

LEGAL PRACTITIONERS.

12° and 13° GEO. VI., No. XXXVII.

No. 37 of 1948.

AN ACT to amend the Legal Practitioners Act, 1893-1946.

[Assented to 21st December, 1948.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Legal Practitioners Act Amendment Act, 1948*, and shall be read as one with the Legal Practitioners Act, 1893 (as reprinted with amendments up to and including Act No. 48 of 1926 in the appendix to the Sessional Volume of the Statutes for the year 1927, and as further amended by Acts No. 45 of 1944, No. 18 of 1945 and No. 18 of 1946), hereinafter referred to as the principal Act.

Short title
and citation.
Gf. No. 18 of
1946, s. 3.

(2) The principal Act as amended by this Act may be cited as the Legal Practitioners Act, 1893-1948.

2. Section six of the principal Act is amended by inserting after paragraph (d) of subsection (1) a new paragraph as follows:—

Amendment
of s. 6.

(da) For prescribing what portion of his articles may be served by an articulated clerk with a

New para-
graph (da).

practitioner other than the practitioner to whom he is articed, and the conditions of such service.

Amendment
of s. 10.

3. Section ten of the principal Act is amended as follows:—

(a) By inserting at the commencement of the last line thereof the words “except in the case of the Crown Solicitor for the time being”; and

(b) by adding thereto provisos as follow:—

Provided that a person who shall have served his articles with the Crown Solicitor for the time being shall not be admitted as a practitioner unless and until he shall have obtained a degree of Bachelor of Laws in any University recognised by the Board for this purpose, and

Provided further that no such person shall be entitled to practise on his own behalf as a practitioner unless and until he shall have satisfied the Board that he has had twelve months’ experience in the office of a practitioner in private practice.

New sections
13b, 13c and
13d.

4. New sections are inserted in the principal Act, after section thirteen a as follows:—

Service under
articles to
accord with
Act and rules.

13b. No service under articles shall be valid unless such service is performed in accordance with this Act and the rules made thereunder.

If valid ser-
vice not
performed,
practitioner
to report to
board.

13c. If an articed clerk shall for a period of one month cease to perform valid service under his articles, the practitioner to whom such clerk is articed shall forthwith make a written report to the Board thereon.

Cancellation
of articles.

13d. Upon the application of an articed clerk, or of the practitioner to whom a clerk is articed, the Board may cancel the articles of such clerk upon such terms as the Board may see fit. Provided that there shall be a right of appeal to the Full Court of Western Australia by any person aggrieved by a decision of the Board under this section.

5. (1) Section fourteen of the principal Act is repealed and the following section is inserted in lieu thereof:—

Amendment
of s. 14.
Repeal and
new section.

14. No person shall hereafter be admitted a practitioner unless he is a natural born or naturalised British subject of the full age of twenty-one years, and

What persons
may be
admitted.

- (a) is a solicitor admitted and entitled to practise in the High Court of Justice in England or Northern Ireland, or in the Supreme Court of an Australian State to which practitioners of the Supreme Court of Western Australia are entitled to be admitted; or
- (b) is a solicitor admitted and entitled to practise in the Superior Courts of Law in a Dominion Colony or Dependency of His Majesty, where in the opinion of the Board—
 - (i) the system of jurisprudence is founded on or assimilated to the common law and principles of equity as administered in England, and where
 - (ii) the like service as is mentioned in either of the next two following paragraphs under articles of clerkship to a solicitor and an examination to test the qualification of candidates are required prior to such admission; or
- (c) has actually and *bona fide* served for a term of five years under articles of clerkship to a practitioner as required by this Act; or
- (d) having taken a degree in law at any university recognised by the Board for this purpose has actually and *bona fide* served for a term of two years under articles of clerkship to a practitioner as required by this Act.

Provided that no person shall be qualified for admission under this paragraph until he has satisfied the Board that he obtained his degree only after passing examinations in substantially those subjects and at as high a standard as would be required for the degree of bachelor of laws at the University of Western Australia.

Saving.

(2) The repeal of the said section fourteen of the principal Act shall not, for a period of two years from the date of the commencement of this Act, prejudice or affect the rights or qualification for admission under such section of any person who, at such date, is domiciled and resident in the State and is then a barrister admitted and entitled to practise in the High Court of Justice of England or Ireland of less than two years' standing.

Amendment of s. 20. Repeal and new section.

Complaints against practitioner.

6. Section twenty of the principal Act is repealed and the following section is inserted in lieu thereof:—

20. Any person feeling aggrieved by reason of—

(a) any alleged illegal or unprofessional conduct of any practitioner, whether committed or suffered before or after the coming into operation of this section, or

(b) any neglect or undue delay in the conduct of the business of such person by any practitioner—

may, by himself or agent, make complaint thereof in writing to the Board.

Amendment of s. 21 of principal Act.

7. Section twenty-one of the principal Act is amended by inserting the words "neglect or undue delay" after the word "conduct" wherever it occurs in the section.

Amendment of s. 24. Repeal and new section.

Board to report to Court or to deal summarily with matter.

8. Section twenty-four of the principal Act is repealed and the following section is inserted in lieu thereof:—

24. (1) If upon such inquiry the Board shall be of opinion that the practitioner is guilty of any illegal or unprofessional conduct, or that the practitioner is guilty of any neglect or undue delay in

the conduct of the business of the complainant, the Board may—

- (a) make and transmit a report thereon to the Full Court, with a copy of the evidence taken on the enquiry; or
- (b) inflict a fine not exceeding one hundred pounds; or
- (c) suspend the practitioner from practising for a period not exceeding two years; or
- (d) reprimand the practitioner; and
- (e) in any case may make such order as to payment of costs by him as the Board may think fit. The Board may order that any costs be taxed by the Master of the Supreme Court, for which costs the Master shall give his allocatur.

(2) Any order made by the Board under the foregoing provisions may be enforced in the same manner as an order of the Court made under the Act.

(3) A practitioner suspended from practice by order of the Board shall not be entitled to practise within the meaning of this Act until the period of suspension has elapsed, or until readmitted as a practitioner by the Full Court.

(4) The practitioner may appeal to the Full Court in the prescribed manner against any order made by the Board under this section.

9. Section forty-eight of the principal Act is amended by adding thereto words as follows:—

Where such person directly or indirectly receives, expects, or is promised pay or remuneration for or in respect of other work or services relating to, connected with or arising out of the same transaction or subject-matter as that to which the said first-mentioned work or services shall relate, the provisions of this section shall not apply.