
Legal Profession Act - some matters of interest

The Law Society is currently developing some explanatory material on aspects of the Legal Profession Act ("new Act") which is scheduled to commence on 31 March 2007, and on the Legal Profession Regulations, which are likely to commence shortly thereafter, subject to approval by the Executive Council of the Northern Territory.

As stated, explanatory material is currently being prepared. One of the key issues however is transitional matters and in particular what input the transitional provisions in Part 10.2 of the new Act have on practitioners and the Law Society.

A summary of some of the major issues is outlined below.

QUEENS COUNSEL

Existing appointments as Queens Counsel are saved under section 710 of the new Act.

ADMISSION

If a practitioner was admitted under the Legal Practitioners Act (the "old" Act") before the commencement date, they are taken to be a local lawyer under the new Act.

An application for admission pending before commencement is taken to be an application for admission under the new Act but the applicant may be admitted if s/he satisfied the requirements of the old Act.

Interstate practitioners will no longer need to seek mutual recognition if admitted in another Australian jurisdiction.

PRACTICING CERTIFICATES

Practicing certificates come into force at the commencement date and it is taken to be a local practicing certificate that expires at the usual time i.e. 30 September 2007.

A renewal will occur on 1 October 2007 and be valid until 30 June 2008 which will be the start of the new practicing certificate year. Only 75 percent of the practicing certificate fee will be payable for the 1 October 2007 renewal. Conditions on existing practicing certificates continue to apply.

APPLICATION FOR PRACTICING CERTIFICATE

Any application made under the old Act pending before the commencement date is taken to be an application for a local practicing certificate and providing the requirements are satisfied, a practising

certificate will be issued.

SUPERVISED PRACTICE

A period as a Government Lawyer or in a Community Legal Centre can be taken into account in working out a period for the purposes of section 73 of the new Act.

INCORPORATED LEGAL PRACTICE

Existing ILPs continue to operate.

PRACTICING COMPANIES

Existing practicing companies are deemed to be law firms. Regulations should allow barristers to remain as, or become, practicing companies under certain conditions. The Law Society takes over regulation of practicing companies from the Supreme Court.

TRUST MONIES AND TRUST ACCOUNTS

Provisions commence (3.1) on 1 July 2007. Existing trust account provisions apply until then. Trust accounts must be audited under the old Act.

Statutory deposits will be repatriated to trust accounts with interest being paid to the Public Purposes Trust until 30 June 2007 and thereafter to the Funds Management Committee.

PROFESSIONAL INDEMNITY INSURANCE

Current Professional Indemnity Insurance requirements apply. The new Professional Indemnity Insurance policy for 2006-2007 will be covered by the new Act.

FIDELITY FUND ISSUES

The old Fidelity Fund becomes the new Fidelity Fund run by the Funds Management Committee. Unclaimed monies are payable to the "new" Fund from commencement. Different funding arrangements apply.

COMPLAINTS AND DISCIPLINE

Complaints made and investigated before commencement continue to be dealt with under the old Act. If an investigation has not started the matter proceeds under the new Act. If a complaint is made after commencement about a matter before the commencement then similar principles apply.

COSTS

Compliance is with required under provisions of the old Act, until the new cost provisions commence on 31 December 2007.

This is a summary which may not cover all the issues. Any queries can be directed to Barbara Bradshaw at the Law Society NT on (08) 8981-5104.