

AUSTRALIAN CAPITAL TERRITORY
LEGAL PRACTITIONERS ORDINANCE 1970
EXPLANATORY MEMORANDUM

This Ordinance provides for the admission to professional practice in the Territory of legally qualified persons and for the control of those persons in their professional practice in a way similar to that governing the legal profession in the States.

The Ordinance provides for the admission by the Supreme Court of the Territory of -

- . existing Territory practitioners (section 11);
- . other practitioners admitted to practise in a State or in another Territory (section 12);
- . persons admitted to practise in the United Kingdom or New Zealand (section 13);
- . graduates in law of Australian universities (section 14);
- . persons who are otherwise qualified by passing certain prescribed courses in law (section 14).

Admission to practise is in the dual capacities of barrister and solicitor. However, a person when admitted may practise -

- . as both a barrister and a solicitor;
- . as a barrister only; or
- . as a solicitor only (section 20).

A person may not practise as a solicitor (whether or not he is also practising as a barrister) unless he holds a practising certificate. A practitioner practising on his own account or in

partnership with another practitioner is required to hold an unrestricted practising certificate. An employee practitioner must hold at least a restricted practising certificate (section 21). There are limitations on the issue of unrestricted practising certificates (sections 23 and 24).

There is to be -

- . a Barristers and Solicitors Admission Board (section 8), which has certain powers and functions in relation to the admission of practitioners (sections 15 and 34); and
- . a Barristers and Solicitors Disciplinary Board (section 43), which has certain powers and functions in relation to complaints about professional misconduct (sections 46 to 56).

Appointments to both Boards are to be made by the Judge (sections 8(1.) and 43(2.)).

The Supreme Court has wide powers to deal with professional misconduct, including appeals from the Disciplinary Board (sections 60 to 64). The Ordinance extends to misconduct occurring before its commencement (section 65).

The Ordinance also provides for -

- (a) the keeping by solicitors of records and trust accounts (section 77, 69 to 71), and for the annual auditing of trust accounts as a condition precedent to the issue of practising certificates (sections 80 to 87);
- (b) a portion of the funds in a solicitor's trust account to be deposited with the Law Society, which is to invest the money on bank interest bearing deposits and use the interest -

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- . to supplement the Solicitors' Fidelity Fund;
- . for legal aid;
- . for post-graduate education and legal research.

(sections 91 to 96);

- (c) a Solicitors' Fidelity Fund for the purpose of compensating people who suffer pecuniary loss as a result of defalcations by solicitors and their employees (sections 97 to 114);
- (d) the appointment by the Supreme Court of receivers of trust property where there is a suspected defalcation, etc. (section 116);
- (e) solicitors' costs (sections 132 to 144);
- (f) offences by persons not qualified to do legal work (sections 145 to 148); and
- (g) the incorporation of the Law Society of the Australian Capital Territory (section 7).