

Serial 20
Legal Practitioners Amendment Bill 2001
Dr Toyne

**A BILL
for
AN ACT**

to amend the *Legal Practitioners Act*



NORTHERN TERRITORY OF AUSTRALIA
LEGAL PRACTITIONERS AMENDMENT ACT 2001

No. of 2001

TABLE OF PROVISIONS

Section

1. Short title
2. Commencement
3. Principal Act
4. Interpretation
5. New sections
 48. Definition
 - 48A. Constitution and appointment of panel
 - 48AA. Chairperson of Complaints Committee
 - 48AB. Deputy Chairperson of Complaints Committee
 - 48AC. Alternate member to Ombudsman
 - 48AD. Term of appointment to panel
 - 48AE. Resignation of member of panel
 - 48AF. Termination of appointment of member of panel
 - 48AG. Establishment of Complaints Committee
 - 48AH. Constitution of Complaints Committee
 - 48AI. Sittings of Complaints Committee
 - 48AJ. Directions for expeditious and efficient proceedings
6. Procedure of Complaints Committee
7. New section
 - 48F. Remuneration of members of Complaints Committee
8. Conduct of appeal
9. Charges before Complaints Committee
10. Conduct of inquiry
11. New section
 - 50AB. Complaints Committee to refer certain matters to Law Society for investigation
12. Powers of Complaints Committee
13. Costs
14. Appeal to Supreme Court
15. Operation of order may be suspended
16. Proceedings before Supreme Court
17. Person not to practise while disqualified

18. New Part

PART VIII A – MANAGERS

- 101B. Definition
 - 101C. Appointment of manager
 - 101D. Manager employer of all persons who work in legal practitioner's practice
 - 101E. Powers of manager
 - 101F. Acts of manager to be taken to be acts of legal practitioner
 - 101G. Management continues under receivership
 - 101H. Manager to report to Law Society
 - 101J. Accounts of practice under management
 - 101K. Payment of money held by manager on termination of management of practice
 - 101L. Manager may be reimbursed for damages
 - 101M. Payment of expenses of manager
 - 101N. Protection of Law Society and manager from liability
19. Transitional: membership of panel and Complaints Committee
20. Transitional: hearing of appeals and inquiries into charges



NORTHERN TERRITORY OF AUSTRALIA

No. of 2001

AN ACT

to amend the *Legal Practitioners Act*

[Assented to 2001]
[Second reading 2001]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Legal Practitioners Amendment Act 2001*.

2. Commencement

The provisions of this Act come into operation on the date, or respective dates, fixed by the Administrator by notice in the *Gazette*.

3. Principal Act

The *Legal Practitioners Act* is in this Act referred to as the Principal Act.

4. Interpretation

Section 6 of the Principal Act is amended –

- (a) by omitting from the definition of "Chairperson" in subsection (1) "48(5)(a)" and substituting "48A";
- (b) by omitting from the definition of "Complaints Committee" in subsection (1) "48(1)" and substituting "48AG(1)"; and

Legal Practitioners Amendment Act 2001

- (c) by omitting from the definition of "Deputy Chairperson" in subsection (1) "48(5)(b)" and substituting "48AB(1)".

5. New sections

The Principal Act is amended by omitting sections 48 and 48A and substituting the following:

"48. Definition

"In this Division –

'panel' means the panel of persons appointed under section 48A from whom the members of the Complaints Committee are selected under section 48AH.

"48A. Constitution and appointment of panel

"(1) There is a panel of persons from whom the Complaints Committee is to be constituted.

"(2) The panel is to consist of the following members:

- (a) the Chairperson of the Complaints Committee;
- (b) the Ombudsman;
- (c) 3 persons who are not legal practitioners;
- (d) 5 legal practitioners nominated by the Law Society (of whom at least 2 must, at the time of their nomination, be local Counsel); and
- (e) 3 legal practitioners who are not nominated by the Law Society.

"(3) The Attorney-General must, in writing, appoint the members of the panel.

"48AA. Chairperson of Complaints Committee

"The Chairperson must be a person who has practised as a legal practitioner in Australia or New Zealand for at least 7 years and who is entitled to be issued a current practising certificate.

"48AB. Deputy Chairperson of Complaints Committee

"(1) The Attorney-General must appoint, in writing, one of the members of the panel referred to in section 48A(2)(d) and (e) to be the Deputy Chairperson of the Complaints Committee.

Legal Practitioners Amendment Act 2001

"(2) The Deputy Chairperson must exercise the powers and perform the functions of the Chairperson if the Chairperson is absent or unable for any other reason to exercise his or her powers or perform his or her functions.

"48AC. Alternate member to Ombudsman

"(1) The Attorney-General must appoint, in writing, a person to be the alternate member of the Ombudsman.

"(2) The alternate member of the Ombudsman must act in the place of the Ombudsman whenever the Ombudsman is selected to be a member of the Complaints Committee and is, for any reason, unable to be present at a proceeding of the Complaints Committee.

"(3) For the purpose of enabling the alternate member of the Ombudsman to act in the place of the Ombudsman, a reference in this Division to the Ombudsman includes a reference to the alternate member of the Ombudsman.

"48AD. Term of appointment to panel

"(1) In this section –

'member' does not include the Ombudsman.

"(2) A member of the panel holds office –

- (a) for the period, not exceeding 3 years, specified in the instrument appointing the member; or
- (b) if no term is specified in the instrument of appointment – for 3 years.

"(3) A member of the panel is eligible for re-appointment (and may be re-appointed before the expiry of his or her current period of appointment).

"48AE. Resignation of member of panel

"(1) In this section –

'member' does not include the Ombudsman.

"(2) A member of the panel may resign his or her office by instrument signed by the member and delivered to the Attorney-General.

"48AF. Termination of appointment of member of panel

"(1) In this section –

'member' does not include the Ombudsman.

Legal Practitioners Amendment Act 2001

"(2) The Attorney-General may terminate the appointment of a member of the panel on the grounds of inability, inefficiency, misbehaviour or physical or mental incapacity.

"(3) If a member of the panel –

- (a) becomes bankrupt; or
- (b) ceases to be eligible to hold the office of member he or she was appointed to hold,

the Attorney-General must terminate the appointment of the member.

"48AG. Establishment of Complaints Committee

"(1) There is a Legal Practitioners Complaints Committee.

"(2) The Complaints Committee must convene as often as is necessary to exercise its powers and perform its functions under this Part.

"(3) The Chairperson must make the arrangements that enable the Complaints Committee to convene.

"48AH. Constitution of Complaints Committee

"(1) If a notice of appeal is lodged with the Secretary of the Complaints Committee under section 49 or a charge is laid before the Complaints Committee under section 50, the Chairperson must, subject to this section, constitute the Complaints Committee to hear the appeal or inquire into the charge.

"(2) As soon as possible after a notice of appeal is lodged with the Secretary or a charge is laid before the Complaints Committee, the Chairperson must select not less than 3 members of the panel to be the members of the Complaints Committee to hear the appeal or inquire into the charge.

"(3) The Chairperson may constitute the Complaints Committee so that it may hear more than one appeal or inquire into more than one charge at the same time.

"(4) The members selected to constitute the Complaints Committee –

- (a) may include the Chairperson;
- (b) must include the Ombudsman or a member referred to in section 48A(2)(c); and
- (c) must include a member referred to in section 48A(2)(d).

"(5) If the Chairperson is selected to be a member of the Complaints Committee, the Chairperson is the presiding member at the proceedings of the Complaints Committee so constituted.

"(6) If the Chairperson is not selected to be a member of the Complaints Committee, the Chairperson must appoint one of the members selected who is a legal practitioner to preside at the proceedings of the Complaints Committee so constituted.

"48AI. Sittings of Complaints Committee

"(1) The Complaints Committee constituted by 3 or more members may convene to hear an appeal or inquire into a charge at the same time as the Complaints Committee constituted by 3 or more other members is convening to hear another appeal or inquire into another charge.

"(2) The Complaints Committee may sit at the times and places in the Territory as expediency and efficiency requires.

"48AJ. Directions for expeditious and efficient proceedings

"(1) In this section –

'party' means –

(a) where an appeal is made under section 49 – the legal practitioner who makes the appeal; or

(b) where a charge is laid under section 50 – the person who laid the charge or the legal practitioner or former legal practitioner to whom the charge relates.

"(2) The Chairperson or Deputy Chairman may, whether before or after the Complaints Committee is constituted to hear an appeal or inquire into a charge, give directions for the expeditious and efficient hearing of the appeal or inquiry into the charge.

"(3) If the Complaints Committee has been constituted, a member of the Complaints Committee nominated by the Chairperson may give directions for the expeditious and efficient hearing of the appeal or inquiry into the charge.

"(4) A party to an appeal or charge may, by lodging a notice with the Secretary of the Complaints Committee, apply for directions for the hearing of the appeal or inquiry into the charge.

"(5) If a party applies for directions under subsection (4) before the Complaints Committee is constituted, the Chairperson or Deputy Chairperson must give directions for the expeditious and efficient hearing of the appeal or inquiry into the charge.

Legal Practitioners Amendment Act 2001

"(6) If a party applies for directions under subsection (4) after the Complaints Committee is constituted, the member of the Complaints Committee nominated by the Chairperson must give directions for the expeditious and efficient hearing of the appeal or inquiry into the charge.

"(7) The party to an appeal or the parties to a charge must attend, and may make submissions, before the Chairperson, Deputy Chairperson or nominated member, as the case requires, when he or she gives directions.

"(8) The Complaints Committee may, at any time during the hearing of an appeal or inquiry of a charge and whether or not on application, give directions for the expeditious and efficient hearing of the appeal or inquiry."

6. Procedure of Complaints Committee

Section 48B of the Principal Act is amended –

(a) by omitting subsection (1)(a) and substituting the following:

"(a) 3 members constitute a quorum;

(aa) one of the members present must be the Ombudsman or a member referred to in section 48A(2)(c);

(ab) one of the members present must be a member referred to in section 48A(2)(d);"; and

(b) by omitting subsection (2) and substituting the following:

"(2) The Chairperson or member appointed under section 48AH(6) to be the presiding member must preside at proceedings of the Complaints Committee at which he or she is present and, if the Chairperson or member is not present at any proceedings, the members present must elect one of their number who is a legal practitioner to preside at the proceedings."

7. New section

The Principal Act is amended by inserting in Division 4 of Part VI after section 48E the following:

"48F. Remuneration of members of Complaints Committee

"(1) Subject to this section, the Administrator must, in writing, determine the remuneration, or rate of remuneration, and the allowances and expenses payable to a member or class of members of the Complaints Committee.

"(2) The Administrator must not make a determination under subsection (1) unless he or she has received a report with recommendations on the remuneration and allowances to be paid to the member or class of members from

Legal Practitioners Amendment Act 2001

the Remuneration Tribunal established under section 6(1) of the *Remuneration Tribunal Act*.

"(3) In determining the remuneration, rates of remuneration, allowances and expenses of a member or class of members, the Administrator –

- (a) must take into account the report and recommendations of the Remuneration Tribunal;
- (b) must take into account the fees or other remuneration that the member is or members are usually paid in carrying out his, her or their professional activities; and
- (c) may determine different remunerations, rates of remuneration, allowances and expenses for different members or classes of members."

8. Conduct of appeal

Section 49A of the Principal Act is amended by adding at the end the following:

- "(4) A legal practitioner who makes an appeal under section 49 may –
- (a) withdraw his or her appeal at any time before the Complaints Committee commences hearing the appeal; or
 - (b) discontinue his or her appeal at any time during the hearing of the appeal."

9. Charges before Complaints Committee

Section 50 of the Principal Act is amended –

- (a) by omitting from subsection (3)(a) "or" (last occurring);
- (b) by omitting subsection (3)(b) and substituting the following:
 - "(b) summarily dismiss a charge that, in its opinion, does not describe conduct that would, if established, give rise to a finding of professional misconduct by the legal practitioner or former legal practitioner; or
 - (c) inquire into the conduct described in the charge.";
- (c) by omitting subsection (4) and substituting the following:

"(4) If the Complaints Committee has inquired into the conduct of a legal practitioner or former legal practitioner under subsection (3) and is satisfied

Legal Practitioners Amendment Act 2001

that the legal practitioner or former legal practitioner is not guilty of professional misconduct, the Complaints Committee must dismiss the charge.

"(4AA) If the Complaints Committee has inquired into the conduct of a legal practitioner under subsection (3) and it is satisfied that the legal practitioner is guilty of professional misconduct, the Complaints Committee may –

- (a) where, having regard to the circumstances of the case and the record of the legal practitioner, in its opinion it is justified in doing so – record a finding that the legal practitioner has been guilty of professional misconduct but take no further action in the matter; or
- (b) take any one or more of the following actions:
 - (i) admonish or reprimand the legal practitioner;
 - (ii) order the legal practitioner to pay a fine not exceeding 100 penalty units;
 - (iii) suspend the right of the legal practitioner to practise the profession of the law for a period not exceeding 12 months;
 - (iv) order that the legal practitioner must not, during the period specified in the order, practise the profession of the law other than in accordance with conditions specified in the order;
 - (v) recommend that disciplinary proceedings be commenced against the legal practitioner in the Supreme Court;
 - (vi) refer its findings in respect of the professional misconduct of the legal practitioner to the Supreme Court to be dealt with under section 52.

"(4AB) If the Complaints Committee has inquired into the conduct of a former legal practitioner under subsection (3) and it is satisfied that the former legal practitioner was, while he or she remained a legal practitioner, guilty of professional misconduct, the Complaints Committee may take any one or both of the following actions:

- (a) order the former legal practitioner to pay a fine not exceeding 100 penalty units; or
- (b) recommend that proceedings be commenced against the former legal practitioner in the Supreme Court."

10. Conduct of inquiry

Section 50A of the Principal Act is amended by adding at the end the following:

"(4) A person who lays a charge of professional misconduct against a legal practitioner or former legal practitioner under section 50(1) may withdraw his or her charge at any time before the Complaints Committee completes its inquiry into the charge."

11. New section

The Principal Act is amended by inserting after section 50A the following:

"50AB. Complaints Committee to refer certain matters to Law Society for investigation

"(1) In this section –

'original charge' means a charge referred to in subsection (2);

'subsequent charge' means a charge arising out of a matter referred to the Law Society under subsection (2).

"(2) If, in conducting an inquiry into a charge, the Complaints Committee becomes aware of evidence of conduct other than the conduct described by the charge (including conduct by another legal practitioner or former legal practitioner) that might be professional misconduct, the Complaints Committee must refer the matter of the conduct to the Law Society.

"(3) As soon as possible after a matter is referred to it under subsection (2), the Law Society must determine whether to investigate the conduct of the legal practitioner or former legal practitioner to which the matter relates and, if it does –

- (a) the matter is to be taken to be a complaint referred to in section 47; and
- (b) the Law Society has in respect of the matter the powers and functions under that section as if it were a complaint.

"(4) The Complaints Committee must not delay its inquiry into an original charge because it refers a matter arising from the inquiry to the Law Society under subsection (2).

"(5) Despite subsection (4), if the Law Society lays a subsequent charge of professional misconduct before the Complaints Committee, the Complaints Committee constituted to inquire into the original charge may inquire into both

Legal Practitioners Amendment Act 2001

the original charge and the subsequent charge (and, in doing so, may conduct the inquiries contemporaneously).".

12. Powers of Complaints Committee

Section 51 of the Principal Act is amended –

(a) by omitting from subsection (8) all the words after "this Act," and substituting "and may in particular –

(a) direct a legal practitioner or other person so engaged to investigate a matter that is the subject of, or incidental to, an appeal under section 49(1) or a charge under section 50(1); or

(b) subject to subsection (8A) – direct a legal practitioner so engaged to act for or in the place of a person who made a complaint under section 46.";

(b) by inserting after subsection (8) the following:

"(8A) The Complaints Committee may not direct a legal practitioner under subsection (8)(b) to act for or in the place of a person who made a complaint unless the person is entitled to be assisted in that manner under the legal assistance rules prescribed by the Regulations."; and

(c) by omitting from subsection (9) "subsection (8)" and substituting "subsection (8)(a)".

13. Costs

Section 51A of the Principal Act is amended by inserting after subsection (1) the following:

"(1A) Without limiting the orders the Complaints Committee may make under subsection (1), the Complaints Committee may make an order that a person referred to in subsection (1)(a) for whom the Law Society engaged a legal practitioner to represent him or her under section 51(8) pay into the Fidelity Fund an amount that is not more than the amount paid or payable to the legal practitioner for his or her professional services for and in connection with representing the person.".

14. Appeal to Supreme Court

Section 51B of the Principal Act is amended –

(a) by inserting after subsection (1) the following:

"(1A) There is no right of appeal to the Supreme Court against a decision of the Complaints Committee under section 50(3)(a) or (b)."; and

Legal Practitioners Amendment Act 2001

- (b) by omitting from subsection (2A) all the words after "section 50(1)," and substituting "the appeal may only be made on a mistake of law or fact".

15. Operation of order may be suspended

Section 51C of the Principal Act is amended by omitting from subsection (1) "50(4)" and substituting "50(4AA) or (4AB)".

16. Proceedings before Supreme Court

Section 52 of the Principal Act is amended –

- (a) by omitting from subsection (1) "50(4)" and substituting "50(4AA)(b)(v)";
- (b) by inserting after subsection (1) the following:

"(1A) If the Complaints Committee refers its findings of professional misconduct of a legal practitioner to the Supreme Court under section 50(4AA)(b)(vi), the Supreme Court must exercise its powers and functions under this section in relation to the legal practitioner as if disciplinary proceedings had been instituted under subsection (1) by the Law Society against the legal practitioner in respect of the findings of professional misconduct."; and

- (c) by inserting in subsection (5) before paragraph (a) the following:

"(aa) the Supreme Court may, without further inquiry, accept and act on a finding of the Complaints Committee referred to the Supreme Court by the Complaints Committee under section 50(4AA)(b)(vi);".

17. Person not to practise while disqualified

Section 52A of the Principal Act is amended –

- (a) by omitting from paragraph (a) "50(4)(a)(iii)" and substituting "50(4AA)(b)(iii)"; and
- (b) by omitting from paragraph (b) "50(4)(a)(iv)" and substituting "50(4AA)(b)(iv)".

18. New Part

The Principal Act is amended by inserting after section 101A the following:

"PART VIII – MANAGERS

"101B. Definition

"In this Part –

'manager' means a person appointed under section 101C to manage the practice of a legal practitioner.

"101C. Appointment of manager

"(1) If, in the opinion of the Law Society –

- (a) a legal practitioner has or may have failed to account for trust property;
- (b) a person is unable to obtain payment or delivery of property from a legal practitioner because the legal practitioner –
 - (i) is mentally or physically infirm;
 - (ii) is bankrupt, has applied to take the benefit of any law for the relief of bankrupt or insolvent debtors, has compounded with his or her creditors or has made an assignment of his or her remuneration for their benefit;
 - (iii) is in prison;
 - (iv) has died;
 - (v) has abandoned his or her practice as a legal practitioner;
 - (vi) has had his or her name removed from the Roll of Legal Practitioners otherwise than at his or her own request; or
 - (vii) ceases to hold a practising certificate or has had his or her current practising certificate suspended by the Complaints Committee or the Supreme Court,

the Law Society may, in writing, appoint a person to manage the practice of the legal practitioner.

"(2) The Law Society must not appoint a person to be a manager under subsection (1) unless –

- (a) the person holds a current unrestricted practising certificate or a current interstate practising certificate that corresponds to an unrestricted practising certificate; and

Legal Practitioners Amendment Act 2001

- (b) the terms and conditions of the appointment of the person, including the remuneration of the person as manager, have been agreed to between the Law Society and the person.

"101D. Manager employer of all persons who work in legal practitioner's practice

"On the appointment of a manager of the practice of a legal practitioner –

- (a) the manager is to be taken to be the employer of each person employed by the legal practitioner in respect of the practice; and
- (b) a person (including a legal practitioner) who is employed by the legal practitioner in respect of the practice may not act in respect of the practice otherwise than as an employee of the manager.

"101E. Powers of manager

"(1) Subject to this section, a manager of the practice of a legal practitioner may –

- (a) act as a legal practitioner on behalf of the existing clients of the practice;
- (b) accept instructions from, and act as a legal practitioner on behalf of, new clients;
- (c) dispose of and otherwise deal with any property in relation to the legal practitioner;
- (d) exercise any right in the nature of a lien over property held by the manager on behalf of the clients of the practice;
- (e) incur expenses that are reasonably related to the conduct of the practice; and
- (f) do all things necessary and convenient to be done for or in connection with exercising a power specified in paragraph (a) to (e) inclusive.

"(2) A manager must exercise his or her powers in a manner that is in accordance with the terms and conditions of his or her appointment.

"(3) A manager must not exercise his or her powers in relation to the affairs of a client of the practice unless the client consents to the manager doing so.

"101F. Acts of manager to be taken to be acts of legal practitioner

"(1) An act of a manager of the practice of a legal practitioner is, for the purposes of any proceeding or transaction that relies on the act, to be taken to have been done by the legal practitioner.

"(2) Subsection (1) does not impose any personal liability in relation to an act done by the manager of a legal practitioner's practice on the legal practitioner.

"101G. Management continues under receivership

"(1) If a manager is appointed to manage the practice of a legal practitioner and, after the appointment of the manager, a receiver is appointed under Part IX in respect of a legal practitioner's property, the manager may continue to exercise his or her powers under this Part in respect of the practice.

"(2) The manager must comply with the lawful directions given by the receiver in connection with the conduct of the practice.

"101H. Manager to report to Law Society

"(1) A manager must report to the Law Society on the management of the practice he or she is managing –

- (a) at the times fixed by the manager's instrument of appointment; and
- (b) as otherwise requested by the Law Society.

"(2) A report under subsection (1) is to include the information that the Law Society specifies is to be included in the report.

"(3) When, on the termination of the management of the practice of a legal practice by a manager, the manager gives his or her final report to the Law Society, the manager must at the same time give to the Law Society a copy of all of the records of the manager relating to the management of the practice.

"101J. Accounts of practice under management

"(1) A manager must maintain the accounts and records of the practice that he or she manages –

- (a) separately from the management of the practice before the appointment of the manager;
- (b) separately from any other practice that the manager is managing; and
- (c) in the manner prescribed by the Regulations.

Legal Practitioners Amendment Act 2001

"(2) In prescribing the manner in which the manager must maintain the accounts and other records of the practice, the Regulations may prescribe the manner in which the accounts and records are to be kept in relation to the income accrued and expenses incurred by the manager.

"(3) The Regulations may also prescribe the purposes for which the manager may expend the income of the practice.

"101K. Payment of money held by manager on termination of management of practice

"On the practice of a legal practitioner ceasing to be under management, money held by the manager of the practice in connection with the practice, but after payment by or to the manager of all lawful expenses and costs of the practice and the management of the practice, is the property of the legal practitioner.

"101L. Manager may be reimbursed for damages

"If a person recovers damages or costs against a manager, or an employee or agent of a manager, for an act or omission done in good faith for the purpose of managing the practice of a legal practitioner in accordance with this Part and the manager's instrument of appointment, the Law Society must reimburse the manager for the amount of those damages or costs.

"101M. Payment of expenses of manager

"(1) If a manager incurs expenses in managing the practice of a legal practitioner that are not able to be paid to the manager out of the receipts of the practice, the Law Society must pay to the manager an amount equal to the amount of those expenses.

"(2) If the Law Society pays an amount to a manager under subsection (1), the Law Society may recover the amount from the legal practitioner as a debt due and owing to the Law Society by the legal practitioner.

"(3) An amount recovered by the Law Society under subsection (2) is to be paid into the Fidelity Fund.

"101N. Protection of Law Society and manager from liability

"Neither a person who is or was the manager of the practice of a legal practitioner nor the Law Society is liable for any loss incurred by the legal practitioner as a result of an act done or omitted to be done by the manager or Law Society in good faith when exercising or purporting to exercise a power, or performing or purporting to perform a function, under this Act or the instrument of appointment of the manager for the purpose of conducting the practice."

19. Transitional: membership of panel and Complaints Committee

(1) In this section –

"former Principal Act" means the Principal Act as in force immediately before the commencement of this Act;

"Principal Act" means the Principal Act as in force on the commencement of this Act.

(2) The person who immediately before the commencement of this Act was the Chairperson of the Complaints Committee continues, on that commencement, to be the Chairperson of the Complaints Committee until the term of that person as Chairperson would, but for that commencement, have expired.

(3) On the commencement on this Act, the Chairperson is to be taken to be a member of the panel appointed under section 48A(2)(a) of the Principal Act and, subject to subsection (2), the Principal Act applies in relation to the Chairperson as if he or she were appointed under that Act.

(4) The person who immediately before the commencement of this Act was the Deputy Chairperson of the Complaints Committee continues, on that commencement, to be the Deputy Chairperson of the Complaints committee until the term of that person as Deputy Chairperson would, but for that commencement, have expired.

(5) On the commencement on this Act, the Deputy Chairperson is to be taken to be the Deputy Chairperson appointed under section 48AB and, subject to subsection (4), the Principal Act applies in relation to the Deputy Chairperson as if he or she were appointed under that Act.

(6) On the commencement of this Act, a person who immediately before that commencement was a member of the Complaints Committee appointed under section 48(3)(a) of the former Principal Act holds office as a member of the panel appointed under section 48A(2)(c) of the Principal Act until the term of that person as member of the Complaints Committee under the former Principal Act would, but for that commencement, expire.

(7) On the commencement of this Act, a person who immediately before that commencement was a member of the Complaints Committee appointed under section 48(3)(b) of the former Principal Act holds office as a member of the panel appointed under section 48A(2)(d) of the Principal Act until the term of that person as member of the Complaints Committee under the former Principal Act would, but for that commencement, expire.

(8) On the commencement of this Act, a person who immediately before that commencement was a member of the Complaints Committee

Legal Practitioners Amendment Act 2001

appointed under section 48(3)(c) of the former Principal Act holds office as a member of the panel appointed under section 48A(2)(e) of the Principal Act until the term of that person as member of the Complaints Committee under the former Principal Act would, but for that commencement, expire.

(9) Subject to subsections (6), (7) and (8), on the commencement of this Act, the Principal Act applies in relation to each member of the panel holding office under those subsections as if the member were appointed to office under that Act.

(10) Nothing in this section limits the power of the Minister to appoint other members of the panel under section 48A of the Principal Act or the power of the Chairperson to select the members to constitute the Complaints Committee under section 48AH of the Principal Act.

20. Transitional: hearing of appeals and inquiries into charges

(1) In this section –

"former Complaints Committee" means the Complaints Committee as established and constituted under the Principal Act as in force immediately before the commencement of this Act.

(2) On the commencement of this Act, if the hearing of an appeal or inquiry into a charge by the former Complaints Committee is not determined –

(a) the Principal Act as amended by this Act applies in relation to the appeal or inquiry as if the appeal had been made or the charge laid under that Act; and

(b) to avoid doubt – the Complaints Committee as established and constituted under the Principal Act as amended by this Act is to continue to hear and determine the appeal or the inquiry.

(3) Any proceeding that, immediately before the commencement of this Act, was or might have been commenced or brought by or before the former Complaints Committee, or any proceeding commenced or brought by or before the former Complaints Committee that was in progress immediately before that commencement, may on that commencement be commenced, brought, continued or otherwise dealt with by or before the Complaints Committee as established and constituted under the Principal Act as amended by this Act and that Act applies to the proceeding as if the complaint, charge or appeal the subject of the proceeding had been made or laid after that commencement.

(4) Any proceeding that, immediately before the commencement of this Act, was or might have been commenced against a decision of the former Complaints Committee, or any proceeding commenced against a decision of the former Complaints Committee that was in progress immediately before that

Legal Practitioners Amendment Act 2001

commencement, may on that commencement be commenced, brought, continued or otherwise dealt with under the Principal Act as amended by this Act and that Act applies to and in relation to the proceeding as if the decision the subject of the proceeding had been made after that commencement.
