

## DRAFT SECOND READING SPEECH

HON. MATTHEW GROOM MP

### *Statutory Appointments (Miscellaneous Amendments) Bill 2017*

*\*check Hansard for delivery\**

Madam Speaker, this Bill makes amendments to a number of Acts that provide for the appointment of members of the legal profession to Boards, Tribunals and certain statutory offices.

Last year Parliament passed the Statutory Appointments (Validation) Bill 2016 which remedied a number of incorrectly made appointments to Tribunals or Boards.

In progressing work on the Statutory Appointments (Validation) Bill 2016 a number of appointment provisions referring to lawyers or legal practitioners were identified that would benefit from clarification.

This Bill substitutes current terms used to refer to members of the legal profession, and reflects changes to the definitions used for members of the legal profession that were brought about by the replacement of the *Legal Profession Act 1993* by the *Legal Profession Act 2007*.

Under the 1993 Act, a “legal practitioner” was defined as a person admitted and enrolled as a barrister or solicitor, which did not require a person to hold a practising certificate.

The 2007 Act replaced “legal practitioner” with “Australian legal practitioner”, which is defined as a person entitled to practise; that is, a person who is both admitted to the legal profession and in possession of a practising certificate.

The 2007 Act also introduced a new term, “Australian lawyer”, which is a person admitted to the legal profession. In effect this new term has the equivalent meaning that the term “legal practitioner” had under the 1993 Act.

As a result of the changes to these definitions the term “legal practitioner” as it appears in legislation that predates that 2007 Act has been interpreted to mean “Australian legal practitioner”, rather than the more comparable term “Australian lawyer”.

While a number of consequential amendments were made at the commencement of the 2007 Act, a recent review of relevant Acts has revealed that there are a number of instances where references to lawyers or legal practitioners were either not amended or were amended to refer to an Australian legal practitioner, when the use of the term Australian lawyer would have been more appropriate.

In the context of statutory appointments, these changes have meant that an eligibility requirement that a person be an “Australian legal practitioner” amounts to a requirement that the person hold a practising certificate at the time of their appointment. This

interpretation may unnecessarily restrict the number of eligible candidates for some appointments.

In some cases, it is necessary for a person to have some experience in legal practice to be eligible for the position. However, it is not necessary that the person currently be in legal practice, provided they can demonstrate the requisite years of experience at some stage.

This Bill will clarify eligibility requirements of this type by requiring the appointee to be an Australian lawyer with a certain number of years' experience as an Australian legal practitioner.

In other cases, while a legal education is necessary, there is no need that the person have experience in legal practice. This Bill clarifies the eligibility requirements in such cases by requiring an appointee to be an Australian lawyer.

This Bill amends the following Acts in order to bring the wording of those Acts in line with the *Legal Profession Act 2007*:

- *Victims of Crime Assistance Act 1976*;
- *Legal Aid Commission Act 1990*;
- *Corrections Act 1997*;
- *Property Agents and Land Transactions Act 2016*; and
- *Workers Rehabilitation and Compensation Act 1998*.

The amendments contained in this Bill serve to clarify the intended eligibility requirements for appointment under the amended Acts, and provide greater transparency for the Government, the affected Boards and Tribunals, potential appointees and the public.

In addition, this Bill amends a number of Acts which currently make reference to the Federal Magistrates Court.

In 2013 the Federal Parliament passed legislation which, among other amendments, changed the name of the Federal Magistrates Court to the Federal Circuit Court of Australia. This Bill updates references to that Court in Tasmanian legislation.

Madame Speaker, I commend the Bill to the House.