



PRACTISING IN NSW UNDER THE UNIFORM LAW LAW PRACTICES - INCORPORATED LEGAL PRACTICE (ILP)

The Legal Profession Uniform Law (NSW), (the Uniform Law), the Legal Profession Uniform Law Application Act 2014 together with subordinate legislation is due to commence in NSW on 1 July 2015 replacing the Legal Profession Act 2004 and the Legal Profession Regulation 2005.

Qualified entity

The Uniform Law prohibits an entity from engaging in legal practice in NSW unless it is a qualified entity.¹

A qualified entity includes sole practitioners and partnerships as well as incorporated legal practices and community legal services and introduces a new practice structure known as unincorporated legal practices.

Definition – ILP

- An ILP is a corporation which is a company within the meaning of the Corporations Act or a corporation of a kind approved by the Council or specified in the Uniform Rules.
- The legal services that the ILP provides cannot be limited to either or both of the following:
 - i. in house legal services for the corporation or a related entity
 - ii. services that are not legally required to be provided by an Australian legal practitioner and that are provided by an officer or employee who is not an Australian legal practitioner.

Provision of Services by ILP

- An ILP may provide both legal and non-legal services²
- Where the ILP provides both legal and non-legal services, certain disclosure obligations apply.³ The law practice must disclose to the client which of the services are legal services and who will be providing those services. Whilst the obligation to disclose is on the law practice, if a law practice contravenes any provision of the Uniform Law imposing an obligation on the law practice, a principal of the law practice is taken to have contravened the same provision in certain circumstances.⁴

- An ILP must provide 14 days written notice of intention to engage in legal practice and must also furnish written notice within 14 days after it ceases to engage in legal practice.⁵ An entity must not engage in legal practice in this jurisdiction as an ILP if the required notice is not given.
- Professional indemnity insurance must be held by the incorporated legal practice itself.⁶

Authorised Principal

The Uniform Law specifies that an ILP must have at least one “authorised principal” (AP). An AP is defined in the Uniform Law as a principal who is authorised by his or her Australian practising certificate to supervise others.

An Australian practising certificate authorises the holder to supervise others unless the certificate is subject to a condition requiring the holder to engage in supervised legal practice or a condition to the effect that he or she may not supervise others.

Savings and transitional provisions

Under the savings and transitional provisions in Schedule 4 of the Uniform Law, an entity that was an ILP within the meaning of the old legislation immediately before the commencement day is taken to be an ILP within the meaning of the Uniform Law.

Further Information

For further assistance or information please contact:

Professional Standards Department
The Law Society of New South Wales

Call: (02) 9926 0115

Email: psd@lawsociety.com.au

¹ Legal Profession Uniform Law (NSW) s10 (1)

² Note 1 above, s103

³ Legal Profession Uniform General Rules 2015, r 31

⁴ Note 1 above, s35

⁵ Note 3 above, r 28,29

⁶ Note 1, s212