



New South Wales

# Legal Profession Uniform Law Application Legislation Amendment Act 2015 No 7

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New South Wales

# Legal Profession Uniform Law Application Legislation Amendment Act 2015 No 7

Act No 7, 2015

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An Act to amend the *Legal Profession Uniform Law Application Act 2014* and other legislation relating to the legal profession; to provide further for the application and supplementation of the Legal Profession Uniform Law in New South Wales; and for other purposes. [Assented to 9 June 2015]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Legal Profession Uniform Law Application Legislation Amendment Act 2015*.

**2 Commencement**

- (1) This Act commences on the date of assent to this Act except as provided by subsection (2).
- (2) Schedule 2 commences on a day or days to be appointed by proclamation.

## Schedule 1 Amendment of Legal Profession Uniform Law Application Act 2014 No 16

### [1] Section 3 Definitions

Omit the definition of *appropriate Council* from section 3 (1). Insert instead:

*appropriate Council* means:

- (a) subject to paragraph (b), the Law Society Council, or
- (b) in relation to matters relating to barristers or former barristers (including an application for a practising certificate to practise as a barrister)—the Bar Council.

### [2] Section 3 (1)

Insert in alphabetical order:

*committee* includes a subcommittee of a committee.

*costs assessment rules* means rules under Division 7 of Part 7.

### [3] Section 3 (1), definition of “Manager, Costs Assessment”

Omit the definition. Insert instead:

*Manager, Costs Assessment* means the person appointed as Manager, Costs Assessment under section 93B, and includes a delegate of that person and a person acting as or exercising the functions of the Manager, Costs Assessment.

### [4] Section 3 (1), definition of “NSW Admission Board”

Omit “NSW”.

### [5] Section 3 (1), definition of “NSW Commissioner”

Omit “NSW”.

### [6] Section 3 (1), definition of “Secretary”

Omit “Department of Attorney General and Justice”.

Insert instead “Department of Justice”.

### [7] Section 3A

Insert after section 3:

#### 3A General definitions for other legislation

In any Act or instrument made under an Act:

*admission to the Australian legal profession* has the same meaning as in the *Legal Profession Uniform Law (NSW)*.

*Australian practising certificate* has the same meaning as in the *Legal Profession Uniform Law (NSW)*.

*Australian registration certificate* has the same meaning as in the *Legal Profession Uniform Law (NSW)*.

*legal costs legislation* means:

- (a) Parts 6 and 7 of this Act, and
- (b) Schedules 1, 2 and 6 to this Act, and
- (c) Part 4.3 of the *Legal Profession Uniform Law (NSW)*, and

- (d) regulations or rules made under or for the purposes of the provisions referred to in paragraphs (a)–(c).

***legal profession legislation*** means:

- (a) this Act and the local regulations, and  
 (b) the *Legal Profession Uniform Law (NSW)*, and  
 (c) the Uniform Regulations and the Uniform Rules as they apply in this jurisdiction.

**[8] Section 11 Designation of local authorities and tribunals**

Omit Table 1. Insert instead:

**Table 1 Designated local regulatory authorities**

<b>Column 1 Provision of Legal Profession Uniform Law (NSW)</b>	<b>Column 2 Designated local regulatory authority</b>
Chapter 2, section 14	Bar Council Law Society Council
Chapter 2, Part 2.2 (except section 23)	NSW Admission Board
Chapter 2, section 23	Bar Council Law Society Council
Chapter 3 (except sections 49, 50, 119, 120 and 121 and Part 3.4)	Appropriate Council
Chapter 3, section 49	Law Society Council
Chapter 3, section 50	Bar Council
Chapter 3, Part 3.4	Bar Council Law Society Council
Chapter 3, sections 119 and 120 (1)	Bar Council Law Society Council
Chapter 3, section 120 (4)	NSW Commissioner Bar Council Law Society Council
Chapter 3, section 121 (except in the case of a person convicted of a serious offence)	Appropriate Council
Chapter 3, section 121 (in the case of a person convicted of a serious offence)	NCAT
Chapter 4 (except sections 174, 178, 194, 197, 202, 205, 215, 256, 257 and 258)	Law Society Council
Chapter 4, sections 174, 178, 194, 197, 202 and 205	NSW Commissioner
Chapter 4, section 215	Appropriate Council
Chapter 4, sections 256 and 257	NSW Commissioner Appropriate Council
Chapter 4, section 258	Appropriate Council

<b>Column 1</b> <b>Provision of Legal Profession Uniform Law (NSW)</b>	<b>Column 2</b> <b>Designated local regulatory authority</b>
Chapter 5	NSW Commissioner <b>Note.</b> Section 405 (2) of the <i>Legal Profession Uniform Law (NSW)</i> contemplates that the local regulatory authority (the NSW Commissioner) may delegate Chapter 5 functions to a professional association (the Bar Association or Law Society). See also sections 29 (c) and 31 (1) (c) of this Act.
Chapter 6	Appropriate Council
Chapter 7 (except to the extent that it applies to complaint investigations)	NSW Commissioner Appropriate Council
Chapter 7 to the extent that it applies to complaint investigations	NSW Commissioner <b>Note.</b> These functions of the NSW Commissioner under Chapter 7 are "Chapter 5 functions" and therefore may be exercised by the Bar Association or Law Society by delegation. See the note in relation to Chapter 5 above.
Chapter 9, section 421 (2) (f)	NSW Admission Board
Chapter 9, section 436 (1)	NSW Admission Board (in relation to admissions) NSW Commissioner (in relation to Chapter 5 functions) Appropriate Council
Chapter 9, section 436 (2)	NSW Admission Board
Chapter 9, sections 437, 446, 447, 448, 449 and 453	NSW Admission Board NSW Commissioner Bar Council Law Society Council
Chapter 9, section 466 (7)	Appropriate Council
Schedule 3 (except clause 14)	Appropriate Council
Schedule 3, clause 14	NSW Commissioner

**[9] Section 11 (3), Table 2**

Omit the table. Insert instead:

**Table 2 Designated tribunals**

<b>Column 1</b> <b>Provision of Legal Profession Uniform Law (NSW)</b>	<b>Column 2</b> <b>Designated tribunal</b>
Chapter 2, section 23	NCAT
Chapter 3, sections 100 and 101 (except in relation to decisions under section 89 or 92)	Supreme Court
Chapter 3, sections 100 and 101 (in relation to decisions under section 89 or 92)	NCAT
Chapter 3, section 119	NCAT
Chapter 3, section 120	Supreme Court

<b>Column 1</b> <b>Provision of Legal Profession Uniform Law (NSW)</b>	<b>Column 2</b> <b>Designated tribunal</b>
Chapter 4, section 198 (4)	Manager, Costs Assessment
Chapter 4, sections 247 and 248	Supreme Court
Chapter 5, Part 5.4, Division 3	NCAT
Chapter 5, Part 5.5	NCAT
Chapter 5, section 314	NCAT
Chapter 6, Parts 6.5 and 6.6	Supreme Court
Chapter 9, sections 453, 456 and 457	A court that would have jurisdiction to order payment of the pecuniary penalty if it were a debt
Chapter 9, section 474 (2)	Any designated tribunal referred to in this table

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**[10] Sections 18A and 18B**

Insert after section 18:

**18A Part 3 of Schedule 4 applies**

Part 3 of Schedule 4 to the *Legal Profession Uniform Law (NSW)* applies in New South Wales.

**18B Non-compellability of certain witnesses**

Section 468 (1) of the *Legal Profession Uniform Law (NSW)* does not apply to proceedings (including proceedings for an offence), hearings or inquiries under:

- (a) the *Royal Commissions Act 1923*, or
- (b) the *Special Commissions of Inquiry Act 1983*, or
- (c) the *Independent Commission Against Corruption Act 1988*, or
- (d) the *Police Integrity Commission Act 1996*, or
- (e) the *Ombudsman Act 1974*.

**Note.** See section 468 (2) of that Law, which contemplates exceptions provided under jurisdictional legislation.

**[11] Section 20A**

Insert after section 20:

**20A Delegation of functions of NSW Admission Board**

The NSW Admission Board may delegate any of its functions under this Act (other than this power of delegation and the power to make rules under this Division) or the *Legal Profession Uniform Law (NSW)* to any of its committees or to an officer of the Board.

**[12] Section 21 Entitlement to be represented, heard and make representations**

Re-number paragraphs (a) and (b) of section 21 (2) as paragraphs (b) and (c).

**[13] Section 21 (2)**

Insert before renumbered section 21 (2) (b):

- (a) any application for admission, and

**[14] Section 21 (3)**

Omit the subsection.

**[15] Section 21A**

Insert after section 21:

**21A NSW Admission Board Rules**

- (1) The NSW Admission Board may make rules for or with respect to:
  - (a) any administrative matters relating to the functions of the Board, and
  - (b) registration and deregistration as, and the discipline of, students-at-law and the qualifications for registration, and
  - (c) the examination and assessment in academic subjects of candidates for registration and students-at-law, and
  - (d) fees and costs payable for registration and students-at-law (other than fees for admission to the Australian legal profession) and the refund or remission of fees.
- (2) Without limiting subsection (1) or the power of the NSW Admission Board to delegate functions under section 20A, the rules may:
  - (a) provide for the establishment, dissolution and procedures of committees of the Board, and
  - (b) confer or provide for conferring functions on a committee, including any functions of the Board, and
  - (c) provide that a committee exercises any of its functions in an advisory capacity or as delegate of the Board.
- (3) A rule may do any of the following:
  - (a) apply generally or be limited in its application by reference to specified exceptions or factors,
  - (b) apply differently according to different factors of a specified kind,
  - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body.
- (4) A rule made under this section must not be inconsistent with:
  - (a) this Act, or
  - (b) the *Legal Profession Uniform Law (NSW)*, or
  - (c) the Admission Rules made by the Legal Services Council under Part 9.2 of that Law.
- (5) The rules must be published on the NSW legislation website.
- (6) Sections 40 and 41 of the *Interpretation Act 1987* apply to the rules in the same way as they apply to a statutory rule.

**[16] Section 28 Delegation of functions of NSW Commissioner**

Insert “or the *Legal Profession Uniform Law (NSW)*” after “delegation”.



**[17] Section 28 (2)**

Insert at the end of the section, before the note:

- (2) The NSW Commissioner may delegate any of his or her Chapter 5 functions to the Bar Council or the Law Society Council.

**Note.** Under the *Legal Profession Uniform Law (NSW)*, **Chapter 5 functions** means:

- (a) functions under Chapter 5, or
- (b) functions under another provision of that Law relating to Chapter 5, or
- (c) functions under the Uniform Rules relating to Chapter 5.

**[18] Section 28, note**

Omit the note. Insert instead:

**Note.** Section 406 of the *Legal Profession Uniform Law (NSW)* provides that a local regulatory authority may delegate its functions under that Law to an entity prescribed by jurisdictional legislation. The local regulations may also prescribe delegates or classes of delegates of local regulatory authorities (see section 166).

**[19] Section 30 Delegation of functions of Bar Council**

Insert “or the *Legal Profession Uniform Law (NSW)*” after “delegation”).

**[20] Section 30 (2)**

Insert at the end of the section, before the note:

- (2) For the purposes of this section, the functions of the Bar Council under the *Legal Profession Uniform Law (NSW)* include any functions delegated to the Bar Council under that Law.

**[21] Section 30, note**

Omit the note. Insert instead:

**Note.** Section 406 of the *Legal Profession Uniform Law (NSW)* provides that a local regulatory authority may delegate its functions under that Law to an entity prescribed by jurisdictional legislation. The local regulations may also prescribe delegates or classes of delegates of local regulatory authorities (see section 166).

**[22] Section 32 Delegation of functions of Law Society Council**

Insert “or the *Legal Profession Uniform Law (NSW)*” after “Committee”).

**[23] Section 32 (2)**

Insert at the end of the section, before the note:

- (2) For the purposes of this section, the functions of the Law Society Council under the *Legal Profession Uniform Law (NSW)* include any functions delegated to the Law Society Council under that Law.

**[24] Section 32, note**

Omit the note. Insert instead:

**Note.** Section 406 of the *Legal Profession Uniform Law (NSW)* provides that a local regulatory authority may delegate its functions under that Law to an entity prescribed by jurisdictional legislation. The local regulations may also prescribe delegates or classes of delegates of local regulatory authorities (see section 166).

**[25] Section 45 Government lawyers**

Insert “, or made under,” after “specified provisions of” in section 45 (1) (b).

**[26] Section 45A**

Insert after section 45:

**45A Corporate lawyers**

- (1) The local regulations may make provision for or with respect to:
  - (a) exempting persons or classes of persons from the requirement to hold Australian practising certificates, either generally or for specified periods, in respect of their functions as corporate lawyers, and
  - (b) without limitation, excluding or modifying the operation of specified provisions of, or made under, the *Legal Profession Uniform Law (NSW)* (including provisions of Parts 2.2 and 3.3 of that Law) to the extent that any of those provisions would otherwise be applicable to any persons, or classes of persons, as corporate lawyers.
- (2) In this section, *corporate lawyer* means a person who engages in legal practice only:
  - (a) as an employee who provides legal services in the capacity of an in-house lawyer for his or her employer or a related entity, and
  - (b) if he or she:
    - (i) so acts in the ordinary course of his or her employment, and
    - (ii) receives no fee, gain or reward for so acting other than his or her ordinary remuneration as an employee,but does not include a government lawyer.

**[27] Part 7**

Omit the Part. Insert instead:

**Part 7 Legal costs—costs assessment**

**Division 1 Preliminary**

**63 Definitions**

In this Part:

*costs assessor* means a person appointed to be a costs assessor under section 93C.

*ordered costs* means costs payable under an order or rule of a court or tribunal.

*review panel* means a review panel referred to in section 82.

*Uniform Law costs* means legal costs referred to in Division 7 of Part 4.3 of the *Legal Profession Uniform Law (NSW)* and (without limitation) legal costs referred to in section 65 of this Act.

**64 Application of this Part**

- (1) This Part applies to Uniform Law costs and ordered costs.

**Note.** This Part also applies to costs of an arbitration, as provided in sections 33B and 33C of the *Commercial Arbitration Act 2010*.
- (2) This Part has effect subject to:
  - (a) any other legislation, or
  - (b) any order or direction of the court or tribunal concerned (except as regards section 74 (3)).

**65 Costs of barrister briefed directly by client**

The *Legal Profession Uniform Law (NSW)* applies as if Division 7 of Part 4.3 of that Law also applied to legal costs of a barrister briefed directly by a client.

**Division 2 Costs assessment generally**

**66 Provision for costs assessment**

Costs to which this Part applies may be the subject of assessment if the costs assessment rules, the relevant court or tribunal, the rules of the relevant court or tribunal or other legislation so provides.

**Note.** Section 166 (4) provides that the local regulations may make provision for any matters for which costs assessment rules may be made.

**67 Conduct of costs assessments**

Subject to this Act and the *Legal Profession Uniform Law (NSW)*, assessments of legal costs are to be conducted in accordance with the costs assessment rules.

**68 Applications for costs assessment**

- (1) Subject to this section, applications for an assessment of the whole or any part of legal costs are to be made in accordance with the costs assessment rules.
- (2) An application for costs assessment must:
  - (a) be filed with the Manager, Costs Assessment, and
  - (b) be accompanied by the fee prescribed by the local regulations, and
  - (c) be served on the other parties to the costs assessment in accordance with the costs assessment rules.
- (3) The Manager, Costs Assessment may waive or postpone payment of the application fee either wholly or in part if satisfied that the applicant is in such circumstances that payment of the fee would result in serious hardship to the applicant or his or her dependants.
- (4) The Manager, Costs Assessment may refund the application fee either wholly or in part if satisfied that it is appropriate because the application is not proceeded with.

**69 Consideration of applications**

- (1) A costs assessor must give an applicant, and any law practice or client or other person concerned, a reasonable opportunity to make submissions to the costs assessor in relation to the application, and give due consideration to any submissions so made.
- (2) In considering an application, a costs assessor is not bound by the rules of evidence and may inform himself or herself on any matter in the manner he or she thinks fit.

**70 Certificate as to determination of costs to parties**

- (1) On making a determination of costs, a costs assessor is to issue a certificate that sets out the determination and includes:
  - (a) the amount of costs determined (including any GST component the costs assessor determines is payable), and

- (b) the amount of any costs of the costs assessment determined under section 78 of this Act or section 204 of the *Legal Profession Uniform Law (NSW)*, and
- (c) any interest on those amounts:
  - (i) determined under section 81 of this Act, or
  - (ii) payable under section 101 of the *Civil Procedure Act 2005*.
- (2) A costs assessor may issue one or more certificates in relation to an application for costs assessment. Certificates may be issued at the same time or at different stages of the assessment process.
- (3) A costs assessor may issue one certificate in relation to a single application for an assessment of costs that are payable under multiple orders, rules or awards made between the same parties in one or related proceedings, as long as the certificate specifies the amount determined for each order, rule or award separately.
- (4) In the case of an amount of money specified in a certificate that has been paid, the amount (if any) by which the amount paid exceeds the amount specified in the certificate may be recovered as a debt in a court of competent jurisdiction.
- (5) In the case of an amount of money specified in a certificate that has not been paid, the certificate is, on the filing of the certificate in the office or registry of a court having jurisdiction to order the payment of that amount of money, and with no further action, taken to be a judgment of that court for the amount of unpaid money. The rate of any interest payable in respect of that amount of money is the rate of interest in the court in which the certificate is filed.
- (6) This section does not apply to costs referred to in section 71 (1) (a) and (b).

**71 Certificate as to determination of costs of costs assessor and Manager, Costs Assessment**

- (1) On making a determination of costs, a costs assessor is to separately determine:
  - (a) the amount of the costs incurred by the costs assessor and the Manager, Costs Assessment, and
  - (b) the costs related to the remuneration of the costs assessor, and
  - (c) by whom those costs are payable and the extent to which they are so payable.
- (2) On making a determination under this section, a costs assessor is to issue a certificate that sets out the determined costs.
- (3) The certificate is, on the filing of the certificate in the office or registry of a court having jurisdiction to order the payment of that amount of money, and with no further action, taken to be a judgment of that court against the party to the assessment by whom the costs are payable in favour of:
  - (a) a party to the assessment that has paid some or all of the amount to the Manager, Costs Assessment—for that amount, and
  - (b) the Manager, Costs Assessment—for any amount of unpaid money.

**72 Determination of costs when agreed**

A costs assessor or review panel may determine that the amount of fair and reasonable costs is the amount agreed to by the parties if, during the course of the assessment or proceedings before the review panel, the parties notify the

assessor or panel (as the case may be) that they have agreed on the amount of those costs.

**73 Costs determination to be final**

A costs determination is binding on all parties and no appeal or other assessment lies in respect of the determination, except as provided by this Part.

**Division 3 Assessment of ordered costs—additional provisions**

**74 Applications for costs assessment of ordered costs**

- (1) An application for assessment of the whole or any part of ordered costs may be made by:
  - (a) a person who has paid or is liable to pay those costs, or
  - (b) a person who has received or is entitled to receive those costs.
- (2) A court or tribunal may refer for assessment costs payable under an order made by the court or tribunal. Such a reference is taken to be an application duly made for assessment of the costs.
- (3) This section does not confer jurisdiction or power to refer costs for assessment except under an order or award that the court or tribunal can otherwise make.
- (4) A single application or reference may be made in respect of costs payable under multiple orders, rules or awards made between the same parties in one or related proceedings.

**75 Conduct of costs assessments of ordered costs**

- (1) An assessment of ordered costs must be made in accordance with:
  - (a) the terms of the order, rule or award under which the costs are payable, and
  - (b) the rules of the relevant court or tribunal that made the order for costs, and
  - (c) any relevant regulations, and
  - (d) any order made for interest on costs under section 101 of the *Civil Procedure Act 2005*.
- (2) If a court or tribunal has ordered that costs are to be assessed on an indemnity basis, the costs assessor must assess the costs on that basis, having regard to any relevant rules of the court or tribunal and any relevant regulations.

**76 Criteria for costs assessments of ordered costs**

- (1) In conducting an assessment of ordered costs, the costs assessor must determine what is a fair and reasonable amount of costs for the work concerned.
- (2) In considering what is a fair and reasonable amount of costs for the work concerned, the costs assessor may have regard to the factors in section 172 (1) and (2) of the *Legal Profession Uniform Law (NSW)* (as if that section also applies to ordered costs and so applies with any necessary modifications).

**77 Use of costs agreements in connection with ordered costs**

- (1) A costs assessor may, when conducting an assessment of ordered costs, obtain a copy of, and may have regard to, a costs agreement.

- (2) However, for the purposes of the assessment, a costs agreement is not conclusive as to what is the fair and reasonable amount of costs for the work concerned.

**78 Costs of costs assessment of ordered costs**

- (1) Subject to any order or rules of the court or tribunal concerned, a costs assessor is to determine the costs of an assessment of ordered costs and by whom they are payable.
- (2) This section does not apply to costs referred to in section 71 (1) (a) and (b).

**79 Court or tribunal may determine matters**

This Part does not limit any power of a court or a tribunal to determine in any particular case:

- (a) the amount of costs payable, or
- (b) that the amount of the costs is to be determined on an indemnity basis.

**80 Application of provisions of Legal Profession Uniform Law (NSW)**

The following provisions of the *Legal Profession Uniform Law (NSW)* apply in relation to ordered costs in the same way as they apply in relation to Uniform Law costs:

- (a) section 201 (Reasons to be given),
- (b) section 202 (Referral for disciplinary action),
- (c) section 203 (Admissibility determinations in disciplinary proceedings).

**Division 4 Assessment of Uniform Law costs—additional provisions**

**81 Interest on costs**

- (1) A costs assessor may, in respect of the amount of Uniform Law costs or a specified part of that amount, determine that:
- (a) interest is payable at a rate determined by the assessor that does not exceed the rate referred to in section 195 (4) of the *Legal Profession Uniform Law (NSW)*, or
- (b) no interest is payable.
- (2) This section applies despite any costs agreement or anything else in section 195 of the *Legal Profession Uniform Law (NSW)*.
- (3) This section does not authorise the giving of interest on interest.

**Division 5 Reviews**

**82 Review panels**

Review panels are established under the costs assessment rules and are each constituted by 2 costs assessors appointed under those rules. A review panel may be established for one or more costs reviews.

**83 Application by party for review**

- (1) A party to a costs assessment may apply for a review of a determination of a costs assessor.

- (2) Subject to this section, an application for a review is to be made in accordance with the costs assessment rules.
- (3) An application for a review must:
  - (a) be filed with the Manager, Costs Assessment, and
  - (b) be accompanied by the fee (if any) prescribed by the local regulations, and
  - (c) be served on the other parties to the costs assessment concerned in accordance with the costs assessment rules.
- (4) The Manager, Costs Assessment may waive or postpone payment of the application fee either wholly or in part if satisfied that the applicant is in such circumstances that payment of the fee would result in serious hardship to the applicant or his or her dependants.
- (5) The Manager, Costs Assessment may refund the application fee either wholly or in part if satisfied that it is appropriate because the application is not proceeded with.

#### **84 Application by Manager, Costs Assessment for review**

- (1) The Manager, Costs Assessment may, within 30 days after the issue of a certificate of determination by a costs assessor, apply for a review of the determination.
- (2) An application for a review must:
  - (a) be made in accordance with the costs assessment rules, and
  - (b) be served on the parties to the proposed review in accordance with the costs assessment rules.

#### **85 Conduct of reviews**

- (1) A review panel may, on an application made under section 83 or 84, review the determination of a costs assessor and may:
  - (a) affirm the costs assessor's determination, or
  - (b) set aside the costs assessor's determination and substitute the determination that, in its opinion, should have been made by the costs assessor.
- (2) The review panel has, in relation to the application for review, all the functions of a costs assessor in relation to the assessment concerned and is to determine the application, subject to this Part and the costs assessment rules, in the manner that a costs assessor would be required to determine an application for costs assessment.
- (3) Without limiting subsection (2), the review panel is not bound by the rules of evidence and may inform itself on any matter in the manner it thinks fit.
- (4) If the costs assessors who constitute the review panel are unable to agree on a determination in relation to an application, the panel is to affirm the determination of the costs assessor.

#### **86 Effect of review on costs assessor's determination**

- (1) If an application is made to a review panel to review a costs assessor's determination under section 83 or 84, the operation of the determination is suspended.

- (2) The review panel may end a suspension:
  - (a) if it affirms the determination of the costs assessor, or
  - (b) in such other circumstances as it considers appropriate.

**87 Certificate as to review panel's substituted determination of costs to parties**

- (1) If, on review of a costs assessor's determination, a review panel sets aside and substitutes the determination, the panel is to issue a certificate that sets out its determination. The certificate is to include the amounts set out in section 70 (1) (a)–(c).
- (2) Section 70 (2)–(6) apply to a certificate issued by a review panel under this section in the same way as they apply to a certificate issued by a costs assessor under section 70.

**88 Certificate as to determination of costs of review panel**

- (1) On a review of a costs assessor's determination, a review panel may separately determine:
  - (a) the amount of the costs incurred by the review panel or the Manager, Costs Assessment in the course of the review, and
  - (b) the costs related to the remuneration of the costs assessors who constitute the review panel, and
  - (c) by whom those costs are payable and the extent to which they are so payable.
- (2) If the review panel makes such a determination, the panel is to issue a certificate that sets out the determined costs.
- (3) Section 71 (3) applies to a certificate issued by a review panel under this section in the same way as it applies to a certificate issued by a costs assessor under section 71.

**Division 6 Appeals**

**89 Appeal to District Court on matters of law and fact**

- (1) A party to a costs assessment that has been the subject of a review under this Part may, in accordance with the rules of the District Court, appeal to the Court against a decision of the review panel concerned as to a matter of law.
- (2) A party to a costs assessment that has been the subject of a review under this Part may, in accordance with the rules of the District Court, seek leave of the Court to appeal to the Court against a decision of the review panel concerned.
- (3) The District Court has all the functions of the review panel.
- (4) An appeal is to be by way of a rehearing, and fresh evidence or evidence in addition to or in substitution for the evidence before the review panel or costs assessor may, with the leave of the Court, be given on the appeal.

**90 Effect of appeal on review panel decision**

- (1) If an appeal against a decision of a review panel under section 89 or an application for leave under that section in relation to a determination by a costs assessor is pending in the District Court, either the review panel or the District Court may suspend the operation of the determination or the decision.
- (2) The review panel or the District Court may end a suspension made by the review panel. The District Court may end a suspension it made.



- (3) A suspension ends when (as the case may be):
  - (a) the appeal is determined, or
  - (b) the application for leave is dismissed, discontinued or struck out or lapses.

#### **91 Notices of appeal**

The party initiating an appeal or an application for leave to appeal must serve a copy of the initiating process on the Manager, Costs Assessment and every other party to the review from which the appeal is brought or to which the application relates.

### **Division 7 Costs assessment rules**

#### **92 Costs Assessment Rules Committee**

- (1) There is to be a Costs Assessment Rules Committee consisting of the following persons appointed by the Chief Justice of New South Wales:
  - (a) a Judge of the Supreme Court,
  - (b) a Judge of the District Court nominated by the Chief Judge of the District Court,
  - (c) a barrister nominated by the Bar Council,
  - (d) a solicitor nominated by the Law Society Council,
  - (e) a person nominated by the NSW Commissioner,
  - (f) costs assessors chosen by the Chief Justice.
- (2) The Committee has any of the functions conferred or imposed on the Committee by or under this or any other Act.
- (3) The Committee is to regulate its own proceedings for the calling of meetings and the conduct of its business.
- (4) The Manager, Costs Assessment is the Secretary of the Committee.
- (5) Any amount payable from the Public Purpose Fund under section 53 for the purpose of meeting the costs of the Committee is to be paid to the Treasurer for credit of the Consolidated Fund.

#### **93 Costs assessment rules**

- (1) The Costs Assessment Rules Committee may make rules (*costs assessment rules*), not inconsistent with this Act or the *Legal Profession Uniform Law (NSW)*, for or with respect to costs assessments and reviews, including without limitation:
  - (a) the making, timing and processing of applications for costs assessments and reviews, and
  - (b) the conduct of costs assessments and reviews, including:
    - (i) the practice and procedure for costs assessments and reviews, and
    - (ii) the appointment of costs assessors to conduct costs assessments, and
    - (iii) the establishment of review panels and the appointment of costs assessors to review panels, and
    - (iv) matters relating to the interests of costs assessors in particular matters, and

- (v) the determination and payment of the costs of costs assessments and reviews, and
  - (vi) the issue of certificates of determinations, and
  - (vii) the giving of reasons for determinations and the provision of supplementary information to accompany the reasons, and
  - (viii) the suspension of a costs determination in the event of an application for a costs review, and
- (c) requiring a person (including an applicant, the law practice concerned, any other law practice or client, or a costs assessor) to produce documents, to provide information (verified by statutory declaration if the requirement so states), or otherwise to assist in, or co-operate with, the determination or finalisation of an assessment or review, and
  - (d) requiring documents produced in response to a requirement referred to in paragraph (c) to be returned or otherwise disposed of within a period specified in or determined in accordance with the rules, and
  - (e) the correction of errors in a determination.
- (2) A rule may do any of the following:
    - (a) apply generally or be limited in its application by reference to specified exceptions or factors,
    - (b) apply differently according to different factors of a specified kind,
    - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body.
  - (3) The rules must be published on the NSW legislation website.
  - (4) Sections 40 and 41 of the *Interpretation Act 1987* apply to the rules in the same way as they apply to a statutory rule.
  - (5) The local regulations prevail over the rules in the event of an inconsistency.

**93A Compliance with requirements about documents and other matters**

- (1) This section applies to a requirement referred to in section 93 (1) (c) or (d).
- (2) A person who is subject to a requirement to which this section applies must comply with the requirement.  
Maximum penalty: the penalty specified in the costs assessment rules in relation to a contravention of the requirement (not exceeding 50 penalty units).
- (3) If a person fails, without reasonable excuse, to comply with a requirement to which this section applies, the costs assessor or review panel may decline to deal with the application or may continue to deal with the application on the basis of the information provided.
- (4) A failure by an Australian legal practitioner to comply with a requirement to which this section applies without reasonable excuse is capable of being unsatisfactory professional conduct or professional misconduct.

**Division 8 Miscellaneous**

**93B Manager, Costs Assessment**

- (1) The Chief Justice of New South Wales may appoint a registrar of the Supreme Court as Manager, Costs Assessment.
- (2) The Manager, Costs Assessment has the functions conferred on the Manager, Costs Assessment by or under this or any other Act.

- (3) The acts and decisions of the Manager, Costs Assessment are reviewable by the Supreme Court in the same manner as acts and decisions of other registrars are reviewable by the Court.
- (4) Service by the Manager, Costs Assessment of a copy of an application for a costs assessment on relevant parties in accordance with the costs assessment rules is taken to be notification by a costs assessor as required by section 198 (8) of the *Legal Profession Uniform Law (NSW)*.

**93C Costs assessors**

- (1) The Chief Justice of New South Wales may appoint persons to be costs assessors.
- (2) A costs assessor has the functions that are conferred on the costs assessor by or under this or any other Act or the *Legal Profession Uniform Law (NSW)*.
- (3) For the purpose of determining an application for assessment or exercising any other function as a costs assessor, a costs assessor may determine any anterior or incidental question of fact or law, but not so as to establish an issue estoppel for that question for the purpose of any other proceedings.
- (4) A costs assessor is not an officer of the Supreme Court when acting as a costs assessor.
- (5) Proceedings relating to anything done or omitted to be done by the Chief Justice of New South Wales in respect of the appointment or removal of a costs assessor (including terms of appointment and any other incidental matters) may not be instituted against the Chief Justice of New South Wales but may be instituted against “The Manager, Costs Assessment” as nominal defendant.
- (6) Schedule 6 contains provisions relating to costs assessors.

**93D Confidentiality**

A costs assessor must not disclose any information obtained in connection with the exercise of the costs assessor’s functions (including any functions as a member of a review panel) unless the disclosure is made:

- (a) in connection with the exercise of those functions or the administration or execution of this Act or the *Legal Profession Uniform Law (NSW)*, or
- (b) for the purposes of any legal proceedings arising out of this Act or the *Legal Profession Uniform Law (NSW)*, or of any report of any such proceedings, or
- (c) in the case of information relating to an Australian legal practitioner or other person—with the consent of the practitioner or other person, or
- (d) with other lawful excuse.

Maximum penalty: 20 penalty units.

**93E Referral of matters for costs assessment under Chapter 5 of the Legal Profession Uniform Law (NSW)**

No fee is payable for an application for a costs assessment arranged by the designated local regulatory authority under section 284 of the *Legal Profession Uniform Law (NSW)*.

**93F Protection from liability**

- (1) No liability attaches to a relevant person for any act or omission done or omitted in good faith and in the administration of this Part or (without limitation) the exercise or purported exercise of functions under this Part.

(2) In this section:

*relevant person* means:

- (a) the Chief Justice of New South Wales, or
- (b) the Manager, Costs Assessment, or
- (c) a costs assessor (including a costs assessor acting as a member of a review panel constituted under this Part).

**93G Costs of this Part**

- (1) All costs related to the administration of this Part (other than the costs of the Costs Assessment Rules Committee as referred to in section 92) are to be paid out of money to be provided from a working account established for the Department of Justice by the Treasurer under section 13A of the *Public Finance and Audit Act 1983* for the purposes of this Part.
- (2) The following amounts received by the Manager, Costs Assessment are to be paid to the credit of that working account:
  - (a) an application fee for an assessment,
  - (b) an application fee for a review of an assessment,
  - (c) a payment for the costs of a costs assessor,
  - (d) a payment for the costs of the Manager, Costs Assessment,
  - (e) a payment for the costs of a review of an assessment.

**[28] Section 95 Approved insurance policy**

Omit section 95 (2) (b).

**[29] Section 95 (3A) and (3B)**

Insert after section 95 (3):

- (3A) If any terms or conditions imposed by an order are not complied with by the insurer or provider that issued the policy:
  - (a) the order may be amended to prohibit or restrict the future issue of policies by the insurer or provider or in any other manner the Attorney General considers appropriate in the circumstances, and
  - (b) the Attorney General may take into account any failure to comply by the insurer or provider when deciding whether to approve future policies issued by that insurer or provider.
- (3B) Nothing in subsection (3A) limits any other power of the Attorney General.

**[30] Sections 97 and 100**

Omit the sections.

**[31] Part 10**

Omit the Part. Insert instead:

**Part 10 Rights of review**

**125 Right of review by NCAT about Australian practising certificates and Australian registration certificates**

- (1) This section deals with a decision of a designated local regulatory authority about an Australian practising certificate or an Australian registration

certificate where proceedings before NCAT as designated tribunal are contemplated by section 100 or 101 of the *Legal Profession Uniform Law (NSW)*.

**Note.** NCAT is the designated tribunal for the purposes of sections 100 and 101 of the *Legal Profession Uniform Law (NSW)* in relation to decisions under section 89 or 92 of that Law. The Supreme Court is the designated tribunal for the purposes of sections 100 and 101 for other decisions. See the table to section 11 (3).

- (2) The applicant for or the holder of the Australian practising certificate or Australian registration certificate may apply to NCAT for an administrative review under the *Administrative Decisions Review Act 1997*.

**126 Right of review by NCAT about certain determinations of local regulatory authority in consumer and disciplinary matters**

- (1) This section deals with proceedings contemplated by section 314 (1) and (2) of the *Legal Profession Uniform Law (NSW)* in relation to a determination of a local regulatory authority relating to:
- (a) a compensation order for more than \$10,000 in a consumer matter, or
  - (b) a disciplinary matter.
- (2) A respondent lawyer or a legal practitioner associate of a respondent law practice may apply to NCAT for an administrative review under the *Administrative Decisions Review Act 1997* of a determination of the designated local regulatory authority under:
- (a) section 290 of the *Legal Profession Uniform Law (NSW)*, in relation to a compensation order for more than \$10,000, or
  - (b) section 299 of the *Legal Profession Uniform Law (NSW)*.

**127 Local regulations may provide rights of review**

The local regulations may provide that an application may be made to NCAT for an administrative review under the *Administrative Decisions Review Act 1997* of a specified decision or class of decisions made by a specified person or body in the exercise of functions conferred or imposed by or under:

- (a) this Act or the local regulations, or
- (b) the *Legal Profession Uniform Law (NSW)*, or
- (c) the Uniform Rules as they apply in this jurisdiction.

**[32] Section 148**

Omit the section. Insert instead:

**148 Definitions**

In this Part:

***disciplinary action*** against a lawyer means any of the following actions taken under a law of this or another jurisdiction, whether or not taken under Chapter 5 of the *Legal Profession Uniform Law (NSW)* or under provisions of a corresponding law that correspond to that Chapter:

- (a) the suspension or cancellation of the Australian practising certificate or Australian registration certificate of the lawyer (other than a suspension or cancellation at the request or with the concurrence of the holder of the certificate that is not connected with a disciplinary matter),
- (b) the refusal to grant or renew an Australian practising certificate or Australian registration certificate applied for by the lawyer (other than

- a refusal on the ground that the lawyer is not eligible to apply for the grant or renewal),
- (c) the removal of the name of the lawyer from a roll of Australian lawyers,
  - (d) the making of an order by a court or tribunal, or by another person or body, for or following a finding of unsatisfactory professional conduct or professional misconduct by the lawyer, other than an order cautioning the person,
  - (e) the reprimanding of the lawyer, or the making of a compensation order against the lawyer, by a person or body without a formal finding of unsatisfactory professional conduct or professional misconduct,
  - (f) the appointment of a manager or receiver for a law practice of which the lawyer is a legal practitioner associate, where the associate is specified or referred to in the notice of appointment served on the law practice.

*lawyer*, when used alone, has the same meaning as it has in Chapter 5 of the *Legal Profession Uniform Law (NSW)* (see section 261 of that Law).

**[33] Section 152 Register of Disciplinary Action**

Omit “Australian legal practitioners” from section 152 (1) wherever occurring.

Insert instead “lawyers”.

**[34] Section 152 (1) (c)**

Omit “practitioner”. Insert instead “lawyer”.

**[35] Sections 153 (1) and 155 (1) (a)**

Omit “an Australian legal practitioner” wherever occurring. Insert instead “a lawyer”.

**[36] Sections 165A and 165B**

Insert after section 165:

**165A Proceedings for offences**

- (1) Proceedings for:
  - (a) an offence against this Act or the local regulations, or
  - (b) an offence referred to in section 451 (1) of the *Legal Profession Uniform Law (NSW)* against that Law (except an offence against section 148 or 353 of that Law),are to be dealt with summarily before the Local Court.
- (2) Chapter 5 of the *Criminal Procedure Act 1986* (which relates to the summary disposal of certain indictable offences unless an election is made to proceed on indictment) applies to and in respect of an offence under section 148 (Deficiency in trust account) or section 353 (Improperly destroying property etc) of the *Legal Profession Uniform Law (NSW)*.
- (3) Proceedings for an offence may be brought at any time within 12 months after the date of the alleged offence.

**165B Conduct capable of constituting unsatisfactory professional conduct or professional misconduct**

- (1) Without limitation, conduct of a lawyer involving contravention of the local regulations or the costs assessment rules is capable of constituting unsatisfactory professional conduct or professional misconduct, whether or

not the lawyer has been convicted of an offence in relation to the contravention.

- (2) In this section, **lawyer** has the same meaning as it has in Chapter 5 of the *Legal Profession Uniform Law (NSW)* when used alone (see section 261 of that Law).

**[37] Section 166 Local regulations**

Omit section 166 (1). Insert instead:

- (1) The Governor may make regulations (**local regulations**), not inconsistent with this Act or the *Legal Profession Uniform Law (NSW)*, for or with respect to any matter that by this Act or that Law is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act or that Law.

**[38] Section 166 (2) (a) (ii)**

Omit “Department of Attorney General and Justice”.

Insert instead “Department of Justice”.

**[39] Section 166 (2) (d)**

Insert at the end of section 166 (2) (c):

- , and
- (d) prohibiting, regulating or otherwise providing for the receiving 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.

**[40] Section 166 (4)**

Omit section 166 (4) and (5). Insert instead:

- (4) The local regulations may make provision for or with respect to any matters for or with respect to which costs assessment rules may be made.

**[41] Schedule 8 Mortgage practices and managed investment schemes—provisions relating to old mortgages**

Omit the Schedule.

**[42] Schedule 9 Savings, transitional and other provisions**

Insert “or Schedule 4 to the *Legal Profession Uniform Law (NSW)*” after “Schedule” in clause 1 (4).

**[43] Schedule 9**

Insert after Part 2:

**Part 3 Provisions consequent on enactment of Legal Profession Uniform Law Application Legislation Amendment Act 2015**

**7 Definition**

In this Part:

**repealed Act** means the *Legal Profession Act 2004*.

**8 Working account for costs of Part 7**

The working account referred to in section 400 of the repealed Act immediately before the commencement of this clause is taken to be the working account established for the Department of Justice, as referred to in section 93G of this Act.

**9 Manager, Costs Assessment**

The registrar of the Supreme Court who was Manager, Costs Assessment immediately before the commencement of this clause is taken to have been appointed as Manager, Costs Assessment on that commencement.

**10 Mortgage practices and managed investment schemes—transitional arrangements**

- (1) Section 135 (2) of the repealed Act continues to apply to an incorporated legal practice (and to any related body corporate).
- (2) Part 3.5 of, and Schedule 8 to, the repealed Act continue to apply in respect of mortgages that were entered into before the repeal of that Act and to matters connected with managed investment schemes as referred to in those provisions.
- (3) Section 258 of the Legal Profession Uniform Law as set out in Schedule 1 to the *Legal Profession Uniform Law Application Act 2014* of Victoria does not apply as a law of this jurisdiction.
- (4) Subclauses (1), (2) and (3) cease to have effect on 1 July 2018.
- (5) A reference in Schedule 8 to the repealed Act to the Fidelity Fund is taken to be a reference to the fidelity fund within the meaning of the *Legal Profession Uniform Law (NSW)*.
- (6) Without limiting any other provision of this Schedule, the local regulations may modify the operation of this clause.

**[44] Schedule 10 Amendments**

Omit Schedule 10.1.

**Note.** Schedule 10.1 contains an uncommenced amendment to the *Interpretation Act 1987*. See now Schedule 2.24 to this Act.



## Schedule 2 Amendment of other legislation

### 2.1 Civil and Administrative Tribunal Act 2013 No 2

[1] **Section 60 Costs**

Omit section 60 (4) (b). Insert instead:

- (b) order costs to be assessed on the basis set out in the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*) or on any other basis.

[2] **Section 89 Protection of representatives, witnesses and staff members**

Omit “*Legal Profession Act 2004*” from the definition of *barrister* in section 89 (4).

Insert instead “*Legal Profession Uniform Law (NSW)*”.

[3] **Schedule 1 Savings, transitional and other provisions**

Insert at the end of the Schedule (with appropriate Part and clause numbering):

### **Part Provision consequent on enactment of Legal Profession Uniform Law Application Legislation Amendment Act 2015**

#### **References to Legal Profession Uniform Law (NSW)**

A reference in this Act (where relevant) to:

- (a) the *Legal Profession Uniform Law (NSW)* includes a reference to the *Legal Profession Act 2004*, and
- (b) a provision of the *Legal Profession Uniform Law (NSW)* includes a reference to the corresponding provision of the *Legal Profession Act 2004*.

[4] **Schedule 5, clauses 4, 15 (definitions of “barrister” and “solicitor”), 16, 17 (1), 18, 20, 22 (1) and 29 (1) (e) and (4) (a)**

Omit “*Legal Profession Act 2004*” wherever occurring.

Insert instead “*Legal Profession Uniform Law (NSW)*”.

[5] **Schedule 5, clause 15**

Omit “Part 7.3 of the *Legal Profession Act 2004*” from the definition of *Commissioner*.

Insert instead “Division 2 of Part 3 of the *Legal Profession Uniform Law Application Act 2014*”.

[6] **Schedule 5, clause 15**

Omit “Chapter 4 of the *Legal Profession Act 2004*” from the definition of *complaint*.

Insert instead “Chapter 5 of the *Legal Profession Uniform Law (NSW)*”.

[7] **Schedule 5, clause 15**

Insert in alphabetical order:

*respondent lawyer* means the lawyer (within the meaning it has when used alone in Chapter 5 of the *Legal Profession Uniform Law (NSW)*) who is the subject of a complaint.

- [8] Schedule 5, clause 18 (1) (c)**  
Omit “an Australian lawyer”. Insert instead “a respondent lawyer”.
- [9] Schedule 5, clause 19**  
Omit “Chapter 4 of the *Legal Profession Act 2004*”.  
Insert instead “Chapter 5 of the *Legal Profession Uniform Law (NSW)*”.
- [10] Schedule 5, clause 21**  
Omit clause 21 (1). Insert instead:
- (1) The following persons are entitled to appear at a hearing conducted by the Tribunal for the exercise of a Division function for the purposes of the *Legal Profession Uniform Law (NSW)*:
    - (a) in the case of an application for an administrative review of a decision made in relation to an Australian practising certificate or an Australian registration certificate—the applicant,
    - (b) in the case of a complaint—the respondent lawyer,
    - (c) in the case of a complaint against a barrister—the Council of the Bar Association,
    - (d) in the case of a complaint against a solicitor—the Council of the Law Society,
    - (e) in the case of a complaint where the respondent lawyer is neither a barrister nor a solicitor—either or both of the Councils,
    - (f) the Commissioner,
    - (g) the Attorney General.
- [11] Schedule 5, clause 21 (2) (b)**  
Omit the paragraph. Insert instead:
- (b) without limiting paragraph (a), those aspects of the hearing that relate to a review of a decision to make an order under section 299 (Determination by local regulatory authority—unsatisfactory professional conduct) of the *Legal Profession Uniform Law (NSW)*,
- [12] Schedule 5, clause 21 (6)**  
Omit the subclause.
- [13] Schedule 5, clause 22 (3) (a)**  
Omit “Part 4.8 of the *Legal Profession Act 2004*”.  
Insert instead “Part 11 of the *Legal Profession Uniform Law Application Act 2014*”.
- [14] Schedule 5, clause 23**  
Omit “an Australian legal practitioner” and “an Australian legal practitioner’s” wherever occurring.  
Insert instead “a respondent lawyer” and “a respondent lawyer’s” respectively.
- [15] Schedule 5, clause 23 (2) and (3)**  
Omit “the practitioner” wherever occurring. Insert instead “the lawyer”.

**[16] Schedule 5, clause 23 (3)**

Omit “*Legal Profession Act 2004*”.

Insert instead “*Legal Profession Uniform Law Application Act 2014*”.

**[17] Schedule 5, clause 23 (5)**

Omit “the Australian legal practitioner”. Insert instead “the respondent lawyer”.

**[18] Schedule 5, clause 23 (6)**

Omit “Part 3.2 of the *Legal Profession Act 2004*”.

Insert instead “the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

**[19] Schedule 5, clause 28**

Omit “*Legal Profession Act 2004* concerning an Australian lawyer or former Australian lawyer” from clause 28 (1) (d).

Insert instead “*Legal Profession Uniform Law (NSW)* concerning a lawyer (within the meaning it has when used alone in Chapter 5 of that Law)”.

**[20] Schedule 5, clause 29 (3) (a)**

Omit “section 385 (2) of the *Legal Profession Act 2004*”.

Insert instead “section 89 (2) of the *Legal Profession Uniform Law Application Act 2014*”.

**[21] Schedule 7 Examples of procedural rule-making powers**

Omit “Part 3.2 of the *Legal Profession Act 2004*” from item 20.

Insert instead “the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

## **2.2 Civil Liability Act 2002 No 22**

**[1] Section 26 Offer of structured settlement—legal costs**

Omit “Section 340 of the *Legal Profession Act 2004*” from section 26 (1).

Insert instead “Clause 5 of Schedule 1 to the *Legal Profession Uniform Law Application Act 2014*”.

**[2] Section 26T Exception for legal costs**

Omit “*Legal Profession Act 1987* or the *Legal Profession Act 2004*” from section 26T (3).

Insert instead “legal profession legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

**[3] Section 26U Maximum legal costs of eligible claims**

Omit section 26U (3) and (4). Insert instead:

- (3) Schedule 1 (Maximum costs in personal injury damages matters) to the *Legal Profession Uniform Law Application Act 2014* applies in respect of the maximum costs for legal services provided to a plaintiff in connection with a victim claim that is eligible to be satisfied from a victim trust fund as if subsections (1) and (2) of this section were substituted for subclauses (1) and (2) of clause 2 of that Schedule.

## 2.3 Civil Procedure Act 2005 No 28

### [1] Section 3 Definitions

Omit the definition of *ordinary basis* from section 3 (1). Insert instead:

*ordinary basis*, in relation to the assessment of legal costs that a court has ordered to be paid, means the basis of assessing costs in accordance with Division 3 of Part 7 of the *Legal Profession Uniform Law Application Act 2014*.

### [2] Section 9 Uniform rules

Omit section 9 (5). Insert instead:

- (5) This section does not give power to make rules with respect to:
- (a) any matter relating to costs that is regulated by the legal profession legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*), or
  - (b) any matter for which Admission Rules may be made under the *Legal Profession Uniform Law (NSW)*.

### [3] Section 99 Liability of legal practitioner for unnecessary costs

Omit “Part 3.2 of the *Legal Profession Act 2004*” from section 99 (3).

Insert instead “Part 7 of the *Legal Profession Uniform Law Application Act 2014*”.

## 2.4 Commercial Arbitration Act 2010 No 61

### [1] Section 24A Representation

Omit section 24A (2). Insert instead:

- (2) A person who is not an Australian legal practitioner does not commit an offence under or breach the provisions of the *Legal Profession Uniform Law (NSW)* or any other Act or law merely by representing a party in arbitral proceedings in this State.

### [2] Section 33B Costs

Omit “assessed in the Court having jurisdiction under section 34 to hear applications setting aside the award” from section 33B (5).

Insert instead “assessed in accordance with section 33C”.

### [3] Section 33C

Omit the section. Insert instead:

#### **33C Application of legal costs legislation**

- (1) For the purposes of section 33B (5), the costs of an arbitration are to be assessed in accordance with the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*).
- (2) The legal costs legislation applies accordingly with any necessary modifications. Part 7 of the *Legal Profession Uniform Law Application Act 2014* so applies as if the costs of the arbitration were ordered costs as defined in that Part.

**Note.** There is no equivalent to this section in the Model Law.

## **2.5 Consumer Claims Act 1998 No 162**

### **Section 7 Jurisdiction in respect of consumer claims**

Omit “Part 3.2 of the *Legal Profession Act 2004*” from section 7 (5).

Insert instead “the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

## **2.6 Conveyancers Licensing Act 2003 No 3**

### **[1] Sections 4 (4), 7 (1) and 27 (5)**

Omit “Part 2.2 of the *Legal Profession Act 2004*” wherever occurring.

Insert instead “Part 2.1 of the *Legal Profession Uniform Law (NSW)*”.

### **[2] Section 10 Disqualified persons**

Omit “Division 3 of Part 2.2 of the *Legal Profession Act 2004*” from section 10 (1) (p).

Insert instead “Division 1 of Part 3.9 of the *Legal Profession Uniform Law (NSW)*”.

## **2.7 Conveyancers Licensing Regulation 2006**

### **[1] Clause 6 Professional indemnity insurance: section 15**

Omit clause 6 (3). Insert instead:

- (3) In this clause, *complying law practice* means a law practice within the meaning of the *Legal Profession Uniform Law (NSW)* that complies with the relevant requirements of Part 4.4 (Professional indemnity insurance) of that Law.

### **[2] Clause 7 Section 20 exemptions—person in charge at place of business**

Insert at the end of clause 7 (1) (d) (iii):

and

- (iv) the relevant provisions of the *Legal Profession Uniform Law (NSW)* or the *Legal Profession Uniform Law Application Act 2014* (or both), and the relevant provisions of the rules and regulations under them,

## **2.8 Conveyancing Act 1919 No 6**

### **Sections 66P (1) and 66Z (1)**

Omit “*Legal Profession Act 2004*” wherever occurring.

Insert instead “*Legal Profession Uniform Law (NSW)*”.

## **2.9 Crimes (Domestic and Personal Violence) Act 2007 No 80**

### **Section 86 Rules in application proceedings**

Omit “Part 3.2 of the *Legal Profession Act 2004*” from section 86 (3).

Insert instead “the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

## 2.10 Criminal Assets Recovery Act 1990 No 23

### [1] Section 10B Contents and effect of restraining orders

Omit “Part 3.2 of the *Legal Profession Act 2004*” from section 10B (3B).

Insert instead “Part 7 of the *Legal Profession Uniform Law Application Act 2014*”.

### [2] Section 16B Maximum legal expenses that can be met from restrained property

Omit “*Legal Profession Act 2004*” from section 16B (3).

Insert instead “*Legal Profession Uniform Law Application Act 2014*”.

## 2.11 Criminal Procedure Act 1986 No 209

### [1] Sections 149F (5) and 247X (4)

Omit “legal profession rules made under Part 7.5 of the *Legal Profession Act 2004*” wherever occurring.

Insert instead “Uniform Rules made under Part 9.2 of the *Legal Profession Uniform Law (NSW)*”.

### [2] Section 257G Calculation of costs

Omit “Division 11 of Part 3.2 of the *Legal Profession Act 2004*” from section 257G (b).

Insert instead “the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

### [3] Schedule 1 Indictable offences triable summarily

Omit item 25 of Table 1. Insert instead:

#### 25 Legal Profession Uniform Law (NSW)

An offence under section 148 (Deficiency in trust account) or section 353 (Improperly destroying property etc.) of the *Legal Profession Uniform Law (NSW)*.

## 2.12 Defamation Act 2005 No 77

### [1] Schedule 1 Additional publications to which absolute privilege applies

Omit “Chapter 4 of the *Legal Profession Act 2004*” wherever occurring in clause 18 (a) and (b).

Insert instead “Chapter 5 of the *Legal Profession Uniform Law (NSW)*”.

### [2] Schedule 1, clause 18

Omit “Chapter 2 or Part 7.3 of the *Legal Profession Act 2004*” from clause 18 (c)

Insert instead “Chapter 2 or 3 of the *Legal Profession Uniform Law (NSW)* or Division 2 of Part 3 of the *Legal Profession Uniform Law Application Act 2014*”.

### [3] Schedule 2 Additional kinds of public documents

Omit “Chapter 4 of the *Legal Profession Act 2004*” from clause 2.

Insert instead “Chapter 5 of the *Legal Profession Uniform Law (NSW)*”.

**[4] Schedule 3 Additional proceedings of public concern**

Omit “Chapter 4 of the *Legal Profession Act 2004*” from clause 8.

Insert instead “Chapter 5 of the *Legal Profession Uniform Law (NSW)*”.

**2.13 District Court Act 1973 No 9**

**[1] Section 18B Composition of the Rule Committee**

Omit “*Legal Profession Act 2004*” wherever occurring in section 18B (9).

Insert instead “*Legal Profession Uniform Law (NSW)*”.

**[2] Sections 138 (2), 142 (2), 142F (2) and 161 (6)**

Omit “Part 3.2 of the *Legal Profession Act 2004*” wherever occurring.

Insert instead “the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

**2.14 Dust Diseases Tribunal Act 1989 No 63**

**[1] Section 3 Definitions**

Omit “*Legal Profession Act 2004*” wherever occurring in section 3 (1).

Insert instead “*Legal Profession Uniform Law (NSW)*”.

**[2] Section 32H Regulations to promote claims resolution**

Omit “or the *Legal Profession Act 2004*” from section 32H (2) (h).

Insert instead “, the *Legal Profession Act 2004* or the legal profession legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

**[3] Section 33 Rules**

Omit “Division 11 of Part 3.2 of the *Legal Profession Act 2004*” from section 33 (6).

Insert instead “the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

**2.15 Duties Act 1997 No 123**

**Section 65 Exemptions from duty**

Omit “*Legal Profession Act 2004*” wherever occurring in section 65 (5).

Insert instead “*Legal Profession Uniform Law (NSW)*”.

**2.16 Electronic Transactions Act 2000 No 8**

**Schedule 1 Courts—electronic case management systems**

Omit “Division 11 of Part 3.2 of the *Legal Profession Act 2004*” from clause 17.

Insert instead “the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

## 2.17 Evidence Act 1995 No 25

### [1] Section 117 Definitions

Omit the definition of *lawyer* from section 117 (1). Insert instead:

*lawyer* means an Australian lawyer, a foreign lawyer, or an employee or agent of either of them.

### [2] Dictionary

Omit “*Legal Profession Act 2004*” wherever occurring in the definitions of *Australian lawyer*, *Australian legal practitioner* and *Australian practising certificate* in Part 1.

Insert instead “*Legal Profession Uniform Law (NSW)*”.

### [3] Dictionary, Part 1

Omit the definitions of *Australian-registered foreign lawyer* and *overseas-registered foreign lawyer*.

### [4] Dictionary, Part 1

Insert in alphabetical order:

*foreign lawyer* has the meaning it has in the *Legal Profession Uniform Law (NSW)*.

## 2.18 Evidence (Audio and Audio Visual Links) Act 1998 No 105

### Section 11 Counsel entitled to practise

Omit section 11 (2).

## 2.19 Fair Trading Act 1987 No 68

### Section 88A Relationship with certain provisions of other Acts

Omit “bill within the meaning of Part 3.2 of the *Legal Profession Act 2004*” from section 88A (2).

Insert instead “bill of costs referred to in Part 4.3 of the *Legal Profession Uniform Law (NSW)* (see section 187 of that Law)”.

## 2.20 Health Practitioner Regulation (Adoption of National Law) Act 2009 No 86

### Schedule 1 Modification of Health Practitioner Regulation National Law

Omit “*Legal Profession Act 2004*” from Schedule 1 [13].

Insert instead “*Legal Profession Uniform Law (NSW)*”.

## 2.21 Independent Commission Against Corruption Act 1988 No 35

### Section 109 Protection from liability

Omit “*Legal Profession Act 2004*” from section 109 (3).

Insert instead “*Legal Profession Uniform Law (NSW)*”.



## 2.22 Industrial Relations Act 1996 No 17

### Section 181 Costs

Omit “Division 11 of Part 3.2 of the *Legal Profession Act 2004*” from section 181 (1) (d).

Insert instead “the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

## 2.23 Insurance Act 1902 No 49

### Section 21 Exemption

Omit “or section 406 of the *Legal Profession Act 2004*” from section 21 (2) (c).

Insert instead “, Part 4.4 of the *Legal Profession Uniform Law (NSW)* or Part 8 of the *Legal Profession Uniform Law Application Act 2014*”.

## 2.24 Interpretation Act 1987 No 15

### Section 21 Meanings of commonly used words and expressions

Omit the definitions of *Australian lawyer* and *Australian legal practitioner* from section 21 (1).

Insert instead:

*Australian lawyer* means a person admitted to the Australian legal profession.

*Australian legal practitioner* means an Australian lawyer who holds a current Australian practising certificate.

## 2.25 Land and Environment Court Act 1979 No 204

### Section 74 Rules

Omit section 74 (6). Insert instead:

- (6) This section does not give power to make rules with respect to:
- (a) any matter relating to costs that is regulated by the legal profession legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*), or
  - (b) any matter for which Admission Rules may be made under the *Legal Profession Uniform Law (NSW)*.

## 2.26 Law and Justice Foundation Act 2000 No 97

### Section 3 Definitions

Omit the definition of *Public Purpose Fund*. Insert instead:

*Public Purpose Fund* means the fund maintained under section 48 of the *Legal Profession Uniform Law Application Act 2014*.

## 2.27 Law Enforcement (Powers and Responsibilities) Act 2002 No 103

### Schedule 2 Search warrants under other Acts

Omit “*Legal Profession Act 2004*”.

Insert instead “Legal profession legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

## **2.28 Legal Aid Commission Act 1979 No 78**

### **[1] Section 4 Definitions**

Omit the definition of *practising certificate* from section 4 (1).

### **[2] Sections 23A, 24, 28 and 64A**

Omit “practising certificate” wherever occurring.

Insert instead “Australian practising certificate”.

### **[3] Section 25 Solicitor-client relationship**

Omit “*Legal Profession Act 2004*” from section 25 (4) (c).

Insert instead “*Legal Profession Uniform Law (NSW)*”.

### **[4] Section 52B Audits**

Omit “Chapter 4 of the *Legal Profession Act 2004*” from section 52B (9).

Insert instead “Chapter 5 of the *Legal Profession Uniform Law (NSW)*”.

### **[5] Section 63 Payments into Fund**

Omit “Division 7 of Part 3.1 of the *Legal Profession Act 2004*” from section 63 (1) (a).

Insert instead “section 48 of the *Legal Profession Uniform Law Application Act 2014*”.

### **[6] Section 64A Trust account**

Omit “Part 3.1 of the *Legal Profession Act 2004*” from section 64A (4).

Insert instead “Part 4.2 of the *Legal Profession Uniform Law (NSW)*”.

## **2.29 Local Court Act 2007 No 93**

### **[1] Section 25 Local Court Rule Committee**

Omit “admitted to the legal profession under the *Legal Profession Act 2004*” from section 25 (4) (c).

Insert instead “who is an Australian lawyer”.

### **[2] Sections 42 (2) and 69 (2)**

Omit “Division 11 of Part 3.2 of the *Legal Profession Act 2004*” wherever occurring.

Insert instead “the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

### **[3] Section 71 Rules in application proceedings**

Omit “Part 3.2 of the *Legal Profession Act 2004*” from section 71 (3).

Insert instead “the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

## 2.30 Motor Accidents Compensation Act 1999 No 41

### [1] Section 94A Claims assessor may assess costs

Omit “matters set out in section 363 of the *Legal Profession Act 2004*” from section 94A (3) (d).

Insert instead “principles and matters referred to in section 200 of the *Legal Profession Uniform Law (NSW)*”.

### [2] Section 94A (4)

Omit “section 384 or 385 of the *Legal Profession Act 2004* if the assessment were a determination made by a costs assessor under Part 3.2 of that Act”.

Insert instead “section 89 of the *Legal Profession Uniform Law Application Act 2014* if the assessment were a decision of a costs assessor under Part 7 of that Act”.

### [3] Section 121 Regulation of advertising and other marketing of services

Omit “*Legal Profession Act 2014*” from section 121 (2).

Insert instead “*Legal Profession Uniform Law Application Act 2014*”.

### [4] Section 147 Definitions

Omit section 147 (2) and the note at the end of the section.

Insert instead:

- (2) Except as provided by this Chapter, expressions used in this Chapter have the same meaning as they have when used in relation to legal costs in the legal profession legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*).

**Note.** Under the *Legal Profession Uniform Law (NSW)*, the expression **legal costs** includes amounts payable to a law practice for legal services as well as other items that may be charged (such as disbursements) but does not include interest.

### [5] Section 149 Regulations fixing maximum costs recoverable by Australian legal practitioners

Omit section 149 (4). Insert instead:

- (4) This section and any regulations under this section prevail to the extent of any inconsistency with the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*). An assessment under that legislation of any costs in respect of which provision is made by a regulation under this section is to be made so as to give effect to that regulation.

### [6] Section 153 Other matters relating to costs

Omit “*Legal Profession Act 2004*” from section 153 (3).

Insert instead “*Legal Profession Uniform Law Application Act 2014*”.

## 2.31 Motor Accidents (Lifetime Care and Support) Act 2006 No 16

### [1] Section 18 No legal costs payable by Authority

Omit “*Legal Profession Act 2004*” from section 18 (2).

Insert instead “*Legal Profession Uniform Law (NSW)*”.

**[2] Section 21 Legal costs**

Omit section 21 (6). Insert instead:

- (6) This section and any regulations under this section prevail to the extent of any inconsistency with the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*). An assessment under that legislation of any costs in respect of which provision is made by a regulation under this section is to be made so as to give effect to that regulation.

**[3] Section 21 (7)**

Omit “*Legal Profession Act 2004*”. Insert instead “*Legal Profession Uniform Law (NSW)*”.

**[4] Section 29 No legal costs payable for assessment or review**

Omit “*Legal Profession Act 2004*” from section 29 (2).

Insert instead “*Legal Profession Uniform Law (NSW)*”.

## **2.32 Ombudsman Act 1974 No 68**

### **Schedule 1 Excluded conduct of public authorities**

Omit “Chapter 4 or 6 of the *Legal Profession Act 2004*” from item 26.

Insert instead “Chapter 5 or 7 of the *Legal Profession Uniform Law (NSW)*”.

## **2.33 Police Integrity Commission Act 1996 No 28**

**[1] Section 65 Legal Profession Act 2004**

Omit the section.

**[2] Section 137 Protection from liability**

Omit “*Legal Profession Act 2004*” from section 137 (6).

Insert instead “*Legal Profession Uniform Law (NSW)*”.

## **2.34 Powers of Attorney Act 2003 No 53**

**[1] Section 25 Recognition of enduring powers of attorney made in other States and Territories**

Omit “a qualified interstate legal practitioner” from section 25 (4).

Insert instead “an Australian legal practitioner”.

**[2] Section 25 (5)**

Omit the definition of *qualified interstate legal practitioner*.

## **2.35 Public Defenders Act 1995 No 28**

### **Section 3 Definitions**

Omit “community legal centre within the meaning of section 48H of the *Legal Profession Act 1987*” from the definition of *community legal centre*.

Insert instead “community legal service within the meaning of the *Legal Profession Uniform Law (NSW)*”.

## **2.36 Public Finance and Audit Act 1983 No 152**

### **Schedule 2 Statutory bodies**

Omit “*Legal Profession Act 2004*”.

Insert instead “*Legal Profession Uniform Law Application Act 2014*”.

## **2.37 Real Property Act 1900 No 25**

### **Section 133 Subrogation of rights to claim compensation**

Omit “*Legal Profession Act 2004*” from section 133 (5).

Insert instead “*Legal Profession Uniform Law (NSW)*”.

## **2.38 Retirement Villages Act 1999 No 81**

### **[1] Section 4 Definitions**

Omit the definition of *legal practitioner* from section 4 (1).

### **[2] Section 23 Deposits to be kept in trust**

Omit “a legal practitioner’s” from section 23 (3) (a).

Insert instead “an Australian legal practitioner’s”.

### **[3] Sections 28 (2) and (3), 29 (2) (a), 191 (1) (b) and 192 (3) (b)**

Omit “a legal practitioner” wherever occurring.

Insert instead “an Australian legal practitioner”.

### **[4] Section 28 (3)**

Omit “that legal practitioner”. Insert instead “that Australian legal practitioner”.

### **[5] Sections 29 (2) (b) (i) and 30 (1)**

Omit “the legal practitioner” wherever occurring.

Insert instead “the Australian legal practitioner”.

## **2.39 Strata Schemes Management Act 1996 No 138**

### **Section 230A Disclosure of matters relating to legal costs**

Omit “Division 3 of Part 3.2 of the *Legal Profession Act 2004*”.

Insert instead “Division 3 of Part 4.3 of the *Legal Profession Uniform Law (NSW)*”.

## **2.40 Succession Act 2006 No 80**

### **[1] Section 98 Mediation, orders with consent and costs**

Omit “*Legal Profession Act 2004*” from section 98 (5).

Insert instead “*Legal Profession Uniform Law (NSW)*”.

**[2] Section 99 Costs**

Omit section 99 (3). Insert instead:

- (3) This section and any regulations under this section prevail to the extent of any inconsistency with the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*). An assessment under that legislation of any costs in respect of which provision is made by a regulation under this section is to be made so as to give effect to that regulation.

**[3] Section 99 (4)**

Omit “*Legal Profession Act 2004*”. Insert instead “*Legal Profession Uniform Law (NSW)*”.

## **2.41 Supreme Court Act 1970 No 52**

**[1] Section 48 Assignment to the Court of Appeal**

Omit “*Legal Profession Act 2004*” from subparagraph (viii) of the definition of *specified tribunal* in section 48 (1) (a).

Insert instead “*Legal Profession Uniform Law (NSW)*”.

**[2] Section 123 Rule Committee**

Omit “*Legal Profession Act 2004*” wherever occurring in section 123 (2A).

Insert instead “*Legal Profession Uniform Law (NSW)*”.

**[3] Section 124 Rule-making power**

Omit section 124 (9). Insert instead:

- (9) This section does not give power to make rules with respect to any matter for which Admission Rules may be made under the *Legal Profession Uniform Law (NSW)*.

**[4] Section 124 (10)**

Omit “Part 3.2 of the *Legal Profession Act 2004*”.

Insert instead “the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

## **2.42 Taxation Administration Act 1996 No 97**

**Section 82 Permitted disclosures—to particular persons**

Omit section 82 (k) (viii). Insert instead:

- (viii) the Legal Services Commissioner, a member of the Law Society Council, an external examiner appointed under section 155 of the *Legal Profession Uniform Law (NSW)* or an external investigator appointed under section 162 of that Law,

## **2.43 Unclaimed Money Act 1995 No 75**

**[1] Sections 12 (1A) (a) and 32 (4) (a)**

Omit “section 266 of the *Legal Profession Act 2004*” wherever occurring.

Insert instead “section 14 of *Legal Profession Uniform Law Application Act 2014*”.

**[2] Section 32 Chief Commissioner may process unclaimed money claims under other Acts**

Omit “*Legal Profession Act 2004*” from section 32 (3).

Insert instead “*Legal Profession Uniform Law Application Act 2014*”.

## **2.44 Uniform Civil Procedure Rules 2005**

**[1] Rule 1.3 References to barristers and solicitors**

Omit “*Legal Profession Act 2004*” from the note to rule 1.3 (1).

Insert instead “*Legal Profession Uniform Law (NSW)*”.

**[2] Rule 4.2 Documents to be filed to contain certain information**

Omit “section 347 (Restrictions on commencing proceedings without reasonable prospects of success) of the *Legal Profession Act 2004*” from rule 4.2 (3A).

Insert instead “clause 4 (Restrictions on commencing proceedings without reasonable prospects of success) of Schedule 2 to the *Legal Profession Uniform Law Application Act 2014*”.

**[3] Rule 6.12 Relief claimed**

Omit “section 329 (1) (c) of the *Legal Profession Act 2004*” wherever occurring in rule 6.12 (3) and (4).

Insert instead “section 59 (1) (d) of the *Legal Profession Uniform Law Application Act 2014*”.

**[4] Rule 6.17 Payment towards liquidated claim stays proceedings on claim**

Omit “*Legal Profession Act 2004*” from rule 6.17 (2) (b).

Insert instead “*Legal Profession Uniform Law Application Act 2014*”.

**[5] Rules 16.4 (3) (e) (i), 16.5 (2) (d) (i), 16.6 (2) (e) (i) and 16.7 (2) (c) (i)**

Omit “section 329 of the *Legal Profession Act 2004*” wherever occurring.

Insert instead “section 59 of the *Legal Profession Uniform Law Application Act 2014*”.

**[6] Rule 36.10 Filing of cost assessors’ certificates**

Omit “Division 11 of Part 3.2 of the *Legal Profession Act 2004*” from the note to rule 36.10.

Insert instead “the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

**[7] Rule 39.3 Affidavit in support of application for writ of execution**

Omit “section 329 (1) (c) of the *Legal Profession Act 2004*” from the note to rule 39.3 (2).

Insert instead “section 59 (1) (d) of the *Legal Profession Uniform Law Application Act 2014*”.

**[8] Rule 39.3 (4) (c) (i) and (ii)**

Omit the subparagraphs. Insert instead:

- (i) is not subject to any suspension under section 86 of the *Legal Profession Uniform Law Application Act 2014* that has not been ended under that section, and

- (ii) is not subject to any suspension under section 90 of the *Legal Profession Uniform Law Application Act 2014* that has not been ended under that section.

**[9] Rule 39.35 Affidavit in support of application for garnishee order**

Omit rule 39.35 (2) (c) (i) and (ii). Insert instead:

- (i) is not subject to any suspension under section 86 of the *Legal Profession Uniform Law Application Act 2014* that has not been ended under that section, and
- (ii) is not subject to any suspension under section 90 of the *Legal Profession Uniform Law Application Act 2014* that has not been ended under that section.

**[10] Rule 39.45 Affidavit in support of application for charging order**

Omit rule 39.45 (2) (b) (i) and (ii). Insert instead:

- (i) is not subject to any suspension under section 86 of the *Legal Profession Uniform Law Application Act 2014* that has not been ended under that section, and
- (ii) is not subject to any suspension under section 90 of the *Legal Profession Uniform Law Application Act 2014* that has not been ended under that section, and

**[11] Schedule 11 Provisions regarding procedure in certain lists in the District Court**

Omit clause 46 (3) (d). Insert instead:

- (d) the legal profession legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*).

**[12] Dictionary**

Omit the definition of *costs assessor's certificate* and the note to that definition.

Insert instead:

*costs assessor's certificate* means a certificate issued under Part 7 of the *Legal Profession Uniform Law Application Act 2014*.

**[13] Dictionary, definition of "unrestricted practising certificate"**

Omit the definition. Insert instead:

*unrestricted practising certificate* means an Australian practising certificate that is not subject to any condition under the law of any State or Territory requiring the holder to engage in supervised legal practice or restricting the holder to practise as or in the manner of a barrister.

## **2.45 Workers Compensation Regulation 2010**

**[1] Part 16**

Omit "legal services and" from the heading.

**[2] Part 16, Division 1, note**

Omit "*Lawyer* means a legal practitioner and, as provided below, includes solicitor corporations and incorporated legal practices."



- [3] **Clause 78 Definitions**  
Omit the definition of *lawyer*.
- [4] **Part 16, Divisions 2 and 3, headings**  
Omit “**lawyers and**” wherever occurring.
- [5] **Clause 79 Restrictions on advertising work injury services**  
Omit “A lawyer or agent”. Insert instead “An agent”.
- [6] **Clauses 79, 81 (1), 83, 84 (1), 86 and 90 (1)**  
Omit “a lawyer or agent” wherever occurring. Insert instead “an agent”.
- [7] **Clauses 79 and 84 (1) (a) and (b)**  
Omit “legal services or” wherever occurring.
- [8] **Clause 79, note**  
Omit the note.
- [9] **Clauses 80, 82 (d) and (e), 85, 89, 91 (b) and 93**  
Omit the provisions.
- [10] **Clauses 81 (1) (a), (b) and (c) and (2) (definition of “practitioner directory”), 82 (a) and (b), 83, 84 (1) (a), (b) and (c) and (2) and 90 (1) (a), (b) and (c) and (2) (definition of “practitioner directory”)**  
Omit “the lawyer or” wherever occurring. Insert instead “the”.
- [11] **Clauses 81 (2) and 90 (2) (definition of “specialty”)**  
Omit the definition wherever occurring.
- [12] **Clause 83 Responsibility for employees and others**  
Omit “lawyer’s or”.
- [13] **Clause 88 Restrictions on work injury advertisements**  
Omit “use of a lawyer or agent (whether or not a particular lawyer or agent) to provide legal services or agent services” from clause 88 (1) (a).  
Insert instead “use of an agent (whether or not a particular agent) to provide agent services”.
- [14] **Clause 88 (2)**  
Omit “lawyers or agents for the provision of legal services or agent services”.  
Insert instead “agents for the provision of agent services”.
- [15] **Clause 90 (1) (c)**  
Omit “or legal”.

## **2.46 Workplace Injury Management and Workers Compensation Act 1998 No 86**

### **[1] Section 112 Costs**

Omit “Division 11 of Part 3.2 of the *Legal Profession Act 2004*” from section 112 (2) (c).  
Insert instead “the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

### **[2] Sections 113 (4), 114 (3), 142 (2), 337 (2) and 339 (2)**

Omit “*Legal Profession Act 2004*” wherever occurring.  
Insert instead “*Legal Profession Uniform Law Application Act 2014*”.

### **[3] Section 113 (5)**

Omit the subsection. Insert instead:

- (5) This section and any regulations under this section prevail to the extent of any inconsistency with the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*). An assessment under that legislation of any costs in respect of which provision is made by a regulation under this section is to be made so as to give effect to that regulation.

### **[4] Sections 113 (6) and 116 (4)**

Omit “Part 3.2 of the *Legal Profession Act 2004*” wherever occurring.  
Insert instead “the legal costs legislation”.

### **[5] Section 116 Solicitor/client costs in compensation proceedings**

Omit “Division 11 of Part 3.2 of the *Legal Profession Act 2004*” from section 116 (3).  
Insert instead “the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

### **[6] Sections 327 (8) and note and 352 (7A) and note**

Omit “Section 345 of the *Legal Profession Act 2004*” wherever occurring.  
Insert instead “Clause 2 of Schedule 2 to the *Legal Profession Uniform Law Application Act 2014*”.

### **[7] Sections 327 (8) and 352 (7A)**

Omit “that section” wherever occurring. Insert instead “that clause”.

### **[8] Section 332 Definitions**

Omit “Part 3.2 of the *Legal Profession Act 2004*” from section 332 (2).  
Insert instead “the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

### **[9] Section 332, note**

Omit the note.

**[10] Section 334 Part prevails over legal costs legislation**

Omit “*Legal Profession Act 2004* or the regulations under that Act”.

Insert instead “legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

**[11] Section 335 Assessment of costs**

Omit “Division 11 of Part 3.2 of the *Legal Profession Act 2004*”.

Insert instead “the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

**[12] Section 347 Regulations for costs assessment**

Omit “Division 11 of Part 3.2 of the *Legal Profession Act 2004*” from section 347 (2).

Insert instead “the legal costs legislation (as defined in section 3A of the *Legal Profession Uniform Law Application Act 2014*)”.

**[13] Section 347 (3)**

Omit “Division 11 of Part 3.2 of the *Legal Profession Act 2004*”.

Insert instead “the legal costs legislation”.

**[14] Section 347 (5)**

Omit “Part 3.2 of the *Legal Profession Act 2004*”.

Insert instead “the legal costs legislation”.

**[15] Section 347 (5)**

Omit “Division 11 of that Part”. Insert instead “the legal costs legislation”.

[Second reading speech made in—  
Legislative Assembly on 27 May 2015  
Legislative Council on 3 June 2015]