

Legal Profession Bill 2007

Explanatory Notes for Amendments to be moved during consideration in detail by the Honourable Kerry Shine MP Attorney-General and Minister for Justice and Minister Assisting the Premier in Western Queensland

Title of the Bill

Legal Profession Bill 2007

Objectives of the Amendments

The objectives of the amendments are as follows:

- to ensure that the provisions which commence on assent facilitate the Queensland Law Society and the Bar Association of Queensland making the necessary rules before commencement;
- to clarify that the requirement to give public notice of the legal profession rules does not apply to the rules made before commencement;
- to ensure that the indemnity rules can apply to law practices in the same way as they do to holders of practising certificates;
- to ensure that barristers can continue to be retained on an honorarium basis for six months from commencement;
- to amend other enactments as a consequence of the Bill providing for the *Trust Accounts Act 1973* to not apply to solicitors; and
- to provide for changes of a minor or technical nature.

Achievement of the Objectives

The amendments achieve these objectives.

Estimated Cost for Government Implementation

The amendments do not involve any cost to Government

Consistency with Fundamental Legislative Principles

The amendments are consistent with the fundamental legislative principles.

Consultation

The Department of Tourism, Fair Trading and Wine Industry Development has been consulted on the consequential amendments to the *Property Agents and Motor Dealers Act 2000*. The Bar Association of Queensland and the Queensland Law Society have been consulted on the new transitional for bassisters costs and the amendment relating to the indemnity rules, respectively.

Notes on Provisions

Amendment 1 ensures that the provisions which commence on assent facilitate the Queensland Law Society and the Bar Association of Queensland making necessary rules before commencement.

Amendment 2 provides that the requirement to give public notice of the legal profession rules does not apply to the rules made before commencement. The Bar Association will need to remake its existing rules approved for the commencement of the *Legal Profession Act 2004*. The Queensland Law Society has already consulted under the *Legal Profession Act 2004* on the rules that it intends to make to have effect on commencement.

Amendments 3 and 4 relate to the indemnity rule. They ensure that the rule-making powers are sufficiently flexible so they can apply either to the holder of a practising certificate or a law practice.

Amendment 5 inserts a missing word.

Amendments 6 and 7 ensure that barristers can continue to be retained on an honorarium basis for six months from commencement.

Amendments 8 and 9 are amendments of a minor drafting nature.

Amendment 10 clarifies that clause 736 does not apply to a law practice that is a barrister.

Amendment 11 amends the *Criminal Code Act 1899* as a consequence of the Bill, rather than the *Trust Accounts Act 1973*, applying to the trust accounts of solicitors.

Amendment 12 amends the *Criminal Law (Rehabilitation of Offenders) Act 1986*. It amends the reference to being admitted as a legal practitioner. As a result of changes to terminology in the Bill, persons will be referred to as being admitted to the legal profession and will be admitted as lawyers.

Amendment 13 amends the *Property Agents and Motor Dealers Act 2000* as a consequence of the Bill, rather than the *Trust Accounts Act 1973*, applying to the trust accounts of solicitors.