

**40TH PARLIAMENT**



**Report 128**

**STANDING COMMITTEE ON UNIFORM LEGISLATION  
AND STATUTES REVIEW**

*Legal Profession Uniform Law Application Bill 2020 & Legal Profession  
Uniform Law Application (Levy) Bill 2020—Extension of time*

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Presented by  
Hon Michael Mischin MLC (Chairman)  
August 2020

## **Standing Committee on Uniform Legislation and Statutes Review**

### **Members as at the time of this inquiry:**

Hon Michael Mischin MLC (Chairman)

Hon Pierre Yang MLC (Deputy Chair)

Hon Laurie Graham MLC

Hon Robin Scott MLC

### **Staff as at the time of this inquiry:**

Felicity Mackie (Advisory Officer (Legal))

Mark Warner (Committee Clerk)

### **Address:**

Parliament House

4 Harvest Terrace, West Perth WA 6005

Telephone: 08 9222 7300

Email: [lcco@parliament.wa.gov.au](mailto:lcco@parliament.wa.gov.au)

Website: [www.parliament.wa.gov.au](http://www.parliament.wa.gov.au)

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## Legal Profession Uniform Law Application Bill 2020 and Legal Profession Uniform Law Application (Levy) Bill 2020

### Extension of time

On 16 June 2020, the Legislative Council referred the:

- Legal Profession Uniform Law Application Bill 2020 (Legal Profession Bill)
- Legal Profession Uniform Law Application (Levy) Bill 2020 (Legal Profession Levy Bill)

to the Standing Committee on Uniform Legislation and Statutes Review (Committee) for consideration and report. The reporting date is 11 August 2020, the next sitting day after the 45 day period mandated by Standing Order 126. The Legal Profession Bill and the Legal Profession Levy Bill are intended to be debated cognately in the Legislative Council.<sup>1</sup> The Committee intends to consider both Bills in its report.

The Legal Profession Bill seeks to:

- apply the Legal Profession Uniform Law as a law of Western Australia
- introduce a mechanism for automatically incorporating future amendments to the Legal Profession Uniform Law as a law of Western Australia subject to those amendments being disallowed by Parliament
- enact provisions to regulate legal practice which have local application in Western Australia
- repeal the *Legal Profession Act 2008* and the *Law Society Public Purposes Trust Act 1984*.

When enacted, it will be the *Legal Profession Uniform Law Application Act 2020 (Act)*.

The Legal Profession Levy Bill amends the Act to provide for a levy to be imposed by section 243 of the Act or regulations made under that section. The Legal Profession Levy Bill is timed to commence immediately after section 243 of the Act commences operation.

The Committee has identified Parliamentary sovereignty issues raised by the Legal Profession Bill. These include:

- commencement by proclamation
- the use of Henry VIII clauses
- concerns about the proposed disallowance mechanism including the requirement for amendments to Legislative Council Standing Order 67
- the application of Uniform Regulations and Uniform Rules in Western Australia and the process by which they may be disallowed.

On 3 August 2020, the Committee passed a motion to seek an extension of the time in which it was to report to the Legislative Council. The extension of time is requested to enable the Committee to properly discharge its reporting obligations to the Legislative Council due to the:

- need to consider the significant Parliamentary sovereignty issues raised by the Legal Profession Bill

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<sup>1</sup> Hon Sue Ellery MLC, Leader of the House, Western Australia, Legislative Council, *Parliamentary Debates (Hansard)*, 16 June 2020, p 3625.

- requirement to report on the Transport Legislation Amendment (Identity Matching Services) Bill 2020 by 11 August 2020
- Members' commitments on other Parliamentary committees.

The Committee therefore requests an extension of time in which it is to report on the Legal Profession Uniform Law Application Bill 2020 and the Legal Profession Uniform Law Application (Levy) Bill 2020 from 11 August 2020 to 15 September 2020.

A handwritten signature in blue ink, appearing to read "Mischin". The signature is stylized with a large initial "M" and a cursive "ischin".

Hon Michael Mischin MLC  
**Chairman**

## **Standing Committee on Uniform Legislation and Statutes Review**

### **Date first appointed:**

17 August 2005

### **Terms of Reference:**

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

#### **'6. Uniform Legislation and Statutes Review Committee**

- 6.1 *A Uniform Legislation and Statutes Review Committee is established.*
- 6.2 The Committee consists of 4 Members.
- 6.3 The functions of the Committee are –
  - (a) to consider and report on Bills referred under Standing Order 126;
  - (b) on reference from the Council, to consider or review the development and formulation of any proposal or agreement whose implementation would require the enactment of legislation made subject to Standing Order 126;
  - (c) to review the form and content of the statute book; and
  - (d) to consider and report on any matter referred by the Council.
- 6.4 In relation to function 6.3(a) and (b), the Committee is to confine any inquiry and report to an investigation as to whether a Bill or proposal may impact upon the sovereignty and law-making powers of the Parliament of Western Australia.'



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Parliament House,  
4 Harvest Terrace, West Perth WA 6005  
Telephone: +61 8 9222 7300  
Email: [lcco@parliament.wa.gov.au](mailto:lcco@parliament.wa.gov.au)  
Website: <http://www.parliament.wa.gov.au>