

# LEGAL PRACTITIONERS.

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No. 56 of 1973.

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## AN ACT to amend the Legal Practitioners Act, 1893-1971.

[Assented to 19th November, 1973.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the 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, 1973.*

Short title  
and citation.

(2) In this Act the Legal Practitioners Act, 1893-1971, is referred to as the principal Act.

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Reprinted  
Acts  
approved for  
reprint 22nd  
November,  
1968, and  
further  
amended by  
Acts Nos.  
59 of 1969,  
22 of 1970 and  
36 of 1971.

(3) The principal Act as amended by this Act may be cited as the Legal Practitioners Act, 1893-1973.

Amendment  
to s. 1.  
(Short title  
and division.)

2. Section 1 of the principal Act is amended—

- (a) by deleting the word “seven”, in line two; and
- (b) by substituting for the section designation “58F”, at the end of the passage “PART VA.—CONTROL OF CERTAIN PRACTICES, ss. 58A-58F”, the section designation “58K”.

Amendment  
to s. 4.  
(Constitution  
of Barristers’  
Board.)

3. Subsection (1) of section 4 of the principal Act is amended—

- (a) by substituting for the word “Five”, in line one of paragraph (d), the word “Seven”;
- (b) by deleting paragraph (e); and
- (c) by deleting the passage “pursuant to the provisions of section three of the Judges’ Retirement Act, 1937-1950”, in lines three, four, and five of paragraph (f).

Amendment  
to s. 6.  
(Power to  
make rules.)

4. Subsection (1) of section 6 of the principal Act is amended by deleting the words “the five” in line two of paragraph (a).

Amendment  
to s. 10.  
(Restrictions  
as to  
articled  
clerks.)

5. Subsection (3) of section 10 of the principal Act is amended by deleting the word “four” in line seven and substituting the word “seven”.

Amendment  
to Part VA.  
(Control of  
certain  
practices.)

6. Part VA of the principal Act is amended—

- (a) by adding before the interpretation “practice”, in section 58A, an interpretation as follows—

“Board’s appointee” means a certificated practitioner appointed by the Board under subsection (1) of section fifty-eight G;

- (b) by substituting for the interpretation "practice", in section 58A, an interpretation as follows—

"practice" means, as the case requires, the practice of—

- (a) a practitioner in respect of whose bank accounts or accounts an order, other than an order for revocation, has been made under section fifty-eight B or fifty-eight C;
  - (b) a deceased practitioner in respect of whose trust account an order has been made under section fifty-eight C;
  - (c) a practitioner in respect of whom an inquiry is authorised under section fifty-eight G;
- or
- (d) a practitioner in respect of whom, or in respect of whose trust account, an order has been made under section fifty-eight I; ;
- (c) by substituting for the interpretation "supervising solicitor", in section 58A an interpretation as follows—

"supervising solicitor" means, as the case requires, a certificated practitioner appointed by the Board—

- (a) under section fifty-eight D;
- or
- (b) pursuant to the powers conferred on the Board by paragraph (a) of section fifty-eight J,
- to conduct a practice; ;
- (d) by adding after the section designation "58D." the subsection designation "(1)";

- (e) by adding at the end of section 58D a subsection as follows—

(2) An appointment made pursuant to subsection (1) of this section shall be in writing and be signed by the chairman or by two members of the Board. ;

- (f) by adding after the section designation "58E." the subsection designation "(1)";

- (g) by adding at the end of section 58E a subsection as follows—

(2) The supervising solicitor may, on production of his instrument of appointment—

- (a) require—

- (i) the practitioner to whom the appointment relates, or any of his clerks, servants, or agents, or in the case of a deceased practitioner, his personal representative or any of the former clerks, servants, or agents of the deceased practitioner, to produce to the supervising solicitor any books, files, papers, or documents relating to the practice that, in the opinion of the supervising solicitor, may be reasonably necessary for the purposes of conducting the practice; and
- (ii) the manager or principal officer of a bank in which the practitioner or deceased practitioner to whom the appointment relates has or had deposited money, notwithstanding any rule of law

to the contrary, to disclose every account of that practitioner that, in the opinion of the supervising solicitor, may be relevant to the conduct of the practice and to permit the making of a copy or extracts of any such account;

- (b) enter upon any premises of the practitioner to whom the appointment relates, or, in the case of a deceased practitioner, his former premises, and take possession of all books, files, papers, documents, and other things relating to the practice, and that, in the opinion of the supervising solicitor, may be relevant to or necessary for the conduct of the practice. ;

and

- (h) by adding at the end of the Part sections as follows—

58G. (1) The Board may at any time appoint a certificated practitioner to inquire whether or not another practitioner is, for any reason, incapable of properly conducting his practice, and to report thereon to the Board.

Power of Board to appoint certificated practitioner to inquire into and report on practice of another.

(2) An appointment made pursuant to subsection (1) of this section shall be in writing and be signed by the chairman or by two members of the Board.

(3) The Board's appointee may, upon production of his instrument of appointment, require—

- (a) the practitioner to whom the appointment relates, or any of his clerks, servants, or agents, to

produce to the Board's appointee any books, files, papers, or documents relating to the practice that, in the opinion of the Board's appointee, may be reasonably necessary for the purposes of the inquiry; and

- (b) the manager or principal officer of a bank in which the practitioner to whom the inquiry relates has deposited money, notwithstanding any rule of law to the contrary, to disclose every account of that practitioner that, in the opinion of the Board's appointee, may be relevant to the inquiry and to permit the making of a copy or extract of any such account.

(4) A person who, being required to do anything pursuant to subsection (3) of this section, without lawful excuse of which the proof lies on him, refuses or fails to do the thing required or who hinders or obstructs the Board's appointee in the exercise of his powers or hinders or obstructs the Board's appointee, or any person employed by him, in the performance of his duties commits an offence.

Penalty: Two hundred dollars.

Board may  
apply to  
Judge for an  
order.

58H. On receipt of the report of the Board's appointee the Board shall consider it and may where the circumstances so require apply to a Judge for an order under section fifty-eight I.

Powers of  
Judge.

58 I. (1) Where a Judge, on the application of the Board, notice whereof shall be given to the practitioner, is satisfied that there are reasonable grounds for

believing that a practitioner is, for any reason, incapable of properly conducting his practice, the Judge may—

- (a) suspend the practitioner from practising for such period as may be specified in the order;
- (b) restrain the practitioner and his bankers and their respective servants and agents from dealing in all or any of the bank accounts of the practitioner, subject to such terms and conditions as the Judge thinks fit;
- (c) authorise the Board to appoint a supervising solicitor;
- (d) authorise the Board to suspend the practitioner from practising until further notice;
- (e) make such further or other orders as the Judge thinks fit.

(2) Where the Judge authorises the Board to appoint a supervising solicitor pursuant to the powers conferred by subsection (1) of this section the Judge—

- (a) may order that the supervising solicitor be empowered to withdraw moneys from any bank account of the practitioner; and
- (b) may make like orders to those which may be made under section fifty-eight C.

(3) A Judge may, on the application of the Board, the practitioner, or any person interested, notice whereof shall be given, by further order revoke or vary an order made under the provisions of subsections (1) and (2) of this section.

(4) The practitioner and his bankers and their respective servants and agents shall give effect to an order made under this section according to its tenor.

(5) If an order is made under paragraph (b) of subsection (2) of this section, paragraphs (a) and (b) of section fifty-eight F apply in relation thereto.

Effect of  
certain  
orders.

58J. Where an order is made under subsection (1) of section fifty-eight I—

- (a) the Board has, with such modifications as are necessary, like powers to those conferred by paragraphs (a), (b), and (c), of section fifty-eight D;
- (b) a supervising solicitor appointed pursuant to that order and those powers has like powers and duties to those conferred and imposed on a supervising solicitor by section fifty-eight E, including carrying on the practice until it can be otherwise dealt with according to law.

Offence.

58K. A person who, being required to do anything by a supervising solicitor pursuant to the powers conferred on the supervising solicitor by this Act, without lawful excuse of which the proof lies on him, refuses or fails to do the thing required or who hinders or obstructs the supervising solicitor in the exercise of his powers or hinders or obstructs the supervising solicitor, or any person employed by him, in the performance of his duties commits an offence.

Penalty: Two hundred dollars. .

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