

Legal Profession Uniform Law Application Bill 2021

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Defined terms

Western Australia

LEGISLATIVE ASSEMBLY

**Legal Profession Uniform Law Application
Bill 2021**

A Bill for

An Act to —

- **apply the Legal Profession Uniform Law (with modifications) as a law of Western Australia; and**
- **provide for the tabling and disallowance of amendments made to the Legal Profession Uniform Law; and**
- **provide for local matters that are ancillary to, or affect the operation of, the Legal Profession Uniform Law as a law of Western Australia; and**
- **otherwise provide for the regulation of legal practice in Western Australia; and**
- **repeal the *Legal Profession Act 2008* and the *Law Society Public Purposes Trust Act 1985*; and**
- **make savings and transitional arrangements; and**
- **make consequential amendments to various Acts,**
and for related purposes.

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Legal Profession Uniform Law Application Act 2021*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation.

3. Terms used

(1) In this Act —

accountant means a member of —

- (a) Chartered Accountants Australia and New Zealand ARBN 084 642 571; or
- (b) CPA Australia Ltd ACN 008 392 452; or
- (c) the Institute of Public Accountants Ltd ACN 004 130 643;

amend, in relation to a Victorian Act, includes replace a provision of the Act;

amending Act means a Victorian Act, other than the *Legal Profession Uniform Law Application Amendment Act 2019* (Victoria), that amends —

- (a) the *Legal Profession Uniform Law Application Act 2014* (Victoria) Schedule 1; or
- (b) the Uniform Regulations; or
- (c) the Uniform Rules;

Board means the Legal Practice Board established under section 29(1);

Board member has the meaning given in section 37;

- 1 **community representative** has the meaning given in
- 2 section 61(1)(b);
- 3 **contentious business** means legal services by an Australian
- 4 legal practitioner in or for the purposes of any action, suit or
- 5 proceedings before a court, but does not include the
- 6 administration of estates and trusts;
- 7 **costs determination** means a legal costs determination made
- 8 under section 132;
- 9 **department** means the department of the Public Service
- 10 principally assisting the Attorney General in the administration
- 11 of this Act;
- 12 **elected Board member** has the meaning given in section 37(e);
- 13 **Guarantee Fund** means the Solicitors' Guarantee Fund
- 14 established under section 193(1);
- 15 **judicial officer** means a person empowered to exercise
- 16 jurisdiction in a court, whether or not the person is sitting as a
- 17 court;
- 18 **law library** means the library that may be established under
- 19 section 243(1);
- 20 **Law Mutual Fund** means the fund continued under
- 21 section 178(1);
- 22 **Law Society** means the Law Society of Western Australia (Inc.);
- 23 **Legal Aid Commission** means the Legal Aid Commission of
- 24 Western Australia established under the *Legal Aid Commission*
- 25 *Act 1976* section 6(1);
- 26 **Legal Contribution Trust** means the Legal Contribution Trust
- 27 established under section 100(1);
- 28 **Legal Costs Committee** means the Legal Costs Committee
- 29 established under section 82;
- 30 **legal member** has the meaning given in section 61(1)(a);
- 31 **Legal Profession Uniform Framework** means the uniform
- 32 framework for regulation of the legal profession as described in
- 33 the Intergovernmental Agreement or any uniform or national

s. 3

- 1 framework for regulation of the legal profession that succeeds
2 that framework;
- 3 ***Legal Profession Uniform Law (WA)*** means the provisions
4 applying in the State because of section 6;
- 5 ***Legal Services and Complaints Committee*** means the Legal
6 Services and Complaints Committee established under
7 section 56(1);
- 8 ***Legal Services and Complaints Officer*** means the person
9 appointed to the office of Legal Services and Complaints
10 Officer established under section 78(1);
- 11 ***local approved form*** means a form approved for the purposes of
12 this Act under section 252(1);
- 13 ***local legal practitioner*** means an Australian legal practitioner
14 whose home jurisdiction is this State;
- 15 ***non-contentious business*** means legal services other than
16 contentious business;
- 17 ***old Act*** means the *Legal Profession Act 2008* —
- 18 (a) as in force immediately before the day on which
19 section 259(a) comes into operation; and
- 20 (b) repealed under section 259(a);
- 21 ***PII management committee*** means the PII management
22 committee that may be established under section 183;
- 23 ***PII scheme*** means a PII scheme approved under the local
24 regulations made under section 161;
- 25 ***Principal Registrar*** has the meaning given in the *Supreme*
26 *Court Act 1935* section 4(1);
- 27 ***registered company auditor*** has the meaning given in the
28 Corporations Act section 9;
- 29 ***statutory body*** means a body established or continued under a
30 written law for a public purpose;
- 31 ***trust account arrangement*** has the meaning given in
32 section 199(1);

Trust Interest Account means the account referred to in section 200(2);

Uniform Regulations means —

- (a) the Legal Profession Uniform Regulations as in force under the *Legal Profession Uniform Law Application Act 2014* (Victoria) Schedule 1 Part 9.1 immediately before the day on which this definition comes into operation (as amended or repealed by regulations to which paragraph (b), or an Act to which paragraph (c), applies); and
- (b) the Legal Profession Uniform Regulations made under the *Legal Profession Uniform Law (WA)* Part 9.1 on and after the day on which this definition comes into operation; and
- (c) the Legal Profession Uniform Regulations made by a provision of an amending Act;

Uniform Rules means —

- (a) the Legal Profession Uniform Rules as in force under the *Legal Profession Uniform Law Application Act 2014* (Victoria) Schedule 1 Part 9.2 immediately before the day on which this definition comes into operation (as amended or repealed by rules to which paragraph (b), or an Act to which paragraph (c), applies); and
- (b) the Legal Profession Uniform Rules made under the *Legal Profession Uniform Law (WA)* Part 9.2 on and after the day on which this definition comes into operation; and
- (c) the Legal Profession Uniform Rules made by a provision of an amending Act;

Uniform Rules (WA) means the *Legal Profession Uniform Rules (WA)* applying as subsidiary legislation of the State under section 13(2);

Western Australian Bar Association means the Western Australian Bar Association (Inc.).

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1 (2) Terms used in this Act and also in the *Legal Profession Uniform*
2 *Law (WA)* have the same meanings in this Act as they have in
3 the Law unless the contrary intention appears.

4 **4. Act binds Crown**

5 This Act binds the Crown in right of Western Australia and, so
6 far as the legislative power of the Parliament permits, the Crown
7 in all its other capacities.

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

10 The *Interpretation Act 1984* —

- 11 (a) applies to this Act; but
12 (b) does not apply to the *Legal Profession Uniform Law*
13 (WA).

14 Note for this paragraph:

15 See the *Legal Profession Uniform Law (WA)* section 7.

Part 2 — Legal Profession Uniform Law

**Division 1 — Application of Legal Profession Uniform Law in
the State**

6. Application of Uniform Law as law of the State

(1) In this section —

Legal Profession Uniform Law means the Legal Profession Uniform Law set out in the *Legal Profession Uniform Law Application Act 2014* (Victoria) Schedule 1 as in force on 21 June 2021 —

(a) as amended by the *Legal Profession Uniform Law Application Amendment Act 2019* (Victoria) Part 2 (when that Part comes into operation in the State under section 7(2)); and

(b) as amended by each provision that —

(i) is in an amending Act that has effect for the purposes of this Part under section 9; and

(ii) has come into operation for the purposes of this Part under section 10;

and

(c) as modified by Part 7 Division 3 Subdivision 1 and the local regulations made under section 126(1)(b).

(2) The Legal Profession Uniform Law —

(a) applies as a law of the State; and

(b) as so applying, may be referred to as the *Legal Profession Uniform Law (WA)*; and

(c) so applies as if it were an Act.

Notes for this section:

1. See section 11 for how this Act interacts with the *Legal Profession Uniform Law (WA)* in the event of an inconsistency.

2. See also Part 16 Division 2.

7. Commencement of Uniform Law as law of the State

- (1) For the purposes of the *Legal Profession Uniform Law (WA)* section 2, the Law as in force on 21 June 2021 comes into operation in the State on the day (***commencement day***) on which this section comes into operation.
- (2) For the purposes of paragraph (a) of the definition of ***Legal Profession Uniform Law*** in section 6(1), a provision of the *Legal Profession Uniform Law Application Amendment Act 2019* (Victoria) Part 2 comes into operation in the State —
- (a) if the provision has come into operation in Victoria before commencement day — on commencement day; or
- (b) in any other case — on the day on which the provision comes into operation in Victoria under section 2(2) of that Act.

8. Tabling amending Acts

An amending Act must be laid before each House of Parliament within 18 sitting days of the House after the day on which the Act receives the Royal Assent.

9. Disallowance of amending Acts

- (1) In this section —
- disallowance period***, in relation to a disallowance resolution notice of which is given in a House of Parliament, means the period of 30 sitting days of the House after the day on which the notice is given;
- disallowance resolution*** means a resolution that an amending Act be disallowed;
- notice period***, in relation to an amending Act laid before a House of Parliament under section 8, means the period of 14 sitting days of the House after the day on which the amending Act is laid before it.

- 22 **10. Commencement of amending Acts**

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- page 9

- 1 (2) If, under section 9(2), an amending Act has effect for the
2 purposes of this Part, the Governor must declare that fact by
3 proclamation as soon as practicable.
- 4 (3) If an amending provision has come into operation in Victoria
5 before the proclamation is published in the *Gazette*, the
6 amending provision comes into operation for the purposes of
7 this Part on a day fixed by the proclamation.
- 8 (4) If an amending provision has not come into operation in
9 Victoria before the proclamation is published in the *Gazette*, the
10 amending provision comes into operation for the purposes of
11 this Part when the amending provision comes into operation in
12 Victoria in accordance with the amending Act.

13 **11. Interaction between Uniform Law and this Act**

14 If a provision of this Act is inconsistent with the *Legal*
15 *Profession Uniform Law (WA)*, the provision of this Act
16 prevails to the extent of the inconsistency.

17 **12. No double jeopardy**

18 A person is not liable to be punished for an offence against the
19 *Legal Profession Uniform Law (WA)* if —

- 20 (a) the act or omission that constitutes the offence also
21 constitutes an offence against a law of another
22 participating jurisdiction; and
- 23 (b) the person has been punished for the offence under the
24 law of the other jurisdiction.

Division 2 — Application of Uniform Regulations and Uniform Rules

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

- (1) The Uniform Regulations —
 - (a) subject to subsections (3) and (4), apply as subsidiary legislation of the State; and
 - (b) as so applying —
 - (i) may be referred to as the *Legal Profession Uniform Regulations (WA)*; and
 - (ii) are the Uniform Regulations for the purposes of the *Legal Profession Uniform Law (WA)* (despite the definition of **Uniform Regulations** in section 6(1) of the Law).
- (2) The Uniform Rules —
 - (a) subject to subsections (3) and (4), apply as subsidiary legislation of the State; and
 - (b) as so applying —
 - (i) may be referred to as the *Legal Profession Uniform Rules (WA)*; and
 - (ii) are the Uniform Rules for the purposes of the *Legal Profession Uniform Law (WA)* (despite the definition of **Uniform Rules** in section 6(1) of the Law).
- (3) The Uniform Regulations made under the *Legal Profession Uniform Law (WA)* Part 9.1, and the Uniform Rules made under the *Legal Profession Uniform Law (WA)* Part 9.2, on and after the day on which this section comes into operation apply as subsidiary legislation of the State subject to subsection (5) and section 15.

- 1 (4) The Uniform Regulations or Uniform Rules made by a
2 provision of an amending Act apply as subsidiary legislation of
3 the State if —
- 4 (a) the amending Act has effect for the purposes of this Part
5 under section 9; and
- 6 (b) the provision has come into operation for the purposes
7 of this Part under section 10.
- 8 (5) If a provision of the Uniform Regulations or Uniform Rules (the
9 *subsidiary provision*) is made under or for the purposes of a
10 provision inserted into the *Legal Profession Uniform Law*
11 *Application Act 2014* (Victoria) Schedule 1 by a provision of an
12 amending Act (the *amending Act provision*) —
- 13 (a) the subsidiary provision does not come into operation
14 for the purposes of its application as subsidiary
15 legislation of the State under subsection (1) or (2) until
16 the later of —
- 17 (i) the day on which the amending Act provision
18 comes into operation for the purposes of this Part
19 under section 10; or
- 20 (ii) the day on which the subsidiary provision comes
21 into operation in Victoria;
- 22 and
- 23 (b) if the amending Act provision does not come into
24 operation for the purposes of this Part under section 10
25 because the amending Act does not have effect for the
26 purposes of the Part under section 9 — the subsidiary
27 provision does not apply as subsidiary legislation of the
28 State.

29 **14. Publication of Uniform Regulations and Uniform Rules**

- 30 (1) The Uniform Regulations and Uniform Rules made on or after
31 the day on which this section comes into operation must be
32 published in the *Gazette* no later than 18 days after the day on
33 which the regulations or rules are made.

(2) However, subsection (1) does not apply to a provision of an amending Act that amends the Uniform Regulations or Uniform Rules.

15. Tabling and disallowance of Uniform Regulations and Uniform Rules

(1) The Uniform Regulations or Uniform Rules (the ***published legislation***) published under section 14(1) must be laid before each House of Parliament within 6 sitting days of the House after the day on which the published legislation is published in the *Gazette*.

(2) Subsections (3) and (4) apply if —

(a) the published legislation is not laid before each House of Parliament in accordance with subsection (1); or

(b) both of the following apply —

(i) notice of a resolution to disallow the published legislation laid before a House of Parliament under subsection (1) is given within 14 sitting days of the House after the published legislation is laid before the House under subsection (1);

(ii) the resolution to disallow the published legislation is agreed to by the House.

(3) The published legislation ceases to have effect as subsidiary legislation of the State on the day on which this subsection starts to apply.

(4) If the published legislation amended or repealed the Uniform Regulations or Uniform Rules that were in operation immediately before the published legislation came into operation, the Uniform Regulations or Uniform Rules amended or repealed are revived on the day on which this subsection starts to apply.

- 1 (5) For the purposes of this section —
- 2 (a) the period specified in subsection (2)(b) continues to run
- 3 even though a House of Parliament is prorogued or
- 4 dissolved or expires; and
- 5 (b) notice of the resolution to disallow the published
- 6 legislation does not lapse even though the House is
- 7 prorogued or dissolved or expires.
- 8 (6) If a resolution is agreed to under subsection (2)(b), notice of the
- 9 resolution must be published in the *Gazette* within 21 days after
- 10 the day on which the motion is passed.

11 **16. Interpretation Act 1984 s. 41 and 42 do not apply to Uniform**

12 **Regulations and Uniform Rules**

13 The *Interpretation Act 1984* sections 41 and 42 do not apply to

14 the Uniform Regulations and Uniform Rules.

15 **Division 3 — Matters specified for *Legal Profession Uniform***

16 ***Law (WA)***

17 **17. Meaning of this jurisdiction in Uniform Law**

18 In the *Legal Profession Uniform Law (WA)* —

19 ***this jurisdiction*** means the State of Western Australia.

20 **18. Costs assessor: Uniform Law s. 6**

21 For the purposes of paragraph (b) of the definition of ***costs***

22 ***assessor*** in the *Legal Profession Uniform Law (WA)*

23 section 6(1), each taxing officer of the Supreme Court has the

24 responsibility of conducting costs assessments.

25 **19. Designated local regulatory authorities: Uniform Law s. 6**

26 For the purposes of the definition of ***designated local regulatory***

27 ***authority*** in the *Legal Profession Uniform Law (WA)*

28 section 6(1), a person or body specified in column 2 of the

Table is the designated local regulatory authority for the provision of the Law specified opposite it in column 1.

Table

Column 1 Provision of <i>Legal Profession Uniform Law</i> (WA)	Column 2 Designated local regulatory authority
Section 14	Board
Part 2.2	Board
Chapter 3, other than section 82(4)	Board
Section 82(4)	Legal Services and Complaints Committee
Chapters 4, 5, 6 and 7	Board
Section 421(2)(f)	Board
Section 436(1)	Board or Legal Services and Complaints Committee
Sections 436(2) and 437(1)	Board
Section 437(2)	Board or Legal Services and Complaints Committee
Section 446	Board
Part 9.6	Board or Legal Services and Complaints Committee

Column 1 Provision of <i>Legal Profession Uniform Law (WA)</i>	Column 2 Designated local regulatory authority
Sections 453(1) and 466(7)	Board or Legal Services and Complaints Committee
Schedule 3	Board

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

For the purposes of the definition of ***designated local roll authority*** in the *Legal Profession Uniform Law (WA)* section 6(1), the Principal Registrar is the designated local roll authority for the purposes of sections 23, 24 and 462 of the Law.

21. Designated tribunals: Uniform Law s. 6

For the purposes of the definition of ***designated tribunal*** in the *Legal Profession Uniform Law (WA)* section 6(1), a court or tribunal specified in column 2 of the Table is the designated tribunal for the provision of the Law specified opposite it in column 1.

Table

Column 1 Provision of <i>Legal Profession Uniform Law</i> (WA)	Column 2 Designated tribunal
Sections 23, 100, 101, 119, 120 and 198	State Administrative Tribunal
Sections 247 and 248	Supreme Court

Column 1 Provision of <i>Legal Profession Uniform Law</i> (WA)	Column 2 Designated tribunal
Part 5.4 Division 3 and Part 5.5	State Administrative Tribunal
Section 314	State Administrative Tribunal
Parts 6.5 and 6.6	State Administrative Tribunal
Sections 453, 456 and 457	A court that would have jurisdiction to order payment of the pecuniary penalty if it were a debt
Section 474(2)	Any designated tribunal referred to in this Table

1 **22. Fidelity authority: Uniform Law s. 6**

2 For the purposes of the definition of *fidelity authority* in the
3 *Legal Profession Uniform Law (WA)* section 6(1), the specified
4 entity is the Legal Contribution Trust.

5 **23. Nominated fund and nominated trust authority: Uniform**
6 **Law s. 149**

7 For the purposes of the *Legal Profession Uniform Law (WA)*
8 section 149(6) —

- 9 (a) the Trust Interest Account is the *nominated fund* for the
10 purposes of section 149 of the Law; and
11 (b) the Legal Contribution Trust is the *nominated trust*
12 *authority* for the purposes of section 149 of the Law.

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

3 For the purposes of the *Legal Profession Uniform Law (WA)*
4 section 167, unclaimed money is to be dealt with in accordance
5 with the *Unclaimed Money Act 1990*.

6 **25. Fidelity fund: Uniform Law s. 222**

7 For the purposes of the *Legal Profession Uniform Law (WA)*
8 section 222, the Guarantee Fund is the *fidelity fund* for the
9 purposes of Part 4.5 of the Law.

10 **26. Specified fund: Uniform Law s. 365**

11 For the purposes of the *Legal Profession Uniform Law (WA)*
12 section 365(3), the Guarantee Fund is the specified fund.

13 **27. Issuing authority: Uniform Law s. 377**

14 For the purposes of the *Legal Profession Uniform Law (WA)*
15 section 377(1), a magistrate is an issuing authority authorised to
16 issue search warrants.

17 **28. Specified manner for payment of pecuniary penalties:**
18 ***Uniform Law s. 456***

19 (1) For the purposes of the *Legal Profession Uniform Law (WA)*
20 section 456(a), a pecuniary penalty ordered under the Law is to
21 be paid to the Board.

22 (2) Despite the *Legal Profession Uniform Law (WA)*
23 section 299(1)(f), a specified amount ordered to be paid under
24 that section is to be paid to the Board.

Part 3 — Local authorities

Division 1 — Legal Practice Board

Subdivision 1 — Establishment and functions

29. Establishment of Board

- (1) The Legal Practice Board is established.
- (2) The Board is a body corporate with perpetual succession.
- (3) Proceedings may be taken by or against the Board in its corporate name.

30. Relationship to Crown

The Board does not represent, and is not an agent of, the Crown.

31. Functions

The Board has the functions conferred on it by this Act, the *Legal Profession Uniform Law (WA)* or another Act.

32. Powers

- (1) The Board has all the powers it needs to perform its functions.
- (2) Without limiting subsection (1), the Board may, for the purpose of performing its functions —
 - (a) acquire, hold, manage, improve, develop and dispose of any real or personal property; and
 - (b) enter into leases, contracts and arrangements; and
 - (c) provide, take and arrange security; and
 - (d) employ and engage staff; and
 - (e) charge fees for the services it provides; and

- 1 (f) if an external investigation is carried out as a result of a
2 request from the Legal Contribution Trust under
3 section 102(1)(d) — require the Trust to pay all or part
4 of the costs of the investigation; and
5 (g) do anything incidental to any of its powers.

6 **33. Board to pay State contribution to fund Legal Profession**
7 **Uniform Framework**

8 Each financial year the Board must pay the Legal Services
9 Council the State's contribution to the funding of the Legal
10 Profession Uniform Framework as required by the
11 Intergovernmental Agreement.

12 **34. Board to pay contributions to Guarantee Fund into Fund**

13 The Board must pay into the Guarantee Fund any annual
14 contributions to the Fund it receives under section 115(1)(d)
15 or 119(1)(d).

16 **35. Delegation of powers and duties under this Act**

- 17 (1) The Board may delegate any of the Board's powers or duties
18 under another provision of this Act to —
19 (a) a Board member; or
20 (b) a committee appointed under section 52(2)(a); or
21 (c) a person employed or engaged by the Board; or
22 (d) a person or class of persons prescribed by the local
23 regulations.
24 (2) The delegation must be in writing executed by the Board.
25 (3) A committee or person to whom a power or duty is delegated
26 under this section cannot delegate that power or duty.
27 (4) A committee or person exercising or performing a power or
28 duty that has been delegated to that committee or person under

1 this section is taken to do so in accordance with the terms of the
2 delegation unless the contrary is shown.

3 (5) Nothing in this section limits the ability of the Board to perform
4 a function through an officer or agent.

5 (6) This section does not apply to a power to execute documents.

6 Note for this subsection:

7 Authority to execute documents on behalf of the Board can be given
8 under section 54.

9 **36. Delegation of functions under Uniform Law: Uniform Law**
10 **s. 406**

11 For the purposes of the *Legal Profession Uniform Law (WA)*
12 section 406, the Board may delegate —

- 13 (a) any of its Chapter 5 functions to —
14 (i) the Legal Services and Complaints Committee;
15 or
16 (ii) the Legal Services and Complaints Officer;
17 or
18 (b) any of its other functions under the Law to a person, or
19 class of persons, prescribed by the local regulations.

20 **Subdivision 2 — Membership**

21 **37. Board members**

22 The Board consists of the following members (each of whom is
23 a ***Board member***) —

- 24 (a) the Attorney General;
25 (b) the Solicitor General or, if there is no Solicitor General,
26 the State Solicitor;
27 (c) a current or former judge of the Supreme Court
28 appointed by the Attorney General;

- 1 (d) subject to section 40, each Queen’s Counsel, and each
2 Senior Counsel —
- 3 (i) whose home jurisdiction is this State; and
4 (ii) who is not a full-time judicial officer; and
5 (iii) who has, in writing, nominated themselves as a
6 member;
- 7 (e) 12 local legal practitioners of at least 3 years’ standing
8 and practice who are elected as members (***elected Board***
9 ***members***).

10 **38. Term of office**

11 Subject to section 40 and the local regulations, an elected Board
12 member holds office for a term of 2 years from the date of
13 becoming a member and is eligible for re-election.

14 **39. Who may vote in election**

15 Any local legal practitioner is eligible to vote in an election for
16 an elected Board member.

17 **40. Removal or resignation**

- 18 (1) The Attorney General may remove an elected Board member
19 from office if the member is absent without leave of the Board
20 from 3 consecutive meetings of the Board of which the member
21 has had notice.
- 22 (2) The Board may grant leave of absence to a Board member on
23 such terms and conditions as it considers appropriate.
- 24 (3) A Board member may resign from office by notice in writing
25 given to the Board.

26 **41. Chairperson and deputy chairperson**

- 27 (1) The Board members must elect —
28 (a) a member to be chairperson of the Board; and

- 1 (b) a member to be deputy chairperson of the Board.
- 2 (2) A chairperson or deputy chairperson holds office for 1 year
3 unless they resign or cease to be a Board member.
- 4 (3) A Board member must not hold office as —
- 5 (a) chairperson for more than 5 consecutive annual terms;
6 or
- 7 (b) deputy chairperson for more than 5 consecutive annual
8 terms.
- 9 (4) The deputy chairperson may act as chairperson —
- 10 (a) if the chairperson is unable to act because of illness,
11 absence or other cause; or
- 12 (b) if requested to do so by the chairperson; or
- 13 (c) during a vacancy in the office of chairperson.
- 14 (5) While acting as chairperson of the Board the deputy chairperson
15 has, and may perform, the functions of chairperson.
- 16 (6) An act or omission of the deputy chairperson acting in the
17 chairperson's place cannot be questioned on the ground that the
18 occasion to act in the chairperson's place had not arisen or had
19 ceased.
- 20 (7) The chairperson of the Board is to be paid such remuneration
21 and allowances as the Board may determine.

22 **42. Casual vacancies**

23 If a casual vacancy occurs in the office of an elected Board
24 member, the Board may appoint a local legal practitioner to act
25 as a Board member for the balance of the term of that elected
26 member.

Subdivision 3 — Practice and procedures

43. Meetings

- (1) Meetings of the Board may be convened at the times and places that the Board determines.
- (2) Unless the Board determines otherwise, the presence of a person at a meeting of the Board need not be by attendance in person but may be by telephone or other means of instantaneous communication.
- (3) The chairperson of the Board, if present, is to preside at a meeting of the Board.
- (4) If neither the chairperson, nor the deputy chairperson acting as the chairperson, is presiding under subsection (3), the members present at the meeting are to appoint 1 of their number to preside.
- (5) A person appointed under subsection (4) has, and may perform, the functions of chairperson.

44. Quorum

A quorum for a meeting of the Board is 4 Board members.

45. Voting

- (1) Each Board member at a meeting of the Board has 1 vote.
- (2) All questions at a meeting of the Board are to be decided by a majority of the votes of the members present.
- (3) In the case of an equality of votes, the person presiding has a casting vote in addition to a deliberative vote.

46. Procedures

- (1) The Board must ensure that minutes of its meetings are kept.

1 (2) Subject to this Act, the Board may determine its own
2 procedures.

3 (3) The Board is not required to conduct any proceedings in a
4 formal manner.

5 **Subdivision 4 — Financial and reporting provisions**

6 **47. Application of funds**

7 The money received by the Board under this Act and the *Legal*
8 *Profession Uniform Law (WA)* must be applied by the Board for
9 the purposes of this Act and the Law, which include —

- 10 (a) paying the funding contribution under section 33; and
- 11 (b) providing services and facilities for the purposes of
12 section 59; and
- 13 (c) the administration and enforcement of the local
14 regulations and the Uniform Rules (WA); and
- 15 (d) the payment of the law library contribution under
16 section 244(2).

17 **48. Accounts and records**

18 (1) The Board must —

- 19 (a) cause to be kept proper accounts of the financial
20 transactions of the Board; and
- 21 (b) cause to be kept proper records of the business of the
22 Board; and
- 23 (c) prepare financial statements in accordance with
24 Australian Accounting Standards.

25 (2) Unless the Board determines otherwise, the financial statements
26 must be prepared on an accrual basis.

27 **49. Audit**

28 The accounts and financial statements of the Board must be
29 audited at least once a year, at the expense of the Board, by an

1 auditor appointed by the Board with the approval of the
2 Attorney General.

3 **50. Annual reports**

4 (1) The Board must, on or before 31 December in each year —

- 5 (a) cause an annual report to be prepared in relation to the
6 activities of the Board in the year ending on the
7 preceding 30 June; and
8 (b) give a copy of the report to the Attorney General
9 together with a copy of the financial statements and the
10 auditor's report for the year.

11 (2) The annual report must include details of —

- 12 (a) the number, nature and outcome of —
13 (i) inquiries undertaken by the Board; and
14 (ii) matters that have been brought before the State
15 Administrative Tribunal by the Board under this
16 Act or the *Legal Profession Uniform Law (WA)*;
17 and
18 (iii) any appeals that have been made from decisions
19 of the State Administrative Tribunal referred to
20 in subparagraph (ii);
21 and
22 (b) the number and nature of inquiries and matters referred
23 to in paragraph (a) that are outstanding; and
24 (c) any trends or special problems that may have emerged;
25 and
26 (d) a forecast of the workload of the Board in the year after
27 the year to which the report relates; and
28 (e) any proposals for improving the operation of the Board.

29 (3) The executive officer of the State Administrative Tribunal must
30 provide the Board with information it may request for the
31 purpose of preparing its annual report.

- 1 (4) The Attorney General must, within 14 days after the day on
2 which a copy of an annual report, financial statement and
3 auditor's report is given to the Attorney General by the Board,
4 cause a copy of the reports and statement to be laid before each
5 House of Parliament or dealt with under section 257.

6 **51. Reports relating to operation and effectiveness of aspects of**
7 **Uniform Law**

8 The Board, on its own initiative, may prepare and give a report
9 to the Attorney General on its views as to the operation and
10 effectiveness of the *Legal Profession Uniform Law (WA)*
11 Chapter 5, the carrying out of Chapter 5 functions, or any other
12 matter connected with those functions or with the Law.

13 **Subdivision 5 — Miscellaneous**

14 **52. Committees**

- 15 (1) This section does not apply in relation to the Legal Services and
16 Complaints Committee.
- 17 (2) The Board may —
18 (a) appoint committees of Board members; and
19 (b) discharge, alter or reconstitute any committee.
- 20 (3) A committee must comply with any direction or requirement of
21 the Board.
- 22 (4) A committee may, with the approval of the Board, invite any
23 person, including a member of staff, to participate in a meeting
24 of the committee but such a person cannot vote on any
25 resolution before the committee.
- 26 (5) Subject to subsections (2) to (4), a committee may determine its
27 own procedures.

1 **53. Secretary of Board**

- 2 (1) The Board may employ or engage a person to be the secretary
3 of the Board.
- 4 (2) The secretary has the functions that the Board directs the
5 secretary to perform.

6 **54. Execution of documents by Board**

- 7 (1) The Board must have a common seal.
- 8 (2) A document is duly executed by the Board if —
9 (a) the common seal of the Board is affixed to it in
10 accordance with subsections (3) and (4); or
11 (b) it is signed on behalf of the Board by a person or
12 persons authorised to do so under subsection (5).
- 13 (3) The common seal of the Board must not be affixed to any
14 document except as authorised by the Board.
- 15 (4) The common seal of the Board must be affixed to a document in
16 the presence of 2 Board members, each of whom must sign the
17 document to attest that the common seal was so affixed.
- 18 (5) The Board may, by writing under its seal, authorise 1 or more of
19 its members or staff members to sign documents on behalf of
20 the Board, either generally or subject to the conditions or
21 restrictions that are specified in the authorisation.
- 22 (6) A document purporting to be executed in accordance with this
23 section is taken to be duly executed unless the contrary is
24 shown.
- 25 (7) When a document is produced bearing a seal purporting to be
26 the common seal of the Board, the seal is taken to be the
27 common seal of the Board unless the contrary is shown.

1 **55. Local regulations may be made about matters for Board**

2 The local regulations may make provision for or in relation to
3 the following —

- 4 (a) the election of Board members;
- 5 (b) the annual election of the chairperson and deputy
6 chairperson of the Board;
- 7 (c) the meetings and proceedings of the Board or a
8 committee of the Board.

9 **Division 2 — Legal Services and Complaints Committee**

10 **Subdivision 1 — Establishment and functions**

11 **56. Establishment of Legal Services and Complaints Committee**

- 12 (1) The Legal Services and Complaints Committee is established.
- 13 (2) The Legal Services and Complaints Committee is a committee
14 of the Board.

15 **57. Functions**

- 16 (1) The Legal Services and Complaints Committee has the
17 functions conferred on it by this Act, the *Legal Profession*
18 *Uniform Law (WA)* or another Act.
- 19 (2) Without limiting subsection (1), it is a function of the Legal
20 Services and Complaints Committee —
- 21 (a) to carry out a Chapter 5 function delegated to the
22 Committee by the Board under section 36(a)(i); and
- 23 (b) to supervise and direct the Legal Services and
24 Complaints Officer in the performance of the functions
25 of that office; and
- 26 (c) to comment on, and make recommendations in respect
27 of, this Act and the *Legal Profession Uniform Law (WA)*
28 to the extent that they may affect the functions of the
29 Legal Services and Complaints Committee.

- 1 (3) A community representative may also report independently, as
2 an individual, to the Attorney General on any aspect of —
- 3 (a) a complaint under consideration by the Legal Services
4 and Complaints Committee under functions delegated
5 under section 36(a)(i); or
- 6 (b) the Uniform Rules (WA) as they relate to disciplinary
7 matters or the conduct of legal practice; or
- 8 (c) the activities of the Legal Services and Complaints
9 Officer or the Legal Services and Complaints
10 Committee.
- 11 (4) The Board must not direct or impose any requirement on the
12 Legal Services and Complaints Committee as to the
13 performance of its functions, unless directing or imposing the
14 requirement is permitted by the *Legal Profession Uniform Law*
15 (WA) section 408 or 411.

16 **58. Powers**

17 The Legal Services and Complaints Committee has all the
18 powers it needs to perform its functions.

19 **59. Support**

20 The Board must ensure that the Legal Services and Complaints
21 Committee is provided with any services and facilities that are
22 reasonably necessary to enable the Committee to perform its
23 functions.

24 **60. Delegation to Legal Services and Complaints Officer**

- 25 (1) The Legal Services and Complaints Committee may delegate
26 any power or duty of the Committee under another provision of
27 this Act or the *Legal Profession Uniform Law (WA)* to the Legal
28 Services and Complaints Officer.
- 29 (2) The delegation must be in writing signed by the chairperson of
30 the Legal Services and Complaints Committee.

- 23 Subdivision 2 — Membership

(1) The Legal Services and Complaints Committee consists of —

(a) at least 7 Australian legal practitioners (***legal members***) appointed in writing by the Board, a majority of whom are Board members; and

(b) at least 2 representatives of the community (***community representatives***) appointed in writing by the Attorney General, none of whom is to be a person who is or has been an Australian lawyer.

1 (2) The Attorney General must consult with the Minister
2 responsible for the administration of the *Fair Trading Act 2010*
3 before appointing a community representative.

4 (3) A person must not be appointed as a community representative
5 if the appointment would result in the number of community
6 representatives on the Legal Services and Complaints
7 Committee exceeding one-quarter of the total membership of
8 the Committee.

9 **62. Term of office of legal members**

10 (1) A legal member —

11 (a) holds office for a term specified in the instrument of
12 appointment; and

13 (b) is eligible for reappointment.

14 (2) However —

15 (a) subject to section 64, a legal member is not eligible to
16 hold office for more than 6 years in total; and

17 (b) a legal member's term is otherwise subject to this Act.

18 **63. Term of office of community representatives**

19 (1) A community representative —

20 (a) holds office for a term of not more than 3 years
21 specified in the instrument of appointment; and

22 (b) is eligible for reappointment.

23 (2) However —

24 (a) subject to section 64, a community representative is not
25 eligible to hold office for more than 6 years in total; and

26 (b) a community representative's term is otherwise subject
27 to this Act.

1 **64. Termination of office may be deferred**

2 Despite the term of office of a Legal Services and Complaints
3 Committee member having expired by effluxion of time, unless
4 the Attorney General otherwise directs, the member continues in
5 office —

- 6 (a) until the member is reappointed, or a successor is
7 appointed; and
8 (b) in any event for the purpose of completing any
9 part-heard proceedings.

10 **65. Deputies of community representatives**

11 (1) The Attorney General may appoint 1 or more persons as
12 deputies of the community representatives (*deputy community*
13 *representatives*) on the Legal Services and Complaints
14 Committee.

15 (2) A person appointed as a deputy community representative —

- 16 (a) must be eligible for appointment as a community
17 representative; and
18 (b) is appointed on the terms applicable to a community
19 representative.

20 (3) A person appointed as a deputy community representative may,
21 with the concurrence of the chairperson of the Legal Services
22 and Complaints Committee, act in the place of a community
23 representative at a meeting of the Committee.

24 (4) While acting as a community representative, a deputy
25 community representative has and may perform the functions of
26 a community representative.

27 (5) An act or omission of a deputy community representative acting
28 in a community representative's place cannot be questioned on
29 the ground that the occasion to act in the community
30 representative's place had not arisen or had ceased.

1 **66. Chairperson and deputy chairperson**

2 (1) The Board —

3 (a) must appoint a legal member who is a Board member as
4 chairperson of the Legal Services and Complaints
5 Committee; and

6 (b) may appoint a legal member who is a Board member as
7 deputy chairperson of the Legal Services and
8 Complaints Committee.

9 (2) The deputy chairperson may act as chairperson —

10 (a) if the chairperson is unable to act because of illness,
11 absence or other cause; or

12 (b) if requested to do so by the chairperson; or

13 (c) during a vacancy in the office of chairperson.

14 (3) While acting as chairperson of the Legal Services and
15 Complaints Committee the deputy chairperson has, and may
16 perform, the functions of chairperson.

17 (4) An act or omission of the deputy chairperson acting in the
18 chairperson's place cannot be questioned on the ground that the
19 occasion to act in the chairperson's place had not arisen or had
20 ceased.

21 **67. Removal or resignation**

22 (1) The Board may remove a legal member from office if the
23 member is absent without leave of the Attorney General or the
24 Legal Services and Complaints Committee from 3 consecutive
25 meetings of the Committee of which the member has had notice.

26 (2) The Attorney General may remove a community representative
27 from office —

28 (a) if the community representative is a bankrupt or a
29 person whose affairs are under insolvency laws; or

- 1 (b) on the grounds of —
- 2 (i) mental or physical incapacity to carry out the
- 3 community representative's duties in a
- 4 satisfactory manner; or
- 5 (ii) neglect of duty; or
- 6 (iii) misconduct;
- 7 or
- 8 (c) if the community representative is absent without leave
- 9 of the Attorney General or the Legal Services and
- 10 Complaints Committee from 3 consecutive meetings of
- 11 the Committee of which the representative has had
- 12 notice.
- 13 (3) A Legal Services and Complaints Committee member may
- 14 resign from office by notice in writing given to —
- 15 (a) for a legal member — the Board; or
- 16 (b) for a community representative — the Attorney General.
- 17 (4) A reference in this section (other than in subsection (2)(c)) to a
- 18 community representative includes a reference to a deputy
- 19 community representative appointed under section 65(1).

20 **68. Leave of absence**

- 21 (1) The Attorney General may grant leave of absence to a Legal
- 22 Services and Complaints Committee member on such terms and
- 23 conditions as the Attorney General considers appropriate.
- 24 (2) The Legal Services and Complaints Committee may grant leave
- 25 of absence to a Committee member on such terms and
- 26 conditions as the Committee considers appropriate.

27 **69. Remuneration and allowances**

- 28 A community representative is to be paid such remuneration and
- 29 allowances as the Attorney General from time to time, after

1 consultation with the Public Sector Commissioner, may
2 determine.

3 **Subdivision 3 — Practice and procedures**

4 **70. Meetings**

5 (1) Meetings of the Legal Services and Complaints Committee may
6 be convened —

- 7 (a) by the chairperson of the Committee; or
8 (b) by the Legal Services and Complaints Officer; or
9 (c) at the times and places that the Committee determines.

10 (2) The chairperson of the Legal Services and Complaints
11 Committee, if present, is to preside at a meeting of the
12 Committee.

13 (3) If neither the chairperson, nor the deputy chairperson acting as
14 the chairperson, is presiding under subsection (2), the members
15 present at the meeting are to appoint 1 of their number to
16 preside.

17 (4) A person appointed under subsection (3) has, and may perform,
18 the functions of the chairperson.

19 **71. Quorum**

20 (1) A quorum for a meeting of the Legal Services and Complaints
21 Committee is 3 members, of whom —

- 22 (a) 2 are legal members; and
23 (b) 1 is a community representative.

24 (2) Subsection (3) applies if —

- 25 (a) an investigation by the Legal Services and Complaints
26 Committee under the *Legal Profession Uniform*
27 *Law (WA)* Chapter 5 has commenced; and

- 1 (b) either —
- 2 (i) a Legal Services and Complaints Committee
- 3 member present at that commencement fails to
- 4 continue to participate in the proceedings; or
- 5 (ii) because a community representative fails to
- 6 continue to participate in the proceedings, no
- 7 quorum can be convened.
- 8 (3) The determination of the matter may be completed by the
- 9 remaining members.

10 **72. Divisions**

- 11 (1) The Legal Services and Complaints Committee may sit and
- 12 exercise jurisdiction as 1 or more Divisions if a quorum is
- 13 present.
- 14 (2) A reference in this Act to a meeting of the Legal Services and
- 15 Complaints Committee includes, unless the context otherwise
- 16 requires, a reference to a meeting when the Committee is
- 17 constituted by a Division.
- 18 (3) A determination made by the Legal Services and Complaints
- 19 Committee when sitting as a Division is taken to be a
- 20 determination of the Committee as a whole.

21 **73. Voting**

- 22 (1) Each Legal Services and Complaints Committee member at a
- 23 meeting of the Committee has 1 vote.
- 24 (2) All questions at a meeting of the Legal Services and Complaints
- 25 Committee are to be decided by a majority of the votes of the
- 26 members present.
- 27 (3) In the case of an equality of votes, the person presiding has a
- 28 casting vote in addition to a deliberative vote.

1 **74. Procedures**

- 2 (1) The Legal Services and Complaints Committee must ensure that
3 minutes of its meetings are kept.
- 4 (2) Subject to this Act, the Legal Services and Complaints
5 Committee may determine its own procedures.
- 6 (3) The Legal Services and Complaints Committee is not required
7 to conduct any proceedings in a formal manner.

8 **Subdivision 4 — Reporting provisions**

9 **75. Annual reports**

- 10 (1) The chairperson of the Legal Services and Complaints
11 Committee must, on or before 31 December in each year —
- 12 (a) cause an annual report to be prepared in relation to the
13 activities of the Committee in the year ending on the
14 preceding 30 June; and
- 15 (b) give a copy of the report to the Attorney General.
- 16 (2) The annual report must include details of —
- 17 (a) the number, nature and outcome of —
- 18 (i) inquiries undertaken by the Legal Services and
19 Complaints Committee; and
- 20 (ii) matters that have been brought before the State
21 Administrative Tribunal by the Legal Services
22 and Complaints Committee under this Act or the
23 *Legal Profession Uniform Law (WA)*; and
- 24 (iii) any appeals that have been made from decisions
25 of the State Administrative Tribunal referred to
26 in subparagraph (ii);
- 27 and
- 28 (b) the number and nature of inquiries and matters referred
29 to in paragraph (a) that are outstanding; and

- 1 (c) any trends or special problems that may have emerged;
2 and
3 (d) a forecast of the workload of the Legal Services and
4 Complaints Committee in the year after the year to
5 which the report relates; and
6 (e) any proposals for improving the operation of the Legal
7 Services and Complaints Committee.
- 8 (3) The Legal Services and Complaints Officer must provide the
9 Legal Services and Complaints Committee with information it
10 may request for the purpose of preparing its annual report.
- 11 (4) The Attorney General must, within 14 days after the day on
12 which a copy of an annual report is given to the Attorney
13 General by the chairperson of the Legal Services and
14 Complaints Committee, cause a copy of the report to be laid
15 before each House of Parliament or dealt with under
16 section 257.
- 17 **76. Reports relating to functions**
- 18 (1) In this section —
19 ***function report*** means a report about —
20 (a) matters relating to the Legal Services and Complaints
21 Committee's functions; and
22 (b) the operation and effectiveness of the provisions of this
23 Act or the *Legal Profession Uniform Law (WA)*
24 regulating the conduct and discipline of Australian legal
25 practitioners.
- 26 (2) The Legal Services and Complaints Committee must, when
27 requested by the Attorney General or the Board —
28 (a) prepare a function report; and
29 (b) give the report to the Attorney General or the Board at
30 the time, and in the manner, requested.

- 1 (3) If a function report must be prepared under subsection (2)(a) —
2 (a) a Legal Services and Complaints Committee member
3 may request that the report include certain matters that
4 the member considers appropriate; and
5 (b) the Legal Services and Complaints Committee must
6 comply with the request.
- 7 (4) The Legal Services and Complaints Committee may prepare
8 and give a function report to the Attorney General or the Board
9 on its own initiative.

10 **Subdivision 5 — Local regulations**

11 **77. Local regulations about Legal Services and Complaints**
12 **Committee**

13 The local regulations may make provision for or in relation to
14 the functions of the Legal Services and Complaints Committee.

15 **Division 3 — Legal Services and Complaints Officer**

16 **78. Legal Services and Complaints Officer**

- 17 (1) An office of Legal Services and Complaints Officer is
18 established.
- 19 (2) The Board must appoint an Australian legal practitioner with
20 experience in the conduct of a law practice to the office of Legal
21 Services and Complaints Officer.

22 **79. Term of appointment**

23 A person appointed to the office of Legal Services and
24 Complaints Officer —

- 25 (a) holds office for a term of not more than 5 years
26 specified in the instrument of appointment; and
27 (b) is eligible for reappointment.

80. Functions

- (1) The Legal Services and Complaints Officer has the following functions —
- (a) to carry out a Chapter 5 function delegated to the Officer by the Board under section 36(a)(ii);
 - (b) to carry out any power or duty delegated to the Officer under section 60;
 - (c) another function conferred on the Officer by this Act, the *Legal Profession Uniform Law (WA)* or another Act.
- (2) The Legal Services and Complaints Officer may —
- (a) appear at any investigation, inquiry or hearing under the *Legal Profession Uniform Law (WA)* Chapter 5; and
 - (b) appear in person or be represented by an Australian legal practitioner at the investigation, inquiry or hearing.

**Division 4 — Staff of Legal Services and Complaints
Committee and Legal Services and Complaints Officer**

81. Staff

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

Subdivision 1 — Establishment and functions

82. Establishment of Legal Costs Committee

The Legal Costs Committee is established.

83. Functions

The Legal Costs Committee has the functions conferred on it by this Act or another Act.

1 **84. Powers**

2 The Legal Costs Committee has all the powers it needs to
3 perform its functions.

4 **Subdivision 2 — Membership**

5 **85. Legal Costs Committee members**

6 (1) The Legal Costs Committee consists of the following members
7 appointed by the Governor —

8 (a) a chairperson who is —

9 (i) a judge of the Supreme Court or the District
10 Court; or

11 (ii) an Australian legal practitioner of at least
12 8 years' standing and practice;

13 (b) 2 local legal practitioners in private practice nominated
14 by the Attorney General under section 86;

15 (c) 3 persons who are not Australian lawyers, at least 1 of
16 whom must be an accountant.

17 (2) At least 1 Australian legal practitioner Legal Costs Committee
18 member must have experience in contentious business.

19 (3) At least 1 Australian legal practitioner Legal Costs Committee
20 member must have experience in non-contentious business.

21 **86. Nominations**

22 (1) If a nomination for appointment under section 85(1)(b)
23 or 89(2)(b) is required to be made, the Attorney General must,
24 by written notice —

25 (a) request the Law Society to submit to the Attorney
26 General a list containing the names of not fewer than
27 twice the number of Australian legal practitioners in
28 private practice to be appointed; and

- 1 (b) specify a time within which the list must be submitted,
2 which must be at least 28 days after the day on which
3 the notice is given.
- 4 (2) If the Law Society has been requested by notice under
5 subsection (1) to submit a list, the Attorney General —
- 6 (a) must, if the list is submitted within the time specified in
7 the notice, nominate for appointment 1 or more, as the
8 case requires, of the practitioners whose names appear
9 on the list; and
- 10 (b) may, if the list is not submitted within the time specified
11 in the notice, nominate for appointment a practitioner or
12 practitioners that the Attorney General considers
13 appropriate.

14 **87. Term of office**

- 15 (1) Subject to section 90, a Legal Costs Committee member —
- 16 (a) holds office for a term of not more than 3 years
17 specified in the instrument of appointment; and
- 18 (b) is eligible for reappointment.
- 19 (2) Subject to section 90, the deputy chairperson appointed under
20 section 88(1) or a deputy member appointed under
21 section 89(1) —
- 22 (a) holds office for a term specified in the instrument of
23 appointment; and
- 24 (b) is eligible for reappointment.

25 **88. Deputy chairperson**

- 26 (1) The Governor may appoint a Legal Costs Committee member as
27 deputy chairperson of the Committee if the member is eligible
28 to be appointed as the chairperson of the Committee under
29 section 85(1)(a).

- 1 (2) The deputy chairperson may act as chairperson —
2 (a) if the chairperson is unable to act because of illness,
3 absence or other cause; or
4 (b) if requested to do so by the chairperson; or
5 (c) during a vacancy in the office of chairperson.
- 6 (3) While acting as chairperson of the Legal Costs Committee the
7 deputy chairperson has, and may perform, the functions of
8 chairperson.
- 9 (4) An act or omission of the deputy chairperson acting in the
10 chairperson's place cannot be questioned on the ground that the
11 occasion to act in the chairperson's place had not arisen or had
12 ceased.
- 13 **89. Deputy members**
- 14 (1) The Governor may appoint a person as a deputy of a Legal
15 Costs Committee member.
- 16 (2) A deputy member appointed under subsection (1) must be —
17 (a) eligible to be appointed as the member for whom the
18 person is a deputy; and
19 (b) in the case of a deputy of a member appointed under
20 section 85(1)(b) — nominated under section 86.
- 21 (3) A deputy of a member is, if the member is unable to act because
22 of illness, absence or other cause, entitled to act in the place of
23 that member and while so acting is taken to be a Legal Costs
24 Committee member.
- 25 (4) An act or omission of a deputy member acting in the place of a
26 Legal Costs Committee member cannot be questioned on the
27 ground that the occasion to act in the member's place had not
28 arisen or had ceased.

90. Removal or resignation

(1) In this section —

member includes a deputy member appointed under section 89(1).

(2) The Governor may remove a Legal Costs Committee member from office —

(a) if the member is a bankrupt or a person whose affairs are under insolvency laws; or

(b) on the grounds of —

(i) mental or physical incapacity to carry out the member's duties in a satisfactory manner; or

(ii) neglect of duty; or

(iii) misconduct.

(3) A Legal Costs Committee member may resign office by notice in writing given to the Governor.

91. Leave of absence

The Attorney General may grant leave of absence to a Legal Costs Committee member or deputy member on such terms and conditions as the Attorney General considers appropriate.

92. Remuneration and allowances

A Legal Costs Committee member or deputy member is to be paid such remuneration and allowances as the Attorney General from time to time, after consultation with the Public Sector Commissioner, may determine.

Subdivision 3 — Practice and procedures

93. Meetings

(1) Meetings of the Legal Costs Committee may be convened at the times and places that the Committee determines.

- 1 (2) The presence of a person at a meeting of the Legal Costs
2 Committee need not be by attendance in person but may be by
3 telephone or other means of instantaneous communication.
- 4 (3) The chairperson of the Legal Costs Committee, if present, is to
5 preside at a meeting of the Committee.
- 6 (4) If neither the chairperson, nor the deputy chairperson acting as
7 the chairperson, is presiding under subsection (3), the members
8 present at the meeting are to appoint 1 of their number to
9 preside.
- 10 (5) A person appointed under subsection (4) has, and may perform,
11 the functions of chairperson.

12 **94. Quorum**

13 A quorum for a meeting of the Legal Costs Committee is
14 4 members, of whom —

- 15 (a) 2 are Australian legal practitioners; and
16 (b) 2 are members appointed under section 85(1)(c).

17 **95. Voting**

- 18 (1) Each Legal Costs Committee member has 1 vote.
- 19 (2) All questions at a meeting of the Legal Costs Committee are to
20 be decided by a majority of the votes of the members present.
- 21 (3) In the case of an equality of votes —
- 22 (a) if the chairperson is present — the chairperson has a
23 casting vote in addition to a deliberative vote; or
- 24 (b) if the chairperson is not present but the deputy
25 chairperson is present — the deputy chairperson has a
26 casting vote in addition to a deliberative vote; or
- 27 (c) if the chairperson and deputy chairperson are not
28 present — the question remains unresolved until the
29 next meeting at which either the chairperson or deputy
30 chairperson is present.

1 **96. Procedures**

- 2 (1) The Legal Costs Committee must ensure that minutes of its
3 meetings are kept.
- 4 (2) Subject to this Act, the Legal Costs Committee may determine
5 its own procedures.

6 **Subdivision 4 — Financial provisions**

7 **97. Funds**

- 8 (1) The funds available for the purpose of enabling the Legal Costs
9 Committee to perform its functions consist of —
- 10 (a) money from time to time appropriated by Parliament;
11 and
- 12 (b) other money lawfully made available to the Legal Costs
13 Committee.
- 14 (2) Funds referred to in subsection (1) are to be credited to the
15 Legal Costs Committee Account established under
16 subsection (3).
- 17 (3) An account called the Legal Costs Committee Account is to be
18 established —
- 19 (a) as an agency special purpose account under the
20 *Financial Management Act 2006* section 16; or
- 21 (b) with the approval of the Treasurer, at a bank as defined
22 in the *Financial Management Act 2006* section 3.
- 23 (4) The Legal Costs Committee Account is to be charged with —
- 24 (a) the remuneration and allowances payable under
25 section 92; and
- 26 (b) all other expenditure lawfully incurred by the Legal
27 Costs Committee in the performance of its functions.

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

3 The provisions of the *Financial Management Act 2006* and the
4 *Auditor General Act 2006* regulating the financial
5 administration, audit and reporting of statutory authorities apply
6 to and in respect of the Legal Costs Committee and its
7 operations.

8 **Subdivision 5 — Staff and facilities**

9 **99. Use of staff and facilities of departments**

10 (1) In this section —

11 ***administered statutory body*** means a body established or
12 continued for a public purpose under a written law administered
13 by the Attorney General;

14 ***employing authority*** has the meaning given in the *Public Sector*
15 *Management Act 1994* section 5;

16 ***government entity*** means —

- 17 (a) the department; or
18 (b) an administered statutory body.

19 (2) The Legal Costs Committee may make use of the services of
20 any officer or employee in a government entity —

- 21 (a) by arrangement with the employing authority of the
22 officer or employee; and
23 (b) with the approval of the Attorney General.

24 (3) The Legal Costs Committee may make use of any facilities of a
25 government entity —

- 26 (a) by arrangement with —
27 (i) if the entity is the department — the chief
28 executive officer of the department; or

- 1 (ii) if the entity is an administered statutory body —
2 the administered statutory body;
3 and
4 (b) with the approval of the Attorney General.

5 **Division 6 — Legal Contribution Trust**

6 **Subdivision 1 — Establishment and functions**

7 **100. Establishment of Legal Contribution Trust**

- 8 (1) The Legal Contribution Trust is established.
9 (2) The Legal Contribution Trust is a body corporate with perpetual
10 succession.
11 (3) Proceedings may be taken by or against the Legal Contribution
12 Trust in its corporate name.

13 **101. Relationship to Crown**

14 The Legal Contribution Trust does not represent, and is not an
15 agent of, the Crown.

16 **102. Functions**

- 17 (1) The Legal Contribution Trust has the following functions —
18 (a) to receive and invest money paid to it under this Act, the
19 *Legal Profession Uniform Law (WA)* or another Act;
20 (b) to apply money resulting from investments in the
21 manner and for the purposes provided for by Part 8;
22 (c) to administer and control the Guarantee Fund;
23 (d) to make a request to the Board that an external
24 investigation be carried out under the *Legal Profession*
25 *Uniform Law (WA)* Part 4.2;
26 (e) another function conferred or imposed on it by this Act,
27 the *Legal Profession Uniform Law (WA)* or another Act.

- 1 (2) The Legal Contribution Trust may employ or engage persons to
2 provide any professional, technical or other assistance that the
3 Trust considers necessary to enable it to perform its functions.

4 **103. Powers**

- 5 The Legal Contribution Trust has all the powers it needs to
6 perform its functions.

7 **Subdivision 2 — Membership**

8 **104. Constitution of Legal Contribution Trust**

- 9 (1) The Legal Contribution Trust consists of the following
10 3 trustees appointed by the Governor —
11 (a) 1 Australian lawyer nominated in writing by the Law
12 Society to represent the Law Society;
13 (b) 1 Australian lawyer nominated in writing by the Board
14 to represent the Board;
15 (c) 1 person who is not an Australian lawyer and is
16 nominated in writing by the Attorney General.
- 17 (2) Subject to section 107, a trustee holds office during the pleasure
18 of the person by whom the trustee was nominated.
- 19 (3) The Attorney General must, as the occasion requires, give a
20 written notice to the Law Society or the Board (as the case
21 requires) that states they must nominate an Australian lawyer
22 for the purposes of this section.
- 23 (4) A nomination must be made within the period specified in the
24 notice under subsection (3) (being a period of at least 1 month)
25 or within any further period that the Attorney General may
26 allow.
- 27 (5) If the Attorney General has not been given the required
28 nomination at the expiry of the period specified in the notice
29 under subsection (3) or any further period allowed by the
30 Attorney General, the Attorney General must nominate a person

1 that the Attorney General considers appropriate, having regard
2 to the body the nominee is to represent.

3 (6) Subsections (1) and (2) and sections 105 and 107(3) apply to a
4 trustee nominated by the Attorney General under subsection (5)
5 as if that trustee had been nominated by the body that the trustee
6 is nominated to represent on the Legal Contribution Trust.

7 **105. Chairperson**

8 (1) The trustee nominated by the Law Society is to be chairperson
9 of the Legal Contribution Trust.

10 (2) If there is no trustee nominated by the Law Society, the
11 Attorney General must appoint a trustee to act as chairperson.

12 **106. Deputy trustees**

13 (1) The Governor may appoint a person to be a deputy of a trustee
14 of the Legal Contribution Trust and may terminate such an
15 appointment at any time.

16 (2) The provisions of this Division that apply to and in relation to
17 the appointment of a trustee apply, with any necessary
18 modification, to and in relation to the appointment of the deputy
19 of that trustee.

20 (3) A deputy of a trustee may perform the functions of the trustee
21 when the trustee is unable to do so by reason of illness, absence
22 or other cause, and while so acting is taken to be a trustee.

23 (4) An act or omission of a deputy of a trustee acting in place of the
24 trustee cannot be questioned on the ground that the occasion to
25 act in the trustee's place had not arisen or had ceased.

26 **107. Removal or resignation**

27 (1) A trustee of the Legal Contribution Trust may resign from
28 office by notice in writing given to the person who nominated
29 the trustee.

1 (2) A trustee who resigns under subsection (1) must give a copy of
2 the notice of resignation to the Legal Contribution Trust.

3 (3) The Governor may, at the request of the person who nominated
4 a trustee, remove that trustee from office and appoint a person
5 eligible to be a trustee instead.

6 **108. Meetings and procedures**

7 (1) The chairperson of the Legal Contribution Trust must —
8 (a) convene such meetings of the Legal Contribution Trust
9 as the chairperson considers necessary for the efficient
10 conduct of its business; and
11 (b) on the written request of a trustee of the Legal
12 Contribution Trust, convene a meeting of the Legal
13 Contribution Trust.

14 (2) The chairperson of the Legal Contribution Trust, if present, is to
15 preside at a meeting of the Legal Contribution Trust.

16 (3) If neither the chairperson, nor the deputy of the chairperson, is
17 presiding under subsection (2), the trustees present at the
18 meeting are to appoint 1 of their number to preside.

19 (4) A trustee appointed under subsection (3) has, and may perform,
20 the functions of chairperson.

21 (5) The Legal Contribution Trust must ensure that minutes of its
22 meetings are kept.

23 (6) Subject to this Act, the Legal Contribution Trust may determine
24 its own procedures.

25 **109. Quorum**

26 A quorum for a meeting of the Legal Contribution Trust is
27 2 trustees.

1 **110. Voting**

- 2 (1) Each trustee at a meeting of the Legal Contribution Trust has
3 1 vote.
- 4 (2) All questions at a meeting of the Legal Contribution Trust are to
5 be decided by a majority of the votes of the trustees present.
- 6 (3) In the case of an equality of votes, the question is resolved in
7 the negative.

8 **Subdivision 3 — Execution of documents**

9 **111. Execution of documents by Legal Contribution Trust**

- 10 (1) The Legal Contribution Trust must have a common seal.
- 11 (2) A document is duly executed by the Legal Contribution Trust
12 if —
- 13 (a) the common seal of the Trust is affixed to it in
14 accordance with subsections (3) and (4); or
- 15 (b) it is signed on behalf of the Trust by a person or persons
16 authorised to do so under subsection (5).
- 17 (3) The common seal of the Legal Contribution Trust must not be
18 affixed to any document except as authorised by the Trust.
- 19 (4) The common seal of the Legal Contribution Trust must be
20 affixed to a document in the presence of 2 trustees, each of
21 whom must sign the document to attest that the common seal
22 was so affixed.
- 23 (5) The Legal Contribution Trust may, by writing under its seal,
24 authorise 1 or more trustees or staff members to sign documents
25 on behalf of the Trust, either generally or subject to the
26 conditions or restrictions that are specified in the authorisation.
- 27 (6) A document purporting to be executed in accordance with this
28 section is taken to be duly executed unless the contrary is
29 shown.

- 1 (7) When a document is produced bearing a seal purporting to be
2 the common seal of the Legal Contribution Trust, the seal is
3 taken to be the common seal of the Trust unless the contrary is
4 shown.

**Part 4 — Admission, practising certificates and
registration certificates**

Division 1 — Admission

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

An individual may apply for admission by the Supreme Court
under the *Legal Profession Uniform Law (WA)* section 16 —

- (a) in accordance with —
 - (i) the local regulations; and
 - (ii) the Supreme Court’s rules of court; and
 - (iii) a practice direction of the Supreme Court;
- and
- (b) by paying the fee (if any) prescribed by the local
regulations.

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

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

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

- (1) The local regulations may make provision for or in relation to
the following —
 - (a) providing practical legal training for the purposes of the
Legal Profession Uniform Law (WA) section 17(1)(b);
 - (b) exempting persons under the *Legal Profession Uniform
Law (WA)* section 18 from the specified academic
qualifications prerequisite or the specified practical legal

- 1 training prerequisite (as referred to in section 17 of the
2 Law) or both;
- 3 (c) issuing compliance certificates under the *Legal*
4 *Profession Uniform Law (WA)* section 19;
- 5 (d) making declarations of early assessment of suitability
6 under the *Legal Profession Uniform Law (WA)*
7 section 21;
- 8 (e) accreditation and reaccreditation under the *Legal*
9 *Profession Uniform Law (WA)* section 29.
- 10 (2) Without limiting subsection (1), the local regulations may make
11 provision for or in relation to —
- 12 (a) applications in relation to the matters listed in
13 subsection (1); and
- 14 (b) fees payable in relation to those matters.

15 **Division 2 — Practising certificates**

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

- 18 (1) An application for an Australian practising certificate under the
19 *Legal Profession Uniform Law (WA)* section 44 must be —
- 20 (a) in the local approved form; and
- 21 (b) accompanied by the documents or other information
22 required by the local approved form; and
- 23 (c) accompanied by the fee (if any) prescribed by the local
24 regulations; and
- 25 (d) accompanied by any annual contribution to the
26 Guarantee Fund required by section 225 of the Law; and
- 27 (e) accompanied by an amount (if any) required by the local
28 regulations as a contribution towards the cost of funding
29 the State's contribution to the Legal Profession Uniform
30 Framework to be paid under section 33.

- 1 (2) Different fees may be prescribed for Australian practising
2 certificates under subsection (1)(c) according to different factors
3 prescribed by the local regulations.

4 **116. Provisions about renewing Australian practising certificates**
5 **under Uniform Law s. 44**

- 6 (1) An application for the renewal of an Australian practising
7 certificate under the *Legal Profession Uniform Law (WA)*
8 section 44 must be made within —
9 (a) the period prescribed by the local regulations as the
10 standard renewal period; or
11 (b) the later period prescribed by the local regulations as the
12 late fee period.
- 13 (2) Those periods must be within the currency of the Australian
14 practising certificate.
- 15 (3) The Board —
16 (a) may reject an application for renewal made during the
17 late fee period; and
18 (b) must reject an application for renewal that is not made
19 during the standard renewal period or the late fee period
20 unless the application is accepted under subsection (4).
- 21 (4) Despite subsection (1), the Board may accept an application
22 made within 6 months after the end of the late fee period (even
23 after the expiry of the Australian practising certificate to which
24 the application relates) if the Board is satisfied that —
25 (a) the delay was caused by matters beyond the control of
26 the applicant; or
27 (b) there are other circumstances warranting acceptance of
28 the application.

- 1 (5) If an application is accepted under subsection (4) after the
2 expiry of the Australian practising certificate to which the
3 application relates, the certificate —
- 4 (a) is taken to have continued in force on and from the
5 1 July immediately following its expiry until the Board
6 renews or refuses to renew the certificate or the
7 applicant withdraws the application for renewal, unless
8 the certificate is sooner suspended or cancelled; and
- 9 (b) if renewed, is taken to have been renewed on and from
10 that 1 July.
- 11 (6) Subsection (7) applies if an application for renewal of an
12 Australian practising certificate is made during or after the late
13 fee period prescribed by the local regulations.
- 14 (7) Payment of a late fee prescribed by the local regulations may, if
15 the Board considers appropriate, be required as a condition of
16 acceptance of the application.

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

- 19 (1) If the Board grants or renews an Australian practising certificate
20 under the *Legal Profession Uniform Law (WA)* section 44(1),
21 the Board must, as soon as practicable, give the applicant —
- 22 (a) in the case of the grant of a certificate — an Australian
23 practising certificate; or
- 24 (b) in the case of the renewal of a certificate — a new
25 Australian practising certificate.
- 26 (2) If the Board refuses to grant or renew an Australian practising
27 certificate under the *Legal Profession Uniform Law (WA)*
28 section 44(1) or renews a certificate subject to a condition to
29 which the applicant does not agree, the Board must, as soon as
30 practicable, give the applicant a notice stating the matters
31 required by section 464(1) of the Law.

- 1 (3) The Board is taken to have refused to grant or renew an
2 Australian practising certificate if the certificate has not been
3 granted, renewed or refused within 6 months after —
4 (a) if the Board has given the applicant a notice under the
5 *Legal Profession Uniform Law (WA)* section 95 — the
6 day specified in the notice by which the applicant was
7 required to comply with the notice; or
8 (b) if paragraph (a) does not apply — the day on which the
9 application for grant or renewal was lodged.

10 **118. Local regulations may modify operation of Legal Profession**
11 **Conduct Rules for barristers**

- 12 (1) In this section —
13 *Western Australian Barristers' Rules* means the Western
14 Australian Barristers' Rules as in force on 23 February 2017.
15 (2) The local regulations may modify the operation of the Legal
16 Profession Conduct Rules as subsidiary legislation of the State
17 so that a barrister may act in a way contemplated by the
18 Western Australian Barristers' Rules rule 18A without
19 breaching the Legal Profession Conduct Rules.

20 **Division 3 — Registration certificates**

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

- 23 (1) An application for an Australian registration certificate under
24 the *Legal Profession Uniform Law (WA)* section 62 must be —
25 (a) in the local approved form; and
26 (b) accompanied by the documents or other information
27 required by the local approved form; and
28 (c) accompanied by the fee (if any) prescribed by the local
29 regulations; and

- 1 (d) accompanied by any annual contribution to the
2 Guarantee Fund required by section 225 of the Law.
- 3 (2) Different fees may be prescribed for Australian registration
4 certificates under subsection (1)(c) according to different factors
5 prescribed by the local regulations.
- 6 **120. Provisions about renewing Australian registration**
7 **certificates under Uniform Law s. 62**
- 8 (1) An application for the renewal of an Australian registration
9 certificate under the *Legal Profession Uniform Law (WA)*
10 section 62 must be made within —
- 11 (a) the period prescribed by the local regulations as the
12 standard renewal period; or
- 13 (b) the later period prescribed by the local regulations as the
14 late fee period.
- 15 (2) Those periods must be within the currency of the Australian
16 registration certificate.
- 17 (3) The Board —
- 18 (a) may reject an application for renewal made during the
19 late fee period; and
- 20 (b) must reject an application for renewal that is not made
21 during the standard renewal period or the late fee period
22 unless the Board accepts the application under
23 subsection (4).
- 24 (4) Despite subsection (1), the Board may accept an application
25 made within 6 months after the end of the late fee period (even
26 after the expiry of the Australian registration certificate to which
27 the application relates) if the Board is satisfied that —
- 28 (a) the delay was caused by matters beyond the control of
29 the applicant; or
- 30 (b) there are other circumstances warranting acceptance of
31 the application.

- 1 (5) If the application is accepted under subsection (4) after the
2 expiry of the Australian registration certificate to which the
3 application relates, the certificate —
- 4 (a) is taken to have continued in force on and from the
5 1 July immediately following its expiry until the Board
6 renews or refuses to renew the certificate or the
7 applicant withdraws the application for renewal, unless
8 the certificate is sooner suspended or cancelled; and
- 9 (b) if renewed, is taken to have been renewed on and from
10 that 1 July.
- 11 (6) Subsection (7) applies if an application for renewal of an
12 Australian registration certificate is made during or after the late
13 fee period prescribed by the local regulations.
- 14 (7) Payment of a late fee prescribed by the local regulations may, if
15 the Board considers appropriate, be required as a condition of
16 acceptance of the application.

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

- 19 (1) If the Board grants or renews an Australian registration
20 certificate under the *Legal Profession Uniform Law (WA)*
21 section 62(1), the Board must, as soon as practicable, give the
22 applicant —
- 23 (a) in the case of the grant of a certificate — an Australian
24 registration certificate; or
- 25 (b) in the case of the renewal of a certificate — a notice of
26 renewal.
- 27 (2) If the Board refuses to grant or renew an Australian registration
28 certificate under the *Legal Profession Uniform Law (WA)*
29 section 62(4) or renews a certificate subject to a condition to
30 which the applicant does not agree, the Board must, as soon as
31 practicable, give the applicant a notice stating the matters
32 required by section 464(1) of the Law.

- 1 (3) A notice of renewal may be in the form of an Australian
2 registration certificate or another form the Board considers
3 appropriate.

4 **Division 4 — Interjurisdictional action**

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

7 A written notice required to be given under the *Legal Profession*
8 *Uniform Law (WA)* section 24 or 80 must be —

- 9 (a) in the local approved form; and
10 (b) accompanied by the documents or other information
11 required by the local approved form.

12 **Division 5 — Miscellaneous**

13 **123. Functions of State Solicitor**

- 14 (1) The State Solicitor may act as solicitor for —
15 (a) the State; or
16 (b) a person suing, or being sued, on behalf of the State; or
17 (c) a Minister in their official capacity; or
18 (d) a statutory body; or
19 (e) an officer or employee in a department of the Public
20 Service, a State agency or instrumentality, or a statutory
21 body; or
22 (f) another person or body, or class of persons or bodies,
23 approved by the Attorney General.
- 24 (2) The State Solicitor may act under subsection (1) —
25 (a) with or without charge; and
26 (b) for a party in a matter that is not the subject of litigation,
27 even if also acting under that subsection for another
28 party in the matter.

- 1 (3) The State Solicitor may act as agent for —
2 (a) another State or a Territory; or
3 (b) at the request of another State or a Territory — an
4 instrumentality of, or a person in the service of, that
5 State or Territory.

6 **124. Accreditation in relation to continuing professional**
7 **development activities or other legal education or training**

- 8 (1) In this section —
9 ***authorised CPD provider***, in relation to a continuing
10 professional development activity, means a person —
11 (a) accredited in accordance with the Board Rules in
12 relation to the activity; or
13 (b) exempted under the local regulations made under
14 subsection (6) from a requirement to be accredited in
15 accordance with the Board Rules in relation to the
16 activity; or
17 (c) acting for or on behalf of a person mentioned in
18 paragraph (a) or (b);

19 ***Board Rules*** means rules made by the Board under
20 subsection (2);

21 ***continuing professional development activity*** means an activity
22 that meets the requirements of the Continuing Professional
23 Development Rules;

24 ***excluded activity*** means a continuing professional development
25 activity that is prescribed by the local regulations.

- 26 (2) The Board may make rules for accrediting persons in relation
27 to —
28 (a) a continuing professional development activity that is
29 not an excluded activity; and
30 (b) other legal education or training.

- 1 (3) Without limiting subsection (2), the Board may make Board
2 Rules about —
- 3 (a) how accreditation may be granted, including who may
4 apply for accreditation; and
- 5 (b) how an application is to be made; and
- 6 (c) what information is required to support the application;
7 and
- 8 (d) the fees (if any) for applying for accreditation.
- 9 (4) The Board Rules are subsidiary legislation for the purposes of
10 the *Interpretation Act 1984*.
- 11 (5) The *Interpretation Act 1984* section 43(6) does not apply to the
12 Board Rules.
- 13 (6) The local regulations may exempt any of the following from a
14 requirement to be accredited in accordance with the Board
15 Rules in relation to a continuing professional development
16 activity that is not an excluded activity —
- 17 (a) a court, tribunal or commission established by the
18 Commonwealth or a State or Territory;
- 19 (b) the Commonwealth or a State or Territory or
20 government authority.
- 21 (7) Despite the Continuing Professional Development Rules, an
22 Australian legal practitioner does not complete a continuing
23 professional development activity under those Rules unless the
24 activity is —
- 25 (a) an excluded activity; or
- 26 (b) another continuing professional development activity
27 and —
- 28 (i) if the activity is provided by another person —
29 that other person is an authorised CPD provider
30 in relation to the activity; or

- 1 (ii) in any other case — the practitioner is an
2 authorised CPD provider in relation to the
3 activity.
- 4 (8) If the Board imposes a condition on an Australian legal
5 practitioner’s Australian practising certificate that the
6 practitioner must undertake further legal education or training
7 provided by a person, the practitioner does not complete the
8 education or training unless the education or training is provided
9 by a person accredited in accordance with the Board Rules.
- 10 **125. Local regulations may provide contract legislative drafters**
11 **are government lawyers**
- 12 (1) In this section —
13 *contract legislative drafter* means a person who engages in
14 legal practice that is legislative drafting work under —
15 (a) a contract for services with the State; and
16 (b) the direction of the Parliamentary Counsel.
- 17 (2) The local regulations may provide that a contract legislative
18 drafter is a government lawyer for the purposes of this Act and
19 the *Legal Profession Uniform Law (WA)* in relation to legal
20 practice that is legislative drafting.
- 21 (3) The local regulations made under subsection (2) apply despite
22 the definition of *government lawyer* in the *Legal Profession*
23 *Uniform Law (WA)* section 6(1).
- 24 **126. Local regulations in relation to government lawyers**
- 25 (1) The local regulations may —
26 (a) make provision for or in relation to exemptions of
27 persons or classes of persons from the requirement to
28 hold Australian practising certificates, either generally
29 or for specified periods, in respect of their official
30 functions as government lawyers; and

- 1 (b) without limitation, exclude or modify the operation of
2 specified provisions of the *Legal Profession Uniform*
3 *Law (WA)* (including the provisions of Part 2.2 of the
4 *Law*) to the extent that any of those provisions would
5 otherwise be applicable to any persons, or classes of
6 persons, as government lawyers; and
- 7 (c) make provision for or in relation to exemptions of
8 persons or classes of persons who are government
9 lawyers from the requirement to pay fees in relation to
10 the issuing of Australian practising certificates.
- 11 Note for this subsection:
12 See the *Legal Profession Uniform Law (WA)* section 56.
- 13 (2) Without limiting subsection (1), the local regulations may —
- 14 (a) confer a discretion on a person in relation to a matter
15 listed in subsection (1); and
- 16 (b) impose conditions, or authorise or permit a person to
17 impose conditions, in relation to a matter listed in
18 subsection (1).

Part 5 — Trust accounts

127. Application for exemption under Uniform Law s. 130

(1) A person may apply to the Board for an exemption to be granted to a law practice under the *Legal Profession Uniform Law (WA)* section 130(4).

(2) The application must be —

- (a) in the local approved form; and
- (b) accompanied by the documents or other information required by the local approved form; and
- (c) accompanied by the fee (if any) prescribed by the local regulations.

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

If the Board grants an exemption to a law practice under the *Legal Profession Uniform Law (WA)* section 130(4), the Board must give the law practice a written notice that states —

- (a) the particulars of the law practice; and
- (b) the provisions of Part 4.2 of the Law from which the law practice is exempted; and
- (c) if the exemption from a provision is subject to conditions — the conditions.

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

For the purposes of the *Legal Profession Uniform Law (WA)* section 133, 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 by the barrister of the legal services.

s. 130

1 **130. Review of decisions referred to in Uniform Law s. 160 and**
2 **166**

3 For the purposes of the *Legal Profession Uniform Law (WA)*
4 sections 160(3) and 166(3), a person may apply to the State
5 Administrative Tribunal for a review of a decision under
6 section 160 or 166 of the Law.

Part 6 — Legal costs

Division 1 — Legal costs determinations

131. Term used: court

In this Division —

court includes an arbitrator, a tribunal or a person, with the power to require the production of documents or the answering of questions.

132. Legal costs determinations

(1) The Legal Costs Committee may make legal costs determinations regulating the costs that may be charged by law practices in respect of —

(a) non-contentious business; and

(b) contentious business before —

(i) the Supreme Court; or

(ii) the District Court; or

(iii) the Magistrates Court; or

(iv) a court of summary jurisdiction; or

(v) the State Administrative Tribunal; or

(vi) the Family Court of Western Australia; or

(vii) any other court declared by the Attorney General under section 133(1) to be a court to which this section applies.

(2) A costs determination may provide that law practices may charge —

(a) according to a scale of rates of commission or percentages; or

(b) a specified amount; or

(c) a maximum amount; or

- 1 (d) in any other way or combination of ways.
- 2 (3) A costs determination —
- 3 (a) may differ according to different classes of legal
- 4 services; and
- 5 (b) may confer a discretionary authority or impose a duty on
- 6 a specified person or class of persons.
- 7 (4) Subsection (5) applies if —
- 8 (a) another written law refers to a costs determination under
- 9 this section or as defined in this Act; and
- 10 (b) the law refers to a determination in relation to a matter
- 11 not listed in subsection (1).
- 12 (5) The Legal Costs Committee may make the determination for the
- 13 purposes of that written law.
- 14 **133. Declaration of court in respect of which costs**
- 15 **determinations may be made**
- 16 (1) For the purposes of section 132(1)(b)(vii), the Attorney General
- 17 may, by order published in the *Gazette*, declare any court to be a
- 18 court in respect of which the Legal Costs Committee may make
- 19 a costs determination.
- 20 (2) A declaration must not be made under subsection (1) in respect
- 21 of a dispute resolution authority as defined in the *Workers'*
- 22 *Compensation and Injury Management Act 1981* section 5(1).
- 23 (3) The Attorney General may, by order published in the *Gazette*,
- 24 vary or revoke an order made under subsection (1).
- 25 **134. Costs determinations may be amended or revoked**
- 26 A costs determination may be amended or revoked by a
- 27 subsequent costs determination.

1 **135. Costs determinations are fixed costs legislative provisions:**
2 **Uniform Law s. 6**

3 For the purposes of the definition of *fixed costs legislative*
4 *provision* in the *Legal Profession Uniform Law (WA)*
5 section 6(1), a costs determination is a fixed costs legislative
6 provision.

7 **136. Review of costs determinations**

8 (1) The Legal Costs Committee must review each costs
9 determination in force —

10 (a) at least once in the period of 2 years beginning on the
11 day on which it was made; and

12 (b) at least once in each subsequent 2-year period.

13 (2) The Attorney General may at any time direct the Legal Costs
14 Committee to review a costs determination in force and the
15 Legal Costs Committee must carry out that review as soon as
16 practicable after being so directed.

17 **137. Inquiries by Legal Costs Committee**

18 (1) Before making or reviewing a costs determination the Legal
19 Costs Committee must —

20 (a) give public notice under section 138 of its intention to
21 make or review the determination; and

22 (b) if the determination to be made or reviewed relates to
23 proceedings before a court — consult with that court;
24 and

25 (c) make such other inquiries as it considers necessary to
26 facilitate the making or review of the determination.

27 (2) Subject to subsection (1), the Legal Costs Committee —

28 (a) may inform itself as it considers appropriate; and

29 (b) must take into consideration submissions given to it in
30 relation to legal costs, whether or not those submissions

1 are received in response to a notice under section 138;
2 and

3 (c) is not required to conduct proceedings in a formal
4 manner; and

5 (d) is not bound by the rules of evidence.

6 **138. Notice and submissions in respect of costs determinations**

7 (1) The Legal Costs Committee must —

8 (a) give written notice of its intention to make or review a
9 costs determination to the Law Society; and

10 (b) publish the notice of its intention on the Committee's
11 website.

12 (2) A written notice under subsection (1)(a) must —

13 (a) state that submissions on the intended costs
14 determination or review may be made to the Legal Costs
15 Committee; and

16 (b) specify the manner in which the submissions must be
17 made; and

18 (c) specify the period within which the submissions must be
19 made (being a period of at least 30 days after the day on
20 which the notice is published under subsection (1)(b)).

21 **139. Report and publication of costs determinations**

22 (1) As soon as practicable after making a costs determination the
23 Legal Costs Committee must prepare and give a report to the
24 Attorney General consisting of —

25 (a) the determination; and

26 (b) the reasons for its decisions in respect of the
27 determination.

28 (2) The report must be published in the *Gazette* as soon as
29 practicable after it is given to the Attorney General.

- 1 (3) A costs determination comes into force on —
2 (a) the day on which the report of the determination is
3 published under subsection (2); or
4 (b) if a later day is specified in the report — that day.
- 5 (4) Judicial notice must be taken of —
6 (a) a costs determination; and
7 (b) the day of publication of the report of the determination.

8 **140. Effect of costs determinations**

- 9 (1) The following are regulated by an applicable costs
10 determination —
11 (a) the taxation of bills of law practices;
12 (b) any other aspect of the costs charged by law practices.
- 13 (2) Subsection (1) is subject to —
14 (a) any costs agreement made in accordance with the *Legal*
15 *Profession Uniform Law (WA)* Part 4.3 Division 4 or the
16 corresponding provision of a corresponding law; and
17 (b) section 145; and
18 (c) the *Legal Aid Commission Act 1976* section 14.

19 Note for this subsection:

20 See the *Civil Liability Act 2002* section 15L and the *Motor Vehicle*
21 *(Third Party Insurance) Act 1943* section 27A, which affect costs under
22 particular agreements between a law practice and client.

- 23 (3) Despite subsection (1), if a court or judicial officer is of the
24 opinion that the amount of costs allowable in respect of a matter
25 under a costs determination is inadequate because of the unusual
26 difficulty, complexity or importance of the matter, the court or
27 officer may do any or all of the following —
28 (a) order the payment of costs above those fixed by the
29 determination;
30 (b) fix higher limits of costs than those fixed in the
31 determination;

- 1 (c) remove limits on costs fixed in the determination;
2 (d) make any order or give any direction for the purposes of
3 enabling costs above those in the determination to be
4 ordered or assessed.
- 5 (4) Subsection (1) does not limit the power of a court, a judicial
6 officer or a taxing officer of a court to determine in any
7 particular case before that court, judicial officer or taxing officer
8 the amount of costs allowed.
- 9 (5) If a costs determination is in force in respect of any business
10 referred to in section 132(1), any subsidiary legislation fixing or
11 purporting to regulate the remuneration of law practices in
12 respect of that kind of business is of no force or effect.

13 **141. Reports**

14 The Legal Costs Committee may investigate, report and make
15 recommendations to the Attorney General on any matter
16 relating to —

- 17 (a) bills generally and, in particular, the desirability of the
18 use of scales in the calculation and fixing of bills; and
19 (b) the basis on which costs are or should be calculated and
20 fixed; and
21 (c) any other aspect of the remuneration of law practices.

22 **142. Law practice to disclose whether costs determination applies**
23 **to calculating costs under Uniform Law s. 174**

24 When a law practice provides a client with information under
25 the *Legal Profession Uniform Law (WA)* section 174(1)(a), the
26 law practice must provide the client with information about
27 whether the legal costs are subject to a costs determination.

1 **Division 2 — Costs assessments**

2 **143. Functions of costs assessors**

3 A costs assessor has the functions conferred by this Act, the
4 *Legal Profession Uniform Law (WA)* or another Act.

5 **144. Requirements for applications for costs assessment:**
6 **Uniform Law s. 198**

7 (1) For the purposes of the *Legal Profession Uniform Law (WA)*
8 section 198(2), an application under section 198 is to be made in
9 accordance with the requirements of the following (if
10 applicable) —

- 11 (a) the local regulations;
12 (b) the Supreme Court's rules of court;
13 (c) a practice direction of the Supreme Court.

14 (2) If an application for a costs assessment is made and costs may
15 be chargeable against the assets of a trust estate, the costs
16 assessor must cause a copy of the application to be given to —

- 17 (a) the persons mentioned in the *Legal Profession Uniform*
18 *Law (WA)* section 198(8); and
19 (b) any beneficiary of the trust estate.

20 **145. Assessment of Legal Aid Commission bill**

21 If a costs assessor taxes a bill of costs with which the Legal Aid
22 Commission is charged for services by way of legal assistance
23 under the *Legal Aid Commission Act 1976* Part V Division 3 —

- 24 (a) the costs assessor must give effect to section 14(1) of
25 that Act, other than the requirement of
26 section 14(1)(a)(ii) that fees be approved, in determining
27 the amount allowed in the bill; and
28 (b) the amount certified by the costs assessor, or an order
29 made after review of a decision under the *Legal*
30 *Profession Uniform Law (WA)* section 205, is conclusive

1 and binding on the Legal Aid Commission and the law
2 practice despite the provisions of the *Legal Aid*
3 *Commission Act 1976*.

4 **146. Determining and issuing certificate of costs assessment**

5 When a costs assessor completes a costs assessment under the
6 *Legal Profession Uniform Law (WA)* section 199, the costs
7 assessor must issue a certificate to all parties to the costs
8 assessment setting out —

- 9 (a) the amount of legal costs (if any) determined to be
10 payable on the costs assessment; and
11 (b) the costs of the costs assessment determined under
12 section 204(1) of the Law (including the amount of any
13 GST that is payable); and
14 (c) the amount of interest to be paid on unpaid legal costs
15 for the purposes of section 195 of the Law.

16 **147. Costs assessment binding on parties**

17 A costs assessment is binding on all parties to the costs
18 assessment and, except as provided by section 148, is not
19 subject to appeal or review.

20 **148. Review of costs assessment: Uniform Law s. 205**

- 21 (1) For the purposes of the *Legal Profession Uniform Law (WA)*
22 section 205, a party to a costs assessment may apply to the
23 Supreme Court for a review of the assessment.
- 24 (2) The application must be made —
25 (a) within 28 days after the day on which the party is
26 notified of the costs assessment; and
27 (b) otherwise in accordance with the Supreme Court's rules
28 of court.
- 29 (3) An order made upon review may be enforced in the same way
30 as the certificate of a costs assessor under section 149.

1 **149. Enforcement of, and interest on, costs assessment**

- 2 (1) A certificate issued under section 146 may be enforced against
3 any person liable to pay as if it were a judgment of the Supreme
4 Court for the payment of the amount specified in the certificate.
- 5 (2) Interest is payable on the amounts set out in a certificate issued
6 under section 146.
- 7 (3) The rate of interest for the period the interest is payable under
8 subsection (2) is equal to that prescribed for that period under
9 the *Civil Judgments Enforcement Act 2004* section 8(1)(a).

10 **150. Recovery of amounts paid as legal costs above costs**
11 **assessments**

12 If a person paid an amount as legal costs and that amount
13 exceeds the legal costs determined to be payable on a costs
14 assessment under the *Legal Profession Uniform Law (WA)*
15 section 199, the excess amount is recoverable in a court of
16 competent jurisdiction as a debt due to the person.

17 **151. Local regulations about costs assessments**

18 The local regulations may make provision for or in relation
19 to —

- 20 (a) how the Board may arrange for an assessment of costs
21 under the *Legal Profession Uniform Law (WA)*
22 section 284; and
- 23 (b) how costs assessments may, or must, be carried out; and
- 24 (c) the referral of matters by a costs assessor to the Board.

1 **Part 7 — Professional indemnity insurance**

2 **Division 1 — Preliminary**

3 **152. Terms used**

4 (1) In this Part —

5 *approved insurance policy* has the meaning given in
6 section 153;

7 *arrangement insurance* means professional indemnity
8 insurance provided in accordance with a PII arrangement;

9 *Bar-approved policy* means a policy of professional indemnity
10 insurance approved under section 160(1);

11 *PII arrangement* has the meaning given in section 155;

12 *PII entity* means —

13 (a) an Australian legal practitioner; or

14 (b) a community legal service; or

15 (c) an incorporated legal practice; or

16 (d) a law firm; or

17 (e) an unincorporated legal practice;

18 *PII scheme* means a scheme approved under the local
19 regulations made under section 161;

20 *scheme policy* means a policy of professional indemnity
21 insurance given in accordance with a PII scheme.

22 (2) A reference in this Part to the Law Society includes, where
23 appropriate, a reference to the Law Society in its capacity as
24 trustee of the Law Mutual Fund.

1 **153. Approved insurance policies for Act and Uniform Law**

- 2 (1) Arrangement insurance, a Bar-approved policy or a scheme
3 policy is taken to be an ***approved insurance policy*** for the
4 purposes of this Act and the *Legal Profession Uniform*
5 *Law (WA)* if the insurance or policy complies with
6 section 210(1)(b) of the Law.
- 7 (2) Also, if arrangement insurance, a Bar-approved policy or a
8 scheme policy does not comply with the *Legal Profession*
9 *Uniform Law (WA)* section 210(1)(b), the insurance or policy is
10 taken to be an ***approved insurance policy*** for a financial year
11 for the purposes of this Act and the Law if the insurance or
12 policy is the subject of an approval under section 154(2) for the
13 financial year.
- 14 (3) This section applies despite the *Legal Profession Uniform*
15 *Law (WA)* section 210.

16 **154. Attorney General's approval of insurance for Uniform Law**

- 17 (1) This section applies if arrangement insurance, a Bar-approved
18 policy or a scheme policy does not comply with the *Legal*
19 *Profession Uniform Law (WA)* section 210(1)(b).
- 20 (2) The Attorney General may approve the insurance or policy for a
21 financial year if the Attorney General considers that it is
22 appropriate for the insurance or policy to be an approved
23 insurance policy for the purposes of the *Legal Profession*
24 *Uniform Law (WA)*.
- 25 (3) In making a decision under subsection (2), the Attorney General
26 may have regard to the matters the Attorney General considers
27 appropriate, including —
- 28 (a) the reason the insurance or policy does not comply with
29 the *Legal Profession Uniform Law (WA)*
30 section 210(1)(b); and
- 31 (b) the objectives of Part 4.4 of the Law.

- 1 (4) If the Attorney General approves the insurance or policy under
2 subsection (2), the Attorney General must give written notice of
3 the decision to —
- 4 (a) for arrangement insurance — the Law Society; or
5 (b) for a Bar-approved policy — the Western Australian Bar
6 Association; or
7 (c) for a scheme policy — the person who holds the
8 approval given under the local regulations made under
9 section 161 for the PII scheme under which the policy is
10 granted.
- 11 (5) The person who receives written notice under subsection (4)
12 must publish the notice on the person’s website.

13 **Division 2 — Insurance and insurance policies**

14 **Subdivision 1 — Obtaining professional indemnity insurance and**
15 **certificates**

16 **155. Meaning of PII arrangement**

- 17 (1) A **PII arrangement** is an arrangement entered into by the Law
18 Society with 1 or more insurers to provide professional
19 indemnity insurance to PII entities to whom a certificate of
20 insurance is issued under section 157(5), 158(3) or 159(5).
- 21 (2) Without limiting subsection (1), a **PII arrangement** may require
22 the Law Society to pay an amount in respect of a professional
23 indemnity insurance claim in relation to a PII entity to whom
24 arrangement insurance is provided.

25 **156. Law Society authorised to enter into PII arrangement**

26 For the purposes of the *Competition and Consumer Act 2010*
27 (Commonwealth) section 51(1)(b), the Law Society is
28 authorised to enter into a PII arrangement under this Act.

1 **157. Application for arrangement insurance for whole financial**
2 **year**

3 (1) In this section —

4 ***renewal day*** means —

- 5 (a) a day fixed by the Law Society in respect of a particular
6 financial year by notice published in the *Gazette* not
7 later than 15 April in that year; or
8 (b) if no day is fixed under paragraph (a) — 15 May.

9 (2) A PII entity may, on or before the renewal day in a financial
10 year, apply to the Law Society for arrangement insurance —

- 11 (a) in the local approved form; and
12 (b) by providing the documents or other information
13 required by the local approved form; and
14 (c) by paying to the Law Society —
15 (i) the annual contribution assessed under
16 Subdivision 2; and
17 (ii) any other amount prescribed by the local
18 regulations; and
19 (iii) if the Law Society fixes an administration levy
20 under section 168(1) in relation to the PII
21 entity — the levy; and
22 (iv) if the PII entity owes any amount payable in
23 relation to a previous period of insurance — the
24 owed amount.

25 (3) A PII entity may, after the renewal day in a financial year and
26 on or before 30 June in that financial year, apply to the Law
27 Society for arrangement insurance —

- 28 (a) by complying with subsection (2)(a) to (c); and
29 (b) by paying to the Law Society any late fee prescribed by
30 the local regulations.

1 (4) If the PII entity applies in accordance with subsection (2) or (3),
2 the Law Society must grant the application for arrangement
3 insurance for the financial year.

4 (5) If the Law Society grants a PII entity's application under
5 subsection (4), the Law Society must give the PII entity a
6 certificate of insurance.

7 **158. Application for arrangement insurance for part of financial**
8 **year in particular circumstances**

9 (1) If a PII entity does not have a policy of professional indemnity
10 insurance in this State for a financial year, the PII entity may
11 apply to the Law Society during the financial year for
12 arrangement insurance for the remainder of the financial year —

- 13 (a) in the local approved form; and
14 (b) by providing the documents or other information
15 required by the local approved form; and
16 (c) by paying to the Law Society —
17 (i) the annual contribution assessed under
18 Subdivision 2; and
19 (ii) any other amount prescribed by the local
20 regulations; and
21 (iii) if the Law Society fixes an administration levy
22 under section 168(1) in relation to the PII
23 entity — the levy; and
24 (iv) if the PII entity owes any amount payable in
25 relation to a previous period of insurance — the
26 owed amount.

27 (2) If the PII entity applies in accordance with subsection (1), the
28 Law Society must grant the application for arrangement
29 insurance for the remainder of the financial year.

30 (3) If the Law Society grants a PII entity's application under
31 subsection (2), the Law Society must give the PII entity a
32 certificate of insurance.

1 **159. Application by restructured law practices for arrangement**
2 **insurance for part of financial year**

3 (1) In this section —

4 *new law practice* means a law practice that exists after the
5 occurrence of a restructuring event;

6 *restructuring event* means any of the following events in a
7 financial year —

- 8 (a) 2 or more law practices combining to form a single law
9 practice;
- 10 (b) a law practice becoming an unincorporated legal
11 practice;
- 12 (c) a law practice becoming an incorporated legal practice;
- 13 (d) a law practice otherwise changing its business structure.

14 (2) If a restructuring event occurs in a financial year, the new law
15 practice may apply to the Law Society for arrangement
16 insurance for the remainder of the financial year —

- 17 (a) in the local approved form; and
- 18 (b) by providing the documents or other information
19 required by the local approved form; and
- 20 (c) by paying to the Law Society —
 - 21 (i) subject to subsection (3), the annual contribution
22 assessed under Subdivision 2; and
 - 23 (ii) any other amount prescribed by the local
24 regulations; and
 - 25 (iii) if the Law Society fixes an administration levy
26 under section 168(1) in relation to the new law
27 practice — the levy; and
 - 28 (iv) if the new law practice owes any amount payable
29 in relation to a previous period of insurance —
30 the owed amount.

1 (3) If, before the restructuring event, each law practice involved in
2 the event had a certificate of insurance issued under
3 section 157(5) or 158(3) for the financial year in which the
4 event occurred, the Law Society may reduce or waive the
5 annual contribution to be paid by the new law practice under
6 subsection (2)(c)(i) to reflect the amount of annual contributions
7 paid by each law practice under those sections for the financial
8 year.

9 (4) If the new law practice applies in accordance with
10 subsection (2), the Law Society must grant the application for
11 arrangement insurance.

12 (5) If the Law Society grants a new law practice's application under
13 subsection (4), the Law Society must give the new law practice
14 a certificate of insurance.

15 **160. Bar-approved insurance policy**

16 (1) The Western Australian Bar Association may, by resolution of
17 the Council of the Western Australian Bar Association, approve
18 a policy of professional indemnity insurance for barristers.

19 (2) If the Western Australian Bar Association passes a resolution
20 under subsection (1), the Bar Association must give a copy of
21 the resolution to the Board.

22 **161. Local regulations may provide for approval of PII schemes**

23 (1) The local regulations may make provision for or in relation to
24 the approval of a scheme setting out how a policy of
25 professional indemnity insurance may be obtained that covers
26 particular PII entities.

27 (2) Without limiting subsection (1), the local regulations may make
28 provision for or in relation to —

- 29 (a) approving a PII scheme; and
30 (b) applications for approval of a PII scheme; and

- 1 (c) applications to obtain insurance under a PII scheme,
2 including who may approve the application; and
- 3 (d) fees that may be charged in relation to a PII scheme,
4 including fees for —
- 5 (i) an application for a PII scheme approval; and
6 (ii) approval of a PII scheme; and
7 (iii) an application to obtain insurance under a PII
8 scheme;
- 9 and
- 10 (e) requiring information to be provided to a person in
11 relation to an application for a PII scheme approval or
12 an approved PII scheme; and
- 13 (f) issuing certificates relating to the approval of a PII
14 scheme and insurance under the scheme.
- 15 (3) Without limiting subsection (1), the local regulations may —
- 16 (a) confer discretionary powers on a person —
- 17 (i) to do such acts and things as may be necessary or
18 expedient for giving effect to the PII scheme; and
19 (ii) in relation to the administration of the PII
20 scheme;
- 21 and
- 22 (b) confer powers on a person to investigate whether the
23 regulations are being complied with; and
- 24 (c) contain incidental, procedural and supplementary
25 provisions.

26 **Subdivision 2 — Annual contribution for PII arrangement**

27 **162. Assessing annual contribution for PII entities**

- 28 (1) The Law Society must assess a PII entity's annual contribution
29 for the purposes of section 157, 158 or 159 in accordance with
30 the method of assessment determined under section 163.

- 1 (2) If a PII entity applies for arrangement insurance for part only of
2 a financial year under section 158 or 159, the annual
3 contribution payable by the PII entity for that year is to be
4 assessed on a pro rata basis.

5 **163. Method of assessing annual contribution for PII**
6 **arrangement**

- 7 (1) In this section —
8 *unrestricted legal practitioner* means an Australian legal
9 practitioner who holds a practising certificate that is not subject
10 to a condition that the practitioner must engage in supervised
11 legal practice only.
- 12 (2) The Law Society must determine a method of assessment of
13 annual contributions of PII entities.
- 14 (3) The method of assessment determined under subsection (2) may
15 take into account any matter the Law Society considers relevant,
16 including —
- 17 (a) the gross past or estimated future fee income of a PII
18 entity; and
- 19 (b) the professional indemnity insurance claims history of a
20 PII entity; and
- 21 (c) the amount of excess a PII entity will pay in relation to a
22 claim; and
- 23 (d) the area of practice of a PII entity; and
- 24 (e) if a PII entity is an Australian legal practitioner —
25 whether the practitioner has implemented and observed
26 good risk management practices, including attending
27 risk management seminars; and
- 28 (f) if a PII entity is not an Australian legal practitioner —
29 (i) whether the PII entity has implemented and
30 observed good risk management practices,
31 including the attendance of the principals and

- 1 employees of the PII entity at risk management
2 seminars; and
- 3 (ii) if the PII entity has not previously paid an annual
4 contribution — the professional indemnity
5 insurance claims history of the principals and
6 employees of the PII entity;
- 7 and
- 8 (g) if a PII entity is a law firm —
- 9 (i) the types of services provided by the law firm
10 and the proportion of those services that are legal
11 services; and
- 12 (ii) the business structure of the law firm; and
- 13 (iii) the number of principals in the law firm; and
- 14 (iv) the number of Australian legal practitioners
15 employed by the law firm; and
- 16 (v) the number of persons employed by the law firm;
- 17 and
- 18 (h) if a PII entity is an unincorporated legal practice —
- 19 (i) the number of lay associates of the legal practice;
20 and
- 21 (ii) the number of associates of the legal practice
22 who are Australian legal practitioners; and
- 23 (iii) the number of partners or other persons in
24 control of the legal practice who are not
25 Australian legal practitioners; and
- 26 (iv) the types of services provided by the legal
27 practice and the proportion of those services that
28 are legal services;
- 29 and
- 30 (i) if a PII entity is an incorporated legal practice —
- 31 (i) the number of directors of the legal practice who
32 are not unrestricted legal practitioners; and

- 1 (ii) the number of officers of the legal practice and
2 how many are Australian legal practitioners.

3 **164. Review of annual contribution assessment**

- 4 (1) A PII entity that is not satisfied with the assessment of its
5 annual contribution under section 162(1) may apply to the Law
6 Society for a review of the assessment.
- 7 (2) On an application under subsection (1), the Law Society may —
8 (a) confirm the assessment; or
9 (b) revoke the assessment and make another assessment that
10 has effect for the purposes of section 162(1).
- 11 (3) A PII entity's obligation to pay an annual contribution under
12 section 157, 158 or 159 assessed for the PII entity under
13 section 162(1) or subsection (2)(b) is not affected because the
14 PII entity has applied for a review of the assessment under this
15 section.

16 **165. Appeal against review of annual contribution assessment**

- 17 (1) If, after a review under section 164, the PII entity is still not
18 satisfied with the assessment under section 162(1) or 164(2)(b),
19 the PII entity may appeal against the assessment to a person
20 nominated by the Attorney General.
- 21 (2) On an appeal under subsection (1), the nominated person
22 may —
23 (a) confirm the assessment; or
24 (b) revoke the assessment and make another assessment that
25 has effect for the purposes of section 162(1).
- 26 (3) A PII entity's obligation to pay an annual contribution under
27 section 157, 158 or 159 assessed for the PII entity under
28 section 162(1) is not affected because the PII entity has
29 appealed against the assessment under this section.

1 (4) A PII entity cannot apply for a review of, or an appeal against, a
2 determination under subsection (2).

3 (5) Subsection (4) does not limit judicial review for jurisdictional
4 error.

5 (6) The local regulations may make provision for how a person,
6 including the nominated person, may recover the costs of an
7 appeal under subsection (1).

8 **166. Refund after review of, or appeal against, annual**
9 **contribution assessment**

10 (1) If the annual contribution of a PII entity is reduced on review
11 under section 164 or appeal under section 165, the amount of
12 the reduction is to be refunded to the PII entity, together with
13 interest at a rate equal to the rate prescribed under the *Civil*
14 *Judgments Enforcement Act 2004* section 8(1)(a) when the
15 refund is made.

16 (2) Despite subsection (1), interest is not required to be paid if the
17 annual contribution of a PII entity is reduced on review or
18 appeal because of a change in the particular circumstances of
19 the PII entity that arose between the application being made
20 under section 157, 158 or 159 and the assessment being issued.

21 **167. Recovery of additional amount if incorrect information**
22 **given for annual contribution assessment**

23 (1) If an assessment of the annual contribution of a PII entity is
24 made under section 162(1) on the basis of information supplied
25 by the PII entity that is subsequently found to be incorrect, the
26 PII entity must pay to the Law Society any additional amount
27 that would have been payable if the annual contribution had
28 been assessed on the basis of the correct information.

29 (2) The additional amount must be paid within 21 days after the day
30 on which the Law Society issues an invoice for the additional
31 amount.

Subdivision 3 — Financial matters

168. Administration levy for PII arrangement

- (1) The Law Society may fix an administration levy to be paid to the Law Society by a PII entity applying for arrangement insurance.
- (2) For the purposes of subsection (1), the Law Society may fix different administration levies for different PII entities or classes of PII entities.
- (3) An amount received by the Law Society under this section must be paid into the Law Mutual Fund.

169. Interest payable on amounts overdue under this Part

- (1) Interest is payable on an amount that is payable to the Law Society under this Part 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.
- (2) The rate of interest for the period for which interest is payable under subsection (1) is equal to that prescribed for that period under the *Civil Judgments Enforcement Act 2004* section 8(1)(a).
- (3) The Law Society may waive payment of the interest on amounts payable to the Law Society in whole or in part.

170. Recovery of unpaid money

An amount payable to the Law Society under this Part 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

171. Modification of Uniform Law

For the purposes of the definition of *Legal Profession Uniform Law* in section 6(1), the *Legal Profession Uniform Law Application Act 2014* (Victoria) Schedule 1 applies as if amended as set out in this Subdivision.

172. Section 215 modified

(1) Delete section 215(2)(b) and insert:

- (b) the practitioner is an Australian legal practitioner associate of a law practice that maintains a permanent office in this jurisdiction and only 1 other jurisdiction; and
- (ba) the other jurisdiction is the home jurisdiction of a majority of the principals of the law practice; and
- (bb) the law practice's permanent office in the other jurisdiction is where a majority of the principals of the law practice engage solely or principally in legal practice; and

(2) After section 215(3)(b) insert:

- (ba) the other jurisdictions are the home jurisdictions of a majority of the principals of the law practice; and

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- 1 (bb) the law practice's permanent offices in those
2 other jurisdictions are where a majority of the
3 principals of the law practice engage solely or
4 principally in legal practice; and
5

6 **173. Section 216 modified**

7 After section 216(1)(b) insert:
8

- 9 (ba) the other jurisdictions are the home
10 jurisdictions of a majority of the principals of
11 the law practice; and
12 (bb) the law practice's permanent offices in those
13 other jurisdictions are where a majority of the
14 principals of the law practice engage solely or
15 principally in legal practice; and
16

17 **Subdivision 2 — Obtaining exemptions under *Legal Profession***
18 ***Uniform Law (WA)***

19 **174. Requirements for application to be exempted under**
20 **Uniform Law s. 215**

- 21 (1) An Australian legal practitioner, community legal service or
22 incorporated legal practice (an *applicant*) may apply to the
23 Board for an exemption in relation to the whole or part of a
24 financial year under the *Legal Profession Uniform Law (WA)*
25 section 215(2), (4) or (6) or under the Uniform Rules (WA)
26 made under section 215(8) of the Law —
27 (a) in the local approved form; and
28 (b) by providing the documents or other information
29 required by the local approved form; and
30 (c) by paying the fee (if any) prescribed by the local
31 regulations.

- 1 (2) If the Board decides to grant an applicant an exemption, the
2 Board must give the applicant a certificate of exemption setting
3 out —
4 (a) the provision under which the applicant is exempt; and
5 (b) the financial year to which the exemption relates; and
6 (c) if the Board decides the applicant is exempt for a part of
7 the financial year — the part of the financial year to
8 which the exemption relates.
- 9 (3) If the Board refuses to grant an applicant an exemption, the
10 Board must give the applicant a written notice stating the
11 Board's reasons for the decision.
- 12 **175. Certificates of exemption if exempt under Uniform**
13 **Law s. 215**
- 14 (1) If an Australian legal practitioner, community legal service or
15 incorporated legal practice (the **applicant**) is exempt under the
16 *Legal Profession Uniform Law (WA)* section 215(1), (3) or (5)
17 or under the Uniform Rules (WA) made under section 215(8) of
18 the Law, the applicant may apply to the Board for a certificate
19 of exemption in relation to the whole or part of a financial year.
- 20 (2) The application must be —
21 (a) in the local approved form; and
22 (b) accompanied by the documents or other information
23 required by the local approved form; and
24 (c) accompanied by the fee (if any) prescribed by the local
25 regulations.
- 26 (3) If the Board is satisfied that the applicant is exempt under the
27 *Legal Profession Uniform Law (WA)* section 215(1), (3) or (5)
28 or under the Uniform Rules (WA) made under section 215(8) of
29 the Law, the Board must give the applicant a certificate of
30 exemption setting out —
31 (a) the provision under which the applicant is exempt; and

- 1 (b) the financial year to which the exemption relates; and
- 2 (c) if the Board is satisfied that the applicant is exempt for a
- 3 part of the financial year — the part of the financial year
- 4 for which the Board is satisfied the applicant is exempt.
- 5 (4) If the Board is not satisfied that the applicant is exempt under
- 6 the *Legal Profession Uniform Law (WA)* section 215(1), (3) or
- 7 (5) or under the Uniform Rules (WA) made under
- 8 section 215(8) of the Law, the Board must give the applicant a
- 9 written notice stating the Board's reasons for the decision.
- 10 **176. Person to notify Board when exemption no longer applies**
- 11 (1) This section applies if, due to a change in the circumstances of
- 12 an Australian legal practitioner, community legal service or
- 13 incorporated legal practice (the *exempt entity*), the exempt
- 14 entity is —
- 15 (a) no longer entitled to be granted an exemption under the
- 16 *Legal Profession Uniform Law (WA)* section 215(2), (4)
- 17 or (6) or under the Uniform Rules (WA) made under
- 18 section 215(8) of the Law; or
- 19 (b) no longer exempt under the *Legal Profession Uniform*
- 20 *Law (WA)* section 215(1), (3) or (5) or under the
- 21 Uniform Rules (WA) made under section 215(8) of the
- 22 Law.
- 23 (2) The exempt entity must notify the Board of the change in
- 24 circumstances in writing.

25 **Division 4 — Law Mutual (WA) and Law Mutual Fund**

26 **177. Continuation of Law Mutual (WA)**

27 The entity called Law Mutual (WA) is continued under this Act.

28 **178. Continuation of Law Mutual Fund**

29 (1) The Law Mutual Fund is continued under this Act.

- 1 (2) The Law Mutual Fund consists of —
- 2 (a) money forming part of the Fund immediately before the
- 3 repeal of section 330(1) of the old Act; and
- 4 (b) money paid into the Fund, whether as required to be
- 5 paid under this Act or otherwise; and
- 6 (c) costs recovered in consequence of the successful
- 7 defence of an action; and
- 8 (d) any interest or other income earned on money forming
- 9 part of the Fund.
- 10 (3) The Law Mutual Fund is held on trust by the Law Society as
- 11 trustee in accordance with the Deed of Acknowledgment of
- 12 Trust made by the Law Society on 22 June 2009, as varied from
- 13 time to time.

14 **179. Provisions about Law Mutual Fund**

- 15 (1) The Law Society must keep the Law Mutual Fund in a separate
- 16 ADI account in the State with the name “Law Mutual Fund”.
- 17 (2) The Law Mutual Fund must be maintained on an annual basis in
- 18 relation to a financial year.

19 **180. Application of money in Law Mutual Fund**

- 20 (1) The Law Society may apply the money in the Law Mutual Fund
- 21 only to —
- 22 (a) pay the premiums for an insurance policy for a PII
- 23 arrangement; and
- 24 (b) pay claims under the PII arrangement, including
- 25 amounts in respect of claims referred to in
- 26 section 155(2); and
- 27 (c) pay expenses that the Law Society or PII management
- 28 committee incurs in managing the Fund or the PII
- 29 arrangement, including costs incurred when performing
- 30 functions under this Act, the *Legal Profession Uniform*
- 31 *Law (WA)* or the *Trustees Act 1962*; and

1 (d) despite section 179(1), invest the money not
2 immediately required for the purposes of the Fund in
3 accordance with the Deed of Acknowledgment of Trust
4 made by the Law Society on 22 June 2009, as varied
5 from time to time.

6 (2) If the Law Mutual Fund contains a surplus of money, the Law
7 Society may manage and apply any surplus funds in the Fund
8 from each financial year as it considers appropriate, including
9 by amalgamating the surplus funds into a pool with other funds
10 for the benefit of the PII entities who hold, or are covered by,
11 arrangement insurance.

12 **181. Audit of Law Mutual Fund**

13 The Law Society must ensure that the Law Mutual Fund is
14 audited in each financial year by a registered company auditor.

15 **182. Local regulations about winding up Law Mutual Fund**

16 The local regulations may make provision for or in relation to
17 the winding up of the Law Mutual Fund.

18 **Division 5 — PII management committee**

19 **183. Law Society may establish PII management committee**

20 The Law Society may establish a PII management committee.

21 **184. Delegation of Law Society's functions to PII management**
22 **committee**

23 (1) The Law Society may delegate any of the Law Society's powers
24 or duties under another provision of this Part, or local
25 regulations made under this Part, to the PII management
26 committee.

27 (2) The delegation must be made by resolution of the Law Society
28 Council.

1 (3) The PII management committee cannot delegate a power or
2 duty delegated to it under this section.

3 (4) The PII management committee exercising or performing a
4 power or duty that has been delegated to it under this section is
5 taken to do so in accordance with the terms of the delegation
6 unless the contrary is shown.

7 (5) Nothing in this section limits the ability of the Law Society to
8 perform a power or duty through an officer or agent.

9 **185. Membership**

10 (1) The PII management committee must consist of at least
11 7 members.

12 (2) The members of the PII management committee —

13 (a) must be appointed by the Law Society; and

14 (b) may include persons who are not members of the Law
15 Society; and

16 (c) must include —

17 (i) at least 1 person who has knowledge and
18 experience in the insurance industry; and

19 (ii) at least 2 persons who have knowledge and
20 experience in the insurance industry or who have
21 accounting or financial expertise.

22 **186. Procedures**

23 Subject to this Act and any directions of the Law Society, the
24 PII management committee may determine its own procedures.

25 **187. Dissolution of PII management committee**

26 The Law Society may dissolve the PII management committee.

Division 6 — Miscellaneous

188. Undertakings in relation to professional indemnity insurance

- (1) This section applies to a PII entity —
- (a) applying under section 157, 158 or 159 to the Law Society for arrangement insurance; or
 - (b) applying under section 174(1) for an exemption under the *Legal Profession Uniform Law (WA)* section 215(2), (4) or (6) or under the Uniform Rules (WA) made under section 215(8) of the Law.
- (2) The Law Society or the Board may require the PII entity to provide an undertaking in relation to the application.
- (3) The PII entity must —
- (a) provide any undertaking required under subsection (2); and
 - (b) comply with the undertaking, unless previously released from that undertaking by the person that required the undertaking under subsection (2).

189. Requiring information about professional indemnity insurance

- (1) The Law Society or Board may, by written notice, require a PII entity to provide the Law Society or Board, as the case requires, with information specified in the notice for the purposes of —
- (a) performing functions under this Part or the *Legal Profession Uniform Law (WA)* Part 4.4; or
 - (b) administering the PII arrangement.

- 1 (2) Without limiting subsection (1), a notice under that subsection
2 may require a PII entity doing any of the following actions to
3 set out the facts and circumstances supporting the action —
- 4 (a) claiming any matter that affects the assessment of the
5 PII entity's annual contribution under section 162(1);
- 6 (b) applying for a certificate of exemption under
7 section 175(1);
- 8 (c) claiming that the PII entity is exempt, or applying for an
9 exemption, under the *Legal Profession Uniform*
10 *Law (WA)* section 215 or the Uniform Rules (WA) made
11 under section 215(8) of the Law.
- 12 (3) A notice under subsection (1) may require the information
13 specified in the notice to be —
- 14 (a) verified by statutory declaration; and
15 (b) provided within a reasonable specified time.
- 16 (4) A PII entity must comply with a notice given under this section.
- 17 **190. Sharing information about professional indemnity insurance**
- 18 (1) The Board may, by written notice, require the Law Society to
19 provide the Board with specified information about arrangement
20 insurance in respect of a PII entity.
- 21 (2) The Law Society must comply with a notice given to the Law
22 Society under subsection (1).
- 23 (3) The Board and Law Society may disclose to each other
24 information about the following —
- 25 (a) applications for arrangement insurance;
- 26 (b) applications under section 174(1) for exemptions under
27 the *Legal Profession Uniform Law (WA)* section 215(2),
28 (4) or (6) or the Uniform Rules (WA) made under
29 section 215(8) of the Law, including —
- 30 (i) information or documents provided in support of
31 the applications; and

- 1 (ii) whether the applications are granted;
- 2 (c) applications under section 175(1) for certificates of
- 3 exemption, including —
- 4 (i) information or documents provided in support of
- 5 the applications; and
- 6 (ii) whether the applications are granted.

7 **191. Evidence of exemption or insurance for Uniform Law**

- 8 (1) For the purposes of this Act and the *Legal Profession Uniform*
- 9 *Law (WA)*, a person to whom a certificate of exemption is given
- 10 under section 174 or 175 is taken to be, in the absence of
- 11 evidence to the contrary, exempt under the provision of the Law
- 12 stated in the certificate from the requirement to hold, obtain or
- 13 be covered by an approved insurance policy for the period
- 14 stated in the certificate.
- 15 (2) For the purposes of the *Legal Profession Uniform Law (WA)*,
- 16 the Board may be satisfied that an applicant for the grant or
- 17 renewal of an Australian practising certificate has professional
- 18 indemnity insurance if the applicant provides the Board with
- 19 evidence that the applicant has —
- 20 (a) a certificate of insurance issued under
- 21 section 157(5), 158(3) or 159(5); or
- 22 (b) a certificate of approval issued under the local
- 23 regulations made under section 161.

Part 8 — Fidelity cover

Division 1 — Guarantee Fund

192. Term used: claim

In this Division —

claim has the meaning given in the *Legal Profession Uniform Law (WA)* section 219.

193. Solicitors' Guarantee Fund

(1) The Solicitors' Guarantee Fund is established.

(2) The Guarantee Fund consists of —

(a) money paid into the Fund under section 336(2) of the old Act that remains in the Fund immediately before this section comes into operation; and

(b) money paid out of the Trust Interest Account into the Fund under section 200; and

(c) any interest or other income earned from investments under section 196(1); and

(d) money paid to, or recovered by or on behalf of, the Legal Contribution Trust in respect of fees, costs and expenses, whether under the right of action conferred on the Trust by the *Legal Profession Uniform Law (WA)* Part 4.5 or otherwise; and

(e) money, other than money received under an arrangement entered into with an ADI under the *Legal Profession Uniform Law (WA)* section 149(1)(b), paid to the Legal Contribution Trust under this Act or the Law, including under Part 4.5 of the Law; and

(f) any other money that is lawfully paid into the Fund.

(3) Pending its investment under section 196(1), money in the Guarantee Fund must be deposited in an ADI account or ADI accounts in the State.

1 **194. Payments out of Guarantee Fund**

2 The Legal Contribution Trust may pay out of the Guarantee
3 Fund —

- 4 (a) the amount of any claim, including costs, expenses and
5 interest allowed or established against the Trust, or
6 allowed by the Trust, in respect of the Fund; and
- 7 (b) the legal and other expenses incurred in investigating or
8 defending claims against the Trust in respect of, or
9 otherwise incurred in relation to, the Fund or in the
10 exercise by the Trust of functions conferred upon it by
11 this Act, the *Legal Profession Uniform Law (WA)* or
12 another Act; and
- 13 (c) the premiums in respect of insurance of the Fund; and
- 14 (d) the costs and expenses of the administration of the Fund;
15 and
- 16 (e) if the Board requires under section 32(2)(f) that the
17 Trust pay all or part of the costs of an external
18 investigation — those costs; and
- 19 (f) money required to be paid as a result of the annual audit
20 under the *Legal Profession Uniform Law (WA)*
21 section 232; and
- 22 (g) any other money that is payable out of the Fund under
23 this Act, the *Legal Profession Uniform Law (WA)* or
24 another Act.

25 **195. Application of Guarantee Fund for claims**

26 (1) In this section —

27 ***claimant*** has the meaning given in the *Legal Profession*
28 *Uniform Law (WA)* section 219.

29 (2) The Guarantee Fund must be applied by the Legal Contribution
30 Trust for the purposes of compensating claimants in respect of
31 claims allowed under the *Legal Profession Uniform Law (WA)*
32 Part 4.5 in respect of defaults to which that Part applies.

1 (3) An amount payable from the Guarantee Fund in respect of a
2 claim is payable to —

3 (a) the claimant; or

4 (b) another person at the claimant's direction.

5 **196. Investment of Guarantee Fund**

6 (1) The Legal Contribution Trust may, with the approval of the
7 Attorney General, invest any portion of the Guarantee Fund that
8 is not immediately required for the purposes of this Part —

9 (a) on deposit with an ADI in the State, bearing interest at a
10 rate agreed between the ADI and the Trust; or

11 (b) on loan to the Treasurer at a rate of interest that is
12 agreed with the Treasurer; or

13 (c) in any way in which trust funds may be invested under
14 the *Trustees Act 1962* Part III.

15 (2) The Legal Contribution Trust must apply the money resulting
16 from investment under subsection (1) in the manner provided
17 for by section 200.

18 **197. Notice of levy to supplement Guarantee Fund imposed**
19 **under Uniform Law s. 226**

20 If the Legal Contribution Trust imposes a levy under the *Legal*
21 *Profession Uniform Law (WA)* section 226, the Trust must, as
22 soon as practicable after imposing it —

23 (a) cause notice of the levy to be published in the *Gazette*;
24 and

25 (b) give written notice of the levy to the Board and the Law
26 Society.

27 **198. Audit under Uniform Law s. 232**

28 (1) An audit required under the *Legal Profession Uniform*
29 *Law (WA)* section 232 must be carried out by accountants
30 approved by the Attorney General.

- 1 (2) The Legal Contribution Trust must give a copy of the audit
2 report to the Attorney General and the Law Society.

3 **Division 2 — Interest on trust accounts**

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

- 6 (1) The Legal Contribution Trust must not enter into an
7 arrangement (a *trust account arrangement*) with an ADI under
8 the *Legal Profession Uniform Law (WA)* section 149(1)(b) for
9 the payment of interest on the whole or any part of deposits in
10 trust accounts to the Trust that provides for more than 51% of
11 the interest on deposits in a trust account to be paid to the Trust.
- 12 (2) A trust account arrangement that provides for more than 51% of
13 the interest on deposits in a trust account to be paid to the Legal
14 Contribution Trust in contravention of subsection (1) is taken to
15 require the payment of only 51% of the interest.

16 Note for this section:

17 Part 12 provides for the payment of the remainder of the interest
18 earned on deposits in trust accounts.

19 **200. Application of interest**

- 20 (1) In this section —
21 *agreed amount* means an amount that is —
22 (a) at least \$100 000 or another amount prescribed by the
23 local regulations; and
24 (b) agreed by the Attorney General and Law Society;
25 *Legal Aid Fund* means the Legal Aid Fund of Western
26 Australia referred to in the *Legal Aid Commission Act 1976*
27 section 52(1);
28 *peak organisation* means an incorporated body that provides
29 representation, coordination or support services to advance the
30 purposes of community legal services.

-
- 1 (2) The Legal Contribution Trust must pay all money received
2 under a trust account arrangement to the credit of an account
3 called the Trust Interest Account.
- 4 (3) Money in the Trust Interest Account must —
- 5 (a) firstly, be applied in payment of the costs and expenses,
6 other than those mentioned in section 194, of
7 administering the Legal Contribution Trust; and
- 8 (b) secondly, be paid to the Guarantee Fund until the Fund
9 is in credit to the agreed amount.
- 10 (4) If the Guarantee Fund is in credit to the agreed amount, money
11 in the Trust Interest Account must be paid as follows —
- 12 (a) 50% of the balance to the Legal Aid Commission to be
13 applied to the Legal Aid Fund; and
- 14 (b) 50% of the balance in such amounts or in such
15 proportions as the Attorney General may, after
16 consultation with the Law Society, approve or
17 determine —
- 18 (i) to the Legal Aid Commission, to be applied to
19 the Legal Aid Fund; or
- 20 (ii) to the Law Society, to be applied to law reform,
21 legal research and legal education, or any of
22 those things; or
- 23 (iii) to a body, whether corporate or not, for the
24 purposes of which money has been appropriated
25 by Parliament and which is charged with the
26 functions of law reform; or
- 27 (iv) to any community legal service prescribed by the
28 local regulations, to be substantially applied to
29 funding the provision by that service of legal
30 services or community legal education; or
- 31 (v) to any peak organisation prescribed by the local
32 regulations, to be substantially applied to funding
33 the provision by that organisation of
34 representation, coordination or support services

- 1 to advance the purposes of community legal
2 services.
- 3 (5) Despite subsections (3) and (4), if the Legal Contribution Trust
4 enters into a policy or policies of insurance indemnifying the
5 Guarantee Fund in the amount of \$100 000 or any lesser amount
6 that may, taking into account the amount in which the
7 Guarantee Fund is in credit, be required to indemnify the
8 Guarantee Fund in the balance of the amount of \$100 000, the
9 money in the Trust Interest Account must —
- 10 (a) firstly, be applied as provided by subsection (3)(a); and
11 (b) secondly, be applied in payment of the premiums
12 payable under the policy or policies of insurance; and
13 (c) thirdly, be paid to the credit of the Guarantee Fund in
14 such amounts as the Attorney General and the Law
15 Society may, from time to time, by agreement,
16 determine; and
17 (d) fourthly, be paid and applied as provided in
18 subsection (4)(a) and (b).
- 19 (6) The costs and expenses of administering the Legal Contribution
20 Trust include any fees and allowances payable to the trustees, or
21 any of the trustees, that may be prescribed by the local
22 regulations.
- 23 **201. Audit of expenditure**
- 24 (1) A person to whom money is paid under section 200(4)(a) or (b)
25 must —
- 26 (a) maintain accounts of the money received and of its
27 expenditure; and
28 (b) at the end of each financial year cause those accounts to
29 be audited by a registered company auditor; and
30 (c) give a copy of the audit report to the Attorney General,
31 the Legal Contribution Trust and the Board.
- 32 Penalty for this subsection: a fine of \$5 000.

- 1 (2) The Attorney General must, within 14 days after the day on
2 which a copy of an audit report is received by the Attorney
3 General, cause a copy of the report to be laid before each House
4 of Parliament or dealt with under section 257.

Part 9 — Proceedings

202. Terms used

In this Part —

alleged conduct means conduct that would, if the conduct concerned were established, amount to unsatisfactory professional conduct or professional misconduct;

disciplinary proceeding —

- (a) means a proceeding initiated under the *Legal Profession Uniform Law (WA)* section 300; but
- (b) does not include a proceeding of the type described in the Commonwealth Constitution section 75(iv).

203. Constitution of State Administrative Tribunal

- (1) Subject to subsection (2), for the purposes of exercising jurisdiction conferred under this Act or the *Legal Profession Uniform Law (WA)*, the State Administrative Tribunal is to be constituted —

(a) by —

- (i) the President of the Tribunal; and
- (ii) a Deputy President of the Tribunal or a senior member who is a legally qualified member as defined in the *State Administrative Tribunal Act 2004* section 3(1); and
- (iii) a person who is not an Australian legal practitioner but has knowledge and understanding of the interests of persons dealing with Australian legal practitioners;

or

(b) by —

- (i) a Deputy President of the Tribunal; and

-
- 1 (ii) a senior member who is a legally qualified
2 member as defined in the *State Administrative*
3 *Tribunal Act 2004* section 3(1); and
- 4 (iii) a person who is not an Australian legal
5 practitioner but has knowledge and
6 understanding of the interests of persons dealing
7 with Australian legal practitioners.
- 8 (2) In a hearing for the purposes of section 209 or a directions
9 hearing or other procedural hearing, the State Administrative
10 Tribunal is to be constituted by, or so as to include, the
11 President or a Deputy President of the Tribunal.
- 12 **204. Procedure of State Administrative Tribunal**
- 13 Subject to this Act and the *Legal Profession Uniform Law (WA)*,
14 the State Administrative Tribunal must conduct proceedings
15 initiated under this Act or the Law in accordance with the *State*
16 *Administrative Tribunal Act 2004*.
- 17 **205. Disciplinary proceedings may involve 1 or more matters**
- 18 Disciplinary proceedings initiated in the State Administrative
19 Tribunal may relate to 1 or more matters that involve, or may
20 involve, unsatisfactory professional conduct or professional
21 misconduct.
- 22 **206. Time for initiating disciplinary proceedings under Uniform**
23 **Law s. 300**
- 24 (1) The Board must initiate a disciplinary proceeding in the State
25 Administrative Tribunal within 6 months after the day on which
26 the Board decides to initiate proceedings in the Tribunal with
27 respect to the alleged conduct.
- 28 (2) However, the Board may apply in writing to the State
29 Administrative Tribunal for leave to initiate proceedings after
30 the 6-month period under subsection (1).

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- 1 (3) The State Administrative Tribunal may grant leave to initiate
2 proceedings later than the 6-month period.
- 3 (4) In making a decision under subsection (3), the State
4 Administrative Tribunal may have regard to all of the
5 circumstances of the case, including —
- 6 (a) the public interest; and
- 7 (b) the extent to which, having regard to the delay, there is
8 or may be prejudice to the Australian lawyer concerned
9 because evidence that would have been available if the
10 application had been made within the 6-month period is
11 no longer available; and
- 12 (c) whether the Board’s explanation for the delay in
13 initiating the proceedings is reasonable.
- 14 (5) An official record or notification of the Board stating the
15 Board’s decision to initiate proceedings referred to in
16 subsection (1) is sufficient evidence of the Board’s decision.
- 17 **207. State Administrative Tribunal to conduct hearing for**
18 **disciplinary proceeding**
- 19 The State Administrative Tribunal must conduct a hearing into
20 each allegation made in an application initiating a disciplinary
21 proceeding.
- 22 **208. Variation of application initiating disciplinary proceeding**
- 23 (1) In this section —
- 24 **vary**, in relation to an application initiating a disciplinary
25 proceeding, includes adding an allegation to, or removing an
26 allegation from, the application.
- 27 (2) The Board may apply to vary an application initiating a
28 disciplinary proceeding.

- 1 (3) The State Administrative Tribunal may vary the application if
2 satisfied that it is reasonable to do so, having regard to all the
3 circumstances, including whether varying the application would
4 affect the fairness of the proceedings.
- 5 (4) If the variation of an application initiating a disciplinary
6 proceeding is to add an allegation to the application, the State
7 Administrative Tribunal must not decline to vary the application
8 only because —
 - 9 (a) the additional allegation has not been the subject of a
10 complaint; or
 - 11 (b) the additional allegation has not been the subject of an
12 investigation; or
 - 13 (c) the alleged conduct concerned occurred more than
14 3 years ago.

15 **209. Interlocutory and interim orders in relation to disciplinary**
16 **proceedings**

17 The State Administrative Tribunal may make any interlocutory
18 or interim orders that it considers appropriate before making its
19 final decision for a disciplinary proceeding.

20 **210. State Administrative Tribunal not bound by rules of**
21 **evidence**

- 22 (1) This section applies to —
 - 23 (a) a disciplinary proceeding; and
 - 24 (b) a proceeding under the *Legal Profession Uniform*
25 *Law (WA)* section 453.
- 26 (2) For the purposes of the *Legal Profession Uniform Law (WA)*
27 sections 301(3) and 453(6), the State Administrative Tribunal is
28 not bound by the rules of evidence.

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1 **211. Notification of particular State Administrative Tribunal**
2 **orders**

3 The Board must ensure that persons and bodies having relevant
4 functions under a corresponding law of another participating
5 jurisdiction (a *relevant jurisdiction*) are notified of the making
6 and contents of any order of the State Administrative Tribunal
7 under section 209 or the *Legal Profession Uniform Law (WA)*
8 Part 5.4 Division 3 that —

- 9 (a) needs to be, or is capable of being, given effect to in the
10 relevant jurisdiction; and
11 (b) relates to the Australian legal practitioner's practice of
12 law in the relevant jurisdiction.

13 **212. Provisions about fines imposed under Uniform Law s. 302**

14 If the State Administrative Tribunal makes an order under the
15 *Legal Profession Uniform Law (WA)* section 302(1)(l), the
16 amount must be paid to the Board within the period specified by
17 the Tribunal.

18 **213. Giving effect to State Administrative Tribunal orders**

19 Persons and bodies having relevant functions under this Act or
20 the *Legal Profession Uniform Law (WA)* must —

- 21 (a) give effect to an order of the State Administrative
22 Tribunal under section 209; and
23 (b) enforce an order that requires compliance by an
24 Australian legal practitioner (except to the extent that
25 the order relates to the practitioner's practice of law in
26 another jurisdiction).

1 **214. State Administrative Tribunal to give order recommending**
2 **removal of lawyer from roll or register to Principal**
3 **Registrar**

4 If the State Administrative Tribunal makes an order under the
5 *Legal Profession Uniform Law (WA)* section 302(1)(f), the
6 Tribunal must give the following to the Principal Registrar —

- 7 (a) a copy of the order;
8 (b) a record of the evidence taken at the hearing;
9 (c) a copy of the Tribunal’s reasons for the final decision to
10 make the order.

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

14 If a person’s name and other particulars are removed from the
15 Supreme Court roll under the *Legal Profession Uniform*
16 *Law (WA)* section 23, the Principal Registrar must, as soon as
17 practicable, give written notice of the removal to the Board and
18 the Legal Services and Complaints Committee.

Part 10 — Registers

Division 1 — Certificate registers

216. Register of Australian practising certificates granted by the Board

- (1) The Board must keep a register of the names of Australian lawyers to whom the Board grants Australian practising certificates.
- (2) The register must —
 - (a) state the conditions (if any) imposed on an Australian practising certificate in relation to engaging in legal practice; and
 - (b) include any other particulars prescribed by the local regulations.
- (3) If a condition is imposed on an Australian practising certificate because of an injury to, or the infirmity or mental or physical illness of, the holder of the practising certificate, the Board may omit from the register any part of the condition that includes —
 - (a) the reason for the imposition of the condition; and
 - (b) other information in relation to the injury, infirmity or mental or physical illness.
- (4) Subject to the *Legal Profession Uniform Law (WA)* section 435, the Board may keep the register in the manner the Board decides.
- (5) The register —
 - (a) must be available for inspection, without charge, at the Board's principal place of business during normal business hours; and
 - (b) may otherwise be published by the Board in the manner and circumstances it considers appropriate, including by

1 publishing the names of persons in the register and other
2 information included in the register about the persons.

3 **217. Register of Australian registration certificates granted by**
4 **the Board**

5 (1) The Board must keep a register of the names of persons to
6 whom the Board grants Australian registration certificates.

7 (2) The register must —

8 (a) state the conditions (if any) imposed on an Australian
9 registration certificate; and

10 (b) include any other particulars prescribed by the local
11 regulations.

12 (3) Subject to the *Legal Profession Uniform Law (WA)* section 435,
13 the Board may keep the register in the manner the Board
14 decides.

15 (4) The register —

16 (a) must be available for inspection, without charge, at the
17 Board's principal place of business during normal
18 business hours; and

19 (b) may otherwise be published by the Board in the manner
20 and circumstances it considers appropriate, including by
21 publishing the names of persons in the register and other
22 information included in the register about the persons.

23 **Division 2 — Disciplinary action register**

24 **218. Terms used**

25 In this Division —

26 *disciplinary action* means —

27 (a) the making of an order by a court or tribunal for or
28 following a finding of unsatisfactory professional
29 conduct or professional misconduct by an Australian

- 1 lawyer under this Act, the *Legal Profession Uniform*
2 *Law (WA)* or a corresponding law; or
- 3 (b) any of the following actions taken under the *Legal*
4 *Profession Uniform Law (WA)* or a corresponding law,
5 following a finding by a court, tribunal or other person
6 of professional misconduct by an Australian lawyer —
- 7 (i) the removal of the name of the lawyer from a
8 Supreme Court roll;
- 9 (ii) the suspension, variation or cancellation of the
10 lawyer's Australian practising certificate or
11 Australian registration certificate;
- 12 (iii) the refusal to grant or renew an Australian
13 practising certificate or Australian registration
14 certificate to the lawyer;
- 15 (iv) the appointment of a receiver of all or any of the
16 lawyer's property or the appointment of a
17 manager of the lawyer's practice;
- 18 (v) the making of an order under Part 5.4 of the Law,
19 other than an order cautioning or reprimanding
20 the lawyer;
- 21 ***register of disciplinary action*** means the register kept under
22 section 219(2).

23 **219. Register of disciplinary action**

- 24 (1) In this section —
- 25 ***former register*** means the Register of Disciplinary Action kept
26 under section 452(1) of the old Act;
- 27 ***previous disciplinary action*** means disciplinary action as
28 defined in section 451 of the old Act.
- 29 (2) The Board must keep a register of the following —
- 30 (a) disciplinary action taken under the *Legal Profession*
31 *Uniform Law (WA)*;

-
- 1 (b) disciplinary action taken under a corresponding law in
2 respect of an Australian lawyer admitted or practising in
3 the State;
- 4 (c) previous disciplinary action recorded in the former
5 register in relation to an Australian lawyer admitted or
6 practising in the State.
- 7 (3) The register of disciplinary action may also include previous
8 disciplinary action that occurred before the day on which this
9 section comes into operation but was not recorded in the former
10 register.
- 11 (4) The register of disciplinary action must include —
- 12 (a) the full name of the person (the *disciplined person*)
13 against whom the disciplinary action, or previous
14 disciplinary action, was taken; and
- 15 (b) the disciplined person's business address or former
16 business address; and
- 17 (c) the disciplined person's home jurisdiction or most recent
18 home jurisdiction; and
- 19 (d) particulars of the disciplinary action, or previous
20 disciplinary action, taken; and
- 21 (e) other particulars prescribed by the local regulations.
- 22 (5) The register of disciplinary action may be kept in a form
23 determined by the Board and form part of other registers.
- 24 (6) The Board may cause any error in or omission from the register
25 of disciplinary action to be corrected.
- 26 (7) The Legal Services and Complaints Committee, the State
27 Administrative Tribunal and the Principal Registrar must
28 provide to the Board sufficient information to enable the Board
29 to exercise the Board's functions in respect of the register of
30 disciplinary action.

1 **220. Public availability of register of disciplinary action**

2 (1) The register of disciplinary action must be made available for
3 public inspection on —

4 (a) the Board’s website; or

5 (b) another website identified on the Board’s website.

6 (2) Information recorded in the register of disciplinary action may
7 be provided to members of the public in any other manner
8 approved by the Board.

9 **221. Publicising disciplinary action**

10 Without limiting other provisions of this Division dealing with
11 publication of disciplinary action, the Board may publicise
12 disciplinary action taken against a person in any manner the
13 Board considers appropriate.

14 **222. Effect of quashing of disciplinary action**

15 (1) If disciplinary action is quashed on appeal or review, any
16 reference to that disciplinary action must be removed from the
17 register of disciplinary action.

18 (2) If disciplinary action is quashed on appeal or review after the
19 action was publicised by the Board under section 221, the result
20 of the appeal or review must be publicised with equal
21 prominence by the Board.

22 **223. Publicising disciplinary action taken because of injury,**
23 **infirmity or illness**

24 (1) In this section —

25 *relevant disciplinary action*, in relation to a person, means
26 disciplinary action that is —

27 (a) the suspension or cancellation of the person’s Australian
28 practising certificate; or

-
- 1 (b) a refusal to grant or renew an Australian practising
2 certificate applied for by the person; or
3 (c) a restriction or prohibition on the person's right to
4 engage in legal practice.
- 5 (2) If relevant disciplinary action is taken against a person because
6 of the person's injury, infirmity or physical or mental illness,
7 the relevant disciplinary action may be recorded in the register
8 of disciplinary action but any other information relating to the
9 person's injury, infirmity or physical or mental illness must not
10 be recorded in the register or otherwise publicised under this
11 Division without the person's consent.
- 12 (3) Disciplinary action must not be recorded in the register of
13 disciplinary action or otherwise publicised under this Division
14 if —
- 15 (a) the disciplinary action is taken against a person because
16 of the person's injury, infirmity or physical or mental
17 illness; and
18 (b) the disciplinary action is not relevant disciplinary action.

19 **224. Effect of secrecy provisions and non-disclosure orders**

- 20 (1) The provisions of this Division are subject to any order made by
21 any of the following so far as the order prohibits or restricts the
22 disclosure of information —
- 23 (a) the Supreme Court or the State Administrative Tribunal;
24 (b) a corresponding authority in relation to disciplinary
25 action taken under provisions of a corresponding law;
26 (c) another court or tribunal of this State or another
27 jurisdiction.
- 28 (2) Despite subsection (1), the name and other identifying
29 particulars of a person against whom disciplinary action is
30 taken, and the kind of disciplinary action taken, must be
31 recorded in the register of disciplinary action in accordance with

1 the requirements of this Division and may be otherwise
2 publicised under this Division.

3 **225. Liability for publicising disciplinary action**

4 (1) In this section —

5 *protected person* means —

- 6 (a) the State; or
- 7 (b) the Board; or
- 8 (c) a person responsible for keeping the whole or any part
9 of the register of disciplinary action; or
- 10 (d) an Internet service provider or Internet content host; or
- 11 (e) a member of staff of, or a person acting at the direction
12 of, a statutory body or any person or body referred to in
13 this definition.

14 (2) No liability is incurred by a protected person in respect of
15 anything done or omitted to be done in good faith for the
16 purpose of —

- 17 (a) publicising disciplinary action taken against a person; or
- 18 (b) exercising functions of the Board under this Division; or
- 19 (c) keeping, publishing, or enabling access to, the register
20 of disciplinary action.

21 (3) Without limiting subsection (2), no liability (including liability
22 in defamation) is incurred by a protected person publishing in
23 good faith —

- 24 (a) information about disciplinary action —
 - 25 (i) recorded in the register of disciplinary action; or
 - 26 (ii) otherwise publicised by the Board under this
27 Division;
- 28 or
- 29 (b) matters purporting to contain information mentioned in
30 paragraph (a) that is incorrect in any respect; or

- 1 (c) a fair report or summary of information mentioned in
2 paragraph (a).

3 **Division 3 — Disqualification orders and approvals register**

4 **226. Disqualification orders and approvals register**

- 5 (1) The Board may keep a register of —
- 6 (a) orders made under the *Legal Profession Uniform*
7 *Law (WA)* section 119 or 120 on application by the
8 Board; and
- 9 (b) approvals of persons as lay associates for the purposes
10 of the *Legal Profession Uniform Law (WA)* section 121
11 given by the Board under section 121(2) of the Law.
- 12 (2) If the Board keeps a register under subsection (1), the
13 register —
- 14 (a) must include the information required by the local
15 regulations; and
- 16 (b) if the Uniform Rules (WA) specify details that may or
17 must not be included in the register and the Rules are
18 not inconsistent with the local regulations made for the
19 purposes of paragraph (a) — must be consistent with the
20 Uniform Rules (WA); and
- 21 (c) may otherwise be kept in a form determined by the
22 Board.
- 23 (3) The register —
- 24 (a) must be available for inspection by an Australian legal
25 practitioner, without charge, at the Board's principal
26 place of business during normal business hours; and
- 27 (b) must not be made available for inspection by a person
28 who is not an Australian legal practitioner.

Part 11 — Enforcement

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

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

- (1) An application for a search warrant under the *Legal Profession Uniform Law* (WA) section 377 must be made to a magistrate under subsection (2) and the *Criminal Investigation Act 2006* section 13.
- (2) The application, or the written record of the application, must state —
 - (a) the investigator's full name; and
 - (b) the details of the investigator's appointment for inspection; and
 - (c) details of the premises in relation to which the warrant will be issued; and
 - (d) a description of the relevant material the investigator suspects is located at the premises; and
 - (e) the reasonable grounds upon which the investigator suspects the relevant material is located at the premises; and
 - (f) whether the investigator knows another application for a search warrant has been made, and whether the warrant was issued, in relation to the premises for which the warrant is being applied for.

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

- (1) A search warrant issued under the *Legal Profession Uniform Law* (WA) section 377 must state —
 - (a) the name of the magistrate who issued the warrant; and
 - (b) the time and day when the warrant was issued; and

- 1 (c) the investigator's full name and the details of the
2 investigator's appointment for inspection; and
3 (d) details of the premises in relation to which the warrant is
4 issued; and
5 (e) a description of the relevant material the investigator
6 suspects is located at the premises; and
7 (f) the period, beginning on the day on which the warrant is
8 issued and ending no more than 30 days after that day,
9 during which the warrant must be executed; and
10 (g) any restrictions on the powers that may be exercised
11 under section 229 of this Act or section 375 of the Law.

12 (2) A search warrant comes into force when it is issued by the
13 magistrate.

14 (3) The *Criminal Investigation Act 2006* section 13(8) applies in
15 relation to a search warrant issued under the *Legal Profession*
16 *Uniform Law (WA)* section 377.

17 **229. Use of force when executing search warrants issued under**
18 **Uniform Law s. 377**

19 An investigator executing a search warrant issued under the
20 *Legal Profession Uniform Law (WA)* section 377 may, in
21 addition to the powers that may be exercised under section 375
22 of the Law, use force under the *Criminal Investigation Act 2006*
23 section 16 as if the powers exercised under section 375 of the
24 Law were a power exercised under that Act.

25 **230. Executed search warrants issued under Uniform Law s. 377**
26 **to be endorsed**

27 An investigator executing a search warrant issued under the
28 *Legal Profession Uniform Law (WA)* section 377 must endorse
29 the warrant, or a copy or form of the warrant referred to in the
30 *Criminal Investigation Act 2006* section 13(8), with the time
31 and day when the warrant was executed.

1 (3) The *Legal Profession Uniform Law (WA)* Chapter 7 applies in
2 relation to the investigation carried out under this section as if a
3 reference in Chapter 7 to —

4 (a) a trust records investigation were a reference to the
5 investigation carried out under this section; and

6 (b) an investigator were a reference to a person appointed
7 under subsection (2).

8 (4) The *Legal Profession Uniform Law (WA)* sections 462, 465 and
9 467 apply to a person appointed under subsection (2) as if they
10 were a relevant person for the purposes of those sections of the
11 Law.

12 **233. Who may commence proceedings for offence against Act or**
13 **Uniform Law**

14 The Board, or a person authorised by the Board, may commence
15 a prosecution for an offence against this Act or the *Legal*
16 *Profession Uniform Law (WA)*.

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

19 (1) A prosecution for an offence against the *Legal Profession*
20 *Uniform Law (WA)* section 10 or 11 may be commenced within
21 24 months after the day on which the alleged offence was
22 committed.

23 (2) However, if a prosecution notice specifies the day on which
24 evidence of the alleged offence against the *Legal Profession*
25 *Uniform Law (WA)* section 10 or 11 first came to the attention
26 of the Board, or a person authorised to commence a prosecution
27 under section 233 —

28 (a) the prosecution may be commenced within 24 months
29 after the day specified in the notice; and

30 (b) the prosecution notice need not contain particulars of the
31 day on which the offence is alleged to have been
32 committed.

- 1 (3) The day on which evidence first came to the attention of the
2 Board, or a person authorised by the Board is the day specified
3 in the prosecution notice, unless the contrary is shown.

4 **235. Enforcement of orders to pay fines under Uniform Law**

- 5 (1) This section applies to —
6 (a) an order under the *Legal Profession Uniform Law (WA)*
7 section 299(1)(f); or
8 (b) an order under the *Legal Profession Uniform Law (WA)*
9 section 302(1)(l).
10 (2) The order may be filed in the registry of the court that would
11 have jurisdiction to order payment of the fine as if it were a
12 debt.
13 (3) An order filed in the registry of the court under subsection (2)
14 may be enforced by the Board as if the order were an order of
15 the court.

16 **236. Board may recover pecuniary penalty to be paid under**
17 **Uniform Law**

18 For the purposes of the *Legal Profession Uniform Law (WA)*
19 section 456(a), the Board may enforce an order to pay a
20 pecuniary penalty made under the Law.

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

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

- 24 (1) A notice served under the *Legal Profession Uniform Law (WA)*
25 section 371(1)(a) or (b) has the same effect as a subpoena to
26 produce documents or attend to give evidence, as the case may
27 be, issued by the Supreme Court for the attendance of a witness
28 for examination or production of documents in a civil action.

- 1 (2) Obedience to, or non-observance of, a notice served under the
2 *Legal Profession Uniform Law (WA)* section 371(1)(a) or (b)
3 may be enforced and punished by a judge in chambers in the
4 same manner as in the case of obedience to, or non-observance
5 of, a subpoena issued by the Supreme Court.
- 6 (3) However —
- 7 (a) if a person is punished by a judge in chambers under
8 subsection (2), the person may be charged and convicted
9 of an offence against the *Legal Profession Uniform*
10 *Law (WA)* section 371(3) but not sentenced for the
11 offence; and
- 12 (b) if a person is charged, convicted of and sentenced for an
13 offence against the *Legal Profession Uniform Law (WA)*
14 section 371(3), the person may not be punished by a
15 judge in chambers under subsection (2).

16 Note for this subsection:

17 See also the *Legal Profession Uniform Law (WA)* section 466.

1 **Part 12 — Law Society Public Purposes Trust**

2 **238. Terms used**

3 In this Part —

4 ***Law Society Public Purposes Trust Deed*** means the Deed of
5 Trust dated 22 August 1985 made by the Law Society as varied
6 from time to time and published on the Law Society’s website;
7 ***vary***, in relation to the Law Society Public Purposes Trust Deed,
8 means to vary, add to, or revoke part of, the Deed in accordance
9 with the Deed.

10 **239. Remaining interest on trust accounts to be paid to Law**
11 **Society**

12 If interest is earned on money in a trust account maintained with
13 an authorised ADI in this State, the authorised ADI must —

- 14 (a) if a trust account arrangement provides for a proportion
15 of the interest to be paid to the Legal Contribution
16 Trust — pay the remainder of the interest to the Law
17 Society when the ADI pays the Legal Contribution
18 Trust; or
19 (b) in any other case — pay the interest to the Law Society
20 after the end of the month in which it is earned.

21 Penalty: a fine of \$5 000.

22 Note for this section:

23 See section 199 for the limitation on amounts that can be paid to the
24 Legal Contribution Trust under a trust account arrangement.

25 **240. Application of funds paid to Law Society**

26 The Law Society must hold and apply the amounts received
27 under section 239 in accordance with the Law Society Public
28 Purposes Trust Deed.

1 **241. Legal Contribution Trust must provide copy of**
2 **arrangements to Law Society**

3 The Legal Contribution Trust must give the Law Society a copy
4 of each trust account arrangement.

5 **242. Tabling of instruments varying Law Society Public Purposes**
6 **Trust Deed**

7 (1) If the Law Society Public Purposes Trust Deed is varied, the
8 Law Society must, within 14 days after the variation —

9 (a) publish the instrument varying the Deed on the Law
10 Society’s website; and

11 (b) give the Attorney General a copy of the instrument
12 varying the Deed.

13 (2) The Attorney General must, within 14 days after the day on
14 which a copy of an instrument is given to the Attorney General
15 under subsection (1), cause a copy of the instrument to be laid
16 before each House of Parliament or dealt with under
17 section 257.

Part 13 — Law library

243. Law library

- (1) The State may establish and manage a law library for the use of —
- (a) the judiciary; and
 - (b) Australian lawyers whose home jurisdiction is this State; and
 - (c) other persons prescribed by the local regulations.
- (2) Any assets acquired after the day on which this section comes into operation for the purposes of the law library are vested in and are the property of the State.

244. Law library contributions

- (1) In this section —
- calculation regulations*** means the local regulations specifying a method by which the amount of contribution is to be calculated in any year;
- CPI*** means —
- (a) the All Groups Consumer Price Index for Perth published by the Bureau of Statistics established by the *Australian Bureau of Statistics Act 1975* (Commonwealth) section 5(1); or
 - (b) if the Bureau of Statistics does not publish the All Groups Consumer Price Index for Perth — another similar index nominated by the Attorney General.
- (2) The Board must pay to the State an amount each year, in accordance with the local regulations, as a contribution towards the cost of providing and maintaining the law library.
- (3) The local regulations must specify —
- (a) the amount of the contribution or the method by which the amount of the contribution is to be calculated; and

-
- 1 (b) when payment becomes due.
- 2 (4) An amendment to the local regulations mentioned in
- 3 subsection (3) must be made at least 7 months before the
- 4 beginning of the financial year to which the amendment will
- 5 apply.
- 6 (5) Before an amendment to the local regulations mentioned in
- 7 subsection (3) is made, the Attorney General must —
- 8 (a) obtain the written agreement of the Board, the Law
- 9 Society and the Western Australian Bar Association to
- 10 the proposed amendment; or
- 11 (b) notify the Board, the Law Society and the Western
- 12 Australian Bar Association of the proposed amendment
- 13 at least 9 months before the beginning of the first
- 14 financial year to which the proposed amendment is
- 15 intended to apply and have regard to any submissions
- 16 made by those bodies.
- 17 (6) Unless agreement is obtained as mentioned in subsection (5)(a),
- 18 neither the local regulations specifying an amount of
- 19 contribution to be paid nor the calculation regulations can be
- 20 amended so as to increase the amount required to be paid in any
- 21 year to an amount that is greater than the amount that would
- 22 have been payable in that year, if calculated under the
- 23 calculation regulations and adjusted for any CPI increase plus
- 24 2.5% per annum, pro rata, from the day on which the calculation
- 25 regulations were made or last amended (whichever is later) to
- 26 the day of the proposed amendment.
- 27 (7) The payment must be credited to an agency special purpose
- 28 account, named the Law Library Fund, established under the
- 29 *Financial Management Act 2006* section 16 and administered
- 30 by the department.
- 31 (8) The money in the Law Library Fund must be applied —
- 32 (a) to provide and maintain the law library; and

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1 (b) to provide library services to the persons mentioned in
2 section 243(1); and

3 (c) for other purposes prescribed by the local regulations.

4 **245. Local regulations for law library**

5 (1) The local regulations may provide for the provision, operation
6 and management of the law library, including —

7 (a) access to and use of the law library; and

8 (b) the terms on which persons may be given access to and
9 use of the law library facilities (including the payment
10 of fees); and

11 (c) the borrowing of law library resources; and

12 (d) the manner of securing a law library resource if it has
13 been loaned.

14 (2) The local regulations made for the purposes of subsection (1)
15 may provide for the making of rules or administrative
16 procedures by a person or body.

Part 14 — Miscellaneous

246. Information sharing

The Board, the Legal Services and Complaints Committee and the Legal Contribution Trust (each of which is a **relevant authority**) may disclose information to —

- (a) another relevant authority about any matter relating to or arising under this Act, the *Legal Profession Uniform Law (WA)* or another Act; or
- (b) a corresponding authority about any matter relating to or arising under an Act, the *Legal Profession Uniform Law (WA)* or a corresponding law; or
- (c) a person or class of persons prescribed by the local regulations about any matter relating to or arising under an Act, the *Legal Profession Uniform Law (WA)* or a corresponding law, subject to any conditions prescribed by the local regulations.

247. Conduct that constitutes unsatisfactory professional conduct or professional misconduct

Without limiting the *Legal Profession Uniform Law (WA)* section 298, the following conduct by an Australian lawyer may constitute unsatisfactory professional conduct or professional misconduct —

- (a) if the local regulations provide that a consequence for contravening a requirement under the local regulations constitutes unsatisfactory professional conduct or professional misconduct — contravening the requirement;
- (b) failing to notify the Board of a change in circumstances under section 176;
- (c) failing to comply with a notice under section 189;
- (d) providing false or misleading information to the Law Society or the Board under section 189;

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- 1 (e) failing to comply with an order made by the Board or
2 the Legal Services and Complaints Committee under
3 this Act.

4 **248. Powers of Supreme Court unaffected**

- 5 (1) Subject to section 237(3)(b), the imposition of a penalty for a
6 contravention of a provision of this Act or the *Legal Profession*
7 *Uniform Law (WA)* does not affect the power of the Supreme
8 Court to punish for a contempt of the Court.
- 9 (2) Despite anything to the contrary in the *Legal Profession*
10 *Uniform Law (WA)*, nothing in the Law excludes or restricts
11 judicial review by the Supreme Court of a decision of another
12 court, tribunal, body or person.

13 **249. Liability of principals for contravention of Act**

14 The *Legal Profession Uniform Law (WA)* section 35 applies in
15 relation to a contravention by a law practice of a provision of
16 this Act imposing an obligation on the law practice in the same
17 way as it applies in relation to a contravention by a law practice
18 of a provision of the Law imposing an obligation on the law
19 practice.

20 **250. Defect or irregularity in person's appointment**

- 21 (1) A defect or irregularity in the appointment of any person
22 exercising, or purporting to exercise, a function under this Act
23 or the *Legal Profession Uniform Law (WA)* does not invalidate
24 an act done by the person in good faith.
- 25 (2) In this section a reference to the doing of anything includes a
26 reference to the omission to do anything.

27 **251. Local regulations**

- 28 (1) The Governor may make regulations prescribing matters —
29 (a) required or permitted by this Act to be prescribed; or

- 1 (b) necessary or convenient to be prescribed for giving
2 effect to this Act.
- 3 (2) Without limiting subsection (1), the local regulations may make
4 provision for or in relation to —
 - 5 (a) fees in respect of functions of —
 - 6 (i) the Supreme Court under this Act; and
 - 7 (ii) the State Administrative Tribunal under this Act;
8 and
 - 9 (iii) the Board, Legal Services and Complaints
10 Committee or another person under this Act; and
 - 11 (iv) a designated tribunal or local regulatory authority
12 under the *Legal Profession Uniform Law (WA)*
13 or the Uniform Rules (WA), to the extent that
14 fees are not specified in, or otherwise provided
15 for by, the Law or the Uniform Rules (WA);
16 and
 - 17 (b) the payment, collection, waiver, postponement or refund
18 of fees paid under this Act or the *Legal Profession*
19 *Uniform Law (WA)*; and
 - 20 (c) the giving of information to the Board by a local legal
21 practitioner if information previously given to the Board
22 is no longer correct; and
 - 23 (d) the exempting of persons, or classes of persons, in
24 whole or part from provisions of this Act.
- 25 (3) Without limiting subsection (1), the local regulations may —
 - 26 (a) provide that a contravention of a provision of the local
27 regulations is an offence and provide for a penalty for
28 the offence not exceeding a fine of \$5 000; and
 - 29 (b) confer a discretion on a person; and
 - 30 (c) impose conditions, or authorise or permit a person to
31 impose conditions, in relation to a matter.

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1 **252. Local approved forms**

- 2 (1) If this Act provides that a local approved form may or must be
3 given to a person under or for the purposes of this Act or the
4 *Legal Profession Uniform Law (WA)*, the person to whom the
5 form may or must be given may approve that form.
- 6 (2) The local regulations may include provision for or in relation to
7 local approved forms.
- 8 (3) Local approved forms must be published on the website of the
9 person who approved it.

10 **253. Delegation**

- 11 (1) In this section —
12 ***prescribed person***, in relation to a power or duty under this Act,
13 means a person, or a person in a class of persons, prescribed by
14 the local regulations as a person or class of persons to whom
15 that power or duty may be delegated under this section.
- 16 (2) The Law Society may delegate to a prescribed person any
17 power or duty of the Law Society under another provision of
18 this Act, other than a power or duty under Part 7.
- 19 (3) A delegation under subsection (2) must be in writing and
20 executed by the Law Society.
- 21 (4) A person, other than the Law Society, the Board or the Legal
22 Services and Complaints Committee, who has a power or duty
23 under this Act may delegate any power or duty that person has
24 under another provision of this Act to a prescribed person.
- 25 (5) A delegation under subsection (4) must be in writing and be
26 signed by the person.
- 27 (6) A prescribed person to whom a power or duty is delegated
28 under this section cannot delegate that power or duty.
- 29 (7) A person exercising or performing a power or duty that has been
30 delegated to the person under this section is taken to do so in

1 accordance with the terms of the delegation unless the contrary
2 is shown.

3 (8) Nothing in this section limits the ability of a person who may
4 delegate a power or duty under this section to perform a
5 function through an officer or agent.

6 **254. Protection from liability**

7 (1) No liability is incurred by any of the following persons in
8 respect of anything done in good faith in the performance or
9 purported performance of a function under this Act —

- 10 (a) the Attorney General;
- 11 (b) the Board;
- 12 (c) a Board member;
- 13 (d) the secretary of the Board employed or engaged under
14 section 53(1);
- 15 (e) a member of staff of the Board;
- 16 (f) the Legal Services and Complaints Committee;
- 17 (g) a Legal Services and Complaints Committee member;
- 18 (h) the Legal Services and Complaints Officer;
- 19 (i) the Legal Costs Committee;
- 20 (j) a Legal Costs Committee member;
- 21 (k) the Legal Contribution Trust;
- 22 (l) a trustee of the Legal Contribution Trust;
- 23 (m) a person employed or engaged by the Legal
24 Contribution Trust under section 102(2);
- 25 (n) the Law Society, including the Law Society in its
26 capacity as trustee of the Law Mutual Fund;
- 27 (o) a person employed or engaged by the Law Society;
- 28 (p) the PII management committee or any member of that
29 committee;

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- 1 (q) any committee, or member of a committee, of the Board,
2 the Legal Contribution Trust or the Law Society.
- 3 (2) The protection given by subsection (1) applies even though the
4 thing done as described in that subsection may have been
5 capable of being done whether or not this Act had been enacted.
- 6 (3) In this section a reference to the doing of anything includes a
7 reference to the omission to do anything.
- 8 (4) Subsection (5) applies to a person who —
- 9 (a) performs any function in relation to an investigation
10 under section 232; or
- 11 (b) is otherwise concerned in an inquiry before the Board
12 under this Act or the *Legal Profession Uniform*
13 *Law (WA)*.
- 14 (5) The person has, in respect of the function or concern, the same
15 protection and immunity that a member or an officer of the
16 Supreme Court, or a witness or a party before the Supreme
17 Court, would have in respect of a function or concern of a like
18 nature related to the jurisdiction of the Supreme Court.

19 **255. Certain witnesses compellable despite Uniform Law s. 468**

20 For the purposes of the *Legal Profession Uniform Law (WA)*
21 section 468(2), section 468(1) of the Law does not apply to a
22 legal proceeding (however described), including a proceeding
23 for an offence, under —

- 24 (a) the *Corruption, Crime and Misconduct Act 2003*; or
25 (b) the *Parliamentary Commissioner Act 1971*; or
26 (c) the *Royal Commissions Act 1968*.

27 **256. Review of Act and Uniform Law**

- 28 (1) The Attorney General must review the operation and
29 effectiveness of this Act and the *Legal Profession Uniform*
30 *Law (WA)*, and prepare a report based on the review, as soon as

1 practicable after the 5th anniversary of the day on which this
2 section comes into operation.

3 (2) The Attorney General must cause the report to be laid before
4 each House of Parliament as soon as practicable after it is
5 prepared, but not later than 12 months after the 5th anniversary.

6 **257. Laying documents before House of Parliament not sitting**

7 (1) This section applies if —

8 (a) a provision of this Act requires the Attorney General to
9 cause a document to be laid before each House of
10 Parliament, or dealt with under this section, within a
11 period; and

12 (b) at the beginning of the period, a House of Parliament is
13 not sitting; and

14 (c) in the Attorney General's opinion, the House will not sit
15 before the end of the period.

16 (2) The Attorney General must send the document to the Clerk of
17 the House before the end of the period.

18 (3) When the document is sent to the Clerk of the House it is taken
19 to have been laid before the House.

20 (4) The laying of the document that is taken to have occurred under
21 subsection (3) must be recorded in the Minutes, or Votes and
22 Proceedings, of the House on the first sitting day of the House
23 after the Clerk receives the document.

24 **258. Giving documents**

25 (1) In this section —

26 *electronic means* includes —

27 (a) an electronic database or document system; and

28 (b) any other means by which a document can be accessed
29 electronically.

s. 258

- 1 (2) The local regulations may make provision for or in relation to
2 the following —
- 3 (a) the giving of a document required or permitted to be
4 given under this Act or the *Legal Profession Uniform*
5 *Law (WA)* (including the giving of the document by
6 electronic means);
- 7 (b) the time at which the document is taken to have been
8 given;
- 9 (c) the means of satisfying a requirement under this Act or
10 the *Legal Profession Uniform Law (WA)* in relation to a
11 document in writing (for example, a requirement that the
12 original of a document be given or that a document be
13 signed) if the document is given by electronic means.
- 14 (3) This section applies to a requirement or permission to give a
15 document whether the term “give”, “issue”, “send” or “serve”,
16 or any other similar term, is used.
- 17 (4) The local regulations made under subsection (2) in relation to a
18 document to which *Legal Profession Uniform Law (WA)*
19 Part 9.5 applies cannot provide for the document to be given
20 using a means provided for in that Part in a manner that is
21 inconsistent with that Part.

Part 15 — Repeals

259. Repeals

The following Acts are repealed —

(a) the *Legal Profession Act 2008*;

(b) the *Law Society Public Purposes Trust Act 1985*.

260. Interpretation Act 1984 not affected

Except where the contrary intention appears, this Part and Part 16 do not prejudice or affect the application of the *Interpretation Act 1984* to and in relation to the repeal of the old Act or the *Law Society Public Purposes Trust Act 1985* under section 259.

Part 16 — Transitional provisions

Division 1 — Preliminary

261. Terms used

In this Part —

commencement day means the day on which this section comes into operation;

Complaints Committee means the Legal Profession Complaints Committee established under section 555(1) of the old Act;

PII regulations means regulations made under section 328(1) of the old Act as in force immediately before commencement day;

working day means a day other than a Saturday, Sunday or public holiday throughout the State.

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

This Part —

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

(b) 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)*

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

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

-
- 1 **264. Application of s. 14 and 15 to Uniform Regulations and**
2 **Uniform Rules made after 21 June 2021 but before**
3 **commencement day**
- 4 (1) If the Uniform Regulations or Uniform Rules are made after
5 21 June 2021 but before commencement day, sections 14 and 15
6 apply to the regulations or rules as if they were made on
7 commencement day.
- 8 (2) However, subsection (1) does not apply to a provision of an
9 amending Act that amends the Uniform Regulations or Uniform
10 Rules.
- 11 **265. Application of particular provisions of Uniform Law Sch. 4**
12 **Pt. 3**
- 13 (1) This section states, for the purposes of the *Legal Profession*
14 *Uniform Law (WA)* Schedule 4 clause 10(1), the extent to which
15 Schedule 4 Part 3 of the Law applies as a law of this State.
- 16 (2) The following provisions of the *Legal Profession Uniform Law*
17 *(WA)* Schedule 4 Part 3 apply as a law of this State without
18 modification —
- 19 (a) clauses 11 to 18;
20 (b) clauses 20 to 23;
21 (c) clauses 29 and 30.
- 22 (3) The *Legal Profession Uniform Law (WA)* Schedule 4 clause 28
23 applies as a law of this State as if —
- 24 (a) the reference in clause 28(1)(a) to old Chapter 5 were a
25 reference to Part 14 of the old Act; and
26 (b) the reference in clause 28(1)(b) to that Chapter were a
27 reference to that Part.

1 **Division 3 — Local regulatory bodies**

2 **266. Continuation of Legal Practice Board**

3 (1) The Board established under this Act is the same entity as, and a
4 continuation of, the Legal Practice Board established under
5 section 534 of the old Act.

6 (2) The rights and liabilities of or in relation to the Legal Practice
7 Board established under the old Act continue as rights and
8 liabilities of or in relation to the Board established under this
9 Act.

10 **267. Members of Legal Practice Board**

11 (1) A person who was elected as a member of the Legal Practice
12 Board under the old Act and holds that office immediately
13 before commencement day continues on and after that day to be
14 a member of the Board under this Act until the expiry of the
15 term for which the member was elected, subject to this Act.

16 (2) A Queen's Counsel or Senior Counsel who was a member of the
17 Legal Practice Board under the old Act immediately before
18 commencement day continues on and after that day to be a
19 member of the Board under this Act, subject to this Act.

20 (3) A member of the Legal Practice Board under the old Act who
21 was chairperson or deputy chairperson of that Board
22 immediately before commencement day continues on and after
23 that day to be chairperson or deputy chairperson of the Board
24 under this Act as if they were elected under this Act until the
25 expiry of the term for which they were elected as chairperson or
26 deputy chairperson.

27 (4) However —

28 (a) section 41(3) applies to the chairperson or deputy
29 chairperson; and

30 (b) the period the member served as chairperson or deputy
31 chairperson of the Legal Practice Board under the old

1 Act is taken, on and from commencement day, to be a
2 period of service as chairperson or deputy chairperson of
3 the Board under this Act; and

4 (c) the member's position is otherwise subject to this Act.

5 **268. Complaints Committee continues as Legal Services and**
6 **Complaints Committee under this Act**

7 The Legal Services and Complaints Committee established
8 under this Act is the same entity as, and a continuation of, the
9 Complaints Committee.

10 **269. Members of Complaints Committee**

11 (1) A person who was a member of the Complaints Committee
12 under the old Act immediately before commencement day
13 continues on and after that day to be a Legal Services and
14 Complaints Committee member under this Act until the expiry
15 of the term for which the member was appointed.

16 (2) If the member of the Complaints Committee was not a
17 representative of the community —

18 (a) the member is taken, on and from commencement day,
19 to be a legal member under this Act; and

20 (b) the period the member served as a member of the
21 Complaints Committee is taken, on and from
22 commencement day, to be a period of service as a legal
23 member under this Act; and

24 (c) if, before commencement day, the member served as a
25 member of the Complaints Committee for 5 or more
26 years, the member's term ends on the earlier of the
27 following —

28 (i) a day determined by the Attorney General;

29 (ii) the day that is 1 year after commencement day;

30 and

- 1 (d) if, before commencement day, the member served as a
2 member of the Complaints Committee for less than
3 5 years, the member's term ends on the day that is
4 6 years after the day on which the member was
5 appointed as a member of the Complaints Committee.
- 6 (3) If the member of the Complaints Committee was a
7 representative of the community —
- 8 (a) the member is taken, on and from commencement day,
9 to be a community representative under this Act; and
- 10 (b) section 63 applies to the member's appointment; and
- 11 (c) the period the member served as a member of the
12 Complaints Committee is taken, on and from
13 commencement day, to be a period of service as a
14 community representative under this Act.
- 15 **270. Continuation of other Legal Practice Board committees**
- 16 (1) A committee of the Legal Practice Board appointed under
17 section 552(1) of the old Act and operating immediately before
18 commencement day is taken on and after that day to be a
19 committee appointed under section 52(2).
- 20 (2) A Board member who was, immediately before commencement
21 day, a member of a committee appointed under section 552(1)
22 of the old Act continues on and after that day as a member of
23 the committee as continued under subsection (1), subject to this
24 Act or the expiry of the member's term.
- 25 **271. Continuation of Law Complaints Officer**
- 26 (1) The person who occupied the office of Law Complaints Officer
27 under the old Act immediately before commencement day is
28 taken, on and from commencement day, to be appointed to the
29 office of Legal Services and Complaints Officer under
30 section 78(2) until the expiry of the term for which the person
31 was appointed.

- 1 (2) For the purposes of subsection (1) —
- 2 (a) the person who occupied the office of Law Complaints
- 3 Officer under the old Act holds office for a term of not
- 4 more than 5 years specified in the instrument of
- 5 appointment; and
- 6 (b) the period the person occupied the office of Law
- 7 Complaints Officer under the old Act is taken, on and
- 8 from commencement day, to be a period of service as
- 9 the Legal Services and Complaints Officer under this
- 10 Act; and
- 11 (c) the person is eligible for reappointment; and
- 12 (d) the person's appointment is otherwise subject to this
- 13 Act.

14 **272. Continuation and membership of Legal Costs Committee**

- 15 (1) The Legal Costs Committee established under this Act is the
- 16 same entity as, and a continuation of, the Legal Costs
- 17 Committee established under section 310(1) of the old Act.
- 18 (2) A person who was a Legal Costs Committee member under the
- 19 old Act immediately before commencement day continues on
- 20 and from that day to be a Legal Costs Committee member under
- 21 this Act, subject to this Act or the expiry of the term for which
- 22 the member was appointed.

23 **273. Continuation of Legal Costs Committee Account**

- 24 The Legal Costs Committee Account established under
- 25 section 323(2) of the old Act —
- 26 (a) is taken to be the Legal Costs Committee Account
- 27 established under section 97(3); and
- 28 (b) continues under this Act as the Legal Costs Committee
- 29 Account.

1 **274. Continuation and membership of Legal Contribution Trust**

- 2 (1) The Legal Contribution Trust established under this Act is the
3 same entity as, and a continuation of, the Trust established
4 under section 391(1) of the old Act.
- 5 (2) The rights and liabilities of or in relation to the Trust established
6 under the old Act continue as rights and liabilities of or in
7 relation to the Legal Contribution Trust established under this
8 Act.
- 9 (3) A person who was a trustee of the Trust under the old Act
10 immediately before commencement day continues on and from
11 that day to be a trustee of the Legal Contribution Trust under
12 this Act, subject to sections 104(2) and 107.

13 **Division 4 — Admission**

14 **275. Admission applications under old Act taken to be admission**
15 **applications under this Act**

- 16 (1) This section applies if —
- 17 (a) a person applied to the Supreme Court (full bench) to be
18 admitted to the legal profession under section 25(1) of
19 the old Act; and
- 20 (b) the application was not decided under the old Act before
21 commencement day.
- 22 (2) The application is taken, on and from commencement day, to be
23 an application under section 112 for admission under the *Legal*
24 *Profession Uniform Law (WA)* section 16 made in accordance
25 with —
- 26 (a) the local regulations; and
- 27 (b) the Supreme Court's rules of court; and
- 28 (c) a practice direction of the Supreme Court.

1 **276. Notice of objection to admission under old Act taken to be**
2 **objection under Uniform Law**

3 A notice under section 27 of the old Act lodged in relation to the
4 admission of a person under the old Act whose application for
5 admission was not decided under the old Act before
6 commencement day is taken, on and from commencement day,
7 to be an objection to the admission of the person made in
8 accordance with the applicable rules of court under the *Legal*
9 *Profession Uniform Law (WA)* section 16(3).

10 **277. Status of academic qualifications obtained under old Act for**
11 **Uniform Law s. 17**

12 If a person obtained approved academic qualifications or
13 corresponding academic qualifications (as those terms were
14 defined in section 21(1) of the old Act) before commencement
15 day, the person is taken, on and from commencement day, to
16 have attained the academic qualifications referred to in the
17 *Legal Profession Uniform Law (WA)* section 17(1)(a).

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

20 (1) In this section —
21 *corresponding PLT requirements* means corresponding
22 practical legal training requirements as defined in section 21(1)
23 of the old Act;

24 *PLT requirements* means the approved practical legal training
25 requirements as defined in section 21(1) of the old Act.

26 (2) If a person has satisfactorily completed the PLT requirements or
27 corresponding PLT requirements before commencement day,
28 the person is taken, on and from commencement day, to have
29 satisfactorily completed the practical legal training requirements
30 referred to in the *Legal Profession Uniform Law (WA)*
31 section 17(1)(b).

- 1 (3) Subsection (4) applies if a person —
- 2 (a) has partially completed PLT requirements or
- 3 corresponding PLT requirements before commencement
- 4 day; and
- 5 (b) the person satisfactorily completes those requirements
- 6 within the period of 12 months beginning on
- 7 commencement day.

- 8 (4) The person is taken, from when the person completes the
- 9 requirements, to have completed the practical legal training
- 10 requirements referred to in the *Legal Profession Uniform*
- 11 *Law (WA)* section 17(1)(b).

12 **279. Application for early consideration of suitability continues**

13 **under Uniform Law**

14 If a relevant person (as defined in section 23(1) of the old Act)

15 applied for a declaration under section 23(2) of the old Act and

16 the Legal Practice Board has not, before commencement day,

17 made or refused to make the declaration, the application is

18 taken, on and from commencement day, to be an application for

19 a declaration under the *Legal Profession Uniform Law (WA)*

20 section 21(1).

21 **280. Decision of Legal Practice Board or State Administrative**

22 **Tribunal about suitability continues under Uniform Law**

- 23 (1) A decision of the Legal Practice Board made under
- 24 section 23(3) of the old Act before commencement day
- 25 continues, on and from commencement day, as if it were a
- 26 decision of the Board made under the *Legal Profession Uniform*
- 27 *Law (WA)* section 21(2).
- 28 (2) If the Legal Practice Board's decision under section 23(3) of the
- 29 old Act was made during the 6-month period before
- 30 commencement day, the *Legal Profession Uniform Law (WA)*
- 31 section 27 applies to the decision to the extent that an appeal
- 32 could be sought under that provision.

- 1 (3) The *Legal Profession Uniform Law (WA)* applies to a decision
2 of the State Administrative Tribunal on a matter referred under
3 section 24(1) of the old Act as if the decision were a decision of
4 the Supreme Court under section 27(2) of the Law.

5 **281. Compliance certificate under old Act taken to be issued**
6 **under Uniform Law**

7 A compliance certificate filed by the Legal Practice Board under
8 section 31(1) of the old Act before commencement day is taken,
9 on and from commencement day, to be a compliance certificate
10 issued and provided to the Supreme Court under the *Legal*
11 *Profession Uniform Law (WA)* section 19(3).

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

- 14 (1) In this section —

15 *compliance certificate review* means a review under
16 section 31(3) of the old Act by the State Administrative
17 Tribunal of a decision to refuse to give a person a compliance
18 certificate;

19 *early suitability matter* means —

- 20 (a) a review under section 23(6) of the old Act of the Legal
21 Practice Board's decision made before commencement
22 day to refuse to make a declaration; or
23 (b) a matter referred to the State Administrative Tribunal
24 under section 24 of the old Act;

25 *relevant provision* of the *Legal Profession Uniform Law (WA)*
26 means —

- 27 (a) in relation to an early suitability matter — section 27 of
28 the Law; or
29 (b) in relation to a compliance certificate review —
30 section 26 of the Law;

31 *Tribunal matter* means an early suitability matter or a
32 compliance certificate review.

- 1 (2) If the State Administrative Tribunal has not made a final
2 decision about a Tribunal matter before commencement day, the
3 Tribunal may decide, having regard to what is appropriate in the
4 circumstances of the case —
- 5 (a) to deal with the matter under the old Act as if it had not
6 been repealed; or
- 7 (b) that the matter should be dealt with by the Supreme
8 Court under the relevant provision of the *Legal*
9 *Profession Uniform Law (WA)*.
- 10 (3) If the State Administrative Tribunal decides to deal with a
11 Tribunal matter under the old Act —
- 12 (a) the matter may be decided under the old Act as if it had
13 not been repealed; and
- 14 (b) the *Legal Profession Uniform Law (WA)* applies to the
15 Tribunal's decision on the matter as if it were a decision
16 made by the Supreme Court under the relevant provision
17 of the Law.
- 18 (4) If the State Administrative Tribunal decides that a compliance
19 certificate review should be dealt with by the Supreme Court —
- 20 (a) the application for a compliance certificate review is
21 taken, on and from commencement day, to be an appeal
22 against a decision to refuse to issue a compliance
23 certificate under the *Legal Profession Uniform*
24 *Law (WA)* section 26; and
- 25 (b) the Supreme Court may make an order on the appeal
26 under the *Legal Profession Uniform Law (WA)*
27 section 26(4).
- 28 (5) If the State Administrative Tribunal decides that an early
29 suitability matter should be dealt with by the Supreme Court —
- 30 (a) the decision of the Legal Practice Board to refuse to
31 make a declaration under section 23(3) of the old Act is
32 taken, on and from commencement day, to be a decision
33 to refuse to make a declaration of early assessment of

- 1 suitability for a compliance certificate under the *Legal*
2 *Profession Uniform Law (WA)* section 21; and
- 3 (b) the Supreme Court may make an order under the *Legal*
4 *Profession Uniform Law (WA)* section 27(2) as if the
5 relevant person applying for a declaration were a person
6 who appealed a decision to refuse a declaration under
7 section 27(1) of the Law.

8 **Division 5 — Practitioners**

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

- 11 (1) This section applies to a WA government lawyer within the
12 meaning of section 36(1) of the old Act engaged before
13 commencement day in government work within the meaning of
14 section 36(2) of the old Act and who does not, immediately
15 before commencement day, hold an Australian practising
16 certificate under the old Act.
- 17 (2) The WA government lawyer is taken to hold a current
18 Australian practising certificate granted under the *Legal*
19 *Profession Uniform Law (WA)* authorising the holder to engage
20 in legal practice as a government legal practitioner for the
21 period beginning on commencement day and ending on the
22 earlier of the following —
- 23 (a) if local regulations are made under section 126
24 exempting WA government lawyers from the
25 requirement to hold Australian practising certificates in
26 respect of their official functions as government
27 lawyers — the day on which the regulations come into
28 operation;
- 29 (b) the day on which the WA government lawyer's
30 Australian practising certificate granted under the Law
31 comes into operation;
- 32 (c) the expiry of the period of 6 months beginning on
33 commencement day.

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

(1) In this section —

community legal centre means a not-for-profit body, 1 of the main functions of which is the delivery of free or substantially subsidised legal services to a disadvantaged section of the community or community legal education;

exempt work means —

- (a) legal practice done under the supervision of an Australian legal practitioner as a paid employee of —
 - (i) the Legal Aid Commission; or
 - (ii) a community legal centre; or
 - (iii) the Aboriginal Legal Service of Western Australia Limited; or
 - (iv) a corporation other than an incorporated legal practice (as defined in section 3 of the old Act);

or

- (b) legal practice that is legislative drafting work that is done by an Australian lawyer under —
 - (i) a contract for services with the State; and
 - (ii) the direction of the Parliamentary Counsel;

or

- (c) legal work that is done by an Australian lawyer under —
 - (i) a contract for services with the State; and
 - (ii) the direction of the State Solicitor.

(2) This section applies to a person engaging in exempt work, who is an Australian lawyer and who does not, immediately before commencement day, hold an Australian practising certificate under the old Act.

- 1 (3) The person is taken to hold a current Australian practising
2 certificate granted under the *Legal Profession Uniform*
3 *Law (WA)* authorising the holder to engage in legal practice that
4 is exempt work for the period beginning on commencement day
5 and ending on the earlier of the following —
6 (a) the day on which a person's Australian practising
7 certificate granted under the Law comes into operation;
8 (b) the expiry of the period of 6 months beginning on
9 commencement day.

10 **285. Continuing professional development**

- 11 (1) In this section —
12 **CPD period** means a period beginning on 1 April and ending on
13 31 March;
14 **CPD point** means —
15 (a) a CPD point earned in accordance with the *Legal*
16 *Profession Rules 2009* rule 9 as in force immediately
17 before commencement day; and
18 (b) a CPD point earned before commencement day under an
19 approved CPD arrangement as defined in the *Legal*
20 *Profession Regulations 2009* regulation 12(1) as in force
21 immediately before commencement day;
22 **CPD year** has the meaning given in the Continuing Professional
23 Development Rules.
24 (2) If a person earned a CPD point before commencement day in
25 the CPD period in which the old Act is repealed, the CPD point
26 earned by the person is taken, on and from commencement day,
27 to have been earned under the Continuing Professional
28 Development Rules for the CPD year in which the old Act is
29 repealed.

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

3 (1) In this section —

4 ***Board Rules*** has the meaning given in section 124(1).

5 (2) If, immediately before commencement day, an approval of a
6 person, body or group of persons as a QA provider is in effect
7 under the *Legal Profession Rules 2009* rule 14(2) as in force
8 immediately before commencement day, the approval is taken
9 to be an accreditation in accordance with the Board Rules in
10 relation to all continuing professional development activities
11 until the expiry of the period of approval given under the *Legal*
12 *Profession Rules 2009*.

13 (3) An accreditation under subsection (2) is subject to amendment
14 or revocation under the Board Rules.

15 **287. Approvals of law courses and legal training courses**
16 **continued**

17 (1) In this section —

18 ***LTC approval*** means an approval of a legal training course
19 under the *Legal Profession (Admission) Rules 2009* rule 8(1) as
20 in force immediately before commencement day.

21 (2) If academic qualifications were approved under the *Legal*
22 *Profession (Admission) Rules 2009* as in force immediately
23 before commencement day, the qualifications are taken, on and
24 from commencement day, under the *Legal Profession Uniform*
25 *Law (WA)* section 29 to be a law course accredited in
26 accordance with the Admission Rules.

27 (3) If an LTC approval is in force in relation to a legal training
28 course immediately before commencement day, the holder of
29 the LTC approval is, on and from commencement day, taken to
30 be accredited under the *Legal Profession Uniform Law (WA)*
31 section 29 in accordance with the Admission Rules to provide
32 practical legal training in the form of the legal training course.

- 1 (4) An accreditation under subsection (2) or (3) is subject to
2 amendment or revocation under the *Legal Profession Uniform*
3 *Law (WA)* or the Admission Rules.

4 **288. Experience acquired before commencement day taken to be**
5 **supervised legal practice under Uniform Law s. 49**

- 6 (1) A person who engaged in a period of supervised legal practice
7 (as defined in section 3 of the old Act) before commencement
8 day is taken, on and from commencement day, to have
9 completed the same period of supervised legal practice for the
10 purposes of the *Legal Profession Uniform Law (WA)*
11 section 49(1).
- 12 (2) A person is taken, on and from commencement day, to have
13 completed the period of supervised legal practice required by
14 the *Legal Profession Uniform Law (WA)* section 49(1) if, before
15 commencement day, the person —
- 16 (a) had the required experience (as defined in section 50(1)
17 of the old Act); or
- 18 (b) was entitled to practise on their own account under the
19 *Legal Practitioners Act 1893* or the *Legal Practice*
20 *Act 2003*.

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

- 23 (1) In this section —
- 24 *required experience* has the meaning given in section 50(1) of
25 the old Act;
- 26 *restricted legal practice* has the meaning given in section 50(1)
27 of the old Act;
- 28 *supervision period* means a period or periods in which a holder
29 of an Australian practising certificate must engage in supervised
30 legal practice only under the *Legal Profession Uniform*
31 *Law (WA)* section 49(1).

- 1 (2) If the Legal Practice Board exempted a person or class of
2 persons from the requirement to engage in restricted legal
3 practice only under section 50(7) of the old Act and the
4 exemption is in effect immediately before commencement
5 day —
- 6 (a) the exemption is taken to be an exemption from the
7 statutory condition to engage in supervised legal
8 practice only under the *Legal Profession Uniform*
9 *Law (WA)* section 49(4)(a); and
- 10 (b) if the exemption is subject to conditions under
11 section 50(8) of the old Act — the exemption is taken to
12 be subject to those conditions as if they were imposed
13 under the *Legal Profession Uniform Law (WA)*
14 section 49(5).
- 15 (3) If the Legal Practice Board reduced the required experience for
16 a person or class of persons under section 50(7) of the old Act
17 and the reduction is in effect immediately before
18 commencement day, the reduction is taken to be a reduction of
19 the supervision period under the *Legal Profession Uniform Law*
20 *(WA)* section 49(4)(b).

21 **290. Order made under s. 77 of old Act continued**

- 22 If, before commencement day, the State Administrative
23 Tribunal made an order under section 77 of the old Act that an
24 Australian lawyer not contravene a condition imposed under
25 Part 5 of the old Act —
- 26 (a) the order continues in effect on its terms on and from
27 commencement day; and
- 28 (b) while the order is in effect, a failure to comply with the
29 order is taken, on and from commencement day, to be a
30 failure of the Australian lawyer to comply with a
31 condition of an Australian practising certificate under
32 the *Legal Profession Uniform Law (WA)* section 54.

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

4 (1) In this section —

5 *reviewable decision* means a decision of the Legal Practice
6 Board made before commencement day —

- 7 (a) to refuse to grant or renew a local practising certificate
8 under section 45(1) or 63(1) of the old Act; or
9 (b) to amend, suspend or cancel a local practising certificate
10 under section 56(3) or 63(1) of the old Act; or
11 (c) to refuse a request to amend a local practising certificate
12 under section 59(1) of the old Act; or
13 (d) that a person is not entitled to apply for the grant of a
14 local practising certificate for a specified period under
15 section 64(2) of the old Act.

16 (2) If an application for a review of a reviewable decision was made
17 before commencement day to the State Administrative Tribunal
18 under section 78 of the old Act and the Tribunal has not made a
19 final decision on the application before commencement day, the
20 Tribunal may decide, having regard to what is appropriate in the
21 circumstances of the case —

- 22 (a) to continue to deal with the matter under section 78 of
23 the old Act as if it had not been repealed; or
24 (b) to deal with the matter under the *Legal Profession*
25 *Uniform Law (WA)* section 100 as if the reviewable
26 decision were a decision to which section 100(1) of the
27 Law applies.

28 (3) Subsection (4) applies if —

- 29 (a) before commencement day, a person has not applied for
30 a review of a reviewable decision made before
31 commencement day; and

1 (b) immediately before commencement day, the person was
2 not precluded from seeking a review under the old Act
3 for any reason (including, for example, that the time
4 limit for making the application has expired).

5 (4) The reviewable decision is taken, on and from commencement
6 day, to be a decision referred to in the *Legal Profession Uniform*
7 *Law (WA)* section 100(1).

8 **292. Reviews of particular Legal Practice Board decisions about**
9 **registration certificates**

10 (1) In this section —
11 ***reviewable decision*** means a decision of the Legal Practice
12 Board made before commencement day to —

- 13 (a) refuse to grant or renew registration under
14 section 170(1), 172(2) or 181(1) of the old Act; or
15 (b) impose a condition on registration under section 189(1)
16 of the old Act; or
17 (c) amend, suspend or cancel registration under
18 section 175(3) or 181(1) of the old Act; or
19 (d) suspend registration under section 184(2) of the old Act;
20 or
21 (e) determine under section 182(1) of the old Act that a
22 person is not entitled to apply for registration for a
23 specified period.

24 (2) If an application for a review of a reviewable decision was made
25 before commencement day to the State Administrative Tribunal
26 under section 203 of the old Act and the Tribunal has not made
27 a final decision on the application before commencement day,
28 the Tribunal may decide, having regard to what is appropriate in
29 the circumstances of the case, to —

- 30 (a) continue to deal with the matter under section 203 of the
31 old Act as if it had not been repealed; or

- 1 (b) deal with the matter under the *Legal Profession Uniform*
2 *Law (WA)* section 101 as if the reviewable decision were
3 a decision to which section 101(1) of the Law applies.

4 **Division 6 — Trust accounts**

5 **293. Interest earned on trust account prior to commencement**

- 6 (1) In this section —

7 ***agreed rate***, in relation to a relevant trust account, means the
8 rate of interest payable on the money in the trust account
9 immediately before commencement day as agreed between the
10 ADI and the Legal Contribution Trust;

11 ***pre-commencement period***, in relation to a relevant trust
12 account, means the period —

- 13 (a) beginning on —

14 (i) the day after the last day of the most recent
15 period for which interest was paid under
16 section 387 of the old Act in respect of the trust
17 account; or

18 (ii) if interest was not paid in respect of the trust
19 account under section 387 of the old Act before
20 commencement day — the day on which the
21 trust account was opened;

22 and

- 23 (b) ending on the day before commencement day;

24 ***relevant trust account*** means a trust account maintained by a
25 law practice with an ADI immediately before commencement
26 day.

- 27 (2) An ADI must pay 51% of the interest earned on the money in a
28 relevant trust account during the pre-commencement period at
29 the agreed rate to the Legal Contribution Trust within

1 10 working days after the last day of the pre-commencement
2 period.

3 Penalty for this subsection: a fine of \$5 000.

4 (3) Subsection (2) does not apply in respect of a relevant trust
5 account if the sum of the balances of all trust accounts
6 maintained by the law practice with the ADI was less than \$500
7 at any time during the pre-commencement period.

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

10 (1) An ADI with which a trust account is maintained immediately
11 before commencement day is taken, on and from
12 commencement day, to have entered into a trust account
13 arrangement on the following terms —

14 (a) the rate of interest payable on the money in trust
15 accounts maintained with the ADI is the rate payable
16 under section 387(4) of the old Act immediately before
17 commencement day;

18 (b) the ADI must pay 51% of the interest earned each month
19 on the money in trust accounts maintained with the ADI
20 to the Legal Contribution Trust within 10 working days
21 after the end of the month.

22 (2) The arrangement taken to have been entered into under
23 subsection (1) continues until a trust account arrangement is
24 agreed to by the ADI and the Legal Contribution Trust that is in
25 accordance with section 199.

26 **295. Investigator under old Act taken to be appointed as external**
27 **investigator under Uniform Law**

28 (1) A person who, immediately before commencement day, is an
29 investigator appointed under section 230(1) of the old Act is
30 taken, on and from commencement day, to be an external
31 investigator appointed under the *Legal Profession Uniform*
32 *Law (WA)* section 162(1).

1 (2) The person's instrument of appointment as an investigator under
2 the old Act is taken, on and from commencement day, to be the
3 instrument of appointment as an external investigator under the
4 *Legal Profession Uniform Law (WA)* section 162(1).

5 (3) The person's appointment as an external investigator is subject
6 to amendment or revocation under the *Legal Profession*
7 *Uniform Law (WA)*.

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

10 (1) If an investigation has commenced under section 231 of the old
11 Act and has not been completed before commencement day, the
12 investigation may be completed under Parts 9 and 15 of the old
13 Act as if those Parts had not been repealed.

14 (2) If an external examination has commenced under section 237,
15 238 or 239 of the old Act and has not been completed before
16 commencement day, the external examination may be continued
17 under Parts 9 and 15 of the old Act as if those Parts had not
18 been repealed.

19 **297. External investigations of actions before commencement day**

20 (1) In this section —

21 *trust account matter* means a matter relating to —

22 (a) trust money or trust property received by a law practice
23 before commencement day; or

24 (b) a trust account maintained by a law practice before
25 commencement day.

26 (2) An external investigation may be carried out under the *Legal*
27 *Profession Uniform Law (WA)* Part 4.2 Division 4 in relation to
28 a trust account matter if the trust account matter —

29 (a) could be investigated immediately before
30 commencement day under Part 9 of the old Act; and

- 1 (b) has not been the subject of an investigation under the old
2 Act or an investigation continued under section 296.

3 **Division 7 — Legal costs**

4 **298. Continuation of legal costs determinations**

- 5 (1) In this section —
6 **LPA determination** means a legal costs determination made
7 under section 275(1) of the old Act.
8 (2) An LPA determination is taken, on and from commencement
9 day, to be a legal costs determination made under
10 section 132(1).
11 (3) For the purposes of section 136(1), an LPA determination is
12 taken to be made on the day on which it was made under the old
13 Act.

14 **Division 8 — Professional indemnity insurance**

15 **299. Continuation and membership of PII management**
16 **committee**

17 If the Law Society established a PII management committee (an
18 **LPA Committee**) under section 331(1) of the old Act and the
19 committee was in existence immediately before commencement
20 day —

- 21 (a) the Law Society is taken, on and from commencement
22 day, to have established a PII management committee
23 under section 183; and
24 (b) the PII management committee is the same entity as, and
25 a continuation of, the LPA Committee; and
26 (c) a person who was a member of the LPA Committee
27 immediately before commencement day continues on
28 and from that day to be a member of the PII
29 management committee under this Act.

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

(1) In this section —

transitioned PII entity means a law practice as defined in section 3 of the old Act that is a PII entity as defined in section 152(1);

transition year means the financial year that includes commencement day.

(2) A PII arrangement that is in force immediately before commencement day made by the Law Society under the PII regulations is taken, on and from commencement day, to be a PII arrangement under section 155.

(3) If a certificate of insurance was issued to a transitioned PII entity under the PII regulations before commencement day in relation to the whole of the transition year —

(a) the transitioned PII entity is taken on commencement day to have been granted arrangement insurance under section 157(4) for the transition year; and

(b) the certificate of insurance is taken to have been given under section 157(5) for the transition year.

(4) If a certificate of insurance was issued to a transitioned PII entity under the PII regulations before commencement day in relation to a part of the transition year —

(a) the transitioned PII entity is taken on commencement day to have been granted arrangement insurance under section 158(2) for the part of the transition year to which the certificate relates; and

(b) the certificate of insurance is taken to have been given under section 158(3) for the part of the transition year to which the certificate relates.

- 1 (5) If a certificate of insurance was issued to a transitioned PII
2 entity under the PII regulations before commencement day in
3 relation to a part of the transition year that does not include all
4 of the period between commencement day and the end of the
5 transition year, the transitioned PII entity may apply for
6 arrangement insurance for the remainder of the financial year
7 under section 158(1).

8 **301. Annual contribution under old Act taken to be contribution**
9 **under this Act**

- 10 (1) This section applies if —
11 (a) a law practice paid an amount before commencement
12 day required as an annual contribution under the
13 PII regulations in relation to a PII arrangement in
14 relation to a financial year; and
15 (b) commencement day is in the financial year.
16 (2) The amount paid by the law practice under the PII regulations
17 before commencement day is taken, on and from
18 commencement day, to be an amount paid under this Act in
19 relation to the PII arrangement under section 155 for the
20 financial year that ends on the same day as the financial year in
21 relation to which the amount was paid under the PII regulations.

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

24 A policy of professional indemnity insurance approved by
25 resolution of the Council of the Western Australian Bar
26 Association that is in force immediately before commencement
27 day is taken, on and from commencement day, to be a
28 Bar-approved policy under section 160(1).

1 **303. Professional indemnity insurance scheme under old Act**
2 **taken to be PII scheme**

3 (1) This section applies if —

4 (a) the Law Society approved a scheme providing
5 professional indemnity insurance under the
6 PII regulations; and

7 (b) the approval is in force immediately before
8 commencement day.

9 (2) The approved scheme is taken, on and from commencement
10 day, to be a PII scheme approved under the local regulations
11 made under section 161.

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

14 If the Law Society determined a method of assessment of
15 annual contributions of law practices for the purposes of the PII
16 arrangement under the PII regulations and the method was in
17 effect immediately before commencement day, the method is
18 taken, on and from commencement day, to be the method of
19 assessment of annual contributions of PII entities determined
20 under section 163(2) until the Law Society determines another
21 method under that section.

22 **305. Review of or appeal against annual contribution continued**
23 **under this Act**

24 (1) If a law practice has applied for a review under the
25 PII regulations of an assessment of its annual contribution for
26 the purposes of the PII arrangement under the PII regulations
27 and the review has not been decided before commencement day,
28 the review is taken, on and from commencement day, to have
29 been applied for under section 164(1).

30 (2) If a law practice has appealed under the PII regulations against a
31 review of an assessment of its annual contribution under the
32 PII regulations and the appeal has not been decided before

1 commencement day, the appeal is taken, on and from
2 commencement day, to have been made under section 165(1).

3 (3) If a person has been nominated by the Attorney General as a
4 person to whom a law practice may appeal an assessment of the
5 law practice's annual contribution under the PII regulations and
6 the person's nomination is in effect immediately before
7 commencement day —

8 (a) the person is taken to be nominated under
9 section 165(1); and

10 (b) the person's nomination is on the same terms as the
11 person's nomination under the PII regulations.

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

15 (1) This section applies if —

16 (a) a person was exempt under the PII regulations from the
17 requirement to obtain or maintain professional
18 indemnity insurance under the PII regulations before
19 commencement day —

20 (i) in relation to particular work or duties carried out
21 by the person; or

22 (ii) because the person did not do particular work or
23 carry out particular duties;

24 and

25 (b) on and after commencement day, the person will
26 continue to do, or not do, that work or those duties; and

27 (c) the basis of the exemption under the PII regulations is
28 substantially the same as an exemption a person may
29 apply to the Board for under the *Legal Profession*
30 *Uniform Law (WA)* section 215(2), (4) or (6) or under
31 the Uniform Rules (WA) made under section 215(8) of
32 the Law.

- 1 (2) The Board is taken to have granted the person an exemption
2 from the requirement to hold or be covered by an approved
3 insurance policy as defined in section 153 under the relevant
4 provision of the *Legal Profession Uniform Law (WA)*
5 section 215 or under the Uniform Rules (WA) made under
6 section 215(8) of the Law in relation to the work or duties —
7 (a) on and from commencement day until the earlier of the
8 following —
9 (i) the day on which the Board gives the person a
10 certificate of exemption under section 174(2)
11 or 175(3);
12 (ii) the 30 June following commencement day;
13 and
14 (b) otherwise on the same terms as the exemption under the
15 PII regulations.
- 16 **307. Insurance taken out under previous legislation continues**
- 17 (1) Insurance taken out and maintained in accordance with an
18 arrangement made under the *Legal Practitioners (Professional*
19 *Indemnity Insurance) Regulations 1988* continues to have effect
20 with respect to any matter or thing occurring before 1 July 1995.
- 21 (2) Insurance taken out and maintained in accordance with
22 arrangements made under the *Legal Practice (Professional*
23 *Indemnity Insurance) Regulations 1995* continues to have effect
24 with respect to any matter or thing occurring before 1 July 2009.
- 25 (3) Insurance taken out and maintained in accordance with
26 arrangements made under the PII regulations continues to have
27 effect with respect to any matter or thing occurring before
28 commencement day.

Division 9 — Fidelity cover

308. Solicitors' Guarantee Fund continued

The Guarantee Fund is a continuation of the Solicitors' Guarantee Fund established under section 336(1) of the old Act.

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

If, immediately before commencement day, the Attorney General's approval of an investment of a portion of the Solicitors' Guarantee Fund under section 342(1) of the old Act was in effect, the approval is taken, on and from commencement day, to be an approval under section 196(1).

310. Contributions to Solicitors' Guarantee Fund

(1) This section applies to a person who —

- (a) before commencement day, paid an amount to the Legal Practice Board for application to the Solicitors' Guarantee Fund under section 337(1) of the old Act for a financial year; and
- (b) must pay an annual contribution under the *Legal Profession Uniform Law (WA)* section 225(1) for that financial year.

(2) The amount paid by the person under section 337(1) of the old Act is taken, on and from commencement day, to be an amount paid for the purposes of the *Legal Profession Uniform Law (WA)* section 225(1) for that financial year.

311. Agreed amount under s. 388 of old Act taken to be agreed amount for s. 200

If, immediately before commencement day, there was an amount determined under section 388(3)(b) of the old Act, that amount is taken, on and from commencement day, to be the amount agreed by the Attorney General and the Law Society

1 under paragraph (b) of the definition of *agreed amount* in
2 section 200(1).

3 **Division 10 — Complaints and discipline**

4 **312. Investigations not finalised before commencement day to be**
5 **dealt with under old Act**

6 (1) This section applies to any of the following matters under the
7 old Act that were not completed before commencement day —

8 (a) a complaint or inquiry being dealt with by the
9 Complaints Committee under the old Act because of
10 section 621 of that Act;

11 (b) a complaint being dealt with by the Complaints
12 Committee under Part 13 of the old Act;

13 (c) an investigation by the Complaints Committee under
14 section 421 of the old Act.

15 (2) Unless the local regulations provide that another person is to
16 deal with the matter, the Legal Services and Complaints
17 Committee may deal with the matter under the provisions of the
18 old Act dealing with the matter, including provisions necessary
19 to give effect to those provisions, as if —

20 (a) those provisions had not been repealed; and

21 (b) a reference to the Complaints Committee in those
22 provisions were a reference to the Legal Services and
23 Complaints Committee.

24 (3) If the local regulations provide that another person is to deal
25 with the matter —

26 (a) the person must have regard to the steps taken by the
27 Complaints Committee before the person deals with the
28 matter; and

29 (b) the person must deal with the matter in accordance with
30 the procedure prescribed by the local regulations.

1 **313. Audit of incorporated legal practice under old Act continues**
2 **under Uniform Law**

- 3 (1) This section applies if —
- 4 (a) the Legal Practice Board or the Complaints Committee
5 commenced an audit of an incorporated legal practice
6 under section 118 of the old Act before commencement
7 day; and
- 8 (b) immediately before commencement day, the audit was
9 not completed or had not otherwise ended.
- 10 (2) The audit is taken to be an audit under the *Legal Profession*
11 *Uniform Law (WA)* section 256 and may be continued under
12 that section.

13 **314. Pre-commencement conduct may be investigated under**
14 **Uniform Law**

- 15 (1) This section applies if, before commencement day —
- 16 (a) a person to whom Part 13 of the old Act applied
17 engaged, or may have engaged, in —
- 18 (i) conduct to which Part 13 of the old Act applied;
19 or
- 20 (ii) unsatisfactory professional conduct as defined in
21 section 402 of the old Act; or
- 22 (iii) professional misconduct as defined in
23 section 403(1) of the old Act;
- 24 and
- 25 (b) the conduct, or suspected conduct, was not the subject of
26 a complaint or investigation under Part 13 of the old
27 Act; and
- 28 (c) the conduct, or suspected conduct, could have been the
29 subject of a complaint or investigation under Part 13 of
30 the old Act.

- 1 (2) The conduct, or suspected conduct, may be the subject of a
2 complaint or investigation under the *Legal Profession Uniform*
3 *Law (WA)*.

4 **315. Review of summary conclusion decision under s. 426 of old**
5 **Act after commencement day**

- 6 (1) This section applies if, before commencement day —
7 (a) the Complaints Committee made a decision under
8 section 426(2) of the old Act; and
9 (b) a person aggrieved had not applied for a review of the
10 decision under section 435(1) of the old Act; and
11 (c) the person aggrieved was not precluded from seeking a
12 review under the old Act for any reason including, for
13 example, that the time limit for making the application
14 has expired.
- 15 (2) The person aggrieved may apply to the State Administrative
16 Tribunal for a review of a decision of the Complaints
17 Committee under the *Legal Profession Uniform Law (WA)* as if
18 it were a decision under section 290(1) of the Law.

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

- 21 (1) This section applies if, before commencement day —
22 (a) a person aggrieved by a decision (the ***Committee***
23 ***decision***) of the Complaints Committee under
24 section 426(2) of the old Act made an application for a
25 review of the decision to the State Administrative
26 Tribunal under section 435(1) of the old Act; and
27 (b) the Tribunal has not made a final decision on the
28 application.
- 29 (2) Section 435 of the old Act applies to the Committee decision as
30 if that section were not repealed.

- 1 (3) If, under section 435 of the old Act as continued under
2 subsection (2), the State Administrative Tribunal does not
3 affirm the Committee decision —
- 4 (a) if the person who sought the review under the old Act is
5 a respondent lawyer, or a legal practitioner associate of a
6 respondent law practice as defined in the *Legal*
7 *Profession Uniform Law (WA)* section 6(1) — the
8 review is taken, on and from commencement day, to be
9 sought under section 314(1) of the Law of a decision
10 referred to in that section; or
- 11 (b) in any other case — the Tribunal may make any order it
12 could make on an application under section 435(1) of
13 the old Act.
- 14 (4) If, under section 435 of the old Act as continued under
15 subsection (2), the State Administrative Tribunal affirms the
16 Committee decision, the decision takes effect as it would as if
17 the Tribunal made the decision under the old Act.
- 18 **317. Review of Complaints Committee’s decision to dismiss**
19 **complaint**
- 20 (1) This section applies if, before commencement day —
- 21 (a) the Complaints Committee made a decision to dismiss a
22 complaint under the old Act; and
- 23 (b) a person aggrieved had not applied for a review of the
24 decision under section 435(1) of the old Act; and
- 25 (c) the person aggrieved was not precluded from seeking a
26 review under the old Act for any reason including, for
27 example, that the time limit for making the application
28 has ceased.
- 29 (2) The person aggrieved may apply to the State Administrative
30 Tribunal for a review of the decision of the Complaints
31 Committee under section 318.

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

(1) This section applies if —

(a) a person aggrieved by the Complaints Committee's
decision to dismiss a complaint under the old Act made
an application for a review of the decision —

(i) before commencement day to the State
Administrative Tribunal under section 435(1) of
the old Act; or

(ii) after commencement day under section 317(2);
and

(b) the Tribunal has not made a final decision before
commencement day.

(2) Section 435 of the old Act applies to the application for a
review of the Complaints Committee's decision as if that
section were not repealed.

(3) If, under section 435(1) of the old Act as continued under
subsection (2), the State Administrative Tribunal sets aside the
decision of the Complaints Committee to dismiss the complaint
under the old Act —

(a) the complaint is taken, on and from commencement day,
to have been made under the *Legal Profession Uniform
Law (WA)* section 266; and

(b) the preliminary assessment of the complaint under the
Legal Profession Uniform Law (WA) section 276(1) is
taken, on and from commencement day, to have been
completed; and

(c) the complaint must otherwise be dealt with under the
Legal Profession Uniform Law (WA) Part 5.2.

- 1 (4) If, under section 435(1) of the old Act as continued under
2 subsection (2), the State Administrative Tribunal affirms the
3 decision of the Complaints Committee to dismiss the complaint
4 under the old Act, the whole of the complaint is taken to have
5 ended under the *Legal Profession Uniform Law (WA)*
6 section 277.

7 **319. Enforcing compensation orders under old Act**

8 A compensation order made under section 448(1) of the old Act
9 and not enforced before commencement day may be enforced,
10 on and from commencement day, under the *Legal Profession*
11 *Uniform Law (WA)* section 310 as if it were a compensation
12 order made under the Law.

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

15 For the purposes of the *Legal Profession Uniform Law (WA)*
16 section 311, a compensation order made under section 448(1) of
17 the old Act before commencement day compensating an
18 aggrieved person as defined in section 307(2) of the Law must
19 be taken into account as compensation awarded to the person in
20 a proceeding, unless the amount has already been taken into
21 account in the proceeding under section 450 of the old Act.

22 **Division 11 — Registers**

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

25 The roll of persons admitted to the legal profession maintained
26 by the Supreme Court under section 28(1) of the old Act
27 continues on and from commencement day as the Supreme
28 Court roll under the *Legal Profession Uniform Law (WA)*
29 section 22(1).

1 **322. Continuation of register of local practising certificates kept**
2 **under old Act**

3 The register of the names of Australian lawyers kept under
4 section 76(1) of the old Act continues, on and from
5 commencement day, as the register to be kept under
6 section 216(1).

7 **323. Continuation of register of locally registered foreign lawyers**
8 **kept under old Act**

9 The register of the names of locally registered foreign lawyers
10 kept under section 198(1) of the old Act continues, on and from
11 commencement day, as the register to be kept under
12 section 217(1).

13 **324. Continuation of Register of Disciplinary Action kept under**
14 **old Act**

15 The Register of Disciplinary Action kept under section 452(1)
16 of the old Act continues, on and from commencement day, to be
17 the register to be kept under section 219(2).

18 **Division 12 — Law library**

19 **325. Continuation of law library**

20 The law library established before commencement day under
21 section 596A(1) of the old Act is continued as the law library
22 that may be established under section 243(1).

23 **326. Law library contributions paid under old Act taken to be**
24 **contributions under this Act**

25 An amount paid by the Legal Practice Board to the State before
26 commencement day for a year as a contribution to the cost of
27 providing and maintaining the law library under
28 section 548A(2) of the old Act is taken, on and from
29 commencement day, to be an amount paid under section 244(2)
30 for that year.

1 **Division 13 — Law Society Public Purposes Trust**

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

4 A reference in a document to the *Law Society Public Purposes*
5 *Trust Act 1985* repealed under section 259(b) is taken, on and
6 from commencement day, to be a reference to Part 12 of this
7 Act.

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

10 (1) In this section —
11 *former arrangement* means an arrangement made under the
12 repealed *Law Society Public Purposes Trust Act 1985*
13 section 3(1).

14 (2) This section applies if —
15 (a) interest was accrued on trust moneys held under the old
16 Act before commencement day; and
17 (b) a former arrangement was in effect immediately before
18 commencement day in relation to the payment of
19 interest accruing on those trust moneys; and
20 (c) the interest was not paid under the former arrangement
21 before commencement day.

22 (3) The former arrangement continues to apply in relation to the
23 interest accrued on the trust moneys.

24 **Division 14 — Transitional regulations**

25 **329.** **Transitional regulations**

26 (1) In this section —
27 *specified* means specified or described in the local regulations;

1 ***transitional matter*** —

2 (a) means a matter that needs to be dealt with for the
3 purpose of effecting the transition from the provisions of
4 the Acts repealed under section 259 of this Act and the
5 *Legal Profession Uniform Law (WA)*; and

6 (b) includes a savings or application matter.

7 (2) Without limiting the *Legal Profession Uniform Law (WA)*
8 Schedule 4 clause 5(2), the local regulations may prescribe all
9 matters that are required, necessary or convenient to be
10 prescribed in relation to a transitional matter if there is no
11 sufficient provision in this Part or Schedule 4 of the Law for
12 dealing with that matter.

13 (3) The local regulations in relation to transitional matters may
14 provide that specified provisions of this Act, the *Legal*
15 *Profession Uniform Law (WA)* or another written law —

16 (a) do not apply to or in relation to any matter; or

17 (b) apply with specified modifications to or in relation to
18 any matter.

19 Note for this section:

20 See the *Legal Profession Uniform Law (WA)* Schedule 4 clause 5 for
21 the power to make transitional regulations in the local regulations.

1 **Part 17 — Consequential amendments to other Acts**

2 **Division 1 — *Aboriginal Affairs Planning Authority Act 1972***
3 **amended**

4 **330. Act amended**

5 This Division amends the *Aboriginal Affairs Planning Authority*
6 *Act 1972*.

7 **331. Section 48 amended**

8 In section 48 delete “Any” and insert:
9

10 Despite the *Legal Profession Uniform Law (WA)* section 10, any
11

12 **Division 2 — *Children and Community Services Act 2004***
13 **amended**

14 **332. Act amended**

15 This Division amends the *Children and Community Services*
16 *Act 2004*.

17 **333. Section 148 amended**

18 Delete section 148(1).

19 **Division 3 — *Civil Judgments Enforcement Act 2004* amended**

20 **334. Act amended**

21 This Division amends the *Civil Judgments Enforcement*
22 *Act 2004*.

1 **335. Section 30 amended**

2 (1) Delete section 30(1).

3 (2) In section 30(6) delete “*Legal Profession Act 2008* section 12.”
4 and insert:

5
6 *Legal Profession Uniform Law (WA)* section 10.
7

8 (3) In section 30(7) delete “lawyer,” and insert:

9
10 legal practitioner,
11

12 **Division 4 — *Civil Liability Act 2002* amended**

13 **336. Act amended**

14 This Division amends the *Civil Liability Act 2002*.

15 **337. Section 15L amended**

16 Delete section 15L(1) and insert:

17
18 (1) In this section —

19 *costs determination* means a legal costs determination
20 made under the *Legal Profession Uniform Law*
21 *Application Act 2021* section 132;

22 *law practice* has the meaning given in the *Legal*
23 *Profession Uniform Law (WA)* section 6(1).
24

1 **338. Section 16 amended**

2 (1) In section 16 delete the definition of *legal practitioner*.

3 (2) In section 16 in the definition of *client* delete “legal practitioner,
4 includes a person who makes a genuine inquiry of a legal
5 practitioner” and insert:

6
7 lawyer, includes a person who makes a genuine inquiry of a
8 lawyer
9

10 (3) In section 16 in the definition of *law practice* delete “*Legal*
11 *Profession Act 2008*,” and insert:

12
13 *Legal Profession Uniform Law (WA)* section 6(1);
14

15 **339. Section 17 amended**

16 In section 17(2)(a)(i) delete “as defined in the *Legal Profession*
17 *Act 2008* section 252; or” and insert:

18
19 made in accordance with the *Legal Profession Uniform*
20 *Law (WA)* Part 4.3 Division 4; or
21

22 **340. Various references to “legal practitioner” amended**

23 In the provisions listed in the Table:

24 (a) delete “legal practitioner” (each occurrence) and insert:

25
26 lawyer
27

(b) delete “legal practitioners” (each occurrence) and insert:

lawyers

(c) delete “legal practitioner’s” (each occurrence) and insert:

lawyer’s

Table

s. 17	s. 18
s. 19	s. 20

Division 5 — *Commercial Arbitration Act 2012* amended

341. Act amended

This Division amends the *Commercial Arbitration Act 2012*.

342. Section 24A amended

In section 24A(2) delete “*Legal Profession Act 2008*” and insert:

Legal Profession Uniform Law (WA)

1 **343. Section 33C amended**

2 In section 33C delete “*Legal Profession Act 2008* Part 10
3 Division 8” and insert:

4
5 *Legal Profession Uniform Law (WA)* Part 4.3 Division 7

6
7 Note: The heading to amended section 33C is to read:

8 **Application of *Legal Profession Uniform Law (WA)***

9 **Division 6 — *Community Titles Act 2018* amended**

10 **344. Act amended**

11 This Division amends the *Community Titles Act 2018*.

12 **345. Section 3 amended**

13 In section 3(1) delete the definition of *Australian legal*
14 *practitioner*.

15 **346. Section 117 amended**

16 Delete section 117(4) and insert:

17
18 (4) A legal practitioner does not act as a scheme manager
19 in providing services that can, under the *Legal*
20 *Profession Uniform Law (WA)*, be provided only by a
21 legal practitioner.
22

23 **347. Section 137 amended**

24 In section 137(2)(a) delete “an Australian legal practitioner,”
25 and insert:

26
27 a legal practitioner,
28

1 **348. Section 182 amended**

2 In section 182(6) delete “an Australian lawyer (within the
3 meaning of that term in the *Legal Profession Act 2008*
4 section 3).” and insert:

5

6 a lawyer.

7

8 **Division 7 — *District Court of Western Australia Act 1969***
9 **amended**

10 **349. Act amended**

11 This Division amends the *District Court of Western Australia*
12 *Act 1969*.

13 **350. Section 6 amended**

14 (1) In section 6(1) delete the definitions of:

15 *Australian lawyer*

16 *legal practitioner*

17 (2) In section 6(1) insert in alphabetical order:

18

19 *costs determination* means a legal costs determination
20 made under the *Legal Profession Uniform Law*
21 *Application Act 2021* section 132;

22

23 **351. Section 10 amended**

24 In section 10(2) delete “an Australian lawyer” and insert:

25

26 a lawyer

27

1 **352. Section 64 amended**

2 In section 64(1) delete “(as defined in the *Legal Profession*
3 *Act 2008* section 252)”.

4 **353. Section 66 amended**

5 In section 66 delete “costs determination (as defined in the
6 *Legal Profession Act 2008* section 252),” and insert:

7

8 costs determination,

9

10 **354. Section 88 amended**

11 In section 88(2)(b) delete “costs determination (as defined in the
12 *Legal Profession Act 2008* section 252);” and insert:

13

14 costs determination;

15

16 **Division 8 — *Energy Arbitration and Review Act 1998* amended**

17 **355. Act amended**

18 This Division amends the *Energy Arbitration and Review*
19 *Act 1998*.

20 **356. Section 49 replaced**

21 Delete section 49 and insert:

22

23 **49. Term used: Board**

24 In this Division —

25 ***Board*** means the Western Australian Electricity
26 Review Board established by section 50.

27

1 **Division 9 — *Interpretation Act 1984* amended**

2 **357. Act amended**

3 This Division amends the *Interpretation Act 1984*.

4 **358. Section 5 amended**

5 In section 5 insert in alphabetical order:

6
7 *lawyer* means an Australian lawyer as defined in the
8 *Legal Profession Uniform Law (WA)* section 6(1);

9 *legal practitioner* means an Australian legal
10 practitioner as defined in the *Legal Profession Uniform*
11 *Law (WA)* section 6(1);
12

13 **Division 10 — *Juries Act 1957* amended**

14 **359. Act amended**

15 This Division amends the *Juries Act 1957*.

16 **360. Section 3 amended**

17 In section 3(1) delete the definition of *Australian legal*
18 *practitioner*.

19 **361. Section 56A amended**

20 In section 56A(1) in the definition of *prosecuting officer*:

21 (a) in paragraph (b) delete the passage that begins with “is”
22 and ends with “section 3; or” and insert:

23
24 is a legal practitioner; or
25

1 (b) in paragraph (c) delete “*Director of Public Prosecutions*
2 *Act 1983*, as amended from time to time, of the
3 Parliament of the Commonwealth; or” and insert:

4
5 *Director of Public Prosecutions Act 1983*
6 (Commonwealth); or
7

8 (c) in paragraphs (d) and (e) delete “*Director of Public*
9 *Prosecutions Act 1983*, as amended from time to time,
10 of the Parliament of the Commonwealth” and insert:

11
12 *Director of Public Prosecutions Act 1983*
13 (Commonwealth)
14

15 **362. Section 56B amended**

16 In section 56B(2)(h) delete “an Australian legal practitioner
17 (within the meaning of that term in the *Legal Profession*
18 *Act 2008* section 3)” and insert:

19
20 a legal practitioner
21

22 **363. Section 56C amended**

23 In section 56C(2)(g) delete “an Australian legal practitioner
24 (within the meaning of that term in the *Legal Profession*
25 *Act 2008* section 3)” and insert:

26
27 a legal practitioner
28

1 **364. Schedule 1 clause 3 replaced**

2 Delete Schedule 1 clause 3 and insert:

3

4 **3. Legal practitioners**

5 A person who is a legal practitioner.

6

7 **Division 11 — *Law Reform Commission Act 1972* amended**

8 **365. Act amended**

9 This Division amends the *Law Reform Commission Act 1972*.

10 **366. Section 6 amended**

11 (1) In section 6(1) and (2) delete “an Australian legal practitioner”
12 (each occurrence) and insert:

13

14 a legal practitioner

15

16 (2) Delete section 6(3).

17 **Division 12 — *Legal Aid Commission Act 1976* amended**

18 **367. Act amended**

19 This Division amends the *Legal Aid Commission Act 1976*.

20 **368. Section 4 amended**

21 (1) In section 4(1) delete the definitions of:

22 *Australian lawyer*

23 *Legal Practice Board*

24 *legal practitioner*

1 (2) In section 4(1) insert in alphabetical order:
2

3 *Legal Practice Board* means the Legal Practice Board
4 established by the *Legal Profession Uniform Law*
5 *Application Act 2021* section 29(1);
6

7 (3) In section 4(1) in the definition of *law practice* delete “*Legal*
8 *Profession Act 2008* section 3;” and insert:
9

10 *Legal Profession Uniform Law (WA)* section 6(1);
11

12 (4) In section 4(1) in the definition of *legal advice* delete “an
13 Australian lawyer” and insert:
14

15 a lawyer
16

17 **369. Section 7 amended**

18 (1) In section 7(1)(b)(ii) delete “an Australian lawyer)” and insert:
19

20 a lawyer)
21

22 (2) In section 7(2) delete “an Australian lawyer” and insert:
23

24 a lawyer
25

26 (3) In section 7(3)(a) delete “an Australian lawyer)” and insert:
27

28 a lawyer)
29

1 **370. Section 14 amended**

2 In section 14(1) delete “Part 10 Division 8 of the *Legal*
3 *Profession Act 2008*,” and insert:

4
5 the *Legal Profession Uniform Law (WA)* Part 4.3 Division 7,
6

7 **371. Section 17 amended**

8 (1) In section 17(3) delete “Part 12 Division 4 of the *Legal*
9 *Profession Act 2008*” and insert:

10
11 the *Legal Profession Uniform Law Application Act 2021* Part 8
12 Division 2
13

14 (2) In section 17(4) delete “Part 12 Division 4 of the *Legal*
15 *Profession Act 2008*” and insert:

16
17 the *Legal Profession Uniform Law Application Act 2021* Part 8
18 Division 2)
19

20 **372. Section 18 amended**

21 In section 18(2) delete “an Australian lawyer,” and insert:

22
23 a lawyer,
24

1 **373. Section 19 amended**

2 Delete section 19(3) and insert:

3

4 (3) The Director may provide supervised legal training to
5 persons who are staff of the Commission in accordance
6 with the *Legal Profession Uniform Law (WA)*.

7

8 **374. Section 20 amended**

9 In section 20(2) delete “Australian lawyers” and insert:

10

11 lawyers

12

13 **375. Section 25 amended**

14 In section 25(6) and (8) delete “an Australian lawyer” and
15 insert:

16

17 a lawyer

18

19 **376. Section 39 amended**

20 In section 39(1a) delete “Part 10 Division 6 of the *Legal*
21 *Profession Act 2008*.” and insert:

22

23 the *Legal Profession Uniform Law (WA)* Part 4.3 Division 4.

24

1 **377. Section 40 amended**

2 In section 40(6a) delete the passage that begins with “to any”
3 and ends with “(full bench).” and insert:

4
5 to any —

- 6 (a) order or finding of fact relating to that
7 practitioner made by the Legal Practice Board
8 or the State Administrative Tribunal under the
9 *Legal Profession Uniform Law (WA)* Part 5.4;
10 or
11 (b) order relating to that practitioner made by the
12 Supreme Court under the *Legal Profession*
13 *Uniform Law (WA)* section 23 or 461 or finding
14 of fact made by the Court in the course of
15 making that order.
16

17 **378. Section 50 amended**

18 In section 50(2):

- 19 (a) in paragraph (b) delete “an Australian lawyer” and
20 insert:
21
22 a lawyer
23
24 (b) in paragraph (c) delete “an Australian lawyer.” and
25 insert:
26
27 a lawyer.
28

1 **379. Section 52 amended**

2 In section 52(2)(a) delete “*Legal Profession Act 2008*” and
3 insert:

4
5 *Legal Profession Uniform Law Application Act 2021*
6

7 **380. Section 56 amended**

8 In section 56(2)(e) delete “section 391 of the *Legal Profession*
9 *Act 2008*; and” and insert:

10
11 the *Legal Profession Uniform Law Application Act 2021*
12 section 100(1); and
13

14 **381. Section 61 amended**

15 (1) In section 61(1) delete “*Legal Profession Act 2008* and the legal
16 profession rules made under that Act” and insert:

17
18 *Legal Profession Uniform Law (WA)* and the Uniform
19 Rules (WA) (as defined in the *Legal Profession Uniform Law*
20 *Application Act 2021* section 3(1))
21

22 (2) Delete section 61(2)(a) and insert:

23
24 (a) the Director is taken to be, and has all the rights
25 and privileges of, a legal practitioner who is a
26 sole practitioner as defined in the *Legal*
27 *Profession Uniform Law (WA)* section 6(1);
28

- 1 (3) In section 61(4) delete “Part 9 of the *Legal Profession*
2 *Act 2008*” and insert:

3

4 The *Legal Profession Uniform Law (WA)* Part 4.2

5

6 **382. Section 64 amended**

- 7 (1) In section 64(2c) delete “*Legal Profession Act 2008*” and insert:

8

9 *Legal Profession Uniform Law (WA)*

10

- 11 (2) In section 64(4)(c) delete “Supreme Court (full bench), under
12 the *Legal Profession Act 2008*.” and insert:

13

14 Supreme Court, under the *Legal Profession Uniform Law (WA)*.

15

16 **Division 13 — Magistrates Court Act 2004 amended**

17 **383. Act amended**

18 This Division amends the *Magistrates Court Act 2004*.

19 **384. Schedule 1 clause 1 amended**

- 20 (1) In Schedule 1 clause 1 delete the definition of *legal*
21 *practitioner*.

- 22 (2) In Schedule 1 clause 1 in the definition of *Attorney General*
23 paragraph (b) delete “General;” and insert:

24

25 General.

26

27 Note: The heading to amended Schedule 1 clause 1 is to read:

28 **Term used: Attorney General**

1 **Division 14 — *Prohibited Behaviour Orders Act 2010* amended**

2 **385. Act amended**

3 This Division amends the *Prohibited Behaviour Orders*
4 *Act 2010*.

5 **386. Section 36 amended**

6 Delete section 36(1).

7 **Division 15 — *Public Trustee Act 1941* amended**

8 **387. Act amended**

9 This Division amends the *Public Trustee Act 1941*.

10 **388. Section 2 amended**

11 In section 2 delete the definition of *certificated practitioner*.

12 **389. Section 47A amended**

13 (1) In section 47A(1) delete “*Legal Practice Act 2003*,” and insert:

14

15 *Legal Profession Uniform Law (WA)*,

16

17 (2) In section 47A(2) and (3) delete “certificated practitioner.” and
18 insert:

19

20 legal practitioner.

21

22 **Division 16 — *Registration of Deeds Act 1856* amended**

23 **390. Act amended**

24 This Division amends the *Registration of Deeds Act 1856*.

1 **391. Section 6 amended**

2 In section 6:

3 (a) delete “an Australian lawyer (within the meaning of that
4 term in the *Legal Profession Act 2008* section 3)” and
5 insert:

6
7 a lawyer

8
9 (b) delete “practitioner” and insert:

10
11 lawyer

12
13 (c) delete “his” and insert:

14
15 their

16
17 **Division 17 — *Sale of Goods (Vienna Convention) Act 1986***
18 **amended**

19 **392. Act amended**

20 This Division amends the *Sale of Goods (Vienna Convention)*
21 *Act 1986*.

22 **393. Section 7 amended**

23 Delete section 7(2).

24 **Division 18 — *Spent Convictions Act 1988* amended**

25 **394. Act amended**

26 This Division amends the *Spent Convictions Act 1988*.

1 **395. Schedule 3 clause 1 amended**

2 (1) In Schedule 3 clause 1(12) in the Table:

3 (a) in item 1 delete “*Legal Profession Act 2008.*” and insert:

4
5 *Legal Profession Uniform Law (WA).*

6
7 (b) in item 2 delete “*Legal Profession Act 2008* section 23.”
8 and insert:

9
10 *Legal Profession Uniform Law (WA)* section 21.

11
12 (c) in item 3 delete “an Australian lawyer within the meaning
13 of the *Legal Profession Act 2008.*” and insert:

14
15 a lawyer.

16
17 (d) in item 4 delete “person who applies for registration as a
18 locally registered foreign lawyer under the *Legal Profession*
19 *Act 2008.*” and insert:

20
21 foreign lawyer who applies for an Australian registration
22 certificate under the *Legal Profession Uniform Law (WA).*

23
24 (e) in item 5 delete “*Legal Profession Act 2008.*” and insert:

25
26 *Legal Profession Uniform Law (WA).*

27
28 (2) Delete Schedule 3 clause 1(13) and insert:

29
30 (13) The exception in subclause (12) extends to —

31 (a) the Legal Practice Board established under the
32 *Legal Profession Uniform Law Application*
33 *Act 2021* section 29(1); and

- 1 (b) the Legal Services and Complaints Committee
2 established under the *Legal Profession Uniform*
3 *Law Application Act 2021* section 56(1).
4

5 **Division 19 — State Administrative Tribunal Act 2004 amended**

6 **396. Act amended**

7 This Division amends the *State Administrative Tribunal*
8 *Act 2004*.

9 **397. Section 3 amended**

- 10 (1) In section 3(1) delete the definitions of:
11 *legal practitioner*
12 *qualified person*
13 (2) In section 3(1) in the definition of *legally qualified member*
14 paragraph (c) delete “qualified person” and insert:
15

16 lawyer
17

18 **398. Section 93 amended**

19 In section 93(1) in the definition of *legally qualified person*
20 paragraph (a) delete “an Australian lawyer (within the meaning
21 of that term in the *Legal Profession Act 2008* section 3)” and
22 insert:
23

24 a lawyer
25

1 **399. Section 117 amended**

2 In section 117(3)(a) and (4)(a) delete “qualified person” and
3 insert:

4
5 lawyer
6

7 **400. Schedule 1 amended**

8 In Schedule 1 delete “*Legal Profession Act 2008*” and insert:

9
10 *Legal Profession Uniform Law Application Act 2021*

11 *Legal Profession Uniform Law (WA)*
12

13 **Division 20 — *Strata Titles Act 1985* amended**

14 **401. Act amended**

15 This Division amends the *Strata Titles Act 1985*.

16 **402. Section 3 amended**

17 In section 3(1) delete the definition of *Australian legal*
18 *practitioner*.

19 **403. Section 143 amended**

20 Delete section 143(4) and insert:

21
22 (4) A legal practitioner does not act as a strata manager in
23 providing services that can, under the *Legal Profession*
24 *Uniform Law (WA)*, be provided only by a legal
25 practitioner.
26

1 **404. Section 163 amended**

2 In section 163(2)(a) delete “an Australian legal practitioner,”
3 and insert:

4
5 a legal practitioner,
6

7 **405. Section 219 amended**

8 In section 219(1) delete “an Australian lawyer (within the
9 meaning of that term in the *Legal Profession Act 2008*
10 section 3).” and insert:

11
12 a lawyer.
13

14 **Division 21 — *Workers' Compensation and Injury Management***
15 ***Act 1981* amended**

16 **406. Act amended**

17 This Division amends the *Workers' Compensation and Injury*
18 *Management Act 1981*.

19 **407. Section 5 amended**

20 In section 5(1) insert in alphabetical order:

21
22 *prohibited person* has the meaning given in section 5B;
23

1 **408. Section 5B inserted**

2 At the end of Part I insert:

3

4 **5B. Meaning of prohibited person**

5 (1) In this section —

6 ***Australian practising certificate*** —

7 (a) has the meaning given in the *Legal Profession*
8 *Uniform Law (WA)* section 6(1); and

9 (b) includes a local practising certificate granted
10 under the repealed *Legal Profession Act 2008*
11 before commencement day;

12 ***commencement day*** means the day on which the *Legal*
13 *Profession Uniform Law Application Act 2021*
14 section 408 comes into operation;

15 ***corresponding law*** has the meaning given in the *Legal*
16 *Profession Uniform Law (WA)* section 6(1);

17 ***Supreme Court roll*** has the meaning given in the *Legal*
18 *Profession Uniform Law (WA)* section 6(1).

19 (2) A person is a ***prohibited person*** —

20 (a) if —

21 (i) the person's name has been removed
22 from a Supreme Court roll; and

23 (ii) the person's name was not removed
24 from a Supreme Court roll at the
25 person's own request; and

26 (iii) the person has not subsequently been
27 admitted or re-admitted to the legal
28 profession under the *Legal Profession*
29 *Uniform Law (WA)* or a corresponding
30 law;

- 1 or
- 2 (b) if the person's Australian practising certificate
- 3 is suspended; or
- 4 (c) if the person is not a legal practitioner because
- 5 the person's Australian practising certificate
- 6 has been cancelled under —
- 7 (i) the repealed *Legal Profession Act 2008*;
- 8 or
- 9 (ii) the *Legal Profession Uniform*
- 10 *Law (WA)*; or
- 11 (iii) a corresponding law.
- 12

13 **409. Section 87 amended**

14 In section 87(2) delete “costs determination (as defined in the

15 *Legal Profession Act 2008* section 252).” and insert:

16

17 legal costs determination made under the *Legal Profession*

18 *Uniform Law Application Act 2021* section 132.

19

20 **410. Section 182S amended**

21 Delete section 182S(4).

22 **411. Section 195 amended**

23 Delete section 195(4A).

Legal Profession Uniform Law Application Bill 2021

Part 17 Consequential amendments to other Acts

Division 21 Workers' Compensation and Injury Management Act 1981
amended

s. 412

1 **412. Section 263 amended**

2 In section 263 delete “*Legal Profession Act 2008*, and in
3 particular Part 10 of that Act.” and insert:

4
5 *Legal Profession Uniform Law (WA)*, and in particular Part 4.3
6 of the Law.

7
8 Note: The heading to amended section 263 is to read:

9 **This Part prevails over *Legal Profession Uniform Law (WA)***

10 **413. Section 264 amended**

11 In section 264(3) delete “*Legal Profession Act 2008* Part 10
12 Division 8” and insert:

13
14 *Legal Profession Uniform Law (WA)* Part 4.3 Division 7
15

16 **414. Section 268 amended**

17 (1) In section 268(2)(a) and (b) delete “*Legal Profession Act 2008*
18 Part 10 Division 8; and” and insert:

19
20 *Legal Profession Uniform Law (WA)* Part 4.3 Division 7; and
21

22 (2) In section 268(3) delete “*Legal Profession Act 2008*.” and
23 insert:

24
25 *Legal Profession Uniform Law (WA)*.
26

1 **415. Section 269 amended**

2 In section 269(1) in the definition of *Legal Costs Committee*
3 delete “*Legal Profession Act 2008*.” and insert:

4
5 *Legal Profession Uniform Law Application Act 2021* section 82.
6

7 **416. Section 271 amended**

8 In section 271(2)(b) delete “costs determination (as defined in
9 the *Legal Profession Act 2008* section 252).” and insert:

10
11 legal costs determination made under the *Legal Profession*
12 *Uniform Law Application Act 2021* section 132.
13

14 **417. Section 277 amended**

15 In section 277(1)(d) delete “legal practitioner or an incorporated
16 legal practice;” and insert:

17
18 law practice as defined in the *Legal Profession Uniform*
19 *Law (WA)* section 6(1);
20

21 **Division 22 — *Young Offenders Act 1994* amended**

22 **418. Act amended**

23 This Division amends the *Young Offenders Act 1994*.

24 **419. Section 37A amended**

25 Delete section 37A(1).

26 Note: The heading to amended section 37A is to read:

27 **No representation by lawyer or agent**

420. Section 152 amended

In section 152(5)(b) delete “an Australian lawyer (within the meaning of that term in the *Legal Profession Act 2008* section 3).” and insert:

a lawyer.

Division 23 — Other amendments

421. Other Acts amended

(1) This section amends the Acts listed in the Table.

(2) Amend the provisions listed in the Table as set out in the Table.

Table

Provision	Delete	Insert
1. <i>Adoption Act 1994</i>		
s. 4(1)	def. of <i>lawyer</i> def. of <i>legal practitioner</i>	
2. <i>Australian Crime Commission (Western Australia) Act 2004</i>		
s. 3(1)	def. of <i>legal practitioner</i>	
3. <i>Children’s Court of Western Australia Act 1988</i>		
s. 3(1)	def. of <i>legal practitioner</i>	

Provision	Delete	Insert
s. 7(2)	an Australian lawyer, within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3,	a lawyer
4. Constitution Acts Amendment Act 1899		
Sch. V Pt. 3 item relating to The Legal Contribution Trust	<i>Legal Profession Act 2008</i>	<i>Legal Profession Uniform Law Application Act 2021</i>
5. Co-operatives Act 2009		
s. 4(1)	def. of <i>legal practitioner</i>	
6. Coroners Act 1996		
s. 6(6) s. 7(4) s. 44(1)	an Australian legal practitioner (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3)	a legal practitioner
7. Corporations (Western Australia) Act 1990		
s. 48	an Australian legal practitioner (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3)	a legal practitioner

Provision	Delete	Insert
8. <i>Corruption, Crime and Misconduct Act 2003</i>		
s. 3(1)	def. of <i>lawyer</i> def. of <i>legal practitioner</i>	
9. <i>Criminal Injuries Compensation Act 2003</i>		
s. 3	def. of <i>legal practitioner</i>	
Sch. 1 cl. 1(1)	an Australian lawyer	a lawyer
Sch. 1 cl. 1(2)	def. of <i>Australian lawyer</i>	
10. <i>Criminal Investigation Act 2006</i>		
s. 3(1)	def. of <i>legal practitioner</i>	
11. <i>Criminal Investigation (Covert Powers) Act 2012</i>		
s. 80	def. of <i>lawyer</i>	
12. <i>Criminal Procedure Act 2004</i>		
s. 3(1)	def. of <i>legal practitioner</i>	
s. 67(3)	<i>Legal Profession Act 2008</i> section 275	<i>Legal Profession Uniform Law Application Act 2021</i> section 132

Provision	Delete	Insert
s. 67(3)	<i>Legal Profession Act 2008</i> section 280	<i>Legal Profession Uniform Law Application Act 2021</i> section 140
s. 172(3)(a)	<i>Legal Profession Act 2008</i>	<i>Legal Profession Uniform Law (WA)</i>
s. 172(3)(b)(ii)	approved practical legal training requirements (as defined in the <i>Legal Profession Act 2008</i> section 21(1))	practical legal training (as defined in the <i>Legal Profession Uniform Law (WA)</i> section 6(1))
13. Debt Collectors Licensing Act 1964		
s. 4(a)	an Australian legal practitioner within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3	a legal practitioner
14. Director of Public Prosecutions Act 1991		
s. 3	def. of <i>Australian lawyer</i> def. of <i>legal practitioner</i>	
s. 5(2) and (3)	an Australian lawyer	a lawyer

Legal Profession Uniform Law Application Bill 2021**Part 17** Consequential amendments to other Acts**Division 23** Other amendments**s. 421**

Provision	Delete	Insert
15. Evidence Act 1906		
s. 122	an Australian legal practitioner (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3) in a participating jurisdiction is entitled to practise as an Australian legal practitioner	a legal practitioner in a participating jurisdiction is entitled to practise as a legal practitioner
16. Fair Trading Act 2010		
s. 8(4)	<i>Legal Profession Act 2008</i> section 3	<i>Legal Profession Uniform Law (WA)</i> section 6(1)
17. Family Court Act 1997		
s. 5(1)	def. of <i>Australian legal practitioner</i>	
s. 5(1) def. of <i>independent children's lawyer</i> s. 11(3a) def. of <i>legal experience</i> par. (a)	an Australian legal practitioner	a legal practitioner

Provision	Delete	Insert
s. 11(3)(a)	an Australian lawyer	a lawyer
s. 11(3a)	def. of <i>Australian lawyer</i>	
18. Finance Brokers Control Act 1975		
s. 5(1)(f)	Australian legal practitioners (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3)	legal practitioners
19. First Home Owner Grant Act 2000		
s. 52A(3)	<i>Legal Profession Act 2008</i> section 3	<i>Legal Profession Uniform Law (WA)</i> section 6(1)
s. 52A(3)(a)	<i>Legal Profession Act 2008</i>	<i>Legal Profession Uniform Law (WA)</i>
20. Gender Reassignment Act 2000		
s. 6(2)(a)	an Australian legal practitioner (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3)	a legal practitioner

Provision	Delete	Insert
21. Guardianship and Administration Act 1990		
s. 3(1)	def. of <i>legal practitioner</i>	
s. 51(3) s. 70(3)	<i>Legal Profession Act 2008</i>	<i>Legal Profession Uniform Law (WA)</i>
22. Industrial Relations Act 1979		
s. 7(1)	def. of <i>legal practitioner</i>	
s. 42B(7) s. 51Q(4) s. 97UJ(5) s. 112A(3)	For the purposes of section 12 of the <i>Legal Profession Act 2008</i>	Despite the <i>Legal Profession Uniform Law (WA)</i> section 10,
23. Jurisdiction of Courts (Cross-vesting) Act 1987		
s. 5(9)	an Australian legal practitioner (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3)	a legal practitioner
24. Land Valuers Licensing Act 1978		
s. 4	def. of <i>lawyer</i> def. of <i>legal practitioner</i>	

Provision	Delete	Insert
25. Liquor Control Act 1988		
s. 3(1)	def. of <i>lawyer</i>	
26. Long Service Leave Act 1958		
s. 37	an Australian legal practitioner (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3)	a legal practitioner
27. Magistrates Court (Civil Proceedings) Act 2004		
s. 3(1)	def. of <i>legal practitioner</i>	
s. 3(1) def. of <i>applicable costs determination</i>	<i>Legal Profession Act 2008</i> section 275	<i>Legal Profession Uniform Law Application Act 2021</i> section 132
28. Mandatory Testing (Infectious Diseases) Act 2014		
s. 15	def. of <i>lawyer</i>	
29. Mental Health Act 2014		
s. 4	def. of <i>legal practitioner</i>	
s. 379	def. of <i>lawyer</i>	
s. 449(1)(b)(i)	legal practitioner	legal practitioner;

Provision	Delete	Insert
30. Mining Act 1978		
s. 162(2)(r)	costs determination (as defined in the <i>Legal Profession Act 2008</i> section 252)	legal costs determination made under the <i>Legal Profession Uniform Law Application Act 2021</i> section 132
31. Motor Vehicle (Catastrophic Injuries) Act 2016		
s. 3(1) def. of <i>legal costs</i> s. 3(1) def. of <i>legal services</i>	<i>Legal Profession Act 2008</i> section 3	<i>Legal Profession Uniform Law (WA)</i> section 6(1)
32. Motor Vehicle (Third Party Insurance) Act 1943		
s. 27A(2)	costs determination (as defined in the <i>Legal Profession Act 2008</i> section 252)	legal costs determination made under the <i>Legal Profession Uniform Law Application Act 2021</i> section 132
33. Oaths, Affidavits and Statutory Declarations Act 2005		
s. 8 def. of <i>experienced legal practitioner</i>	an Australian legal practitioner (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3)	a legal practitioner

Provision	Delete	Insert
Sch. 2 Table it. 20	An Australian lawyer within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3	A lawyer
34. <i>Official Prosecutions (Accused's Costs) Act 1973</i>		
s. 5(5)	costs determination (as defined in the <i>Legal Profession Act 2008</i> section 252)	legal costs determination made under the <i>Legal Profession Uniform Law Application Act 2021</i> section 132
35. <i>Planning and Development Act 2005</i>		
s. 4(1)	def. of <i>legal practitioner</i>	
36. <i>Public Notaries Act 1979</i>		
s. 3	def. of <i>Australian lawyer</i>	
s. 7(2)(a)	an Australian lawyer	a lawyer
s. 15A	costs determination (as defined in the <i>Legal Profession Act 2008</i> section 252)	legal costs determination made under the <i>Legal Profession Uniform Law Application Act 2021</i> section 132

Legal Profession Uniform Law Application Bill 2021**Part 17** Consequential amendments to other Acts**Division 23** Other amendments**s. 421**

Provision	Delete	Insert
s. 16(2)	<i>Legal Profession Act 2008</i>	<i>Legal Profession Uniform Law (WA)</i>
37. Racing Penalties (Appeals) Act 1990		
s. 5(1)	an Australian lawyer (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3),	a lawyer
s. 16(7)	an Australian legal practitioner (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3)	a legal practitioner
s. 25(2)(g)	costs determination (as defined in the <i>Legal Profession Act 2008</i> section 252)	legal costs determination made under the <i>Legal Profession Uniform Law Application Act 2021</i> section 132
38. Real Estate and Business Agents Act 1978		
s. 4(1)	def. of <i>legal practitioner</i>	
39. Residential Tenancies Act 1987		
s. 22(6)	def. of <i>legal practitioner</i>	

Provision	Delete	Insert
s. 22(6) def. of <i>legally qualified person</i>	an Australian lawyer within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3	a lawyer
s. 24(1)(a)	legal practitioners, as defined in section 22(6)	legal practitioners
40. Restraining Orders Act 1997		
s. 3(1)	def. of <i>legal practitioner</i>	
41. Sale of Land Act 1970		
s. 11	def. of <i>Australian legal practitioner</i>	
s. 11 def. of <i>deposit holder</i> par. (b)(i) s. 14(2)(b)(ii)	an Australian legal practitioner	a legal practitioner
42. Security and Related Activities (Control) Act 1996		
s. 28(2)(a)	Australian legal practitioner (within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3)	legal practitioner

Legal Profession Uniform Law Application Bill 2021**Part 17** Consequential amendments to other Acts**Division 23** Other amendments**s. 421**

Provision	Delete	Insert
43. Settlement Agents Act 1981		
s. 3(1)	def. of <i>legal practitioner</i>	
s. 46(5)	<i>Legal Profession Act 2008</i>	<i>Legal Profession Uniform Law (WA)</i> section 10
Sch. 1 cl. 7(c)	legal practitioners	lawyers
44. Solicitor-General Act 1969		
s. 3(2)	an Australian lawyer	a lawyer
s. 3(3)	def. of <i>Australian lawyer</i>	
s. 3(3) def. of <i>legal experience</i> par. (a)	an Australian legal practitioner within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3	a legal practitioner
45. Suitors' Fund Act 1964		
s. 8(2)(c)	<i>Legal Profession Act 2008</i>	<i>Legal Profession Uniform Law Application Act 2021</i> section 29

Provision	Delete	Insert
46. Supreme Court Act 1935		
s. 4(1)	def. of <i>lawyer</i> def. of <i>legal practitioner</i>	
s. 167(1)(d) and (da)	costs determination (as defined in the <i>Legal Profession Act 2008</i> section 252)	legal costs determination made under the <i>Legal Profession Uniform Law Application Act 2021</i> section 132
47. Taxation Administration Act 2003		
s. 43(1)(b)	legal practitioner as defined in that subsection	legal practitioner
48. Teacher Registration Act 2012		
s. 3	def. of <i>lawyer</i>	
s. 67(2)	an Australian legal practitioner, within the meaning of that term in the <i>Legal Profession Act 2008</i> section 3, does not breach that Act,	a legal practitioner does not breach the <i>Legal Profession Uniform Law (WA)</i>

Provision	Delete	Insert
49. Terrorism (Preventative Detention) Act 2006		
s. 4(1)	def. of <i>lawyer</i>	
50. Transfer of Land Act 1893		
s. 4(1)	def. of <i>Australian lawyer</i>	
s. 5(2)(b) s. 6(2)(b) s. 8(4) s. 15(1)(c) s. 180(2)(b)(iii)	an Australian lawyer	a lawyer
51. Wills Act 1970		
s. 32A	def. of <i>Australian legal practitioner</i>	
s. 32C(1)(a)	an Australian legal practitioner	a legal practitioner
52. Witness Protection (Western Australia) Act 1996		
s. 33	def. of <i>lawyer</i>	

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

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