

Tuesday, 13 March 2012

## **SWEEPING CHANGES TO RULES FOR LAWYERS**

Attorney-General John Rau today proposed major changes to the law regulating the behaviour of legal practitioners, including tougher rules and penalties for misconduct and enhanced consumer protection measures.

Mr Rau said some of the proposed changes were designed to fix deficiencies identified in the system as a result of the case of lawyer Eugene McGee and his involvement in the crash that killed cyclist Ian Humphrey.

“The disciplinary system for lawyers is vastly out of step with community expectations,” Mr Rau said.

“My view on this crystallised when I received Crown Law advice on misconduct charges against Mr McGee.

“This Bill will allow serious concerns about lawyers to be dealt with quickly and without the cumbersome processes of the Legal Practitioners Conduct Board, which will be abolished. It will also broaden charges of misconduct to include those against lawyers who have, for example, committed a serious offence that is unrelated to their practice of the law.”

The changes are contained in a draft *Legal Practitioners (Miscellaneous) Amendment Bill 2012*, tabled in the House of Assembly today. The Government will delay debate on the Bill for six weeks to allow the community to consider the proposals and provide comments.

Under the Bill, the Supreme Court will be given a new role in disciplining lawyers. The Bill identifies certain events – such as bankruptcy or being convicted of a serious offence – which will trigger an obligation on a legal practitioner to explain to the court why he or she is still a fit or proper person to practise law.

If a satisfactory explanation isn't received, the court will be able to amend, suspend or cancel the lawyer's practising certificate. In addition, the court will also be able to amend, suspend or cancel the certificate of any legal practitioner who poses an immediate risk to the public.

The Bill repeals the current definitions of unsatisfactory conduct and unprofessional conduct and replaces them with nationally-agreed definitions in use in other states.

Mr Rau said that a key difference will be that conduct outside the lawyer's practice of the law – and not amounting to an offence of a 'dishonest' or 'infamous' nature – could amount to misconduct.

Under the Bill, the Legal Practitioners Conduct Board will be abolished and replaced with a Legal Conduct Commissioner, with new powers and the capacity to act more quickly and decisively than the board.

“The Commissioner will investigate and conciliate complaints – as the Board now does – but he or she will also have wider powers to impose lesser disciplinary penalties directly, without reference to the Legal Practitioners Conduct Tribunal or the court,” Mr Rau said.

“The Commissioner will also have wider investigative powers than the Board and will have the power to ask the Supreme Court to amend, suspend or cancel a lawyer’s practising certificate. The Attorney-General and the Law Society will also be able to make applications to the Supreme Court about a lawyer’s fitness to continue practising.”

The Bill creates a new pathway for complaints, allowing the Commissioner to apply directly to the Supreme Court to strike a practitioner’s name from the role, without the need for tribunal proceedings, where the lawyer has been found guilty of a serious offence or where there are other good reasons.

In addition, a public register will be created to record disciplinary action against lawyers.

“This Bill delivers better protection for the community and more effective sanctions against practitioners who act improperly,” Mr Rau said.