

# FACT SHEET

## *Legal Profession Amendment Bill 2018*

The Legal Profession Amendment Bill 2018 (the Bill) amends the *Legal Profession Act 2007* (the Act) to clarify the powers and procedures to be applied in determining applications under section 458 of the Act.

Chapter 4 of the Act deals with complaints and discipline. The Act allows for complaints about the conduct of a legal practitioner to be made to the Legal Profession Board (the Board), the Disciplinary Tribunal (the Tribunal) or the Supreme Court (the Court). Whilst the Board can make determinations and orders in relation to unsatisfactory professional conduct, the Tribunal and Court can make determinations and orders about more serious matters of professional misconduct.

In addition to dealing with applications to determine complaints made directly to them, the Tribunal and Court can also undertake re-hearings of determinations made by the Board. This is provided for in section 458.

The procedures and powers to be applied in determining section 458 applications in the current Act are not clear. Whilst Part 4.7 of the Act provides the Tribunal with powers, these are expressed to be in relation to applications made under that part of the Act. Section 458 applications do not fall under Part 4.7.

The Bill amends section 458 to provide that the Tribunal may determine an application made under section 458 in accordance with Part 4.7 of the Act with the exception of specified provisions that are not considered to be appropriate to re-hearing proceedings, i.e., sections 464, 466(7)(b), 467(5)(b) and 468.

In relation to section 458 applications made to the Court, the Bill clarifies that the Court can determine its own practice and procedures.

The Bill also includes provisions to remove doubt about the validity of applications under section 458 made and determined prior to the commencement of the proposed amendments. Under these doubts removal provisions an application under section 458 made prior to the commencement of the amendments is taken to have been validly made if it was accepted by the Tribunal or Court. The provisions clarify that the fact a section 458 application was determined by the Tribunal in accordance with Part 4.7, is not, of itself, grounds for the determination being invalid.