

## PRACTISING IN NSW UNDER THE UNIFORM LAW

# INTERSTATE PRACTITIONERS – NON-PARTICIPATING JURISDICTIONS

This factsheet provides information for Australian legal practitioners who are the holders of practising certificates issued by designated regulatory authorities of non-participating jurisdictions and who wish to practise in New South Wales.

### Entitlement to practise in NSW

Generally speaking, practitioners who hold a practising certificate issued by a non-participating jurisdiction are entitled to engage in legal practice in NSW.<sup>1</sup> The entitlement is subject to the requirements of the Uniform Law, the Uniform Rules and the conditions on the practitioner's Australian practising certificate.

An **Australian legal practitioner** is a person:

- who is admitted to the Australian legal profession in this jurisdiction or any other jurisdiction; and
- holds a current Australian practising certificate which has been granted under the Uniform Law as applied in a participating jurisdiction or granted by a non-participating jurisdiction which entitles the holder to engage in legal practice.

The right to practise is to the greatest extent possible, the same as the practitioner's right to engage in legal practice in his or her home jurisdiction and shall be subject to any conditions imposed by the home jurisdiction on the practitioner's admission to the legal profession or practising certificate.

Schedule 3 of the Uniform Law (NSW) contains the relevant provisions. Important points to note from Schedule 3 are:

- Section 49 of the Uniform Law (statutory condition to engage in supervised legal practice) remains applicable;
- The entitlement to practise in NSW will not be to a greater extent than that afforded to the holder of a NSW practising certificate;
- The Council of the Law Society of NSW may impose any condition on the practitioners practice that it could impose on a practising certificate granted in NSW

### Professional Indemnity Insurance

An Australian legal practitioner who engages in legal practice in NSW must hold or be covered by an approved professional indemnity insurance policy for this jurisdiction which covers legal practice in this jurisdiction<sup>2</sup>.

### Where place of practice moves solely or principally to NSW

Where a lawyer moves the permanent office in or through which he or she engages in legal practice, from another jurisdiction to New South Wales, there is a notification requirement to the Law Society of New South Wales. The time frame for this notification is within 14 days of the move<sup>3</sup>.

Further Schedule 3<sup>4</sup> directs that in circumstances where the practitioner's principal or sole place of practice changes to NSW, the authorisation to practise with a practising certificate granted in a non-participating jurisdiction will survive for the remainder of the financial year. Where the practitioner reasonably intends that

NSW shall be the practitioner's sole or principal place of practice during the following financial year, the practitioner must apply for a NSW practising certificate in respect of that following financial year. There is an exemption for a practitioner where the arrangement for the following financial year is a temporary arrangement but that temporary arrangement cannot exceed another 12 months<sup>5</sup>.

### Practising certificate granted in a participating jurisdiction

For information on the entitlement to practise where a practitioner holds a practising certificate granted in a participating jurisdiction, see the factsheet entitled: **Practising in NSW under the Uniform Law – Interstate Practitioners – Participating jurisdiction**

### Further information

For further assistance or information please contact:  
Professional Standards Department  
The Law Society of New South Wales  
Call: (02) 9926 0115  
Email: [regulatory.compliance@lawsociety.com.au](mailto:regulatory.compliance@lawsociety.com.au)

<sup>1</sup> The Legal Profession Uniform Law (NSW) s 43 (1)

<sup>2</sup> See note 1 above, s211

<sup>3</sup> See note 1 above, s. 46

<sup>4</sup> See note 1 above, sch. 3, s.5

<sup>5</sup> Legal profession Uniform General Rules 2015, r. 113