

22 January 2015

IN CONFIDENCE

Dear Sir,

I wish to make the following submission about the draft General Rules:

Prior to the commencement of the Legal Profession Uniform Law, persons who may not be entitled to hold a practising certificate (for various reasons) have been allowed to provide legal services to their employers pursuant to the exemption from holding a certificate under s 14(3) of the *Legal Profession Act 2004* (NSW) ('*Existing Exemption*'). These persons should continue to be exempted from the practising certificate requirement under the General Rules, the reasons being:

1. UNFAIR IMPACT ON PERSONS CURRENTLY RELYING ON THE EXEMPTION UNDER s 14(3) AND CERTAIN PROVIDERS OF QUASI-LEGAL SERVICES

The abolition of the Existing Exemption means that persons who have been providing legal services to their non-government employers under this exemption will be prevented from performing their duties under their existing employment contracts. This will deprive them of their livelihoods and have potentially very negative consequences for themselves and their dependents.

The term 'legal service' is broadly defined and may cover quasi-legal services routinely performed by non-lawyers to their employers in a business organisation, for example the preparation or review of miscellaneous contracts. The abolition of the Existing Exemption therefore means that contract administrators and other non-lawyers with duties covering contract administration are at risk of contravening the Uniform Law unless they stop performing their existing contractual duties. This creates the same issue for them as above.

2. INCREASE IN COST OF BUSINESS

The abolition of the Existing Exemption will also foreseeably impose an undue burden on the employers of employees in the situations described above. This law manufactures uncertainty around the legality of their employment, and is likely to result in new costs associated with compliance research, training, extra recruitment, etc.

3. SUGGESTED AMENDMENTS

I submit the Existing Exemption should be replicated in the General Rules at least to the extent that such persons are under an existing employment contract to provide legal services to their employers.

In the alternative, persons currently exempted from holding a practising certificate in the performance of their contractual duties to provide legal services to their employers should be granted an appropriate grace period to make adequate transitional arrangements with their employers.

The General Rules should properly take into account the situation of such persons to avoid an unjustly harsh application of the law on them.

Kind regards,

Makkoto Uechii