by the Attorney General, the Attorney General must nominate a person

that the Attorney General considers appropriate, having regard to the body the nominee is to represent.

- (6) Subsections (1) and (2) and sections 106 and 108(3) apply to a trustee nominated by the Attorney General under subsection (5) as if that trustee had been nominated by the body that the trustee is nominated to represent on the Legal Contribution Trust.

**106. Chairperson**

- (1) The trustee nominated by the Law Society is to be chairperson of the Legal Contribution Trust.
- (2) If there is no trustee nominated by the Law Society, the Attorney General must appoint a trustee to act as chairperson.

**107. Deputy trustees**

- (1) The Governor may appoint a person to be a deputy of a trustee of the Legal Contribution Trust and may terminate such an appointment at any time.
- (2) The provisions of this Division that apply to and in relation to the appointment of a trustee apply, with any necessary modification, to and in relation to the appointment of the deputy of that trustee.
- (3) A deputy of a trustee may perform the functions of the trustee when the trustee is unable to do so by reason of illness, absence or other cause, and while so acting is taken to be a trustee.
- (4) An act or omission of a deputy of a trustee acting in place of the trustee cannot be questioned on the ground that the occasion to act in the trustee's place had not arisen or had ceased.

**108. Removal or resignation**

- (1) A trustee of the Legal Contribution Trust may resign from office by notice in writing given to the person who nominated the trustee.

- (2) A trustee who resigns under subsection (1) must give a copy of the notice of resignation to the Legal Contribution Trust.
- (3) The Governor may, at the request of the person who nominated a trustee, remove that trustee from office and appoint a person eligible to be a trustee instead.

**109. Meetings and procedures**

- (1) The chairperson of the Legal Contribution Trust must —
  - (a) convene such meetings of the Legal Contribution Trust as the chairperson considers necessary for the efficient conduct of its business; and
  - (b) on the written request of a trustee of the Legal Contribution Trust, convene a meeting of the Legal Contribution Trust.
- (2) The chairperson of the Legal Contribution Trust, if present, is to preside at a meeting of the Legal Contribution Trust.
- (3) If neither the chairperson, nor the deputy of the chairperson, is presiding under subsection (2), the trustees present at the meeting are to appoint 1 of their number to preside.
- (4) A trustee appointed under subsection (3) has, and may perform, the functions of chairperson.
- (5) The Legal Contribution Trust must ensure that minutes of its meetings are kept.
- (6) Subject to this Act, the Legal Contribution Trust may determine its own procedures.

**110. Quorum**

A quorum for a meeting of the Legal Contribution Trust is 2 trustees.

**111. Voting**

- (1) Each trustee at a meeting of the Legal Contribution Trust has 1 vote.
- (2) All questions at a meeting of the Legal Contribution Trust are to be decided by a majority of the votes of the trustees present.
- (3) In the case of an equality of votes, the question is resolved in the negative.

**Subdivision 3 — Execution of documents**

**112. Execution of documents by Legal Contribution Trust**

- (1) The Legal Contribution Trust must have a common seal.
- (2) A document is duly executed by the Legal Contribution Trust if —
  - (a) the common seal of the Trust is affixed to it in accordance with subsections (3) and (4); or
  - (b) it is signed on behalf of the Trust by a person or persons authorised to do so under subsection (5).
- (3) The common seal of the Legal Contribution Trust must not be affixed to any document except as authorised by the Trust.
- (4) The common seal of the Legal Contribution Trust must be affixed to a document in the presence of 2 trustees, each of whom must sign the document to attest that the common seal was so affixed.
- (5) The Legal Contribution Trust may, by writing under its seal, authorise 1 or more trustees or staff members to sign documents on behalf of the Trust, either generally or subject to the conditions or restrictions that are specified in the authorisation.
- (6) A document purporting to be executed in accordance with this section is taken to be duly executed unless the contrary is shown.



- (7) When a document is produced bearing a seal purporting to be the common seal of the Legal Contribution Trust, the seal is taken to be the common seal of the Trust unless the contrary is shown.

## **Part 4 — Admission, practising certificates and registration certificates**

### **Division 1 — Admission**

#### **113. Requirements for applications for admission under Uniform Law s. 16**

An individual may apply for admission by the Supreme Court under the *Legal Profession Uniform Law (WA)* section 16 —

- (a) in accordance with —
  - (i) the local regulations; and
  - (ii) the Supreme Court's rules of court; and
  - (iii) a practice direction of the Supreme Court;
- and
- (b) by paying the fee (if any) prescribed by the local regulations.

#### **114. Full Bench of Supreme Court to admit individuals under Uniform Law s. 16**

The Supreme Court must be constituted by at least 3 judges when admitting an individual under the *Legal Profession Uniform Law (WA)* section 16.

#### **115. Local regulations may prescribe matters about admission under Uniform Law**

- (1) The local regulations may make provision for or in relation to the following —
  - (a) providing practical legal training for the purposes of the *Legal Profession Uniform Law (WA)* section 17(1)(b);
  - (b) exempting persons under the *Legal Profession Uniform Law (WA)* section 18 from the specified academic qualifications prerequisite or the specified practical legal

- training prerequisite (as referred to in section 17 of the Law) or both;
- (c) issuing compliance certificates under the *Legal Profession Uniform Law (WA)* section 19;
  - (d) making declarations of early assessment of suitability under the *Legal Profession Uniform Law (WA)* section 21;
  - (e) accreditation and reaccreditation under the *Legal Profession Uniform Law (WA)* section 29.
- (2) Without limiting subsection (1), the local regulations may make provision for or in relation to —
- (a) applications in relation to the matters listed in subsection (1); and
  - (b) fees payable in relation to those matters.

## **Division 2 — Practising certificates**

### **116. Requirements for applications for grant or renewal of Australian practising certificates under Uniform Law s. 44**

- (1) An application for an Australian practising certificate under the *Legal Profession Uniform Law (WA)* section 44 must be —
- (a) in the local approved form; and
  - (b) accompanied by the documents or other information required by the local approved form; and
  - (c) accompanied by the fee (if any) prescribed by the local regulations; and
  - (d) accompanied by any annual contribution to the Guarantee Fund required by section 225 of the Law; and
  - (e) accompanied by an amount (if any) required by the local regulations as a contribution towards the cost of funding the State's contribution to the Legal Profession Uniform Framework to be paid under section 34.

- (2) Different fees may be prescribed for Australian practising certificates under subsection (1)(c) according to different factors prescribed by the local regulations.

**117. Provisions about renewing Australian practising certificates under Uniform Law s. 44**

- (1) An application for the renewal of an Australian practising certificate under the *Legal Profession Uniform Law (WA)* section 44 must be made within —
  - (a) the period prescribed by the local regulations as the standard renewal period; or
  - (b) the later period prescribed by the local regulations as the late fee period.
- (2) Those periods must be within the currency of the Australian practising certificate.
- (3) The Board —
  - (a) may reject an application for renewal made during the late fee period; and
  - (b) must reject an application for renewal that is not made during the standard renewal period or the late fee period unless the application is accepted under subsection (4).
- (4) Despite subsection (1), the Board may accept an application made within 6 months after the end of the late fee period (even after the expiry of the Australian practising certificate to which the application relates) if the Board is satisfied that —
  - (a) the delay was caused by matters beyond the control of the applicant; or
  - (b) there are other circumstances warranting acceptance of the application.

- (5) If an application is accepted under subsection (4) after the expiry of the Australian practising certificate to which the application relates, the certificate —
  - (a) is taken to have continued in force on and from the 1 July immediately following its expiry until the Board renews or refuses to renew the certificate or the applicant withdraws the application for renewal, unless the certificate is sooner suspended or cancelled; and
  - (b) if renewed, is taken to have been renewed on and from that 1 July.
- (6) Subsection (7) applies if an application for renewal of an Australian practising certificate is made during or after the late fee period prescribed by the local regulations.
- (7) Payment of a late fee prescribed by the local regulations may, if the Board considers appropriate, be required as a condition of acceptance of the application.

**118. Provisions about decisions on granting or renewing Australian practising certificates under Uniform Law s. 44**

- (1) If the Board grants or renews an Australian practising certificate under the *Legal Profession Uniform Law (WA)* section 44(1), the Board must, as soon as practicable, give the applicant —
  - (a) in the case of the grant of a certificate — an Australian practising certificate; or
  - (b) in the case of the renewal of a certificate — a new Australian practising certificate.
- (2) If the Board refuses to grant or renew an Australian practising certificate under the *Legal Profession Uniform Law (WA)* section 44(1) or renews a certificate subject to a condition to which the applicant does not agree, the Board must, as soon as practicable, give the applicant a notice stating the matters required by section 464(1) of the Law.

- (3) The Board is taken to have refused to grant or renew an Australian practising certificate if the certificate has not been granted, renewed or refused within 6 months after —
  - (a) if the Board has given the applicant a notice under the *Legal Profession Uniform Law (WA)* section 95 — the day specified in the notice by which the applicant was required to comply with the notice; or
  - (b) if paragraph (a) does not apply — the day on which the application for grant or renewal was lodged.

**119. Local regulations may modify operation of Legal Profession Conduct Rules for barristers**

- (1) In this section —

*Western Australian Barristers' Rules* means the Western Australian Barristers' Rules as in force on 23 February 2017.
- (2) The local regulations may modify the operation of the Legal Profession Conduct Rules as subsidiary legislation of the State so that a barrister may act in a way contemplated by the Western Australian Barristers' Rules rule 18A without breaching the Legal Profession Conduct Rules.

**Division 3 — Registration certificates**

**120. Requirements for applications for grant or renewal of Australian registration certificates under Uniform Law s. 62**

- (1) An application for an Australian registration certificate under the *Legal Profession Uniform Law (WA)* section 62 must be —
  - (a) in the local approved form; and
  - (b) accompanied by the documents or other information required by the local approved form; and
  - (c) accompanied by the fee (if any) prescribed by the local regulations; and

(d) accompanied by any annual contribution to the Guarantee Fund required by section 225 of the Law.

(2) Different fees may be prescribed for Australian registration certificates under subsection (1)(c) according to different factors prescribed by the local regulations.

**121. Provisions about renewing Australian registration certificates under Uniform Law s. 62**

(1) An application for the renewal of an Australian registration certificate under the *Legal Profession Uniform Law (WA)* section 62 must be made within —

- (a) the period prescribed by the local regulations as the standard renewal period; or
- (b) the later period prescribed by the local regulations as the late fee period.

(2) Those periods must be within the currency of the Australian registration certificate.

(3) The Board —

- (a) may reject an application for renewal made during the late fee period; and
- (b) must reject an application for renewal that is not made during the standard renewal period or the late fee period unless the Board accepts the application under subsection (4).

(4) Despite subsection (1), the Board may accept an application made within 6 months after the end of the late fee period (even after the expiry of the Australian registration certificate to which the application relates) if the Board is satisfied that —

- (a) the delay was caused by matters beyond the control of the applicant; or
- (b) there are other circumstances warranting acceptance of the application.

- (5) If the application is accepted under subsection (4) after the expiry of the Australian registration certificate to which the application relates, the certificate —
  - (a) is taken to have continued in force on and from the 1 July immediately following its expiry until the Board renews or refuses to renew the certificate or the applicant withdraws the application for renewal, unless the certificate is sooner suspended or cancelled; and
  - (b) if renewed, is taken to have been renewed on and from that 1 July.
- (6) Subsection (7) applies if an application for renewal of an Australian registration certificate is made during or after the late fee period prescribed by the local regulations.
- (7) Payment of a late fee prescribed by the local regulations may, if the Board considers appropriate, be required as a condition of acceptance of the application.

**122. Provisions about decisions on granting or renewing Australian registration certificates under Uniform Law s. 62**

- (1) If the Board grants or renews an Australian registration certificate under the *Legal Profession Uniform Law (WA)* section 62(1), the Board must, as soon as practicable, give the applicant —
  - (a) in the case of the grant of a certificate — an Australian registration certificate; or
  - (b) in the case of the renewal of a certificate — a notice of renewal.
- (2) If the Board refuses to grant or renew an Australian registration certificate under the *Legal Profession Uniform Law (WA)* section 62(4) or renews a certificate subject to a condition to which the applicant does not agree, the Board must, as soon as practicable, give the applicant a notice stating the matters required by section 464(1) of the Law.



- (3) A notice of renewal may be in the form of an Australian registration certificate or another form the Board considers appropriate.

#### **Division 4 — Interjurisdictional action**

**123. Requirements for written notice of interjurisdictional action under Uniform Law s. 24 and 80**

A written notice required to be given under the *Legal Profession Uniform Law (WA)* section 24 or 80 must be —

- (a) in the local approved form; and
- (b) accompanied by the documents or other information required by the local approved form.

#### **Division 5 — Miscellaneous**

**124. Functions of State Solicitor**

- (1) The State Solicitor may act as solicitor for —
- (a) the State; or
  - (b) a person suing, or being sued, on behalf of the State; or
  - (c) a Minister in their official capacity; or
  - (d) a statutory body; or
  - (e) an officer or employee in a department of the Public Service, a State agency or instrumentality, or a statutory body; or
  - (f) another person or body, or class of persons or bodies, approved by the Attorney General.
- (2) The State Solicitor may act under subsection (1) —
- (a) with or without charge; and
  - (b) for a party in a matter that is not the subject of litigation, even if also acting under that subsection for another party in the matter.

- (3) The State Solicitor may act as agent for —
- (a) another State or a Territory; or
  - (b) at the request of another State or a Territory — an instrumentality of, or a person in the service of, that State or Territory.

**125. Accreditation in relation to continuing professional development activities or other legal education or training**

- (1) In this section —
- authorised CPD provider***, in relation to a continuing professional development activity, means a person —
- (a) accredited in accordance with the Board Rules in relation to the activity; or
  - (b) exempted under the local regulations made under subsection (6) from a requirement to be accredited in accordance with the Board Rules in relation to the activity; or
  - (c) acting for or on behalf of a person mentioned in paragraph (a) or (b);

***Board Rules*** means rules made by the Board under subsection (2);

***continuing professional development activity*** means an activity that meets the requirements of the Continuing Professional Development Rules;

***excluded activity*** means a continuing professional development activity that is prescribed by the local regulations.

- (2) The Board may make rules for accrediting persons in relation to —
- (a) a continuing professional development activity that is not an excluded activity; and
  - (b) other legal education or training.

- (3) Without limiting subsection (2), the Board may make Board Rules about —
  - (a) how accreditation may be granted, including who may apply for accreditation; and
  - (b) how an application is to be made; and
  - (c) what information is required to support the application; and
  - (d) the fees (if any) for applying for accreditation.
- (4) The Board Rules are subsidiary legislation for the purposes of the *Interpretation Act 1984*.
- (5) The *Interpretation Act 1984* section 43(6) does not apply to the Board Rules.
- (6) The local regulations may exempt any of the following from a requirement to be accredited in accordance with the Board Rules in relation to a continuing professional development activity that is not an excluded activity —
  - (a) a court, tribunal or commission established by the Commonwealth or a State or Territory;
  - (b) the Commonwealth or a State or Territory or government authority.
- (7) Despite the Continuing Professional Development Rules, an Australian legal practitioner does not complete a continuing professional development activity under those Rules unless the activity is —
  - (a) an excluded activity; or
  - (b) another continuing professional development activity and —
    - (i) if the activity is provided by another person — that other person is an authorised CPD provider in relation to the activity; or

- (ii) in any other case — the practitioner is an authorised CPD provider in relation to the activity.

- (8) If the Board imposes a condition on an Australian legal practitioner's Australian practising certificate that the practitioner must undertake further legal education or training provided by a person, the practitioner does not complete the education or training unless the education or training is provided by a person accredited in accordance with the Board Rules.

**126. Local regulations may provide contract legislative drafters are government lawyers**

- (1) In this section —  
*contract legislative drafter* means a person who engages in legal practice that is legislative drafting work under —
  - (a) a contract for services with the State; and
  - (b) the direction of the Parliamentary Counsel.
- (2) The local regulations may provide that a contract legislative drafter is a government lawyer for the purposes of this Act and the *Legal Profession Uniform Law (WA)* in relation to legal practice that is legislative drafting.
- (3) The local regulations made under subsection (2) apply despite the definition of *government lawyer* in the *Legal Profession Uniform Law (WA)* section 6(1).

**127. Local regulations in relation to government lawyers**

- (1) The local regulations may —
  - (a) make provision for or in relation to exemptions of persons or classes of persons from the requirement to hold Australian practising certificates, either generally or for specified periods, in respect of their official functions as government lawyers; and

- (b) without limitation, exclude or modify the operation of specified provisions of the *Legal Profession Uniform Law (WA)* (including the provisions of Part 2.2 of the Law) to the extent that any of those provisions would otherwise be applicable to any persons, or classes of persons, as government lawyers; and
- (c) make provision for or in relation to exemptions of persons or classes of persons who are government lawyers from the requirement to pay fees in relation to the issuing of Australian practising certificates.

Note for this subsection:

See the *Legal Profession Uniform Law (WA)* section 56.

- (2) Without limiting subsection (1), the local regulations may —
  - (a) confer a discretion on a person in relation to a matter listed in subsection (1); and
  - (b) impose conditions, or authorise or permit a person to impose conditions, in relation to a matter listed in subsection (1).

## **Part 5 — Trust accounts**

### **128. Application for exemption under Uniform Law s. 130**

- (1) A person may apply to the Board for an exemption to be granted to a law practice under the *Legal Profession Uniform Law (WA)* section 130(4).
- (2) The application must be —
  - (a) in the local approved form; and
  - (b) accompanied by the documents or other information required by the local approved form; and
  - (c) accompanied by the fee (if any) prescribed by the local regulations.

### **129. Decision on exemption from complying with Uniform Law Pt. 4.2**

If the Board grants an exemption to a law practice under the *Legal Profession Uniform Law (WA)* section 130(4), the Board must give the law practice a written notice that states —

- (a) the particulars of the law practice; and
- (b) the provisions of Part 4.2 of the Law from which the law practice is exempted; and
- (c) if the exemption from a provision is subject to conditions — the conditions.

### **130. Local regulations about receipt or holding of money by barristers: Uniform Law s. 133**

For the purposes of the *Legal Profession Uniform Law (WA)* section 133, the local regulations may include provisions prohibiting, regulating or otherwise providing for the receipt or holding of money by or on behalf of a barrister, on account of legal costs for legal services, in advance of the provision by the barrister of the legal services.

**131. Review of decisions referred to in Uniform Law s. 160 and 166**

For the purposes of the *Legal Profession Uniform Law (WA)* sections 160(3) and 166(3), a person may apply to the State Administrative Tribunal for a review of a decision under section 160 or 166 of the Law.

## **Part 6 — Legal costs**

### **Division 1 — Legal costs determinations**

#### **132. Term used: court**

In this Division —

**court** includes an arbitrator, a tribunal or a person, with the power to require the production of documents or the answering of questions.

#### **133. Legal costs determinations**

- (1) The Legal Costs Committee may make legal costs determinations regulating the costs that may be charged by law practices in respect of —
  - (a) non-contentious business; and
  - (b) contentious business before —
    - (i) the Supreme Court; or
    - (ii) the District Court; or
    - (iii) the Magistrates Court; or
    - (iv) a court of summary jurisdiction; or
    - (v) the State Administrative Tribunal; or
    - (vi) the Family Court of Western Australia; or
    - (vii) any other court declared by the Attorney General under section 134(1) to be a court to which this section applies.
- (2) A costs determination may provide that law practices may charge —
  - (a) according to a scale of rates of commission or percentages; or
  - (b) a specified amount; or
  - (c) a maximum amount; or



(d) in any other way or combination of ways.

(3) A costs determination —

- (a) may differ according to different classes of legal services; and
- (b) may confer a discretionary authority or impose a duty on a specified person or class of persons.

(4) Subsection (5) applies if —

- (a) another written law refers to a costs determination under this section or as defined in this Act; and
- (b) the law refers to a determination in relation to a matter not listed in subsection (1).

(5) The Legal Costs Committee may make the determination for the purposes of that written law.

**134. Declaration of court in respect of which costs determinations may be made**

- (1) For the purposes of section 133(1)(b)(vii), the Attorney General may, by order published in the *Gazette*, declare any court to be a court in respect of which the Legal Costs Committee may make a costs determination.
- (2) A declaration must not be made under subsection (1) in respect of a dispute resolution authority as defined in the *Workers' Compensation and Injury Management Act 1981* section 5(1).
- (3) The Attorney General may, by order published in the *Gazette*, vary or revoke an order made under subsection (1).

**135. Costs determinations may be amended or revoked**

A costs determination may be amended or revoked by a subsequent costs determination.

**136. Costs determinations are fixed costs legislative provisions: Uniform Law s. 6**

For the purposes of the definition of *fixed costs legislative provision* in the *Legal Profession Uniform Law (WA)* section 6(1), a costs determination is a fixed costs legislative provision.

**137. Review of costs determinations**

- (1) The Legal Costs Committee must review each costs determination in force —
  - (a) at least once in the period of 2 years beginning on the day on which it was made; and
  - (b) at least once in each subsequent 2-year period.
- (2) The Attorney General may at any time direct the Legal Costs Committee to review a costs determination in force and the Legal Costs Committee must carry out that review as soon as practicable after being so directed.

**138. Inquiries by Legal Costs Committee**

- (1) Before making or reviewing a costs determination the Legal Costs Committee must —
  - (a) give public notice under section 139 of its intention to make or review the determination; and
  - (b) if the determination to be made or reviewed relates to proceedings before a court — consult with that court; and
  - (c) make such other inquiries as it considers necessary to facilitate the making or review of the determination.
- (2) Subject to subsection (1), the Legal Costs Committee —
  - (a) may inform itself as it considers appropriate; and
  - (b) must take into consideration submissions given to it in relation to legal costs, whether or not those submissions

are received in response to a notice under section 139;  
and

- (c) is not required to conduct proceedings in a formal manner; and
- (d) is not bound by the rules of evidence.

**139. Notice and submissions in respect of costs determinations**

- (1) The Legal Costs Committee must —
  - (a) give written notice of its intention to make or review a costs determination to the Law Society; and
  - (b) publish the notice of its intention on the Committee's website.
- (2) A written notice under subsection (1)(a) must —
  - (a) state that submissions on the intended costs determination or review may be made to the Legal Costs Committee; and
  - (b) specify the manner in which the submissions must be made; and
  - (c) specify the period within which the submissions must be made (being a period of at least 30 days after the day on which the notice is published under subsection (1)(b)).

**140. Report and publication of costs determinations**

- (1) As soon as practicable after making a costs determination the Legal Costs Committee must prepare and give a report to the Attorney General consisting of —
  - (a) the determination; and
  - (b) the reasons for its decisions in respect of the determination.
- (2) The report must be published in the *Gazette* as soon as practicable after it is given to the Attorney General.

- (3) A costs determination comes into force on —
  - (a) the day on which the report of the determination is published under subsection (2); or
  - (b) if a later day is specified in the report — that day.
- (4) Judicial notice must be taken of —
  - (a) a costs determination; and
  - (b) the day of publication of the report of the determination.

**141. Effect of costs determinations**

- (1) The following are regulated by an applicable costs determination —
  - (a) the taxation of bills of law practices;
  - (b) any other aspect of the costs charged by law practices.
- (2) Subsection (1) is subject to —
  - (a) any costs agreement made in accordance with the *Legal Profession Uniform Law (WA)* Part 4.3 Division 4 or the corresponding provision of a corresponding law; and
  - (b) section 146; and
  - (c) the *Legal Aid Commission Act 1976* section 14.

Note for this subsection:

See the *Civil Liability Act 2002* section 15L and the *Motor Vehicle (Third Party Insurance) Act 1943* section 27A, which affect costs under particular agreements between a law practice and client.

- (3) Despite subsection (1), if a court or judicial officer is of the opinion that the amount of costs allowable in respect of a matter under a costs determination is inadequate because of the unusual difficulty, complexity or importance of the matter, the court or officer may do any or all of the following —
  - (a) order the payment of costs above those fixed by the determination;

- (b) fix higher limits of costs than those fixed in the determination;
  - (c) remove limits on costs fixed in the determination;
  - (d) make any order or give any direction for the purposes of enabling costs above those in the determination to be ordered or assessed.
- (4) Subsection (1) does not limit the power of a court, a judicial officer or a taxing officer of a court to determine in any particular case before that court, judicial officer or taxing officer the amount of costs allowed.
- (5) If a costs determination is in force in respect of any business referred to in section 133(1), any subsidiary legislation fixing or purporting to regulate the remuneration of law practices in respect of that kind of business is of no force or effect.

**142. Reports**

The Legal Costs Committee may investigate, report and make recommendations to the Attorney General on any matter relating to —

- (a) bills generally and, in particular, the desirability of the use of scales in the calculation and fixing of bills; and
- (b) the basis on which costs are or should be calculated and fixed; and
- (c) any other aspect of the remuneration of law practices.

**143. Law practice to disclose whether costs determination applies to calculating costs under Uniform Law s. 174**

When a law practice provides a client with information under the *Legal Profession Uniform Law (WA)* section 174(1)(a), the law practice must provide the client with information about whether the legal costs are subject to a costs determination.

## **Division 2 — Costs assessments**

### **144. Functions of costs assessors**

A costs assessor has the functions conferred by this Act, the *Legal Profession Uniform Law (WA)* or another Act.

### **145. Requirements for applications for costs assessment: Uniform Law s. 198**

- (1) For the purposes of the *Legal Profession Uniform Law (WA)* section 198(2), an application under section 198 is to be made in accordance with the requirements of the following (if applicable) —
  - (a) the local regulations;
  - (b) the Supreme Court's rules of court;
  - (c) a practice direction of the Supreme Court.
- (2) If an application for a costs assessment is made and costs may be chargeable against the assets of a trust estate, the costs assessor must cause a copy of the application to be given to —
  - (a) the persons mentioned in the *Legal Profession Uniform Law (WA)* section 198(8); and
  - (b) any beneficiary of the trust estate.

### **146. Assessment of Legal Aid Commission bill**

If a costs assessor taxes a bill of costs with which the Legal Aid Commission is charged for services by way of legal assistance under the *Legal Aid Commission Act 1976* Part V Division 3 —

- (a) the costs assessor must give effect to section 14(1) of that Act, other than the requirement of section 14(1)(a)(ii) that fees be approved, in determining the amount allowed in the bill; and
- (b) the amount certified by the costs assessor, or an order made after review of a decision under the *Legal Profession Uniform Law (WA)* section 205, is conclusive

and binding on the Legal Aid Commission and the law practice despite the provisions of the *Legal Aid Commission Act 1976*.

**147. Determining and issuing certificate of costs assessment**

When a costs assessor completes a costs assessment under the *Legal Profession Uniform Law (WA)* section 199, the costs assessor must issue a certificate to all parties to the costs assessment setting out —

- (a) the amount of legal costs (if any) determined to be payable on the costs assessment; and
- (b) the costs of the costs assessment determined under section 204(1) of the Law (including the amount of any GST that is payable); and
- (c) the amount of interest to be paid on unpaid legal costs for the purposes of section 195 of the Law.

**148. Costs assessment binding on parties**

A costs assessment is binding on all parties to the costs assessment and, except as provided by section 149, is not subject to appeal or review.

**149. Review of costs assessment: Uniform Law s. 205**

- (1) For the purposes of the *Legal Profession Uniform Law (WA)* section 205, a party to a costs assessment may apply to the Supreme Court for a review of the assessment.
- (2) The application must be made —
  - (a) within 28 days after the day on which the party is notified of the costs assessment; and
  - (b) otherwise in accordance with the Supreme Court's rules of court.
- (3) An order made upon review may be enforced in the same way as the certificate of a costs assessor under section 150.

**150. Enforcement of, and interest on, costs assessment**

- (1) A certificate issued under section 147 may be enforced against any person liable to pay as if it were a judgment of the Supreme Court for the payment of the amount specified in the certificate.
- (2) Interest is payable on the amounts set out in a certificate issued under section 147.
- (3) The rate of interest for the period the interest is payable under subsection (2) is equal to that prescribed for that period under the *Civil Judgments Enforcement Act 2004* section 8(1)(a).

**151. Recovery of amounts paid as legal costs above costs assessments**

If a person paid an amount as legal costs and that amount exceeds the legal costs determined to be payable on a costs assessment under the *Legal Profession Uniform Law (WA)* section 199, the excess amount is recoverable in a court of competent jurisdiction as a debt due to the person.

**152. Local regulations about costs assessments**

The local regulations may make provision for or in relation to —

- (a) how the Board may arrange for an assessment of costs under the *Legal Profession Uniform Law (WA)* section 284; and
- (b) how costs assessments may, or must, be carried out; and
- (c) the referral of matters by a costs assessor to the Board.



## Part 7 — Professional indemnity insurance

### Division 1 — Preliminary

#### 153. Terms used

- (1) In this Part —

***approved insurance policy*** has the meaning given in section 154;

***arrangement insurance*** means professional indemnity insurance provided in accordance with a PII arrangement;

***Bar-approved policy*** means a policy of professional indemnity insurance approved under section 161(1);

***PII arrangement*** has the meaning given in section 156;

***PII entity*** means —

- (a) an Australian legal practitioner; or
- (b) a community legal service; or
- (c) an incorporated legal practice; or
- (d) a law firm; or
- (e) an unincorporated legal practice;

***PII scheme*** means a scheme approved under the local regulations made under section 162;

***scheme policy*** means a policy of professional indemnity insurance given in accordance with a PII scheme.

- (2) A reference in this Part to the Law Society includes, where appropriate, a reference to the Law Society in its capacity as trustee of the Law Mutual Fund.

**154. Approved insurance policies for Act and Uniform Law**

- (1) Arrangement insurance, a Bar-approved policy or a scheme policy is taken to be an ***approved insurance policy*** for the purposes of this Act and the *Legal Profession Uniform Law (WA)* if the insurance or policy complies with section 210(1)(b) of the Law.
- (2) Also, if arrangement insurance, a Bar-approved policy or a scheme policy does not comply with the *Legal Profession Uniform Law (WA)* section 210(1)(b), the insurance or policy is taken to be an ***approved insurance policy*** for a financial year for the purposes of this Act and the Law if the insurance or policy is the subject of an approval under section 155(2) for the financial year.
- (3) This section applies despite the *Legal Profession Uniform Law (WA)* section 210.

**155. Attorney General's approval of insurance for Uniform Law**

- (1) This section applies if arrangement insurance, a Bar-approved policy or a scheme policy does not comply with the *Legal Profession Uniform Law (WA)* section 210(1)(b).
- (2) The Attorney General may approve the insurance or policy for a financial year if the Attorney General considers that it is appropriate for the insurance or policy to be an approved insurance policy for the purposes of the *Legal Profession Uniform Law (WA)*.
- (3) In making a decision under subsection (2), the Attorney General may have regard to the matters the Attorney General considers appropriate, including —
  - (a) the reason the insurance or policy does not comply with the *Legal Profession Uniform Law (WA)* section 210(1)(b); and
  - (b) the objectives of Part 4.4 of the Law.

- (4) If the Attorney General approves the insurance or policy under subsection (2), the Attorney General must give written notice of the decision to —
- (a) for arrangement insurance — the Law Society; or
  - (b) for a Bar-approved policy — the Western Australian Bar Association; or
  - (c) for a scheme policy — the person who holds the approval given under the local regulations made under section 162 for the PII scheme under which the policy is granted.
- (5) The person who receives written notice under subsection (4) must publish the notice on the person's website.

## **Division 2 — Insurance and insurance policies**

### **Subdivision 1 — Obtaining professional indemnity insurance and certificates**

#### **156. Meaning of PII arrangement**

- (1) A **PII arrangement** is an arrangement entered into by the Law Society with 1 or more insurers to provide professional indemnity insurance to PII entities to whom a certificate of insurance is issued under section 158(5), 159(3) or 160(5).
- (2) Without limiting subsection (1), a **PII arrangement** may require the Law Society to pay an amount in respect of a professional indemnity insurance claim in relation to a PII entity to whom arrangement insurance is provided.

#### **157. Law Society authorised to enter into PII arrangement**

For the purposes of the *Competition and Consumer Act 2010* (Commonwealth) section 51(1)(b), the Law Society is authorised to enter into a PII arrangement under this Act.

**158. Application for arrangement insurance for whole financial year**

(1) In this section —

*renewal day* means —

- (a) a day fixed by the Law Society in respect of a particular financial year by notice published in the *Gazette* not later than 15 April in that year; or
- (b) if no day is fixed under paragraph (a) — 15 May.

(2) A PII entity may, on or before the renewal day in a financial year, apply to the Law Society for arrangement insurance —

- (a) in the local approved form; and
- (b) by providing the documents or other information required by the local approved form; and
- (c) by paying to the Law Society —
  - (i) the annual contribution assessed under Subdivision 2; and
  - (ii) any other amount prescribed by the local regulations; and
  - (iii) if the Law Society fixes an administration levy under section 169(1) in relation to the PII entity — the levy; and
  - (iv) if the PII entity owes any amount payable in relation to a previous period of insurance — the owed amount.

(3) A PII entity may, after the renewal day in a financial year and on or before 30 June in that financial year, apply to the Law Society for arrangement insurance —

- (a) by complying with subsection (2)(a) to (c); and
- (b) by paying to the Law Society any late fee prescribed by the local regulations.

- (4) If the PII entity applies in accordance with subsection (2) or (3), the Law Society must grant the application for arrangement insurance for the financial year.
- (5) If the Law Society grants a PII entity's application under subsection (4), the Law Society must give the PII entity a certificate of insurance.

**159. Application for arrangement insurance for part of financial year in particular circumstances**

- (1) If a PII entity does not have a policy of professional indemnity insurance in this State for a financial year, the PII entity may apply to the Law Society during the financial year for arrangement insurance for the remainder of the financial year —
  - (a) in the local approved form; and
  - (b) by providing the documents or other information required by the local approved form; and
  - (c) by paying to the Law Society —
    - (i) the annual contribution assessed under Subdivision 2; and
    - (ii) any other amount prescribed by the local regulations; and
    - (iii) if the Law Society fixes an administration levy under section 169(1) in relation to the PII entity — the levy; and
    - (iv) if the PII entity owes any amount payable in relation to a previous period of insurance — the owed amount.
- (2) If the PII entity applies in accordance with subsection (1), the Law Society must grant the application for arrangement insurance for the remainder of the financial year.

- (3) If the Law Society grants a PII entity's application under subsection (2), the Law Society must give the PII entity a certificate of insurance.

**160. Application by restructured law practices for arrangement insurance for part of financial year**

- (1) In this section —

*new law practice* means a law practice that exists after the occurrence of a restructuring event;

*restructuring event* means any of the following events in a financial year —

- (a) 2 or more law practices combining to form a single law practice;
  - (b) a law practice becoming an unincorporated legal practice;
  - (c) a law practice becoming an incorporated legal practice;
  - (d) a law practice otherwise changing its business structure.
- (2) If a restructuring event occurs in a financial year, the new law practice may apply to the Law Society for arrangement insurance for the remainder of the financial year —
- (a) in the local approved form; and
  - (b) by providing the documents or other information required by the local approved form; and
  - (c) by paying to the Law Society —
    - (i) subject to subsection (3), the annual contribution assessed under Subdivision 2; and
    - (ii) any other amount prescribed by the local regulations; and
    - (iii) if the Law Society fixes an administration levy under section 169(1) in relation to the new law practice — the levy; and

- (iv) if the new law practice owes any amount payable in relation to a previous period of insurance — the owed amount.
- (3) If, before the restructuring event, each law practice involved in the event had a certificate of insurance issued under section 158(5) or 159(3) for the financial year in which the event occurred, the Law Society may reduce or waive the annual contribution to be paid by the new law practice under subsection (2)(c)(i) to reflect the amount of annual contributions paid by each law practice under those sections for the financial year.
- (4) If the new law practice applies in accordance with subsection (2), the Law Society must grant the application for arrangement insurance.
- (5) If the Law Society grants a new law practice's application under subsection (4), the Law Society must give the new law practice a certificate of insurance.

**161. Bar-approved insurance policy**

- (1) The Western Australian Bar Association may, by resolution of the Council of the Western Australian Bar Association, approve a policy of professional indemnity insurance for barristers.
- (2) If the Western Australian Bar Association passes a resolution under subsection (1), the Bar Association must give a copy of the resolution to the Board.

**162. Local regulations may provide for approval of PII schemes**

- (1) The local regulations may make provision for or in relation to the approval of a scheme setting out how a policy of professional indemnity insurance may be obtained that covers particular PII entities.

- (2) Without limiting subsection (1), the local regulations may make provision for or in relation to —
- (a) approving a PII scheme; and
  - (b) applications for approval of a PII scheme; and
  - (c) applications to obtain insurance under a PII scheme, including who may approve the application; and
  - (d) fees that may be charged in relation to a PII scheme, including fees for —
    - (i) an application for a PII scheme approval; and
    - (ii) approval of a PII scheme; and
    - (iii) an application to obtain insurance under a PII scheme;
- and
- (e) requiring information to be provided to a person in relation to an application for a PII scheme approval or an approved PII scheme; and
  - (f) issuing certificates relating to the approval of a PII scheme and insurance under the scheme.
- (3) Without limiting subsection (1), the local regulations may —
- (a) confer discretionary powers on a person —
    - (i) to do such acts and things as may be necessary or expedient for giving effect to the PII scheme; and
    - (ii) in relation to the administration of the PII scheme;
- and
- (b) confer powers on a person to investigate whether the regulations are being complied with; and
  - (c) contain incidental, procedural and supplementary provisions.



**Subdivision 2 — Annual contribution for PII arrangement**

**163. Assessing annual contribution for PII entities**

- (1) The Law Society must assess a PII entity's annual contribution for the purposes of section 158, 159 or 160 in accordance with the method of assessment determined under section 164.
- (2) If a PII entity applies for arrangement insurance for part only of a financial year under section 159 or 160, the annual contribution payable by the PII entity for that year is to be assessed on a pro rata basis.

**164. Method of assessing annual contribution for PII arrangement**

- (1) In this section —  
*unrestricted legal practitioner* means an Australian legal practitioner who holds a practising certificate that is not subject to a condition that the practitioner must engage in supervised legal practice only.
- (2) The Law Society must determine a method of assessment of annual contributions of PII entities.
- (3) The method of assessment determined under subsection (2) may take into account any matter the Law Society considers relevant, including —
  - (a) the gross past or estimated future fee income of a PII entity; and
  - (b) the professional indemnity insurance claims history of a PII entity; and
  - (c) the amount of excess a PII entity will pay in relation to a claim; and
  - (d) the area of practice of a PII entity; and
  - (e) if a PII entity is an Australian legal practitioner — whether the practitioner has implemented and observed

good risk management practices, including attending risk management seminars; and

- (f) if a PII entity is not an Australian legal practitioner —
  - (i) whether the PII entity has implemented and observed good risk management practices, including the attendance of the principals and employees of the PII entity at risk management seminars; and
  - (ii) if the PII entity has not previously paid an annual contribution — the professional indemnity insurance claims history of the principals and employees of the PII entity;

and

- (g) if a PII entity is a law firm —
  - (i) the types of services provided by the law firm and the proportion of those services that are legal services; and
  - (ii) the business structure of the law firm; and
  - (iii) the number of principals in the law firm; and
  - (iv) the number of Australian legal practitioners employed by the law firm; and
  - (v) the number of persons employed by the law firm;

and

- (h) if a PII entity is an unincorporated legal practice —
  - (i) the number of lay associates of the legal practice; and
  - (ii) the number of associates of the legal practice who are Australian legal practitioners; and
  - (iii) the number of partners or other persons in control of the legal practice who are not Australian legal practitioners; and

- (iv) the types of services provided by the legal practice and the proportion of those services that are legal services;

and

- (i) if a PII entity is an incorporated legal practice —
  - (i) the number of directors of the legal practice who are not unrestricted legal practitioners; and
  - (ii) the number of officers of the legal practice and how many are Australian legal practitioners.

#### **165. Review of annual contribution assessment**

- (1) A PII entity that is not satisfied with the assessment of its annual contribution under section 163(1) may apply to the Law Society for a review of the assessment.
- (2) On an application under subsection (1), the Law Society may —
  - (a) confirm the assessment; or
  - (b) revoke the assessment and make another assessment that has effect for the purposes of section 163(1).
- (3) A PII entity's obligation to pay an annual contribution under section 158, 159 or 160 assessed for the PII entity under section 163(1) or subsection (2)(b) is not affected because the PII entity has applied for a review of the assessment under this section.

#### **166. Appeal against review of annual contribution assessment**

- (1) If, after a review under section 165, the PII entity is still not satisfied with the assessment under section 163(1) or 165(2)(b), the PII entity may appeal against the assessment to a person nominated by the Attorney General.
- (2) On an appeal under subsection (1), the nominated person may —
  - (a) confirm the assessment; or

- (b) revoke the assessment and make another assessment that has effect for the purposes of section 163(1).
- (3) A PII entity's obligation to pay an annual contribution under section 158, 159 or 160 assessed for the PII entity under section 163(1) is not affected because the PII entity has appealed against the assessment under this section.
- (4) A PII entity cannot apply for a review of, or an appeal against, a determination under subsection (2).
- (5) Subsection (4) does not limit judicial review for jurisdictional error.
- (6) The local regulations may make provision for how a person, including the nominated person, may recover the costs of an appeal under subsection (1).

**167. Refund after review of, or appeal against, annual contribution assessment**

- (1) If the annual contribution of a PII entity is reduced on review under section 165 or appeal under section 166, the amount of the reduction is to be refunded to the PII entity, together with interest at a rate equal to the rate prescribed under the *Civil Judgments Enforcement Act 2004* section 8(1)(a) when the refund is made.
- (2) Despite subsection (1), interest is not required to be paid if the annual contribution of a PII entity is reduced on review or appeal because of a change in the particular circumstances of the PII entity that arose between the application being made under section 158, 159 or 160 and the assessment being issued.

**168. Recovery of additional amount if incorrect information given for annual contribution assessment**

- (1) If an assessment of the annual contribution of a PII entity is made under section 163(1) on the basis of information supplied by the PII entity that is subsequently found to be incorrect, the

PII entity must pay to the Law Society any additional amount that would have been payable if the annual contribution had been assessed on the basis of the correct information.

- (2) The additional amount must be paid within 21 days after the day on which the Law Society issues an invoice for the additional amount.

### **Subdivision 3 — Financial matters**

#### **169. Administration levy for PII arrangement**

- (1) The Law Society may fix an administration levy to be paid to the Law Society by a PII entity applying for arrangement insurance.
- (2) For the purposes of subsection (1), the Law Society may fix different administration levies for different PII entities or classes of PII entities.
- (3) An amount received by the Law Society under this section must be paid into the Law Mutual Fund.

#### **170. Interest payable on amounts overdue under this Part**

- (1) Interest is payable on an amount that is payable to the Law Society under this Part for the period beginning on the day after the day on which the amount is due and ending on the day on which the amount is paid.
- (2) The rate of interest for the period for which interest is payable under subsection (1) is equal to that prescribed for that period under the *Civil Judgments Enforcement Act 2004* section 8(1)(a).
- (3) The Law Society may waive payment of the interest on amounts payable to the Law Society in whole or in part.

**171. Recovery of unpaid money**

An amount payable to the Law Society under this Part is recoverable in a court of competent jurisdiction as a debt due to the Law Society.

**Division 3 — Exemptions from obtaining professional indemnity insurance under *Legal Profession Uniform Law* (WA)**

**Subdivision 1 — Modification of *Legal Profession Uniform Law Application Act 2014* (Victoria) Schedule 1 s. 215 and 216**

**172. Modification of Uniform Law**

For the purposes of the definition of ***Legal Profession Uniform Law*** in section 6(1), the *Legal Profession Uniform Law Application Act 2014* (Victoria) Schedule 1 applies as if amended as set out in this Subdivision.

**173. Section 215 modified**

(1) Delete section 215(2)(b) and insert:

- (b) the practitioner is an Australian legal practitioner associate of a law practice that maintains a permanent office in this jurisdiction and only 1 other jurisdiction; and
- (ba) the other jurisdiction is the home jurisdiction of a majority of the principals of the law practice; and
- (bb) the law practice's permanent office in the other jurisdiction is where a majority of the principals of the law practice engage solely or principally in legal practice; and

(2) After section 215(3)(b) insert:

- (ba) the other jurisdictions are the home jurisdictions of a majority of the principals of the law practice; and
- (bb) the law practice's permanent offices in those other jurisdictions are where a majority of the principals of the law practice engage solely or principally in legal practice; and

**174. Section 216 modified**

After section 216(1)(b) insert:

- (ba) the other jurisdictions are the home jurisdictions of a majority of the principals of the law practice; and
- (bb) the law practice's permanent offices in those other jurisdictions are where a majority of the principals of the law practice engage solely or principally in legal practice; and

**Subdivision 2 — Obtaining exemptions under *Legal Profession Uniform Law (WA)***

**175. Requirements for application to be exempted under Uniform Law s. 215**

- (1) An Australian legal practitioner, community legal service or incorporated legal practice (an *applicant*) may apply to the Board for an exemption in relation to the whole or part of a financial year under the *Legal Profession Uniform Law (WA)* section 215(2), (4) or (6) or under the Uniform Rules (WA) made under section 215(8) of the Law —
  - (a) in the local approved form; and

- (b) by providing the documents or other information required by the local approved form; and
  - (c) by paying the fee (if any) prescribed by the local regulations.
- (2) If the Board decides to grant an applicant an exemption, the Board must give the applicant a certificate of exemption setting out —
  - (a) the provision under which the applicant is exempt; and
  - (b) the financial year to which the exemption relates; and
  - (c) if the Board decides the applicant is exempt for a part of the financial year — the part of the financial year to which the exemption relates.
- (3) If the Board refuses to grant an applicant an exemption, the Board must give the applicant a written notice stating the Board's reasons for the decision.

**176. Certificates of exemption if exempt under Uniform Law s. 215**

- (1) If an Australian legal practitioner, community legal service or incorporated legal practice (the *applicant*) is exempt under the *Legal Profession Uniform Law (WA)* section 215(1), (3) or (5) or under the Uniform Rules (WA) made under section 215(8) of the Law, the applicant may apply to the Board for a certificate of exemption in relation to the whole or part of a financial year.
- (2) The application must be —
  - (a) in the local approved form; and
  - (b) accompanied by the documents or other information required by the local approved form; and
  - (c) accompanied by the fee (if any) prescribed by the local regulations.
- (3) If the Board is satisfied that the applicant is exempt under the *Legal Profession Uniform Law (WA)* section 215(1), (3) or (5)



or under the Uniform Rules (WA) made under section 215(8) of the Law, the Board must give the applicant a certificate of exemption setting out —

- (a) the provision under which the applicant is exempt; and
  - (b) the financial year to which the exemption relates; and
  - (c) if the Board is satisfied that the applicant is exempt for a part of the financial year — the part of the financial year for which the Board is satisfied the applicant is exempt.
- (4) If the Board is not satisfied that the applicant is exempt under the *Legal Profession Uniform Law (WA)* section 215(1), (3) or (5) or under the Uniform Rules (WA) made under section 215(8) of the Law, the Board must give the applicant a written notice stating the Board's reasons for the decision.

**177. Person to notify Board when exemption no longer applies**

- (1) This section applies if, due to a change in the circumstances of an Australian legal practitioner, community legal service or incorporated legal practice (the *exempt entity*), the exempt entity is —
- (a) no longer entitled to be granted an exemption under the *Legal Profession Uniform Law (WA)* section 215(2), (4) or (6) or under the Uniform Rules (WA) made under section 215(8) of the Law; or
  - (b) no longer exempt under the *Legal Profession Uniform Law (WA)* section 215(1), (3) or (5) or under the Uniform Rules (WA) made under section 215(8) of the Law.
- (2) The exempt entity must notify the Board of the change in circumstances in writing.

**Division 4 — Law Mutual (WA) and Law Mutual Fund**

**178. Continuation of Law Mutual (WA)**

The entity called Law Mutual (WA) is continued under this Act.

**179. Continuation of Law Mutual Fund**

- (1) The Law Mutual Fund is continued under this Act.
- (2) The Law Mutual Fund consists of —
  - (a) money forming part of the Fund immediately before the repeal of section 330(1) of the old Act; and
  - (b) money paid into the Fund, whether as required to be paid under this Act or otherwise; and
  - (c) costs recovered in consequence of the successful defence of an action; and
  - (d) any interest or other income earned on money forming part of the Fund.
- (3) The Law Mutual Fund is held on trust by the Law Society as trustee in accordance with the Deed of Acknowledgment of Trust made by the Law Society on 22 June 2009, as varied from time to time.

**180. Provisions about Law Mutual Fund**

- (1) The Law Society must keep the Law Mutual Fund in a separate ADI account in the State with the name “Law Mutual Fund”.
- (2) The Law Mutual Fund must be maintained on an annual basis in relation to a financial year.

**181. Application of money in Law Mutual Fund**

- (1) The Law Society may apply the money in the Law Mutual Fund only to —
  - (a) pay the premiums for an insurance policy for a PII arrangement; and

- (b) pay claims under the PII arrangement, including amounts in respect of claims referred to in section 156(2); and
  - (c) pay expenses that the Law Society or PII management committee incurs in managing the Fund or the PII arrangement, including costs incurred when performing functions under this Act, the *Legal Profession Uniform Law (WA)* or the *Trustees Act 1962*; and
  - (d) despite section 180(1), invest the money not immediately required for the purposes of the Fund in accordance with the Deed of Acknowledgment of Trust made by the Law Society on 22 June 2009, as varied from time to time.
- (2) If the Law Mutual Fund contains a surplus of money, the Law Society may manage and apply any surplus funds in the Fund from each financial year as it considers appropriate, including by amalgamating the surplus funds into a pool with other funds for the benefit of the PII entities who hold, or are covered by, arrangement insurance.

**182. Audit of Law Mutual Fund**

The Law Society must ensure that the Law Mutual Fund is audited in each financial year by a registered company auditor.

**183. Local regulations about winding up Law Mutual Fund**

The local regulations may make provision for or in relation to the winding up of the Law Mutual Fund.

**Division 5 — PII management committee**

**184. Law Society may establish PII management committee**

The Law Society may establish a PII management committee.

**185. Delegation of Law Society's functions to PII management committee**

- (1) The Law Society may delegate any of the Law Society's powers or duties under another provision of this Part, or local regulations made under this Part, to the PII management committee.
- (2) The delegation must be made by resolution of the Law Society Council.
- (3) The PII management committee cannot delegate a power or duty delegated to it under this section.
- (4) The PII management committee exercising or performing a power or duty that has been delegated to it under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Nothing in this section limits the ability of the Law Society to perform a power or duty through an officer or agent.

**186. Membership**

- (1) The PII management committee must consist of at least 7 members.
- (2) The members of the PII management committee —
  - (a) must be appointed by the Law Society; and
  - (b) may include persons who are not members of the Law Society; and
  - (c) must include —
    - (i) at least 1 person who has knowledge and experience in the insurance industry; and
    - (ii) at least 2 persons who have knowledge and experience in the insurance industry or who have accounting or financial expertise.

**187. Procedures**

Subject to this Act and any directions of the Law Society, the PII management committee may determine its own procedures.

**188. Dissolution of PII management committee**

The Law Society may dissolve the PII management committee.

**Division 6 — Miscellaneous**

**189. Undertakings in relation to professional indemnity insurance**

- (1) This section applies to a PII entity —
  - (a) applying under section 158, 159 or 160 to the Law Society for arrangement insurance; or
  - (b) applying under section 175(1) for an exemption under the *Legal Profession Uniform Law (WA)* section 215(2), (4) or (6) or under the Uniform Rules (WA) made under section 215(8) of the Law.
- (2) The Law Society or the Board may require the PII entity to provide an undertaking in relation to the application.
- (3) The PII entity must —
  - (a) provide any undertaking required under subsection (2); and
  - (b) comply with the undertaking, unless previously released from that undertaking by the person that required the undertaking under subsection (2).

**190. Requiring information about professional indemnity insurance**

- (1) The Law Society or Board may, by written notice, require a PII entity to provide the Law Society or Board, as the case requires, with information specified in the notice for the purposes of —
  - (a) performing functions under this Part or the *Legal Profession Uniform Law (WA)* Part 4.4; or
  - (b) administering the PII arrangement.
- (2) Without limiting subsection (1), a notice under that subsection may require a PII entity doing any of the following actions to set out the facts and circumstances supporting the action —
  - (a) claiming any matter that affects the assessment of the PII entity's annual contribution under section 163(1);
  - (b) applying for a certificate of exemption under section 176(1);
  - (c) claiming that the PII entity is exempt, or applying for an exemption, under the *Legal Profession Uniform Law (WA)* section 215 or the Uniform Rules (WA) made under section 215(8) of the Law.
- (3) A notice under subsection (1) may require the information specified in the notice to be —
  - (a) verified by statutory declaration; and
  - (b) provided within a reasonable specified time.
- (4) A PII entity must comply with a notice given under this section.

**191. Sharing information about professional indemnity insurance**

- (1) The Board may, by written notice, require the Law Society to provide the Board with specified information about arrangement insurance in respect of a PII entity.
- (2) The Law Society must comply with a notice given to the Law Society under subsection (1).

- (3) The Board and Law Society may disclose to each other information about the following —
- (a) applications for arrangement insurance;
  - (b) applications under section 175(1) for exemptions under the *Legal Profession Uniform Law (WA)* section 215(2), (4) or (6) or the Uniform Rules (WA) made under section 215(8) of the Law, including —
    - (i) information or documents provided in support of the applications; and
    - (ii) whether the applications are granted;
  - (c) applications under section 176(1) for certificates of exemption, including —
    - (i) information or documents provided in support of the applications; and
    - (ii) whether the applications are granted.

**192. Evidence of exemption or insurance for Uniform Law**

- (1) For the purposes of this Act and the *Legal Profession Uniform Law (WA)*, a person to whom a certificate of exemption is given under section 175 or 176 is taken to be, in the absence of evidence to the contrary, exempt under the provision of the Law stated in the certificate from the requirement to hold, obtain or be covered by an approved insurance policy for the period stated in the certificate.
- (2) For the purposes of the *Legal Profession Uniform Law (WA)*, the Board may be satisfied that an applicant for the grant or renewal of an Australian practising certificate has professional indemnity insurance if the applicant provides the Board with evidence that the applicant has —
- (a) a certificate of insurance issued under section 158(5), 159(3) or 160(5); or
  - (b) a certificate of approval issued under the local regulations made under section 162.

## **Part 8 — Fidelity cover**

### **Division 1 — Guarantee Fund**

**193. Term used: claim**

In this Division —

***claim*** has the meaning given in the *Legal Profession Uniform Law (WA)* section 219.

**194. Solicitors' Guarantee Fund**

- (1) The Solicitors' Guarantee Fund is established.
- (2) The Guarantee Fund consists of —
  - (a) money paid into the Fund under section 336(2) of the old Act that remains in the Fund immediately before this section comes into operation; and
  - (b) money paid out of the Trust Interest Account into the Fund under section 201; and
  - (c) any interest or other income earned from investments under section 197(1); and
  - (d) money paid to, or recovered by or on behalf of, the Legal Contribution Trust in respect of fees, costs and expenses, whether under the right of action conferred on the Trust by the *Legal Profession Uniform Law (WA)* Part 4.5 or otherwise; and
  - (e) money, other than money received under an arrangement entered into with an ADI under the *Legal Profession Uniform Law (WA)* section 149(1)(b), paid to the Legal Contribution Trust under this Act or the Law, including under Part 4.5 of the Law; and
  - (f) any other money that is lawfully paid into the Fund.



- (3) Pending its investment under section 197(1), money in the Guarantee Fund must be deposited in an ADI account or ADI accounts in the State.

**195. Payments out of Guarantee Fund**

The Legal Contribution Trust may pay out of the Guarantee Fund —

- (a) the amount of any claim, including costs, expenses and interest allowed or established against the Trust, or allowed by the Trust, in respect of the Fund; and
- (b) the legal and other expenses incurred in investigating or defending claims against the Trust in respect of, or otherwise incurred in relation to, the Fund or in the exercise by the Trust of functions conferred upon it by this Act, the *Legal Profession Uniform Law (WA)* or another Act; and
- (c) the premiums in respect of insurance of the Fund; and
- (d) the costs and expenses of the administration of the Fund; and
- (e) if the Board requires under section 33(2)(f) that the Trust pay all or part of the costs of an external investigation — those costs; and
- (f) money required to be paid as a result of the annual audit under the *Legal Profession Uniform Law (WA)* section 232; and
- (g) any other money that is payable out of the Fund under this Act, the *Legal Profession Uniform Law (WA)* or another Act.

**196. Application of Guarantee Fund for claims**

- (1) In this section —

*claimant* has the meaning given in the *Legal Profession Uniform Law (WA)* section 219.

- (2) The Guarantee Fund must be applied by the Legal Contribution Trust for the purposes of compensating claimants in respect of claims allowed under the *Legal Profession Uniform Law (WA)* Part 4.5 in respect of defaults to which that Part applies.
- (3) An amount payable from the Guarantee Fund in respect of a claim is payable to —
  - (a) the claimant; or
  - (b) another person at the claimant's direction.

**197. Investment of Guarantee Fund**

- (1) The Legal Contribution Trust may, with the approval of the Attorney General, invest any portion of the Guarantee Fund that is not immediately required for the purposes of this Part —
  - (a) on deposit with an ADI in the State, bearing interest at a rate agreed between the ADI and the Trust; or
  - (b) on loan to the Treasurer at a rate of interest that is agreed with the Treasurer; or
  - (c) in any way in which trust funds may be invested under the *Trustees Act 1962* Part III.
- (2) The Legal Contribution Trust must apply the money resulting from investment under subsection (1) in the manner provided for by section 201.

**198. Notice of levy to supplement Guarantee Fund imposed under Uniform Law s. 226**

If the Legal Contribution Trust imposes a levy under the *Legal Profession Uniform Law (WA)* section 226, the Trust must, as soon as practicable after imposing it —

- (a) cause notice of the levy to be published in the *Gazette*; and
- (b) give written notice of the levy to the Board and the Law Society.

**199. Audit under Uniform Law s. 232**

- (1) An audit required under the *Legal Profession Uniform Law (WA)* section 232 must be carried out by accountants approved by the Attorney General.
- (2) The Legal Contribution Trust must give a copy of the audit report to the Attorney General and the Law Society.

**Division 2 — Interest on trust accounts**

**200. Trust account arrangements to pay no more than 51% of interest to Legal Contribution Trust**

- (1) The Legal Contribution Trust must not enter into an arrangement (a ***trust account arrangement***) with an ADI under the *Legal Profession Uniform Law (WA)* section 149(1)(b) for the payment of interest on the whole or any part of deposits in trust accounts to the Trust that provides for more than 51% of the interest on deposits in a trust account to be paid to the Trust.
- (2) A trust account arrangement that provides for more than 51% of the interest on deposits in a trust account to be paid to the Legal Contribution Trust in contravention of subsection (1) is taken to require the payment of only 51% of the interest.

Note for this section:

Part 12 provides for the payment of the remainder of the interest earned on deposits in trust accounts.

**201. Application of interest**

- (1) In this section —  
***agreed amount*** means an amount that is —
  - (a) at least \$100 000 or another amount prescribed by the local regulations; and
  - (b) agreed by the Attorney General and Law Society;

***Legal Aid Fund*** means the Legal Aid Fund of Western Australia referred to in the *Legal Aid Commission Act 1976* section 52(1);

***peak organisation*** means an incorporated body that provides representation, coordination or support services to advance the purposes of community legal services.

- (2) The Legal Contribution Trust must pay all money received under a trust account arrangement to the credit of an account called the Trust Interest Account.
- (3) Money in the Trust Interest Account must —
  - (a) firstly, be applied in payment of the costs and expenses, other than those mentioned in section 195, of administering the Legal Contribution Trust; and
  - (b) secondly, be paid to the Guarantee Fund until the Fund is in credit to the agreed amount.
- (4) If the Guarantee Fund is in credit to the agreed amount, money in the Trust Interest Account must be paid as follows —
  - (a) 50% of the balance to the Legal Aid Commission to be applied to the Legal Aid Fund; and
  - (b) 50% of the balance in such amounts or in such proportions as the Attorney General may, after consultation with the Law Society, approve or determine —
    - (i) to the Legal Aid Commission, to be applied to the Legal Aid Fund; or
    - (ii) to the Law Society, to be applied to law reform, legal research and legal education, or any of those things; or
    - (iii) to a body, whether corporate or not, for the purposes of which money has been appropriated by Parliament and which is charged with the functions of law reform; or

- (iv) to any community legal service prescribed by the local regulations, to be substantially applied to funding the provision by that service of legal services or community legal education; or
  - (v) to any peak organisation prescribed by the local regulations, to be substantially applied to funding the provision by that organisation of representation, coordination or support services to advance the purposes of community legal services.
- (5) Despite subsections (3) and (4), if the Legal Contribution Trust enters into a policy or policies of insurance indemnifying the Guarantee Fund in the amount of \$100 000 or any lesser amount that may, taking into account the amount in which the Guarantee Fund is in credit, be required to indemnify the Guarantee Fund in the balance of the amount of \$100 000, the money in the Trust Interest Account must —
  - (a) firstly, be applied as provided by subsection (3)(a); and
  - (b) secondly, be applied in payment of the premiums payable under the policy or policies of insurance; and
  - (c) thirdly, be paid to the credit of the Guarantee Fund in such amounts as the Attorney General and the Law Society may, from time to time, by agreement, determine; and
  - (d) fourthly, be paid and applied as provided in subsection (4)(a) and (b).
- (6) The costs and expenses of administering the Legal Contribution Trust include any fees and allowances payable to the trustees, or any of the trustees, that may be prescribed by the local regulations.

**202. Audit of expenditure**

- (1) A person to whom money is paid under section 201(4)(a) or (b) must —
- (a) maintain accounts of the money received and of its expenditure; and
  - (b) at the end of each financial year cause those accounts to be audited by a registered company auditor; and
  - (c) give a copy of the audit report to the Attorney General, the Legal Contribution Trust and the Board.

Penalty for this subsection: a fine of \$5 000.

- (2) The Attorney General must, within 14 days after the day on which a copy of an audit report is received by the Attorney General, cause a copy of the report to be laid before each House of Parliament or dealt with under section 258.

## Part 9 — Proceedings

### 203. Terms used

In this Part —

***alleged conduct*** means conduct that would, if the conduct concerned were established, amount to unsatisfactory professional conduct or professional misconduct;

***disciplinary proceeding*** —

- (a) means a proceeding initiated under the *Legal Profession Uniform Law (WA)* section 300; but
- (b) does not include a proceeding of the type described in the Commonwealth Constitution section 75(iv).

### 204. Constitution of State Administrative Tribunal

- (1) Subject to subsection (2), for the purposes of exercising jurisdiction conferred under this Act or the *Legal Profession Uniform Law (WA)*, the State Administrative Tribunal is to be constituted —

- (a) by —

- (i) the President of the Tribunal; and
    - (ii) a Deputy President of the Tribunal or a senior member who is a legally qualified member as defined in the *State Administrative Tribunal Act 2004* section 3(1); and
    - (iii) a person who is not an Australian legal practitioner but has knowledge and understanding of the interests of persons dealing with Australian legal practitioners;

or

- (b) by —

- (i) a Deputy President of the Tribunal; and

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- (ii) a senior member who is a legally qualified member as defined in the *State Administrative Tribunal Act 2004* section 3(1); and
  - (iii) a person who is not an Australian legal practitioner but has knowledge and understanding of the interests of persons dealing with Australian legal practitioners.
- (2) In a hearing for the purposes of section 210 or a directions hearing or other procedural hearing, the State Administrative Tribunal is to be constituted by, or so as to include, the President or a Deputy President of the Tribunal.

**205. Procedure of State Administrative Tribunal**

Subject to this Act and the *Legal Profession Uniform Law (WA)*, the State Administrative Tribunal must conduct proceedings initiated under this Act or the Law in accordance with the *State Administrative Tribunal Act 2004*.

**206. Disciplinary proceedings may involve 1 or more matters**

Disciplinary proceedings initiated in the State Administrative Tribunal may relate to 1 or more matters that involve, or may involve, unsatisfactory professional conduct or professional misconduct.

**207. Time for initiating disciplinary proceedings under Uniform Law s. 300**

- (1) The Board must initiate a disciplinary proceeding in the State Administrative Tribunal within 6 months after the day on which the Board decides to initiate proceedings in the Tribunal with respect to the alleged conduct.
- (2) However, the Board may apply in writing to the State Administrative Tribunal for leave to initiate proceedings after the 6-month period under subsection (1).



- (3) The State Administrative Tribunal may grant leave to initiate proceedings later than the 6-month period.
- (4) In making a decision under subsection (3), the State Administrative Tribunal may have regard to all of the circumstances of the case, including —
  - (a) the public interest; and
  - (b) the extent to which, having regard to the delay, there is or may be prejudice to the Australian lawyer concerned because evidence that would have been available if the application had been made within the 6-month period is no longer available; and
  - (c) whether the Board’s explanation for the delay in initiating the proceedings is reasonable.
- (5) An official record or notification of the Board stating the Board’s decision to initiate proceedings referred to in subsection (1) is sufficient evidence of the Board’s decision.

**208. State Administrative Tribunal to conduct hearing for disciplinary proceeding**

The State Administrative Tribunal must conduct a hearing into each allegation made in an application initiating a disciplinary proceeding.

**209. Variation of application initiating disciplinary proceeding**

- (1) In this section —  
*vary*, in relation to an application initiating a disciplinary proceeding, includes adding an allegation to, or removing an allegation from, the application.
- (2) The Board may apply to vary an application initiating a disciplinary proceeding.

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- (3) The State Administrative Tribunal may vary the application if satisfied that it is reasonable to do so, having regard to all the circumstances, including whether varying the application would affect the fairness of the proceedings.
- (4) If the variation of an application initiating a disciplinary proceeding is to add an allegation to the application, the State Administrative Tribunal must not decline to vary the application only because —
  - (a) the additional allegation has not been the subject of a complaint; or
  - (b) the additional allegation has not been the subject of an investigation; or
  - (c) the alleged conduct concerned occurred more than 3 years ago.

**210. Interlocutory and interim orders in relation to disciplinary proceedings**

The State Administrative Tribunal may make any interlocutory or interim orders that it considers appropriate before making its final decision for a disciplinary proceeding.

**211. State Administrative Tribunal not bound by rules of evidence**

- (1) This section applies to —
  - (a) a disciplinary proceeding; and
  - (b) a proceeding under the *Legal Profession Uniform Law (WA)* section 453.
- (2) For the purposes of the *Legal Profession Uniform Law (WA)* sections 301(3) and 453(6), the State Administrative Tribunal is not bound by the rules of evidence.

**212. Notification of particular State Administrative Tribunal orders**

The Board must ensure that persons and bodies having relevant functions under a corresponding law of another participating jurisdiction (a *relevant jurisdiction*) are notified of the making and contents of any order of the State Administrative Tribunal under section 210 or the *Legal Profession Uniform Law (WA)* Part 5.4 Division 3 that —

- (a) needs to be, or is capable of being, given effect to in the relevant jurisdiction; and
- (b) relates to the Australian legal practitioner's practice of law in the relevant jurisdiction.

**213. Provisions about fines imposed under Uniform Law s. 302**

If the State Administrative Tribunal makes an order under the *Legal Profession Uniform Law (WA)* section 302(1)(l), the amount must be paid to the Board within the period specified by the Tribunal.

**214. Giving effect to State Administrative Tribunal orders**

Persons and bodies having relevant functions under this Act or the *Legal Profession Uniform Law (WA)* must —

- (a) give effect to an order of the State Administrative Tribunal under section 210; and
- (b) enforce an order that requires compliance by an Australian legal practitioner (except to the extent that the order relates to the practitioner's practice of law in another jurisdiction).

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**215. State Administrative Tribunal to give order recommending removal of lawyer from roll or register to Principal Registrar**

If the State Administrative Tribunal makes an order under the *Legal Profession Uniform Law (WA)* section 302(1)(f), the Tribunal must give the following to the Principal Registrar —

- (a) a copy of the order;
- (b) a record of the evidence taken at the hearing;
- (c) a copy of the Tribunal's reasons for the final decision to make the order.

**216. Official notification to Board and Legal Services and Complaints Committee of removal from roll under Uniform Law s. 23**

If a person's name and other particulars are removed from the Supreme Court roll under the *Legal Profession Uniform Law (WA)* section 23, the Principal Registrar must, as soon as practicable, give written notice of the removal to the Board and the Legal Services and Complaints Committee.

## **Part 10 — Registers**

### **Division 1 — Certificate registers**

#### **217. Register of Australian practising certificates granted by the Board**

- (1) The Board must keep a register of the names of Australian lawyers to whom the Board grants Australian practising certificates.
- (2) The register must —
  - (a) state the conditions (if any) imposed on an Australian practising certificate in relation to engaging in legal practice; and
  - (b) include any other particulars prescribed by the local regulations.
- (3) If a condition is imposed on an Australian practising certificate because of an injury to, or the infirmity or mental or physical illness of, the holder of the practising certificate, the Board may omit from the register any part of the condition that includes —
  - (a) the reason for the imposition of the condition; and
  - (b) other information in relation to the injury, infirmity or mental or physical illness.
- (4) Subject to the *Legal Profession Uniform Law (WA)* section 435, the Board may keep the register in the manner the Board decides.
- (5) The register —
  - (a) must be available for inspection, without charge, at the Board's principal place of business during normal business hours; and
  - (b) may otherwise be published by the Board in the manner and circumstances it considers appropriate, including by

publishing the names of persons in the register and other information included in the register about the persons.

**218. Register of Australian registration certificates granted by the Board**

- (1) The Board must keep a register of the names of persons to whom the Board grants Australian registration certificates.
- (2) The register must —
  - (a) state the conditions (if any) imposed on an Australian registration certificate; and
  - (b) include any other particulars prescribed by the local regulations.
- (3) Subject to the *Legal Profession Uniform Law (WA)* section 435, the Board may keep the register in the manner the Board decides.
- (4) The register —
  - (a) must be available for inspection, without charge, at the Board's principal place of business during normal business hours; and
  - (b) may otherwise be published by the Board in the manner and circumstances it considers appropriate, including by publishing the names of persons in the register and other information included in the register about the persons.

**Division 2 — Disciplinary action register**

**219. Terms used**

In this Division —

***disciplinary action*** means —

- (a) the making of an order by a court or tribunal for or following a finding of unsatisfactory professional conduct or professional misconduct by an Australian

lawyer under this Act, the *Legal Profession Uniform Law (WA)* or a corresponding law; or

- (b) any of the following actions taken under the *Legal Profession Uniform Law (WA)* or a corresponding law, following a finding by a court, tribunal or other person of professional misconduct by an Australian lawyer —
- (i) the removal of the name of the lawyer from a Supreme Court roll;
  - (ii) the suspension, variation or cancellation of the lawyer's Australian practising certificate or Australian registration certificate;
  - (iii) the refusal to grant or renew an Australian practising certificate or Australian registration certificate to the lawyer;
  - (iv) the appointment of a receiver of all or any of the lawyer's property or the appointment of a manager of the lawyer's practice;
  - (v) the making of an order under Part 5.4 of the Law, other than an order cautioning or reprimanding the lawyer;

***register of disciplinary action*** means the register kept under section 220(2).

## 220. Register of disciplinary action

- (1) In this section —

***former register*** means the Register of Disciplinary Action kept under section 452(1) of the old Act;

***previous disciplinary action*** means disciplinary action as defined in section 451 of the old Act.

- (2) The Board must keep a register of the following —

- (a) disciplinary action taken under the *Legal Profession Uniform Law (WA)*;

- (b) disciplinary action taken under a corresponding law in respect of an Australian lawyer admitted or practising in the State;
  - (c) previous disciplinary action recorded in the former register in relation to an Australian lawyer admitted or practising in the State.
- (3) The register of disciplinary action may also include previous disciplinary action that occurred before the day on which this section comes into operation but was not recorded in the former register.
- (4) The register of disciplinary action must include —
  - (a) the full name of the person (the *disciplined person*) against whom the disciplinary action, or previous disciplinary action, was taken; and
  - (b) the disciplined person's business address or former business address; and
  - (c) the disciplined person's home jurisdiction or most recent home jurisdiction; and
  - (d) particulars of the disciplinary action, or previous disciplinary action, taken; and
  - (e) other particulars prescribed by the local regulations.
- (5) The register of disciplinary action may be kept in a form determined by the Board and form part of other registers.
- (6) The Board may cause any error in or omission from the register of disciplinary action to be corrected.
- (7) The Legal Services and Complaints Committee, the State Administrative Tribunal and the Principal Registrar must provide to the Board sufficient information to enable the Board to exercise the Board's functions in respect of the register of disciplinary action.



**221. Public availability of register of disciplinary action**

- (1) The register of disciplinary action must be made available for public inspection on —
  - (a) the Board's website; or
  - (b) another website identified on the Board's website.
- (2) Information recorded in the register of disciplinary action may be provided to members of the public in any other manner approved by the Board.

**222. Publicising disciplinary action**

Without limiting other provisions of this Division dealing with publication of disciplinary action, the Board may publicise disciplinary action taken against a person in any manner the Board considers appropriate.

**223. Effect of quashing of disciplinary action**

- (1) If disciplinary action is quashed on appeal or review, any reference to that disciplinary action must be removed from the register of disciplinary action.
- (2) If disciplinary action is quashed on appeal or review after the action was publicised by the Board under section 222, the result of the appeal or review must be publicised with equal prominence by the Board.

**224. Publicising disciplinary action taken because of injury, infirmity or illness**

- (1) In this section —

*relevant disciplinary action*, in relation to a person, means disciplinary action that is —

  - (a) the suspension or cancellation of the person's Australian practising certificate; or

- (b) a refusal to grant or renew an Australian practising certificate applied for by the person; or
  - (c) a restriction or prohibition on the person's right to engage in legal practice.
- (2) If relevant disciplinary action is taken against a person because of the person's injury, infirmity or physical or mental illness, the relevant disciplinary action may be recorded in the register of disciplinary action but any other information relating to the person's injury, infirmity or physical or mental illness must not be recorded in the register or otherwise publicised under this Division without the person's consent.
- (3) Disciplinary action must not be recorded in the register of disciplinary action or otherwise publicised under this Division if —
  - (a) the disciplinary action is taken against a person because of the person's injury, infirmity or physical or mental illness; and
  - (b) the disciplinary action is not relevant disciplinary action.

**225. Effect of secrecy provisions and non-disclosure orders**

- (1) The provisions of this Division are subject to any order made by any of the following so far as the order prohibits or restricts the disclosure of information —
  - (a) the Supreme Court or the State Administrative Tribunal;
  - (b) a corresponding authority in relation to disciplinary action taken under provisions of a corresponding law;
  - (c) another court or tribunal of this State or another jurisdiction.
- (2) Despite subsection (1), unless an order has been made under subsection (3) the name and other identifying particulars of a person against whom disciplinary action is taken, and the kind of disciplinary action taken, must be recorded in the register of

disciplinary action in accordance with the requirements of this Division and may be otherwise publicised under this Division.

- (3) A court or tribunal that makes an order or finding that constitutes, or results or may result in, disciplinary action against a person may make an order prohibiting the disciplinary action from being publicised.
- (4) A court or tribunal cannot make an order under subsection (3) unless the court or tribunal considers that there are exceptional circumstances justifying the making of the order.
- (5) If an order has been made under subsection (3) —
  - (a) the name and other identifying particulars of the person against whom disciplinary action is taken, and the kind of disciplinary action taken, must be recorded in the register of disciplinary action in accordance with the requirements of this Division; but
  - (b) that information must not be —
    - (i) made available for public inspection on the register or provided to members of the public under section 221; or
    - (ii) otherwise publicised under this Division; or
    - (iii) given to a corresponding authority unless the authority gives an undertaking to the Board that the information will remain confidential and will not be made available for public inspection or otherwise publicised.

## 226. Liability for publicising disciplinary action

- (1) In this section —  
*protected person* means —
  - (a) the State; or
  - (b) the Board; or

- (c) a person responsible for keeping the whole or any part of the register of disciplinary action; or
  - (d) an Internet service provider or Internet content host; or
  - (e) a member of staff of, or a person acting at the direction of, a statutory body or any person or body referred to in this definition.
- (2) No liability is incurred by a protected person in respect of anything done or omitted to be done in good faith for the purpose of —
  - (a) publicising disciplinary action taken against a person; or
  - (b) exercising functions of the Board under this Division; or
  - (c) keeping, publishing, or enabling access to, the register of disciplinary action.
- (3) Without limiting subsection (2), no liability (including liability in defamation) is incurred by a protected person publishing in good faith —
  - (a) information about disciplinary action —
    - (i) recorded in the register of disciplinary action; or
    - (ii) otherwise publicised by the Board under this Division;
  - or
  - (b) matters purporting to contain information mentioned in paragraph (a) that is incorrect in any respect; or
  - (c) a fair report or summary of information mentioned in paragraph (a).

### **Division 3 — Disqualification orders and approvals register**

#### **227. Disqualification orders and approvals register**

- (1) The Board may keep a register of —
  - (a) orders made under the *Legal Profession Uniform Law (WA)* section 119 or 120 on application by the Board; and
  - (b) approvals of persons as lay associates for the purposes of the *Legal Profession Uniform Law (WA)* section 121 given by the Board under section 121(2) of the Law.
- (2) If the Board keeps a register under subsection (1), the register —
  - (a) must include the information required by the local regulations; and
  - (b) if the Uniform Rules (WA) specify details that may or must not be included in the register and the Rules are not inconsistent with the local regulations made for the purposes of paragraph (a) — must be consistent with the Uniform Rules (WA); and
  - (c) may otherwise be kept in a form determined by the Board.
- (3) The register —
  - (a) must be available for inspection by an Australian legal practitioner, without charge, at the Board's principal place of business during normal business hours; and
  - (b) must not be made available for inspection by a person who is not an Australian legal practitioner.

## **Part 11 — Enforcement**

### **Division 1 — Search warrants under *Legal Profession Uniform Law* (WA)**

**228. Application for search warrants under Uniform Law s. 377**

- (1) An application for a search warrant under the *Legal Profession Uniform Law* (WA) section 377 must be made to a magistrate under subsection (2) and the *Criminal Investigation Act 2006* section 13.
- (2) The application, or the written record of the application, must state —
  - (a) the investigator's full name; and
  - (b) the details of the investigator's appointment for inspection; and
  - (c) details of the premises in relation to which the warrant will be issued; and
  - (d) a description of the relevant material the investigator suspects is located at the premises; and
  - (e) the reasonable grounds upon which the investigator suspects the relevant material is located at the premises; and
  - (f) whether the investigator knows another application for a search warrant has been made, and whether the warrant was issued, in relation to the premises for which the warrant is being applied for.

**229. Provisions for search warrants issued under Uniform Law s. 377**

- (1) A search warrant issued under the *Legal Profession Uniform Law* (WA) section 377 must state —
  - (a) the name of the magistrate who issued the warrant; and
  - (b) the time and day when the warrant was issued; and

- (c) the investigator's full name and the details of the investigator's appointment for inspection; and
  - (d) details of the premises in relation to which the warrant is issued; and
  - (e) a description of the relevant material the investigator suspects is located at the premises; and
  - (f) the period, beginning on the day on which the warrant is issued and ending no more than 30 days after that day, during which the warrant must be executed; and
  - (g) any restrictions on the powers that may be exercised under section 230 of this Act or section 375 of the Law.
- (2) A search warrant comes into force when it is issued by the magistrate.
- (3) The *Criminal Investigation Act 2006* section 13(8) applies in relation to a search warrant issued under the *Legal Profession Uniform Law (WA)* section 377.

**230. Use of force when executing search warrants issued under Uniform Law s. 377**

An investigator executing a search warrant issued under the *Legal Profession Uniform Law (WA)* section 377 may, in addition to the powers that may be exercised under section 375 of the Law, use force under the *Criminal Investigation Act 2006* section 16 as if the powers exercised under section 375 of the Law were a power exercised under that Act.

**231. Executed search warrants issued under Uniform Law s. 377 to be endorsed**

An investigator executing a search warrant issued under the *Legal Profession Uniform Law (WA)* section 377 must endorse the warrant, or a copy or form of the warrant referred to in the *Criminal Investigation Act 2006* section 13(8), with the time and day when the warrant was executed.

**232. Receipt for items seized under search warrants**

If an investigator executing a search warrant issued under the *Legal Profession Uniform Law (WA)* section 377 retains a document or other thing seized during the search under section 380 of the Law, the investigator must —

- (a) issue a receipt in the form approved by the Board; and
- (b) either —
  - (i) if the occupier of the premises from which the thing is seized, or a person other than the occupier, is present — give the receipt to the person; or
  - (ii) in any other case — leave the receipt on the premises in an envelope addressed to the occupier of the premises.

**Division 2 — Contraventions of Act or *Legal Profession Uniform Law (WA)***

**233. Board may appoint person to investigate contravention of Act or Uniform Law**

- (1) This section applies if the Board suspects on reasonable grounds that a person has —
  - (a) committed an offence under this Act; or
  - (b) committed an offence against the *Legal Profession Uniform Law (WA)* or contravened a civil penalty provision, other than an offence or civil penalty provision in Part 4.2 of the Law.
- (2) The Board may appoint a person to investigate the suspected commission of the offence or contravention of the penalty provision.

Note for this subsection:

See the *Legal Profession Uniform Law (WA)* section 469.



- (3) The *Legal Profession Uniform Law (WA)* Chapter 7 applies in relation to the investigation carried out under this section as if a reference in Chapter 7 to —
  - (a) a trust records investigation were a reference to the investigation carried out under this section; and
  - (b) an investigator were a reference to a person appointed under subsection (2).
- (4) The *Legal Profession Uniform Law (WA)* sections 462, 465 and 467 apply to a person appointed under subsection (2) as if they were a relevant person for the purposes of those sections of the Law.

**234. Who may commence proceedings for offence against Act or Uniform Law**

The Board, or a person authorised by the Board, may commence a prosecution for an offence against this Act or the *Legal Profession Uniform Law (WA)*.

**235. When prosecution may be commenced for offence against Uniform Law s. 10 or 11**

- (1) A prosecution for an offence against the *Legal Profession Uniform Law (WA)* section 10 or 11 may be commenced within 24 months after the day on which the alleged offence was committed.
- (2) However, if a prosecution notice specifies the day on which evidence of the alleged offence against the *Legal Profession Uniform Law (WA)* section 10 or 11 first came to the attention of the Board, or a person authorised to commence a prosecution under section 234 —
  - (a) the prosecution may be commenced within 24 months after the day specified in the notice; and
  - (b) the prosecution notice need not contain particulars of the day on which the offence is alleged to have been committed.

- (3) The day on which evidence first came to the attention of the Board, or a person authorised by the Board is the day specified in the prosecution notice, unless the contrary is shown.

**236. Enforcement of orders to pay fines under Uniform Law**

- (1) This section applies to —
- (a) an order under the *Legal Profession Uniform Law (WA)* section 299(1)(f); or
  - (b) an order under the *Legal Profession Uniform Law (WA)* section 302(1)(l).
- (2) The order may be filed in the registry of the court that would have jurisdiction to order payment of the fine as if it were a debt.
- (3) An order filed in the registry of the court under subsection (2) may be enforced by the Board as if the order were an order of the court.

**237. Board may recover pecuniary penalty to be paid under Uniform Law**

For the purposes of the *Legal Profession Uniform Law (WA)* section 456(a), the Board may enforce an order to pay a pecuniary penalty made under the Law.

**Division 3 — Notices under *Legal Profession Uniform Law (WA)* s. 371(1)(a) or (b)**

**238. Effect of notice under Uniform Law s. 371(1)(a) or (b)**

- (1) A notice served under the *Legal Profession Uniform Law (WA)* section 371(1)(a) or (b) has the same effect as a subpoena to produce documents or attend to give evidence, as the case may be, issued by the Supreme Court for the attendance of a witness for examination or production of documents in a civil action.

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- (2) Obedience to, or non-observance of, a notice served under the *Legal Profession Uniform Law (WA)* section 371(1)(a) or (b) may be enforced and punished by a judge in chambers in the same manner as in the case of obedience to, or non-observance of, a subpoena issued by the Supreme Court.
- (3) However —
- (a) if a person is punished by a judge in chambers under subsection (2), the person may be charged and convicted of an offence against the *Legal Profession Uniform Law (WA)* section 371(3) but not sentenced for the offence; and
  - (b) if a person is charged, convicted of and sentenced for an offence against the *Legal Profession Uniform Law (WA)* section 371(3), the person may not be punished by a judge in chambers under subsection (2).

Note for this subsection:

See also the *Legal Profession Uniform Law (WA)* section 466.

## **Part 12 — Law Society Public Purposes Trust**

### **239. Terms used**

In this Part —

***Law Society Public Purposes Trust Deed*** means the Deed of Trust dated 22 August 1985 made by the Law Society as varied from time to time and published on the Law Society's website; ***vary***, in relation to the Law Society Public Purposes Trust Deed, means to vary, add to, or revoke part of, the Deed in accordance with the Deed.

### **240. Remaining interest on trust accounts to be paid to Law Society**

If interest is earned on money in a trust account maintained with an authorised ADI in this State, the authorised ADI must —

- (a) if a trust account arrangement provides for a proportion of the interest to be paid to the Legal Contribution Trust — pay the remainder of the interest to the Law Society when the ADI pays the Legal Contribution Trust; or
- (b) in any other case — pay the interest to the Law Society after the end of the month in which it is earned.

Penalty: a fine of \$5 000.

Note for this section:

See section 200 for the limitation on amounts that can be paid to the Legal Contribution Trust under a trust account arrangement.

### **241. Application of funds paid to Law Society**

The Law Society must hold and apply the amounts received under section 240 in accordance with the Law Society Public Purposes Trust Deed.

**242. Legal Contribution Trust must provide copy of arrangements to Law Society**

The Legal Contribution Trust must give the Law Society a copy of each trust account arrangement.

**243. Tabling of instruments varying Law Society Public Purposes Trust Deed**

- (1) If the Law Society Public Purposes Trust Deed is varied, the Law Society must, within 14 days after the variation —
  - (a) publish the instrument varying the Deed on the Law Society's website; and
  - (b) give the Attorney General a copy of the instrument varying the Deed.
- (2) The Attorney General must, within 14 days after the day on which a copy of an instrument is given to the Attorney General under subsection (1), cause a copy of the instrument to be laid before each House of Parliament or dealt with under section 258.

## **Part 13 — Law library**

### **244. Law library**

- (1) The State may establish and manage a law library for the use of —
  - (a) the judiciary; and
  - (b) Australian lawyers whose home jurisdiction is this State; and
  - (c) other persons prescribed by the local regulations.
- (2) Any assets acquired after the day on which this section comes into operation for the purposes of the law library are vested in and are the property of the State.

### **245. Law library contributions**

- (1) In this section —

***calculation regulations*** means the local regulations specifying a method by which the amount of contribution is to be calculated in any year;

***CPI*** means —

  - (a) the All Groups Consumer Price Index for Perth published by the Bureau of Statistics established by the *Australian Bureau of Statistics Act 1975* (Commonwealth) section 5(1); or
  - (b) if the Bureau of Statistics does not publish the All Groups Consumer Price Index for Perth — another similar index nominated by the Attorney General.
- (2) The Board must pay to the State an amount each year, in accordance with the local regulations, as a contribution towards the cost of providing and maintaining the law library.
- (3) The local regulations must specify —
  - (a) the amount of the contribution or the method by which the amount of the contribution is to be calculated; and

- (b) when payment becomes due.
- (4) An amendment to the local regulations mentioned in subsection (3) must be made at least 7 months before the beginning of the financial year to which the amendment will apply.
- (5) Before an amendment to the local regulations mentioned in subsection (3) is made, the Attorney General must —
  - (a) obtain the written agreement of the Board, the Law Society and the Western Australian Bar Association to the proposed amendment; or
  - (b) notify the Board, the Law Society and the Western Australian Bar Association of the proposed amendment at least 9 months before the beginning of the first financial year to which the proposed amendment is intended to apply and have regard to any submissions made by those bodies.
- (6) Unless agreement is obtained as mentioned in subsection (5)(a), neither the local regulations specifying an amount of contribution to be paid nor the calculation regulations can be amended so as to increase the amount required to be paid in any year to an amount that is greater than the amount that would have been payable in that year, if calculated under the calculation regulations and adjusted for any CPI increase plus 2.5% per annum, pro rata, from the day on which the calculation regulations were made or last amended (whichever is later) to the day of the proposed amendment.
- (7) The payment must be credited to an agency special purpose account, named the Law Library Fund, established under the *Financial Management Act 2006* section 16 and administered by the department.
- (8) The money in the Law Library Fund must be applied —
  - (a) to provide and maintain the law library; and

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- (b) to provide library services to the persons mentioned in section 244(1); and
  - (c) for other purposes prescribed by the local regulations.
- (9) If this section provides, or local regulations made under this section provide, for a levy, the levy is imposed.

*[Section 245 amended: No. 10 of 2022 s. 4.]*

**246. Local regulations for law library**

- (1) The local regulations may provide for the provision, operation and management of the law library, including —
  - (a) access to and use of the law library; and
  - (b) the terms on which persons may be given access to and use of the law library facilities (including the payment of fees); and
  - (c) the borrowing of law library resources; and
  - (d) the manner of securing a law library resource if it has been loaned.
- (2) The local regulations made for the purposes of subsection (1) may provide for the making of rules or administrative procedures by a person or body.



## Part 14 — Miscellaneous

### 247. Information sharing

The Board, the Legal Services and Complaints Committee and the Legal Contribution Trust (each of which is a **relevant authority**) may disclose information to —

- (a) another relevant authority about any matter relating to or arising under this Act, the *Legal Profession Uniform Law (WA)* or another Act; or
- (b) a corresponding authority about any matter relating to or arising under an Act, the *Legal Profession Uniform Law (WA)* or a corresponding law; or
- (c) a person or class of persons prescribed by the local regulations about any matter relating to or arising under an Act, the *Legal Profession Uniform Law (WA)* or a corresponding law, subject to any conditions prescribed by the local regulations.

### 248. Conduct that constitutes unsatisfactory professional conduct or professional misconduct

Without limiting the *Legal Profession Uniform Law (WA)* section 298, the following conduct by an Australian lawyer may constitute unsatisfactory professional conduct or professional misconduct —

- (a) if the local regulations provide that a consequence for contravening a requirement under the local regulations constitutes unsatisfactory professional conduct or professional misconduct — contravening the requirement;
- (b) failing to notify the Board of a change in circumstances under section 177;
- (c) failing to comply with a notice under section 190;
- (d) providing false or misleading information to the Law Society or the Board under section 190;

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- (e) failing to comply with an order made by the Board or the Legal Services and Complaints Committee under this Act.

**249. Powers of Supreme Court unaffected**

- (1) Subject to section 238(3)(b), the imposition of a penalty for a contravention of a provision of this Act or the *Legal Profession Uniform Law (WA)* does not affect the power of the Supreme Court to punish for a contempt of the Court.
- (2) Despite anything to the contrary in the *Legal Profession Uniform Law (WA)*, nothing in the Law excludes or restricts judicial review by the Supreme Court of a decision of another court, tribunal, body or person.

**250. Liability of principals for contravention of Act**

The *Legal Profession Uniform Law (WA)* section 35 applies in relation to a contravention by a law practice of a provision of this Act imposing an obligation on the law practice in the same way as it applies in relation to a contravention by a law practice of a provision of the Law imposing an obligation on the law practice.

**251. Defect or irregularity in person's appointment**

- (1) A defect or irregularity in the appointment of any person exercising, or purporting to exercise, a function under this Act or the *Legal Profession Uniform Law (WA)* does not invalidate an act done by the person in good faith.
- (2) In this section a reference to the doing of anything includes a reference to the omission to do anything.

**252. Local regulations**

- (1) The Governor may make regulations prescribing matters —
  - (a) required or permitted by this Act to be prescribed; or

- (b) necessary or convenient to be prescribed for giving effect to this Act.
- (2) Without limiting subsection (1), the local regulations may make provision for or in relation to —
  - (a) fees in respect of functions of —
    - (i) the Supreme Court under this Act; and
    - (ii) the State Administrative Tribunal under this Act; and
    - (iii) the Board, Legal Services and Complaints Committee or another person under this Act; and
    - (iv) a designated tribunal or local regulatory authority under the *Legal Profession Uniform Law (WA)* or the Uniform Rules (WA), to the extent that fees are not specified in, or otherwise provided for by, the Law or the Uniform Rules (WA);
  - and
  - (b) the payment, collection, waiver, postponement or refund of fees paid under this Act or the *Legal Profession Uniform Law (WA)*; and
  - (c) the giving of information to the Board by a local legal practitioner if information previously given to the Board is no longer correct; and
  - (d) the exempting of persons, or classes of persons, in whole or part from provisions of this Act.
- (3) Without limiting subsection (1), the local regulations may —
  - (a) provide that a contravention of a provision of the local regulations is an offence and provide for a penalty for the offence not exceeding a fine of \$5 000; and
  - (b) confer a discretion on a person; and
  - (c) impose conditions, or authorise or permit a person to impose conditions, in relation to a matter.

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**253. Local approved forms**

- (1) If this Act provides that a local approved form may or must be given to a person under or for the purposes of this Act or the *Legal Profession Uniform Law (WA)*, the person to whom the form may or must be given may approve that form.
- (2) The local regulations may include provision for or in relation to local approved forms.
- (3) Local approved forms must be published on the website of the person who approved it.

**254. Delegation**

- (1) In this section —  
***prescribed person***, in relation to a power or duty under this Act, means a person, or a person in a class of persons, prescribed by the local regulations as a person or class of persons to whom that power or duty may be delegated under this section.
- (2) The Law Society may delegate to a prescribed person any power or duty of the Law Society under another provision of this Act, other than a power or duty under Part 7.
- (3) A delegation under subsection (2) must be in writing and executed by the Law Society.
- (4) A person, other than the Law Society, the Board or the Legal Services and Complaints Committee, who has a power or duty under this Act may delegate any power or duty that person has under another provision of this Act to a prescribed person.
- (5) A delegation under subsection (4) must be in writing and be signed by the person.
- (6) A prescribed person to whom a power or duty is delegated under this section cannot delegate that power or duty.
- (7) A person exercising or performing a power or duty that has been delegated to the person under this section is taken to do so in

accordance with the terms of the delegation unless the contrary is shown.

- (8) Nothing in this section limits the ability of a person who may delegate a power or duty under this section to perform a function through an officer or agent.

**255. Protection from liability**

- (1) No liability is incurred by any of the following persons in respect of anything done in good faith in the performance or purported performance of a function under this Act —
- (a) the Attorney General;
  - (b) the Board;
  - (c) a Board member;
  - (d) the secretary of the Board employed or engaged under section 54(1);
  - (e) a member of staff of the Board;
  - (f) the Legal Services and Complaints Committee;
  - (g) a Legal Services and Complaints Committee member;
  - (h) the Legal Services and Complaints Officer;
  - (i) the Legal Costs Committee;
  - (j) a Legal Costs Committee member;
  - (k) the Legal Contribution Trust;
  - (l) a trustee of the Legal Contribution Trust;
  - (m) a person employed or engaged by the Legal Contribution Trust under section 103(2);
  - (n) the Law Society, including the Law Society in its capacity as trustee of the Law Mutual Fund;
  - (o) a person employed or engaged by the Law Society;
  - (p) the PII management committee or any member of that committee;

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- (q) any committee, or member of a committee, of the Board, the Legal Contribution Trust or the Law Society.
- (2) The protection given by subsection (1) applies even though the thing done as described in that subsection may have been capable of being done whether or not this Act had been enacted.
- (3) In this section a reference to the doing of anything includes a reference to the omission to do anything.
- (4) Subsection (5) applies to a person who —
  - (a) performs any function in relation to an investigation under section 233; or
  - (b) is otherwise concerned in an inquiry before the Board under this Act or the *Legal Profession Uniform Law (WA)*.
- (5) The person has, in respect of the function or concern, the same protection and immunity that a member or an officer of the Supreme Court, or a witness or a party before the Supreme Court, would have in respect of a function or concern of a like nature related to the jurisdiction of the Supreme Court.

**256. Certain witnesses compellable despite Uniform Law s. 468**

For the purposes of the *Legal Profession Uniform Law (WA)* section 468(2), section 468(1) of the Law does not apply to a legal proceeding (however described), including a proceeding for an offence, under —

- (a) the *Corruption, Crime and Misconduct Act 2003*; or
- (b) the *Parliamentary Commissioner Act 1971*; or
- (c) the *Royal Commissions Act 1968*.

**257. Review of Act and Uniform Law**

- (1) The Attorney General must review the operation and effectiveness of this Act and the *Legal Profession Uniform Law (WA)*, and prepare a report based on the review, as soon as

practicable after the 5<sup>th</sup> anniversary of the day on which this section comes into operation.

- (2) The Attorney General must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 5<sup>th</sup> anniversary.

**258. Laying documents before House of Parliament not sitting**

- (1) This section applies if —
- (a) a provision of this Act requires the Attorney General to cause a document to be laid before each House of Parliament, or dealt with under this section, within a period; and
  - (b) at the beginning of the period, a House of Parliament is not sitting; and
  - (c) in the Attorney General's opinion, the House will not sit before the end of the period.
- (2) The Attorney General must send the document to the Clerk of the House before the end of the period.
- (3) When the document is sent to the Clerk of the House it is taken to have been laid before the House.
- (4) The laying of the document that is taken to have occurred under subsection (3) must be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk receives the document.

**259. Giving documents**

- (1) In this section —
- electronic means* includes —
- (a) an electronic database or document system; and
  - (b) any other means by which a document can be accessed electronically.

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- (2) The local regulations may make provision for or in relation to the following —
  - (a) the giving of a document required or permitted to be given under this Act or the *Legal Profession Uniform Law (WA)* (including the giving of the document by electronic means);
  - (b) the time at which the document is taken to have been given;
  - (c) the means of satisfying a requirement under this Act or the *Legal Profession Uniform Law (WA)* in relation to a document in writing (for example, a requirement that the original of a document be given or that a document be signed) if the document is given by electronic means.
- (3) This section applies to a requirement or permission to give a document whether the term “give”, “issue”, “send” or “serve”, or any other similar term, is used.
- (4) The local regulations made under subsection (2) in relation to a document to which *Legal Profession Uniform Law (WA)* Part 9.5 applies cannot provide for the document to be given using a means provided for in that Part in a manner that is inconsistent with that Part.



## **Part 15 — Repeals**

### **260. Repeals**

The following Acts are repealed —

- (a) the *Legal Profession Act 2008*;
- (b) the *Law Society Public Purposes Trust Act 1985*.

### **261. *Interpretation Act 1984* not affected**

Except where the contrary intention appears, this Part and Part 16 do not prejudice or affect the application of the *Interpretation Act 1984* to and in relation to the repeal of the old Act or the *Law Society Public Purposes Trust Act 1985* under section 260.

## **Part 16 — Transitional provisions**

### **Division 1 — Preliminary**

#### **262. Terms used**

In this Part —

***commencement day*** means the day on which this section comes into operation;

***Complaints Committee*** means the Legal Profession Complaints Committee established under section 555(1) of the old Act;

***PII regulations*** means regulations made under section 328(1) of the old Act as in force immediately before commencement day;

***working day*** means a day other than a Saturday, Sunday or public holiday throughout the State.

#### **263. Interaction between this Part and Uniform Law Sch. 4**

This Part —

- (a) states the extent to which the *Legal Profession Uniform Law (WA)* Schedule 4 Part 3 applies as a law of this State; and
- (b) provides for savings and transitional provisions in addition to those in Parts 1 and 2 of that Schedule.

### **Division 2 — Provisions about *Legal Profession Uniform Law (WA)***

#### **264. Application of particular amending Acts enacted after 21 June 2021 but before commencement day**

If an amending Act receives the Royal Assent after 21 June 2021 but before commencement day, sections 8 to 10 apply to the amending Act as if the amending Act received the Royal Assent on commencement day.

**265. Application of s. 15 and 16 to Uniform Regulations and Uniform Rules made after 21 June 2021 but before commencement day**

- (1) If the Uniform Regulations or Uniform Rules are made after 21 June 2021 but before commencement day, sections 15 and 16 apply to the regulations or rules as if they were made on commencement day.
- (2) However, subsection (1) does not apply to a provision of an amending Act that amends the Uniform Regulations or Uniform Rules.

**266. Application of particular provisions of Uniform Law Sch. 4 Pt. 3**

- (1) This section states, for the purposes of the *Legal Profession Uniform Law (WA)* Schedule 4 clause 10(1), the extent to which Schedule 4 Part 3 of the Law applies as a law of this State.
- (2) The following provisions of the *Legal Profession Uniform Law (WA)* Schedule 4 Part 3 apply as a law of this State without modification —
  - (a) clauses 11 to 18;
  - (b) clauses 20 to 23;
  - (c) clauses 29 and 30.
- (3) The *Legal Profession Uniform Law (WA)* Schedule 4 clause 28 applies as a law of this State as if —
  - (a) the reference in clause 28(1)(a) to old Chapter 5 were a reference to Part 14 of the old Act; and
  - (b) the reference in clause 28(1)(b) to that Chapter were a reference to that Part.

### **Division 3 — Local regulatory bodies**

#### **267. Continuation of Legal Practice Board**

- (1) The Board established under this Act is the same entity as, and a continuation of, the Legal Practice Board established under section 534 of the old Act.
- (2) The rights and liabilities of or in relation to the Legal Practice Board established under the old Act continue as rights and liabilities of or in relation to the Board established under this Act.

#### **268. Members of Legal Practice Board**

- (1) A person who was elected as a member of the Legal Practice Board under the old Act and holds that office immediately before commencement day continues on and after that day to be a member of the Board under this Act until the expiry of the term for which the member was elected, subject to this Act.
- (2) A Queen's Counsel or Senior Counsel who was a member of the Legal Practice Board under the old Act immediately before commencement day continues on and after that day to be a member of the Board under this Act, subject to this Act.
- (3) A member of the Legal Practice Board under the old Act who was chairperson or deputy chairperson of that Board immediately before commencement day continues on and after that day to be chairperson or deputy chairperson of the Board under this Act as if they were elected under this Act until the expiry of the term for which they were elected as chairperson or deputy chairperson.
- (4) However —
  - (a) section 42(3) applies to the chairperson or deputy chairperson; and
  - (b) the period the member served as chairperson or deputy chairperson of the Legal Practice Board under the old

Act is taken, on and from commencement day, to be a period of service as chairperson or deputy chairperson of the Board under this Act; and

- (c) the member's position is otherwise subject to this Act.

**269. Complaints Committee continues as Legal Services and Complaints Committee under this Act**

The Legal Services and Complaints Committee established under this Act is the same entity as, and a continuation of, the Complaints Committee.

**270. Members of Complaints Committee**

- (1) A person who was a member of the Complaints Committee under the old Act immediately before commencement day continues on and after that day to be a Legal Services and Complaints Committee member under this Act until the expiry of the term for which the member was appointed.
- (2) If the member of the Complaints Committee was not a representative of the community —
- (a) the member is taken, on and from commencement day, to be a legal member under this Act; and
- (b) the period the member served as a member of the Complaints Committee is taken, on and from commencement day, to be a period of service as a legal member under this Act; and
- (c) if, before commencement day, the member served as a member of the Complaints Committee for 5 or more years, the member's term ends on the earlier of the following —
- (i) a day determined by the Attorney General;
- (ii) the day that is 1 year after commencement day;
- and

- (d) if, before commencement day, the member served as a member of the Complaints Committee for less than 5 years, the member's term ends on the day that is 6 years after the day on which the member was appointed as a member of the Complaints Committee.
- (3) If the member of the Complaints Committee was a representative of the community —
  - (a) the member is taken, on and from commencement day, to be a community representative under this Act; and
  - (b) section 64 applies to the member's appointment; and
  - (c) the period the member served as a member of the Complaints Committee is taken, on and from commencement day, to be a period of service as a community representative under this Act.

**271. Continuation of other Legal Practice Board committees**

- (1) A committee of the Legal Practice Board appointed under section 552(1) of the old Act and operating immediately before commencement day is taken on and after that day to be a committee appointed under section 53(2).
- (2) A Board member who was, immediately before commencement day, a member of a committee appointed under section 552(1) of the old Act continues on and after that day as a member of the committee as continued under subsection (1), subject to this Act or the expiry of the member's term.

**272. Continuation of Law Complaints Officer**

- (1) The person who occupied the office of Law Complaints Officer under the old Act immediately before commencement day is taken, on and from commencement day, to be appointed to the office of Legal Services and Complaints Officer under section 79(2) until the expiry of the term for which the person was appointed.

- (2) For the purposes of subsection (1) —
- (a) the person who occupied the office of Law Complaints Officer under the old Act holds office for a term of not more than 5 years specified in the instrument of appointment; and
  - (b) the period the person occupied the office of Law Complaints Officer under the old Act is taken, on and from commencement day, to be a period of service as the Legal Services and Complaints Officer under this Act; and
  - (c) the person is eligible for reappointment; and
  - (d) the person's appointment is otherwise subject to this Act.

**273. Continuation and membership of Legal Costs Committee**

- (1) The Legal Costs Committee established under this Act is the same entity as, and a continuation of, the Legal Costs Committee established under section 310(1) of the old Act.
- (2) A person who was a Legal Costs Committee member under the old Act immediately before commencement day continues on and from that day to be a Legal Costs Committee member under this Act, subject to this Act or the expiry of the term for which the member was appointed.

**274. Continuation of Legal Costs Committee Account**

The Legal Costs Committee Account established under section 323(2) of the old Act —

- (a) is taken to be the Legal Costs Committee Account established under section 98(3); and
- (b) continues under this Act as the Legal Costs Committee Account.

**275. Continuation and membership of Legal Contribution Trust**

- (1) The Legal Contribution Trust established under this Act is the same entity as, and a continuation of, the Trust established under section 391(1) of the old Act.
- (2) The rights and liabilities of or in relation to the Trust established under the old Act continue as rights and liabilities of or in relation to the Legal Contribution Trust established under this Act.
- (3) A person who was a trustee of the Trust under the old Act immediately before commencement day continues on and from that day to be a trustee of the Legal Contribution Trust under this Act, subject to sections 105(2) and 108.

**Division 4 — Admission**

**276. Admission applications under old Act taken to be admission applications under this Act**

- (1) This section applies if —
  - (a) a person applied to the Supreme Court (full bench) to be admitted to the legal profession under section 25(1) of the old Act; and
  - (b) the application was not decided under the old Act before commencement day.
- (2) The application is taken, on and from commencement day, to be an application under section 113 for admission under the *Legal Profession Uniform Law (WA)* section 16 made in accordance with —
  - (a) the local regulations; and
  - (b) the Supreme Court's rules of court; and
  - (c) a practice direction of the Supreme Court.



**277. Notice of objection to admission under old Act taken to be objection under Uniform Law**

A notice under section 27 of the old Act lodged in relation to the admission of a person under the old Act whose application for admission was not decided under the old Act before commencement day is taken, on and from commencement day, to be an objection to the admission of the person made in accordance with the applicable rules of court under the *Legal Profession Uniform Law (WA)* section 16(3).

**278. Status of academic qualifications obtained under old Act for Uniform Law s. 17**

If a person obtained approved academic qualifications or corresponding academic qualifications (as those terms were defined in section 21(1) of the old Act) before commencement day, the person is taken, on and from commencement day, to have attained the academic qualifications referred to in the *Legal Profession Uniform Law (WA)* section 17(1)(a).

**279. Status of approved practical legal training requirements under old Act for Uniform Law s. 17**

- (1) In this section —

*corresponding PLT requirements* means corresponding practical legal training requirements as defined in section 21(1) of the old Act;

*PLT requirements* means the approved practical legal training requirements as defined in section 21(1) of the old Act.

- (2) If a person has satisfactorily completed the PLT requirements or corresponding PLT requirements before commencement day, the person is taken, on and from commencement day, to have satisfactorily completed the practical legal training requirements referred to in the *Legal Profession Uniform Law (WA)* section 17(1)(b).

- (3) Subsection (4) applies if a person —
  - (a) has partially completed PLT requirements or corresponding PLT requirements before commencement day; and
  - (b) the person satisfactorily completes those requirements within the period of 12 months beginning on commencement day.
- (4) The person is taken, from when the person completes the requirements, to have completed the practical legal training requirements referred to in the *Legal Profession Uniform Law (WA)* section 17(1)(b).

**280. Application for early consideration of suitability continues under Uniform Law**

If a relevant person (as defined in section 23(1) of the old Act) applied for a declaration under section 23(2) of the old Act and the Legal Practice Board has not, before commencement day, made or refused to make the declaration, the application is taken, on and from commencement day, to be an application for a declaration under the *Legal Profession Uniform Law (WA)* section 21(1).

**281. Decision of Legal Practice Board or State Administrative Tribunal about suitability continues under Uniform Law**

- (1) A decision of the Legal Practice Board made under section 23(3) of the old Act before commencement day continues, on and from commencement day, as if it were a decision of the Board made under the *Legal Profession Uniform Law (WA)* section 21(2).
- (2) If the Legal Practice Board's decision under section 23(3) of the old Act was made during the 6-month period before commencement day, the *Legal Profession Uniform Law (WA)* section 27 applies to the decision to the extent that an appeal could be sought under that provision.

- (3) The *Legal Profession Uniform Law (WA)* applies to a decision of the State Administrative Tribunal on a matter referred under section 24(1) of the old Act as if the decision were a decision of the Supreme Court under section 27(2) of the Law.

**282. Compliance certificate under old Act taken to be issued under Uniform Law**

A compliance certificate filed by the Legal Practice Board under section 31(1) of the old Act before commencement day is taken, on and from commencement day, to be a compliance certificate issued and provided to the Supreme Court under the *Legal Profession Uniform Law (WA)* section 19(3).

**283. Applications to State Administrative Tribunal under old Act may be decided by Tribunal or Supreme Court**

- (1) In this section —

***compliance certificate review*** means a review under section 31(3) of the old Act by the State Administrative Tribunal of a decision to refuse to give a person a compliance certificate;

***early suitability matter*** means —

- (a) a review under section 23(6) of the old Act of the Legal Practice Board's decision made before commencement day to refuse to make a declaration; or
- (b) a matter referred to the State Administrative Tribunal under section 24 of the old Act;

***relevant provision*** of the *Legal Profession Uniform Law (WA)* means —

- (a) in relation to an early suitability matter — section 27 of the Law; or
- (b) in relation to a compliance certificate review — section 26 of the Law;

***Tribunal matter*** means an early suitability matter or a compliance certificate review.

- (2) If the State Administrative Tribunal has not made a final decision about a Tribunal matter before commencement day, the Tribunal may decide, having regard to what is appropriate in the circumstances of the case —
  - (a) to deal with the matter under the old Act as if it had not been repealed; or
  - (b) that the matter should be dealt with by the Supreme Court under the relevant provision of the *Legal Profession Uniform Law (WA)*.
- (3) If the State Administrative Tribunal decides to deal with a Tribunal matter under the old Act —
  - (a) the matter may be decided under the old Act as if it had not been repealed; and
  - (b) the *Legal Profession Uniform Law (WA)* applies to the Tribunal's decision on the matter as if it were a decision made by the Supreme Court under the relevant provision of the Law.
- (4) If the State Administrative Tribunal decides that a compliance certificate review should be dealt with by the Supreme Court —
  - (a) the application for a compliance certificate review is taken, on and from commencement day, to be an appeal against a decision to refuse to issue a compliance certificate under the *Legal Profession Uniform Law (WA)* section 26; and
  - (b) the Supreme Court may make an order on the appeal under the *Legal Profession Uniform Law (WA)* section 26(4).
- (5) If the State Administrative Tribunal decides that an early suitability matter should be dealt with by the Supreme Court —
  - (a) the decision of the Legal Practice Board to refuse to make a declaration under section 23(3) of the old Act is taken, on and from commencement day, to be a decision to refuse to make a declaration of early assessment of

suitability for a compliance certificate under the *Legal Profession Uniform Law (WA)* section 21; and

- (b) the Supreme Court may make an order under the *Legal Profession Uniform Law (WA)* section 27(2) as if the relevant person applying for a declaration were a person who appealed a decision to refuse a declaration under section 27(1) of the Law.

### **Division 5 — Practitioners**

#### **284. Government lawyers taken to hold Australian practising certificates under Uniform Law for particular period**

- (1) This section applies to a WA government lawyer within the meaning of section 36(1) of the old Act engaged before commencement day in government work within the meaning of section 36(2) of the old Act and who does not, immediately before commencement day, hold an Australian practising certificate under the old Act.
- (2) The WA government lawyer is taken to hold a current Australian practising certificate granted under the *Legal Profession Uniform Law (WA)* authorising the holder to engage in legal practice as a government legal practitioner for the period beginning on commencement day and ending on the earlier of the following —
  - (a) if local regulations are made under section 127 exempting WA government lawyers from the requirement to hold Australian practising certificates in respect of their official functions as government lawyers — the day on which the regulations come into operation;
  - (b) the day on which the WA government lawyer's Australian practising certificate granted under the Law comes into operation;
  - (c) the expiry of the period of 6 months beginning on commencement day.

**285. Persons engaging in exempt work taken to have Australian practising certificates under Uniform Law for particular period**

(1) In this section —

*community legal centre* means a not-for-profit body, 1 of the main functions of which is the delivery of free or substantially subsidised legal services to a disadvantaged section of the community or community legal education;

*exempt work* means —

- (a) legal practice done under the supervision of an Australian legal practitioner as a paid employee of —
  - (i) the Legal Aid Commission; or
  - (ii) a community legal centre; or
  - (iii) the Aboriginal Legal Service of Western Australia Limited; or
  - (iv) a corporation other than an incorporated legal practice (as defined in section 3 of the old Act);or
- (b) legal practice that is legislative drafting work that is done by an Australian lawyer under —
  - (i) a contract for services with the State; and
  - (ii) the direction of the Parliamentary Counsel;or
- (c) legal work that is done by an Australian lawyer under —
  - (i) a contract for services with the State; and
  - (ii) the direction of the State Solicitor.

(2) This section applies to a person engaging in exempt work, who is an Australian lawyer and who does not, immediately before commencement day, hold an Australian practising certificate under the old Act.

- (3) The person is taken to hold a current Australian practising certificate granted under the *Legal Profession Uniform Law (WA)* authorising the holder to engage in legal practice that is exempt work for the period beginning on commencement day and ending on the earlier of the following —
- (a) the day on which a person's Australian practising certificate granted under the Law comes into operation;
  - (b) the expiry of the period of 6 months beginning on commencement day.

## **286. Continuing professional development**

- (1) In this section —

**CPD period** means a period beginning on 1 April and ending on 31 March;

**CPD point** means —

- (a) a CPD point earned in accordance with the *Legal Profession Rules 2009* rule 9 as in force immediately before commencement day; and
- (b) a CPD point earned before commencement day under an approved CPD arrangement as defined in the *Legal Profession Regulations 2009* regulation 12(1) as in force immediately before commencement day;

**CPD year** has the meaning given in the Continuing Professional Development Rules.

- (2) If a person earned a CPD point before commencement day in the CPD period in which the old Act is repealed, the CPD point earned by the person is taken, on and from commencement day, to have been earned under the Continuing Professional Development Rules for the CPD year in which the old Act is repealed.

**287. Persons approved as QA providers under former *Legal Profession Rules 2009* taken to be accredited under s. 125**

- (1) In this section —  
**Board Rules** has the meaning given in section 125(1).
- (2) If, immediately before commencement day, an approval of a person, body or group of persons as a QA provider is in effect under the *Legal Profession Rules 2009* rule 14(2) as in force immediately before commencement day, the approval is taken to be an accreditation in accordance with the Board Rules in relation to all continuing professional development activities until the expiry of the period of approval given under the *Legal Profession Rules 2009*.
- (3) An accreditation under subsection (2) is subject to amendment or revocation under the Board Rules.

**288. Approvals of law courses and legal training courses continued**

- (1) In this section —  
**LTC approval** means an approval of a legal training course under the *Legal Profession (Admission) Rules 2009* rule 8(1) as in force immediately before commencement day.
- (2) If academic qualifications were approved under the *Legal Profession (Admission) Rules 2009* as in force immediately before commencement day, the qualifications are taken, on and from commencement day, under the *Legal Profession Uniform Law (WA)* section 29 to be a law course accredited in accordance with the Admission Rules.
- (3) If an LTC approval is in force in relation to a legal training course immediately before commencement day, the holder of the LTC approval is, on and from commencement day, taken to be accredited under the *Legal Profession Uniform Law (WA)* section 29 in accordance with the Admission Rules to provide practical legal training in the form of the legal training course.



- (4) An accreditation under subsection (2) or (3) is subject to amendment or revocation under the *Legal Profession Uniform Law (WA)* or the Admission Rules.

**289. Experience acquired before commencement day taken to be supervised legal practice under Uniform Law s. 49**

- (1) A person who engaged in a period of supervised legal practice (as defined in section 3 of the old Act) before commencement day is taken, on and from commencement day, to have completed the same period of supervised legal practice for the purposes of the *Legal Profession Uniform Law (WA)* section 49(1).
- (2) A person is taken, on and from commencement day, to have completed the period of supervised legal practice required by the *Legal Profession Uniform Law (WA)* section 49(1) if, before commencement day, the person —
- (a) had the required experience (as defined in section 50(1) of the old Act); or
  - (b) was entitled to practise on their own account under the *Legal Practitioners Act 1893* or the *Legal Practice Act 2003*.

**290. Exemption or reduction of requirement to engage in restricted legal practice continues under Uniform Law**

- (1) In this section —
- required experience*** has the meaning given in section 50(1) of the old Act;
- restricted legal practice*** has the meaning given in section 50(1) of the old Act;
- supervision period*** means a period or periods in which a holder of an Australian practising certificate must engage in supervised legal practice only under the *Legal Profession Uniform Law (WA)* section 49(1).

- (2) If the Legal Practice Board exempted a person or class of persons from the requirement to engage in restricted legal practice only under section 50(7) of the old Act and the exemption is in effect immediately before commencement day —
- (a) the exemption is taken to be an exemption from the statutory condition to engage in supervised legal practice only under the *Legal Profession Uniform Law (WA)* section 49(4)(a); and
  - (b) if the exemption is subject to conditions under section 50(8) of the old Act — the exemption is taken to be subject to those conditions as if they were imposed under the *Legal Profession Uniform Law (WA)* section 49(5).
- (3) If the Legal Practice Board reduced the required experience for a person or class of persons under section 50(7) of the old Act and the reduction is in effect immediately before commencement day, the reduction is taken to be a reduction of the supervision period under the *Legal Profession Uniform Law (WA)* section 49(4)(b).

**291. Order made under s. 77 of old Act continued**

If, before commencement day, the State Administrative Tribunal made an order under section 77 of the old Act that an Australian lawyer not contravene a condition imposed under Part 5 of the old Act —

- (a) the order continues in effect on its terms on and from commencement day; and
- (b) while the order is in effect, a failure to comply with the order is taken, on and from commencement day, to be a failure of the Australian lawyer to comply with a condition of an Australian practising certificate under the *Legal Profession Uniform Law (WA)* section 54.

**292. State Administrative Tribunal to decide how review of particular Legal Practice Board decisions about practising certificates to be dealt with**

(1) In this section —

***reviewable decision*** means a decision of the Legal Practice Board made before commencement day —

- (a) to refuse to grant or renew a local practising certificate under section 45(1) or 63(1) of the old Act; or
- (b) to amend, suspend or cancel a local practising certificate under section 56(3) or 63(1) of the old Act; or
- (c) to refuse a request to amend a local practising certificate under section 59(1) of the old Act; or
- (d) that a person is not entitled to apply for the grant of a local practising certificate for a specified period under section 64(2) of the old Act.

(2) If an application for a review of a reviewable decision was made before commencement day to the State Administrative Tribunal under section 78 of the old Act and the Tribunal has not made a final decision on the application before commencement day, the Tribunal may decide, having regard to what is appropriate in the circumstances of the case —

- (a) to continue to deal with the matter under section 78 of the old Act as if it had not been repealed; or
- (b) to deal with the matter under the *Legal Profession Uniform Law (WA)* section 100 as if the reviewable decision were a decision to which section 100(1) of the Law applies.

(3) Subsection (4) applies if —

- (a) before commencement day, a person has not applied for a review of a reviewable decision made before commencement day; and

- (b) immediately before commencement day, the person was not precluded from seeking a review under the old Act for any reason (including, for example, that the time limit for making the application has expired).
- (4) The reviewable decision is taken, on and from commencement day, to be a decision referred to in the *Legal Profession Uniform Law (WA)* section 100(1).

**293. Reviews of particular Legal Practice Board decisions about registration certificates**

- (1) In this section —  
***reviewable decision*** means a decision of the Legal Practice Board made before commencement day to —
  - (a) refuse to grant or renew registration under section 170(1), 172(2) or 181(1) of the old Act; or
  - (b) impose a condition on registration under section 189(1) of the old Act; or
  - (c) amend, suspend or cancel registration under section 175(3) or 181(1) of the old Act; or
  - (d) suspend registration under section 184(2) of the old Act; or
  - (e) determine under section 182(1) of the old Act that a person is not entitled to apply for registration for a specified period.
- (2) If an application for a review of a reviewable decision was made before commencement day to the State Administrative Tribunal under section 203 of the old Act and the Tribunal has not made a final decision on the application before commencement day, the Tribunal may decide, having regard to what is appropriate in the circumstances of the case, to —
  - (a) continue to deal with the matter under section 203 of the old Act as if it had not been repealed; or

- (b) deal with the matter under the *Legal Profession Uniform Law (WA)* section 101 as if the reviewable decision were a decision to which section 101(1) of the Law applies.

### **Division 6 — Trust accounts**

#### **294. Interest earned on trust account prior to commencement**

- (1) In this section —

***agreed rate***, in relation to a relevant trust account, means the rate of interest payable on the money in the trust account immediately before commencement day as agreed between the ADI and the Legal Contribution Trust;

***pre-commencement period***, in relation to a relevant trust account, means the period —

- (a) beginning on —

- (i) the day after the last day of the most recent period for which interest was paid under section 387 of the old Act in respect of the trust account; or
- (ii) if interest was not paid in respect of the trust account under section 387 of the old Act before commencement day — the day on which the trust account was opened;

and

- (b) ending on the day before commencement day;

***relevant trust account*** means a trust account maintained by a law practice with an ADI immediately before commencement day.

- (2) An ADI must pay 51% of the interest earned on the money in a relevant trust account during the pre-commencement period at the agreed rate to the Legal Contribution Trust within

10 working days after the last day of the pre-commencement period.

Penalty for this subsection: a fine of \$5 000.

- (3) Subsection (2) does not apply in respect of a relevant trust account if the sum of the balances of all trust accounts maintained by the law practice with the ADI was less than \$500 at any time during the pre-commencement period.

**295. Legal Contribution Trust and ADI taken to have entered into arrangement with nominated trust authority**

- (1) An ADI with which a trust account is maintained immediately before commencement day is taken, on and from commencement day, to have entered into a trust account arrangement on the following terms —
- (a) the rate of interest payable on the money in trust accounts maintained with the ADI is the rate payable under section 387(4) of the old Act immediately before commencement day;
  - (b) the ADI must pay 51% of the interest earned each month on the money in trust accounts maintained with the ADI to the Legal Contribution Trust within 10 working days after the end of the month.
- (2) The arrangement taken to have been entered into under subsection (1) continues until a trust account arrangement is agreed to by the ADI and the Legal Contribution Trust that is in accordance with section 200.

**296. Investigator under old Act taken to be appointed as external investigator under Uniform Law**

- (1) A person who, immediately before commencement day, is an investigator appointed under section 230(1) of the old Act is taken, on and from commencement day, to be an external investigator appointed under the *Legal Profession Uniform Law (WA)* section 162(1).

- (2) The person's instrument of appointment as an investigator under the old Act is taken, on and from commencement day, to be the instrument of appointment as an external investigator under the *Legal Profession Uniform Law (WA)* section 162(1).
- (3) The person's appointment as an external investigator is subject to amendment or revocation under the *Legal Profession Uniform Law (WA)*.

**297. Current investigations and external examinations under Pt. 9 of old Act to be dealt with under old Act**

- (1) If an investigation has commenced under section 231 of the old Act and has not been completed before commencement day, the investigation may be completed under Parts 9 and 15 of the old Act as if those Parts had not been repealed.
- (2) If an external examination has commenced under section 237, 238 or 239 of the old Act and has not been completed before commencement day, the external examination may be continued under Parts 9 and 15 of the old Act as if those Parts had not been repealed.

**298. External investigations of actions before commencement day**

- (1) In this section —  
*trust account matter* means a matter relating to —
  - (a) trust money or trust property received by a law practice before commencement day; or
  - (b) a trust account maintained by a law practice before commencement day.
- (2) An external investigation may be carried out under the *Legal Profession Uniform Law (WA)* Part 4.2 Division 4 in relation to a trust account matter if the trust account matter —
  - (a) could be investigated immediately before commencement day under Part 9 of the old Act; and

- (b) has not been the subject of an investigation under the old Act or an investigation continued under section 297.

### **Division 7 — Legal costs**

#### **299. Continuation of legal costs determinations**

- (1) In this section —  
***LPA determination*** means a legal costs determination made under section 275(1) of the old Act.
- (2) An LPA determination is taken, on and from commencement day, to be a legal costs determination made under section 133(1).
- (3) For the purposes of section 137(1), an LPA determination is taken to be made on the day on which it was made under the old Act.

### **Division 8 — Professional indemnity insurance**

#### **300. Continuation and membership of PII management committee**

If the Law Society established a PII management committee (an ***LPA Committee***) under section 331(1) of the old Act and the committee was in existence immediately before commencement day —

- (a) the Law Society is taken, on and from commencement day, to have established a PII management committee under section 184; and
- (b) the PII management committee is the same entity as, and a continuation of, the LPA Committee; and
- (c) a person who was a member of the LPA Committee immediately before commencement day continues on and from that day to be a member of the PII management committee under this Act.



**301. Continuation of PII arrangement and certificates of insurance under PII regulations**

- (1) In this section —

*transitioned PII entity* means a law practice as defined in section 3 of the old Act that is a PII entity as defined in section 153(1);

*transition year* means the financial year that includes commencement day.

- (2) A PII arrangement that is in force immediately before commencement day made by the Law Society under the PII regulations is taken, on and from commencement day, to be a PII arrangement under section 156.
- (3) If a certificate of insurance was issued to a transitioned PII entity under the PII regulations before commencement day in relation to the whole of the transition year —
- (a) the transitioned PII entity is taken on commencement day to have been granted arrangement insurance under section 158(4) for the transition year; and
  - (b) the certificate of insurance is taken to have been given under section 158(5) for the transition year.
- (4) If a certificate of insurance was issued to a transitioned PII entity under the PII regulations before commencement day in relation to a part of the transition year —
- (a) the transitioned PII entity is taken on commencement day to have been granted arrangement insurance under section 159(2) for the part of the transition year to which the certificate relates; and
  - (b) the certificate of insurance is taken to have been given under section 159(3) for the part of the transition year to which the certificate relates.

- (5) If a certificate of insurance was issued to a transitioned PII entity under the PII regulations before commencement day in relation to a part of the transition year that does not include all of the period between commencement day and the end of the transition year, the transitioned PII entity may apply for arrangement insurance for the remainder of the financial year under section 159(1).

**302. Annual contribution under old Act taken to be contribution under this Act**

- (1) This section applies if —
- (a) a law practice paid an amount before commencement day required as an annual contribution under the PII regulations in relation to a PII arrangement in relation to a financial year; and
  - (b) commencement day is in the financial year.
- (2) The amount paid by the law practice under the PII regulations before commencement day is taken, on and from commencement day, to be an amount paid under this Act in relation to the PII arrangement under section 156 for the financial year that ends on the same day as the financial year in relation to which the amount was paid under the PII regulations.

**303. Policy of professional indemnity insurance approved by Bar Association taken to be Bar-approved policy**

A policy of professional indemnity insurance approved by resolution of the Council of the Western Australian Bar Association that is in force immediately before commencement day is taken, on and from commencement day, to be a Bar-approved policy under section 161(1).

**304. Professional indemnity insurance scheme under old Act taken to be PII scheme**

- (1) This section applies if —
  - (a) the Law Society approved a scheme providing professional indemnity insurance under the PII regulations; and
  - (b) the approval is in force immediately before commencement day.
- (2) The approved scheme is taken, on and from commencement day, to be a PII scheme approved under the local regulations made under section 162.

**305. Method of assessment of annual contribution under old Act taken to be method of assessment determined under this Act**

If the Law Society determined a method of assessment of annual contributions of law practices for the purposes of the PII arrangement under the PII regulations and the method was in effect immediately before commencement day, the method is taken, on and from commencement day, to be the method of assessment of annual contributions of PII entities determined under section 164(2) until the Law Society determines another method under that section.

**306. Review of or appeal against annual contribution continued under this Act**

- (1) If a law practice has applied for a review under the PII regulations of an assessment of its annual contribution for the purposes of the PII arrangement under the PII regulations and the review has not been decided before commencement day, the review is taken, on and from commencement day, to have been applied for under section 165(1).
- (2) If a law practice has appealed under the PII regulations against a review of an assessment of its annual contribution under the PII regulations and the appeal has not been decided before

commencement day, the appeal is taken, on and from commencement day, to have been made under section 166(1).

- (3) If a person has been nominated by the Attorney General as a person to whom a law practice may appeal an assessment of the law practice's annual contribution under the PII regulations and the person's nomination is in effect immediately before commencement day —
- (a) the person is taken to be nominated under section 166(1); and
  - (b) the person's nomination is on the same terms as the person's nomination under the PII regulations.

**307. Legal Practice Board taken to have granted exemption from requirement to obtain professional indemnity insurance continued in particular cases**

- (1) This section applies if —
- (a) a person was exempt under the PII regulations from the requirement to obtain or maintain professional indemnity insurance under the PII regulations before commencement day —
    - (i) in relation to particular work or duties carried out by the person; or
    - (ii) because the person did not do particular work or carry out particular duties;
- and
- (b) on and after commencement day, the person will continue to do, or not do, that work or those duties; and
  - (c) the basis of the exemption under the PII regulations is substantially the same as an exemption a person may apply to the Board for under the *Legal Profession Uniform Law (WA)* section 215(2), (4) or (6) or under the Uniform Rules (WA) made under section 215(8) of the Law.

- (2) The Board is taken to have granted the person an exemption from the requirement to hold or be covered by an approved insurance policy as defined in section 154 under the relevant provision of the *Legal Profession Uniform Law (WA)* section 215 or under the Uniform Rules (WA) made under section 215(8) of the Law in relation to the work or duties —
- (a) on and from commencement day until the earlier of the following —
    - (i) the day on which the Board gives the person a certificate of exemption under section 175(2) or 176(3);
    - (ii) the 30 June following commencement day;
  - and
  - (b) otherwise on the same terms as the exemption under the PII regulations.

**308. Insurance taken out under previous legislation continues**

- (1) Insurance taken out and maintained in accordance with an arrangement made under the *Legal Practitioners (Professional Indemnity Insurance) Regulations 1988* continues to have effect with respect to any matter or thing occurring before 1 July 1995.
- (2) Insurance taken out and maintained in accordance with arrangements made under the *Legal Practice (Professional Indemnity Insurance) Regulations 1995* continues to have effect with respect to any matter or thing occurring before 1 July 2009.
- (3) Insurance taken out and maintained in accordance with arrangements made under the PII regulations continues to have effect with respect to any matter or thing occurring before commencement day.

**Division 9 — Fidelity cover**

**309. Solicitors' Guarantee Fund continued**

The Guarantee Fund is a continuation of the Solicitors' Guarantee Fund established under section 336(1) of the old Act.

**310. Continuation of Attorney General's approvals of investments under s. 342 of old Act**

If, immediately before commencement day, the Attorney General's approval of an investment of a portion of the Solicitors' Guarantee Fund under section 342(1) of the old Act was in effect, the approval is taken, on and from commencement day, to be an approval under section 197(1).

**311. Contributions to Solicitors' Guarantee Fund**

- (1) This section applies to a person who —
  - (a) before commencement day, paid an amount to the Legal Practice Board for application to the Solicitors' Guarantee Fund under section 337(1) of the old Act for a financial year; and
  - (b) must pay an annual contribution under the *Legal Profession Uniform Law (WA)* section 225(1) for that financial year.
- (2) The amount paid by the person under section 337(1) of the old Act is taken, on and from commencement day, to be an amount paid for the purposes of the *Legal Profession Uniform Law (WA)* section 225(1) for that financial year.

**312. Agreed amount under s. 388 of old Act taken to be agreed amount for s. 201**

If, immediately before commencement day, there was an amount determined under section 388(3)(b) of the old Act, that amount is taken, on and from commencement day, to be the amount agreed by the Attorney General and the Law Society

under paragraph (b) of the definition of *agreed amount* in section 201(1).

### **Division 10 — Complaints and discipline**

#### **313. Investigations not finalised before commencement day to be dealt with under old Act**

- (1) This section applies to any of the following matters under the old Act that were not completed before commencement day —
  - (a) a complaint or inquiry being dealt with by the Complaints Committee under the old Act because of section 621 of that Act;
  - (b) a complaint being dealt with by the Complaints Committee under Part 13 of the old Act;
  - (c) an investigation by the Complaints Committee under section 421 of the old Act.
- (2) Unless the local regulations provide that another person is to deal with the matter, the Legal Services and Complaints Committee may deal with the matter under the provisions of the old Act dealing with the matter, including provisions necessary to give effect to those provisions, as if —
  - (a) those provisions had not been repealed; and
  - (b) a reference to the Complaints Committee in those provisions were a reference to the Legal Services and Complaints Committee.
- (3) If the local regulations provide that another person is to deal with the matter —
  - (a) the person must have regard to the steps taken by the Complaints Committee before the person deals with the matter; and
  - (b) the person must deal with the matter in accordance with the procedure prescribed by the local regulations.

**314. Audit of incorporated legal practice under old Act continues under Uniform Law**

- (1) This section applies if —
  - (a) the Legal Practice Board or the Complaints Committee commenced an audit of an incorporated legal practice under section 118 of the old Act before commencement day; and
  - (b) immediately before commencement day, the audit was not completed or had not otherwise ended.
- (2) The audit is taken to be an audit under the *Legal Profession Uniform Law (WA)* section 256 and may be continued under that section.

**315. Pre-commencement conduct may be investigated under Uniform Law**

- (1) This section applies if, before commencement day —
  - (a) a person to whom Part 13 of the old Act applied engaged, or may have engaged, in —
    - (i) conduct to which Part 13 of the old Act applied; or
    - (ii) unsatisfactory professional conduct as defined in section 402 of the old Act; or
    - (iii) professional misconduct as defined in section 403(1) of the old Act;and
  - (b) the conduct, or suspected conduct, was not the subject of a complaint or investigation under Part 13 of the old Act; and
  - (c) the conduct, or suspected conduct, could have been the subject of a complaint or investigation under Part 13 of the old Act.



- (2) The conduct, or suspected conduct, may be the subject of a complaint or investigation under the *Legal Profession Uniform Law (WA)*.

**316. Review of summary conclusion decision under s. 426 of old Act after commencement day**

- (1) This section applies if, before commencement day —
- (a) the Complaints Committee made a decision under section 426(2) of the old Act; and
  - (b) a person aggrieved had not applied for a review of the decision under section 435(1) of the old Act; and
  - (c) the person aggrieved was not precluded from seeking a review under the old Act for any reason including, for example, that the time limit for making the application has expired.
- (2) The person aggrieved may apply to the State Administrative Tribunal for a review of a decision of the Complaints Committee under the *Legal Profession Uniform Law (WA)* as if it were a decision under section 290(1) of the Law.

**317. Current reviews of Complaints Committee's summary conclusion decision under s. 426 of old Act**

- (1) This section applies if, before commencement day —
- (a) a person aggrieved by a decision (the ***Committee decision***) of the Complaints Committee under section 426(2) of the old Act made an application for a review of the decision to the State Administrative Tribunal under section 435(1) of the old Act; and
  - (b) the Tribunal has not made a final decision on the application.
- (2) Section 435 of the old Act applies to the Committee decision as if that section were not repealed.

- (3) If, under section 435 of the old Act as continued under subsection (2), the State Administrative Tribunal does not affirm the Committee decision —
- (a) if the person who sought the review under the old Act is a respondent lawyer, or a legal practitioner associate of a respondent law practice as defined in the *Legal Profession Uniform Law (WA)* section 6(1) — the review is taken, on and from commencement day, to be sought under section 314(1) of the Law of a decision referred to in that section; or
  - (b) in any other case — the Tribunal may make any order it could make on an application under section 435(1) of the old Act.
- (4) If, under section 435 of the old Act as continued under subsection (2), the State Administrative Tribunal affirms the Committee decision, the decision takes effect as it would as if the Tribunal made the decision under the old Act.

**318. Review of Complaints Committee’s decision to dismiss complaint**

- (1) This section applies if, before commencement day —
- (a) the Complaints Committee made a decision to dismiss a complaint under the old Act; and
  - (b) a person aggrieved had not applied for a review of the decision under section 435(1) of the old Act; and
  - (c) the person aggrieved was not precluded from seeking a review under the old Act for any reason including, for example, that the time limit for making the application has ceased.
- (2) The person aggrieved may apply to the State Administrative Tribunal for a review of the decision of the Complaints Committee under section 319.

**319. State Administrative Tribunal to deal with review of Complaints Committee's decision to dismiss complaint before commencement day**

- (1) This section applies if —
  - (a) a person aggrieved by the Complaints Committee's decision to dismiss a complaint under the old Act made an application for a review of the decision —
    - (i) before commencement day to the State Administrative Tribunal under section 435(1) of the old Act; or
    - (ii) after commencement day under section 318(2);
  - and
  - (b) the Tribunal has not made a final decision before commencement day.
- (2) Section 435 of the old Act applies to the application for a review of the Complaints Committee's decision as if that section were not repealed.
- (3) If, under section 435(1) of the old Act as continued under subsection (2), the State Administrative Tribunal sets aside the decision of the Complaints Committee to dismiss the complaint under the old Act —
  - (a) the complaint is taken, on and from commencement day, to have been made under the *Legal Profession Uniform Law (WA)* section 266; and
  - (b) the preliminary assessment of the complaint under the *Legal Profession Uniform Law (WA)* section 276(1) is taken, on and from commencement day, to have been completed; and
  - (c) the complaint must otherwise be dealt with under the *Legal Profession Uniform Law (WA)* Part 5.2.

- (4) If, under section 435(1) of the old Act as continued under subsection (2), the State Administrative Tribunal affirms the decision of the Complaints Committee to dismiss the complaint under the old Act, the whole of the complaint is taken to have ended under the *Legal Profession Uniform Law (WA)* section 277.

**320. Enforcing compensation orders under old Act**

A compensation order made under section 448(1) of the old Act and not enforced before commencement day may be enforced, on and from commencement day, under the *Legal Profession Uniform Law (WA)* section 310 as if it were a compensation order made under the Law.

**321. Compensation order under old Act taken into account in compensation under Uniform Law s. 311**

For the purposes of the *Legal Profession Uniform Law (WA)* section 311, a compensation order made under section 448(1) of the old Act before commencement day compensating an aggrieved person as defined in section 307(2) of the Law must be taken into account as compensation awarded to the person in a proceeding, unless the amount has already been taken into account in the proceeding under section 450 of the old Act.

**Division 11 — Registers**

**322. Local roll maintained under old Act taken to be Supreme Court roll for Uniform Law s. 22**

The roll of persons admitted to the legal profession maintained by the Supreme Court under section 28(1) of the old Act continues on and from commencement day as the Supreme Court roll under the *Legal Profession Uniform Law (WA)* section 22(1).

**323. Continuation of register of local practising certificates kept under old Act**

The register of the names of Australian lawyers kept under section 76(1) of the old Act continues, on and from commencement day, as the register to be kept under section 217(1).

**324. Continuation of register of locally registered foreign lawyers kept under old Act**

The register of the names of locally registered foreign lawyers kept under section 198(1) of the old Act continues, on and from commencement day, as the register to be kept under section 218(1).

**325. Continuation of Register of Disciplinary Action kept under old Act**

The Register of Disciplinary Action kept under section 452(1) of the old Act continues, on and from commencement day, to be the register to be kept under section 220(2).

**Division 12 — Law library**

**326. Continuation of law library**

The law library established before commencement day under section 596A(1) of the old Act is continued as the law library that may be established under section 244(1).

**327. Law library contributions paid under old Act taken to be contributions under this Act**

An amount paid by the Legal Practice Board to the State before commencement day for a year as a contribution to the cost of providing and maintaining the law library under section 548A(2) of the old Act is taken, on and from commencement day, to be an amount paid under section 245(2) for that year.

### **Division 13 — Law Society Public Purposes Trust**

**328. Reference to repealed *Law Society Public Purposes Trust Act 1985* taken to be to Pt. 12**

A reference in a document to the *Law Society Public Purposes Trust Act 1985* repealed under section 260(b) is taken, on and from commencement day, to be a reference to Part 12 of this Act.

**329. Arrangements between Law Society and ADI under repealed *Law Society Public Purposes Trust Act 1985***

- (1) In this section —  
*former arrangement* means an arrangement made under the repealed *Law Society Public Purposes Trust Act 1985* section 3(1).
- (2) This section applies if —
  - (a) interest was accrued on trust moneys held under the old Act before commencement day; and
  - (b) a former arrangement was in effect immediately before commencement day in relation to the payment of interest accruing on those trust moneys; and
  - (c) the interest was not paid under the former arrangement before commencement day.
- (3) The former arrangement continues to apply in relation to the interest accrued on the trust moneys.

### **Division 14 — Transitional regulations**

**330. Transitional regulations**

- (1) In this section —  
*specified* means specified or described in the local regulations;

***transitional matter*** —

- (a) means a matter that needs to be dealt with for the purpose of effecting the transition from the provisions of the Acts repealed under section 260 to this Act and the *Legal Profession Uniform Law (WA)*; and
  - (b) includes a savings or application matter.
- (2) Without limiting the *Legal Profession Uniform Law (WA)* Schedule 4 clause 5(2), the local regulations may prescribe all matters that are required, necessary or convenient to be prescribed in relation to a transitional matter if there is no sufficient provision in this Part or Schedule 4 of the Law for dealing with that matter.
- (3) The local regulations in relation to transitional matters may provide that specified provisions of this Act, the *Legal Profession Uniform Law (WA)* or another written law —
  - (a) do not apply to or in relation to any matter; or
  - (b) apply with specified modifications to or in relation to any matter.

Note for this section:

See the *Legal Profession Uniform Law (WA)* Schedule 4 clause 5 for the power to make transitional regulations in the local regulations.

## **Part 17 — Consequential amendments to other Acts**

### **Division 1 — *Aboriginal Affairs Planning Authority Act 1972* amended**

**331. Act amended**

This Division amends the *Aboriginal Affairs Planning Authority Act 1972*.

**332. Section 48 amended**

In section 48 delete “Any” and insert:

Despite the *Legal Profession Uniform Law (WA)* section 10, any

### **Division 2 — *Children and Community Services Act 2004* amended**

**333. Act amended**

This Division amends the *Children and Community Services Act 2004*.

**334. Section 148 amended**

Delete section 148(1).

### **Division 3 — *Civil Judgments Enforcement Act 2004* amended**

**335. Act amended**

This Division amends the *Civil Judgments Enforcement Act 2004*.



**336. Section 30 amended**

- (1) Delete section 30(1).
- (2) In section 30(6) delete “*Legal Profession Act 2008* section 12.” and insert:

*Legal Profession Uniform Law (WA)* section 10.

- (3) In section 30(7) delete “lawyer,” and insert:

legal practitioner,

**Division 4 — *Civil Liability Act 2002* amended**

**337. Act amended**

This Division amends the *Civil Liability Act 2002*.

**338. Section 15L amended**

Delete section 15L(1) and insert:

- (1) In this section —  
***costs determination*** means a legal costs determination made under the *Legal Profession Uniform Law Application Act 2022* section 133;  
***law practice*** has the meaning given in the *Legal Profession Uniform Law (WA)* section 6(1).

**339. Section 16 amended**

- (1) In section 16 delete the definition of *legal practitioner*.
- (2) In section 16 in the definition of *client* delete “legal practitioner, includes a person who makes a genuine inquiry of a legal practitioner” and insert:

lawyer, includes a person who makes a genuine inquiry of a lawyer

- (3) In section 16 in the definition of *law practice* delete “*Legal Profession Act 2008*,” and insert:

*Legal Profession Uniform Law (WA)* section 6(1);

**340. Section 17 amended**

In section 17(2)(a)(i) delete “as defined in the *Legal Profession Act 2008* section 252; or” and insert:

made in accordance with the *Legal Profession Uniform Law (WA)* Part 4.3 Division 4; or

**341. Various references to “legal practitioner” amended**

In the provisions listed in the Table:

- (a) delete “legal practitioner” (each occurrence) and insert:

lawyer

(b) delete “legal practitioners” (each occurrence) and insert:

lawyers

(c) delete “legal practitioner’s” (each occurrence) and insert:

lawyer’s

**Table**

s. 17	s. 18
s. 19	s. 20

**Division 5 — *Commercial Arbitration Act 2012* amended**

**342. Act amended**

This Division amends the *Commercial Arbitration Act 2012*.

**343. Section 24A amended**

In section 24A(2) delete “*Legal Profession Act 2008*” and insert:

*Legal Profession Uniform Law (WA)*

**344. Section 33C amended**

In section 33C delete “*Legal Profession Act 2008* Part 10 Division 8” and insert:

*Legal Profession Uniform Law (WA)* Part 4.3 Division 7

Note: The heading to amended section 33C is to read:

**Application of *Legal Profession Uniform Law (WA)***

**Division 6 — *Community Titles Act 2018* amended**

**345. Act amended**

This Division amends the *Community Titles Act 2018*.

**346. Section 3 amended**

In section 3(1) delete the definition of *Australian legal practitioner*.

**347. Section 117 amended**

Delete section 117(4) and insert:

- (4) A legal practitioner does not act as a scheme manager in providing services that can, under the *Legal Profession Uniform Law (WA)*, be provided only by a legal practitioner.

**348. Section 137 amended**

In section 137(2)(a) delete “an Australian legal practitioner,” and insert:

a legal practitioner,

**349. Section 182 amended**

In section 182(6) delete “an Australian lawyer (within the meaning of that term in the *Legal Profession Act 2008* section 3).” and insert:

a lawyer.

**Division 7 — *District Court of Western Australia Act 1969*  
amended**

**350. Act amended**

This Division amends the *District Court of Western Australia Act 1969*.

**351. Section 6 amended**

- (1) In section 6(1) delete the definitions of:

*Australian lawyer*  
*legal practitioner*

- (2) In section 6(1) insert in alphabetical order:

*costs determination* means a legal costs determination made  
under the *Legal Profession Uniform Law Application Act 2022*  
section 133;

**352. Section 10 amended**

In section 10(2) delete “an Australian lawyer” and insert:

a lawyer

**353. Section 64 amended**

In section 64(1) delete “(as defined in the *Legal Profession Act 2008* section 252)”.

**354. Section 66 amended**

In section 66 delete “costs determination (as defined in the *Legal Profession Act 2008* section 252),” and insert:

costs determination,

**355. Section 88 amended**

In section 88(2)(b) delete “costs determination (as defined in the *Legal Profession Act 2008* section 252);” and insert:

costs determination;

**Division 8 — *Energy Arbitration and Review Act 1998* amended**

**356. Act amended**

This Division amends the *Energy Arbitration and Review Act 1998*.

**357. Section 49 replaced**

Delete section 49 and insert:

**49. Term used: Board**

In this Division —

***Board*** means the Western Australian Electricity Review Board established by section 50.

**Division 9 — *Industrial Relations Act 1979* amended**

**358. Act amended**

This Division amends the *Industrial Relations Act 1979*.

**359. Section 112A amended**

- (1) In section 112A(3) delete “For the purposes of section 12 of the *Legal Profession Act 2008*” and insert:

Despite the *Legal Profession Uniform Law (WA)* section 10,

- (2) Delete section 112A(3B) and insert:

- (3B) In subsection (3A) —

***disqualified person*** —

- (a) means —

- (i) a disqualified person as defined in the *Legal Profession Uniform Law (WA)* section 6(1); or
- (ii) a person whose name has been removed from an official roll of lawyers (whether admitted, practising or otherwise) kept in a foreign country (a ***foreign roll***);

but

- (b) does not include —

- (i) a person whose name has, for reasons unconnected with disciplinary action, been removed from a foreign roll or a Supreme Court roll as defined in the *Legal Profession Uniform Law (WA)* section 6(1); or

- (ii) a person whose Australian practising certificate (as defined in the *Legal Profession Uniform Law (WA)* section 6(1)) has, for reasons unconnected with disciplinary action, been suspended or cancelled.

**Division 10 — *Interpretation Act 1984* amended**

**360. Act amended**

This Division amends the *Interpretation Act 1984*.

**361. Section 5 amended**

In section 5 insert in alphabetical order:

*lawyer* means an Australian lawyer as defined in the *Legal Profession Uniform Law (WA)* section 6(1);

*legal practitioner* means an Australian legal practitioner as defined in the *Legal Profession Uniform Law (WA)* section 6(1);

**Division 11 — *Juries Act 1957* amended**

**362. Act amended**

This Division amends the *Juries Act 1957*.

**363. Section 3 amended**

In section 3(1) delete the definition of *Australian legal practitioner*.



**364. Section 56A amended**

In section 56A(1) in the definition of *prosecuting officer*:

- (a) in paragraph (b) delete the passage that begins with “is” and ends with “section 3; or” and insert:

is a legal practitioner; or

- (b) in paragraph (c) delete “*Director of Public Prosecutions Act 1983*, as amended from time to time, of the Parliament of the Commonwealth; or” and insert:

*Director of Public Prosecutions Act 1983*  
(Commonwealth); or

- (c) in paragraphs (d) and (e) delete “*Director of Public Prosecutions Act 1983*, as amended from time to time, of the Parliament of the Commonwealth” and insert:

*Director of Public Prosecutions Act 1983*  
(Commonwealth)

**365. Section 56B amended**

In section 56B(2)(h) delete “an Australian legal practitioner (within the meaning of that term in the *Legal Profession Act 2008* section 3)” and insert:

a legal practitioner

**366. Section 56C amended**

In section 56C(2)(g) delete “an Australian legal practitioner (within the meaning of that term in the *Legal Profession Act 2008* section 3)” and insert:

a legal practitioner

**367. Schedule 1 clause 3 replaced**

Delete Schedule 1 clause 3 and insert:

**3. Legal practitioners**

A person who is a legal practitioner.

**Division 12 — *Law Reform Commission Act 1972* amended**

**368. Act amended**

This Division amends the *Law Reform Commission Act 1972*.

**369. Section 6 amended**

- (1) In section 6(1) and (2) delete “an Australian legal practitioner” (each occurrence) and insert:

a legal practitioner

- (2) Delete section 6(3).

**Division 13 — *Legal Aid Commission Act 1976* amended**

**370. Act amended**

This Division amends the *Legal Aid Commission Act 1976*.

**371. Section 4 amended**

- (1) In section 4(1) delete the definitions of:

*Australian lawyer*

*Legal Practice Board*

*legal practitioner*

- (2) In section 4(1) insert in alphabetical order:

*Legal Practice Board* means the Legal Practice Board established by the *Legal Profession Uniform Law Application Act 2022* section 30(1);

- (3) In section 4(1) in the definition of *law practice* delete “*Legal Profession Act 2008* section 3;” and insert:

*Legal Profession Uniform Law (WA)* section 6(1);

- (4) In section 4(1) in the definition of *legal advice* delete “an Australian lawyer” and insert:

a lawyer

**372. Section 7 amended**

- (1) In section 7(1)(b)(ii) delete “an Australian lawyer)” and insert:

a lawyer)

- (2) In section 7(2) delete “an Australian lawyer” and insert:

a lawyer

- (3) In section 7(3)(a) delete “an Australian lawyer)” and insert:

a lawyer)

**373. Section 14 amended**

In section 14(1) delete “Part 10 Division 8 of the *Legal Profession Act 2008*,” and insert:

the *Legal Profession Uniform Law (WA)* Part 4.3 Division 7,

**374. Section 17 amended**

- (1) In section 17(3) delete “Part 12 Division 4 of the *Legal Profession Act 2008*” and insert:

the *Legal Profession Uniform Law Application Act 2022* Part 8 Division 2

- (2) In section 17(4) delete “Part 12 Division 4 of the *Legal Profession Act 2008*)” and insert:

the *Legal Profession Uniform Law Application Act 2022* Part 8 Division 2)

**375. Section 18 amended**

In section 18(2) delete “an Australian lawyer,” and insert:

a lawyer,

**376. Section 19 amended**

Delete section 19(3) and insert:

- (3) The Director may provide supervised legal training to persons who are staff of the Commission in accordance with the *Legal Profession Uniform Law (WA)*.

**377. Section 20 amended**

In section 20(2) delete “Australian lawyers” and insert:

lawyers

**378. Section 25 amended**

In section 25(6) and (8) delete “an Australian lawyer” and insert:

a lawyer

**379. Section 39 amended**

In section 39(1a) delete “Part 10 Division 6 of the *Legal Profession Act 2008*.” and insert:

the *Legal Profession Uniform Law (WA)* Part 4.3 Division 4.

**380. Section 40 amended**

In section 40(6a) delete the passage that begins with “to any” and ends with “(full bench).” and insert:

to any —

- (a) order or finding of fact relating to that practitioner made by the Legal Practice Board or the State Administrative Tribunal under the *Legal Profession Uniform Law (WA)* Part 5.4; or
- (b) order relating to that practitioner made by the Supreme Court under the *Legal Profession Uniform Law (WA)* section 23 or 461 or finding of fact made by the Court in the course of making that order.

**381. Section 50 amended**

In section 50(2):

- (a) in paragraph (b) delete “an Australian lawyer” and insert:

a lawyer

- (b) in paragraph (c) delete “an Australian lawyer.” and insert:

a lawyer.

**382. Section 52 amended**

In section 52(2)(a) delete “*Legal Profession Act 2008*” and insert:

*Legal Profession Uniform Law Application Act 2022*

**383. Section 56 amended**

In section 56(2)(e) delete “section 391 of the *Legal Profession Act 2008*; and” and insert:

the *Legal Profession Uniform Law Application Act 2022*  
section 101(1); and

**384. Section 61 amended**

- (1) In section 61(1) delete “*Legal Profession Act 2008* and the legal profession rules made under that Act” and insert:

*Legal Profession Uniform Law (WA)* and the Uniform Rules (WA) (as defined in the *Legal Profession Uniform Law Application Act 2022* section 3(1))

- (2) Delete section 61(2)(a) and insert:

- (a) the Director is taken to be, and has all the rights and privileges of, a legal practitioner who is a sole

practitioner as defined in the *Legal Profession Uniform Law (WA)* section 6(1);

- (3) In section 61(4) delete “Part 9 of the *Legal Profession Act 2008*” and insert:

The *Legal Profession Uniform Law (WA)* Part 4.2

**385. Section 64 amended**

- (1) In section 64(2c) delete “*Legal Profession Act 2008*” and insert:

*Legal Profession Uniform Law (WA)*

- (2) In section 64(4)(c) delete “Supreme Court (full bench), under the *Legal Profession Act 2008*.” and insert:

Supreme Court, under the *Legal Profession Uniform Law (WA)*.

**Division 14 — Magistrates Court Act 2004 amended**

**386. Act amended**

This Division amends the *Magistrates Court Act 2004*.

**387. Schedule 1 clause 1 amended**

- (1) In Schedule 1 clause 1 delete the definition of *legal practitioner*.



- (2) In Schedule 1 clause 1 in the definition of *Attorney General* paragraph (b) delete “General;” and insert:

General.

Note: The heading to amended Schedule 1 clause 1 is to read:

**Term used: Attorney General**

**Division 15 — *Prohibited Behaviour Orders Act 2010* amended**

**388. Act amended**

This Division amends the *Prohibited Behaviour Orders Act 2010*.

**389. Section 36 amended**

Delete section 36(1).

**Division 16 — *Public Trustee Act 1941* amended**

**390. Act amended**

This Division amends the *Public Trustee Act 1941*.

**391. Section 2 amended**

In section 2 delete the definition of *certificated practitioner*.

**392. Section 47A amended**

- (1) In section 47A(1) delete “*Legal Practice Act 2003*,” and insert:

*Legal Profession Uniform Law (WA)*,

- (2) In section 47A(2) and (3) delete “certificated practitioner.” and insert:

legal practitioner.

**Division 17 — *Registration of Deeds Act 1856* amended**

**393. Act amended**

This Division amends the *Registration of Deeds Act 1856*.

**394. Section 6 amended**

In section 6:

- (a) delete “an Australian lawyer (within the meaning of that term in the *Legal Profession Act 2008* section 3)” and insert:

a lawyer

- (b) delete “practitioner” and insert:

lawyer

- (c) delete “his” and insert:

their

**Division 18 — *Sale of Goods (Vienna Convention) Act 1986*  
amended**

**395. Act amended**

This Division amends the *Sale of Goods (Vienna Convention) Act 1986*.

**396. Section 7 amended**

Delete section 7(2).

**Division 19 — *Spent Convictions Act 1988* amended**

**397. Act amended**

This Division amends the *Spent Convictions Act 1988*.

**398. Schedule 3 clause 1 amended**

- (1) In Schedule 3 clause 1(12) in the Table:
- (a) in item 1 delete “*Legal Profession Act 2008*.” and insert:  
  
*Legal Profession Uniform Law (WA)*.
  - (b) in item 2 delete “*Legal Profession Act 2008* section 23.” and insert:  
  
*Legal Profession Uniform Law (WA)* section 21.
  - (c) in item 3 delete “an Australian lawyer within the meaning of the *Legal Profession Act 2008*.” and insert:  
  
a lawyer.

- (d) in item 4 delete “person who applies for registration as a locally registered foreign lawyer under the *Legal Profession Act 2008*.” and insert:

foreign lawyer who applies for an Australian registration certificate under the *Legal Profession Uniform Law (WA)*.

- (e) in item 5 delete “*Legal Profession Act 2008*.” and insert:

*Legal Profession Uniform Law (WA)*.

- (2) Delete Schedule 3 clause 1(13) and insert:

- (13) The exception in subclause (12) extends to —

- (a) the Legal Practice Board established under the *Legal Profession Uniform Law Application Act 2022* section 30(1);  
and  
(b) the Legal Services and Complaints Committee established under the *Legal Profession Uniform Law Application Act 2022* section 57(1).

**Division 20 — *State Administrative Tribunal Act 2004* amended**

**399. Act amended**

This Division amends the *State Administrative Tribunal Act 2004*.

**400. Section 3 amended**

- (1) In section 3(1) delete the definitions of:  
*legal practitioner*  
*qualified person*

- (2) In section 3(1) in the definition of *legally qualified member* paragraph (c) delete “qualified person” and insert:

lawyer

**401. Section 93 amended**

In section 93(1) in the definition of *legally qualified person* paragraph (a) delete “an Australian lawyer (within the meaning of that term in the *Legal Profession Act 2008* section 3)” and insert:

a lawyer

**402. Section 117 amended**

In section 117(3)(a) and (4)(a) delete “qualified person” and insert:

lawyer

**403. Schedule 1 amended**

In Schedule 1 delete “*Legal Profession Act 2008*” and insert:

*Legal Profession Uniform Law Application Act 2022*  
*Legal Profession Uniform Law (WA)*

**Division 21 — *Strata Titles Act 1985* amended**

**404. Act amended**

This Division amends the *Strata Titles Act 1985*.

**405. Section 3 amended**

In section 3(1) delete the definition of *Australian legal practitioner*.

**406. Section 143 amended**

Delete section 143(4) and insert:

- (4) A legal practitioner does not act as a strata manager in providing services that can, under the *Legal Profession Uniform Law (WA)*, be provided only by a legal practitioner.

**407. Section 163 amended**

In section 163(2)(a) delete “an Australian legal practitioner,” and insert:

a legal practitioner,

**408. Section 219 amended**

In section 219(1) delete “an Australian lawyer (within the meaning of that term in the *Legal Profession Act 2008* section 3).” and insert:

a lawyer.

**Division 22 — *Workers' Compensation and Injury Management Act 1981* amended**

**409. Act amended**

This Division amends the *Workers' Compensation and Injury Management Act 1981*.

**410. Section 5 amended**

In section 5(1) insert in alphabetical order:

*prohibited person* has the meaning given in section 5B;

**411. Section 5B inserted**

At the end of Part I insert:

**5B. Meaning of prohibited person**

(1) In this section —

*Australian practising certificate* —

- (a) has the meaning given in the *Legal Profession Uniform Law (WA)* section 6(1); and
- (b) includes a local practising certificate granted under the repealed *Legal Profession Act 2008* before commencement day;

*commencement day* means the day on which the *Legal Profession Uniform Law Application Act 2022* section 411 comes into operation;

*corresponding law* has the meaning given in the *Legal Profession Uniform Law (WA)* section 6(1);

*Supreme Court roll* has the meaning given in the *Legal Profession Uniform Law (WA)* section 6(1).

(2) A person is a *prohibited person* —

(a) if —

- (i) the person's name has been removed from a Supreme Court roll; and
- (ii) the person's name was not removed from a Supreme Court roll at the person's own request; and
- (iii) the person has not subsequently been admitted or re-admitted to the legal profession under the *Legal Profession Uniform Law (WA)* or a corresponding law;

or

- (b) if the person's Australian practising certificate is suspended; or
- (c) if the person is not a legal practitioner because the person's Australian practising certificate has been cancelled under —
  - (i) the repealed *Legal Profession Act 2008*; or
  - (ii) the *Legal Profession Uniform Law (WA)*; or
  - (iii) a corresponding law.

**412. Section 87 amended**

In section 87(2) delete “costs determination (as defined in the *Legal Profession Act 2008* section 252).” and insert:

legal costs determination made under the *Legal Profession Uniform Law Application Act 2022* section 133.

**413. Section 182S amended**

Delete section 182S(4).



**414. Section 195 amended**

Delete section 195(4A).

**415. Section 263 amended**

In section 263 delete “*Legal Profession Act 2008*, and in particular Part 10 of that Act.” and insert:

*Legal Profession Uniform Law (WA)*, and in particular Part 4.3 of the Law.

Note: The heading to amended section 263 is to read:

**This Part prevails over *Legal Profession Uniform Law (WA)***

**416. Section 264 amended**

In section 264(3) delete “*Legal Profession Act 2008* Part 10 Division 8” and insert:

*Legal Profession Uniform Law (WA)* Part 4.3 Division 7

**417. Section 268 amended**

- (1) In section 268(2)(a) and (b) delete “*Legal Profession Act 2008* Part 10 Division 8; and” and insert:

*Legal Profession Uniform Law (WA)* Part 4.3 Division 7; and

- (2) In section 268(3) delete “*Legal Profession Act 2008*.” and insert:

*Legal Profession Uniform Law (WA)*.

**418. Section 269 amended**

In section 269(1) in the definition of *Legal Costs Committee* delete “*Legal Profession Act 2008*.” and insert:

*Legal Profession Uniform Law Application Act 2022* section 83.

**419. Section 271 amended**

In section 271(2)(b) delete “costs determination (as defined in the *Legal Profession Act 2008* section 252).” and insert:

legal costs determination made under the *Legal Profession Uniform Law Application Act 2022* section 133.

**420. Section 277 amended**

In section 277(1)(d) delete “legal practitioner or an incorporated legal practice;” and insert:

law practice as defined in the *Legal Profession Uniform Law (WA)* section 6(1);

**Division 23 — *Young Offenders Act 1994* amended**

**421. Act amended**

This Division amends the *Young Offenders Act 1994*.

**422. Section 37A amended**

Delete section 37A(1).

Note: The heading to amended section 37A is to read:

**No representation by lawyer or agent**

**423. Section 152 amended**

In section 152(5)(b) delete “an Australian lawyer (within the meaning of that term in the *Legal Profession Act 2008* section 3).” and insert:

a lawyer.

**Division 24 — Other amendments**

**424. Other Acts amended**

- (1) This section amends the Acts listed in the Table.
- (2) Amend the provisions listed in the Table as set out in the Table.

**Table**

Provision	Delete	Insert
<b>1. <i>Adoption Act 1994</i></b>		
s. 4(1)	def. of <i>lawyer</i> def. of <i>legal practitioner</i>	
<b>2. <i>Australian Crime Commission (Western Australia) Act 2004</i></b>		
s. 3(1)	def. of <i>legal practitioner</i>	
<b>3. <i>Children’s Court of Western Australia Act 1988</i></b>		
s. 3(1)	def. of <i>legal practitioner</i>	

Provision	Delete	Insert
s. 7(2)	an Australian lawyer, within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3,	a lawyer
<b>4. Constitution Acts Amendment Act 1899</b>		
Sch. V Pt. 3 item relating to The Legal Contribution Trust	<i>Legal Profession Act 2008</i>	<i>Legal Profession Uniform Law Application Act 2022</i>
<b>5. Co-operatives Act 2009</b>		
s. 4(1)	def. of <i>legal practitioner</i>	
<b>6. Coroners Act 1996</b>		
s. 6(6) s. 7(4) s. 44(1)	an Australian legal practitioner (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3)	a legal practitioner
<b>7. Corporations (Western Australia) Act 1990</b>		
s. 48	an Australian legal practitioner (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3)	a legal practitioner

Provision	Delete	Insert
<b>8. Corruption, Crime and Misconduct Act 2003</b>		
s. 3(1)	def. of <i>lawyer</i> def. of <i>legal practitioner</i>	
<b>9. Criminal Injuries Compensation Act 2003</b>		
s. 3	def. of <i>legal practitioner</i>	
Sch. 1 cl. 1(1)	an Australian lawyer	a lawyer
Sch. 1 cl. 1(2)	def. of <i>Australian lawyer</i>	
<b>10. Criminal Investigation Act 2006</b>		
s. 3(1)	def. of <i>legal practitioner</i>	
<b>11. Criminal Investigation (Covert Powers) Act 2012</b>		
s. 80	def. of <i>lawyer</i>	
<b>12. Criminal Procedure Act 2004</b>		
s. 3(1)	def. of <i>legal practitioner</i>	
s. 67(3)	<i>Legal Profession Act 2008</i> section 275	<i>Legal Profession Uniform Law Application Act 2022</i> section 133

**Legal Profession Uniform Law Application Act 2022****Part 17** Consequential amendments to other Acts**Division 24** Other amendments**s. 424**

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<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
s. 67(3)	<i>Legal Profession Act 2008</i> section 280	<i>Legal Profession Uniform Law Application Act 2022</i> section 141
s. 172(3)(a)	<i>Legal Profession Act 2008</i>	<i>Legal Profession Uniform Law (WA)</i>
s. 172(3)(b)(ii)	approved practical legal training requirements (as defined in the <i>Legal Profession Act 2008</i> section 21(1))	practical legal training (as defined in the <i>Legal Profession Uniform Law (WA)</i> section 6(1))
<b>13. Debt Collectors Licensing Act 1964</b>		
s. 4(a)	an Australian legal practitioner within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3	a legal practitioner
<b>14. Director of Public Prosecutions Act 1991</b>		
s. 3	def. of <i>Australian lawyer</i> def. of <i>legal practitioner</i>	
s. 5(2) and (3)	an Australian lawyer	a lawyer

Provision	Delete	Insert
<b>15. Evidence Act 1906</b>		
s. 122	an Australian legal practitioner (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3) in a participating jurisdiction is entitled to practise as an Australian legal practitioner	a legal practitioner in a participating jurisdiction is entitled to practise as a legal practitioner
<b>16. Fair Trading Act 2010</b>		
s. 8(4)	<i>Legal Profession Act 2008</i> section 3	<i>Legal Profession Uniform Law (WA)</i> section 6(1)
<b>17. Family Court Act 1997</b>		
s. 5(1)	def. of <i>Australian legal practitioner</i>	
s. 5(1) def. of <i>independent children's lawyer</i> s. 11(3a) def. of <i>legal experience</i> par. (a) s. 219AK(2)(b)	an Australian legal practitioner	a legal practitioner

Provision	Delete	Insert
s. 11(3)(a)	an Australian lawyer	a lawyer
s. 11(3a)	def. of <i>Australian lawyer</i>	
<b>18. Finance Brokers Control Act 1975</b>		
s. 5(1)(f)	Australian legal practitioners (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3)	legal practitioners
<b>19. First Home Owner Grant Act 2000</b>		
s. 52A(3)	<i>Legal Profession Act 2008</i> section 3	<i>Legal Profession Uniform Law (WA)</i> section 6(1)
s. 52A(3)(a)	<i>Legal Profession Act 2008</i>	<i>Legal Profession Uniform Law (WA)</i>
<b>20. Gender Reassignment Act 2000</b>		
s. 6(2)(a)	an Australian legal practitioner (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3)	a legal practitioner



Provision	Delete	Insert
<b>21. Guardianship and Administration Act 1990</b>		
s. 3(1)	def. of <i>legal practitioner</i>	
s. 51(3) s. 70(3)	<i>Legal Profession Act 2008</i>	<i>Legal Profession Uniform Law (WA)</i>
<b>22. Industrial Relations Act 1979</b>		
s. 7(1)	def. of <i>legal practitioner</i>	
s. 42B(7) s. 51Q(4) s. 97UJ(5)	For the purposes of section 12 of the <i>Legal Profession Act 2008</i>	Despite the <i>Legal Profession Uniform Law (WA)</i> section 10,
<b>23. Jurisdiction of Courts (Cross-vesting) Act 1987</b>		
s. 5(9)	an Australian legal practitioner (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3)	a legal practitioner
<b>24. Land Valuers Licensing Act 1978</b>		
s. 4	def. of <i>lawyer</i> def. of <i>legal practitioner</i>	

Provision	Delete	Insert
<b>25. <i>Liquor Control Act 1988</i></b>		
s. 3(1)	def. of <i>lawyer</i>	
<b>26. <i>Long Service Leave Act 1958</i></b>		
s. 37	an Australian legal practitioner (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3)	a legal practitioner
<b>27. <i>Magistrates Court (Civil Proceedings) Act 2004</i></b>		
s. 3(1)	def. of <i>legal practitioner</i>	
s. 3(1) def. of <i>applicable costs determination</i>	<i>Legal Profession Act 2008</i> section 275	<i>Legal Profession Uniform Law Application Act 2022</i> section 133
<b>28. <i>Mandatory Testing (Infectious Diseases) Act 2014</i></b>		
s. 15	def. of <i>lawyer</i>	
<b>29. <i>Mental Health Act 2014</i></b>		
s. 4	def. of <i>legal practitioner</i>	
s. 379	def. of <i>lawyer</i>	
s. 449(1)(b)(i)	legal practitioner	legal practitioner;

Provision	Delete	Insert
<b>30. Mining Act 1978</b>		
s. 162(2)(r)	costs determination (as defined in the <i>Legal Profession Act 2008</i> section 252)	legal costs determination made under the <i>Legal Profession Uniform Law Application Act 2022</i> section 133
<b>31. Motor Vehicle (Catastrophic Injuries) Act 2016</b>		
s. 3(1) def. of <i>legal costs</i> s. 3(1) def. of <i>legal services</i>	<i>Legal Profession Act 2008</i> section 3	<i>Legal Profession Uniform Law (WA)</i> section 6(1)
<b>32. Motor Vehicle (Third Party Insurance) Act 1943</b>		
s. 27A(2)	costs determination (as defined in the <i>Legal Profession Act 2008</i> section 252)	legal costs determination made under the <i>Legal Profession Uniform Law Application Act 2022</i> section 133
<b>33. Oaths, Affidavits and Statutory Declarations Act 2005</b>		
s. 8 def. of <i>experienced legal practitioner</i>	an Australian legal practitioner (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3)	a legal practitioner

<b>Provision</b>	<b>Delete</b>	<b>Insert</b>
Sch. 2 Table it. 20	An Australian lawyer within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3	A lawyer
<b>34. <i>Official Prosecutions (Accused's Costs) Act 1973</i></b>		
s. 5(5)	costs determination (as defined in the <i>Legal Profession Act 2008</i> section 252)	legal costs determination made under the <i>Legal Profession Uniform Law Application Act 2022</i> section 133
<b>35. <i>Planning and Development Act 2005</i></b>		
s. 4(1)	def. of <i>legal practitioner</i>	
<b>36. <i>Public Notaries Act 1979</i></b>		
s. 3	def. of <i>Australian lawyer</i>	
s. 7(2)(a)	an Australian lawyer	a lawyer
s. 15A	costs determination (as defined in the <i>Legal Profession Act 2008</i> section 252)	legal costs determination made under the <i>Legal Profession Uniform Law Application Act 2022</i> section 133

Provision	Delete	Insert
s. 16(2)	<i>Legal Profession Act 2008</i>	<i>Legal Profession Uniform Law (WA)</i>
<b>37. Racing Penalties (Appeals) Act 1990</b>		
s. 5(1)	an Australian lawyer (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3),	a lawyer
s. 16(7)	an Australian legal practitioner (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3)	a legal practitioner
s. 25(2)(g)	costs determination (as defined in the <i>Legal Profession Act 2008</i> section 252)	legal costs determination made under the <i>Legal Profession Uniform Law Application Act 2022</i> section 133
<b>38. Real Estate and Business Agents Act 1978</b>		
s. 4(1)	def. of <i>legal practitioner</i>	
<b>39. Residential Tenancies Act 1987</b>		
s. 22(6)	def. of <i>legal practitioner</i>	

Provision	Delete	Insert
s. 22(6) def. of <i>legally qualified person</i>	an Australian lawyer within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3	a lawyer
s. 24(1)(a)	legal practitioners, as defined in section 22(6)	legal practitioners
<b>40. Restraining Orders Act 1997</b>		
s. 3(1)	def. of <i>legal practitioner</i>	
<b>41. Sale of Land Act 1970</b>		
s. 11	def. of <i>Australian legal practitioner</i>	
s. 11 def. of <i>deposit holder</i> par. (b)(i) s. 14(2)(b)(ii)	an Australian legal practitioner	a legal practitioner
<b>42. Security and Related Activities (Control) Act 1996</b>		
s. 28(2)(a)	Australian legal practitioner (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3)	legal practitioner

Provision	Delete	Insert
<b>43. Settlement Agents Act 1981</b>		
s. 3(1)	def. of <i>legal practitioner</i>	
s. 46(5)	<i>Legal Profession Act 2008</i>	<i>Legal Profession Uniform Law (WA)</i> section 10
Sch. 1 cl. 7(c)	legal practitioners	lawyers
<b>44. Solicitor-General Act 1969</b>		
s. 3(2)	an Australian lawyer	a lawyer
s. 3(3)	def. of <i>Australian lawyer</i>	
s. 3(3) def. of <i>legal experience</i> par. (a)	an Australian legal practitioner within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3	a legal practitioner
<b>45. Suitors' Fund Act 1964</b>		
s. 8(2)(c)	<i>Legal Profession Act 2008</i>	<i>Legal Profession Uniform Law Application Act 2022</i> section 30

Provision	Delete	Insert
<b>46. Supreme Court Act 1935</b>		
s. 4(1)	def. of <i>lawyer</i> def. of <i>legal practitioner</i>	
s. 167(1)(d) and (da)	costs determination (as defined in the <i>Legal Profession Act 2008</i> section 252)	legal costs determination made under the <i>Legal Profession Uniform Law Application Act 2022</i> section 133
<b>47. Taxation Administration Act 2003</b>		
s. 43(1)(b)	legal practitioner as defined in that subsection	legal practitioner
<b>48. Teacher Registration Act 2012</b>		
s. 3	def. of <i>lawyer</i>	
s. 67(2)	an Australian legal practitioner, within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3, does not breach that Act,	a legal practitioner does not breach the <i>Legal Profession Uniform Law (WA)</i>



Provision	Delete	Insert
<b>49. <i>Terrorism (Preventative Detention) Act 2006</i></b>		
s. 4(1)	def. of <i>lawyer</i>	
<b>50. <i>Transfer of Land Act 1893</i></b>		
s. 4(1)	def. of <i>Australian lawyer</i>	
s. 5(2)(b) s. 6(2)(b) s. 8(4) s. 15(1)(c) s. 180(2)(b)(iii)	an Australian lawyer	a lawyer
<b>51. <i>Veterinary Practice Act 2021</i></b>		
s. 3	def. of <i>legal practitioner</i>	
<b>52. <i>Wills Act 1970</i></b>		
s. 32A	def. of <i>Australian legal practitioner</i>	
s. 32C(1)(a)	an Australian legal practitioner	a legal practitioner
<b>53. <i>Witness Protection (Western Australia) Act 1996</i></b>		
s. 33	def. of <i>lawyer</i>	

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## Notes

This is a compilation of the *Legal Profession Uniform Law Application Act 2022* and includes amendments made by other written laws. For provisions that have come into operation see the compilation table. [For provisions that have not yet come into operation see the uncommenced provisions table.](#)

### Compilation table

Short title	Number and year	Assent	Commencement
<i>Legal Profession Uniform Law Application Act 2022</i>	9 of 2022	14 Apr 2022	Pt. 1: 14 Apr 2022 (see s. 2(a)); Act other than Pt. 1: 1 Jul 2022 (see s. 2(b)(i) and (c) and SL 2022/113 cl. 2)
<i>Legal Profession Uniform Law Application (Levy) Act 2022</i>	10 of 2022	14 Apr 2022	s. 1 and 2: 14 Apr 2022 (see s. 2(a)); Act other than s. 1 and 2: 1 Jul 2022 (see s. 2(b) and SL 2022/113 cl. 2)

### **Uncommenced provisions table**

To view the text of the uncommenced provisions see [Acts as passed on the WA Legislation website](#).

<b><u>Short title</u></b>	<b><u>Number and year</u></b>	<b><u>Assent</u></b>	<b><u>Commencement</u></b>
<a href="#">Workers Compensation and Injury Management Act 2023 Pt. 15 Div. 3 Subdiv. 8</a>	<a href="#">21 of 2023</a>	<a href="#">24 Oct 2023</a>	<a href="#">1 Jul 2024 (see s. 2(d) and SL 2024/34 cl. 2)</a>

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