

## What are Barristers?

The Bar has a long history and barristers have always played a vital role in the administration of justice and in the functioning of the legal profession in Queensland and elsewhere.

Barristers are lawyers who provide specialist services as advocates before Courts and Tribunals. They are also consultant legal advisers.

When they are admitted to practice, barristers are sworn in as 'Officers of the Court'. As such they are integral to Australia's three part system of government comprising the legislative, executive and judicial branches. Barristers, through their oath to the Court, are bound to play a fundamental role in maintaining the rule of law.

### Independence

Barristers in Queensland have always practised as independent legal counsel. Their independence is a unique feature of their work. As barristers, they choose not to be partners or to form any business association which might compromise, or even appear to compromise, that independence. Although most barristers group themselves together for convenience in offices known as 'Chambers', and while they may gain enormously from the general expertise of their colleagues in these chambers, they practise as individuals. No shared financial interest in fees or profits connects them. Every barrister is solely responsible for his or her own work.

The choice of working as sole practitioners avoids the conflict of interests which can arise from partnerships and employment. It also means that the full range of the Bar's expertise is available to anyone who needs it. No client is disadvantaged by being unable to brief a particular barrister because that barrister is in partnership with the opponent's lawyer.

### Specialist services

Barristers provide specialist services and experienced advocacy skills to represent their clients before Courts and Tribunals. They also undertake a variety of other work, and provide important functions as specialist advisers, draftsmen and negotiators. They represent clients in alternative dispute resolution, and act as mediators, arbitrators, referees or case appraisers.

### QCs and SCs

Queen's Counsel (QC) and Senior Counsel (S.C.) comprise about 10 per cent of the practising Bar. They are barristers of seniority and eminence within their areas of practice. Barristers apply to 'take silk' when in their judgment their standing in the profession will sustain the changed status. It is a career decision similar to many other occupations, for instance an academic who applies for promotion to a professor. In Queensland, Queen's Counsel were appointed by the Governor-in-Council upon advice from the Chief Justice of Queensland. In 1994, the Bar Association established its own equivalent rank of Senior Counsel (S.C.) who are appointed by the Chief Justice after an exhaustive process of consultation with members of the profession and the judiciary. Queen's Counsel and Senior Counsel appear as advocates at trial or on appeal and advise in particularly complex or difficult cases. The rule which once required them to appear only with a second counsel was abolished many years ago. Nevertheless, they do not usually draft court pleadings or perform routine advisory work, and are often instructed in addition to other counsel because of the importance or the complexity of the case.

### General expertise and areas of practice

Many barristers practise widely across jurisdictions and before a variety of Courts and Tribunals. The Areas of Practice

Table is an indication of a preferred specialty and not a limitation on the legal services which a particular barrister can provide. The information has been supplied by the barrister and may indicate special experience or expertise, or perhaps, a particular developing interest. If a client desires to instruct a particular barrister in a type of matter, or before a Court or Tribunal which is not listed in the table, it should not be presumed that the barrister is not able to practise in that area or before that Court or Tribunal. An inquiry should always be made direct to the barrister concerned. Further inquiry should then be made of the barrister regarding qualifications, experience and expertise.

### Access to barristers

In recent decades, generally speaking, barristers provided their services to clients only after referral by a solicitor. In 1995 the Rules of the Bar Association of Queensland were altered to allow anyone in need of legal advice to contact barristers directly, but only for work which barristers may undertake according to their Rules. However, the barrister then has an obligation to inform their client whether or not the case requires the involvement of a solicitor. Barristers must also inform their client if the legal service they seek is not barristers work. Barristers cannot pick and choose their work if it is referred by a solicitor and are bound to accept those matters 'without fear or favour'. The only restrictions are those made in the best interests of the clients, or the practical dilemmas of cases for which the dates overlap or which are matters outside the barrister's expertise. These restrictions are set out in greater detail in the Barristers Rules.

### Rights of practice in Queensland and elsewhere

All barristers whose principal place of practice is Queensland must, from 1 July, 2004 hold a Queensland barrister's practising certificate to appear in court in Queensland. Barristers who wish to appear in Queensland, but whose principal place of practise is another state or territory, will need to either take out a Queensland practising certificate or, if eligible, appear by virtue of the Travelling Practising Certificate Scheme. For information and advice regarding practising as a barrister in another state or territory in Australia, please contact the relevant authority in that state or territory.

### Federal right of practice

If a barrister, entitled to practise in any State or Territory of Australia, has signed the Federal Register of Practitioners kept at the Registry of the High Court of Australia, they are entitled to practise before all Federal Courts and Tribunals, including State Courts exercising Federal or Commonwealth jurisdiction.