

LEGAL PROFESSION BILL 2003

AMENDMENTS AGREED TO IN COMMITTEE

1 Clause 2—

At page 22, line 7—

omit, insert—

‘(1) Section 379 and schedule 1, to the extent it amends the *Coroners Act 2003* and the *Cremations Act 2003*, commence or are taken to have commenced on 30 November 2003.

‘(2) The remaining provisions of this Act commence on a day to be fixed by proclamation.’.

2 Clause 157—

At page 109, lines 8 to 14—

omit, insert—

‘(2) The relevant regulatory authority must cancel the local practising certificate.

‘(3) The relevant regulatory authority may, but need not, give the individual notice of the date on which it proposes to cancel the local practising certificate.

‘(4) The relevant regulatory authority must give the individual notice of the cancellation, unless notice of the date of the proposed cancellation was previously given.’.

3 Clause 173—

At page 117, lines 20 to 23—

omit, insert—

- ‘(a) an Australian lawyer;
- (b) a relevant regulatory authority;

- (c) the chief executive officer, however expressed, of the department or agency in which the officer is a government legal officer or, if the chief executive officer may delegate that power, a delegate.’.

4 Clause 217—

At page 143, line 28, ‘228¹⁰¹’—

omit, insert—

‘376B¹’.

5 Clause 227—

At page 147, lines 8 to 16—

omit, insert—

‘227 Annual and other reports to the Minister

‘(1) By 31 October after the end of each financial year, the commissioner must give to the Minister a report for the immediately preceding financial year.

‘(2) The report must deal with the system established under this Act for dealing with complaints.

‘(3) Also the Minister may, by written notice, ask the commissioner to provide a report at any time for a period stated in the Minister’s request about the system or about an aspect of the system stated in the notice.

‘(4) If the Minister makes a request under subsection (3), the commissioner must comply with the request and give the relevant report to the Minister by the date stated in the notice.

‘(5) The commissioner may include other matters the commissioner considers appropriate in a report under this section, including, for example, recommendations about the system.

‘(6) The Minister must table in the Legislative Assembly a report given to the Minister under subsection (1), within 14 days after receiving the report.’.

1 Section 376B (Offence of improper disclosure of information)

6 Clause 228—

At page 147, lines 17 to 31 and page 148, lines 1 to 10—
omit.

7 Clause 229—

At page 148, lines 11 to 29 and page 149 and lines 1 and 2—
omit.

8 Clause 331—

At page 186, line 9, ‘the board or’—
omit.

9 Clause 331—

At page 186, lines 11 and 12, ‘the board or’—
omit.

10 Clause 331—

At page 186, line 28, ‘relevant’—
omit, insert—
‘regulatory’.

11 Clause 331—

At page 186, line 31, ‘relevant’—
omit, insert—
‘regulatory’.

12 Clause 331—

At page 187, after line 23—
insert—

‘(5) Subsection (1) does not apply to information in a suitability report if that information was given or obtained by the relevant authority other than as part of the suitability report.

Example for subsection (5)—

A suitability report may contain information that an applicant may have already disclosed, including name, address, or some information about previous convictions or a previous disqualification from being a lawyer.’

13 Insertion of new sections 376A to 376C

At page 212, after line 1—

insert—

‘376A Information sharing among entities with functions under Act

‘(1) This section applies to each of the following (each of which is an “entity”)—

- (a) the board;
- (b) the law society;
- (c) the bar association;
- (d) the commissioner.

‘(2) An entity that holds a document or information (the “**information holder**”) about a person may allow another entity (the “**information seeker**”) access to the document or give the information to the information seeker if—

- (a) the information holder considers allowing the access or giving the information is consistent with the information holder’s or information seeker’s functions under a relevant law; and
- (b) allowing the access or giving the information is done under a written arrangement between the information holder and information seeker as mentioned in subsection (3).

‘(3) An entity must have a written arrangement with another entity providing for the way in which the entity, as an information holder, and its officers may, under subsection (2), allow access to a document or give information to the other entity, as an information seeker, and its officers.

‘(4) Despite subsection (2), the information holder may not allow access to a suitability report about a person, or give information about a person in a suitability report, in contravention of section 331(1).

Note—

Section 331 (Confidentiality of suitability report) states when the board or a regulatory authority may disclose a suitability report or information in a suitability report.

‘376B Offence of improper disclosure of information

‘(1) A person who discloses information obtained in the administration of this Act commits an offence, unless the disclosure is—

- (a) authorised or required by this Act or another Act; or
- (b) made in connection with the administration of this Act; or
- (c) made with the consent of the person to whom the information relates; or
- (d) made in connection with legal proceedings under a relevant law or of any report of those proceedings, including proceedings before the tribunal or the committee relating to a discipline application; or
- (e) made with other lawful excuse.

Maximum penalty—200 penalty units.

‘(2) For the purposes of and without limiting subsection (1), a person who receives information directly or indirectly from a corresponding authority is taken to have obtained the information in the administration of this Act.

‘(3) This section does not apply to the following disclosures of information—

- (a) a disclosure that does not identify or help in identifying—
 - (i) a complainant; or
 - (ii) an Australian lawyer or law practice employee, who is the subject of a complaint or an investigation matter, or a law practice that employs the lawyer or employee; or
 - (iii) a person associated with the complainant, Australian lawyer, law practice employee or law practice;

- (b) a disclosure by an investigator to the commissioner and, if the investigator was nominated by a regulatory authority, to the regulatory authority.

‘(4) This section is not limited by another provision of this Act—

- (a) allowing an entity to disclose information; or
- (b) requiring an entity to protect information.

‘376C Protection from liability

‘(1) An Act official is not civilly liable to someone for an act done, or omission made, honestly and without negligence under this Act.

‘(2) If subsection (1) prevents a civil liability attaching to an Act official, the liability attaches instead to the State.

‘(3) This section does not apply to an act done, or omission made, for which liability is excluded under section 216, 267 or 291.²

‘(4) In this section—

“Act official” means—

- (a) the commissioner or the staff of the commission; or
- (b) an investigator involved in the conduct of an investigation under chapter 3;³ or
- (c) a disciplinary body, any member of the disciplinary body or a panel member; or
- (d) the Brisbane registrar and other registrars; or
- (e) a mediator to whom a matter is referred under chapter 3; or
- (f) a regulatory authority; or
- (g) a member of the staff of an entity mentioned in paragraphs (b) to (f).

“civil liability” includes liability for the payment of costs ordered to be paid in a proceeding for an offence against this Act.’

2 Section 216 (Liability for publicising disciplinary action), 267 (Protection of members etc.) or 291 (Protection of members etc.)

3 Chapter 3 (Complaints, investigation matters and discipline)

14 Schedule 1—

At page 226, after line 7—

*insert—***‘CORONERS ACT 2003****‘1 Section 71(6), ‘sections 10(8) and 13 do’ and footnote—***omit, insert—*‘section 41⁴ does’.**‘2 Sections 73(2), 80(2) and 82(4), ‘section 15(4)’ and footnotes—***omit, insert—*‘section 43(4)⁵’.**‘3 Section 97—***omit.***‘4 Schedule 2, definitions “de facto partner” and “spouse”—***omit.***‘CREMATIONS ACT 2003****‘1 Section 17—***omit.***‘2 Schedule, definitions “de facto partner” and “spouse”—***omit.’.*

4 Section 41 (Functions of magistrates generally)

5 Section 43 (Suspension of magistrate by Governor in Council)

15 Schedule 1—

At page 234, line 20, ‘ “lawyer” ’—

omit, insert—

‘ “legal practitioner” ’.