

LEGAL PRACTITIONERS.

No. 113 of 1976.

AN ACT to amend the Legal Practitioners Act,
1893-1973.

[Assented to 25th November, 1976.]

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, 1976*.

Short title
and
citation.

(2) In this Act the Legal Practitioners Act, 1893-1973 is referred to as the principal Act.

Reprinted as
approved
for reprint,
23rd August,
1974.

(3) The principal Act as amended by this Act may be cited as the Legal Practitioners Act, 1893-1976.

Commence-
ment.

2. The provisions of this Act shall come into operation on such date or dates as is or are, respectively, fixed by proclamation.

Section 4
amended.

3. Section 4 of the principal Act is amended—

- (a) by adding after the passage “Law,” in line two of paragraph (c) of subsection (1) the word “permanently”;
- (b) by deleting the passage “rules;” in the last line of paragraph (d) of subsection (1) and substituting the passage “rules.”;
- (c) by deleting paragraph (f) of subsection (1); and
- (d) by deleting the word “five” in line four of subsection (2) and substituting the word “seven”.

Section 6
amended.

4. Section 6 of the principal Act is amended—

- (a) by adding after paragraph (c) of subsection (1), the following paragraphs—
 - (ca) for prescribing the examinations required to be passed by persons seeking to be admitted under section sixteen of this Act;
 - (cb) for prescribing the fee required to be paid to the Board by paragraph (d) of section twenty of this Act; ;
- (b) by deleting the words “charges of alleged misconduct of practitioners in connection with” in lines one, two and three of paragraph (f) of subsection (1) and substituting the words “the conduct of practitioners with respect to”; and
- (c) by repealing subsection (3).

5. Section 16 of the principal Act is amended— Section 16
amended.

(a) by deleting the passage “(whose decision shall be final)” in lines three and four of paragraph (b); and

(b) by deleting paragraph (c) and substituting the following paragraph—

(c) shall have passed such examinations as the Board may prescribe, .

6. Section 18 of the principal Act is hereby repealed. Section 18
repealed.

7. Section 20 of the principal Act is amended by deleting the words “the sum of sixty-three dollars” in lines one and two of paragraph (d) and substituting the words “such sum as the Board may prescribe”. Section 20
amended.

8. Section 29 of the principal Act is amended— Section 29
amended.

(a) by deleting the words “in the conduct of the business of the complainant” in line five of subsection (1);

(b) by deleting the words “two hundred dollars” in lines one and two of paragraph (b) of subsection (1) and substituting the words “two thousand dollars”; and

(c) by adding after subsection (1) the following subsection—

(1a) If upon such inquiry the Board is of opinion that the practitioner is not guilty of any illegal or unprofessional conduct or of neglect or undue delay but that nevertheless his conduct has given reasonable cause for the inquiry the Board may make such order as to payment of costs by him as it may think fit. .

Section 32A
added.

9. The principal Act is amended by adding after section 32 the following section—

Practitioners
struck off
or suspended
in other
jurisdictions.

32A. A practitioner admitted to practice in Western Australia who is struck off the roll or suspended from practice in any other jurisdiction shall be liable upon the report of the Board to the Full Court to be struck off the roll or suspended from practice as the case may be. .

Section 39
amended.

10. Section 39 of the principal Act is amended by deleting the passage "Penalty: Two hundred dollars." appearing at the end of subsection (2).

Section 40
amended.

11. Section 40 of the principal Act is amended—

(a) by deleting the passage "Penalty: Two hundred dollars." appearing at the end of subsection (1); and

(b) by deleting the words "that subsection" in line four of subsection (2) and substituting the words "this Act".

Section 41
amended.

12. Section 41 of the principal Act is amended by deleting the passage "Penalty: Two hundred dollars." appearing at the end of subsection (3).

Section 42A
amended.

13. Section 42A of the principal Act is amended—

(a) by adding after the section number "42A." the subsection designation "(1)"; and

(b) by adding at the end thereof the following subsections—

(2) If no or no satisfactory certificate is delivered to the Board in accordance with this section, the Board in its discretion may withhold the issue of the annual practice certificate.

(3) Every practitioner who claims not to be required to maintain a trust account shall prove that fact to the satisfaction of the Board, and pending

such satisfaction the Board in its discretion may withhold the issue of the annual practice certificate. .

14. Section 65 of the principal Act is repealed and re-enacted as follows—

Section 65 repealed and re-enacted.

65. No practitioner shall sue for the recovery of any services, fee, charges, or disbursements until a bill of the same, being either a bill containing detailed items or for a lump sum, signed by such practitioner, shall have been served upon the party charged therewith. Provided that at any time within one month from the service of a lump sum bill as aforesaid the party charged may require the practitioner to serve upon him in lieu thereof a bill containing detailed items, and thereupon the lump sum bill shall be of no effect. .

Signed bill of costs to be served before suit.

15. Section 66 of the principal Act is repealed and re-enacted as follows—

Section 66 repealed and re-enacted.

66. Except in cases where there is a written agreement as to costs, as hereinbefore provided, any person charged with an itemised bill of costs may have the same taxed by the taxing master of the Supreme Court, upon first serving upon the practitioner, within one month from the service of such itemised bill a written notice of his wish to have the same taxed. .

Party charged may give notice of intention to tax.

16. Section 67 of the principal Act is repealed and re-enacted as follows—

Section 67 repealed and re-enacted.

67. Within one month after service of the notice aforesaid the practitioner shall lodge the bill of costs with the taxing master of the Supreme Court. Provided that within the month aforesaid the practitioner may serve upon the party charged an amended bill of costs, and in such case that amended bill shall be treated as and be in lieu of the original and be subject to all the provisions as to taxation herein contained, except this proviso. .

Bill of costs to be lodged with taxing master.

Section 68
repealed and
re-enacted.

17. Section 68 of the principal Act is repealed and re-enacted as follows—

Time and
place of
taxation.

68. Upon the bill of costs being lodged the taxing master shall appoint a date, time and place for the taxation of the bill of costs and the party lodging the same shall serve on the party charged therewith at least seven days before the time appointed notice of the appointment and a copy of the bill of costs. .

Section 68A
added.

18. The principal Act is amended by adding after section 68 the following section—

Interpreta-
tion, etc.

68A. For the purposes of sections sixty-five to sixty-eight, inclusive, of this Act—

- (a) a reference to the party charged includes a reference to his executor or administrator as the case may be;
- (b) a reference to the practitioner includes a reference to his executor, administrator or assignee as the case may be;
- (c) service of any notice or document may be effected by delivery to the person to be served or by being left at or sent by post addressed to him at his last known place of business or residence;
- (d) the taxing master in his discretion may enlarge the time prescribed for the taking of any step therein provided for, and may give direction for substituted service of any notice or document required to be served. .

Section 69
repealed and
re-enacted.

19. Section 69 of the principal Act is repealed and re-enacted as follows—

Costs of
taxation.

69. The costs of and incidental to such taxation shall be in the discretion of the taxing master. .

20. Section 72 of the principal Act is hereby repealed. Section 72
repealed.

21. Section 78 of the principal Act is amended by deleting the passage "court, Judge or Justice" in lines three and four and substituting the words "Court or a Judge thereof". Section 78
amended.

22. Section 79 of the principal Act is amended by deleting paragraph (6) and substituting the following paragraph— Section 79
amended.

(6) without the written consent of the Board and subject to such conditions, as to period or otherwise, as the Board shall think fit, in any manner employ or remunerate in connection with his practice as a legal practitioner any person who, to the knowledge of the practitioner—

(a) has been struck off the roll and who has not been re-admitted or who is suspended from practice under this Act; or

(b) is or was a clerk to a solicitor and who has been convicted of any fraudulent conduct in respect of any money or property belonging to or held or controlled by the solicitor by whom he is or was employed or any client of such solicitor. .

23. Section 81 of the principal Act is amended by deleting the passage commencing with the word "accordingly" in line four and ending with the word "rules" in the last line and substituting the words "in a penalty not exceeding two thousand dollars by the said Court or a Judge thereof in Chambers on the motion of the Board". Section 81
amended.

Section 82
repealed.

24. Section 82 of the principal Act is hereby repealed.

Section 83
repealed and
re-enacted.

25. Section 83 of the principal Act is repealed and re-enacted as follows—

Appeals.

83. There shall be an appeal to the Full Court of Western Australia by any person to whom the Board shall have refused to grant a certificate under paragraph (b) of section sixteen, paragraph (b) of section twenty or section thirty-three of this Act. .
