

Blueprint heralds launch of national legal structure

On July 2, the Executive Officer Jim Campbell and I attended the Law Council of Australia's policy meeting on the structure of the legal profession.

The resulting blueprint is the first — but by no means the last — in a series of documents which will ultimately determine the formation and operation of a national legal profession.

Divided into three main categories — Admission to Practice, Regulation of Practice and Client Protection — the blueprint offers clear guidelines on every topic that a practising lawyer is likely to encounter over the course of his or her career.

Mutual recognition concerns are dealt with in a 10-part set of principles which seeks to put all lawyers around Australia on an equal footing. It includes sections on pre-admission practical legal training, post admission supervised work and other legal education considerations.

The Law Council supports the establishment of a National Appraisal and Standards Committee to, among other things: accredit Australia's law schools and faculties; assess Australian law courses' compliance with Uniform Admission Rules; and to develop, administer and report on the additional qualifications required for overseas applicants to gain admission in Australia.

There is a wide scope of matters included under the professional conduct and ethical rules. In the issue of practising certificates, The Law Council supports the issue of two types: one for a "barrister and solicitor" and one for "bar-

risters". A national specialist accreditation scheme will be developed and will support the creation of a national body comprising representatives of The Law Council's constituent bodies.

There are also sections on incorporation and limitation of liability plus the practise of foreign law in Australia.

The blueprint has not accepted multi-disciplinary partnerships as an option for the legal profession until the Law Council and government can work further on the complex policy issues raised by such partnerships.

In the area of trust accounting obligations and fidelity funding, model legislation is likely to be drafted to cover the fundamental areas of accountability for money,

record keeping and fidelity funding. A working party has been established and is developing detailed proposals.

The Law Council is mindful that the increasing costs of professional indemnity insurance may cause lawyers to cease practice, which may have an anti-competitive effect in direct contrast with what the blueprint will strive to achieve. The requirement for compulsory professional indemnity insurance may therefore need to be reviewed in the future.

This is a very brief overview of a comprehensive document that I would urge all members to become familiar with in the march towards a national profession. Copies can be obtained from the Society.

Reviewed procedures for reinstatement of companies

The Australian Securities Commission (ASC) recently reviewed the procedures for the reinstatement of defunct companies and has issued a policy statement setting out the new procedures.

A company which has been deregistered for failing to lodge annual returns, but was in fact in operation or conducting business, may apply to the ASC for administrative reinstatement under s574(2) Corporations Law. The ASC will consider an application upon being satisfied that the original deregistration was the result of an ASC error. The applicant will be required to lodge all outstanding annual returns and satisfy the ASC that the company was conducting business when it was struck off, is still conducting business and that it would be solvent if reinstated. These matters must be addressed in a statutory declaration.

Where a company has been deregistered and the ASC was not in error or it is not possible to lodge all outstanding annual returns, an aggrieved person may still apply to the court for an order reinstating the company under s574(3) Corporations Law.

ASC Policy Statement No. 83 contains detailed information about the procedures necessary to make an appropriate application to the ASC or the court. This policy statement is published in volume 2 of the 1994 edition of the ASC digest. A copy of the policy statement is also available from The Law Society offices. For details phone 43 0900.