

LEGAL PROFESSION UNIFORM LAW APPLICATION LEGISLATION AMENDMENT BILL 2015**Bill introduced on motion by Ms Gabrielle Upton, read a first time and printed.****Second Reading****Ms GABRIELLE UPTON** (Vaucluse—Attorney General) [11.53 a.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Legal Profession Uniform Law Application Legislation Amendment Bill 2015. This bill brings the idea of a seamless, unified national legal profession market—first articulated more than two decades ago—closer to reality. The journey to get to this important point highlights the strong vision required to developing, and challenges to delivering, good public policy. It is a triumph of persistence from Federal and State governments, and many stakeholders that leads me to stand here today to deliver my second reading speech in the New South Wales Legislative Assembly.

While getting to this point has taken more than two decades and several Attorneys General, Federal and State—and of different political complexions—compelling public policy has won and our legal services market, consumers and lawyers will reap the benefits. Given the significance of what we are doing in this House today, I seek the indulgence of members to reflect for a short time on the path that led me here. The seeds of these reforms were first sowed in the seminal Fred Hilmer report in 1993. The report argued for the extension of competition policy principles to the legal profession with the objective of removing constraints on the development of a national market in legal services and developing other efficiency enhancing reforms.

It took the Law Council of Australia's Blueprint for the Structure of the Legal Profession in 1994 to articulate the concept more fully. The blueprint sought to ensure that national competition policy principles were applied to the legal profession; that lawyers would be able to practice law throughout Australia; that the legal profession's right to self-regulation was preserved; and that there was a uniform system of regulation of the legal profession. The reforms were progressed further through the Council of Australian Governments in 2004 and later in 2009. However, it took the New South Wales and Victorian governments, together with the legal profession, to bring the concept to reality.

I became the Attorney General of New South Wales less than two months ago and it fell to me to give the reforms that very last push. I was determined. I had observed these reforms over the period of my career outside of politics. I had watched from afar the start-stop nature of the work for the reforms; I had watched the on-off nature of the will to push these reforms forward. That is what brings us to this day. It is an important day as, over a 29-year history, it brings good public policy to New South Wales.

Given that the legal profession is a key contributor to and enabler of the economy, the regulation of the profession impacts us all. Unfortunately, the market for legal services across Australia has been impeded by archaic and artificial barriers for far too long. Consumers, lawyers and law firms between Bass Strait and Byron Bay have been forced to go through lots of red tape, which has been based on history, not on common sense, and not focused on the consumer. But those days are finally coming to an end. The New South Wales and Victorian governments are working together with the legal profession to make regulations simpler and better. We are the first States to adopt the uniform legal profession reforms.

I was very pleased to meet with my Victorian counterpart in Canberra last Thursday and Friday and to thank him for his assistance on these reforms. It is with Victoria's support—although a government of a different complexion—that we are bringing the reality of these reforms to more than 70 per cent of the legal profession in Australia. These reforms are necessary and long overdue. They will slash red tape by simplifying and standardising regulatory obligations while still providing a significant degree of local involvement in the performance of the regulatory functions of the Bar and the Law Society. The shorter, less complex legislation will mean reduced compliance costs and will enable lawyers to focus on providing legal services.

Consumers will enjoy better protection by having the same protections, rights and remedies across jurisdictions in New South Wales and Victoria. They will have access to new low-cost informal ways to resolve service complaints with law practices. The legislative duty on law practices to charge fair and reasonable costs, and new streamlined cost disclosure requirements will foster better communication and lead to fewer disputes. Also, billing practices will be strengthened to ensure that principals of law firms are responsible for the legal costs charged by their law practices.

Importantly, the uniform law scheme preserves a system of co-regulation where the profession is involved in critical areas of regulatory responsibility. Under the uniform law the legal profession will have a direct role in formulating the regulatory standards through nominating members of the Legal Services Council and the Admissions Committee.

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[*Business interrupted.*]

BUSINESS OF THE HOUSE

Suspension of Standing and Sessional Orders: Bills

Mr ANTHONY ROBERTS (Lane Cove—Minister for Industry, Resources and Energy) [12.00 p.m.]: I move:

That standing and sessional orders be suspended at this sitting to amend the resolution of 26 May 2015 to postpone the resumption of the adjourned debate on the Electricity Network Assets (Authorised Transactions) Bill 2015 and cognate bill until 4.00 p.m.

Mr MICHAEL DALEY (Maroubra) [12.00 p.m.]: Whilst the Opposition welcomes the additional four hours to prepare for debate on a bill that was foisted upon it, this is emblematic of what is unfolding under this Government—a government that has been characterised for four years, but particularly under the premiership of the member for Manly, as being not what it seems. Yesterday the Electricity Network Assets (Authorised Transactions) Bill 2015 was foisted upon this House with great urgency—it was the most important transaction in the history of this State and could not wait another minute. Yet today some disorganisation—which is typical of this Government—has descended upon the Parliament. Someone in the Government—I am sure it is not the Leader of the House as he is an organised man—is not ready to proceed.

Dr Geoff Lee: He is a very good-looking man too.

Mr MICHAEL DALEY: I do not acknowledge that interjection. The bill that was presented to the House yesterday raises more questions than it has details. It would not surprise me if the Government is not ready for the debate and so has delayed it for four hours in order to devise a way to resist the logic that will be forced upon it by the Opposition. We appreciate the extra four hours—which I am sure is not an act of charity but an act of disorganisation. That is completely in keeping with the way this Government rolls. It is embodied in the bill and is typified by the comedy that is now unfolding in the House.

Mr ANTHONY ROBERTS (Lane Cove—Minister for Industry, Resources and Energy) [12.02 p.m.], in reply: I thank the member for Maroubra for his endorsement. This is an excellent opportunity for the Opposition. Everyone has known that the Government would introduce this legislation—the subject has been debated on television, in committees and elsewhere. In fact, the Government was delivered a very strong mandate for its introduction at the last election. I think an extra four hours is more than reasonable for those who asked for additional time to examine the bill.

Mr Michael Daley: We asked yesterday and you said no.

Mr ANTHONY ROBERTS: Yesterday I said no but I thought about it overnight and I asked myself how I could assist. I decided that in this very busy Parliament we will give the Opposition an extra four hours to consider the bill. Some might call it weakness on my part, but for me it is very much an act of

charity—

Mr Chris Patterson: Compassion.

Mr ANTHONY ROBERTS: And compassion, sensitivity and generosity. I thank the member for Maroubra for supporting the motion.

Question—That the motion be agreed to—put and resolved in the affirmative.

Motion agreed to.

LEGAL PROFESSION UNIFORM LAW APPLICATION LEGISLATION AMENDMENT BILL 2015
Second Reading

[Business resumed.]

Ms GABRIELLE UPTON (Vaucluse—Attorney General) [12.03 p.m.]: The uniform law scheme partially commenced last year with the passage of the application Act in both the New South Wales and Victorian Parliaments. Regulatory bodies—the Legal Services Council and the Commissioner for Uniform Legal Services Regulation—have been set up to draft new uniform rules to sit under the uniform law and oversee the transition period. This transition period is now drawing to a close as the uniform law is ready to commence operating. The bill makes technical and transitional amendments to the application Act to prepare for full commencement, and makes consequential amendments to other legislation to allow for the repeal of the Legal Profession Act 2004.

I turn now to the specific provisions of the bill before the House. Schedule 1 to the bill makes amendments to the application Act. Many of these are technical and minor amendments. It makes corrections to the local regulatory authorities that are designated for different purposes. It adds a power for the admission board to make rules, including with respect to its students-at-law program, and to delegate some of its functions. It also makes provision for the Law Society Council, Bar Council and the Legal Services Commissioner to delegate their functions to particular individuals and entities. These provisions will ensure that the professional associations will be able to continue to carry out professional discipline and complaints handling functions, under a delegation from the Legal Services Commissioner of New South Wales.

A number of provisions of the application Act are proposed to be removed where these would duplicate matters that will be covered by the uniform rules. Schedule 1 also provides for regulation-making powers in relation to corporate in-house counsel. The uniform law will introduce new practising requirements for government and in-house lawyers. The new provisions for in-house lawyers match provisions already in the application Act for government lawyers to ensure that appropriate transitional arrangements can be put in place so that they will be able to continue practising on commencement of the uniform law. The more substantive amendments made by schedule 1 relate to costs assessment processes. The Supreme Court has reviewed the costs assessment process and recommended improvements, a number which adopt proposals recommended by the Chief Justice's review of the costs assessment scheme, which was finalised late last year.

The amended provisions will align costs assessment processes more closely with old processes, particularly in relation to the assessment of costs ordered by a court or tribunal. The uniform law does not include any provision for assessment of these costs. The amended part 7 clarifies the basis for assessment of these costs. Additionally, the amendments also clarify avenues of appeal from costs assessments and the nature of appeals, which will be by way of rehearing, with new evidence by leave of the court. The amendments make clear that the position of Manager, Costs Assessment is to be filled by a Supreme Court registrar and is an officer of the Supreme Court. This follows the de facto

practice of the court in relation to that role.

Schedule 1 also makes provision for a transitional period for solicitors' mortgage practices and managed investment schemes. These will be restricted under the uniform law, so the amended application Act will provide a three-year transition window for these practices. Victoria has also applied a three-year transitional period for existing managed investment schemes. In this period the Legal Services Council will engage with the profession to examine the nature of the arrangements that are in place, and to determine how best to regulate such services within the scope of the uniform law's restrictions. Finally, schedule 2 to the bill makes consequential amendments to other legislation. These are necessary to provide for the commencement of the uniform law and the repeal of the old Legal Profession Act 2004. The amendments involve replacing references to the old Act with references to the new legislation as appropriate, as well as provisions that ensure that regulatory requirements on lawyers in New South Wales are aligned on the repeal of the Legal Profession Act and Legal Profession Regulation.

Given the complexity of these reforms, I note that it may be necessary to bring further amendments before the Parliament in future to address any post-implementation issues that may be identified, and that is appropriate. Additionally, while this bill includes a number of provisions that adopt recommendations made by the Chief Justice's review of the costs assessment scheme, a number of others remain under consideration, to be progressed at a later time. The job is not finished. We are only one step closer to, but remain short of, a common legal market in Australia. We need a common legal market across Australia. New South Wales and Victoria have done the hard yards. We have built the infrastructure; we have invested in it. We have laid the foundation for a national legal market that I implore the other States and Territories to join. All that is needed from the other States and Territories is the will to reform.

As I mentioned earlier, I met with my State and Territory counterparts last week in Canberra. I met with the Commonwealth Attorney General. I implored them to get on board with New South Wales and Victoria. I have great faith that they will see the sense of these changes. Again, the focus of these reforms is to better legal services for our community and for consumers of those services, and to deliver a cleaner, faster system and one with less red tape for those who purvey legal services across our community.

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The Victorian Attorney General and I will continue to encourage other States and Territories to sign up to these reforms so that the benefits that will be felt in New South Wales and Victoria can be enjoyed on a national basis. As I mentioned before, the development and delivery of the uniform law scheme has been a 20-year journey. I acknowledge the significant contributions made by stakeholders in New South Wales, particularly the Bar Association, the Law Society, the Office of the Legal Services Commissioner, the Legal Profession Admission Board and the Supreme Court. These organisations have tirelessly devoted significant efforts and resources over many years to making these reforms a reality.

I also acknowledge specifically the work of the Legal Services Council and Commissioner for Uniform Legal Services Regulation, with whom I have met on a number of occasions. They have worked extremely hard over the past few months, particularly since I have been Attorney General, to ensure that the uniform rules, necessary to supplement the uniform law, were ready in time for commencement. At this point I have signed off on those rules. My Victorian counterpart has done so also, and I believe they were passed by the Legal Services Council last night when it met. The commencement of a new regulatory framework will bring its own challenges. However, there is a vision that after 20 years it will become a reality.

While many aspects of the existing regulatory system will remain, there will be differences. I recognise that it may take some time for the new system to be bedded down. However, I trust that all those involved in the implementation of the new uniform scheme will do their best to navigate in good faith through this transitional phase of the uniform scheme. In closing, I say again that this bill represents the final legislative piece required to prepare New South Wales for the reforms. This is a significant step that cannot be overstated in the new regulation of legal services across New South Wales and Victoria. It will help improve the administration of justice in New South Wales, and I am very proud to be the New South Wales Attorney General who will take this to the finishing line. I commend the bill to the House.

Debate adjourned on motion by Mr Guy Zangari and set down as an order of the day for a future day.