



ANNO TRICESIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1985

No. 3 of 1985

An Act to amend the Legal Practitioners Act, 1981.

[Assented to 7 March 1985]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Legal Practitioners Act Amendment Act, 1985". Short title.

(2) The Legal Practitioners Act, 1981, is in this Act referred to as "the principal Act".

2. (1) This Act shall come into operation on a day to be fixed by proclamation. Commencement.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

3. Section 18 of the principal Act is amended by inserting after subsection (2) the following subsection: Amendment of s. 18—
Term and renewal of practising certificates.

(3) The practising certificate of a practitioner who is required to submit a copy of an auditor's report to the Supreme Court under Division V shall not be renewed until he complies with that requirement.

4. Section 29 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsections: Amendment of s. 29—
Alteration to memorandum or articles of association.

(2) The Supreme Court's power of approval under this section may, subject to any rule, order or direction of the Court, be exercised by the Registrar of the Court.

(3) Subject to the rules of the Supreme Court, an appeal shall lie to a judge against a decision of the Registrar pursuant to subsection (2).

Amendment of
s. 31—
Disposition of
trust moneys.

5. Section 31 of the principal Act is amended by striking out subsection (6) and substituting the following subsections:

(6) A legal practitioner—

(a) shall not, without the approval of the Supreme Court, permit trust moneys to be intermixed with other moneys;

(b) shall not, without the approval of the Supreme Court, keep his trust account at a bank, or a branch of a bank, outside the State;

and

(c) shall, unless he has approval under paragraph (b) to keep his trust account outside the State, keep it at a bank that is prepared to pay interest on the account at a rate equal to or above the rate determined by the Society.

(6a) The Society may make a determination for the purposes of subsection (6) (c) and may revoke or vary a determination made by it under that subsection.

Amendment of
s. 33—
Audit of trust
accounts, etc.

6. Section 33 of the principal Act is amended by inserting after its present contents (now to be designated as subsection (1)) the following subsections:

(2) The Supreme Court's power to extend the time within which a copy of a report may be submitted under subsection (1) (b) may, subject to any rule, order or direction of the Court, be exercised by the Registrar of the Court.

(3) Subject to the rules of the Supreme Court, an appeal shall lie to a judge against a decision of the Registrar pursuant to subsection (2).

Amendment of
s. 35—
Obtaining
information for
purposes of audit
or examination.

7. Section 35 of the principal Act is amended—

(a) by striking out from subsection (3) the passage "and shall permit him to make a copy of, or extract from, any such account, deposit slip, cancelled cheque or other document";

and

(b) by inserting after subsection (3) the following subsection:

(3a) A person who is required by this section to produce or disclose accounts, books, papers, securities, deposit slips, cancelled cheques or other documents to an auditor or inspector shall permit the auditor or inspector to make a copy of the whole, or any part, of those accounts, books or other documents.

Amendment of
s. 42—
Taxation of legal
costs.

8. Section 42 of the principal Act is amended by inserting after subsection (1) the following subsections:

(1a) The Supreme Court's power to tax and settle a bill of costs (but no other power of the Supreme Court under this section) may, subject to any rule, order or direction of the Court, be exercised by the Registrar of the Court.

(1b) Subject to the rules of the Supreme Court, an appeal shall lie to a judge against a decision of the Registrar pursuant to subsection (1a).

9. Section 52 of the principal Act is amended by inserting after paragraph (f) of subsection (4) the following paragraph:

Amendment of s. 52—
Professional Indemnity Insurance Scheme.

(fa) prescribing, and providing for the recovery of, fees payable to the Society by legal practitioners and former legal practitioners in respect of the administration of this Division;

10. Section 54 of the principal Act is amended—

Amendment of s. 54—
Investment by Society.

(a) by striking out from subsection (2) the passage “at a rate of interest” and substituting the passage “at or above a rate of interest”;

and

(b) by inserting after subsection (2) the following subsection:

(3) The Society may make a determination for the purposes of subsection (2) and may revoke or vary a determination made by it under that subsection.

11. The following section is inserted in Division IV of Part IV of the principal Act after section 57:

Insertion of new s. 57a.

57a. (1) Interest accruing upon a trust account (other than a separate trust account maintained by a legal practitioner for the exclusive benefit of a particular client) shall be paid by the bank concerned to the Society.

Payment of interest accruing upon trust accounts.

(2) Subject to subsection (3), the Society shall deal with moneys received by it pursuant to subsection (1) as follows:

(a) fifty per centum of those moneys shall be paid to one or more of the Legal Services Commission or one or more community legal centres in such shares and subject to such conditions as the Attorney-General directs;

(b) forty per centum of those moneys shall be paid to the guarantee fund;

and

(c) ten per centum of those moneys shall be paid to a person nominated by the Attorney-General subject to such conditions as he directs.

(3) The Attorney-General may, from time to time, vary or revoke the conditions subject to which moneys are paid under subsection (2) and may, from time to time, with the approval of the Society, vary the portion of those moneys allocated for payment pursuant to each paragraph of that subsection.

(4) The Attorney-General may, from time to time, without the approval of the Society, vary the shares in which moneys allocated for payment pursuant to subsection (2) (a) are distributed under that paragraph.

(5) Moneys paid to a person pursuant to subsection (2) (c) shall be applied in, or in relation to, the provision of legal services to the community, or to a section of the community, or shall be applied for the purposes of legal research and education.

(6) In this section—

“community legal centre” means a body established on a non-profit basis to provide legal services to the community, or a section of the community.

Amendment of
s. 60—
Claims.

12. Section 60 of the principal Act is amended by striking out from paragraph (a) of subsection (4) the passage “first day of January, 1975” and substituting the passage “fourth day of December, 1969”.

Amendment of
s. 73—
Confidentiality.

13. Section 73 of the principal Act is amended—

(a) by striking out the passage “A member” and substituting the passage “Subject to subsection (2), a member”;

and

(b) by inserting after its present contents as amended by this section (now to be designated as subsection (1)) the following subsection:

(2) A person referred to in subsection (1) may divulge information referred to in that subsection to—

(a) the Council;

(b) a committee or person to whom the Council has delegated its power to appoint an inspector pursuant to Division V of Part III;

and

(c) an inspector appointed pursuant to that Division.

Amendment of
s. 76—
Investigations by
committee.

14. Section 76 of the principal Act is amended—

(a) by striking out from paragraph (a) of subsection (3) the passage “the legal practitioner or of any person employed by the legal practitioner” and substituting the passage “a prescribed person”;

(b) by striking out from paragraph (b) of subsection (4) the passage “being a legal practitioner, or a person employed by him,” and substituting the passage “being a prescribed person,”;

and

(c) by inserting after subsection (4) the following subsection:

(5) In this section—

“prescribed person” means—

(a) the legal practitioner whose conduct is under investigation;

(b) a person who is, or was formerly, the employer, employee or partner of the legal practitioner;

(c) where the Legal Services Commission or a legal practitioner had instructed the legal practitioner whose conduct is under investigation in the matter in relation to which that conduct occurred—the Legal Services Commission or the legal practitioner as the case requires;

and

- (d) the manager or other principal officer of a bank with which the legal practitioner or his employer had deposited moneys in relation to the matter in relation to which that conduct occurred.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor