

2007

**THE LEGISLATIVE ASSEMBLY FOR
THE AUSTRALIAN CAPITAL TERRITORY**

LEGAL PROFESSION AMENDMENT REGULATION 2007 (No 1)

SL2007-4

EXPLANATORY STATEMENT

Circulated by authority of
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Attorney General

Legal Profession Amendment Regulation 2007 (No 1)

Background

The *Legal Profession Act 2006* (the Act) provides for the regulation of legal practice in the ACT and facilitates the regulation of legal practice on a national basis, in conjunction with the National Legal Profession Model Laws Project. The project involved the development of a model Legal Profession Bill and model Legal Profession Regulations.

The Legal Profession Regulation 2006 commenced on 1 July 2006. Numerous provisions of the model Legal Profession Regulations were not implemented at that time, either because certain policy matters had not been settled or because the commencement of certain relevant parts of the Act was postponed to a later date.

The provisions relating to that postponement are found in Chapter 10 of the Act. Within that Chapter, section 605 deals with the operation of Part 3.1 of the Act, which relates to trust money and controlled money. Sections 606 to 608 deal with the operation of Part 3.2 of the Act, which relates to costs, and in particular to costs disclosure.

This amending regulation changes the date of commencement of Part 3.1 the Act from 1 April 2007 to 1 July 2007, and the date of commencement of Part 3.2 from 1 May 2007 to 1 July 2007, to allow the ACT legal profession adequate opportunity to effectively implement the new trust account management and costs disclosure requirements in the Act.

OUTLINE OF PROVISIONS

PART 1 PRELIMINARY

Section 1 – Name of regulation

Specifies the name of the Regulation – the Legal Profession Amendment Regulation 2007 (No 1) (referred to in this instrument as “the amendment”).

Section 2 – Commencement

States that the Regulation commences on the day after it is notified on the ACT Legislation Register.

Section 3 – Legislation amended

This regulation amends the Legal Profession Regulation 2006.

Section 4 – Part 10

Section 4 substitutes into the Regulation a new part 10 (Transitional), containing new sections 36 to 43, dealing with transitional provisions.

Section 36 (Modification of Act, ch 10, s605(2) – Act, s618) amends section 605(2) of the Act so that the trust accounting provisions (the ‘existing trust account provisions’) in the repealed *Legal Practitioners Act 1970* will continue to apply until 30 June 2007 (rather than 31 March 2006).

Section 37 (Modification of Act, ch 10, s605(3) – Act, s618) amends section 605(3) of the Act to provide that section 605 (Continuing application of provisions of Legal Practitioners Act about trust money) will expire on 1 July 2007 (rather than 1 April 2007).

Section 38 (Modification of Act, ch 10, s606(2) – Act, s618) amends section 606(2) so that the costs provisions in the repealed *Legal Practitioners Act 1970* (the ‘existing costs provisions’) will continue to apply until 30 June 2007 (rather than 30 April 2007).

Section 39 (Modification of Act, ch 10, s606(3) – Act, s618) amends section 606(3) of the Act to provide that section 606 (Continuing application of provisions of Legal Practitioners Act about costs) will expire on 1 July 2007 (rather than 1 May 2007).

Section 40 (Modification of Act, ch 10, s607(2) – Act, s618) amends section 607(2) of the Act so that Part 3.2 of the Act does not apply, and the costs provisions in the repealed *Legal Practitioners Act 1970* (the ‘existing costs provisions’) will continue to apply to matters in relation to which instructions were first given by the client before 1 July 2007 (rather than 1 May 2007).

Section 41 (Modification of Act, ch 10, s607(3) – Act, s618) amends section 607(3) of the Act so that Part 3.2 of the Act does not apply, and the costs provisions in the repealed *Legal Practitioners Act 1970* (the ‘existing costs provisions’) will continue to apply if a law practice is retained on or after 1 July 2007 (rather than 1 May 2007) by another law practice on behalf of a client, in relation to a matter for which the other law practice was retained by the client before 1 July 2007 (rather than 1 May 2007).

Section 42 (Modification of Act, ch 10, s608(1) – Act, s618) substitutes a new section 608(1) so that the provisions of Part 3.2 of the Act will apply to current requests for taxation of costs from 1 July 2007 (rather than 1 May 2007), if the registrar has not started the taxation by that date. If the registrar has started, but not completed, the taxation by 1 July 2007, the registrar may complete the taxation as if the repealed *Legal Practitioners Act 1970* had not been repealed. The provision applies to matters in relation to which a person has, before 1 July 2007, given notice to the registrar (under the repealed Act) that the person wishes to have a statement of costs and disbursements determined by taxation.

Section 43 (Expiry – pt 10) provides for part 10 of the Regulation to expire on 2 July 2007 (rather than on 2 May 2007).