



New South Wales

# Institutions Legislation Amendment Bill 2023

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to make amendments to the following Acts relating to institutions in the State—

- (a) *Legal Aid Commission Act 1979*,
- (b) *Legal Profession Uniform Law Application Act 2014*,
- (c) *Personal Injury Commission Act 2020*,
- (d) *Royal Institute for Deaf and Blind Children Act 1998*.

## Outline of provisions

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act.

## Schedule 1      Amendment of Legal Aid Commission Act 1979 No 78

**Schedule 1[5]** substitutes the *Legal Aid Commission Act 1979*, Part 3, Division 3 to enable the Board of the Legal Aid Commission (the **Board**) to establish Legal Aid Review Panels to hear and determine appeals about the provision of legal aid. The Board may approve policies and guidelines about the procedure for the approval of members of a pool of persons to act as members of Legal Aid Review Panels and the method of establishing a Legal Aid Review Panel. **Schedule 1[1]–[4], [8] and [9]** make consequential amendments. **Schedule 1[7]** updates the language of a provision.

**Schedule 1[6]** substitutes the *Legal Aid Commission Act 1979*, section 56 to provide for the decisions against which an applicant or legally assisted person may or may not appeal and the way in which an appeal must be lodged with the Legal Aid Commission.

**Schedule 1[10]** makes savings and transitional arrangements in relation to continuing an existing Legal Aid Review Committee for no longer than 1 year, or until the Board approves a pool of persons to act as members of Legal Aid Review Panels, and saving existing hearings, determinations and appeals.

## **Schedule 2      Amendment of Legal Profession Uniform Law Application Act 2014 No 16**

**Schedule 2[1]** expands the NSW Admission Board's delegation power to a member of the staff of the Board and a person or class of persons prescribed by the regulations. The Board's existing power to delegate to a committee of the Board is also expanded to allow a committee exercising delegated functions to subdelegate the functions to a subcommittee of the committee.

Proposed section 20B provides that the Board may, by a rule made under the *Legal Profession Uniform Law Application Act 2014*, section 21A(2)(a) or by determination, establish committees to assist the Board in the exercise of the Board's functions.

Proposed section 20C provides that the Board may employ staff in the Public Service under the *Government Sector Employment Act 2013*.

**Schedule 2[3]** expands the Board's power to make rules in relation to the discipline of students-at-law to include a power to make rules enabling the Board to establish a scheme for the investigation of misconduct by students-at-law and the discipline of students-at-law found to have engaged in misconduct. The Board may also make rules in relation to the internal review of decisions made by the Board and committees of the Board. **Schedule 2[2]** makes a consequential amendment.

**Schedule 2[4]** provides that the Board may make rules about fees in relation to the exercise of the Board's functions, other than a function for which a fee is already prescribed by legal profession legislation. The Board may also make rules about the waiver, postponement, reduction or refund, in whole or in part, of fees payable to the Board.

**Schedule 2[5]** makes it clear that a provision of legal profession legislation that prescribes a fee prevails, to the extent of an inconsistency, over a rule that specifies a fee.

**Schedule 2[6]** allows the rules to apply, adopt or incorporate a document as in force at a particular time or as in force from time to time.

**Schedule 2[7]** requires the rules to be published in the Gazette and on a website maintained by the Board.

**Schedule 2[8]** enables the Board to approve forms for use in connection with the Board's functions.

**Schedule 2[9]** transfers, from the regulations to the *Legal Profession Uniform Law Application Act 2014*, a requirement for the Crown Solicitor to maintain a trust account with an authorised deposit-taking institution, within the meaning of the *Banking Act 1959* of the Commonwealth. The Attorney General may give directions to the Crown Solicitor about the keeping of records in relation to the trust account and the procedures the Crown Solicitor must follow in maintaining the account. The proposed amendment also contains savings and transitional provisions.

**Schedule 2[10]** enables the regulations made under the *Legal Profession Uniform Law Application Act 2014* to authorise a registrar to determine costs, subject to the maximum costs prescribed by the regulations. The proposed amendment also provides that the regulations may fix costs by adopting costs set out in an instrument made under another Act, including reasonable costs for travel and sustenance and other discretionary costs.

### **Schedule 3      Amendment of Personal Injury Commission Act 2020 No 18**

**Schedule 3[1]** extends the maximum term of an Acting Deputy President of the Personal Injury Commission from 12 months to 3 years.

**Schedule 3[2]** allows the Attorney General to appoint the President, a Deputy President or a principal member of the Personal Injury Commission to be an Acting Division Head during the absence of a Division Head or a vacancy in the office of a Division Head.

### **Schedule 4      Amendment of Royal Institute for Deaf and Blind Children Act 1998 No 6**

**Schedule 4[6]** changes the name of the Royal Institute for Deaf and Blind Children to NextSense (the *Institute*). **Schedule 4[1]–[3], [5] and [7]** make consequential amendments, including to change the name of the Act from the *Royal Institute for Deaf and Blind Children Act 1998* to *NextSense Act 1998*.

**Schedule 4[9]** amends the object of the Institute. **Schedule 4[4]** makes a consequential amendment.

**Schedule 4[10]** makes it clear that the Institute has the functions necessary or convenient to enable it to achieve its object. **Schedule 4[8]** makes a consequential amendment.

**Schedule 4[11]** makes changes to the term of office of directors of the Board of the Institute, in particular to remove the current requirement for one-third of the directors to retire by rotation each year and to introduce fixed 3-year terms of office. **Schedule 4[12]** inserts consequential amendments of a savings and transitional nature.