

PUBLIC NOTARIES AMENDMENT BILL 2004

EXPLANATORY MEMORANDUM

Currently the *Public Notaries Act 1979* requires the Attorney General to report to the Chief Justice on the suitability of an applicant for appointment as a Notary and the need for a further appointment in the district in which the applicant is practising. This procedure has proved cumbersome and is thought unnecessary and inappropriate insofar as it involves the Attorney General in the process. The Bill proposes to simplify this procedure by transferring the functions of the Attorney General to the Legal Practice Board, which will then report directly to the Chief Justice. The Legal Practice Board is far better placed to comment on the suitability and fitness of an applicant and the need for a further appointment

- Clause 1.** Contains the short title.
- Clause 2.** Provides that the commencement date is to be fixed by proclamation.
- Clause 3.** Provides that the amendments are to the *Public Notaries Act 1979* (WA) (“the Act”).
- Clause 4.** Amends section 3 by deleting the definitions of “section” and “subsection” as the *Interpretation Act 1984* provides for the appropriate construction of these terms.
- Clause 5.** Amends subsection 6(4) of the Act to insert “metropolitan region”, as defined under the *Metropolitan Region Town Planning Scheme Act 1959* (WA), in place of the words “Fremantle or Perth district”. This is to provide greater clarity.
- Clause 6.** Inserts new section 7A, which needs to be read with Clause 7 of the Bill, which repeals subsections 10(1) and (4) of the Act. The new section provides that the Chief Justice may request the Legal Practice Board to provide a report to him or her on the suitability or fitness of an applicant for appointment and as to the need for a further appointment. Currently these functions are conferred on the Attorney General under subsections 10(1) and (4). The Board will be required to report to the Chief Justice on each question specified in the request. The Board is to be given the power to hold an inquiry into any such question and to consult any body of notaries in the State. The Board’s powers of inquiry under the *Legal Practice Act 2003* (WA) are to apply to any inquiry it conducts under the Act.
- Clause 7.** Repeals subsections 10(1) and (4) of the Act.