

Legal Profession Amendment Regulations 2018

Made by the Governor in Executive Council.

1. Citation

These regulations are the *Legal Profession Amendment Regulations 2018*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

These regulations amend the *Legal Profession Regulations 2009*.

4. Regulation 83 amended

In regulation 83 insert in alphabetical order:

insurance year means a period of 12 months beginning on 1 July and ending on 30 June;

5. Regulation 86 amended

In regulation 86(1) delete “after the end of” and insert:

from

6. Regulation 88 amended

Delete regulation 88(2) and insert:

- (2) Not later than the renewal day in each year, each law practice engaged in legal practice in Western Australia must —
 - (a) apply to take and maintain professional indemnity insurance in compliance with regulation 87; and
 - (b) if applying to take and maintain insurance under the PII arrangement, pay any amounts payable by the law practice under regulations 92 and 102(1)(a).

Note: The heading to amended regulation 88 is to read:

Application for professional indemnity insurance

7. Regulation 89 amended

- (1) Before regulation 89(1) insert:

- (1A) This regulation applies in relation to an application to take and maintain insurance under the PII arrangement.

- (2) In regulation 89(1) delete “make an application, and pay the amounts payable by the law practice under regulations 92 and 102(1)(a),” and insert:

make an application and pay the amounts payable by the law practice under regulations 92 and 102(1)(a) on or before the renewal day

- (3) After regulation 89(2) insert:

- (3) The late lodgment fee must be paid by the law practice on or before the next 30 June following the renewal day, or within 21 days after the day on which the Law Society issues an invoice for the late lodgment fee, whichever is the sooner.

Note: The heading to amended regulation 89 is to read:

Late lodgment fee for failure to make application or pay amount

8. Regulation 92 amended

- (1) In regulation 92(3)(k) delete “the risk management practices of the law practice,” and insert:

whether the law practice has implemented and observed good risk management practices,

- (2) In regulation 92(5) delete “a year commencing on 1 July,” and insert:

an insurance year,

9. Regulation 93 amended

After regulation 93(5) insert:

- (5A) Despite subregulation (5), interest is not required to be paid if the annual contribution of a law practice is reduced on review because of a change in the particular circumstances of the law practice that arose between the application being made under regulation 88 and the assessment being issued.

10. Regulation 94 amended

- (1) In regulation 94 delete “If the assessment” and insert:

(1) If the assessment

- (2) At the end of regulation 94 insert:

(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.

11. Regulation 96 amended

In regulation 96(b) delete “on terms and conditions approved” and insert:

on the terms and conditions of a scheme approved

Note: The heading to amended regulation 96 is to read:

Requirement for Australian legal practitioner to have professional indemnity insurance

12. Regulation 97 amended

(1) In regulation 97(1):

(a) delete paragraph (c) and insert:

(c) a practitioner employed by an entity (the ***employing entity***), other than an incorporated legal practice, if the only legal services provided by the practitioner are —

- (i) in-house legal services; or
- (ii) if the employing entity is a body corporate — legal services provided to a related body corporate (as defined in the *Corporations Act 2001* (Commonwealth) section 9) of the employing entity;

(b) in paragraph (e)(ii) delete “the Aboriginal Legal Service; or” and insert:

the Aboriginal Legal Service of Western Australia Limited; or

(c) after paragraph (e) insert:

(ea) a practitioner who engages in legal practice as a volunteer at any of the following bodies or organisations and who does not otherwise engage in legal practice —

- (i) a community legal centre that is covered by professional indemnity insurance approved by the Law Society for the period in respect of which the exemption is claimed;
- (ii) the Legal Aid Commission;
- (iii) the Aboriginal Legal Service of Western Australia Limited (***ALSWA***), but only if ALSWA is covered by professional indemnity insurance approved by the Law Society for the period in respect of which the exemption is claimed;
- (iv) any other body or organisation providing legal aid, but only if the Law Society Council has resolved that volunteers at that body or organisation should be entitled to exemption;

(2) In regulation 97(2) delete “(1)(e)(iii).” and insert:

(1)(e)(iii) or (ea)(iv).

13. Regulation 103 amended

In regulation 103(1):

(a) delete paragraph (b) and insert:

(b) claiming under regulation 98 to be an exempt practitioner; or

(c) giving notification under regulation 100,

(b) delete “that application” and insert:

that application, claim

Note: The heading to amended regulation 103 is to read:

Undertakings as to professional indemnity insurance

14. Schedule 2 amended

In Schedule 2 delete “Aboriginal Legal Service of Western Australia (Inc)” and insert:

Aboriginal Legal Service of Western Australia Limited

Note: The headings to the regulations listed in the Table are to read as set out in the Table.

Table

Regulation	Regulation heading
r. 84	Law Society’s functions as to professional indemnity insurance
r. 87	Requirement for law practice to have professional indemnity insurance
r. 90	Restructured law practice to apply for professional indemnity insurance
r. 91	Law Society to issue certificate of insurance
r. 101	Acceptable evidence for Board as to professional indemnity insurance (Act s. 40(3))
r. 104	Law Society may require information

R. NEILSON, Clerk of the Executive Council.