



Australian Capital Territory

Legal Profession Regulation 2006

Subordinate Law SL2006-37

The Australian Capital Territory Executive makes the following regulation under the *Legal Profession Act 2006*.

Dated 29 June 2006.

JOHN HARGREAVES
Minister

KATY GALLAGHER
Minister



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Part 1 Preliminary

1 Name of regulation

This regulation is the *Legal Profession Regulation 2006*.

2 Commencement

This regulation commences on 1 July 2006.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Dictionary

The dictionary at the end of this regulation is part of this regulation.

Note 1 The dictionary at the end of this regulation defines certain terms used in this regulation, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition ‘*government lawyer*—see the Act, section 82 (5).’ means that the term ‘*government lawyer*’ is defined in that section and the definition applies to this regulation.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this regulation is explanatory and is not part of this regulation.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

5 Offences against regulation—application of Criminal Code etc

Other legislation applies in relation to offences against this regulation.

Note 1 Criminal Code

The Criminal Code, ch 2 applies to all offences against this regulation (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 Penalty units

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

Part 2 Important terms

6 Definition of *associate*—Australian-registered foreign lawyer—Act, s 9 (g)

The relationship of employee of the law practice is prescribed.

7 Default decision of associate's home jurisdiction—Act, s 10 (4) (b) (iii)

The home jurisdiction for an associate of a law practice must be decided in accordance with the following criteria:

- (a) the jurisdiction of the associate's place of residence in Australia;
- (b) if the associate does not have a place of residence in Australia—the jurisdiction of the associate's last place of residence in Australia.

Part 3 Reservation of legal work and legal titles

8 Presumptions about taking or using certain names, titles or descriptions—Act, s 18 (2)

- (1) The kind of person mentioned in an item in table 8, column 3 is entitled, in the circumstances mentioned in column 4 of the item to take or use a name, title or description mentioned in column 2 for the item.
- (2) In this section:
jurisdiction—see the Act, section 82 (5).

Table 8

column 1 item	column 2 name, title or description	column 3 kind of person	column 4 circumstances
1	lawyer	Australian lawyer	all (no restriction)
2	lawyer	Australian-registered foreign lawyer	all (no restriction)
3	legal practitioner	Australian legal practitioner	all (no restriction)
4	<ul style="list-style-type: none"> • barrister and solicitor • solicitor and barrister • solicitor • attorney 	Australian legal practitioner	when the Australian legal practitioner holds an Australian practising certificate and engages in legal practice in the manner of a solicitor

column 1 item	column 2 name, title or description	column 3 kind of person	column 4 circumstances
5	<ul style="list-style-type: none"> • barrister and solicitor • solicitor and barrister • solicitor • attorney 	Australian lawyer	when the Australian lawyer, not holding an Australian practising certificate, engages in legal practice in the manner of a solicitor as a government lawyer of a jurisdiction in circumstances in which the law of the jurisdiction permits an Australian lawyer to engage in the legal practice without having to hold an Australian practising certificate
6	barrister	local legal practitioner	when the local legal practitioner holds a local practising certificate that restricts the practitioner to legal practice in the manner of a barrister
7	barrister	interstate legal practitioner	when the interstate legal practitioner holds an Australian practising certificate and engages in legal practice in the manner of a barrister

Part 3 Reservation of legal work and legal titles

Section 8

column 1 item	column 2 name, title or description	column 3 kind of person	column 4 circumstances
8	barrister	Australian lawyer	when the Australian lawyer, not holding an Australian practising certificate, engages in legal practice in the manner of a barrister as a government lawyer of a jurisdiction in circumstances in which the law of the jurisdiction permits an Australian lawyer to engage in the legal practice without having to hold an Australian practising certificate
9	Senior Counsel or SC	Australian lawyer	when the lawyer holds the status of Senior Counsel, as recognised by the High Court or a Supreme Court of any jurisdiction
10	counsel	Australian legal practitioner	all (no restriction)

column 1 item	column 2 name, title or description	column 3 kind of person	column 4 circumstances
11	counsel	Australian lawyer	<ul style="list-style-type: none"> <li data-bbox="1058 600 1335 1086">• when the Australian lawyer, not holding an Australian practising certificate, engages in legal practice as a government lawyer of a jurisdiction in circumstances in which the law of the jurisdiction permits an Australian lawyer to engage in the legal practice without having to hold an Australian practising certificate <li data-bbox="1058 1115 1335 1523">• when an Australian lawyer, not holding an Australian practising certificate, provides legal services to his or her employer, or to a related entity, in the ordinary course of his or her employment and for no fee, gain or reward other than his or her ordinary remuneration as an employee

Part 3 Reservation of legal work and legal titles

Section 8

column 1 item	column 2 name, title or description	column 3 kind of person	column 4 circumstances
12	<ul style="list-style-type: none"> • Queen's Counsel or QC • King's Counsel or KC • Her Majesty's Counsel • His Majesty's Counsel 	Australian lawyer	when the Australian lawyer holds the appropriate status as given by the Crown in any capacity or as recognised by the High Court or the Supreme Court of a jurisdiction
13	attorney	Australian-registered foreign lawyer	when entitled to use the name, title or description under the Act, section 160 (Designation of Australian-registered foreign lawyers)
14	attorney	patent attorney	when using the expression 'patent attorney'
15	attorney	donee of a power of attorney	when indicating that the donee holds or is acting under a power of attorney
16	Attorney	Attorney-General of a jurisdiction or a foreign country	all (no restriction)
17	solicitor	solicitor-general of a jurisdiction or a foreign country	all (no restriction)

Part 4 Legal practice—Australian legal practitioners

9 Application of Act, s 50 to certain practitioners—Act, s 33 (2)

- (1) The Act, section 50 (Statutory condition about practice as a solicitor) does not apply to an in-house lawyer in relation to the provision of in-house legal services for a corporation (other than an incorporated legal practice) by which the lawyer is employed.
- (2) Section 50 does not apply to a government lawyer in relation to the exercise of his or her official functions as a government lawyer.

10 Criteria for grant or renewal of local practising certificate—Act, s 35

- (1) An applicant for the grant or renewal of a local practising certificate must be a person qualified as set out in table 10.

Table 10

column 1 item	column 2 qualification
1	A person who holds an unrestricted practising certificate in relation to a period ending on 30 June in the year in which the person applies for renewal of the certificate.
2	A person who— <ol style="list-style-type: none"> (a) held an unrestricted practising certificate during the relevant 5-year period; and (b) has retained such a level of professional skill that it is appropriate that a further unrestricted practising certificate be issued to the person.

column 1 item	column 2 qualification
3	<p>A person who—</p> <ul style="list-style-type: none"> (a) has not previously held an unrestricted practising certificate; and (b) during the relevant 5-year period, has, for a period of not less than 2 years or for periods that total not less than 2 years— <ul style="list-style-type: none"> (i) been employed in a jurisdiction under articles of clerkship; or (ii) been performing work of a legal nature in a jurisdiction as an employee of a solicitor; or (iii) been performing work of a legal nature as a government lawyer; or (iv) practised in a jurisdiction as a solicitor, either on the person’s own account or in partnership with another legal practitioner; or (v) been employed, performed work or practised in any 2 or more of the capacities mentioned in subparagraphs (i), (ii), (iii) and (iv); and (c) has attained such a level of professional skill, and gained such professional experience, that it is appropriate that an unrestricted practising certificate be issued to the person.
4	<p>A person who—</p> <ul style="list-style-type: none"> (a) has during the relevant 5-year period— <ul style="list-style-type: none"> (i) practised in a jurisdiction as a barrister for a period of not less than 2 years; or (ii) practised in a jurisdiction as a barrister for a period of not less than 1 year and been employed, performed work or practised in any 1 or more of the

column 1 item	column 2 qualification
	<p>capacities mentioned in item 3, column 2, paragraph (b) for a period of not less than 1 year or for periods that total not less than 1 year; and</p> <p>(b) has attained such a level of professional skill, and gained such professional experience, that it is appropriate that an unrestricted practising certificate be issued to the person.</p>
5	<p>A person who—</p> <p>(a) has previously held a practising certificate; and</p> <p>(b) has attained such a level of professional skill, and gained such professional experience, that it is appropriate that an unrestricted practising certificate be issued to the person.</p>
6	<p>A person who—</p> <p>(a) is a New Zealand barrister and solicitor; and</p> <p>(b) has for a continuous period of not less than 6 months after the person's admission in the ACT been employed in the ACT by a legal practitioner; and</p> <p>(c) has attained such a level of professional skill, and gained such professional experience, that it is appropriate that an unrestricted practising certificate be issued to the person.</p>

(2) In this section:

relevant 5-year period, in relation to an applicant for a local practising certificate, means the period of 5 years immediately before the day the person makes the application.

(3) A reference in this section to a period includes a reference to any part of the period that happened before the commencement of this section.

- (4) Subsection (3) and this subsection are declared to be laws to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.
- (5) Subsections (3) and (4), and this subsection, expire 5 years after the day this section commences.

11 Procedure for applications for barrister practising certificate—Act, s 35

- (1) An application for the renewal of a barrister practising certificate must be given to the bar council.
- (2) The bar council's report under the Act, section 45 (2) (Grant or renewal of barrister practising certificate) in relation to the application must be given to the licensing body not later than 7 days after the day the bar council receives the application.

Note 1 The licensing body must not consider an application for a barrister practising certificate unless it has received a report by the bar council about the application and the payment of the required fees (see the Act, s 45 (Grant or renewal of barrister practising certificate)).

Note 2 A determination under the Act, s 84 (Determination of fees by law society council and bar council) may provide for payment of fees in relation to applications and services. A determination may include provision about when a fee is payable, and how it is payable eg by instalments (see the Legislation Act, s 56 (5) (e)).

12 Period for applying for renewal of local practising certificate—Act, s 43

The period for making an application for renewal of a local practising certificate is the period beginning on 1 April and ending—

- (a) on 31 May before the certificate ends; or
- (b) if the licensing body is satisfied there are exceptional circumstances—after 31 May but before the certificate ends.

13 Period of supervised legal practice—Act, s 50 and s 75

- (1) For the Act, section 50 (Statutory condition about practice as a solicitor), the period of supervised legal practice is—
 - (a) if the practitioner completed practical legal training principally under the supervision of an Australian lawyer, whether involving articles of clerkship or otherwise, to qualify for admission to the legal profession in the ACT or another jurisdiction—a period or periods equivalent to 18 months, worked out under this section, after the day the practitioner’s first practising certificate was granted; or
 - (b) if the practitioner completed other practical legal training to qualify for admission to the legal profession in the ACT or another jurisdiction—a period or periods equivalent to 2 years, worked out under this section, after the day the practitioner’s first practising certificate was granted.
- (2) For subsection (1) and the Act, section 75 (Special provisions about interstate legal practitioner engaging in unsupervised legal practice in ACT), completion by a person of a period or periods of supervised legal practice equivalent to the required period of 18 months or 2 years must be worked out by satisfying the requirements of this section.
- (3) To satisfy the requirements of this section, a person must complete—
 - (a) 1 period of supervised legal practice, worked on a full-time basis, that is equal to the required period; or
 - (b) 1 period of supervised legal practice, worked on a part-time basis, that is equivalent to the required period; or
 - (c) 2 or more periods of supervised legal practice, worked on either or both of those bases, that together are equal or equivalent to the required period.

- (4) In working out a period of supervised legal practice for a person for this section—
 - (a) a public holiday in the period is included as a day of supervised legal practice whether or not the person engaged in legal practice on the day; and
 - (b) normal periods of leave taken in the period by the person are included as periods of supervised legal practice.

14 Suspending or cancelling local practising certificate—additional grounds—Act, s 55 (2)

- (1) Each of the following is a ground for suspending a local practising certificate:
 - (a) the holder fails to pay any fine, or any costs, fees or expenses, payable by the holder under the Act;
 - (b) if requested, in writing, by the relevant council to explain stated conduct by the holder as a legal practitioner, the holder fails, without reasonable excuse, to give a reasonable written explanation to the council about the conduct;
 - (c) for the holder of an unrestricted practising certificate—a report under the Act, section 237 (Investigator’s report) or the Act, section 247 (External examiner’s report) discloses a deficiency in any trust money of a law practice of which the practitioner is an associate and for which the practitioner did not have a reasonable excuse;
 - (d) the holder fails to comply with a direction of the relevant council under the Act, section 413 (2) (d) (Summary conclusion of complaint procedure by fine etc);
 - (e) the holder fails to comply with an order of the disciplinary tribunal under the Act, section 430 (6) (b), (c), (d), (e) or (h) (Decisions of disciplinary tribunal—unsatisfactory professional conduct or professional misconduct);

- (f) the holder fails to comply with an order of the disciplinary tribunal under the Act, section 431 (1) (a) or (b) (Decisions of disciplinary tribunal—unsatisfactory employment conduct).
- (2) Each of the following is a ground for cancellation of a local practising certificate:
 - (a) the holder is sentenced to a term of imprisonment;
 - (b) for the holder of an unrestricted practising certificate—the holder becomes bankrupt or executes a personal insolvency agreement.

**15 Particulars for register of local practising certificates—
Act, s 79 (2)**

- (1) The particulars mentioned in subsection (2) and (3) are prescribed as particulars to be included in the register under the Act, section 79 (Register of local practising certificates) in relation to a local legal practitioner, unless the licensing body is required under subsection (5) not to include them.
- (2) The following are particulars applying in relation to all local legal practitioners:
 - (a) the name of the local legal practitioner;
 - (b) the kind of local practising certificate granted to the practitioner;
 - (c) any other particulars that the licensing body considers should be included.

- (3) The following are additional particulars applying in relation to a local legal practitioner who holds a restricted or unrestricted practising certificate:
- (a) the name of the law practice of which the solicitor is an associate or, if the solicitor is not an associate of a law practice, the name of the entity of which the solicitor is a director, officer or employee or with which the solicitor is otherwise engaged in legal practice;
 - (b) by way of separate entry, the name of the law practice or other entity mentioned in paragraph (a) and the contact details of the office of the law practice or other entity—
 - (i) in the ACT; and
 - (ii) in the other jurisdictions where it has an office, unless the licensing body considers that the particulars need not be included for an entity that is not a law practice;
 - (c) any other particulars about the legal practitioner, or the law practice or other entity mentioned in paragraph (a), that the licensing body considers should be included.
- (4) A local legal practitioner may ask the licensing body, in writing, not to include in the register stated particulars about the practitioner, or a law practice or other entity, on the ground that special circumstances justify the particulars not being publicly available.

Example of special circumstances

if the safety or wellbeing of someone would be substantially affected by making the particulars publicly available

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (5) If the request under subsection (4) is by a solicitor and the licensing body is satisfied that the special circumstances exist, the licensing body is required not to include the particulars in the register unless the licensing body considers that the public interest in maintaining public access to the particulars outweighs any individual interest in the particulars not being publicly available.
- (6) If the request under subsection (4) is by a barrister and the bar council tells the licensing body that it is satisfied that the special circumstances exist, the licensing body is required not to include the particulars in the register unless the bar council tells the licensing body that the bar council considers the public interest in maintaining public access to the particulars outweighs any individual interest in the particulars not being publicly available.
- (7) In this section:
- contact details*, for a law practice or other entity, means—
- (a) its street address, that is, the address where it is physically located; and
 - (b) its postal address, that is, its post office box number (if any) and the location and postcode of the post office where the box is kept; and
 - (c) its DX address, that is, the number of its exchange box (if any) in a document exchange.

16 Determination of service fee, barrister practising certificate applications—Act, s 84 (1) (b)

In determining a fee for the Act, section 84 (1) (b), the law society council must have regard to any representation made to the council by the bar council, or the Minister, about the fee.

**17 Corporations that are not incorporated legal practices—
Act, s 101 (2) (f)**

The following corporations are not incorporated legal practices:

- (a) the law society;
- (b) the bar association.

18 Period of notice of ceasing to practice—Act, s 106 (1) (b)

The period of notice for a corporation is not later than 14 days after the day it ceases to engage in legal practice in the ACT.

**19 Disqualifications and prohibitions—Act, s 122 (10),
s 123 (5) and s 148 (5)**

- (1) This section applies to the following orders:
 - (a) an order made under the Act, section 122 (Banning of incorporated legal practices);
 - (b) an order made under the Act, section 123 (Disqualification from managing incorporated legal practice);
 - (c) an order made under the Act, section 148 (Prohibition on multidisciplinary partnerships with certain partners who are not Australian legal practitioners).
- (2) The law society council, or, for an order under the Act, section 122, the regulator of another jurisdiction (within the meaning of that section), may publicise the order in any way the council or regulator considers appropriate.
- (3) The law society council—
 - (a) must give written notice of the order to the corresponding authority of every other jurisdiction; and

- (b) may give written notice of the order to any other regulatory authority of any jurisdiction.

Note If a form is approved by the law society council under the Act, s 583 for this provision, the form must be used.

- (4) A notice for an order made in relation to a corporation under the Act, section 122 must state—
- (a) the corporation's name; and
 - (b) the Australian company number (ACN) of the corporation; and
 - (c) the office or business address of the corporation last known to the law society council; and
 - (d) the date of the order.
- (5) A notice for an order made in relation to a person under the Act, section 123 or section 148 must state—
- (a) the person's name; and
 - (b) the date of the order.
- (6) A notice may also—
- (a) contain other relevant information; and
 - (b) may be accompanied by a copy or summary of, or extract from, the order.
- (7) No liability (including liability in defamation) is incurred by a protected person in relation to anything done or omitted to be done honestly for the purpose of this section.
- (8) In this section:
- protected person*** means any of the following:
- (a) the law society;
 - (b) a member of the law society council;

- (c) any member of the staff of the law society;
- (d) the regulator of another jurisdiction;
- (e) anyone acting at the direction of the law society, the law society council or the regulator of another jurisdiction;
- (f) an internet service provider or internet content host;
- (g) a person responsible for keeping a register or any similar record, or any part of a register or similar record, in or by which an order is publicised.

Part 5 ADIs

20 Conditions on approval of ADIs—the Act, s 250 (2)

- (1) The kinds of conditions that may be imposed on an approval of an ADI are conditions that—
 - (a) provide for 1 or more of the matters to which subsection (2) applies; or
 - (b) require arrangements to be negotiated and entered into between the ADI and the licensing body that provide for 1 or more of the matters to which subsection (2) applies.
- (2) This subsection applies to the following:
 - (a) the payment of interest to the licensing body on deposits in trust accounts or any part of deposits in trust accounts;
 - (b) how the licensing body is told about amounts held in trust accounts;
 - (c) the auditing of balances in trust accounts;
 - (d) the keeping of any trust accounts or only trust accounts of a particular kind (for example, controlled money accounts);
 - (e) any matters relevant to paragraphs (a) to (d).

Note An example is part of the regulation, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Part 6 Statutory deposits

21 Interpretation—pt 6

- (1) In this part, a reference to the *notional amount* standing to the credit of the general trust account of a law practice on the day immediately before the date fixed for section 23 (1) (Law practice to deposit part of trust money with law society) is a reference to the lowest amount that stood to the credit of the account at any time during the period of 6 months immediately before that date.
- (2) In this part, a reference to the *notional amount* standing to the credit of the general trust account of a law practice on the last day of a year is a reference to the lowest amount that stood to the credit of the account at any time during that year.
- (3) For the period beginning on the date fixed for section 23 (1) and ending on the next 31 March, this part applies as if that period were a year.
- (4) If a law practice keeps more than 1 general trust account in accordance with this part, a reference in this part to the general trust account kept by the law practice is a reference to each general trust account kept by the law practice.
- (5) If a law practice has—
 - (a) in the period of 6 months immediately before the date fixed for section 23 (1); or

(b) in any year;

kept 2 or more general trust accounts, the law practice is taken, for this part, to have kept, during the period for which the practice kept the general trust accounts, only 1 general trust account and the amount that stood, on any day during that period, to the credit of the general trust account that the practice is to be taken to have kept is taken, for this part, to be the total of the amounts that stood to the credit of the bank accounts that were in fact kept by the law practice on that day.

- (6) For this part, the amount standing to the credit of a general trust account on a day is the amount shown by the bank statement in relation to the account as standing to the credit of the account on that day.
- (7) For this part, the amount of any trust money paid into the general trust account kept by a law practice and subsequently paid by the practice into a special trust bank account in accordance with the instructions of the client from, or on whose behalf, the moneys were received must not be taken into account in working out the lowest amount that stood to the credit of that general trust account at any time.

22 Statutory interest account—Act, s 253 (2) (a)

- (1) The law society must open and keep an account at an ADI in the ACT under the title of the ‘statutory interest trust account’.
- (2) The law society must deposit in the account—
- (a) the money deposited with the society by a law practice under this part; and
 - (b) any other money required by law to be deposited in the account.
- (3) The law society must operate the account for the Act, section 253 and this part.

23 Law practice to deposit part of trust money with law society

- (1) If the notional amount standing to the credit of the general trust account kept by a law practice on the day immediately before a date fixed by the Attorney-General under subsection (5) is not less than \$3 000, the law practice must deposit, within 1 month after that day, with the law society an amount which is equal to $\frac{2}{3}$ of that notional amount.
- (2) If, on the last day of a year—
 - (a) the notional amount standing to the credit of the general trust account kept by a law practice is not less than \$3 000; and
 - (b) no trust money of the law practice is on deposit with the law society;the law practice must deposit, within 3 months after that day, with the law society an amount equal to $\frac{2}{3}$ of the notional amount referred to in paragraph (a).
- (3) If, on the last day of a year—
 - (a) trust money of a law practice is on deposit with the law society; and
 - (b) the amount of the money is less than $\frac{2}{3}$ of the total of the amount of the money and the notional amount standing on that day to the credit of the general trust account kept by the law practice;the law practice must deposit, within 3 months after that day, with the law society the amount that will bring the amount of the money on deposit with the law society to an amount equal to $\frac{2}{3}$ of the total mentioned in paragraph (b).
- (4) Subsections (2) and (3) do not apply in relation to a year that ends before the day fixed for subsection (1).
- (5) The Attorney-General may fix a day for subsection (1).

- (6) The fixing of a day under subsection (5) is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

24 Repayment of deposits

- (1) Money on deposit with the law society in a statutory interest account is repayable on demand to the law practice that deposited the money.
- (2) However, a law practice must not make a demand for repayment of money under subsection (1) unless—
- (a) the repayment of the money is required to enable necessary payments to be made out of the general trust account of the practice; and
 - (b) the law practice has reasonable grounds for believing that the payment is to be made within 7 days after the day when the demand is made.
- (3) If, on the last day of a year—
- (a) trust money of a law practice is on deposit with the law society; and
 - (b) the amount of the money exceeds $\frac{2}{3}$ of the total of the amount of the money and the notional amount standing on that day to the credit of the general trust account kept by the law practice;
- the law practice is entitled to be repaid an amount equal to the amount of the excess.
- (4) If, on the last day of a year—
- (a) trust money of a law practice is on deposit with the law society; and

- (b) the total of the amount of the money and the notional amount standing to the credit of the general trust account kept by the law practice on that day is less than \$3 000;

the law practice is entitled to have repaid to the law practice the amount that the law practice has on deposit.

25 **Obligation to deposit subject to availability of trust funds**

- (1) If—

- (a) a law practice has not, before the end of a period within which the law practice is required to make a deposit under this part, made the deposit; and
- (b) on the last day of the period, the money standing to the credit of the law practice's general trust account are not sufficient to enable the deposit to be made;

the period is extended until there is standing to the credit of the general trust account of the law practice on a subsequent quarter day in the year in which the end of that period happens an amount sufficient to enable the deposit to be made.

- (2) In this section:

quarter day means 30 September, 31 December or 31 March.

26 Amendment of notional amount by law society

- (1) If the law society is during a year satisfied, on an application made to it by a law practice that is under an obligation to deposit, or has on deposit, with the law society money under this part, that, having regard to the amount of trust moneys standing, on the day the application is made, to the credit of the general trust account of the practice, it is appropriate that the notional amount standing to the credit of the general trust account of the law practice on the last day of the previous year should be reduced, the law society may decide that that notional amount be reduced to an amount stated in the decision.
- (2) If the law society makes a decision mentioned in subsection (1) in relation to a law practice—
 - (a) this part, in its application to the law practice, applies, during the remainder of the year in which the decision is made, as if the amount stated in the decision had been the notional amount standing to the credit of the general trust account of the law practice on the last day of the previous year; and
 - (b) if, on the day when the decision is made, the law practice has on deposit with the law society moneys exceeding the amount that the practice would have been required to have on deposit with the law society if the amount stated in the decision had been the notional amount standing to the credit of the general trust account of the practice on the last day of the previous year—the practice is entitled to be repaid an amount equal to the amount of the excess.

27 Arrangements relating to statutory interest account

- (1) The law society may enter into an arrangement with an ADI in the ACT for payment by the ADI to the law society of amounts in relation to money held in any trust bank account kept by a law practice at the ADI.

- (2) The law society must credit an amount paid to it under an arrangement under subsection (1) to a statutory interest account.

**28 Use of money in statutory interest account—
Act, s 253 (2) (c)**

- (1) This section applies if the bar council asks the law society to ask the Attorney-General to consent to the use of money in the statutory interest account for a purpose stated by the bar council.
- (2) The law society must ask the Attorney-General to consent to the use of the money for that purpose and tell the Attorney-General its view on that use.
- (3) The law society may use money in the statutory interest account in accordance with the Attorney-General's written consent.

29 Audit of deposits etc

- (1) The law society must keep records of each of the following:
 - (a) money deposited with it under with this part;
 - (b) interest received by it from the investment of the money;
 - (c) amounts credited to an account under section 27 (2);
 - (d) payments made by it out of the statutory interest account;
 - (e) the use of money standing to the credit of a statutory interest account.
- (2) The law society must have the records audited annually by a registered company auditor within the meaning of the Corporations Act.
- (3) The law society must give a copy of each audit under this section to the Attorney-General.

Part 7 Professional indemnity insurance

30 Professional indemnity insurance for insurable legal practitioners—Act, s 311 (2) (c)

- (1) The licensing body is entitled to accept as evidence that there will be an approved indemnity insurance policy in force in relation to an insurable barrister a report from the bar council under the Act, section 38 (2) (d) (i) (Professional indemnity insurance for local practising certificate etc) in relation to the barrister.

- (2) In this section:

insurable barrister—see the Act, section 308.

Part 8 Fidelity cover

31 Caps on payments from fidelity fund—Act, s 348

The maximum amount that may be paid from the fidelity fund in relation to a claim is—

- (a) for a claim by an associate of a law practice in relation to a default of the law practice arising from an act or omission of another associate of the practice—\$50 000; and
- (b) for any other claim—\$200 000.

32 Protocols—Act, s 354

The law society council may enter into a protocol with a corresponding authority that provides that the law society is taken to have—

- (a) requested the corresponding authority to act as agent of the council under the Act, part 3.4 and corresponding laws, in cases to which the protocol is expressed to apply; or
- (b) agreed to act as agent of the corresponding authority in cases to which the protocol is expressed to apply.

33 Notice of authority for interstate legal practitioner to withdraw from local trust account—Act, s 364 (2)

- (1) This section applies to an interstate legal practitioner who (whether alone or with a cosignatory) becomes authorised to withdraw money from a local trust account.
- (2) The practitioner must give the law society council written notice in accordance with subsection (3) of the authorisation not later than 7 days after the day the practitioner becomes authorised.

- (3) The notice must include the following information:
- (a) the practitioner's name;
 - (b) the jurisdiction in which the practitioner's only or most recent current Australian practising certificate was granted;
 - (c) the practitioner's principal business address;
 - (d) details of the local trust account, including the following:
 - (i) the name of the law practice operating the account;
 - (ii) the practice's principal business address;
 - (iii) the name of the ADI with which the account is held;
 - (iv) the names of any other signatories to the account;
 - (e) the day when the practitioner became authorised to withdraw money from the trust account.
- (4) The practitioner must tell the law society council in writing of any change to the information mentioned in subsection (3) no later than 7 days after the change happens.

34 Contribution by interstate legal practitioner to fidelity fund—Act, s 364 (2)

- (1) This section applies to an interstate legal practitioner who gives the law society council notice under section 33.
- (2) The law society council may, in writing, require the practitioner to pay a contribution to the fidelity fund.
- (3) The amount payable under subsection (2) for a period must not be more than the amount that would be payable to the fidelity fund for that period by the holder of a local unrestricted practising certificate.

Part 9 Complaints and discipline

35 Register of disciplinary action—Act, s 448 (2) (e)

For disciplinary action taken against an Australian legal practitioner, particulars of the date and jurisdiction of the person's first and any later admission to the legal profession must be included in the register of disciplinary action.

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this regulation.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACT
- ADI
- entity
- under.

Note 3 Terms used in this regulation have the same meaning that they have in the *Legal Profession Act 2006* (see Legislation Act, s 148). For example, the following terms are defined in the *Legal Profession Act 2006*, dict:

- Australian-registered foreign lawyer
- interstate legal practitioner (see s 8)
- jurisdiction
- law practice
- legal services
- licensing body
- local legal practitioner (see s 8)
- locally-registered foreign lawyer
- local practising certificate
- register of disciplinary action (see s 448)
- relevant council
- trust money
- unrestricted practising certificate.

government lawyer—see the Act, section 82 (5).

in-house lawyer—see the Act, section 33 (3).

notional amount, for part 6 (Statutory deposits)—see section 21.

Endnotes

1 Notification

Notified under the Legislation Act on 30 June 2006.

2 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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