



New South Wales

# Legal Profession Amendment (Practice of Foreign Law) Regulation 1999

under the

Legal Profession Act 1987

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Legal Profession Act 1987*.

JEFFREY SHAW, Q.C., M.L.C.,  
Attorney General

## Explanatory note

The *Legal Profession Amendment (Practice of Foreign Law) Act 1998* amended the *Legal Profession Act 1987* to provide a framework for the regulation of the practice of foreign law in New South Wales by foreign-registered lawyers.

The object of this Regulation is to amend the *Legal Profession Regulation 1994* to prescribe certain matters as a consequence of the commencement of the *Legal Profession Amendment (Practice of Foreign Law) Act 1998*. Matters prescribed include the following:

- (a) the period after which an application for registration by a foreign lawyer may be taken to have been refused (clause 13C),
- (b) the period during which a locally registered foreign lawyer should apply for renewal of registration (clause 13D),
- (c) additional information that must accompany an application for registration or renewal (clause 13E),

**1999 No 286**

Legal Profession Amendment (Practice of Foreign Law) Regulation 1999

Explanatory note

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- (d) the time within which a locally registered foreign lawyer must establish an office or commercial presence within the State (clause 13F),
- (e) additional types of legal services that a locally registered foreign lawyer may provide (clause 13G),
- (f) the manner of determining the contributions to be made by locally registered foreign lawyers to the Solicitors' Fidelity Fund (clause 13H).

This Regulation is made under the *Legal Profession Act 1987*, including sections 48ZM (2), 48ZN (3), 48ZO (1) (b), 48ZQ (2) (d), 48ZS (1) (b) and (d), 78A and 216 (the general regulation-making power).

## **Legal Profession Amendment (Practice of Foreign Law) Regulation 1999**

### **1 Name of Regulation**

This Regulation is the *Legal Profession Amendment (Practice of Foreign Law) Regulation 1999*.

### **2 Commencement**

This Regulation commences on 1 July 1999.

### **3 Amendment of Legal Profession Regulation 1994**

The *Legal Profession Regulation 1994* is amended as set out in Schedule 1.

### **4 Notes**

The explanatory note does not form part of this Regulation.

## Schedule 1 Amendment

(Clause 3)

### Part 3B

Insert after Part 3A:

### Part 3B Foreign lawyers

#### 13C Period after which registration application is taken to be refused: section 48ZM (2)

For the purposes of section 48ZM (2) of the Act, the prescribed period is 3 months.

#### 13D Period during which foreign lawyer may apply for renewal of registration: section 48ZN (3)

For the purposes of section 48ZN (3) of the Act, the prescribed period is the period commencing on 1 April and ending on 15 May before the current registration expires.

#### 13E Information in application to register or renew registration: section 48ZO (1) (b)

- (1) For the purposes of section 48ZO (1) (b) of the Act, an application to register, or renew the registration of, a foreign lawyer under Part 3C of the Act must contain or be accompanied by a New South Wales address for service for the foreign lawyer.
- (2) The address referred to in subclause (1) may be an office or residential address but may not be a post office box address, an E-mail address or the number of an exchange box at a document exchange (DX).

#### 13F Cancellation of registration—time within which foreign lawyer must establish office or commercial presence: section 48ZQ (2) (d)

For the purposes of section 48ZQ (2) (d) of the Act, the prescribed period is 3 months.

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**13G Scope of practice of foreign law: section 48ZS (1) (b) and (d)**

- (1) For the purposes of section 48ZS (1) (b) of the Act, a locally registered foreign lawyer may provide legal services (including appearances) in relation to all kinds of arbitration proceedings, including but not limited to services relating to the arbitration of industrial disputes undertaken in accordance with Chapter 3 of the *Industrial Relations Act 1996*.
- (2) For the purposes of section 48ZS (1) (d) of the Act, a locally registered foreign lawyer may provide legal services in relation to all kinds of conciliation, mediation and consensual dispute resolution, including but not limited to the following:
  - (a) services relating to the conciliation of industrial disputes undertaken in accordance with Chapter 3 of the *Industrial Relations Act 1996*, and
  - (b) services relating to mediation and neutral evaluation undertaken in accordance with the following provisions:
    - (i) Part 4A of the *Compensation Court Act 1984*,
    - (ii) Part 3A of the *District Court Act 1973*,
    - (iii) Part 5A of the *Land and Environment Court Act 1979*,
    - (iv) Part 3C of the *Local Courts (Civil Claims) Act 1970*,
    - (v) Part 7B of the *Supreme Court Act 1970*.

**Note.** A locally registered foreign lawyer may not practise Australian law except where the giving of advice is necessarily incidental to the practice of foreign law and the advice is based on advice given by a domestic lawyer who is not an employee of the foreign lawyer (see section 48ZS (2) and (3) of the Act).

**13H Fidelity Fund contributions: sections 48ZAB and 78A**

- (1) This clause applies to a locally registered foreign lawyer practising foreign law in the State in partnership with, or as an employee of, a domestic lawyer or firm of domestic lawyers.
- (2) A foreign lawyer to whom this clause applies must on registration by the domestic registration authority (being the Law Society) pay to the Law Society on account of the Fidelity Fund the appropriate contribution to the Fidelity Fund for the year ending on 30 June during which the registration is to be in force.
- (3) The amount of a contribution to the Fidelity Fund is the amount determined by the Law Society Council and approved by the Attorney General in accordance with section 76 (2) of the Act in respect of solicitors (other than solicitors who are interstate legal practitioners).
- (4) The Law Society Council may permit a contribution to be paid by instalments under an arrangement approved by the Council.
- (5) If the foreign lawyer is registered after 31 December in a year ending on 30 June, the amount of the contribution that would otherwise be payable for that year is reduced by one-half.
- (6) If a foreign lawyer to whom this clause applies has paid a contribution for a year ending on 30 June and ceases to practise as a locally registered foreign lawyer at any time before 30 June in that year, the Law Society may refund a part of the contribution at a rate determined by the Law Society Council.

BY AUTHORITY