

South Australia

# Statutes Amendment (Claim Farming) Act 2025

An Act to amend the *Legal Practitioners Act 1981* and the *Summary Offences Act 1953*.

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**The Parliament of South Australia enacts as follows:**

## Part 1—Preliminary

### 1—Short title

This Act may be cited as the *Statutes Amendment (Claim Farming) Act 2025*.

### 2—Commencement

This Act comes into operation on a day to be fixed by proclamation.

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## Part 2—Amendment of *Legal Practitioners Act 1981*

### 3—Amendment of section 70—Conduct capable of constituting unsatisfactory professional conduct or professional misconduct

- (1) Section 70—after paragraph (c) insert:
  - (ca) conduct consisting of a contravention of section 42A or 42B of the *Summary Offences Act 1953*;
- (2) Section 70—after its present contents as amended by this section (now to be designated as subsection (1)) insert:
  - (2) For the purposes of subsection (1)(a) and (ca), whether a person has contravened this Act, the regulations or section 42A or 42B of the *Summary Offences Act 1953* is to be determined on the balance of probabilities.

### 4—Amendment of Schedule 4—Investigatory powers

- (1) Schedule 4, Part 2, clause 5(3)(c)(i)—after "Act" insert:

or section 42A or 42B of the *Summary Offences Act 1953*
- (2) Schedule 4, Part 5, clause 19(3)—after paragraph (g) insert:
  - (ga) if the information relates to an offence, or suspected offence, against section 42A or 42B of the *Summary Offences Act 1953*—a body prescribed by the regulations for the purposes of this paragraph;

## Part 3—Amendment of *Summary Offences Act 1953*

### 5—Insertion of Part 8A

After Part 8 insert:

#### Part 8A—Personal injury claim farming

##### 42—Interpretation

In this Part—

**benefit** includes monetary payments, goods and services, but does not include a gift, other than money, of goods or services of a value not exceeding the prescribed amount;

**claim** means a claim for compensation for personal injury, and includes a claim for redress under the *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018*;

**claimant** means a person who has or may have a claim;

**claim referral** means a referral of a claimant to a person for the purposes of—

- (a) the person providing a service for the claimant related to the claimant's claim; or

- (b) someone other than the person providing a service for the claimant related to the claimant's claim,

but does not include the advertisement or promotion of a service or person that results in a claimant using the service or person if the advertisement or promotion is made to the public or a group of persons;

**community legal centre** has the same meaning as in the *Legal Practitioners Act 1981*;

**industrial organisation** means—

- (a) an association, society or body formed to represent, protect or further the interests of employers or employees; or
- (b) an organisation, or a branch of an organisation, registered under the *Fair Work (Registered Organisations) Act 2009* of the Commonwealth;

**law practice** has the same meaning as in the *Legal Practitioners Act 1981*;

**legal practitioner** has the same meaning as in the *Legal Practitioners Act 1981*;

**legal services** has the same meaning as in the *Legal Practitioners Act 1981*;

**personal injury** means physical or mental harm, and includes death.

#### **42A—Giving or receiving a benefit in exchange for claim referral**

- (1) A person must not give, agree to give, or allow or cause a third person to give a benefit to another person in exchange for a claim referral.

Maximum penalty: \$50 000.

- (2) A person must not receive, agree to receive, or allow or cause a third person to receive a benefit from another person in exchange for a claim referral.

Maximum penalty: \$50 000.

- (3) This section does not apply if—

(a) —

- (i) the person receiving the benefit is a law practice (the **original practice**) that is selling all or part of the original practice's business to another law practice (the **new practice**); and
- (ii) the new practice gives, agrees to give or allows or causes someone else to give the original practice an amount for the referral of a claimant to the new practice; and

- (iii) the value of the benefit is not more than the amount prescribed by the regulations; and
  - (iv) the new practice discloses payment of the amount to the claimant in a costs agreement; and
  - (v) the sale is not undertaken by the original practice or the new practice for the purpose of avoiding the operation of subsection (1) or (2); or
- (b) the benefit is provided by a law practice (the *first practice*) to another law practice for a claim referral and—
- (i) the claimant is referred due to the first practice having a conflict of interest or insufficient expertise in the subject matter of the claim, or in prescribed circumstances; and
  - (ii) the value of the benefit is not more than the amount prescribed by the regulations.

#### **42B—Approaching or contacting person to solicit or induce a claim**

- (1) A person (the *first person*) must not personally approach or contact, or allow or cause a person to personally approach or contact, another person (the *second person*) to solicit or induce them to make a claim.  
Maximum penalty: \$50 000.
- (2) For the purposes of subsection (1), approaching or contacting a person includes—
- (a) approaching or contacting a person in person or by mail, telephone, email or another form of electronic communication; and
  - (b) approaching or contacting a person as a member of a class of persons.
- (3) Subsection (1) applies regardless of whether the second person is entitled to make a claim or had already decided to make, or had made, a claim.
- (4) Subsection (1) does not apply if the first person—
- (a) approaches or contacts the second person at the request of the second person, or reasonably believes that the approach or contact is at the request of the second person; or
  - (b) —
    - (i) does not expect or intend to receive, and does not receive, a benefit because of the approach or contact; and
    - (ii) does not ask for someone else to receive, or agree to someone else receiving, a benefit because of the approach or contact; or

- (c) is a law practice or legal practitioner that is supplying, or has previously supplied, the second person with legal services and the person reasonably believes the contacted person will not object to the approach or the contact; or
- (d) —
  - (i) is a law practice or legal practitioner that has been asked by a person on behalf of a community legal centre, industrial organisation or organisation of a kind prescribed by the regulations to approach or contact the contacted person; and
  - (ii) has been advised by the centre or organisation that the centre or organisation reasonably believes the contacted person will not object to the approach or contact; or
- (e) is a law practice contacting a person who they believe may be eligible to participate in a class action for which the law practice is responsible.

#### **42C—Imputation of state of mind of officer etc**

- (1) For the purposes of proceedings for an offence against section 42A or 42B, the conduct and state of mind of an officer, employee or agent of a person acting within the scope of their actual or apparent authority will be imputed to the person (but not so as to affect any personal liability of the officer, employee or agent).
- (2) It is a defence in proceedings where conduct or a state of mind is imputed to a person under subsection (1) to prove that the alleged contravention did not result from any failure on the defendant's part to take all reasonable and practicable measures to prevent the contravention or contraventions of the same or a similar nature.
- (3) For the purposes of this section a reference to *conduct* or *acting* includes a reference to failure to act.

#### **42D—Additional consequences for law practice**

- (1) If an associate of a law practice is convicted of an offence against section 42A or 42B, the law practice is not entitled to recover any fees or costs, including disbursements, that related to the provision of services for the claim and must repay any amount received relating to the services from the person from whom it was received.
- (2) In this section—  
*associate* of a law practice has the same meaning as in the *Legal Practitioners Act 1981*.

#### **42E—Extraterritorial application of Part**

This Part is intended to have extraterritorial application insofar as the legislative powers of the State permit.