

**LEGAL PROFESSION UNIFORM LAW APPLICATION BILL 2021**

*Committee*

Resumed from an earlier stage of the sitting. The Deputy Chair of Committees (Hon Peter Foster) in the chair; Hon Matthew Swinbourn (Parliamentary Secretary) in charge of the bill.

**Clause 261: Terms used —**

Committee was interrupted after the clause had been partly considered.

**Hon MATTHEW SWINBOURN:** Prior to question time, Hon Nick Goiran inquired about some correspondence that he is obviously aware of between the Law Society of Western Australia and the Attorney General regarding a request for a meeting with the Attorney General and stakeholders, particularly with respect to the commencement of the uniform legal profession—sorry, the legal profession uniform law. I do not think I will ever get the order of those words correct, but I will continue to try. I can confirm that during the break I had an opportunity to confer directly with the Attorney General's staff and indicate that a meeting did not arise from that contact with the Law Society. However, there was correspondence between the Attorney General's office and the Law Society regarding the matters that were raised in the correspondence in particular and, more specifically, in relation to the commencement of the scheme. At the stage they were corresponding, I think the commencement date was 1 January; however, there was not enough time between October and January for that to occur. There was talk about the commencement date being 1 April. That was the discussion about the commencement. The position now, which is in concurrence with the Law Society, is that the bill will not commence before 1 July 2022, to address and to ensure that the matters raised by the Law Society and other stakeholders are adequately taken into consideration.

As I said, there was no meeting, but there was correspondence and there continues to be correspondence between the Attorney General's office and the Law Society on a range of different matters, including the Legal Profession Uniform Law Application Bill. The only other issue that was outstanding, as I recall, was the secrecy provisions. I indicated to the member that we were not sure at the table at the time whether or not such equivalent provisions were within the application acts of New South Wales and Victoria. I can confirm that there are no such provisions within those acts.

**Hon NICK GOIRAN:** Have any of the stakeholders raised concerns about the transitional provisions set out in part 16?

**Hon MATTHEW SWINBOURN:** I have been advised that some stakeholders raised concerns about transitional provisions at the consultation stage of the bill. In a general sense, those concerns were addressed through the transitional provisions. I will give an example of such a concern. Clause 286 deals with persons approved as QA providers under the former Legal Profession Act. The original draft contained only subclauses (1) and (2) that allowed a QA accreditation to run indefinitely. A concern was raised about this by the Legal Practice Board, I presume. I am getting a nod from the table. That was an issue, because we did not wish the accreditation of QA providers to run in perpetuity, so subclause (3) was inserted. That is an example of issues raised being addressed. I could not comprehensively go through every matter raised. The transitional provisions are a key temporal issue, because we are going from a regime that has been in place since 2008 to a new regime—but over time the transitional provisions become less important. I might be able to give the member more examples if he wants.

**Clause put and passed.**

**Clauses 262 to 287 put and passed.**

**Clause 288: Experience acquired before commencement day taken to be supervised legal practice under Uniform Law s. 49 —**

**Hon NICK GOIRAN:** What has given rise to the insertion of clause 288(2)?

**Hon MATTHEW SWINBOURN:** I am advised that Parliamentary Counsel picked this up when reviewing the bill. Clause 288(2) seeks to ensure that, as of commencement day, all practitioners who have completed supervised legal practice or who are otherwise entitled to practise on their own account will be recognised as having completed a period of supervised legal practice under the Legal Profession Uniform Law. The concern was that, in the absence of this provision, people who have completed College of Law and practical legal training—I do not think anyone does articles any more—and are 18 months into their two years' supervised practice, all of this comes into place and all of a sudden no provision ensured that the period of supervised practice is preserved, and people would have to start that period of supervised practice all over again. I would dread to think that that would happen and people would knock on my door getting upset about it, because nobody enjoys supervision very much. Probably some people do, but I certainly do not.

**Hon NICK GOIRAN:** Was this picked up by Parliamentary Counsel or the College of Law?

**Hon MATTHEW SWINBOURN:** It was Parliamentary Counsel.

**Clause put and passed.**

**Clauses 289 to 328 put and passed.**

**Clause 329: Transitional regulations —**

**Hon MATTHEW SWINBOURN:** I move —

Page 180, line 4 — To delete “of this” and insert —  
to this

As a quick explanation, this probably speaks for itself, but it was a drafting correction identified by the Parliamentary Counsel’s Office and does not alter the substantive meaning of the provision.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 330: Act amended —**

**Hon NICK GOIRAN:** We are on to the final part of this bill, albeit only at clause 330 of a 421-clause bill. That said, for the benefit of the parliamentary secretary and the deputy chair, my questions on part 17 of the bill are limited to division 1—and thereafter I have no further questions on part 17, although I know the parliamentary secretary has another amendment on the supplementary notice paper that we touched on briefly during consideration of clause 1, particularly the special commencement date set out in clause 2 for that provision. Division 1 of part 17 deals with consequential amendments to the Aboriginal Affairs Planning Authority Act 1972, so I will deal with the division, being clauses 330 and 331, in totality. What has given rise to the insertion of this exemption from the provisions of the Legal Profession Uniform Law?

**Hon MATTHEW SWINBOURN:** I am advised that the issue was raised in the last Parliament by the Greens (WA) during briefings undertaken on the 2020 bill. The insertion of part 17, division 1A—now part 17, division 1—in the 2020 bill is to expressly exempt persons authorised under section 48 of the Aboriginal Affairs Planning Authority Act 1972 from section 10 of the Legal Profession Uniform Law in the same way as applies to industrial agents, settlement agents or prosecutors under the bill. See items 12, 22 and 43 of clause 421 of the 2020 bill as a matter of reference.

**Clause put and passed.**

**Clause 331 to 356 put and passed.**

**New Part 17 Division 8A —**

**Hon MATTHEW SWINBOURN:** I move the amendment in my name on supplementary notice paper 31, issue 3 —

Page 187, after line 27 — To insert —

**Division 8A — *Industrial Relations Act 1979* amended**

**356A. Act amended**

This Division amends the *Industrial Relations Act 1979*.

**356B. 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.

**Hon MATTHEW SWINBOURN:** By way of brief explanation, this new part is consequential upon the amendment to the Industrial Relations Act 1979 contained in section 69 of the Industrial Relations Legislation Amendment Act 2021. It ensures that the term “disqualified person” as used in section 112A(3)(a) of the Industrial Relations Act 1979 is defined by reference to the Legal Profession Uniform Law (WA), not the Legal Profession Act 2008.

**New part put and passed.**

**Clauses 357 to 420 put and passed.**

**Clause 421: Other Acts amended —**

**Hon MATTHEW SWINBOURN:** I move —

Page 211, the Table item 17 the 2<sup>nd</sup> row — To delete the row and insert —

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
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By way of explanation, I jump ahead to this amendment and the next two that are all consequential to the following acts introduced and passed since this bill was introduced last year—namely, the Family Court Amendment Act 2021, the Industrial Relations Legislation Amendment Act 2021, and the Veterinary Practice Act 2021. These amendments simply ensure that those new laws are properly dealt with by this new bill.

**Amendment put and passed.**

**Hon MATTHEW SWINBOURN:** I move —

Page 213, the Table item 22 — To delete “s. 112A(3)”.

**Amendment put and passed.**

**Hon MATTHEW SWINBOURN:** You are doing a sterling job, deputy chair, if I do say so myself. I move —

Page 221, the table after item 50 — To insert —

<b>50A.     <i>Veterinary Practice Act 2021</i></b>		
s. 3	def. of <i>legal practitioner</i>	

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Title put and passed.**