

Regulation 176 Legal Profession Regulations

Public Defenders' Conference

REGULATION 176 LEGAL PROFESSION REGULATIONS

Philippa Ryan
Tenth Floor St James Hall

Introduction

1. This paper satisfies the special requirement under Regulation 176 of the *Legal Profession Regulations 2005* (NSW). The special requirement is that the holder of a legal practitioner's practising certificate must undertake continuing legal education including a component relating to the management of the practice of law that deals predominantly with the following issues:
- (a) *the principles of equal employment opportunity,*
 - (b) *the law relating to discrimination and harassment,*
 - (c) *occupational health and safety law,*
 - (d) *employment law,*
 - (e) *management of legal practice consistent with paragraphs (a)–(d).*

The legislative framework of Regulation 176

2. The special requirement set out in *Regulation 176* must be satisfied once every three years. This 3 yearly requirement is known in the Regulation as "the compliance period".
3. This paper addresses all four topics in the Regulation, so that on any interpretation, it satisfies the requirement for the relevant compliance period.

Context of Regulation 176

4. Regulation 175 stipulates that discriminatory conduct (including sexual harassment) is prohibited. Regulation 176 requires attendance at a seminar on this topic. Regulation 175 prescribes how we must conduct our legal practice.

Legislative framework of Regulation 176:

(a) The principles of equal employment opportunity

The New South Wales legislation that gives effect to the Equal Employment Opportunity includes:

the *Anti-Discrimination Act 1977* (NSW)

the *Industrial Relations Act 1996* (NSW)

the *Occupational Health and Safety Act 2000*

According to the NSW Attorney General's website, Equal Employment Opportunity is about:

fair practices in the workplace;

management decisions being made without bias;

recognition and respect for the social and cultural backgrounds of all staff and customers;

employment practices which produce staff satisfaction,

commitment to the job and the delivery of quality services to customers;

improving productivity by guaranteeing that the workplace is efficient and free of harassment and discrimination.

(b) The law relating to discrimination and harassment

In Australia, the law relating to discrimination and harassment can be found in five acts of the Commonwealth Government:

Disability Discrimination Act 1992
Racial Discrimination Act 1975
The Privacy Act 1988
Sex Discrimination Act 1984
Age Discrimination Act 2004

(c) Occupational health and safety law

In New South Wales, OH&S Law is found in the *Occupational Health and Safety Act 2000*. In addition to the Act, WorkCover NSW produces a very helpful summary of the Act, called *Summary 2000*.

(d) Employment law

Employment law is codified in the New South Wales *Industrial Relations Act 1996* and the Federal *Workplace Relations Act 1996*.

(e) Management of legal practice consistent with Reg 176 (a) – (d)

Regulation 176 requires that we educate ourselves on these issues in the context of applying the principles and legislation to the management of our legal practices (in our case, barristers' chambers).

Improving safety in the workplace

5. WorkCover recommends that all small businesses go through their checklist once a year and identify appropriate polices for lifting, moving and storage.

Dealing with staff

6. The Australian Human Rights Commission website recommends that all employers have implement a written policy on discrimination made available to all directors and employees, which should include:

- A strong statement of your organisation's attitude to discrimination and harassment.
- A clearly worded definition of discrimination and harassment.
- A statement that discrimination and harassment on any grounds listed in the legislation is against the law.
- Circumstances where discrimination and harassment can occur.
- A statement that everyone has a responsibility to prevent workplace discrimination and harassment.
- Information on how and where to seek help if discrimination or harassment occurs.
- The likely consequences of unlawful discrimination or harassment.

Rewards for Best practice

7. By implementing policies that are in accordance with legislation, it possible to achieve best practice in relation to workplace safety and dealing with employees. The benefits to all concerned will outweigh the cost of compliance.

Philippa Ryan
Tenth Floor St James Hall Chambers
March 2010