

Legal Profession Amendment Bill 2016

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Western Australia

LEGISLATIVE ASSEMBLY

(As amended in Committee)

Legal Profession Amendment Bill 2016

A Bill for

An Act to amend the *Legal Profession Act 2008*.

The Parliament of Western Australia enacts as follows:

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1 **1. Short title**

2 This is the *Legal Profession Amendment Act 2016*.

3 **2. Commencement**

4 This Act comes into operation as follows —

- 5 (a) sections 1 and 2 — on the day on which this Act
6 receives the Royal Assent;
7 (b) the rest of the Act — on a day fixed by proclamation.

8 **3. Act amended**

9 This Act amends the *Legal Profession Act 2008*.

10 **4. Section 548 amended**

11 (1) Delete section 548(1)(c) and insert:

12

- 13 (c) the payment of the law library contribution
14 under section 548A.

15

16 (2) Delete section 548(2).

17 **5. Section 548A inserted**

18 After section 548 insert:

19

20 **548A. Law library contributions**

21 (1) In this section —

22 ***CPI*** means the all groups consumer price index for
23 Perth published by the Australian Statistician referred
24 to in the *Australian Bureau of Statistics Act 1975*
25 (Commonwealth) section 5, or if the index is not
26 published, another similar index nominated by the
27 Minister;

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- 1 *law library* means the library established under
2 section 596A.
- 3 (2) The Board must pay to the State an amount each year
4 in accordance with the regulations as a contribution
5 towards the cost of providing and maintaining the law
6 library.
- 7 (3) The regulations must specify —
8 (a) the amount of the contribution or the method by
9 which the amount of the contribution is to be
10 calculated; and
11 (b) when payment becomes due.
- 12 (4) An amendment to regulations mentioned in
13 subsection (3) must be made at least 7 months before
14 the beginning of the financial year to which the
15 amendment will apply.
- 16 (5) Before an amendment to regulations mentioned in
17 subsection (3) is made, the Attorney General must —
18 (a) obtain the written agreement to the proposed
19 amendment by the Legal Practice Board, the
20 Law Society of Western Australia Inc and the
21 Western Australian Bar Association; or
22 (b) notify the Legal Practice Board, the Law
23 Society of Western Australia Inc and the
24 Western Australian Bar Association of the
25 proposed amendment at least 9 months before
26 the beginning of the first financial year to
27 which the proposed amendment is intended to
28 apply and have regard to any submissions made
29 by those bodies.
- 30 (6) Unless agreement is obtained as mentioned in
31 subsection (5)(a), neither regulations specifying an
32 amount of contribution to be paid nor regulations
33 specifying a method by which the amount of

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1 contribution is to be calculated in any year (the
2 *calculation regulations*) can be amended so as to
3 increase the amount required to be paid in any year to
4 an amount that is greater than the amount that would
5 have been payable in that year, if calculated under the
6 calculation regulations and adjusted for any CPI
7 increase plus 2.5% per annum, pro rata, from the date
8 on which the calculation regulations were made or last
9 amended (whichever is later) to the date of the
10 proposed amendment.

11 (7) The payment must be credited to an agency special
12 purpose account, named the Law Library Fund,
13 established under the *Financial Management Act 2006*
14 section 16 and administered by the department
15 principally assisting in the administration of this Act.

16 (8) Money may be charged to the Law Library Fund —
17 (a) to provide and maintain the law library; and
18 (b) to provide library services to the judiciary, local
19 lawyers and other prescribed persons; and
20 (c) for other prescribed purposes relating to the law
21 library.
22

23 **6. Section 580 amended**

24 Delete section 580(1)(d).

25 Note: The heading to amended section 580 is to read:

26 **Rules for Board and Complaints Committee**

1 **7. Sections 596A and 596B inserted**

2 After section 596 insert:

3

4 **596A. Law library**

- 5 (1) The State may establish and manage a law library for
6 the use of the judiciary, local lawyers and other
7 prescribed persons.
- 8 (2) Without limiting section 596, the Governor may make
9 regulations with respect to the provision, operation and
10 management of the law library, including —
- 11 (a) access to and use of the law library; and
12 (b) the terms on which persons may be given
13 access to and use of the law library facilities
14 (including the payment of fees); and
15 (c) the borrowing of resources and the manner of
16 securing a resource if it has been loaned.
- 17 (3) Regulations made for the purposes of subsection (2)
18 may —
- 19 (a) adopt wholly or partly any rules or
20 administrative procedure published by any
21 person or body —
- 22 (i) with or without any modification or
23 amendment; and
24 (ii) as in force at the time of adoption or as
25 amended from time to time;
- 26 or
- 27 (b) provide for the making of rules or
28 administrative procedures by a person or body.

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- 1 **596B. Board library assets transferred to the State**
2 (1) In this section —
3 *commencement day* means the day on which the *Legal*
4 *Profession Amendment Act 2016* section 7 comes into
5 operation.
6 (2) On the commencement day, by force of this section,
7 any library assets that, immediately before the
8 commencement day, were vested in the Board under
9 section 548(2) are transferred to, and vested in, the
10 State.
11 (3) Any assets acquired after the commencement day for
12 the purposes of the law library established under
13 section 596A are vested in and are the property of the
14 State.
15 (4) Regulations may be made for or with respect to any
16 matter or thing necessary to be dealt with to effect a
17 transfer of assets under this section, including the
18 assumption of specific liabilities or classes of liabilities
19 in relation to those assets.
20 (5) If regulations under subsection (4) provide that a
21 specified state of affairs is to be taken to have existed,
22 or not to have existed, on and from a day that is earlier
23 than the day on which the regulations are published in
24 the *Gazette* but not earlier than the commencement
25 day, the regulations have effect according to their
26 terms.

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