

LEGAL PROFESSION (AMENDMENT) BILL 1992

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Legal Profession Act 1987 as a consequence of the decision of the New South Wales Court of Appeal in *Knaggs v. The Solicitors' Statutory Committee & Anor* (No. 2) delivered on 26 August 1992.

In *Knaggs' Case*, the Court of Appeal found that an order of the Solicitors' Statutory Committee under the former Legal Practitioners Act 1898 was a nullity because the Committee, in contravention of that Act, was constituted by a different membership at the time of pronouncement of its determination from its membership at the time of making its determination. (The Legal Practitioners Act 1898 was repealed by the Legal Profession Act 1987 on 1 January 1988).

The proposed Act:

- (a) validates determinations and orders of the Solicitors' Statutory Committee given under the former Act in the circumstances described above (except for the determination and order the subject of *Knaggs' Case*); and
- (b) amends the Legal Profession Act 1987 so as
 - (i) to enable the Legal Profession Standards Board and the Legal Profession Disciplinary Tribunal to be differently constituted at the time of pronouncement of a determination from the way it was constituted the time of making the determination; and
 - (ii) to validate determinations and orders that would, by application of the decision in *Knaggs' Case*, be invalidated.

The proposed Act does not change the requirements of the Legal Profession Act 1987 that govern the constitution of such a body between the time at which it commences a review or hearing and the time at which its determination following the review or hearing is made.

Legal Profession (Amendment) 1992 [Act 1992 No. 78]

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Legal Profession Act 1987.

Schedule 1 amends the Legal Profession Act 1987 to achieve the object described above.
