



LEGAL PROFESSION UNIFORM LAW

The initial roll-out of the uniform scheme will create a common legal services market across New South Wales and Victoria, encompassing almost three quarters of Australia's lawyers. The scheme aims to harmonise regulatory obligations while retaining local performance of regulatory functions.

Benefits for small firms include the following:

1. Role of legal profession in regulation

- In NSW, the Law Society will continue to carry out existing regulatory functions, issue Practising Certificates and work with the Office of the Legal Services Commissioner in relation to complaints-handling.

2. Costs: disclosure

- The threshold for full costs disclosure has been raised to \$3,000 (excluding GST and disbursements). No disclosure is required below \$750.
- For matters below \$3,000 but above \$750, there will be a new short form of costs disclosure.

3. Costs: time limits

- There is a reduced time period for making costs complaints of 60 days after the costs become payable or 30 days after an itemised bill was provided. There is a maximum extension period of an additional 4 months. The general time period under the current law is 3 years.
- The timeframe in which a client may request an itemised bill has been clarified. The request must be made within 30 days after the date on which the legal costs become payable.
- A common time limit of 12 months has been introduced for applications for a costs assessment by a client and by a law practice in relation to barrister's fees.

4. Costs: complaints

- The regulator must conduct a preliminary assessment of a complaint in relation to a costs dispute and has power to close the complaint if it is vexatious, misconceived, frivolous or lacking in substance.

5. Compliance audits

- A compliance audit can only be conducted if there are reasonable grounds to do so based on conduct or complaint. Under the current law, there is no threshold test for conducting an audit.

6. Liability of principals

- The onus of proof has been corrected for liability of principals. A principal may be liable for a contravention by the law practice if the principal knowingly authorised or permitted the contravention, or if the principal was in or reasonably ought to have been in a position to influence the conduct of the law practice in relation to the contravention and failed to take reasonable steps to prevent it. Under the current law, the principal is deemed liable unless he/she can establish otherwise as set out in the legislation.

7. Advertising of personal injury legal services

- The Uniform Law does not reproduce the existing prohibition on advertising of personal injury legal services. General restrictions on false, misleading or offensive advertising continue to apply.
- The Law Society is advocating for consequential repeal of the final prohibition on advertising work injury legal services contained in Part 16, Division 2 of the Workers Compensation Regulation 2010.