

# Legal Profession Amendment Regulation (No. 1) 2015

Explanatory notes for SL 2015 No. 157

made under the

*Legal Profession Act 2007*

## General Outline

### Short title

*Legal Profession Amendment Regulation (No. 1) 2015.*

### Authorising law

Section 715 of the *Legal Profession Act 2007*

### Policy objectives and the reasons for them

The *Legal Profession Act 2007* (LPA) provides for a general definition of a 'community legal service' and for an organisation to be prescribed as a 'community legal service'.

Prior to amendments in the *Justice and Other Legislation Amendment Act 2013* (JOLAA), 'community legal service' under the *Personal Injuries Proceedings Act 2002* (PIPA) was defined by reference to a list of prescribed entities, including Legal Aid Queensland (LAQ), under the *Personal Injuries Proceedings Regulation 2002* (PIPR).

To overcome issues with the list-based prescription under PIPR becoming out of date, the JOLAA amended the definition of 'community legal service' in the PIPA to instead refer to the definition of 'community legal service' under the LPA. However, it has come to attention that the LPA definition does not include LAQ, as previously prescribed for the PIPA.

The purpose of the Amendment Regulation is to prescribe LAQ as a 'community legal service' in the *Legal Profession Regulation 2007* (LPR) and thereby reinstate LAQ's status as a 'community legal service' under the PIPA.

## **Achievement of policy objectives**

The Amendment Regulation ensures that LAQ is a community legal service for the purposes of the sections of the PIPA which provide for consultation by a claimant with a community legal service to be disregarded when applying certain time limits for serving notices of claim. This ensures that the provision of general legal information by LAQ to potential claimants will not trigger the time limit for serving notices of claim.

The exemption from the prohibition on touting under section 67A of the PIPA, which permits community legal services to provide the names of law practices to potential claimants, will also apply to LAQ. The prohibition is directed at the practice of referrals to legal practices for reward rather than the provision of general information about law practices, as provided by LAQ.

The Amendment Regulation includes a consequential amendment to section 85 of the LPR, which applies part 3.6 of the LPA (fidelity cover) to community legal services. The amendment inserts a note that, under section 72 of the *Legal Aid Queensland Act 1999* (LAQA), part 3.6 of the LPA does not apply to a LAQ lawyer performing the lawyer's duties under the LAQA. The Amendment Regulation also corrects a minor drafting error.

## **Consistency with policy objectives of authorising law**

The Amendment Regulation is consistent with the objectives of the LPA.

## **Inconsistency with policy objectives of other legislation**

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The Amendment Regulation will provide clarity concerning LAQ's status as a community legal service under the PIPA. There are no implementation costs.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with fundamental legislative principles.

## **Consultation**

LAQ supports the Amendment Regulation.

The Office of Best Practice Regulation was consulted and confirmed that the Amendment Regulation is excluded from the Regulatory Impact Statement system.