



Speech by

Hon. R. WELFORD

MEMBER FOR EVERTON

Hansard 22 June 2001

MINISTERIAL STATEMENT

Professional Misconduct Rules, Lawyers

Hon. R. J. WELFORD (Everton—ALP) (Attorney-General and Minister for Justice) (9.39 a.m.), by leave: Yesterday our government stepped in to change professional conduct rules for Queensland lawyers to provide stronger protection for legal consumers. We took this action in the interests of the more than 2,200 Queenslanders who have funds invested in solicitor runout mortgage investment schemes for loans taken out before December 1999. Our action will provide a strong incentive for lawyers who are operating these schemes now or may have operated these schemes in the past to notify their indemnity insurer before 30 June of any suspect loans. Those who fail to do so will face charges of professional misconduct and are liable to be struck off.

This step was not taken lightly. It followed advice to the government from the Australian Securities and Investments Commission, ASIC, that there could be a high level of default on loans with runout mortgage investment schemes. An exemption from regulation by ASIC under Corporations Law for solicitor mortgage investment schemes was removed in December 1999 following a number of scheme failures. The runout schemes must comply with Corporations Law or wind up by 31 October this year. In February this year ASIC commenced a review of solicitor mortgage investment schemes throughout Australia. It established a national team for this exercise and engaged insolvency experts to conduct the review. In March a liquidator was appointed to the contributory mortgage scheme operated by Triscott and Associates through its nominee company, Lex Nominees Pty Ltd. It identified this company as having outstanding loans estimated to be in the order of \$36 million.

Three weeks ago ASIC advised me that its audit of the runout schemes in Queensland, which is still under way, had indicated that there remain approximately 2,200 investors in more than 209 loans valued at around \$123 million. ASIC was concerned that there could be a very high level of default on these loans. Many Queenslanders have invested their life savings or superannuation nest eggs in these investment schemes. Our government has been concerned to do everything it can to ensure these people are not left high and dry should these schemes fail.

After advice from ASIC, I began a series of meetings with the Queensland Law Society and its indemnity insurer. I also called a meeting of the Queensland operators of these runout mortgage investment schemes. From these meetings it became clear to me that unless our government stepped in nothing would be done, or at best what might be done would be too little too late. I was particularly concerned that after 30 June this year there would be no professional indemnity insurance coverage for any lawyer-operated mortgage investment scheme. This meant investors faced the prospect of not having access to their lawyer's indemnity insurance if a loan failed due to the lawyer's negligence. The action taken by our government to change professional conduct rules means that if a loan fails and negligence is found to be the cause of that failure investors will now have access to the indemnity insurance for all loans notified prior to 30 June this year.

My negotiations have drawn cooperation from the Queensland Law Society and its indemnity insurer in our efforts to strengthen the position of these investors. In addition to the measures I have outlined, the Queensland Law Society has contracted audit teams to attend each of the mortgage practices meetings over the next week to identify those whose schemes may be at risk and ensure proper notification is given to the indemnity insurer. Further, negotiations with the indemnity insurer will now mean that the insurer will accept notification by the Law Society on behalf of any practitioner if

necessary and honour that notification. I want to assure investors in these mortgage schemes that our government will be maintaining close contact with both ASIC as the national regulator and the Queensland Law Society and that we will continue to do everything in our power to ensure scheme operators put investors first.
