

**2006**

**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**LEGAL PROFESSION BILL 2006**

**SUPPLEMENTARY EXPLANATORY STATEMENT**

**Circulated by the authority of  
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## LEGAL PROFESSION BILL 2006

### Supplementary Explanatory Statement

This explanatory statement relates to amendments to the Legal Profession Bill 2006 as introduced into the ACT Legislative Assembly.

### Overview of amendments

These amendments to the Legal Profession Bill 2006 have the effect of:

- correcting the functions of the Admissions Board established under Part 7.1 of the Bill;
- correcting a typographical error in clause 21(4) of the Bill;
- clarifying the right of a party to appeal to the Supreme Court from decisions of the Disciplinary Tribunal established under Part 7.2 of the Bill;
- removing an incorrect note to clause 428 of the Bill; and
- correcting references to the appropriate fund in Schedule 3 to the Bill.

### Outline of Provisions

#### Clause 1    Clause 21(3)

Clause 1 amends clause 21(3) of the Bill by removing the words “or admissions board”. The reference to the board in this provision is inappropriate, as it is not a function of the board to make decisions to exempt a person from the requirements set out in clause 21.

#### Clause 2    Clause 21(4)

Clause 2 corrects a cross-reference in clause 21(4) of the Bill by deleting the words “subsection (4)” and substituting “subsection (3)”.

#### Clause 3    Clause 27(5)

Clause 3 amends clause 27(5) of the Bill by removing the reference to the admissions board and substituting a reference to the “relevant council”, which is the Law Society of the ACT or the ACT Bar Association, as the case requires. It is not a function of the board to issue or administer practising certificates, and it is therefore appropriate that information about the admission of persons to the legal profession is forwarded not to the board but to either the Law Society or the Bar Association.

#### Clause 4    clause 428(2)

Clause 4 deletes note 2 to clause 428 of the Bill, as it is inconsistent with clause 467.

**Clause 5 Proposed new clauses 435A, 435B, 435C and 435D**

Clause 5 inserts into the Bill 4 new provisions, which provide as follows:

Clause 435A – referral of questions of law to the Supreme Court – empowers the disciplinary tribunal to refer a question of law to the Supreme Court. The tribunal may act on application by a party to the relevant proceeding or on its own initiative.

Clause 435B – Appeals from disciplinary tribunal to Supreme Court – provides that a party to a proceeding before the tribunal may appeal to the Supreme Court against a decision of the tribunal.

Clause 435C – Contempt of disciplinary tribunal – provides that it is an offence for a person to do something in the tribunal that would be contempt of court if the tribunal had been a court of record.

Clause 435D – Application of Criminal Code, ch 7 – states that a proceeding before the disciplinary tribunal is a legal proceeding for the purposes of chapter 7 of the Criminal Code. That chapter includes offences, such as perjury and failure to attend, that apply in relation to proceedings in the tribunal.

**Clauses 6 to 14 – Schedule 3 – HIH provisions**

Clauses 6 to 14 amend Schedule 3 of the Bill to correct references to the fund from which practitioners may be compensated in relation to the collapse of HIH. The amendments make it clear that the appropriate fund is the fidelity fund established under clause 320 of the Bill.

Clause 6 deletes the definition of “approved indemnity fund” in section 3.1 of Schedule 3, as the definition is no longer required.

Clauses 7 to 12 all delete the expression “the approved indemnity fund” in a number of sections of Schedule 3, and substitute “the fidelity fund”.

Clauses 13 and 14 delete the expression “the indemnity fund” in a number of sections in Schedule 3, and substitute “the fidelity fund”.