

Legal Profession Practice (Incorporation) Bill

EXPLANATORY MEMORANDUM

Clause 1 provides that the purpose of the Act is to make provision for the incorporation of solicitors' practices.

Clause 2 provides that the Act comes into operation on a day to be proclaimed.

Clause 3 defines the Principal Act.

Clause 4 inserts definitions of "incorporated practitioner" and "participating employee" in the Principal Act and makes consequential amendments.

Clause 4A applies the provisions of the Principal Act dealing with misconduct to incorporated practitioners.

Clause 5 applies the provisions of the Principal Act dealing with solicitors' trust accounts to incorporated practitioners.

Clause 6 applies the provisions of the Principal Act dealing with the Solicitors' Guarantee Fund to incorporated practitioners.

Clause 7 applies the provisions of the Principal Act dealing with practising certificates to incorporated practitioners.

Clause 8 inserts a new Division 4A of Part V of the Principal Act which adds new sections as follows:

Division 4A—Incorporated Practitioners

Section 87B provides that an incorporated practitioner must not commence practice as a solicitor unless the incorporated practitioner has satisfied the Law Institute Council that its memorandum and articles of association contain certain provisions and are otherwise appropriate to a company formed for practising the profession of the law.

Section 87C deems directors and members of an incorporated practitioner who hold practising certificates and participating employees of an incorporated practitioner to be engaged in practice as solicitors.

Section 87D requires incorporated practitioners to give the Law Institute particulars of acquisitions and disposals of interests in shares.

Section 87E requires incorporated practitioners to give the Law Institute copies of documents filed with the Commissioner for Corporate Affairs.

Clause 9 gives the Law Institute Council power to make rules concerning incorporated practitioners.

Clause 10 applies certain offence provisions of the Principal Act to incorporated practitioners.

Clause 11 inserts section 99A in the Principal Act which provides that the liability of solicitors who are directors, members and participating employees of an incorporated practitioner is the same as if they were solicitors in a practice which is not incorporated; and makes certain consequential amendments.

Clause 12 makes consequential amendments to the provisions of the Principal Act dealing with appointment of receivers.