



New South Wales

Legal Profession Amendment (Practising Certificate Fees) Regulation 2005

under the

Legal Profession Act 1987

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

BOB DEBUS, M.P.,
Attorney General

Explanatory note

Amendments to the *Legal Profession Act 1987* made by the *Legal Profession Amendment (National Competition Policy Review) Act 2002* require practising certificate fees for barristers and solicitors to be charged on a cost recovery basis. The object of this Regulation is to specify costs that may be recovered by the charging of a practising certificate fee (in addition to any costs of or associated with the regulatory functions of the Bar Council, Bar Association, Law Society Council and Law Society).

The Regulation allows the following costs to be recovered in certain circumstances:

- (a) the costs of maintaining and operating the library of the Bar Association and the library of the Law Society,
- (b) the costs associated with providing or assisting in providing a scheme under which legal services (including referral services) are provided to the public pro bono or at reduced rates or, in the case of the Bar Association, to a court or tribunal, and that are not otherwise recoverable (examples of such schemes are the Legal Assistance Referral Scheme of the Bar Association and the Community Referral Service of the Law Society),
- (c) the costs associated with providing or assisting in providing information or a scheme or program relating to the law, legal practice or conflict resolution that is provided for the information or education of the public, and that are not otherwise recoverable by the Bar Association or the Law Society (examples of such schemes or programs are Law Week and the Mock Trial Competition for high school students),

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- (d) the costs associated with assisting the State or Commonwealth Government or a Parliamentary Committee of the State or Commonwealth with law reform initiatives, activities and programs if the Attorney-General is satisfied that the assistance is provided for the public benefit.

This Regulation is made under the *Legal Profession Act 1987*, including sections 29A, 29B and 216 (the general regulation-making power).

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1 Name of Regulation

This Regulation is the *Legal Profession Amendment (Practising Certificate Fees) Regulation 2005*.

2 Amendment of Legal Profession Regulation 2002

The *Legal Profession Regulation 2002* is amended as set out in Schedule 1.

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Schedule 1 Amendment

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(Clause 2)

Clauses 6A and 6B

Insert after clause 6:

6A Fee for practising certificate—barristers

- (1) For the purposes of section 29A of the Act, the following costs of the Bar Association (including any ancillary costs and costs of an administrative nature) may be recovered by the charging of practising certificate fees (in addition to the costs of or associated with the regulatory functions of the Bar Council or Bar Association):
 - (a) the costs associated with the maintenance and operation of the library of the Bar Association, but only if the library service is available to all barristers,
 - (b) the costs associated with providing or assisting in providing any scheme under which legal services (including referral services) are provided to the public pro bono or at reduced rates, or are provided to a court or tribunal, but only if the scheme does not provide any greater benefit to barristers who are members of the Bar Association than it does to other barristers and the costs are not otherwise recoverable by the Bar Association,
 - (c) the costs associated with providing or assisting in providing any information, scheme or program relating to the law, legal practice or conflict resolution that is provided for the information or education of the public but only if the information, scheme or program does not provide any greater benefit to barristers who are members of the Bar Association than it does to other barristers and the costs are not otherwise recoverable by the Bar Association,
 - (d) the costs associated with assisting the State or Commonwealth Government or a Parliamentary Committee of the State or Commonwealth with law reform initiatives, activities and programs if the Attorney-General is satisfied that the assistance is provided for the public benefit.
- (2) In this clause, *barrister* means a legal practitioner who holds a current practising certificate as a barrister.

6B Fee for practising certificate—solicitors

- (1) For the purposes of section 29B of the Act, the following costs of the Law Society (including any ancillary costs and costs of an administrative nature) may be recovered by the charging of practising certificate fees (in addition to the costs of or associated with the regulatory functions of the Law Society Council or Law Society):
 - (a) the costs associated with the maintenance and operation of the library of the Law Society, but only if the library service is available to all solicitors,
 - (b) the costs associated with providing or assisting in providing any scheme under which legal services (including referral services) are provided to the public pro bono or at reduced rates but only if the scheme does not provide any greater benefit to solicitors who are members of the Law Society than it does to other solicitors and the costs are not otherwise recoverable by the Law Society,
 - (c) the costs associated with providing or assisting in providing any information, scheme or program relating to the law, legal practice or conflict resolution that is provided for the information or education of the public but only if the information, scheme or program does not provide any greater benefit to solicitors who are members of the Law Society than it does to other solicitors and the costs are not otherwise recoverable by the Law Society,
 - (d) the costs associated with assisting the State or Commonwealth Government or a Parliamentary Committee of the State or Commonwealth with law reform initiatives, activities and programs if the Attorney-General is satisfied that the assistance is provided for the public benefit.
- (2) In this clause, *solicitor* means a legal practitioner who holds a current practising certificate as a solicitor and barrister.