

# Government lawyers and the Uniform Law

This fact sheet identifies the key points for government lawyers under the Legal Profession Uniform Law.

## INFORMATION FOR LAWYERS

### Requirement to hold a practising certificate

Under the Uniform Law, government lawyers must, generally, have a practising certificate (PC).

A government lawyer is defined as someone who engages in legal practice only:

- as an officer or employee of a government authority; or
- as the holder of a statutory office of the Commonwealth or of a jurisdiction; or
- in another category specified in the Uniform Rules.

### Are there any exceptions?

There are three exceptions to the requirement for government lawyers to hold a PC:

- 'engage in legal practice' is defined not to include engage in policy work (which, without limitation, includes developing and commenting on legal policy);
- a person who is not admitted to the legal profession but who, at any time in the 12 months before commencement of the Uniform Law, fell within the Legal Profession Act exemption (s 2.2.2(2)(g)) is exempt in respect of his or her official functions as a government lawyer;
- a person engaged in legal practice under the authority of a law of the Commonwealth or of a jurisdiction (other than the Uniform Law) may engage in legal practice without a PC.

### Legal practice with a government lawyer PC

A person whose PC has a condition that only authorises practice as a government legal practitioner may only engage in practice as a 'government lawyer' and:

- as a volunteer at a community legal service (CLS), or otherwise on a pro bono basis; and

- until the PC is renewed, as a corporate legal practitioner. This will assist lawyers to move between corporate and government legal practice without having to immediately vary their PC.

Government lawyers holding PCs will be bound by the Uniform Law and Uniform Rules, including Legal Practice Rules, Legal Profession Conduct Rules and Continuing Professional Development Rules.

Government lawyers will not need to make contributions to the fidelity fund and it is expected that Uniform Rules will exempt them from the requirement to take out professional indemnity insurance (unless it is needed to cover volunteer work at a CLS or other pro bono work).

### Supervised Legal Practice

Government lawyers granted PCs under the Uniform Law will be required to engage in a period of supervised legal practice.

There will, however, be some transitional allowances for government lawyers to minimise the practical impact of the new requirement for them to hold a PC. People who, before the commencement of the Uniform Law, fell within the LPA exemption (s 2.2.2(2)(g)), will get credit for any period of legal practice engaged in by that person, whether supervised or not, as 'supervised legal practice'.

### Pro-bono Work

A person may engage in legal practice as a volunteer at a CLS or otherwise on a pro bono basis on any 'type' of PC. Government lawyers who do not hold a PC, may apply for a PC which authorises legal practice both as a volunteer at a CLS and otherwise on a pro bono basis only.

To provide such services a government lawyer must be covered by an approved professional indemnity insurance policy.