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SCHEDULE 2 -- DICTIONARY

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- LONG TITLE

An Act to provide for admission to, and the regulation of, the legal profession, and for entities involving members of the legal profession, and for other purposes

1 Short title

This Act may be cited as the Legal Profession Act 2007 .

2 Commencement

This Act, other than the following provisions, commences on a day to be fixed

by proclamationâ€”

- * part 3.2, divisions 1 to 4, other than sections 217, 223 and 226
- * part 7.6, division 6, other than section 698.

3 Main purposes

The main purposes of this Act are as followsâ€”

- (a) to provide for the regulation of legal practice in this jurisdiction in the interests of the administration of justice and for the protection of consumers of the services of the legal profession and the public generally;
- (b) to facilitate the regulation of legal practice on a national basis across State borders.

4 Definitions

The dictionary in schedule 2 defines particular words used in this Act.

5 Terms relating to lawyers

(1) An Australian lawyer is a person who is admitted to the legal profession

under this Act or a corresponding law.

(2) A local lawyer is a person who is admitted to the legal profession under

this Act, whether or not the person is also admitted under a corresponding law.

(3) An interstate lawyer is a person who is admitted to the legal profession

under a corresponding law, but not under this Act.

(4) In this sectionâ€”

this Act includes a previous Act.

6 Terms relating to legal practitioners

(1) An Australian legal practitioner is an Australian lawyer who holds a current local practising certificate or a current interstate practising certificate.

(2) A local legal practitioner is an Australian lawyer who holds a current local practising certificate.

(3) An interstate legal practitioner is an Australian lawyer who holds a current interstate practising certificate, but not a local practising certificate.

7 Terms relating to associates and principals of law practices

(1) An associate, of a law practice, isâ€”

(a) an Australian legal practitioner who isâ€”

(i) a sole practitioner if the law practice is constituted by the practitioner; or

(ii) a partner in the law practice if the law practice is a law firm; or

(iii) a legal practitioner director in the law practice if the law practice is an incorporated legal practice; or

- (iv) a legal practitioner partner in the law practice if the law practice is a multi-disciplinary partnership; or
- (v) an employee of, or consultant to, the law practice; or
- (b) an agent of the law practice who is not an Australian legal practitioner; or
- (c) an employee of the law practice who is not an Australian legal practitioner; or
- (d) an Australian-registered foreign lawyer who is a partner in the law practice; or
- (e) a person who is a partner in the multi-disciplinary partnership but who is not an Australian legal practitioner; or
- (f) an Australian-registered foreign lawyer who has a relationship with the law practice, that is a class of relationship prescribed under a regulation.

(2) A legal practitioner associate, of a law practice, is an associate of the practice who is an Australian legal practitioner.

(3) A lay associate, of a law practice, is an associate of the practice who is not an Australian legal practitioner.

(4) A principal, of a law practice, is an Australian legal practitioner who isâ€”

- (a) a sole practitioner if the law practice is constituted by the practitioner; or
- (b) a partner in the law practice if the law practice is a law firm; or
- (c) a legal practitioner director in the law practice if the law practice is an incorporated legal practice; or
- (d) a legal practitioner partner in the law practice if the law practice is a multi-disciplinary partnership.

8 Home jurisdiction

(1) The home jurisdiction, for an Australian legal practitioner, is the jurisdiction in which the practitioner's only or most recent current Australian practising certificate was granted.

(2) The home jurisdiction, for an Australian-registered foreign lawyer, is the jurisdiction in which the lawyer's only or most recent current registration was granted.

(3) The home jurisdiction, for an associate of a law practice who is neither an Australian legal practitioner nor an Australian-registered foreign lawyer, isâ€”

- (a) if only 1 jurisdiction is the home jurisdiction for the only associate of the practice who is an Australian legal practitioner or for all the associates of the practice who are Australian legal practitionersâ€”that jurisdiction; or
- (b) if no 1 jurisdiction is the home jurisdiction for all the associates of the practice who are Australian legal practitionersâ€”
 - (i) the jurisdiction in which the office is situated at which the associate performs most of his or her duties for the practice; or
 - (ii) if a jurisdiction can not be decided under subparagraph (i)â€”the jurisdiction in which the associate is enrolled under a law of the jurisdiction to vote at elections for the jurisdiction; or
 - (iii) if a jurisdiction can not be decided under subparagraph (i) or (ii)â€”the jurisdiction decided under criteria prescribed under a regulation.

9 Suitability matters

(1) Each of the following is a suitability matter in relation to a natural personâ€”

- (a) whether the person is currently of good fame and character;
- (b) whether the person is or has been an insolvent under administration;
- (c) whether the person has been convicted of an offence in Australia or a foreign country, and if soâ€”
 - (i) the nature of the offence; and
 - (ii) how long ago the offence was committed; and
 - (iii) the person's age when the offence was committed;
- (d) whether the person engaged in legal practice in Australiaâ€”
 - (i) when not admitted to the legal profession, or not holding a practising certificate, as required under a relevant law or a corresponding law; or
 - (ii) if admitted to the legal profession, in contravention of a condition on which admission was granted; or
 - (iii) if holding an Australian practising certificate, in contravention of a condition applicable to the certificate or while the certificate was suspended;
- (e) whether the person has practised law in a foreign countryâ€”
 - (i) when not permitted under a law of that country to do so; or
 - (ii) if permitted to do so, in contravention of a condition of the permission;
- (f) whether the person is currently subject to an unresolved complaint, investigation, charge or order under any of the followingâ€”
 - (i) a relevant law;
 - (ii) a corresponding law;
 - (iii) a corresponding foreign law;
- (g) whether the personâ€”
 - (i) is the subject of current disciplinary action, however expressed, in another profession or occupation in Australia or a foreign country; or
 - (ii) has been the subject of disciplinary action, however expressed, relating to another profession or occupation that involved a finding of guilt;
- (h) whether the person's name has been removed fromâ€”
 - (i) a local roll but has not since been restored to or entered on a local roll; or
 - (ii) an interstate roll, but has not since been restored to or entered on an interstate roll; or
 - (iii) a foreign roll;
- (i) whether the person's right to engage in legal practice has been suspended or cancelled in Australia or a foreign country;
- (j) whether the person has contravened, in Australia or a foreign country, a law about trust money or trust accounts;
- (k) whether, under a relevant law, a law of the Commonwealth or a corresponding law, a supervisor, manager or receiver, however described, is or has been appointed in relation to any legal practice