

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS  
ATTORNEY-GENERAL'S DEPARTMENT

**Program 1.1**

**Question No. 118**

**Senator Boyce asked the following question at the hearing on 18 October 2011:**

Under the Government's push to regularise the legal profession, the Federal Government, through the COAG process, is empowered with national regulations of the Legal Profession (at least so far as Queensland, New South Wales and Victoria are concerned).

- Is it intended for there to be a federal body empowered to regulate the legal profession?
- If so, is it envisaged that there will be set up and running costs associated with this national regulator?
- What are the anticipated set up costs?
- Who will be responsible for these costs?
- Is it expected that any of these costs are to be borne by the current or future members of the legal profession?
- Will there be recurring costs of this regulatory body?
- If so, what are the estimated annual running costs?
- How will these costs be funded?
- Is it intended that current practitioners will be required to pay increased practicing certificate fees to cover these running costs?
- If so, what are these costs estimated at?
- If not, how will these recurring costs be met?
- Is it the position that a fee of at least \$750.00 will be imposed on law graduates applying for practicing certificates?
- How much is expected to be raised to cover these recurring costs?
- If law graduate members decrease, so that the annual recurring costs of regulating body are not met by the charge on practicing certificates, how will the shortfall be made up?
- Is the new regulatory regime intending for the large law firm group (LLFG) to have only one trust account?

- If that trust account is in one where trust monies are received in different states – how is it intended for the legal aid funds (% of interest on trust funds) to be properly accounted for in respect of each state.
- In relation to the National Ombudsman that will be created under the reforms; how will that be paid for?
- Who will pay for the National Ombudsman?
- How much will it cost?
- Where will the secretariat be located?
- Is this not just another layer of bureaucracy which will increase costs which eventually be passed onto solicitors' clients?

**The answer to the honourable senator's question is as follows:**

National Legal Profession Reform will involve the passage by Victoria of model national legal profession legislation which in turn will be adopted by the Parliaments of the other participating States and Territories. The legislation will create a National Legal Services Board and a National Legal Services Commissioner. The Board and Commissioner will both be State entities and will be located in New South Wales. There will not be a Commonwealth legal profession regulator.

The establishment costs of the Board and Commissioner are estimated to be \$1.69 million. The Commonwealth has agreed to fund the establishment costs. The estimated ongoing running costs of the Board and Commissioner are \$4.027 million per annum. This will be met from revenue generated through the Board's administration of the admission of legal practitioners. It is expected that admission costs will be no more than \$750. The Board will not receive revenue from practicing certificates, the price of which will be determined by individual States and Territories. National legal profession reform will not require legal practitioners to pay increase practicing certificate fees to cover the running costs of the Board.

The Board will be responsible for developing a viable and sustainable budget for its operation into the future, which would be expected to include measures to address any variations in the number of law graduates seeking admission as legal practitioners. The Board's budgets will be overseen by a committee consisting of the Attorneys-General of each of the participating jurisdictions in consultation with the Commonwealth Attorney-General.

Simplified and uniform regulation should increase the competitiveness of law practices by removing additional layers of bureaucracy. ACIL Tasman estimates the net reduction in regulatory costs from the proposals to be between \$16.9 million and \$17.7 million (based on all jurisdictions participating). The participating jurisdictions (NSW, Victoria, Queensland and the Northern Territory) represent approximately 85% of legal practitioners in Australia. Accordingly, the implementation of the reforms in those jurisdictions will generate a significant reduction in regulatory costs.

After consultation with stakeholders, the Council of Australian Governments (COAG) agreed to remove provisions in relation to a single national trust account and a National Legal Profession Ombudsman from the proposed national legal profession legislation.