

LEGAL PROFESSION UNIFORM LAW APPLICATION BILL 2021 EXPLANATORY MEMORANDUM

Overview

The Legal Profession Uniform Law scheme is a scheme for the regulation of the legal profession in Australia and is the subject of an Intergovernmental Agreement between Victoria, New South Wales and Western Australia. Other Australian jurisdictions may join the scheme.

The purpose of the Bill is fourfold. First, to apply the Legal Profession Uniform Law as a law of Western Australia and to provide for the tabling and disallowance of amendments made to that Law. Second, to enact provisions to regulate legal practice which have local application in Western Australia. Third, to repeal the *Legal Profession Act 2008* and the *Law Society Public Purposes Trust Act 1984*. Fourth, to make savings, transitional and consequential amendments.

Part 1-Preliminary

Clause 1. Short title

This clause provides that the short title of the Bill is the *Legal Profession Uniform Law Application Act 2021*.

Clause 2. Commencement

This clause provides for the commencement of the Act. Part 1 commences on the day on which the Act receives the Royal Assent. The rest of the Act commences on a day fixed by proclamation.

Clause 3. Terms used

This clause contains the definitions of terms used in the Act and provides that terms used in the Act and also in the *Legal Profession Uniform Law (WA)* have the same meanings in the Act as they have in the Law.

Clause 4. Act binds Crown

This clause provides for the Act to bind the Crown.

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

This clause provides that the *Interpretation Act 1984* applies to the Act but not to the *Legal Profession Uniform Law (WA)*. The *Interpretation of Legislation Act 1984* (Vic) applies to the interpretation of the *Legal Profession Uniform Law (WA)*.

Part 2 - Legal Profession Uniform Law

Division 1 - Application of Legal Profession Uniform Law in the State

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

This clause applies the Legal Profession Uniform Law set out in Schedule 1 of the *Legal Profession Uniform Law Application Act 2014* (Vic) as in force on 21 June 2021 (but as modified by Part 7 Division 3 Subdivision 1 and the local regulations made under section 126(1)(b)) and as amended by Part 2 of the *Legal Profession Uniform Law Application Amendment Act 2019* (Vic) and all amending Acts that have effect under section 9 and that have come into operation as a law of the State under section 10. That Law is referred to as the *Legal Profession Uniform Law (WA)* and so applies as if it were an Act of the State.

The Explanatory Memorandum for the *Legal Profession Uniform Law Application Act 2014* (Vic) explains each provision of Schedule 1.

The Bill applies Schedule 1 of the *Legal Profession Uniform Law Application Act 2014* (Vic) as in force on a specified date rather than as amended from time to time. However, a mechanism has been inserted into the Bill which will allow amendments to Schedule 1 of the *Legal Profession Uniform Law Application Act 2014* (Vic) made after the specified date to be applied in Western Australia.

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

This clause provides that, for the purposes of section 2 of the *Legal Profession Uniform Law (WA)*, the Law as in force on 21 June 2021 comes into operation on the day on which section 7 comes into operation.

Further, this clause provides when, for the purposes of paragraph (a)(i) of the definition of "*Legal Profession Uniform Law (WA)*", a provision of Part 2 of the *Legal Profession Uniform Law Application Amendment Act 2019* (Vic) comes into operation in the State. If the provision has come into operation in Victoria before commencement day, a provision of Part 2 comes into operation on commencement day. Otherwise, Part 2 comes into operation on the day on which the provision comes into operation in Victoria under section 2(2) of that Act.

Clause 8. Tabling amending Acts

This clause provides for an amending Act (that is, a Victorian Act, other than the *Legal Profession Uniform Law Application Amendment Act 2019* (Vic), that amends Schedule 1 of the *Legal Profession Uniform Law Application Act 2014* (Vic) or the Uniform Regulations) to be laid before each House of Parliament within 18 sitting days of the House after the day on which the amending Act receives the Royal Assent.

Clause 9. Disallowance of amending Acts

This clause sets out the process by which an amending Act has effect. An amending Act has effect if it is laid before each House of Parliament and either of two things

occurs. First, no notice of a disallowance resolution is given in either House within the notice period. Second, if at least 1 notice of a disallowance resolution is given within the notice period and, for each such notice one of the following applies: the notice is withdrawn or discharged within the disallowance period; the disallowance resolution is lost in the House or not agreed to within the disallowance period.

Clause 10. Commencement of amending Acts

This clause provides that if, under section 9(2), an amending Act has effect, the Governor must declare that fact by proclamation.

If an amending provision is in operation in Victoria prior to the proclamation, then the amending provision comes into operation on a day fixed by proclamation. Otherwise, an amending provision comes into operation when the amending provision comes into operation in Victoria in accordance with the amending Act.

Clause 11. Interaction between Uniform Law and this Act

This clause provides that, in the event of an inconsistency between the Act and the *Legal Profession Uniform Law (WA)*, the former prevails to the extent of the inconsistency.

Clause 12. No double jeopardy

This clause provides that a person is not liable to be punished for an offence against the *Legal Profession Uniform Law (WA)* if the person has been punished for an act or omission that constitutes the offence under the law of another participating jurisdiction.

Division 2 - Application of Uniform Regulations and Uniform Rules

Parts 9.1 and 9.2 of the *Legal Profession Uniform Law (WA)* contain provisions relating to Uniform Regulations and Uniform Rules.

Clause 13. Application of Uniform Regulations and Uniform Rules as laws of the State for Uniform Law and Act

This clause applies the Uniform Regulations and the Uniform Rules as in force from time to time as subsidiary legislation of the State as if they were made under the *Legal Profession Uniform Law (WA)*. However, Uniform Regulations and Uniform Rules made after this section comes into operation do not apply as subsidiary legislation of the State in specified circumstances.

Clause 14. Publication of Uniform Regulations and Uniform Rules

This clause provides that Uniform Regulations and Uniform Rules made after this section comes into operation must be published in the *Gazette* no later than 18 days after they were made. However, this clause does not apply to a provision of an amending Act that amends the Uniform Regulations or Uniform Rules.

Clause 15. Tabling and disallowance of Uniform Regulations and Uniform Rules

This clause provides that Uniform Regulations or Uniform Rules ("published legislation") published in the *Gazette* under section 14(1) must be laid before each House of Parliament within 6 sitting days of the House after publication. If the published legislation is not laid before each House of Parliament or notice of resolution to disallow is given and agreed to in whole by the House, then the published legislation ceases to have effect as subsidiary legislation of the State. Further, if the published legislation amended or repealed the Uniform Regulations or the Uniform Rules, then those Regulations or Rules are revived.

Clause 16. *Interpretation Act 1984* s. 41 and 42 do not apply to Uniform Regulations and Uniform Rules

This clause provides that sections 41 and 42 of the *Interpretation Act 1984* do not apply to the Uniform Regulations and the Uniform Rules.

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

Clause 17. Meaning of this jurisdiction in Uniform Law

This clause provides that in the *Legal Profession Uniform Law (WA)* a reference to "this jurisdiction" means the State of Western Australia.

Clause 18. Costs assessor: Uniform Law s. 6

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

Clause 19. Designated local regulatory authorities: Uniform Law s. 6

This clause sets out in table form the persons or bodies which are designated local regulatory authorities for the purposes of the definition of "designated local regulatory authority" in section 6(1) of the *Legal Profession Uniform Law (WA)*.

Designated local regulatory authorities perform various functions under the *Legal Profession Uniform Law (WA)*. For example, the Legal Practice Board is the designated local regulatory authority for the purposes of section 14 of the *Legal Profession Uniform Law (WA)*.

Clause 20. Designated local roll authority: Uniform Law s. 6

This clause provides that the Principal Registrar of the Supreme Court is the designated roll authority for the purposes of the definition of "designated local roll authority" in section 6(1) of the *Legal Profession Uniform Law (WA)*. The designated local roll authority performs functions under sections 23, 24 and 462 of the *Legal Profession Uniform Law (WA)*.

Clause 21. Designated tribunals: Uniform Law s. 6

This clause sets out in table form the courts or tribunals which are designated tribunals for the purposes of the definition of "designated tribunal" in section 6(1) of the *Legal Profession Uniform Law (WA)*.

Designated tribunals perform various functions under the *Legal Profession Uniform Law (WA)*. For example, the Supreme Court is the designated tribunal for the purposes of sections 247 and 248 of the *Legal Profession Uniform Law (WA)* and the State Administrative Tribunal is the designated tribunal for the purposes of section 314 of the *Legal Profession Uniform Law (WA)*.

Clause 22. Fidelity authority: Uniform Law s. 6

This clause provides that, for the purposes of the definition of "fidelity authority" in section 6(1) of the *Legal Profession Uniform Law (WA)*, the Legal Contribution Trust is the specified entity.

Clause 23. Nominated fund and nominated trust authority: Uniform Law s. 149

This clause provides that, for the purposes of section 149 of the *Legal Profession Uniform Law (WA)*, the Trust Interest Account is the "nominated fund", and the Legal Contribution Trust is the "nominated trust authority".

Clause 24. Unclaimed money to be dealt with under *Unclaimed Money Act 1990*: Uniform Law s. 167

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

Clause 25. Fidelity Fund: Uniform Law s. 222

This clause provides that, for the purposes of section 222 of the *Legal Profession Uniform Law (WA)*, the Guarantee Fund is the "fidelity fund" for the purposes of Part 4.5 of the *Legal Profession Uniform Law (WA)*.

Clause 26. Specified fund: Uniform Law s. 365

This clause provides that, for the purposes of section 365(3) of the *Legal Profession Uniform Law (WA)*, the Guarantee Fund is the specified fund.

Clause 27. Issuing authority: Uniform Law s. 377

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

Clause 28. Specified manner for payment of pecuniary penalties s. 456

This clause provides that, for the purposes of sections 456(a) and 299(1)(f) of the *Legal Profession Uniform Law (WA)*, a pecuniary penalty or specified amount ordered to be paid are to be paid to the Board.

Part 3 - Local authorities

Chapter 8 of the *Legal Profession Uniform Law (WA)* deals with regulatory authorities and Part 8.5 contains provisions relating to local regulatory authorities.

Division 1 - Legal Practice Board

Subdivision 1-Establishment and functions

Clause 29. Establishment of Board

This clause establishes the Legal Practice Board as a body corporate with perpetual succession. Proceedings may be taken by or against the Board in its corporate name.

Clause 30. Relationship to Crown

This clause makes it clear that the Board is neither a representative, nor an agent, of the Crown.

Clause 31. Functions

This clause provides that the Board has the functions conferred on it by the Act, the *Legal Profession Uniform Law (WA)* or another Act.

Clause 32. Powers

This clause confers on the Board all the powers it needs to perform its functions.

Clause 33. Board to pay State contribution to fund the Legal Profession Uniform Framework

This clause requires the Board to pay, each financial year, to the Legal Services Council the State's contribution to the funding of the Legal Profession Uniform Framework as required by the Intergovernmental Agreement.

Clause 34. Board to pay contributions to Guarantee Fund into Fund

This clause requires the Board to pay into the Guarantee Fund any contributions to the Fund received pursuant to sections 115(1)(d) (in relation to applications for practising certificates) and 119(1)(d) (in relation to applications for registration certificates).

Clause 35. Delegation of powers and duties under this Act

This clause gives the Board the power to delegate the Board's powers or duties under another provision of the Act to a Board member, a committee appointed under

section 52(2)(a), a person employed or engaged by the Board, or a person or class of persons prescribed by the local regulations.

Clause 36. Delegation of functions under Uniform Law: Uniform Law s. 406

A local regulatory authority exercising Chapter 5 functions must be an independent entity. However, under section 406 of the *Legal Profession Uniform Law (WA)*, a local regulatory authority may delegate any of its functions under the Law to an entity prescribed, or an entity of a class prescribed, by jurisdictional legislation.

This clause provides, for the purposes of section 406 of the *Legal Profession Uniform Law (WA)*, that the Board may delegate any of its Chapter 5 functions to the Legal Services and Complaints Committee or the Legal and Services Complaints Officer. Such delegations may overlap. Further, the Board may delegate any of its other functions under the Law to a person, or class of persons, prescribed by the local regulations.

Subdivision 2 - Membership

Clause 37. Board members

This clause specifies the Board's members. The members of the Board include: the Attorney General; the Solicitor General; a current or former judge of the Supreme Court appointed by the Attorney General; each Queen's Counsel and Senior Counsel who satisfy certain criteria; and 12 elected Board members (local legal practitioners of at least 3 years' standing and practice).

Clause 38. Term of office

This clause provides that elected Board members hold office for 2 years unless they are removed or resign from their office (subject to section 40 and the local regulations). They may be re-elected.

Clause 39. Who may vote in election

This clause provides that any local legal practitioner is eligible to vote in an election for an elected Board member.

Clause 40. Removal or resignation

This clause provides for the removal and resignation of a Board member. If an elected member of the Board is, without the leave of the Board, absent from 3 consecutive meetings of the Board, the Attorney General may remove the Board member from office. The Board may grant leave of absence to a Board member. A Board member may resign by notice in writing to the Board.

Clause 41. Chairperson and deputy chairperson

This clause provides for the chairperson and deputy chairperson to be elected from and by the membership of the Board. The chairperson and deputy chairperson each hold office for a period of 1 year unless they resign or cease to be a Board member. A

Board member cannot hold office as chairperson or deputy chairperson for more than 5 consecutive annual terms.

The deputy chairperson performs the functions of the chairperson if the chairperson is unable to act, if so requested by the chairperson or during a vacancy in the office of chairperson. When the deputy chairperson is acting as chairperson, he or she has, and may perform, the functions of chairperson. An act or omission of a deputy chairperson is not to be questioned on the ground that the occasion for acting had not arisen or had ceased. The chairperson is to be remunerated as determined by the Board.

Clause 42. Casual vacancies

This clause provides that a local legal practitioner may be appointed to act as a Board member if a casual vacancy occurs in the office of an elected Board member.

Subdivision 3 - Practice and procedures

Clause 43. Meetings

This clause provides that meetings of the Board may be convened at the times and places that the Board determines. Unless the Board determines otherwise, a person need not attend a meeting in person.

A meeting is to be presided over by the chairperson, if present, or the deputy chairperson. However, if neither the chairperson nor the deputy chairperson are present, the members present are to appoint 1 of their number to be the chairperson and to perform the functions of the chairperson.

Clause 44. Quorum

This clause provides that a quorum for a Board meeting is 4 members.

Clause 45. Voting

This clause provides that each member of the Board has 1 vote. The chairperson has a deliberative vote but can also exercise a casting vote in the case of an equality of votes. All questions at a meeting of the Board are to be decided on the basis of the majority of votes of those members present.

Clause 46. Procedures

This clause provides that the Board must keep minutes of its meetings but otherwise, subject to the Act, the Board may determine its own procedures. The Board is not required to conduct any proceedings in a formal manner.

Subdivision 4 - Financial and reporting provisions

Clause 47. Application of funds

This clause provides that money received by the Board under the Act and the *Legal Profession Uniform Law (WA)* must be used by the Board for the purposes of the Act

and the Law. This includes, for example, the provision of services and facilities for the purposes of section 59 and the payment of the law library contribution under section 244(2).

Clause 48. Accounts and records

This clause requires the Board to keep proper accounts and proper records and to prepare financial statements in accordance with Australian Accounting Standards. The financial statements are to be prepared on an accrual basis unless the Board determines otherwise.

Clause 49. Audit

This clause requires the accounts and financial statements of the Board to be audited at least once a year by an auditor appointed by the Board with the approval of the Attorney General.

Clause 50. Annual reports

This clause requires the Board to prepare an annual report on its activities. The annual report is to be given to the Attorney General together with a copy of the financial statements and auditor's report for the year. These documents must be tabled in each House of Parliament by the Attorney General.

Clause 51. Reports relating to operation and effectiveness of aspects of Uniform Law

This clause provides that the Board may report to the Attorney General on its views as to: the operation and effectiveness of Chapter 5 of the *Legal Profession Uniform Law (WA)*; the carrying out of Chapter 5 functions; or any other matter connected with those functions or with the Law.

Subdivision 5 - Miscellaneous

Clause 52. Committees

This clause provides for the Board to establish committees comprising Board members. A committee must comply with any direction or requirement of the Board. However, this clause does not apply to the Legal Services and Complaints Committee.

Clause 53. Secretary of Board

This clause provides for the Board to employ or engage a secretary to the Board. The secretary performs functions as directed by the Board.

Clause 54. Execution of documents by Board

This clause provides that the Board must have a common seal and then sets out the ways in which a document is duly executed by the Board.

Clause 55. Local regulations may be made about matters for Board

This clause provides that the local regulations may make provision for or in relation to the following matters relating to the Board, namely: the election of Board members; the annual election of the chairperson and deputy chairperson; and meetings and proceedings of the Board or a committee of the Board.

Division 2 - Legal Services and Complaints Committee

Subdivision 1 - Establishment and functions

Clause 56. Establishment of Legal Services and Complaints Committee

This clause establishes the Legal Services and Complaints Committee as a committee of the Board.

Clause 57. Functions

This clause provides that the Legal Services and Complaints Committee has the functions conferred on it by the Act, the *Legal Profession Uniform Law (WA)* or another Act. The Board cannot 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 sections 408 or 411 of the *Legal Profession Uniform Law (WA)*.

Clause 58. Powers

This clause provides that the Legal Services and Complaints Committee has all the powers it needs to perform its functions.

Clause 59. Support

This clause provides that the Board must provide the Legal Services and Complaints Committee with any services and facilities that are reasonably necessary to enable the Committee to perform its functions.

Clause 60. Delegation to Legal Services and Complaints Officer

This clause gives the Legal Services and Complaints Committee the power to delegate powers or duties under another provision of the Act or the *Legal Profession Uniform Law (WA)* to the Legal Services and Complaints Officer. The Committee may expressly authorise the Officer to further delegate a power or duty to a member of staff referred to in section 81. However, as a result of section 406(2)(a) of the *Legal Profession Uniform Law (WA)* the Committee will not be able to delegate its Chapter 5 functions delegated to it by the Board.

Subdivision 2 - Membership

Clause 61. Legal Services and Complaints Committee members

This clause specifies the members of the Legal Services and Complaints Committee. The Committee consists of at least 7 Australian legal practitioners appointed by the Board, a majority of whom are members of the Board, and at least 2 community representatives (none of whom is or has been an Australian lawyer) appointed by the Attorney General in consultation with the Minister for Commerce. The number of community representatives cannot exceed a quarter of the total membership of the Committee.

Clause 62. Term of office of legal members

This clause provides that a legal member of the Legal Services and Complaints Committee holds office for a term specified in their instrument of appointment and is eligible for reappointment. However, subject to section 64, they cannot hold office for more than 6 years in total.

Clause 63. Term of office of community representatives

This clause provides that a community representative of the Legal Services and Complaints Committee holds office for a term of not more than 3 years specified in their instrument of appointment and is eligible for reappointment. However, subject to section 64, they cannot hold office for more than 6 years in total.

Clause 64. Termination of office may be deferred

This clause provides for a member of the Legal Services and Complaints Committee to continue in office notwithstanding the expiration of their term of office until the member or a successor is appointed and, in any event for the purpose of completing any part-heard proceedings. However, the Attorney General may direct otherwise.

Clause 65. Deputies of community representatives

This clause provides that the Attorney General may appoint deputies of the community representatives on the Legal Services and Complaints Committee. A deputy community representative acts in the place of a community representative with the concurrence of the chairperson of the Legal Services and Complaints Committee. When a deputy community representative is acting as a community representative, he or she has, and may perform, the functions of a community representative. An act or omission of a deputy community representative is not to be questioned on the ground that the occasion for acting had not arisen or had ceased.

Clause 66. Chairperson and deputy chairperson

This clause provides that the Board must appoint a legal member who is a Board member as chairperson, and may appoint a legal member who is a Board member as deputy chairperson, of the Legal Services and Complaints Committee. The deputy chairperson performs the functions of the chairperson if the chairperson is unable to act, if so requested by the chairperson or during a vacancy in the office of chairperson. When the deputy chairperson is acting as chairperson, he or she has, and may

perform, the functions of chairperson. An act or omission of a deputy chairperson is not to be questioned on the ground that the occasion for acting had not arisen or had ceased.

Clause 67. Removal or resignation

This clause provides for the removal and resignation of a member of the Legal Services and Complaints Committee.

A community representative may resign from office by notice in writing given to the Attorney General. A community representative may be removed from office by the Attorney General in certain circumstances. For example, if the community representative is a bankrupt or on the grounds of misconduct.

A legal member may resign from office by notice in writing given to the Board. A legal member may be removed from office by the Board if the member is, without the leave of the Attorney General or the Committee, absent from 3 consecutive meetings of the Committee.

Clause 68. Leave of absence

This clause provides for a member of the Legal Services and Complaints Committee to be granted leave of absence by the Attorney General or the Committee on such terms and conditions as are considered appropriate.

Clause 69. Remuneration and allowances

This clause provides for a community representative to be paid the remuneration and allowances determined by the Attorney General in consultation with the Public Sector Commissioner.

Subdivision 3 - Practice and procedures

Clause 70. Meetings

This clause provides for meetings of the Legal Services and Complaints Committee to be convened by the chairperson, the Legal Services and Complaints Officer or at the times and places that the Committee determines. Meetings of the Committee are to be presided over by the chairperson, if present, or the deputy chairperson. However, if neither the chairperson nor the deputy chairperson are present, the members present are to appoint 1 of their number to be the chairperson and to perform the functions of the chairperson.

Clause 71. Quorum

This clause provides that a quorum for a meeting of the Legal Services and Complaints Committee is 3 members of whom 2 are legal members and 1 is a community representative. Special provision is made for a quorum in respect of investigations.

Clause 72. Divisions

This clause provides that the Legal Services and Complaints Committee may sit and exercise jurisdiction as 1 or more Divisions where a quorum is present. A determination made by the Committee when sitting as a Division is taken to be a determination of the Committee as a whole.

Clause 73. Voting

This clause provides that each member of the Legal Services and Complaints Committee has 1 vote. The person presiding has a deliberative vote but can also exercise a casting vote in the case of an equality of votes. All questions at a meeting of the Committee are to be decided on the basis of the majority of votes of those members present.

Clause 74. Procedures

This clause provides that, subject to the Act, the Legal Services and Complaints Committee must keep minutes of its meetings but otherwise, subject to the Act, the Committee may determine its own procedures. The Committee is not required to conduct any proceedings in a formal manner.

Subdivision 4 - Reporting provisions

Clause 75. Annual reports

This clause requires the Legal Services and Complaints Committee to prepare an annual report on its activities. The annual report is to be given to the Attorney General. The report must be tabled in each House of Parliament by the Attorney General.

Clause 76. Reports relating to functions

The Legal Services and Complaints Committee must, when requested by the Attorney General or the Board, prepare a function report and give the report to the Attorney General or the Board at the time, and in the manner, requested. The Committee may also prepare and give a function report to the Attorney General or the Board on its own initiative.

Subdivision 5 - Local regulations

Clause 77. Local regulations about Legal Services and Complaints Committee

This clause provides that 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

Clause 78. Legal Services and Complaints Officer

This clause provides for the establishment of the office of Legal Services and Complaints Officer who is appointed by the Board. The person appointed must be an Australian legal practitioner with experience in the conduct of a law practice.

Clause 79. Term of appointment

This clause provides that the Legal Services and Complaints Officer holds office for a term not exceeding 5 years but is eligible for reappointment.

Clause 80. Functions

This clause provides that the Legal Services and Complaints Officer has the following functions: carrying out the Board's Chapter 5 functions delegated under section 36; carrying out any power or duty delegated to the Officer under section 60; and another function conferred on the Officer by the Act, the *Legal Profession Uniform Law (WA)* or another Act.

This clause also provides for the Legal Services and Complaints Officer to appear at any investigation, inquiry or hearing under Chapter 5 of the *Legal Profession Uniform Law (WA)* in person or represented by an Australian legal practitioner.

Division 4 - Staff of Legal Services and Complaints Committee and Legal Services and Complaints Officer

Clause 81. Staff

This clause provides that 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

Part 4.3 of the *Legal Profession Uniform Law (WA)* deals with legal costs.

Subdivision 1 - Establishment and functions

Clause 82. Establishment of Legal Costs Committee

This clause establishes the Legal Costs Committee.

Clause 83. Functions

This clause provides that the Legal Costs Committee has the functions conferred on it by the Act or another Act.

Clause 84. Powers

This clause provides that the Legal Costs Committee has all the powers it needs to perform its functions.

Subdivision 2 - Membership

Clause 85. Legal Costs Committee members

This clause specifies the members of the Legal Costs Committee. The Legal Costs Committee consists of the following members appointed by the Governor: a chairperson who is a judge of the Supreme Court or District Court or an Australian legal practitioner of at least 8 years' standing and practice; 2 local legal practitioners in private practice nominated by the Attorney General under section 86; and 3 persons who are not Australian lawyers, at least 1 of whom must be an accountant. At least 1 of the Australian legal practitioner members must have experience in contentious business and at least 1 of the Australian legal practitioner members must have experience in non-contentious business.

Clause 86. Nominations

This clause makes provision for the process for nominations for appointment under section 85(1)(b) (members of the Legal Costs Committee) and section 89(2)(b) (deputy of a member). The process is that the Attorney General requests the Law Society to provide a list of potential appointees within a specified time period. The Law Society puts forward a list of at least twice the number of names as required to fill the appointments. The Attorney General is required to appoint someone nominated by the Law Society unless the Law Society has failed to provide the list of nominees within the specified time limit, in which case the Attorney General may nominate a practitioner or practitioners that the Attorney General considers appropriate.

Clause 87. Term of office

This clause provides for the term of office of a member of the Legal Costs Committee. Subject to section 90, a member of the Legal Costs Committee holds office for a term of not more than 3 years specified in the instrument of appointment. A member of the Legal Costs Committee appointed under section 88(1) as the deputy chairperson or a person appointed under section 89(1) as a deputy member holds office for a term specified in the instrument of appointment. A member, a deputy chairperson or a deputy member is eligible for reappointment.

Clause 88. Deputy chairperson

This clause provides that the Governor may appoint a Legal Costs Committee member as a deputy chairperson if the member is eligible for appointment as chairperson under section 85(1)(a). The deputy chairperson acts as chairperson if the chairperson is unable to act because of illness, absence of other cause, if requested to do so by the chairperson or during a vacancy in the office of chairperson. When the deputy chairperson is acting as chairperson, he or she has, and may perform, the functions of chairperson. An act or omission of a deputy chairperson is not to be questioned on the ground that the occasion for acting had not arisen or had ceased.

Clause 89. Deputy members

This clause provides that the Governor may appoint a person as a deputy of a Legal Costs Committee member. A deputy member must be a person eligible for appointment as a member for whom the person is a deputy and, in the case of a deputy of a member appointed section 85(1)(b), nominated under section 86. A deputy of a member acts in place of a member if the member is unable to act because of illness, absence of other cause. An act or omission of a deputy member is not to be questioned on the ground that the occasion for acting had not arisen or had ceased.

Clause 90. Removal or resignation

This clause provides for the removal and resignation of a member of the Legal Costs Committee. A member may resign from office by notice in writing given to the Governor. A member may be removed from office by the Governor in certain circumstances. For example, if the member is a bankrupt or on the grounds of misconduct.

Clause 91. Leave of absence

This clause provides for a member of the Legal Costs Committee or a deputy member to be granted leave of absence by the Attorney General on such terms as conditions as are considered appropriate.

Clause 92. Remuneration and allowances

This clause provides for a member of the Legal Costs Committee or a deputy member to be paid the remuneration and allowances determined by the Attorney General in consultation with the Public Sector Commissioner.

Subdivision 3 - Practice and procedures

Clause 93. Meetings

This clause provides for meetings of the Legal Costs Committee to be convened at the times and places the Committee determines. A member may attend a meeting by telephone or another means of instantaneous communication. Meetings of the Committee are to be presided over by the chairperson, if present, or the deputy chairperson. However, if neither the chairperson nor the deputy chairperson are present, the members present are to appoint 1 of their number to be the chairperson and to perform the functions of the chairperson.

Clause 94. Quorum

This clause provides that a quorum for a meeting of the Legal Costs Committee is 4 members of whom 2 are Australian legal practitioners and 2 are members appointed under section 85(1)(c).

Clause 95. Voting

This clause provides that each Legal Costs Committee member has 1 vote. The chairperson, or the deputy chairperson in the absence of the chairperson, has a deliberative vote but can also exercise a casting vote in the case of an equality of votes. If neither the chairperson nor the deputy chairperson are present, then the question remains unresolved until the next meeting. All questions at a meeting of the Committee are to be decided on the basis of the majority of votes of those members present.

Clause 96. Procedures

This clause provides that the Legal Costs Committee must keep minutes of its meetings but otherwise, subject to the Act, the Committee may determine its own procedures.

Subdivision 4 - Financial provisions

Clause 97. Funds

This clause provides for the funding of the Legal Costs Committee through an appropriation made by Parliament and other money lawfully available to the Committee. The funds of the Committee are to be credited to an agency special purpose account called the Legal Costs Committee Account established under the *Financial Management Act 2006* or, with the approval of the Treasurer, a bank. The account is charged with the remuneration and allowances payable under section 92 and all other expenditure lawfully incurred by the Committee in the performance of its functions.

Clause 98. Application of *Financial Management Act 2006* and *Auditor General Act 2006*

This clause provides that the Legal Costs Committee is subject to the provisions of the *Financial Management Act 2006* and the *Auditor General Act 2006* regulating the financial administration, audit and reporting of statutory authorities.

Subdivision 5 - Staff and facilities

Clause 99. Use of staff and facilities of departments

This clause provides for the Legal Costs Committee to enter into arrangements with a government department or an administered statutory body in the Attorney General's portfolio to use the services of any staff or facilities of that department or body. The Attorney General must approve the arrangements.

Division 6 - Legal Contribution Trust

Subdivision 1 - Establishment and functions

Clause 100. Establishment of Legal Contribution Trust

This clause establishes the Legal Contribution Trust as a body corporate with perpetual succession. Proceedings may be taken by or against the Trust in its corporate name.

Clause 101. Relationship to Crown

This clause makes it clear that the Legal Contribution Trust is neither a representative, nor an agent, of the Crown.

Clause 102. Functions

This clause sets out the functions of the Legal Contribution Trust. Those functions are: to receive and invest money paid to it under the Act, the *Legal Profession Uniform Law (WA)* or another Act; to apply money resulting from investments in the manner and for the purposes provided for by Part 8; to administer and control the Guarantee Fund; to make a request to the Board that an external investigation be carried out under the *Legal Profession Uniform Law (WA)* Part 4.2; another function conferred or imposed on it by the Act, the *Legal Profession Uniform Law (WA)* or another Act.

Clause 103. Powers

This clause provides that the Legal Contribution Trust has all the powers it needs to perform its functions.

Subdivision 2 - Membership

Clause 104. Constitution of Legal Contribution Trust

This clause makes provision for the constitution of the Legal Contribution Trust. The Trust consists of 3 trustees appointed by the Governor. Two of the trustees are to be Australian lawyers, one nominated by the Law Society to represent the Law Society and the other nominated by the Board to represent the Board. The third trustee is to be a person, other than an Australian lawyer, nominated by the Attorney General.

This clause also provides for the process for nominations for the appointment of the trustees to be nominated by the Law Society or Board. The process is that the Attorney General requires the Law Society or Board (as the case requires) to provide a nomination of an Australian lawyer within a specified time period. The Law Society or Board nominates an Australian lawyer. If the Law Society or Board has failed to provide a nomination within the specified time limit, then the Attorney General must nominate a person that the Attorney General considers appropriate.

Clause 105. Chairperson

This clause provides that the chairperson of the Legal Contribution Trust is the nominee of the Law Society. However, if there is no nominee of the Law Society, then the Attorney General must appoint a trustee to act as the chairperson.

Clause 106. Deputy trustees

This clause provides that the Governor may appoint a person to be a deputy of a trustee of the Legal Contribution Trust and may terminate that appointment. A deputy of a trustee acts in place of a trustee if the trustee is unable to act and, in such a case, performs the functions of the trustee. An act or omission of a deputy of a trustee acting in place of a trustee cannot be questioned on the ground that the occasion to act in the trustee's place had not arisen or had ceased.

Clause 107. Removal or resignation

This clause provides for the removal and resignation of a trustee of the Legal Contribution Trust. A trustee may resign by notice in writing to the person who nominated the trustee (that is, the Law Society, the Board or the Attorney General). The Governor may, at the request of the person who nominated the trustee, remove that trustee from office and appoint a person eligible to be a trustee instead.

Clause 108. Meetings and procedures

This clause provides for such meetings of the Legal Contribution Trust as the chairperson considers necessary for the efficient conduct of the business, and on the written request of a trustee of the Trust, to be convened by the chairperson. Meetings of the Trust are to be presided over by the chairperson, if present, or the deputy chairperson. However, if neither the chairperson nor the deputy chairperson are present, the trustees present are to appoint 1 of their number to preside and to perform the functions of the chairperson. Minutes of meetings must be kept by the Trust but otherwise, subject to the Act, the Trust may determine its own procedures.

Clause 109. Quorum

This clause provides that a quorum for a meeting of the Legal Contribution Trust is 2 trustees.

Clause 110. Voting

This clause provides that each trustee of the Legal Contribution Trust has 1 vote. All questions at a meeting of the Trust are to be decided on the basis of the majority of votes of the trustees present. However, if there is an equality of votes, the question is resolved in the negative.

Subdivision 3 - Execution of documents

Clause 111. Execution of documents by Legal Contribution Trust

This clause provides that the Legal Contribution Trust must have a common seal and then sets out the ways in which a document is duly executed by the Trust.

Part 4 - Admission, practising certificates and registration certificates

Division 1 - Admission

Part 2.2 of the *Legal Profession Uniform Law (WA)* contains provisions relating to admission to the Australian legal profession.

Clause 112. Requirements for applications for admission under Uniform Law s. 16

This clause provides that a person may apply for admission by the Supreme Court under section 16 of the *Legal Profession Uniform Law (WA)* in accordance with the local regulations, the Supreme Court's rules of court and a practice direction of the Supreme Court and by paying any prescribed fee.

Clause 113. Full Bench of Supreme Court to admit individuals under Uniform Law s. 16

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

Clause 114. Local regulations may prescribe matters about admission under Uniform Law

This clause provides that the local regulations may make provision for or in relation to matters concerning admission under the *Legal Profession Uniform Law (WA)*. For example, providing practical legal training, issuing compliance certificates and making declarations of early assessment of suitability.

Division 2 - Practising certificates

Parts 3.3 and 3.5 of the *Legal Profession Uniform Law (WA)* deal with Australian practising certificates for Australian legal practitioners.

Clause 115. Requirements for applications for grant or renewal of Australian practising certificates under Uniform Law s. 44

This clause sets out the requirements for an application for an Australian practising certificate under section 44 of the *Legal Profession Uniform Law (WA)*. For example, the application must be made in the local approved form and be accompanied by the documents or other information required and any prescribed fees.

Clause 116. Provisions about renewing Australian practising certificates under Uniform Law s. 44

This clause provides for the making of an application for the renewal of an Australian practising certificate under section 44 of the *Legal Profession Uniform Law (WA)*.

The application must be made within the standard renewal period or the late fee period (both periods to be prescribed by the local regulations). The clause also sets out when the Board may, and when the Board must, reject an application for renewal.

Clause 117. Provisions about decisions on granting or renewing Australian practising certificates under Uniform Law s. 44

This clause provides that if the Board grants or renews an Australian practising certificate under section 44(1) of the *Legal Profession Uniform Law (WA)*, then the Board must give the applicant an Australian practising certificate or a new Australian practising certificate (as the case requires). If the Board refuses to grant or renew an Australian practising certificate under section 44(1), or renews a certificate subject to a condition to which the applicant does not agree, then the Board must give the applicant a notice stating the matters required in section 464(1) of the Law (namely, the decision, the reasons for the decision and the rights of appeal or review available to the person in respect of the decision and the applicable time period within which the appeal or review must be commenced). In certain circumstances, the Board is taken to have refused to grant or renew an Australian practising certificate.

Clause 118. Local regulations may modify operation of Legal Profession Conduct Rules for barristers

This clause provides that the local regulations may modify the operation of the Legal Profession Conduct Rules as subsidiary legislation so that a barrister may act in a way contemplated by rule 18A of the Western Australia Barristers' Rules without breaching the Legal Profession Conduct Rules. Rule 18A enables barristers to accept direct briefs.

Division 3 - Registration certificates

Part 3.4 and 3.5 of the *Legal Profession Uniform Law (WA)* deal with Australian registration certificates for foreign lawyers.

Clause 119. Requirements for applications for grant or renewal of Australian registration certificates under Uniform Law s. 62

This clause sets out the requirements for an application for an Australian registration certificate under section 62 of the *Legal Profession Uniform Law (WA)*. For example, the application must be made in the local approved form and be accompanied by the documents or other information required, any prescribed fees and the required contribution to the Guarantee Fund.

Clause 120. Provisions about renewing Australian registration certificates under Uniform Law s. 62

This clause provides for the making of an application for the renewal of an Australian registration certificate under section 62 of the *Legal Profession Uniform Law (WA)*. The application must be made within the standard renewal period or the late fee period (both periods to be prescribed by the local regulations). The clause also sets out when the Board may and must reject an application for renewal.

Clause 121. Provisions about decisions on granting or renewing Australian registration certificates under Uniform Law s. 62

This clause provides that if the Board grants or renews an Australian registration certificate under section 62(1) of the *Legal Profession Uniform Law (WA)*, then the Board must give the applicant an Australian registration certificate or a notice of renewal (as the case requires). If the Board refuses to grant or renew an Australian registration certificate under section 62(4) or renews a certificate subject to a condition to which the applicant does not agree, then the Board must give the applicant a notice stating the matters required in section 464(1) of the Law (namely, the decision, the reasons for the decision and the rights of appeal or review available to the person in respect of the decision and the applicable time period within which the appeal or review must be commenced).

Division 4 - Interjurisdictional action

Clause 122. Requirements for written notice of interjurisdictional action under Uniform Law s. 24 and 80

Under section 24 of the *Legal Profession Uniform Law (WA)*, a person whose name is on the Supreme Court roll for Western Australia and whose name has been removed from the Supreme Court roll for another jurisdiction must give the designated roll authority (that is, the Principal Registrar of the Supreme Court) a written notice of the removal. Similarly, if an authority or tribunal has, under a corresponding law, made a recommendation that a person's name be removed from the Supreme Court roll for Western Australia, the person must give the designated local roll authority a written notice of the recommendation. The notices must be given as soon practicable.

Under section 80 of the *Legal Profession Uniform Law (WA)*, a person whose name has been removed from the Supreme Court roll for another jurisdiction must give the designated local regulatory authority (that is, the Board) a written notice of the removal. Similarly, if an authority or tribunal has, under a corresponding law, made a recommendation that a person's name be removed from the Supreme Court roll for Western Australia, or the person's certificate be suspended or cancelled or a certificate not be granted for a period or conditions be imposed on the person's certificate, then the person must give the designated local regulatory authority (that is, the Board) a written notice of the recommendation. The notices must be given as soon practicable.

This clause provides that a written notice required to be given under section 24 or 80 of the *Legal Profession Uniform Law (WA)* must be in the local approved form and accompanied by the documents or other information required by that form.

Division 5 - Miscellaneous

Clause 123. Functions of State Solicitor

This clause specifies the persons for whom the State Solicitor may act. The State Solicitor may act for the following: the State; a person suing, or being sued, on behalf of the State; a Minister in their official capacity; a statutory body; an officer or employee of the Public Service or of a statutory body; an officer or employee in a

department of the Public Service, a State agency or instrumentality, or a statutory body; or another person or body, or class or persons or bodies, approved by the Attorney General. The State Solicitor may act for these persons with or without charge and for a party in a matter that is not the subject of litigation, even if also acting for another party in the matter.

This clause also provides that the State Solicitor may act as agent for another State or Territory or, at the request of another State or Territory, an instrumentality or, or a person in the service of, that State or Territory.

Clause 124. Accreditation in relation to continuing professional development activities or other legal education or training

Under section 52 of the *Legal Profession Uniform Law (WA)*, it is a statutory condition of an Australian practising certificate that the holder must comply with the applicable requirements of the Continuing Professional Development Rules.

The Legal Profession Continuing Professional Development (Solicitors) Rules 2015 set out the minimum requirements for continuing professional development for solicitors. Under those Rules, the providers of professional development activities do not require accreditation.

This clause provides that the Board may make rules ("Board Rules") for accrediting persons who may provide a continuing professional development activity under the Continuing Professional Development Rules and other legal education or training. The Board Rules are subsidiary legislation for the purposes of the *Interpretation Act 1984* and must be published in the *Gazette*. However, section 43(6) of the *Interpretation Act 1984* does not apply to the Board Rules.

This clause also provides that, despite the Continuing Professional Development Rules, an Australian lawyer does not complete a continuing professional development activity under those Rules unless the activity is: an excluded activity; or another continuing professional development activity and if the activity is provided by another person that other person is an authorised CPD provider in relation to the activity, or in any other case the practitioner is an authorised CPD provider in relation to the activity.

Further, if the Board imposes a condition on an Australian legal practitioner's Australian practising certificate that the practitioner 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.

Clause 125. Local regulations may provide contract legislative drafters are government lawyers

This clause provides that the local regulations may provide that a "contract legislative drafter" is a government lawyer for the purposes of the Act and the *Legal Profession Uniform Law (WA)* in relation to legal practice that is legislative drafting.

Clause 126. Local regulations in relation to government lawyers

Section 56 of the *Legal Profession Uniform Law (WA)* provides that it is intended that jurisdictional legislation may:

- (a) exempt persons or classes of person from the requirement to hold 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 Law (including the provisions of Part 2.2) to the extent that any of those provisions would otherwise be applicable to any persons, or classes of persons as government lawyers.

This clause provides that the local regulations may make provision for or in relation to the matters referred to in section 56 of the *Legal Profession Uniform Law (WA)* and in respect of exemptions from fees in relation to the issuing of Australian practising certificates.

Part 5 - Trust accounts

Part 4.2 of the *Legal Profession Uniform Law (WA)* contains provisions relating to trust money and trust accounts.

Clause 127. Application for exemption under Uniform Law s. 130

Under section 130(4) of the *Legal Profession Uniform Law (WA)*, the designated local regulatory authority may exempt a particular law practice from complying with any of the provisions of Part 4.2 of the Law, subject to any conditions that the designated local regulatory authority may impose.

This clause provides that a person may apply to the Board for an exemption to be granted to a law practice under section 130(4) of the *Legal Profession Uniform Law (WA)* and sets out the requirements for the application.

Clause 128. Decision on exemption from complying with Uniform Law Pt. 4.2

This clause provides that if the Board grants an exemption to a law practice under section 130(4) of the *Legal Profession Uniform Law (WA)*, then the Board must give the law practice a written notice setting out: the particulars of the law practice; the provisions of Part 4.2 of the Law from which the law practice is exempted; and any conditions to which the exemption is subject.

Clause 129. Local regulations about receipt or holding of money by barristers: Uniform Law s. 133

This clause provides that, for the purposes of section 133 of the *Legal Profession Uniform Law (WA)*, 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 of those services.

Clause 130. Review of decisions referred to in Uniform Law s. 160 and 166

Under sections 160(3) and 166(3) of the *Legal Profession Uniform Law (WA)*, the amount of the costs of an external examination and the amount of the costs of an

external investigation are subject to any appeal or review mechanism provided in applicable jurisdictional legislation.

This clause provides that a person may apply to the State Administrative Tribunal for review of a decision made under sections 160 and 166 of the Law. There is no other avenue of appeal or review of such decisions.

Part 6 - Legal costs

Part 4.3 of the *Legal Profession Uniform Law (WA)* deals with legal costs.

Division 1 - Legal costs determinations

Clause 131. Term used: court

This clause defines the term "court" used in Division 1.

Clause 132. Legal costs determinations

This clause specifies the types of work for which the Legal Costs Committee may make costs determinations. Cost determinations regulate the costs that may be charged by law practices for all non-contentious business and contentious business in a wide range of court jurisdictions. The Attorney General may declare other courts as falling within the scope of this clause. Cost determinations may, for example, set scales of rates, specified amounts or maximum amounts.

Clause 133. Declaration of court in respect of which costs determinations may be made

This clause provides a declaration by the Attorney General that a court is to be a court in respect of which the Legal Costs Committee may make a costs determination is to be made by order published in the *Gazette*. Orders may be varied or revoked in the same way. However, no declaration may be made in respect of a dispute resolution authority as defined in the *Workers' Compensation and Injury Management Act 1981*.

Clause 134. Costs determinations may be amended or revoked

This clause provides that a costs determination may be amended or revoked by a subsequent costs determination.

Clause 135. Costs determination are fixed costs legislative provisions: Uniform Law s. 6

This clause provides that a costs determination is a "fixed costs legislative provision" for the purposes of the definition of that term in section 6(1) of the *Legal Profession Uniform Law (WA)*.

Clause 136. Review of costs determinations

This clause provides that costs determinations must be reviewed by the Legal Costs Committee at least once every 2 years and at any time as directed by the Attorney General.

Clause 137. Inquiries by Legal Costs Committee

This clause sets out the procedures to be followed by the Legal Costs Committee in making or reviewing costs determinations. The Legal Costs Committee must give public notice, consult with a court where relevant and make such inquiries as it considers necessary.

Clause 138. Notices and submissions in respect of cost determinations

This clause details the requirements for the giving of notice by the Legal Costs Committee in respect of the making or review of a costs determination. The Law Society must be given written notice and notice must be published on the Committee's website. The notice must: state that submissions may be made; specify the manner in which the submissions must be made; and specify the period for accepting submissions which cannot be less than 30 days after publication.

Clause 139. Report and publication of costs determinations

This clause provides for the Legal Costs Committee to report to the Attorney General in respect of the making of a costs determination. The report must then be published in the *Gazette*. The costs determination comes into force on the day of publication or, if a later day is specified in the report, that day.

Clause 140. Effects of costs determinations

This clause provides that the taxation of bills of law practices and any other aspects of costs charged by law practices are regulated by an applicable costs determination. However, this is subject to any costs agreement, section 145 of the Act, and section 14 of the *Legal Aid Commission Act 1976*. Further, due to factors such as the difficulty, complexity or importance of the matter, the court or officer may order that costs higher than those in a determination are payable.

Clause 141. Reports

This clause provides for the Legal Costs Committee to investigate, report and make recommendations to the Attorney General in respect of bills, the calculation and fixing of costs and any other aspect of the remuneration of law practices.

Clause 142. Law practice to disclose whether costs determination applies to calculating costs under Uniform Law s. 174

Under section 174(1)(a) of the *Legal Profession Uniform Law (WA)* a law practice must provide the client with information disclosing the basis on which legal costs will be calculated in the matter and an estimate of the total legal costs.

This clause provides that a law practice must provide a client with information about whether legal costs are subject to a costs determination when providing the client with information under section 174(1)(a) of the *Legal Profession Uniform Law (WA)*.

Division 2 - Costs assessments

Clause 143. Functions of costs assessors

This clause provides that a costs assessor has the functions conferred on them by the Act, the *Legal Profession Uniform Law (WA)* or another Act.

Clause 144. Requirements for applications for costs assessment: Uniform Law s. 198

This clause sets out the requirements for the making of an application for a costs assessment and stipulates to whom the costs assessor must cause a copy of the application to be given.

Clause 145. Assessment of Legal Aid Commission bill

Section 14(1) of the *Legal Aid Commission Act 1976* provides that the Legal Aid Commission is to pay legal practitioners whose services it engages. The amount payable is determined by reference to the relevant scales, or in the absence of any relevant scales, what would ordinarily be payable and approved.

This clause provides that 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 Division 3 of Part V of the *Legal Aid Commission Act 1976*, then the costs assessor must give effect to section 14(1) of the *Legal Aid Commission Act 1976* in determining the amount allowed in the bill.

Clause 146. Determining and issuing certificates of costs assessment

This clause provides for a costs assessor to issue a costs certificate to the parties to the costs assessment when a costs assessment is completed under section 199 of the *Legal Profession Uniform Law (WA)*. The certificate must set out the amount of legal costs (if any) determined to be payable on the costs assessment, the costs of the costs assessment determined under section 204(1) of the Law (including GST) and any amount of interest to be paid on unpaid legal costs for the purposes of section 195 of the Law.

Clause 147. Costs assessment binding on parties

This clause provides that a costs assessment is binding on all parties to the costs assessment. A costs assessment is not subject to appeal or review except as provided in section 148.

Clause 148. Review of costs assessment: Uniform Law s. 205

This clause provides that, for the purposes of section 205 of the *Legal Profession Uniform Law (WA)*, a party to a costs agreement may apply to the Supreme Court for a review of the costs assessment. An order made upon review is enforceable in the same way as the certificate of a costs assessor under section 149.

Clause 149. Enforcement of, and interest on, costs assessment

This clause provides for the enforcement of, and interest on, costs assessments. A certificate issued under section 146 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. Further, interest is payable on the amount set out in a certificate at a rate equal to that prescribed for that period under section 8(1)(a) of the *Civil Judgments Enforcement Act 2004*.

Clause 150. Recovery of amounts paid as legal costs above costs assessments

This clause provides that where a person has paid legal costs before a costs assessment is undertaken, and the amount paid exceeds the legal costs determined to be payable on a costs assessment under section 199 of the *Legal Profession Uniform Law (WA)*, the person may recover the excess amount as a debt in a court of competent jurisdiction.

Clause 151. Local regulations about costs assessment

This clause provides that the local regulations may make provision for or in relation to costs assessments including, for example, how costs assessments may, or must, be carried out.

Part 7 - Professional indemnity insurance

Part 4.4 of the *Legal Profession Uniform Law (WA)* deals with professional indemnity insurance.

Division 1 - Preliminary

Clause 152. Terms used

This clause defines the terms "approved insurance policy", "arrangement insurance", "Bar-approved policy", "PII arrangement", "PII entity", "PII scheme" and "scheme policy" for the purposes of Part 7.

It also provides that a reference to the Law Society in Part 7 includes, where appropriate, a reference to the Law Society as the trustee of the Law Mutual Fund.

Clause 153. Approved insurance policies for Act and Uniform Law

This clause provides that arrangement insurance, a Bar-approved policy or a scheme policy is taken to be an "approved insurance policy" for the purposes of the Act and the *Legal Profession Uniform Law (WA)* in two circumstances. First, if the insurance or policy complies with section 210(1)(b) of the Law. Second, if the insurance or policy has been approved by the Attorney General for a financial year under section 154(2). This section applies despite section 210 of the Law.

Clause 154. Attorney General's approval of insurance Uniform Law

This clause applies if arrangement insurance, a Bar-approved policy or a scheme policy does not comply with section 210(1)(b) of the *Legal Profession Uniform Law (WA)*.

This clause provides that the Attorney General may approve the insurance or policy for a financial year if, the Attorney General considers the insurance or policy should be an approved insurance policy. In deciding whether or not to approve the insurance or policy, the Attorney General may have regard to the matters the Attorney thinks appropriate including the matters specified in that section.

If the Attorney General approves the insurance or policy, then the Attorney General must give written notice of the decision to the Law Society, the Western Australian Bar Association or the person who holds the approval for the PII scheme as the case requires. The recipient of the written notice must publish the notice on their website.

Division 2 - Insurance and insurance policies

Subdivision 1 - Obtaining professional indemnity insurance and certificates

Clause 155. Meaning of PII arrangement

This clause contains a definition of the term "PII arrangement". 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 has been issued, and includes an arrangement which requires 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.

Clause 156. Law Society authorised by Act to enter into PII arrangement

This clause provides that, for the purposes of section 51(1)(b) of the *Competition and Consumer Act 2010* (Cth), the Law Society's entry into a PII arrangement is authorised by the Act.

Clause 157. Application for arrangement insurance for whole financial year

This clause provides that a PII entity may apply before the renewal day in a financial year for arrangement insurance. A PII entity may also apply after the renewal day in a financial year for arrangement insurance for the next financial year. An application must be in the local approved form and accompanied by the documents or other information required by the local approved form and any payments required by the section. A late fee must be paid in respect of an application made after the renewal day.

This clause also provides that the Law Society must grant the application if the PII entity applied before the renewal day and complied with section 157(2) or if the PII entity applied after the renewal day and complied with section 157(3). If the Law Society grants the application, then they must issue a certificate of insurance to the PII entity.

Clause 158. Application for arrangement insurance for part of financial year in particular circumstances

This clause provides that if a PII entity does not have a policy of professional indemnity insurance in Western Australia for a financial year, then the PII entity may apply to the Law Society during the financial year for arrangement insurance for the remainder of the year. An application must be in the local approved form and be accompanied by the documents or other information required by the local approved form and any payments or levies required by the section.

This clause also provides that the Law Society must grant the application for arrangement insurance for the remainder of the financial year if the PII entity complied with section 158(1). If the Law Society grants the application, then they must issue a certificate of insurance to the PII entity.

This clause has been designed to prevent a PII entity which holds arrangement insurance under the PII arrangement, from attempting to pay their annual contribution in instalments.

Clause 159. Application by restructured law practices for arrangement insurance for part of financial year

This clause provides that if a "restructuring event" occurs in a financial year (e.g. 2 law practices combine to form a single law practice), then the new law practice may apply to the Law Society for arrangement insurance for the remainder of the financial year. An application must be in the local approved form and be accompanied by the documents or other information required by the local approved form and any payments or levies required by the section.

The Law Society may reduce or waive the annual contribution in the circumstances if, before the restructuring event, each PII entity involved in the event had a certificate of insurance issued under section 157(5) or 158(3) for the financial year in which the event occurred.

The Law Society must grant an application for arrangement insurance if the new law practice complied with section 159(2). If the Law Society grants the application, then they must issue a certificate of insurance to the new law practice.

Clause 160. Bar-approved insurance policy

This clause provides that 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. If the Western Australian Bar Association passes such a resolution, then they must give a copy of the resolution to the Board.

Clause 161. Local regulations may provide for approval of PII schemes

This clause provides that 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 policy may be obtained that covers particular PII entities. For example, the local regulations may make provision for applications for approval of a PII scheme.

Subdivision 2 - Annual contribution for PII arrangement

Clause 162. Assessing annual contribution for PII entities

This clause provides for the assessment of the annual contribution of a PII entity in respect of the PII arrangement. The Law Society must assess a PII entity's annual contribution for the purposes of section 157, 158 or 159, in accordance with a method of assessment determined under section 163. The annual contribution must be assessed on a pro rata basis if a PII entity applies to be covered by the PII arrangement for part only of a financial year.

Clause 163. Method of assessing annual contribution for PII arrangement

This clause provides that the Law Society must determine a method of assessment of annual contributions of PII entities. The method of assessment so determined may take into account any matters the Law Society considers relevant including, for example, the gross past or estimated future fee income of a PII entity; the professional indemnity insurance claims history of a PII entity; and the area of practice of a PII entity. The annual contribution of a PII entity is the amount assessed by the Law Society in respect of that PII entity in accordance with the determined method of assessment.

Clause 164. Review of annual contribution assessment

This clause provides that a PII entity that is not satisfied with the assessment of its annual contribution under section 162(1) may apply to the Law Society for a review of the assessment. The Law Society may confirm the assessment or revoke the assessment and make a new one. The obligation to pay an annual contribution is not affected by the application for review.

Clause 165. Appeal against review of annual contribution assessment

This clause provides that if, after a review by the Law Society of the assessment of its annual contribution, the PII entity is still not satisfied, then the PII entity may appeal against the assessment to a person nominated by the Attorney General. The nominated person may, on an appeal, confirm the assessment or revoke the assessment and make a new one. However, the obligation to pay an annual contribution is not affected by the appeal. There is no further right of review or appeal, subject to any judicial review for jurisdictional error.

Clause 166. Refund after review of, or appeal against, annual contribution assessment

This clause provides that if the annual contribution of a PII entity is reduced on review or appeal, then 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 section 8(1)(a) of the *Civil Judgments Enforcement Act 2004*. However, interest is not required to be paid if the reduction in the assessment occurred because of a change in circumstances of the PII entity that arose between the application being made and the assessment being issued.

Clause 167. Recovery of additional amount if incorrect information given for annual contribution assessment

This clause provides that if the annual contribution of a PII entity is made on the basis of information supplied by the PII entity that is subsequently found to be incorrect, then 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. Any additional amount must be paid within 21 days after the Law Society invoices the PII entity for that amount.

Subdivision 3 - Financial matters

Clause 168. Administration levy for PII arrangement

This clause gives the Law Society the power to fix an administration levy to be paid to the Law Society by a PII entity applying for arrangement insurance. The Law Society may fix different administration levies for different PII entities or classes of PII entities. An amount received the Law Society by way of the levy must be paid into the Law Mutual Fund.

Clause 169. Interest payable on amounts overdue under this Part

This clause provides that interest is payable on an amount that is payable to the Law Society under Part 7 (e.g., the annual contribution or the levy) 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. Further, interest is payable on the amount payable under Part 7 at a rate equal to that prescribed for that period under section 8(1)(a) of the *Civil Judgments Enforcement Act 2004*. The Law Society may waive payment of the interest in whole or in part.

Clause 170. Recovery of unpaid money

This clause provides that an amount payable to the Law Society under Part 7 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

Clause 171. Modification of Uniform Law

Section 215 of the *Legal Profession Uniform Law (WA)* sets out the circumstances in which an Australian legal practitioner may be exempted, or is exempt, from the requirement to hold or be covered by an approved insurance policy

Section 216 of the *Legal Profession Uniform Law (WA)* sets out the requirements for a law practice to notify the insurer or other provider of the policy of a proposed change of jurisdiction in which professional indemnity insurance is obtained.

This clause provides that, for the purposes of the definition of "Legal Profession Uniform Law" in section 6(1), Schedule 1 of the *Legal Profession Uniform Law Application Act 2014 (Vic)* applies as set out in Subdivision 1.

Clause 172. Section 215 modified

This clause provides for the modification of section 215(2) and (3) of the *Legal Profession Uniform Law (WA)*.

Clause 173. Section 216 modified

This clause provides for the modification of section 216(1) of the *Legal Profession Uniform Law (WA)*.

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

Clause 174. Requirements for application to be exempted under Uniform Law s. 215

Section 215 of the *Legal Profession Uniform Law (WA)* provides for exemptions for the requirement to hold or be covered by an approved insurance policy.

This clause provides that an Australian legal practitioner, community legal service or incorporated legal practice may apply to the Board for an exemption in relation to the whole or part of a financial year under section 215(2), (4) or (6) or under Uniform Rules made under section 215(8). An application must be in the local approved form and be accompanied by the documents or other information required by the local approved form and any prescribed fees. If the Board grants an exemption, then the Board must issue the applicant with a certificate of exemption. If the Board refuses an exemption, then the Board must give the applicant written reasons for decision.

Clause 175. Certificates of exemption if exempt under Uniform Law s. 215

Section 215 of the *Legal Profession Uniform Law (WA)* provides for exemptions for the requirement to hold or be covered by an approved insurance policy.

This clause provides that if an Australian legal practitioner, community legal service or incorporated legal practice is exempt under section 215(1), (3) or (5) or under Uniform Rules made under section 215(8), then they may apply to the Board for a certificate of exemption in relation to the whole or part of a financial year. An application must be in the local approved form and be accompanied by the documents or other information required by the local approved form and any prescribed fees. If the Board is satisfied that the applicant is exempt, then the Board must issue the applicant with a certificate of exemption. If the Board is not satisfied that the applicant is exempt, then the Board must give the applicant written reasons for decision.

Clause 176. Person to notify Board when exemption no longer applies

This clause applies where if, due to a change in the circumstances of an exempt entity, the exempt entity is no longer entitled to be granted an exemption, or no longer exempt, in respect of the requirement to hold or be covered by an approved policy of insurance. In such a case, the exempt entity must notify the Board in writing of the change in circumstances.

Division 4 - Law Mutual (WA) and Law Mutual Fund

Clause 177. Continuation of Law Mutual (WA)

This clause provides for the continuation of Law Mutual (WA) under the Act.

Clause 178. Continuation of Law Mutual Fund

This clause provides for the continuation of the Law Mutual Fund under the Act.

The Law Mutual Fund is held on trust by the Law Society as trustee in accordance with the Deed of Acknowledgement of Trust made by the Law Society on 22 June 2009 (as varied from time to time).

The Law Mutual Fund consists of the following: money forming part of the Fund immediately before the repeal of section 330(1) of the *Legal Profession Act 2008*; money paid into the Fund; costs recovered in consequence of the successful defence of an action; and any interest or other income earned on money forming part of the Fund.

Clause 179. Provisions about Law Mutual Fund

This clause provides that the Law Society must keep the Law Mutual Fund in a separate ADI account in the State with the name "Law Mutual Fund". The Fund must be maintained on an annual basis in relation to a financial year.

Clause 180. Application of money in Law Mutual Fund

This clause provides for the application of funds in the Law Mutual Fund by the Law Society. The Law Society may only apply the money in that Fund to: pay the premiums for an insurance policy for a PII arrangement; pay claims under the PII arrangement including an amount of a claim referred to in section 155(2); pay expenses incurred in managing the Fund or the PII arrangement and, despite section 179(1), invest the money not immediately required for the purposes of the Fund as per the Deed of Acknowledgement of Trust made by the Law Society. The Law Society may manage and apply any surplus funds in the Law Mutual Fund from each financial year as it considers appropriate.

Clause 181. Audit of Law Mutual Fund

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

Clause 182. Local regulations about winding up Law Mutual Fund

This clause provides that the local regulations may make provision for or in relation to the winding up of the Law Mutual Fund.

Division 5 - PII management committee

Clause 183. Law Society may establish PII management committee

This clause provides that the Law Society may establish a PII management committee.

Clause 184. Delegation of Law Society's functions to PII management committee

This clause gives the Law Society the power to delegate any of its powers or duties, under another provision of Part 7 or local regulations made under that Part, to the PII management committee. The PII management committee cannot subdelegate.

Clause 185. Membership

This clause provides for the membership of the PII management committee. The PII management committee is to consist of at least 7 members. The members of the PII management committee must be appointed by the Law Society. Members may include persons who are not members of the Law Society. At least one member must have knowledge and experience in the insurance industry and at least 2 members must have knowledge and experience in either the insurance industry or have accounting or financial expertise.

Clause 186. Procedures

This clause provides that, subject to the Act and any directions of the Law Society, the PII management committee may determine its own procedures.

Clause 187. Dissolution of PII management committee

This clause provides that the Law Society may dissolve the PII management committee.

Division 6 - Miscellaneous

Clause 188. Undertakings in relation to professional indemnity insurance

This clause provides that the Law Society or Board may require a PII entity to provide an undertaking in relation to one of the following applications: an application under section 157, 158 or 159 for arrangement insurance; or an application under section 174(1) for an exemption under section 215(2), (4) or (6) of the *Legal Profession Uniform Law (WA)* or under the Uniform Rules (WA) made under section 215(8) of the Law. The PII entity must provide any undertaking the subject of the requirement and comply with the undertaking unless previously released from compliance by the entity that required the undertaking.

Clause 189. Requiring information about professional indemnity insurance

This clause provides for the Law Society or Board to obtain information from a PII entity about professional indemnity insurance. The Law Society or Board may issue a written notice to a PII entity requiring the provision of information specified in the notice. A PII entity must comply with a notice.

Clause 190. Sharing information about professional indemnity insurance

This clause provides for the sharing of information between the Board and the Law Society about professional indemnity insurance. The Board may require the Law Society to provide the Board with specific information about arrangement in respect of a PII entity and the Law Society must comply with the requirement. Further, the Board and Law Society may share information about applications relating to professional indemnity insurance including, for example, applications for arrangement insurance, applications for exemptions and applications for certificates of exemption.

Clause 191. Evidence of exemption or insurance for Uniform Law

This clause provides that a person to whom a certificate of exemption is given under section 174 or 175 is taken to be, in the absence of evidence to the contrary, exempt from the requirement to hold or be covered by an approved insurance policy pursuant to the provision of the *Legal Profession Uniform Law (WA)* for the period stated in the certificate.

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 been issued with a certificate of insurance under sections 157(5), 158(3) or 159(5) or a certificate issued under local regulations made under section 161.

Part 8 - Fidelity cover

Division 1 - Guarantee Fund

Clause 192. Term used: claim

This clause defines the term "claim" for the purposes of Division 1 of Part 8.

Clause 193. Solicitors' Guarantee Fund

This clause establishes the Solicitors' Guarantee Fund and sets out the moneys that make up the Guarantee Fund. Money in the Guarantee Fund must be deposited in an ADI account or ADI accounts in the State pending its investment under section 196.

An ADI means an authorised deposit-taking institution within the meaning of the *Banking Act 1959* (Cth).

Clause 194. Payments out of Guarantee Fund

This clause specifies the payments that the Legal Contribution Trust may pay out of the Guarantee Fund including, for example, the payment of claims, the expenses incurred in investigating or defending claims, insurance premiums, administration costs and, if the Board requires it pursuant to section 32(2)(f), the costs of external investigations requested by the Trust.

Clause 195. Application of Guarantee Fund for claims

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

Part 4.5 of the *Legal Profession Uniform Law (WA)* applies to a default of a law practice only to the extent that it occurs in connection with the provision of legal services by the law practice but does not apply to defaults or a class or defaults specified in the Uniform Rules.

A default in relation to trust money or trust property received by a law practice in the course of legal practice by the law practice means a failure of the law practice to pay or deliver the trust money or trust property, where the failure arises from an act or omission of an associate that involves fraud or other dishonesty.

A default in relation to trust property received by a law practice in the course of legal practice by the law practice means a fraudulent dealing with the trust property, where the fraudulent dealing arises from or is constituted by an act or omission of an associate that involves fraud or other dishonesty.

Clause 196. Investment of Guarantee Fund

This clause provides that any portion of the Guarantee Fund that is not immediately required for the purposes of Part 8 may be invested by the Legal Contribution Trust by depositing it with an ADI in this State, as a loan to the Treasurer or in any way in which trust funds may be invested under the *Trustees Act 1962*. The investment must be approved by the Attorney General.

Clause 197. Notice of levy to supplement Guarantee Fund imposed under Uniform Law s. 226

This clause provides that if the Legal Contribution Trust imposes a levy under section 226 of the *Legal Profession Uniform Law (WA)*, then notice of the levy is to be published in the *Gazette* and given to the Board and the Law Society.

Clause 198. Audit under Uniform Law s. 232

This clause provides that the audit required under section 232 of the *Legal Profession Uniform Law (WA)* must be carried out by accountants approved by the Attorney General. The audit required under section 232 of the Law is the annual audit of the Guarantee Fund. 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

Clause 199. Trust account arrangements to pay no more than 51% of interest to Legal Contribution Trust

Under section 149(1)(b) of the *Legal Profession Uniform Law (WA)*, an ADI is only authorised to maintain trust accounts if, *inter alia*, it has entered into an arrangement with a nominated trust authority that provides for one or more of specified matters including the payment of interest on the whole or any part of deposits in trust accounts to the nominated trust authority on account of the nominated fund.

This clause prohibits the Legal Contribution Trust from entering into an arrangement with an ADI under section 149(1)(b) of the *Legal Profession Uniform Law (WA)* for the payment of more than 51% of the interest on deposits in a trust account to the Trust. This is because the remaining interest is required to be paid by the ADI to the Law Society under section 239.

Clause 200. Application of interest

This clause provides for the way in which the Legal Contribution Trust is to apply the interest received under an arrangement with an ADI. The Legal Contribution Trust must pay all money received into the Trust Interest Account. The money in the Trust Interest Account is to be applied, first, in payment of costs and expenses in administering the Trust and then, second, as payment into the Guarantee Fund until the Guarantee Fund is in credit to the "agreed amount" (at least \$100,000 or another amount prescribed by the local regulations and agreed by the Attorney General and Law Society). If the level of funds in the Guarantee Fund has reached the agreed amount, then the money from the Trust Interest Account is to be used as funds for the Legal Aid Commission, the Law Society, community legal services and other similar organisations.

Clause 201. Audit of expenditure

This clause provides that a person to whom money is paid under section 200(4)(a) or (b) must maintain accounts of the money received and of its expenditure and cause the accounts to be audited by a registered company auditor. Further, they must give a copy of the audit report to the Attorney General, the Legal Contribution Trust and the Board. The Attorney General must table the audit report before each House of Parliament.

Part 9 - Proceedings

Part 5.4 of the *Legal Profession Uniform Law (WA)* deals with disciplinary matters and the role of the designated local regulatory authority.

Clause 202. Terms used

This clause defines the terms "alleged conduct" and "disciplinary proceeding" for the purposes of Part 9.

Clause 203. Constitution of State Administrative Tribunal

This clause provides for the constitution of the State Administrative Tribunal when exercising review jurisdiction conferred under the Act or the *Legal Profession Uniform Law (WA)*. The Tribunal may be constituted in one of two ways. First, by the President, a Deputy President or legally qualified senior member and a person who is not an Australian legal practitioner but has knowledge and understanding of the interests of persons dealing with Australian legal practitioners. Second, by a Deputy President, a legally qualified senior member and a member who is not an Australian legal practitioner but has knowledge and understanding of the interests of persons dealing with Australian legal practitioners. In a hearing for the purposes of section 209 or a directions hearing or procedural hearing, the Tribunal is to be constituted by, or include, the President or a Deputy President.

Clause 204. Procedure of State Administrative Tribunal

This clause provides that the State Administrative Tribunal must conduct proceedings initiated under the Act or the *Legal Profession Uniform Law (WA)* in accordance with the *State Administrative Tribunal Act 2004* but subject to the Act and the Law.

For example, review proceedings commenced in the Tribunal pursuant to sections 100, 101, 314 and 358(1) of the *Legal Profession Uniform Law (WA)* will fall within the Tribunal's review jurisdiction. On the other hand, disciplinary proceedings initiated in the Tribunal under section 300(1) of the *Legal Profession Uniform Law (WA)* will be conducted in the Tribunal's original jurisdiction.

Clause 205. Disciplinary proceedings may involve 1 or more matters

This clause provides that disciplinary proceedings initiated in the State Administrative Tribunal may relate to one or more matters that involve, or may involve, unsatisfactory professional conduct or professional misconduct.

Clause 206. Time for initiating disciplinary proceedings under Uniform Law s. 300

This clause provides that the Board must initiate a disciplinary proceeding in the State Administrative Tribunal within 6 months of deciding to initiate proceedings. However, the Tribunal may, on application, grant the Board leave to initiate such proceedings after the 6-month time period.

Clause 207. State Administrative Tribunal to conduct hearing for disciplinary proceeding

This clause provides that the State Administrative Tribunal must conduct a hearing into each allegation made in an application initiating a disciplinary proceeding.

Clause 208. Variation of application initiating disciplinary proceeding

This clause provides that the State Administrative Tribunal may vary an application initiating a disciplinary proceeding 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. The application may be varied by the Tribunal on application by the Board.

In considering whether to add an allegation to the application, the Tribunal must not decline to vary the application solely on the basis that:

- (a) the Board seeks to add an additional allegation that was not the subject of a complaint or an investigation; or
- (b) the alleged conduct concerned occurred more than 3 years ago.

Clause 209. Interlocutory and interim orders in relation to disciplinary proceedings

This clause gives the State Administrative Tribunal power to make any interlocutory or interim orders that it considers appropriate before making its final decision for a disciplinary proceeding.

Clause 210. State Administrative Tribunal not bound by rules of evidence

Sections 301(3) and 453(6) of the *Legal Profession Uniform Law (WA)* provide that it is intended that jurisdictional legislation may determine whether the designated tribunal is bound by the rules of evidence in conducting a hearing in relation to an allegation of professional misconduct or proceedings for a pecuniary penalty order, but the designated tribunal is otherwise not bound by those rules in relation to matters arising under Chapter 5.

This clause provides, for the purposes of sections 301(3) and 453(6) of the *Legal Profession Uniform Law (WA)*, that the State Administrative Tribunal is not bound by the rules of evidence.

Clause 211. Notification of particular State Administrative Tribunal orders

This clause provides that the Board is to notify persons and bodies having functions under a corresponding law of another participating jurisdiction (a "relevant jurisdiction") of the making and contents of certain orders of the State Administrative Tribunal under section 209 (interim or interlocutory orders) or Part 5.4 Division 3 of the *Legal Profession Uniform Law (WA)* (orders made in respect of disciplinary matters). The orders in question are those that need to be, or are capable of being, given effect in the relevant jurisdiction and relate to the Australian legal practitioner's practice of law in that jurisdiction.

Clause 212. Provisions about fines imposed under Uniform Law s. 302

The State Administrative Tribunal has the power to make an order requiring a person to pay a fine under section 302(1)(1) of the *Legal Profession Uniform Law (WA)*. This clause provides that if the Tribunal makes such an order, then the person must pay the amount to the Board within the period specified by the Tribunal.

Clause 213. Giving effect to State Administrative Tribunal orders

This clause provides that persons and bodies having functions under the Act or the *Legal Profession Uniform Law (WA)* must do two things. First, give effect to an order of the State Administrative Tribunal made under section 209 (interim or interlocutory

orders). Second, enforce an order that requires compliance by an Australian legal practitioner where it relates to the practitioner's practice of law in Western Australia.

Clause 214. State Administrative Tribunal to give order recommending removal of lawyer from roll or register to Principal Registrar

This clause applies if the State Administrative Tribunal makes an order under section 302(1)(f) of the *Legal Profession Uniform Law (WA)* (that is, an order recommending that the name of a lawyer be removed from a roll kept by a Supreme Court, a register of lawyers kept under the Act or the Australian Legal Profession Register). If such an order is made then the Tribunal must give the Principal Registrar a copy of the order, a record of the evidence taken at the hearing and a copy of the Tribunal's reasons for the final decision to make the order.

Clause 215. Official notification to Board and Legal Services and Complaints Committee of removal from roll under Uniform Law s. 23

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

Part 10 - Registers

Part 9.3 of the *Legal Profession Uniform Law (WA)* deals with Legal Profession Registers.

The Legal Services Council may maintain an Australian Legal Profession Register. However, jurisdictional legislation may provide for the maintenance of a local legal profession register.

Division 1 - Certificate registers

Clause 216. Register of Australian practising certificates granted by the Board

This clause requires the Board to keep a register of the names of Australian lawyers to whom the Board grants Australian practising certificates. The register must also state the conditions (if any) imposed on an Australian practising certificate in relation to engaging in legal practice and other prescribed particulars. Some conditions may be omitted from the register at the discretion of the Board. The register must be available for inspection and may otherwise be published by the Board in any manner and circumstances the Board considers appropriate.

Clause 217. Register of Australian registration certificates granted by the Board

This clause requires the Board to keep a register of the names of person to whom the Board grants Australian registration certificates. The register must also state the conditions (if any) imposed on an Australian registration certificate and other prescribed particulars. The register must be available for inspection and may

otherwise be published by the Board in any manner and circumstances the Board considers appropriate.

Division 2 - Disciplinary action register

Clause 218. Terms used

This clause defines the terms "disciplinary action" and "register of disciplinary action" for the purposes of Division 2 of Part 10.

Clause 219. Register of disciplinary action

This clause requires the Board to keep a register of disciplinary action taken under the *Legal Profession Uniform Law (WA)*, a corresponding law or any previous disciplinary action recorded in the register maintained under the *Legal Profession Act 2008*. The register may also include other previous disciplinary action that was not recorded in the former register. The Board may cause any error or omission from the register of disciplinary action to be corrected. The Legal Services and Complaints Committee, the State Administrative Tribunal and the Principal Registrar of the Supreme Court are required to provide information to the Board to enable the Board to keep the register.

Clause 220. Public availability of register of disciplinary action

This clause provides that the register must be made available for public inspection on the Board's website or another website. Further, information recorded in the register may be provided to members of the public in any other manner approved by the Board.

Clause 221. Publicising disciplinary action

This clause provides that the Board may publicise disciplinary action taken against person in any manner that Board considers appropriate.

Clause 222. Effect of quashing of disciplinary action

This clause provides for the steps to be taken if disciplinary action is quashed on appeal or review. First, any reference to that disciplinary action must be removed from the register of disciplinary action. Second, if the disciplinary action was quashed after the action was publicised by the Board under section 221, then the result of the appeal or review must be publicised with equal prominence by the Board.

Clause 223. Publicising disciplinary action taken because of injury, infirmity or illness

This clause provides that if relevant disciplinary action (including the suspension or cancellation of the person's Australian practising certificate, a refusal to grant or review such a certificate or a restriction of prohibition on the person's right to engage in legal practice) is taken against a person because of the person's injury, infirmity or physical or mental illness, that action may be recorded in the register. However, no other information relating to the person's injury, infirmity or physical or mental illness is to be recorded in the register or otherwise publicised without the person's consent.

This clause also provides that if disciplinary action is taken against a person because of the person's injury, infirmity or physical or mental illness, but the disciplinary action is not relevant disciplinary action, then that disciplinary action must not be recorded in the register or otherwise publicised.

Clause 224. Effect of secrecy provisions and non-disclosure orders

This clause makes it clear that the provisions of Division 2 are subject to orders of non-disclosure made by courts and tribunals such as the Supreme Court or the State Administrative Tribunal and corresponding authorities. Notwithstanding this, the name and other identifying particulars of a person against whom disciplinary action is taken, and the kind of disciplinary action taken, must still be recorded in the register of disciplinary action in accordance with the requirements of Division 2.

Clause 225. Liability for publicising disciplinary action

This clause provides protection from liability for the Board and others (referred to as "protected persons") involved in publicising disciplinary action, exercising functions of the Board under Division 2, and keeping, publishing or enabling access, to the register of disciplinary action.

Division 3 - Disqualification orders and approvals register

Clause 226. Disqualification orders and approvals register

This clause provides that the Board may keep a register of orders made under sections 119 or 120 of the *Legal Profession Uniform Law (WA)* on application by the Board and approvals of persons as lay associates for the purposes of section 121 of the Law given by the Board.

Part 11 - Enforcement

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

Part 7.3 of the *Legal Profession Uniform Law (WA)* deals with the entry and search of premises.

Under section 377 of the *Legal Profession Uniform Law (WA)*, a search warrant may be issued by an issuing authority in respect of a trust records investigation or a complaint investigation.

Clause 227. Application for search warrants under Uniform Law s. 377

This clause provides for the making of an application for a search warrant under section 377 of the *Legal Profession Uniform Law (WA)*. The application must be made to a magistrate under subsection (2) and section 13 of the *Criminal Investigation Act 2006*. This clause also sets out what the application or the written record of the application must state including, for example, the investigator's full name and details of the premises.

Clause 228. Provisions for search warrants issued under Uniform Law s. 377

This clause contains provisions relating to search warrants issued under section 377 of the *Legal Profession Uniform Law (WA)*. The clause sets out the information that the search warrant must contain including, for example, the name of the magistrate who issued it and details of the premises in relation to which the warrant is issued. A search warrant comes into force when it is issued by a magistrate. Section 13(8) of the *Criminal Investigation Act 2006* applies in relation to the search warrant (copies of the original warrant, or the form of the warrant completed, have the same force and effect as the original warrant).

Clause 229. Use of force when executing search warrants issued under Uniform Law s. 377

This clause provides that an investigator executing a search warrant issued under section 377 of the *Legal Profession Uniform Law (WA)* may use force under section 16 of the *Criminal Investigation Act 2006*. This is in addition to the powers that may be exercised by an investigator while on premises under section 375 of the Law.

Clause 230. Executed search warrants issued under Uniform Law s. 377 to be endorsed

This clause provides that an investigator executing a search warrant issued under section 377 of the *Legal Profession Uniform Law (WA)* must endorse the warrant, or a copy or form of a warrant, with the day and time when the warrant was executed.

Clause 231. Receipt for items seized under search warrants

This clause provides that if an investigator executing a search warrant issued under section 377 of the *Legal Profession Uniform Law (WA)* retains a document or thing seized during the search, then the investigator must issue a receipt and either give the receipt to the person or leave the receipt on the premises in an envelope addressed to the person.

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

Clause 232. Board may appoint person to investigate contravention of Act or Uniform Law

This clause applies if the Board suspects on reasonable grounds that a person has committed an offence under the Act or 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). In such a case, the Board may appoint a person to investigate the suspected commission of the offence or contravention of the penalty provision. Chapter 7 of the Law is applied in relation to the investigation and sections 462, 465 and 467 of the Law are applied to the person who is appointed as investigator.

Clause 233. Who may commence proceedings for offence against Act or Uniform Law

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

Clause 234. When prosecution may be commenced for offence against Uniform Law s. 10 or 11

This clause provides that a prosecution for an offence against section 10 or 11 of the *Legal Profession Uniform Law (WA)* may be commenced within 24 months after the day on which the alleged offence was committed or, in certain circumstances, within 24 months after the day on which evidence first came to the attention of the Board or a person authorised by the Board to prosecute offences against the Law.

Clause 235. Enforcement of orders to pay fines under Uniform Law

This clause applies to orders made requiring the payment of a fine under sections 299(1)(f) and 302(1)(l) of the *Legal Profession Uniform Law (WA)*. The order may be filed in the registry of the court that would have jurisdiction to order payment of the fine if it were a debt. Any such order filed may be enforced by the Board as if the order were an order of the court.

Clause 236. Board may recover pecuniary penalty to be paid under Uniform Law

Under section 456 of the *Legal Profession Uniform Law (WA)*, if a designated tribunal orders a person to pay a pecuniary penalty, then the order is enforceable as a judgment or order of a court.

This clause provides that the Board may enforce an order to pay a pecuniary penalty under section 456(a) of the *Legal Profession Uniform Law (WA)*.

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

Clause 237. Effect of notice under Uniform Law s. 371(1)(a) or (b)

Under section 371(1)(a) and (b) of the *Legal Profession Uniform Law (WA)*, an investigator may by notice require a lawyer or legal practitioner associate of a law practice to produce any specified document or to provide written information.

This clause provides that a notice served under section 371(1)(a) or (b) of the *Legal Profession Uniform Law (WA)* has the same effect as a subpoena to produce documents or attend to give evidence issued by the Supreme Court for the attendance of a witness for examination or production of documents in a civil action. Further, obedience to, or non-observance of, such a notice may be enforced and punished by a judge in the same manner as in the case of obedience to, or non-observance of, a subpoena issued by the Supreme Court. However, a person cannot be punished by a judge in chambers and sentenced for an offence contrary to section 371(3) of the Law.

Part 12 - Law Society Public Purposes Trust

Clause 238. Terms used

This clause defines the terms "Law Society Public Purposes Trust Deed" and "vary" for the purposes of Part 12.

Clause 239. Remaining interest on trust accounts to be paid to Law Society

This clause provides that if interest is earned on money in a trust account maintained with an authorised ADI, then that ADI must, 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. In any other case, the authorised ADI must pay the interest to the Law Society after the end of the month in which it is earned. A contravention of this clause is an offence with a maximum fine of \$5,000.

Clause 240. Application of funds paid to Law Society

This clause provides that the Law Society must hold and apply the amounts received under section 239 in accordance with the Law Society Public Purposes Trust Deed. This Trust Deed was made on 22 August 1985.

Clause 241. Legal Contribution Trust must provide copy of arrangements to Law Society

This clause requires the Legal Contribution Trust to give the Law Society a copy of each trust account arrangement.

Clause 242. Tabling of instruments varying Law Society Public Purposes Trust Deed

This clause requires the Law Society to publish any instrument varying the Law Society Public Purposes Trust on the Law Society website and to provide the Attorney General with a copy of the instrument. The Attorney General must then table a copy of the instrument in each House of Parliament.

Part 13 - Law library

Clause 243. Law library

In 2016, the *Legal Profession Act 2008* was amended by the *Legal Profession Amendment Act 2016* to amalgamate the law library at the Supreme Court with the law library of the then Department of the Attorney General. The amalgamated law library is currently situated at the David Malcolm Justice Centre and is operated by the Department of Justice on behalf of the State.

This clause provides for the establishment and management of a law library by the State for the use of the judiciary, Australian lawyers whose home jurisdiction is Western Australia and other prescribed persons. Any assets acquired for the purposes of the law library after the commencement of section 243 are vested in and are the property of the State.

Clause 244. Law library contributions

This clause imposes an obligation on the Board to pay the State an annual amount, calculated in accordance with local regulations, as a contribution towards the cost of providing and maintaining the law library.

Local regulations must specify the amount of the contribution or the method by which the amount of the contribution is to be calculated and when payment becomes due.

Any amendment to such local regulations must be made at least 7 months before the beginning of the financial year to which the amendment will apply. This is to ensure that the Board has sufficient time to make any changes which such an amendment may necessitate. However, before any amendment is made, section 244(5) provides that the Attorney General must obtain the written agreement to the proposed amendment by the Board, the Law Society and the Western Australian Bar Association. In the alternative, the Attorney General must notify those same bodies of the proposed amendment at least 9 months before the beginning of the financial year to which the proposed amendment is intended to apply and have regard to any submissions made by those bodies.

Payment of the contribution must be credited to the Law Library Fund which is an agency special purpose account established under section 16 of the *Financial Management Act 2006* and administered by the Department of Justice.

The money in the Law Library Fund must be applied for three purposes. First, to provide and maintain the law library. Second, to provide library services to the persons referred to in section 243(1). Third, for other prescribed purposes relating to the law library.

Clause 245. Local regulations for law library

This clause provides that the local regulations may provide for the provision, operation and management of the law library. Examples of the sorts of regulations which may be made include: regulations about access to and use of the law library; the terms upon which persons may be given access to and use of law library facilities; the borrowing of resources; and the manner of securing a resource if it has been loaned.

Part 14 - Miscellaneous

Clause 246. Information sharing

This clause provides for the sharing of information by the Board, the Legal Services and Complaints Committee and the Legal Contribution Trust.

Clause 247. Conduct that constitutes unsatisfactory professional conduct or professional misconduct

This clause gives examples of the types of conduct by a lawyer that may constitute unsatisfactory professional conduct or professional misconduct. For example, failing

to comply with a notice under section 189. This clause is not intended to limit section 298 of the *Legal Profession Uniform Law (WA)*.

Clause 248. Powers of Supreme Court unaffected

This clause provides that, subject to section 237(3)(b), the imposition of a penalty for a contravention of a provision of the Act or the *Legal Profession Uniform Law (WA)* does not affect the power of the Supreme Court to punish for a contempt of Court. Further, nothing in the Law excludes or restricts judicial review by the Supreme Court of a decision of another court, tribunal, body or person.

Clause 249. Liability of principals for contravention of Act

Section 35 of the *Legal Profession Uniform Law (WA)* sets out the two circumstances in which a principal of a law practice is liable when a law practice contravenes any provision of the Law or the Uniform Rules imposing an obligation on the law practice. The first circumstance is where the principal knowingly authorised or permitted the contravention. The second is where the principal was in, or ought reasonably to have been in, a position to influence the conduct of the law practice in relation to its contravention of the provision and failed to take reasonable steps to prevent the contravention of the law practice.

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

Clause 250. Defect or irregularity in person's appointment

This clause provides that a defect or irregularity in the appointment of any person exercising, or purporting to exercise, a function under the Act or the *Legal Profession Uniform Law (WA)* does not invalidate an act or omission done or omitted by the person in good faith.

Clause 251. Local regulations

This clause provides for the making of regulations by the Governor.

Clause 252. Local approved forms

This clause provides that where the Act provides that a local approved form may or must be given to a person, then the recipient of the form may approve that form. Local approved forms must be published on the website of the person who approved it. Further, the local regulations may include provision for or in relation to local approved forms.

Clause 253. Delegation

This clause gives various persons the power to delegate their powers or duties under the Act to a "prescribed person".

Clause 254. Protection from liability

This clause provides protection from liability for person exercising functions under the Act provided that they act in good faith. The protected persons include the Attorney General, the Board, the Legal Services and Complaints Committee, the Legal Services and Complaints Officer, the Legal Costs Committee, the Legal Contribution Trust, the Law Society, and the PII management committee.

Clause 255. Certain witnesses compellable despite Uniform Law s. 468

Section 468(1) of the *Legal Profession Uniform Law (WA)* provides that a relevant person referred to in section 467 of the Law is not compellable in any legal proceedings to give evidence or produce documents in respect of any matter in which the person was involved in the course of the administration of the Law. However, section 468(2) provides that the preceding subsection is subject to any exceptions provided by jurisdictional legislation.

This clause sets out the exceptions for the purposes of section 468(2) of the *Legal Profession Uniform Law (WA)*. The effect of this clause is that section 468(1) of the Law does not apply to a legal proceeding under the *Corruption, Crime and Misconduct Act 2003*, the *Parliamentary Commissioner Act 1971* and the *Royal Commissions Act 1968*.

Clause 256. Review of Act and Uniform Law

This clause provides that the Attorney General must review the operation and effectiveness of the Act and the *Legal Profession Uniform Law (WA)* and prepare a report based on the review. The review must be carried out 5 years after the commencement of section 256. The report must be tabled in Parliament.

Clause 257. Laying documents before Houses of Parliament not sitting

This clause sets out the process for the Attorney General to table documents in Parliament as required under the Act where a House of Parliament is not sitting. In such a case, the Attorney General must send the document to the Clerk of the House and the document is taken to have been laid before the House.

Clause 258. Giving documents

This clause provides that the local regulations may make provision for, or in relation to: the giving of a document required or permitted to be given under the Act or the *Legal Profession Uniform Law (WA)* (including the giving of the document by electronic means); the time at which the document is taken to have been given; and the means of satisfying a requirement under the Act or the *Legal Profession Uniform Law (WA)* in relation to a document in writing if the document is given by electronic means.

Part 15 - Repeals

Clause 259. Repeals

This clause provides for the repeal of the *Legal Profession Act 2008* and the *Law Society Public Purposes Trust Act 1985*.

Clause 260. Interpretation Act 1984 not affected

This clause makes it clear that, except where the contrary intention appears, Part 15 does not prejudice or affect the application of the *Interpretation Act 1984* to the repeal of the *Legal Profession Act 2008* and the *Law Society Public Purposes Trust Act 1985*.

Part 16 - Transitional provisions

Schedule 4 of the *Legal Profession Uniform Law (WA)* contains savings and transitional provisions.

Division 1 - Preliminary

Clause 261. Terms used

This clause contains the definitions of "commencement day", "Complaints Committee", "PII regulations" and "working day" for the purposes of Part 16.

Clause 262. Interaction between this Part and Uniform Law Sch. 4

This clause provides that Part 16 states the extent to which Part 3 of Schedule 4 of the *Legal Profession Uniform Law (WA)* applies as a law of this State and 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)*

Clause 263. Application of particular amending Acts enacted after 21 June 2021 but before commencement day

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

Clause 264. Application of s. 14 and 15 to Uniform Regulations and Uniform Rules made after 21 June 2021 but before commencement day

This clause provides that if Uniform Regulations or Uniform Rules are made after 21 June 2021 but before commencement day, then sections 14 and 15 apply to those regulations or rules as if they were made on commencement day.

Clause 265. Application of particular provisions of Uniform Law Sch. 4 Pt. 3

This clause provides for the extent to which Part 3 of Schedule 4 of the *Legal Profession Uniform Law (WA)* applies as a law of this State. Clauses 11-18, 20-23

and 29-30 apply without modification. Clause 28 of that Schedule applies subject to certain modifications.

Division 3 - Local regulatory bodies

Clause 266. Continuation of Legal Practice Board

This clause provides for the continuation of the Legal Practice Board established under section 534 of the *Legal Profession Act 2008* as the Legal Practice Board established under the Act with the same rights and liabilities.

Clause 267. Members of Legal Practice Board

This clause provision for membership of the Board to be carried over from the *Legal Profession Act 2008* to the Act.

Clause 268. Complaints Committee continues as Legal Services and Complaints Committee under this Act

This clause provides for the continuation of the Complaints Committee established under section 555(1) of the *Legal Profession Act 2008* as the Legal Services and Complaints Committee established under the Act.

Clause 269. Members of Complaints Committee

This clause provides for membership of the Complaints Committee to be carried over from the *Legal Profession Act 2008* to the Legal Services and Complaints Committee under the Act.

Clause 270. Continuation of other Legal Practice Board committees

This clause provides for the continuation of committees of the Board appointed under section 552(1) of the *Legal Profession Act 2008* as committees of the Board under section 52(2). A member of a committee appointed under the *Legal Profession Act 2008* is continued as a member of a committee appointed under the Act until their term expires.

Clause 271. Continuation of Law Complaints Officer

This clause provides for the continuation of the Law Complaints Officer appointed under the *Legal Profession Act 2008* as the Legal Services and Complaints Officer under section 78(2) until their term expires.

Clause 272. Continuation and membership of Legal Costs Committee

This clause provides for the continuation of the Legal Costs Committee established under section 310(1) of the *Legal Profession Act 2008* as the Legal Costs Committee established under the Act. A member of the Legal Costs Committee appointed under the *Legal Profession Act 2008* is continued as a member of the Legal Costs Committee under the Act until their term expires.

Clause 273. Continuation of Legal Costs Committee Account

This clause provides for the continuation of the Legal Costs Committee Account established under section 323(2) of the *Legal Profession Act 2008* as the Legal Costs Committee Account established under section 97(3).

Clause 274. Continuation and membership of Legal Contribution Trust

This clause provides for the continuation of the Legal Contribution Trust established under section 391(1) of the *Legal Profession Act 2008* as the Legal Contribution Trust under the Act with the same rights and liabilities. A person who was a trustee of the Legal Contribution Trust under the *Legal Profession Act 2008* is continued as a trustee under the Act subject to sections 104(2) and 107.

Division 4 - Admission

Clause 275. Admission applications under old Act taken to be admission applications under this Act

This clause provides that if a person has already applied for admission under section 25(1) of the *Legal Profession Act 2008* but the application had not been decided before the Act came into operation, then the application is taken to be an application under section 112 for admission under section 16 of the *Legal Profession Uniform Law (WA)*.

Clause 276. Notice of objection to admission under old Act taken to be objection under Uniform Law

This clause provides that a notice of objection to admission under section 27 of the *Legal Profession Act 2008* in respect of a person whose application for admission had not been decided under that Act is taken to be an objection to admission of the person made in accordance with rules of court under section 16(3) of the *Legal Profession Uniform Law (WA)*.

Clause 277. Status of academic qualifications obtained under old Act for Uniform Law s. 17

This clause provides that if a person obtained approved academic qualifications or corresponding academic qualifications recognised under the *Legal Profession Act 2008*, then the person is taken to have attained the academic qualifications for the purposes of section 17(1)(a) of the *Legal Profession Uniform Law (WA)*.

Clause 278. Status of approved practical legal training requirements under old Act for Uniform Law s. 17

This clause provides that if a person has satisfactorily completed the practical legal training requirements or corresponding practical legal training requirements recognised by the *Legal Profession Act 2008*, then the person is taken to have satisfactorily completed the practical legal training requirements referred to in section 17(1)(b) of the *Legal Profession Uniform Law (WA)*.

This clause also provides that if a person has partially completed the practical legal training requirements or the corresponding practical legal training requirements under the *Legal Profession Act 2008* and satisfactorily completes those requirements within 12 months after commencement day, then the person is taken to have completed the practical legal training requirements referred to in section 17(1)(b) of the *Legal Profession Uniform Law (WA)*.

Clause 279. Application for early consideration of suitability continues under Uniform Law

This clause provides that if a person applied for early consideration of suitability under the *Legal Profession Act 2008* but the Board has not made or refused to make the declaration, then the application is taken to be an application for a declaration under section 21(1) of the *Legal Profession Uniform Law (WA)*.

Clause 280. Decision of Legal Practice Board or State Administrative Tribunal about suitability continues under Uniform Law

This clause provides that a decision of the Board made under section 23(3) of the *Legal Profession Act 2008* continues as if it were a decision made under section 21(2) of the *Legal Profession Uniform Law (WA)*. However, if the Board's decision was made during the 6 months prior to commencement of the Act, section 27 of the Law applies to the decision to the extent that an appeal could be sought.

This clause also provides that the *Legal Profession Uniform Law (WA)* applies to a decision of the State Administrative Tribunal in a matter referred under section 24 of the *Legal Profession Act 2008* as if the decision were a decision of the Supreme Court under section 27(2) of the Law.

Clause 281. Compliance certificate under old Act taken to be issued under Uniform Law

This clause provides that a compliance certificate filed by the Board under section 31(1) of the *Legal Profession Act 2008* is taken to be a compliance certificate issued and provided to the Supreme Court under section 19(3) of the *Legal Profession Uniform Law (WA)*.

Clause 282. Applications to State Administrative Tribunal under old Act may be decided by Tribunal or Supreme Court

This clause provides for the State Administrative Tribunal to decide whether certain applications made to the Tribunal under the *Legal Profession Act 2008* should be dealt with under that Act or the *Legal Profession Uniform Law (WA)*.

Division 5 - Practitioners

Clause 283. Government lawyers taken to hold Australian practising certificates under Uniform Law for particular period

This clause provides that certain WA government lawyers engaged before commencement day in government work under section 36 of the *Legal Profession Act 2008* and who do not hold an Australian practising certificate under that Act are taken

to have a current Australian practising certificate granted under the *Legal Profession Uniform Law (WA)* for a specified period after the Law comes into operation. The Australian practising certificate is subject to a condition that the holder engages in government work only.

Clause 284. Persons engaging in exempt work taken to have Australian practising certificates under Uniform Law for particular period

This clause provides that persons engaged in exempt work (e.g. supervised work as a paid employee of a community legal centre) under the *Legal Profession Act 2008* and who do not hold an Australian practising certificate under that Act are taken to hold a current Australian practising certificate granted under the *Legal Profession Uniform Law (WA)* for a specified period after the Law comes into operation. The Australian practising certificate is subject to a condition that the holder engages in exempt work only.

Clause 285. Continuing professional development

This clause provides that CPD points earned under rules or regulations made under the *Legal Profession Act 2008* for a CPD year in which that Act is repealed are taken to have been CPD points earned under the Continuing Profession Development Rules for the CPD year.

Clause 286. Persons approved as QA providers under former *Legal Profession Rules 2009* taken to be accredited under s. 124

This clause provides that if a person, body or group was approved as a QA provider under rule 14(2) of the *Legal Profession Rules 2009* and that approval is in effect, then that approval is taken to be an accreditation under section 124 until the expiry of that approval under those rules.

Clause 287. Approvals of law courses and legal training courses continued

This clause provides that if academic qualifications were approved under the *Legal Profession (Admission) Rules 2009*, then the qualifications are taken to be accreditation law course accredited under section 29 of the *Legal Profession Uniform Law (WA)*.

Similarly, if a person was approved to provide a legal training course under rule 8(1) of the *Legal Profession (Admission) Rules 2009*, then that approval is taken to be an accreditation under section 29 of the *Legal Profession Uniform Law (WA)* in accordance with the Legal Profession Uniform Admission Rules to provide practical legal training in the form of that course.

Approval of academic qualifications and legal training courses are subject to amendment or revocation under the *Legal Profession Uniform Law (WA)* or the Legal Profession Uniform Admission Rules.

Clause 288. Experienced acquired before commencement day taken to be supervised legal practice under Uniform Law s. 49

This clause provides that a person who before commencement day engaged in a period of supervised legal practice as defined under section 3 of the *Legal Profession Act 2008* is taken to have completed the same period of supervised legal practice for the purposes of section 49(1) of the *Legal Profession Uniform Law (WA)*.

It is also provides that a person who had the required experience as defined by section 50(1) of the *Legal Profession Act 2008* or was entitled to practice on their own account under the *Legal Practitioners Act 1892* or the *Legal Practice Act 2003*, is taken to have completed the period of supervised legal practice required by section 49(1) of the *Legal Profession Uniform Law (WA)*.

Clause 289. Exemption or reduction of requirement to engage in restricted legal practice continues under Uniform Law

This clause provides that if the Board exempted a person or class of persons from the requirement to engaged in restricted legal practice only under section 50(7) of the *Legal Profession Act 2008* and the exemption is in effect, then the exemption is taken to be an exemption from the statutory condition to engage in supervised legal practice only under section 49(4)(a) of the *Legal Profession Uniform Law (WA)*. Further, if the exemption is subject to conditions under section 50(8) of the *Legal Profession Act 2008*, then the exemption is taken to be subject to those conditions as if they were imposed under section 49(5) of the Law.

This clause also provides that if the Board reduced the required experience for a person or class of persons under section 50(7) of the *Legal Profession Act 2008* and the reduction is in effect, then the reduction is taken to be a reduction of the supervision period under section 49(4)(b) of the Law.

Clause 290. Order made under s. 77 of old Act continued

This clause provides that if the State Administrative Tribunal made an order under section 77 of the *Legal Profession Act 2008* that an Australian lawyer not contravene a condition imposed under Part 5 of that Act, then the order continues in effect in its terms and, while the order is in effect, a contravention is taken to be a failure of the Australian lawyer to comply with a condition of an Australian practising certificate under section 54 of the *Legal Profession Uniform Law (WA)*.

Clause 291. State Administrative Tribunal to decide how review of particular Legal Practice Board decisions about practising certificates to be dealt with

This clause provides for the State Administrative Tribunal to decide whether applications for a review of a "reviewable decision" made to the Tribunal under the *Legal Profession Act 2008* should be dealt with under that Act or the *Legal Profession Uniform Law (WA)*.

If a person did not apply for review of a reviewable decision, and is not precluded from doing so, then the reviewable decision is taken to be a decision referred to in section 100(1) of the *Legal Profession Uniform Law (WA)*.

Clause 292. Reviews of particular Legal Practice Board decisions about registration certificates

This clause provides for the State Administrative Tribunal to decide whether applications for a review of a "reviewable decision" made to the Tribunal under section 203 of the *Legal Profession Act 2008* should be dealt with under that section or section 101 of the *Legal Profession Uniform Law (WA)*.

Division 6 - Trust accounts

Clause 293. Interest earned on trust account prior to commencement

This clause provides for interest earned on trust accounts during the pre-commencement period to be paid to the Legal Contribution Trust by an ADI.

Clause 294. Legal Contribution Trust and ADI taken to have entered into arrangement with nominated trust authority

This clause provides that an ADI with which a trust account is maintained immediately before commencement day is taken to have entered into a trust account arrangement on the terms set out in the clause. The first term is that the rate of interest payable on money in the trust accounts maintained with the ADI is the rate payable under section 387(4) of the *Legal Profession Act 2008* immediately before commencement day. The second term is that the ADI must pay 51% of the interest earned each month on the money in the trust accounts maintained with the ADI to the Legal Contribution Trust within 10 working days after the end of the month.

The arrangement the subject of this clause continues until a trust account arrangement is agreed to by the ADI and the Legal Contribution Trust that is in accordance with section 199.

Clause 295. Investigator under old Act taken to be appointed as external investigator under Uniform Law

This clause provides that a person who, immediately before commencement day, is an investigator appointed under section 230(1) of the *Legal Profession Act 2008* is taken to be an external investigator under section 162(1) of the *Legal Profession Uniform Law (WA)*. Further, the person's appointment as an external investigator is subject to amendment or revocation under the *Legal Profession Uniform Law (WA)*.

Clause 296. Current investigations and external examinations under Pt. 9 of old Act to be dealt with under old Act

This clause provides that:

- (a) if an investigation commenced under section 231 of the *Legal Profession Act 2008* has not been completed before commencement day then the investigation may be completed under Parts 9 and 15 of that Act as if those Parts had not been repealed; and
- (b) if an external examination commenced under sections 237, 238 or 239 of the *Legal Profession Act 2008* has not been completed before commencement day then the external examination continues under Parts 9 and 15 of that Act as if those Parts had not been repealed.

Clause 297. External investigations of actions before commencement day

This clause provides that an external investigation may be carried out under Part 4.2 Division 4 of the *Legal Profession Uniform Law (WA)* in relation to a trust account matter if the trust account matter could be investigated immediately before commencement day under Part 9 of the *Legal Profession Act 2008* and has not been the subject of an investigation under that Act or an investigation continued under section 296.

Division 7 - Legal costs

Clause 298. Continuation of legal costs determinations

This clause provides that a legal costs determination ("LPA determination") made under section 275(1) of the *Legal Profession Act 2008* is taken to be a legal costs determination under section 132(1).

Division 8 - Professional indemnity insurance

Clause 299. Continuation and membership of PII management committee

This clause provides that a PII management committee ("LPA Committee") established by the Law Society under section 331(1) of the *Legal Profession Act 2008* continues on as the PII management committee under section 183. A member of the LPA Committee appointed under the *Legal Profession Act 2008* is continued as a member of the PII management committee under the Act.

Clause 300. Continuation of PII arrangement and certificates of insurance under PII regulations

This clause provides that a PII arrangement made by the Law Society under the *Legal Profession Regulations 2009* that is in force immediately before commencement day is taken to be a PII arrangement under section 155.

It further provides that professional indemnity insurance provided under the former PII arrangement is taken to be arrangement insurance under section 157 and 158.

Clause 301. Annual contribution under old Act taken to be contribution under this Act

This clause provides that an amount paid by a law practice before commencement day under the *Legal Profession Regulations 2009* as an annual contribution in relation to a PII arrangement, where commencement day is in the insurance year, is taken to be an amount paid under the Act in relation to the PII arrangement for the financial year that ends on the same day as the financial year in relation to which the amount was paid under the *Legal Profession Regulations 2009*.

Clause 302. Policy of professional indemnity insurance approved by Bar Association taken to be Bar-approved policy

This clause provides that 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 to be a Bar-approved policy under section 160(1).

Clause 303. Professional indemnity insurance scheme under old Act taken to be PII scheme

This clause provides that if a scheme providing professional indemnity insurance was approved under the *Legal Profession Regulations 2009* and the approval is in force immediately before commencement day, then the approved scheme is taken to be a PII scheme approved under regulations made under section 161.

Clause 304. Method of assessment of annual contribution under old Act taken to be method of assessment determined under this Act

This clause provides that if the Law Society determined a method of assessment of annual contributions of PII entities for an arrangement for professional indemnity insurance under the *Legal Profession Regulations 2009*, and the method was in effect immediately before commencement day, then that method is taken to be the method of assessment of annual contributions of PII entities determined under section 163(2) until the Law Society decides another method of assessment under that section.

Clause 305. Review of or appeal against annual contribution continued under this Act

This clause provides that:

- (a) if a law practice has sought a review under the *Legal Profession Regulations 2009* of an assessment of its annual contribution and the review had not been decided before commencement day, the review is taken to have been sought under section 164(1);
- (b) if a law practice has sought an appeal under the *Legal Profession Regulations 2009* from a review of an assessment of its annual contribution and the appeal had not been decided before commencement day, the review is taken to have been made under section 165(1); and
- (c) if a person has been nominated by the Attorney General, under the *Legal Profession Regulations 2009*, as a person to whom an appeal may be made and the person's nomination is in effect then the person is taken to be nominated under section 165(1) and the person's nomination is on the same terms as their appointment under the *Legal Profession Regulations 2009*.

Clause 306. Legal Practice Board taken to have granted exemption from requirement to obtain professional indemnity insurance continued in particular cases

This clause sets out when a person who was exempted from the requirement to hold or be covered by an approved insurance policy under the *Legal Profession Regulations 2009* is taken to be exempt from the requirement to hold or be covered by an approved insurance policy under section 215 of the *Legal Profession Uniform Law (WA)*. The exemption applies on and from the commencement day until either the Board gives the person a certificate of exemption under section 174(2) or 175(3) or the next 30 June following commencement day (whichever is earlier) and subject to the same terms of the previous exemption.

Clause 307. Insurance taken out under previous legislation continues

This clause provides that:

- (a) 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;
- (b) insurance taken out and maintained in accordance with arrangements made under the *Legal Practitioners (Professional Indemnity Insurance) Regulations 1995* continues to have effect with respect to any matter or thing occurring before 1 July 2009; and
- (c) insurance taken out and maintained in accordance with arrangements made under the *Legal Profession Regulations 2009* continues to have effect with respect to any matter or thing occurring before commencement day.

Division 9 - Fidelity cover

Clause 308. Solicitors' Guarantee Fund continued

This clause provides that the Guarantee Fund is a continuation of the Solicitors' Guarantee Fund established under section 336(1) of the *Legal Profession Act 2008*.

Clause 309. Continuation of Attorney General's approvals of investments under s. 342 of old Act

This clause provides that an approval by the Attorney General of an investment of a portion of the Solicitors' Guarantee Fund under section 342(1) of the *Legal Profession Act 2008* is taken to be an approval made under section 196(1).

Clause 310. Contributions to Solicitors' Guarantee Fund

This clause provides that amounts paid to the Board by way of annual contribution to the Solicitors' Guarantee Fund under section 337(1) of the *Legal Profession Act 2008* are taken to be amounts paid for the purposes of section 225(1) of the *Legal Profession Uniform Law (WA)*. However, this section only applies to a person who paid an amount to the Board for a financial year and who must pay an annual contribution under section 225(1) for that financial year.

Clause 311. Agreed amount under s. 388 of old Act taken to be agreed amount for s. 2009

This clause provides that if, immediately before commencement day, there was an amount determined under section 388(3)(b) of the *Legal Profession Act 2008* (the amount of not less than \$100,000 by which the Solicitors' Guarantee Fund is to be in credit), the amount is taken to be the amount determined by the Attorney General and the Law Society under paragraph (b) of the definition of "agreed amount" in section 200(1).

Division 10 - Complaints and discipline

Clause 312. Investigations not finalised before commencement day to be dealt with under old Act

This clause provides for matters being dealt with by the Complaints Committee under section 621, Part 13 and section 421 of the *Legal Profession Act 2008*, but which were not completed, to be dealt with by the Legal Services and Complaints Committee under the *Legal Profession Act 2008* unless the local regulations provide that another entity is to deal with the matter.

Clause 313. Audit of incorporated legal practice under old Act continues under Uniform Law

This clause provides that an audit of an incorporated legal practice commenced by the Board of the Complaints Committee under section 118 of the *Legal Profession Act 2008* but not completed or otherwise ended continues on as an audit under section 256 of the *Legal Profession Uniform Law (WA)*.

Clause 314. Pre-commencement conduct may be investigated under Uniform Law

This clause provides that if, before commencement day, an Australian legal practitioner engaged, or may have engaged in certain conduct which was not the subject of a complaint or investigation but the conduct, or suspected conduct, could have been investigated under Part 13 of the *Legal Profession Act 2008*, then the conduct, or suspected conduct, may be the subject of a complaint or investigation under the *Legal Profession Uniform Law (WA)*.

The conduct to which this clause refers is conduct to which Part 13 of the *Legal Profession Act 2008* applied, i.e. unsatisfactory professional conduct or professional misconduct.

Clause 315. Review of summary conclusion decision under s. 426 of old Act after commencement day

This clause provides that if, before commencement day, the Complaints Committee made a decision under section 426(2) of the *Legal Profession Act 2008* and a person aggrieved had not applied for review of the decision under section 435(1) of the *Legal Profession Act 2008* and was not precluded from doing so, then the person aggrieved may apply to the State Administrative Tribunal for a review under the *Legal Profession Uniform Law (WA)* as if it were a decision under section 290(1) of the Law.

Clause 316. Current reviews of Complaints Committee's summary conclusion decision under s. 426 of old Act

This clause provides that section 435 of the *Legal Profession Act 2008* applies to a decision of the Complaints Committee under section 426(2) of the *Legal Profession Act 2008* in circumstances where:

- (a) a person aggrieved by the decision made an application for review prior to commencement day to the State Administrative Tribunal; and
- (b) the Tribunal has not made a final decision before commencement day.

Clause 317. Review of Complaints Committee's decision to dismiss complaint

This clause provides that if, before commencement day, the Complaints Committee made a decision to dismiss a complaint under the *Legal Profession Act 2008* and a person aggrieved had not applied for review of the decision under section 435(1) of the *Legal Profession Act 2008* and was not precluded from doing so, then the person aggrieved may apply to the State Administrative Tribunal for a review of the decision of the Complaints Committee under section 318.

Clause 318. State Administrative Tribunal to deal with review of Complaints Committee's decision to dismiss complaint before commencement day

This clause provides that section 435 of the *Legal Profession Act 2008* applies to a decision of the Complaints Committee to dismiss a complaint under the the *Legal Profession Act 2008* in circumstances where:

- (a) a person aggrieved by the decision made an application for review prior to commencement day to the State Administrative Tribunal; and
- (b) the Tribunal has not made a final decision before commencement day.

Clause 319. Enforcing compensation orders under old Act

This clause provides that a compensation order made under section 448(1) of the *Legal Profession Act 2008* before commencement that has not been enforced before commencement may be enforced under section 310 of the *Legal Profession Uniform Law (WA)* as if it were a compensation order made under the Law.

Clause 320. Compensation order under old Act taken into account in compensation under Uniform Law s. 311

This clause provides that, for the purposes of section 311 of the *Legal Profession Uniform Law (WA)*, a compensation order made under section 448(1) of the *Legal Profession Act 2008* before commencement compensating an aggrieved person 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 *Legal Profession Act 2008*.

Division 11 - Registers

Clause 321. Local roll maintained under old Act taken to be Supreme Court roll for Uniform Law s. 22

This clause provides that the roll of persons admitted to the legal profession maintained by the Supreme Court under section 28(1) of the *Legal Profession Act 2008* continues on as the Supreme Court roll under section 22(1) of the *Legal Profession Uniform Law (WA)*.

Clause 322. Continuation of register of local practising certificates kept under old Act

This clause provides that the register of the names of Australian lawyers kept by the Board under section 76(1) of the *Legal Profession Act 2008* continues on as the register under section 216(1).

Clause 323. Continuation of register of locally registered foreign lawyers kept under old Act

This clause provides that the register of the name of locally registered lawyers kept under section 198(1) of the *Legal Profession Act 2008* continues on as the register to be kept under section 217(1).

Clause 324. Continuation of Register of Disciplinary Act kept under old Act

This clause provides that the Register of Disciplinary Action kept under section 452(1) of the *Legal Profession Act 2008* continues to be the register to be kept under section 219(2).

Division 12 - Law library

Clause 325. Continuation of law library

This clause provides that the law library established before commencement day under section 596A of the *Legal Profession Act 2008* is continued as the law library that may be established under section 243(1).

Clause 326. Law library contributions paid under old Act taken to be contributions under this Act

This clause provides that an amount paid by the 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 *Legal Profession Act 2008* is taken, on and from commencement day, to be an amount paid under section 244(2) for the year for which the amount was paid.

Division 13 - Law Society Public Purposes Trust

Clause 327. Reference to repealed *Law Society Public Purposes Trust Act 1985* taken to be to Pt. 12

This clause provides that a reference in a document to the *Law Society Public Purposes Trust Act 1985* repealed under section 259(b) is taken to be a reference to Part 12 of the Act.

Clause 328. Arrangements between Law Society and ADI under repealed *Law Society Public Purposes Trust Act 1985*

This clause provides for the continuation of arrangements made under the repealed *Law Society Public Purposes Trust Act 1985* before commencement day in respect of the payment of interest accrued on trust moneys.

Division 14 - Transitional regulations

Clause 329. Transitional regulations

This clause provides that local regulations may prescribe all matters that are required or necessary or convenient to be prescribed if there is no sufficient provision in Part 16 of the Act or Schedule 4 of the *Legal Profession Uniform Law (WA)* for dealing with a transitional matter. The local regulations may also prescribe that specified provisions of any written law do not apply to or in relation to any matter or apply with specified modifications to or in relation to any matter. This section does not limit clause 5(2) of Schedule 4 of the Law.

Part 17 - Consequential amendments to other Acts

Division 1 - *Aboriginal Affairs Planning Authority Act 1972* amended

Section 330. Act amended

This clause provides that Division 1 of Part 17 amends the *Aboriginal Affairs Planning Authority Act 1972*.

Section 331. Section 48 amended

This clause makes a consequential amendment to section 48 of the *Aboriginal Affairs Planning Authority Act 1972* by inserting at the beginning of that section "Despite the *Legal Profession Uniform Law (WA)* section 10, any". This will ensure that persons authorised under that provision can continue to act on behalf of persons of Aboriginal descent in the circumstances provided for in that provision.

Division 2 - *Children and Community Services Act 2004* amended

Clause 332. Act amended

This clause provides that Division 2 of Part 17 amends the *Children and Community Services Act 2004*.

Clause 333. Section 148 amended

This clause makes a consequential amendment to section 148(1) of the *Children and Community Services Act 2004* by deleting the definition of "legal practitioner". A definition of the term "legal practitioner" is to be inserted into the *Interpretation Act 1984* and this definition will apply to section 148 of the *Children and Community Services Act 2004*.

Division 3 - *Civil Judgments Enforcement Act 2004* amended

Clause 334. Act amended

This clause provides that Division 3 of Part 17 amends the *Civil Judgments Enforcement Act 2004*.

Clause 335. Section 30 amended

This clause makes consequential amendments to the *Civil Judgments Enforcement Act 2004*.

The definition of "legal practitioner" in section 30(1) is deleted. A definition of the term "legal practitioner" is to be inserted into the *Interpretation Act 1984* and this definition will apply to section 30 of the *Civil Judgments Enforcement Act 2004*.

A reference to section 12 of the *Legal Profession Act 2008* in section 30(6) is deleted and replaced with a reference to section 10 of the *Legal Profession Uniform Law (WA)*.

A reference to a "lawyer" in section 30(7) is deleted and replaced with a reference to "legal practitioner".

Division 4 - *Civil Liability Act 2002* amended

Clause 336. Act amended

This clause provides that Division 4 of Part 17 amends the *Civil Liability Act 2002*.

Clause 337. Section 15L amended

This clause makes a consequential amendment to the *Civil Liability Act 2002* by deleting section 15L(1) and inserting a new subsection containing definitions of the terms "costs determination" and "law practice".

Clause 338. Section 16 amended

This clause makes consequential amendments to section 16 of the *Civil Liability Act 2002*.

The definition of "legal practitioner" in section 16 is deleted. A definition of the term "legal practitioner" is to be inserted into the *Interpretation Act 1984* and this definition will apply to Part 3 of the *Civil Liability Act 2002*.

The definition of "client" in section 16 is amended by removing the reference to a "legal practitioner" and inserting a reference to a "lawyer". A definition of the term "lawyer" is to be inserted into the *Interpretation Act 1984* and this definition will apply to Part 3 of the *Civil Liability Act 2002*.

The definition of "law practice" in section 16 is amended by removing the reference to the "*Legal Profession Act 2008*" and inserting a reference to section 6(1) of the *Legal Profession Uniform Law (WA)*.

Clause 339. Section 17 amended

This clause makes consequential amendments to section 17 of the *Civil Liability Act 2002*.

Section 17(2) is amended by deleting a reference to section 252 of the *Legal Profession Act 2008* and inserting a reference to Division 4 of Part 4.3 of the *Legal Profession Uniform Law (WA)*.

Clause 340. Various references to “legal practitioner” amended

This clause makes consequential amendments to sections 17-20 of the *Civil Liability Act 2002* by deleting various references to "legal practitioner" and "legal practitioner's" and inserting references to "lawyer" and "lawyer's". A definition of the term "lawyer" is to be inserted into the *Interpretation Act 1984* and this definition will apply to sections 17-20 of the *Civil Liability Act 2002*.

Division 5 - Commercial Arbitration Act 2012 amended

Clause 341. Act amended

This clause provides that Division 5 of Part 17 amends the *Commercial Arbitration Act 2012*.

Clause 342. Section 24A amended

This clause makes a consequential amendment to section 24A of the *Commercial Arbitration Act 2012* by deleting a reference to the *Legal Profession Act 2008* and replacing it with a reference to the *Legal Profession Uniform Law (WA)*.

Clause 343. Section 33C amended

This clause makes a consequential amendment to section 33C of the *Commercial Arbitration Act 2012* by deleting a reference to Division 8 of Part 10 of the *Legal Profession Act 2008* and inserting a reference to Division 7 of Part 4.3 of the *Legal Profession Uniform Law (WA)*.

Division 6 - Community Titles Act 2018 amended

Clause 344. Act amended

This clause provides that Division 6 of Part 17 amends the *Community Titles Act 2018*.

Clause 345. Section 3 amended

This clause makes a consequential amendment to section 3(1) of the *Community Titles Act 2018* by deleting the definition of "Australian legal practitioner". This definition has been deleted because references to an "Australian legal practitioner" in the *Community Titles Act 2018* are to be replaced with references to a "legal practitioner".

A definition of the term "legal practitioner" is to be inserted into the *Interpretation Act 1984* and this definition will apply to the *Community Titles Act 2018*.

Clause 346. Section 117 amended

This clause makes a consequential amendment to section 117 of the *Community Titles Act 2018* by deleting section 117(4) and inserting a new subsection which provides that 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.

Clause 347. Section 137 amended

This clause makes a consequential amendment to section 137(2)(a) of the *Community Titles Act 2018* by deleting the reference to "Australian legal practitioner" and inserting a reference to "legal practitioner".

Clause 348. Section 182 amended

This clause makes a consequential amendment to section 182 of the *Community Titles Act 2018* by deleting a reference to "Australian lawyer" and inserting a reference to "a lawyer". A definition of the term "lawyer" is to be inserted into the *Interpretation Act 1984* and this definition will apply to section 182 of the *Community Titles Act 2018*.

Division 7 - *District Court of Western Australia Act 1969* amended

Clause 349. Act amended

This clause provides that Division 7 of Part 17 amends the *District Court of Western Australia Act 1969*.

Clause 350. Section 6 amended

This clause makes a consequential amendment to section 6 of the *District Court of Western Australia Act 1969* by deleting the definitions of the terms "Australian lawyer" and "legal practitioner" and by inserting a definition of "costs determination".

The definitions have been deleted because references to "Australian lawyer" in the *District Court of Western Australia Act 1969* are to be replaced with references to "lawyer". Definitions of the terms "lawyer" and "legal practitioner" are to be inserted into the *Interpretation Act 1984* and these definitions will apply to the *District Court of Western Australia Act 1969*.

Clause 351. Section 10 amended

This clause makes a consequential amendment to the *District Court of Western Australia Act 1969* by deleting the reference to "Australian lawyer" and inserting a reference to a "lawyer". A definition of the term "lawyer" is to be inserted into the *Interpretation Act 1984* and this definition will apply to section 10 of the *District Court of Western Australia Act 1969*.

Clause 352. Section 64 amended

This clause makes a consequential amendment to section 64 of the *District Court of Western Australia Act 1969* by deleting a reference to costs determination as defined in section 252 of the *Legal Profession Act 2008* and inserting a reference to a costs determination. The reference has been deleted because a new definition of "costs determination" has been inserted into section 6 of the *District Court of Western Australia Act 1969*.

Clause 353. Section 66 amended

This clause makes a consequential amendment to section 66 of the *District Court of Western Australia Act 1969* by deleting a reference to a costs determination as defined in section 252 of the *Legal Profession Act 2008* and inserting a reference to a costs determination. The reference has been deleted because a new definition of "costs determination" has been inserted into section 6 of the *District Court of Western Australia Act 1969*.

Clause 354. Section 88 amended

This clause makes a consequential amendment to section 88 of the *District Court of Western Australia Act 1969* by deleting a reference to a costs determination as defined in section 252 of the *Legal Profession Act 2008*. The reference has been deleted because a new definition of "costs determination" has been inserted into section 6 of the *District Court of Western Australia Act 1969*.

Division 8 - *Energy Arbitration and Review Act 1998* amended

Clause 355. Act amended

This clause provides that Division 8 of Part 17 amends the *Energy Arbitration and Review Act 1998*.

Clause 356. Section 49 replaced

This clause makes a consequential amendment to section 49 of the *Energy Arbitration and Review Act 1998* by deleting the definition of "legal practitioner" and making a grammatical correction in the definition of "Board" necessitated by the deletion. A definition of the term "legal practitioner" is to be inserted into the *Interpretation Act 1984* and this definition will apply to the *Energy Arbitration and Review Act 1998*.

Division 9 - *Interpretation Act 1984* amended

Clause 357. Act amended

This clause provides that Division 9 of Part 17 amends the *Interpretation Act 1984*.

Clause 358. Section 5 amended

This clause provides for definitions of the terms "lawyer" and "legal practitioner" to be inserted into the *Interpretation Act 1984*. The terms "lawyer" and "legal

practitioner" are defined by reference to section 6(1) of the *Legal Profession Uniform Law (WA)*.

A reference to a "lawyer" means an Australian lawyer as defined in section 6(1) of the *Legal Profession Uniform Law (WA)* and a reference to a "legal practitioner" means an Australian legal practitioner as defined in section 6(1) of the *Legal Profession Uniform Law (WA)*.

The effect of this clause is that, unless provision is made to the contrary, a reference in any Act to a "lawyer" or a "legal practitioner" will be defined by reference to the definitions of those terms in section 5 of the *Interpretation Act 1984*.

Division 10 - *Juries Act 1957* amended

Clause 359. Act amended

This clause provides that Division 10 of Part 17 amends the *Juries Act 1957*.

Clause 360. Section 3 amended

This clause makes a consequential amendment to section 3(1) of the *Juries Act 1957* by deleting the definition of "Australian legal practitioner". A definition of the term "legal practitioner" is to be inserted into the *Interpretation Act 1984* and this definition will apply to the *Juries Act 1957*.

Clause 361. Section 56A amended

This clause makes a consequential amendment to section 56A of the *Juries Act 1957* by amending the definition of "prosecuting officer".

Clause 362. Section 56B amended

This clause makes a consequential amendment to section 56B(2)(h) of the *Juries Act 1957* by deleting a reference to an Australian legal practitioner as defined in section 3 of the *Legal Profession Act 2008* and inserting a reference to "a legal practitioner". A definition of the term "legal practitioner" is to be inserted into the *Interpretation Act 1984* and this definition will apply to section 56B of the *Juries Act 1957*.

Clause 363. Section 56C amended

This clause makes a consequential amendment to section 56C(2)(g) of the *Juries Act 1957* by deleting a reference to an Australian legal practitioner as defined in section 3 of the *Legal Profession Act 2008* and inserting a reference to "a legal practitioner". A definition of the term "legal practitioner" is to be inserted into the *Interpretation Act 1984* and this definition will apply to section 56C of the *Juries Act 1957*.

Clause 364. Schedule 1 clause 3 replaced

This clause makes a consequential amendment to the *Juries Act 1957* by deleting clause 3 of Schedule 1 and inserting a new clause. The new clause refers to a person who is a legal practitioner instead of a person who is an Australian legal practitioner. A definition of the term "legal practitioner" is to be inserted into the *Interpretation*

Act 1984 and this definition will apply to clause 3 of Schedule 1 of the *Juries Act 1957*.

Division 11 - *Law Reform Commission Act 1972* amended

Clause 365. Act amended

This clause provides that Division 11 of Part 17 amends the *Law Reform Commission Act 1972*.

Clause 366. Section 6 amended

This clause makes consequential amendments to section 6 of the *Law Reform Commission Act 1972* by deleting references to "an Australian legal practitioner" and inserting references to "a legal practitioner". A definition of the term "legal practitioner" is to be inserted into the *Interpretation Act 1984* and this definition will apply to the *Law Reform Commission Act 1972*.

Division 12 - *Legal Aid Commission Act 1976* amended

Clause 367. Act amended

This clause provides that Division 12 of Part 17 amends the *Legal Aid Commission Act 1976*.

Clause 368. Section 4 amended

This clause makes consequential amendments to section 4 of the *Legal Aid Commission Act 1976* by:

- (a) deleting the definitions of the terms "Australian lawyer", "Legal Practice Board" and "legal practitioner";
- (b) inserting a new definition of "Legal Practice Board";
- (c) amending the definition of the term "law practice" by deleting a reference to section 3 of the *Legal Profession Act 2008* and inserting a reference to section 6(1) of the *Legal Profession Uniform Law (WA)*; and
- (d) amending the definition of the term "legal advice" by removing a reference to "an Australian lawyer" and inserting a reference to "a lawyer".

Definitions of the term "lawyer" and "legal practitioner" are to be inserted into the *Interpretation Act 1984* and these definitions will apply to the *Legal Aid Commission Act 1976*.

Clause 369. Section 7 amended

This clause makes consequential amendments to section 7 of the *Legal Aid Commission Act 1976* by deleting references to "an Australian lawyer" and inserting references to "a lawyer".

Clause 370. Section 14 amended

This clause makes a consequential amendment to section 14(1) of the *Legal Aid Commission Act 1976* by deleting a reference to Division 8 of Part 10 of the *Legal Profession Act 2008* and inserting a reference to Division 7 of Part 4.3 of the *Legal Profession Uniform Law (WA)*.

Clause 371. Section 17 amended

This clause makes consequential amendments to section 17(3) and (4) of the *Legal Aid Commission Act 1976* by deleting references to Division 4 of Part 12 of the *Legal Profession Act 2008* and inserting references to Division 2 of Part 8 of the *Legal Profession Uniform Law (WA)*.

Clause 372. Section 18 amended

This clause makes a consequential amendment to section 18 of the *Legal Aid Commission Act 1976* by deleting a reference to "an Australian lawyer" and inserting a reference to "a lawyer". A definition of the term "lawyer" is to be inserted into the *Interpretation Act 1984* and this definition will apply to the *Legal Aid Commission Act 1976*.

Clause 373. Section 19 amended

This clause makes a consequential amendment to section 19(3) of the *Legal Aid Commission Act 1976* by deleting that subsection and inserting a new subsection which provides that the Director may provide supervised legal training for the purposes of the *Legal Profession Uniform Law (WA)*. The Director may provide supervised legal training to more than one member of staff, but is otherwise subject to the requirements of the *Legal Profession Uniform Law (WA)*.

Clause 374. Section 20 amended

This clause makes a consequential amendment to section 20(2) of the *Legal Aid Commission Act 1976* by deleting a reference to "Australian lawyers" and inserting a reference to "lawyers".

Clause 375. Section 25 amended

This clause makes a consequential amendment to section 25(6) and (8) of the *Legal Aid Commission Act 1976* by deleting references to "an Australian lawyer" and inserting references to "a lawyer".

Clause 376. Section 39 amended

This clause makes a consequential amendment to section 39 of the *Legal Aid Commission Act 1976* by deleting a reference to Division 6 of Part 10 of the *Legal Profession Act 2008* and inserting a reference to Division 4 of Part 4.3 of the *Legal Profession Uniform Law (WA)*.

Clause 377. Section 40 amended

This clause makes a consequential amendment to section 40(6a) of the *Legal Aid Commission Act 1976* by:

- (a) deleting a reference to "any order or finding of fact relating to that practitioner made under Part 13 of the *Legal Profession Act 2008* by the Complaints Committee, the State Administrative Tribunal or the Supreme Court (full bench)"; and
- (b) inserting a reference to any order or finding of fact relating to the practitioner made by the Legal Practice Board or the State Administrative Tribunal under Part 5.4 of the *Legal Profession Uniform Law (WA)* and any order relating to the practitioner made by the Supreme Court under section 23 or 461 of the Law.

Clause 378. Section 50 amended

This clause makes a consequential amendment to section 50(2)(b) and (c) of the *Legal Aid Commission Act 1976* by deleting a reference to "an Australian lawyer" and inserting a reference to "a lawyer".

Clause 379. Section 52 amended

This clause makes a consequential amendment to section 52(2)(a) of the *Legal Aid Commission Act 1976* by deleting a reference to the "*Legal Profession Act 2008*" and inserting a reference to the "*Legal Profession Uniform Law Application Act 2021*".

Clause 380. Section 56 amended

This clause makes a consequential amendment to section 56(2)(e) of the *Legal Aid Commission Act 1976* by deleting a reference to section 391 of the *Legal Profession Act 2008* and inserting a reference to section 100(1) of the *Legal Profession Uniform Law Application Act 2021*.

Clause 381. Section 61 amended

This clause makes a consequential amendment to section 61 of the *Legal Aid Commission Act 1976* by:

- (a) deleting a reference to the "*Legal Profession Act 2008* and the legal profession rules made under that Act" in section 61(1) and inserting a reference to the *Legal Profession Uniform Law (WA)* and the Uniform Rules; and
- (b) deleting section 61(2)(a) and inserting a new subparagraph which provides that 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 section 6(1) of the *Legal Profession Uniform Law (WA)*.

Clause 382. Section 64 amended

This clause makes a consequential amendment to section 64 of the *Legal Aid Commission Act 1976* by:

- (a) deleting a reference to the *Legal Profession Act 2008* in section 64(2c) and inserting a reference to the *Legal Profession Uniform Law (WA)*;
- (b) deleting "Supreme Court (full bench), under the *Legal Profession Act 2008*" in section 64(4)(c) and inserting "Supreme Court, under the *Legal Profession Uniform Law (WA)*".

Division 13 - *Magistrates Court Act 2004* amended

Clause 383. Act amended

This clause provides that Division 13 of Part 17 amends the *Magistrates Court Act 2004*.

Clause 384. Schedule 1 clause 1 amended

This clause makes a consequential amendment to clause 1 of Schedule 1 of the *Magistrates Court Act 2004* by deleting the clause and inserting a new clause in respect of the term "Attorney General" and by deleting the definition of "legal practitioner". A definition of the term "legal practitioner" is to be inserted into the *Interpretation Act 1984* and this definition will apply to the *Magistrates Court Act 2004*.

Division 14 - *Prohibited Behaviour Orders Act 2010* amended

Clause 385. Act amended

This clause provides that Division 14 of Part 17 amends the *Prohibited Behaviour Orders Act 2010*.

Clause 386. Section 36 amended

This clause makes a consequential amendment to section 36 of the *Prohibited Behaviour Orders Act 2010* by deleting subsection (1).

Division 15 - *Public Trustee Act 1941* amended

Clause 387. Act amended

This clause provides that Division 15 of Part 17 amends the *Public Trustee Act 1941*.

Clause 388. Section 2 amended

This clause makes a consequential amendment to section 2 of the *Public Trustee Act 1941* by deleting the definition of "certificated practitioner".

Clause 389. Section 47A amended

This clause makes consequential amendments to section 47A of the *Public Trustee Act 1941* by deleting a reference to the *Legal Practice Act 2003* and inserting a reference to the *Legal Profession Uniform Law (WA)* and by deleting references to "certificated practitioner" and inserting references to "legal practitioner". A definition of the term "legal practitioner" is to be inserted into the *Interpretation Act 1984* and this definition will apply to section 47A of the *Public Trustee Act 1941*.

Division 16 - *Registration of Deeds Act 1856* amended

Clause 390. Act amended

This clause provides that Division 16 of Part 17 amends the *Registration of Deeds Act 1856*.

Clause 391. Section 6 amended

This clause makes a consequential amendment to section 6 of the *Registration of Deeds Act 1856* by deleting a reference to "an Australian lawyer" and inserting a reference to "a lawyer". A definition of the term "lawyer" is to be inserted into the *Interpretation Act 1984* and this definition will apply to section 6 of the *Registration of Deeds Act 1856*.

Division 17 - *Sale of Goods (Vienna Convention) Act 1986* amended

Clause 392. Act amended

This clause provides that Division 17 of Part 17 amends the *Sale of Goods (Vienna Convention) Act 1986*.

Clause 393. Section 7 amended

This clause makes a consequential amendment to section 7 of the *Sale of Goods (Vienna Convention) Act 1986* by deleting subsection (2).

Division 18 - *Spent Convictions Act 1988* amended

Clause 394. Act amended

This clause provides that Division 18 of Part 17 amends the *Spent Convictions Act 1988*.

Clause 395. Schedule 3 clause 1 amended

This clause makes consequential amendments to clause 1 of Schedule 3 of the *Spent Convictions Act 1988* by:

- (a) deleting references to the "*Legal Profession Act 2008*" or a specific section of that Act and inserting references to the *Legal Profession Uniform Law (WA)* or a specific section of the Law;
- (b) deleting a reference to "an Australian lawyer" and inserting a reference to "a lawyer";
- (c) deleting a reference to "a person who applies for registration as a locally registered foreign lawyer under the *Legal Profession Act 2008*" and inserting a reference to "a foreign lawyer who applies for an Australian registration certificate under the *Legal Profession Uniform Law (WA)*"; and
- (d) deleting clause 1(13) of Schedule 3 and inserting a clause which extends the exception in subclause 12 to the Legal Practice Board and the Legal Services

and Complaints Committee established under sections 29 and 56 respectively of the *Legal Profession Uniform Law Application Act 2021*.

Division 19 - *State Administrative Tribunal Act 2004* amended

Clause 396. Act amended

This clause provides that Division 19 of Part 17 amends the *State Administrative Tribunal Act 2004*.

Clause 397. Section 3 amended

This clause makes consequential amendments to section 3(1) of the *State Administrative Tribunal Act 2004* by:

- (a) deleting the definitions of "legal practitioner" and "qualified person"; and
- (b) amending the definition of "legally qualified person" by deleting the reference to "qualified person" and inserting a reference to "lawyer".

Definitions of the term "lawyer" and "legal practitioner" are to be inserted into the *Interpretation Act 1984* and these definitions will apply to the *State Administrative Tribunal Act 2004*.

Clause 398. Section 93 amended

This clause makes consequential amendments to section 93(1)(a) of the *State Administrative Tribunal Act 2004* by deleting a reference to an Australian lawyer and inserting a reference to "a lawyer".

Clause 399. Section 117 amended

This clause makes a consequential amendment to section 117(3)(a) and (4)(a) of the *State Administrative Tribunal Act 2004* by deleting the references to "qualified person" and inserting a reference to "lawyer".

Clause 400. Schedule 1 amended

This clause makes a consequential amendment to Schedule 1 of the *State Administrative Tribunal Act 2004* by deleting a reference to the "*Legal Profession Act 2008*" and inserting a reference to both the "*Legal Profession Uniform Law Application Act 2021*" and the "*Legal Profession Uniform Law (WA)*".

Division 20 - *Strata Titles Act 1985* amended

Clause 401. Act amended

This clause provides that Division 20 of Part 17 amends the *Strata Titles Act 1985*.

Clause 402. Section 3 amended

This clause makes a consequential amendment to section 3 of the *Strata Titles Act 1985* by deleting the definition of "Australian legal practitioner".

Clause 403. Section 143 amended

This clause makes a consequential amendment to section 143(4) of the *Strata Titles Act 1985* by deleting that subsection and inserting a new subsection which provides that 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.

Clause 404. Section 163 amended

This clause makes a consequential amendment to section 163(2)(a) of the *Strata Titles Act 1985* by deleting a reference to "an Australian legal practitioner" and inserting a reference to "a legal practitioner". A definition of the term "legal practitioner" is to be inserted into the *Interpretation Act 1984* and this definition will apply to section 163 of the *Strata Titles Act 1985*.

Clause 405. Section 219 amended

This clause makes a consequential amendment to section 219(1) of the *Strata Titles Act 1985* by deleting a reference to an Australian lawyer and inserting a reference to "a lawyer". A definition of the term "lawyer" is to be inserted into the *Interpretation Act 1984* and this definition will apply to section 219(1) of the *Strata Titles Act 1985*.

Division 21 - *Workers' Compensation and Injury Management Act 1981* amended

Clause 406. Act amended

This clause provides that Division 21 of Part 17 amends the *Workers' Compensation and Injury Management Act 1981*.

Clause 407. Section 5 amended

This clause makes a consequential amendment to section 5 of the *Workers' Compensation and Injury Management Act 1981* by inserting a new definition of "prohibited person" by reference to section 5B of that Act.

Clause 408. Section 5B inserted

This clause provides for the insertion of a new section 5B which contains a definition of "prohibited person".

Clause 409. Section 87 amended

This clause makes a consequential amendment to section 87 of the *Workers' Compensation and Injury Management Act 1981* by deleting the reference to a costs determination as defined in section 252 of the *Legal Profession Act 2008* and inserting a reference to a legal costs determination made under section 132 of the *Legal Profession Uniform Law Application Act 2021*.

Clause 410. Section 182S amended

This clause makes a consequential amendment to section 182S(4) of the *Workers' Compensation and Injury Management Act 1981* by deleting that subsection. That subsection contained a definition of "prohibited person". A definition of "prohibited person" is to be inserted by new section 5B of the *Workers' Compensation and Injury Management Act 1981* (see clause 408 above).

Clause 411. Section 195 amended

This clause makes a consequential amendment to section 195(4A) of the *Workers' Compensation and Injury Management Act 1981* by deleting the definition of "prohibited person" in that subsection. A new definition of "prohibited person" is inserted by new section 5B of the *Workers' Compensation and Injury Management Act 1981* (see clause 408 above).

Clause 412. Section 263 amended

This clause makes a consequential amendment to section 263 of the *Workers' Compensation and Injury Management Act 1981* by deleting a reference to the "*Legal Profession Act 2008* and in particular Part 10 of that Act" and inserting a reference to the "*Legal Profession Uniform Law (WA)* and in particular Part 4.3 of the Law".

Clause 413. Section 264 amended

This clause makes a consequential amendment to section 264(3) of the *Workers' Compensation and Injury Management Act 1981* by deleting a reference to Division 8 of Part 10 of the *Legal Profession Act 2008* and inserting a reference to Division 7 of Part 4.3 of the *Legal Profession Uniform Law (WA)*.

Clause 414. Section 268 amended

This clause makes a consequential amendment to section 268 of the *Workers' Compensation and Injury Management Act 1981* by:

- (a) deleting a reference to Part 10, Division 8 of the *Legal Profession Act 2008* in subclause (2) and inserting a reference to Part 4.3 Division 7 of the *Legal Profession Uniform Law (WA)*; and
- (b) deleting a reference to the "*Legal Profession Act 2008*" in subclause (3) and inserting a reference to the "*Legal Profession Uniform Law (WA)*".

Clause 415. Section 269 amended

This clause makes a consequential amendment to the definition of Legal Costs Committee in section 269(1) of the *Workers' Compensation and Injury Management Act 1981* by deleting a reference to the "*Legal Profession Act 2008*" and inserting a reference to section 82 of the *Legal Profession Uniform Law Application Act 2021*.

Clause 416. Section 271 amended

This clause makes a consequential amendment to section 271(2)(b) of the *Workers' Compensation and Injury Management Act 1981* by deleting a reference to a costs determination as defined in section 252 of the *Legal Profession Act 2008* and inserting

a reference to a legal costs determination made under section 132 of the *Legal Profession Uniform Law Application Act 2021*.

Clause 417. Section 277 amended

This clause makes a consequential amendment to section 277(1)(d) of the *Workers' Compensation and Injury Management Act 1981* by deleting the reference to "legal practitioner or an incorporated legal practice" and inserting a reference to "law practice as defined in the *Legal Profession Uniform Law (WA)* section 6(1)".

Division 22 - *Young Offenders Act 1994* amended

Clause 418. Act amended

This clause provides that Division 22 of Part 17 amends the *Young Offenders Act 1994*.

Clause 419. Section 37A amended

This clause makes a consequential amendment to section 37A of the *Young Offenders Act 1994* by deleting the definition of "lawyer". A definition of the term "lawyer" is to be inserted into the *Interpretation Act 1984* and this definition will apply to section 37A of the *Young Offenders Act 1994*.

Clause 420. Section 152 amended

This clause makes a consequential amendment to section 152(5)(b) of the *Young Offenders Act 1994* by deleting the definition of "Australian lawyer" and inserting a reference to the term "a lawyer". A definition of the term "lawyer" is to be inserted into the *Interpretation Act 1984* and this definition will apply to section 152 of the *Young Offenders Act 1994*.

Division 23 - Other amendments

Clause 421. Other Acts amended

This clause provides for amendments to be made to various provisions in the Acts listed in the Table including:

- (a) definitions such as "lawyer", "Australian legal practitioner" and "legal practitioner" to be deleted;
- (b) references to the *Legal Profession Act 2008* to be deleted and replaced with references to the *Legal Profession Uniform Law (WA)*;
- (c) references to costs determinations as defined in section 252 of the *Legal Profession Act 2008* to be deleted and replaced with references to legal costs determinations made under section 132 of the *Legal Profession Uniform Law Application Act 2021*;
- (d) references to "Australian legal practitioner" to be deleted and replaced with references to a "legal practitioner"; and
- (e) references to "Australian lawyer" to be deleted and replaced with references to "lawyer".