

LEGAL PROFESSION UNIFORM LAW APPLICATION REGULATIONS 2022

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

I refer to the *Legal Profession Uniform Law Application Regulations 2022*, and I ask:

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

Hon Matthew Swinbourn replied:

- (a) The *Legal Profession Uniform Law Application Regulations 2022* were made under the *Legal Profession Uniform Law Application Act 2022* to deal with local matters arising under that Act; in particular, where the Legal Profession Uniform Law (WA) allows for local provisions, including variations, from participating jurisdictions. The Legal Profession Uniform Law Application Regulations 2022 are not amending regulations.
- (b) The following stakeholders were provided with a Consultation Draft of the *Legal Profession Uniform Law Application Regulations 2022*: the Legal Practice Board of Western Australia; the Legal Profession Complaints Committee; the Supreme Court of Western Australia; the State Administrative Tribunal; the Law Society of Western Australia; the Western Australian Bar Association; the Legal Aid Commission of Western Australia; the Aboriginal Legal Service of Western Australia Limited; Community Legal Western Australia; the Legal Contribution Trust; the Legal Costs Committee; the Department of Justice.
- (c) Yes.
- (d) First, in the Consultation Draft of the *Legal Profession Uniform Law Application Regulations 2022*, it was proposed that government lawyers employed in the Office of the Director of Public Prosecutions, the Parliamentary Counsel's Office and the State Solicitor's Office would be exempt from the requirement to pay the annual fee for practising certificates. This was queried by some stakeholders as creating an equity issue within the category of government lawyers and the legal profession more broadly as the regulation of those exempt lawyers was to be subsidised by the private profession and other government lawyers.

Second, the category of excluded activities in regulation 39 was initially broader than is currently captured. However, concerns were raised as to the scope of activities captured.

Third, a number of stakeholders sought the inclusion of a built-in mechanism to adjust fees annually.
- (e) The regulations addressed these concerns as follows:

As to the first concern, the *Legal Profession Uniform Law Application Regulations 2022* were amended so that all government lawyers who were not required to hold a practising certificate under the *Legal Profession Act 2008* (that is "WA government lawyers", as that term was defined) are required to pay the annual fee for a practising certificate but subject to a 50% discount on that fee.

This addressed the concerns about equity within the category of government lawyers. While it remains the case that fees paid by government lawyers will be lower than those paid by non-government lawyers, this difference is considered appropriate because, amongst other things, the regulatory burden (and resulting cost to the regulatory system) presented by government lawyers is less than that of non-government lawyers.

As to the second concern, the scope of excluded activities was amended to be confined to those where the activity is not provided by another person or the activity is provided by a university as part of a postgraduate course. Additionally, regulation 41 was inserted to incentivise practitioners to seek approval of such excluded activities.
- (f) As to the third concern, no built-in mechanism to annually adjust fees was included in the *Legal Profession Uniform Law Application Regulations 2022* and stakeholders were advised that any increase in fees would need to be made by an amendment to the Regulations, and be subject to review by the Joint Standing Committee on Delegated Legislation.