

LEGAL PROFESSION UNIFORM CONDUCT (BARRISTERS) AMENDMENT RULE 2022

818. Hon Nick Goiran to the parliamentary secretary representing the Attorney General:

I refer to the *Legal Profession Uniform Conduct (Barristers) Amendment Rule 2022*, and I ask:

- (a) what was the catalyst for bringing about this amendment to the rule;
- (b) who was consulted prior to this amendment rule being finalised;
- (c) did any person consulted raise any concerns;
- (d) if yes to , what were these concerns;
- (e) has the finalised amendment rule addressed these concerns; and
- (f) if no to (e), why not?

Hon Matthew Swinbourn replied:

- (a) The *Legal Profession Uniform Conduct (Barristers) Amendment Rule 2022* amends the *Legal Profession Uniform Conduct (Barristers) Rules 2015* to give effect to amendments recommended by the Australian Bar Association relating to rule 123 (Anti-discrimination and harassment) and the definition of “workplace bullying” in rule 125. The ABA’s recommendation arose out of consideration of the Australian Human Rights Commission National Inquiry into Sexual Harassment in Australian Workplaces.
- (b) Consistent with the requirements of the Legal Profession Uniform Law, the consultation was undertaken by the Australian Bar Association. It is understood that the Association consulted with the following stakeholders (in addition to placing a call for submissions on its website): the Victorian Legal Services Board and Commissioner; the NSW Legal Services Commissioner; the Legal Practice Board of Western Australia; the Law Society of NSW; the Law Council of Australia; Law Firms Australia; the Victorian Bar Association; the NSW Bar Association; the WA Bar Association; the Queensland Bar Association; the Northern Territory Bar Association; the South Australian Bar Association; the ACT Bar Association; and the Tasmanian Bar Association.
- (c) Yes.
- (d) One concern related to consistency between, and the interaction of, the *Legal Profession Uniform Conduct (Barristers) Amendment Rule 2022* and the proposed amendments to rule 42 of the *Legal Profession Uniform Law Australian Solicitors’ Conduct Rules 2015* in a fused profession. A further concern was raised that the words “or in connection with their profession” in proposed amended rule 123 would capture conduct that has any connection with the profession no matter the context.
- (e) No amendments were considered necessary to address the concerns raised.
- (f) As to the first concern, the Legal Services Council concluded that, although consistency between the solicitors’ and barristers’ conduct rules is desirable, and it recommended a consistent approach to the Law Council of Australia and the Australian Bar Association, in the absence of agreement by those bodies, the finalised amendment rule was appropriate and could be appropriately applied to barristers, even in fused professions.

As to the further concern, the Legal Services Council considered that the words “in connection with their profession” are broader than the words “in the course of practice”, and that language choice was intentional and appropriate.