

South Australia

**LEGAL PRACTITIONERS ACT 1981**

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An Act to regulate the practice of law; and for other purposes.

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*This Act is reprinted pursuant to the Acts Republication Act 1967 and incorporates all amendments in force as at **15 July 2001**.*

*It should be noted that the Act has not been revised (for obsolete references, etc.) by the Commissioner of Statute Revision since the reprint published on 1 February 1999.*

**LEGAL PRACTITIONERS ACT 1981**

being

Legal Practitioners Act 1981 No. 59 of 1981  
[Assented to 25 June 1981]<sup>1</sup>

as amended by

Legal Practitioners Act Amendment Act 1982 No. 8 of 1982 [Assented to 25 February 1982]<sup>2</sup>  
Legal Practitioners Act Amendment Act 1985 No. 3 of 1985 [Assented to 7 March 1985]<sup>3</sup>  
Legal Practitioners Act Amendment Act (No. 2) 1985 No. 119 of 1985 [Assented to 10 November 1985]  
Legal Practitioners Act Amendment Act 1986 No. 50 of 1986 [Assented to 11 September 1986]<sup>4</sup>  
Legal Practitioners Act Amendment Act 1987 No. 84 of 1987 [Assented to 27 November 1987]<sup>5</sup>  
Legal Practitioners Act Amendment Act (No. 2) 1987 No. 90 of 1987 [Assented to 10 December 1987]  
Strata Titles Act 1988 No. 13 of 1988 [Assented to 7 April 1988]<sup>6</sup>  
Legal Practitioners Act Amendment Act 1989 No. 70 of 1989 [Assented to 29 October 1989]<sup>7</sup>  
Statute Law Revision Act 1990 No. 23 of 1990 [Assented to 26 April 1990]<sup>8</sup>  
Statute Law Revision Act (No. 2) 1990 No. 54 of 1990 [Assented to 22 November 1990]<sup>9</sup>  
Legal Practitioners (Miscellaneous) Amendment Act 1991 No. 25 of 1991 [Assented to 18 April 1991]<sup>10</sup>  
Director of Public Prosecutions Act 1991 No. 49 of 1991 [Assented to 21 November 1991]<sup>11</sup>  
Legal Practitioners (Litigation Assistance Fund) Amendment Act 1992 No. 27 of 1992 [Assented to 14 May 1992]<sup>12</sup>  
Legal Practitioners (Reform) Amendment Act 1993 No. 22 of 1993 [Assented to 8 April 1993]<sup>13</sup>  
Statutes Amendment (Attorney-General's Portfolio No. 2) Act 1993 No. 92 of 1993 [Assented to 4 November 1993]  
State Bank (Corporatisation) Act 1994 No. 17 of 1994 [Assented to 12 May 1994]<sup>14</sup>  
Legal Practitioners (Miscellaneous) Amendment Act 1996 No. 10 of 1996 [Assented to 11 April 1996]<sup>15</sup>  
Statutes Amendment (Community Titles) Act 1996 No. 38 of 1996 [Assented to 9 May 1996]<sup>16</sup>  
Legal Practitioners (Miscellaneous No. 2) Amendment Act 1996 No. 88 of 1996 [Assented to 12 December 1996]<sup>17</sup>  
Legal Practitioners (Membership of Board and Tribunal) Amendment Act 1997 No. 13 of 1997 [Assented to 27 March 1997]<sup>18</sup>  
Legal Practitioners (Qualifications) Amendment Act 1998 No. 12 of 1998 [Assented to 2 April 1998]<sup>19</sup>  
Legal Practitioners (Miscellaneous) Amendment Act 1998 No. 50 of 1998 [Assented to 3 September 1998]<sup>19</sup>  
Financial Sector Reform (South Australia) Act 1999 No. 33 of 1999 [Assented to 17 June 1999]<sup>20</sup>  
Legal Practitioners (Miscellaneous) Amendment Act 1999 No. 84 of 1999 [Assented to 2 December 1999]<sup>21</sup>  
Legal Practitioners (Miscellaneous) Amendment Act 2000 No. 70 of 2000 [Assented to 7 December 2000]  
**Statutes Amendment (Corporations) Act 2001 No. 23 of 2001 [Assented to 14 June 2001]<sup>22</sup>**

**NOTE:**

- Asterisks indicate repeal or deletion of text.
- Entries appearing in bold type indicate the amendments incorporated since the last reprint.
- For the legislative history of the Act see Appendix.

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- <sup>1</sup> Came into operation 1 March 1982: *Gaz.* 25 February 1982, p. 508.
- <sup>2</sup> Came into operation 1 March 1982: s. 2.
- <sup>3</sup> Came into operation 6 June 1985: *Gaz.* 23 May 1985, p. 1690.
- <sup>4</sup> Came into operation 1 October 1986: *Gaz.* 25 September 1986, p. 1083.
- <sup>5</sup> Came into operation (except s. 4) 3 December 1987; s. 4 came into operation 1 February 1988: *Gaz.* 3 December 1987, p. 1733.
- <sup>6</sup> Came into operation 1 September 1988: *Gaz.* 21 July 1988, p. 420.
- <sup>7</sup> Came into operation 9 November 1989: *Gaz.* 9 November 1989, p. 1452.
- <sup>8</sup> Came into operation (except Scheds. 4-7) 29 June 1990: *Gaz.* 14 June 1990, p. 1606; Scheds. 4 and 5 came into operation 1 August 1990: *Gaz.* 12 July 1990, p. 257.
- <sup>9</sup> Came into operation (except Scheds. 2, 3 and 4) 22 November 1990: s. 2(1); Sched. 2 came into operation 1 August 1990: s. 2(2).
- <sup>10</sup> Came into operation 6 June 1991: *Gaz.* 6 June 1991, p. 1774.
- <sup>11</sup> Came into operation 6 July 1992: *Gaz.* 25 June 1992, p. 1869.
- <sup>12</sup> Came into operation 28 May 1992: *Gaz.* 28 May 1992, p. 1510.
- <sup>13</sup> Came into operation (except s. 10) 6 May 1993; s. 10 came into operation 1 January 1994: *Gaz.* 6 May 1993, p. 1576.
- <sup>14</sup> Came into operation 1 July 1994: *Gaz.* 23 June 1994, p. 1784.
- <sup>15</sup> Came into operation (except s. 6) 9 May 1996: *Gaz.* 9 May 1996, p. 2396; s. 6 came into operation 13 June 1996: *Gaz.* 13 June 1996, p. 2918.
- <sup>16</sup> Came into operation 4 November 1996: *Gaz.* 31 October 1996, p. 1460.
- <sup>17</sup> Came into operation 1 January 1997: *Gaz.* 19 December 1996, p. 1923.
- <sup>18</sup> Came into operation (except ss. 4 and 6) 1 March 1982: s. 2(1); s. 6 came into operation 9 May 1996: s. 2(2); s. 4 came into operation on assent: s. 2(3).
- <sup>19</sup> Came into operation 1 February 1999: *Gaz.* 28 January 1999, p. 587.
- <sup>20</sup> Schedule (item 33) came into operation 1 July 1999: being the date specified under section 3(16) of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999* of the Commonwealth as the transfer date for the purposes of that Act.
- <sup>21</sup> Came into operation 1 January 2000: *Gaz.* 16 December 1999, p. 3328.
- <sup>22</sup> **Part 20 (ss. 81-83) came into operation 15 July 2001 (being the day on which the *Corporations Act 2001* of the Commonwealth came into operation: *Commonwealth of Australia Gazette No. S 285, 13 July 2001*): *Gaz.* 21 June 2001, p. 2270.**

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LEGISLATIVE HISTORY**



**Legal Practitioners Act 1981**

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**The Parliament of South Australia enacts as follows:**

**PART 1  
PRELIMINARY**

**Short title**

1. This Act may be cited as the *Legal Practitioners Act 1981*.

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**Interpretation**

5. (1) In this Act, unless the contrary intention appears—

"**approved auditor**"—*see section 33*;

"**Australian Government Solicitor**" means the Australian Government Solicitor constituted under the *Judiciary Act 1903* of the Commonwealth and includes any person authorised by or under that Act to act in the name of the Australian Government Solicitor;

"**Board**" means the *Legal Practitioners Conduct Board* continued in existence under this Act;

"**Chief Justice**" means the Chief Justice of the Supreme Court and includes an acting Chief Justice of the Supreme Court;

"**the combined trust account**" means the *Legal Practitioners Combined Trust Account* maintained by the Society under Part 4;

"**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;

"**company**" means a company incorporated under the law of this State;

"**conduct**" of a legal practitioner includes any act or omission by the legal practitioner;

"**corresponding law**" means a law of another State declared by proclamation under this section to be a corresponding law;

"**the Council**" means the council of the Law Society;

"**director**" of a company includes any person occupying or acting in the position of director of the company whether validly appointed to occupy or duly authorised to act in that position or not, and includes any person in accordance with whose directions or instructions the directors of the company are accustomed to act;

"**document**" means book, file, account, paper (including a security or any instrument) or any record of information, whether in writing or accessible only through the use of a computer or other device;

"**elective officer**" of the Society means an officer of the Society elected by the members of the Society in accordance with its rules;

"**the Executive Director**" of the Society means the principal executive officer employed by the Society and includes any person who is, for the time being, discharging the duties of that officer;

**"fiduciary or professional default"** in relation to a legal practitioner means—

- (a) any defalcation, misappropriation or misapplication of trust money received in the course of legal practice by the legal practitioner or a firm of which the legal practitioner is a member; or
- (b) any wrongful or negligent act or omission occurring in the course of the practice of the legal practitioner, or a firm of which the legal practitioner is a member,

whether committed by the legal practitioner, an employee of the legal practitioner or any other person;

**"the guarantee fund"** means the Legal Practitioners' Guarantee Fund maintained by the Society under Part 4;

**"interstate legal practitioner"** means a natural person—

- (a) who has been admitted as a legal practitioner in a participating State; and
- (b) who holds an interstate practising certificate issued or given by a regulatory authority in that State or is entitled by admission or otherwise to practise the profession of the law in that State; and
- (c) who is not a local legal practitioner; and
- (d) whose principal place of legal practice is not this State;

**"interstate practising certificate"** means a certificate or other form of authorisation issued by a regulatory authority in a participating State that confers an authority to practise the profession of the law in that State, whether that authority is general or subject to limitations or conditions;

**"the Law Society"** or **"the Society"** means *The Law Society of South Australia*;

**"legal costs"** includes disbursements;

**"legal practitioner"** or **"practitioner"** means—

- (a) a person duly admitted and enrolled as a barrister and solicitor of the Supreme Court; or
- (ab) an interstate legal practitioner who practises the profession of the law in this State; or
- (b) a company that holds a practising certificate;

**"local legal practitioner"** means a legal practitioner who holds a practising certificate;

**"LPEAC"** means the *Legal Practitioners Education and Admission Council* established under Division 1 of Part 2A;

**"Master"** means a master of the Supreme Court;

**"money"** includes any instrument for the payment of money that may be negotiated by an ADI;

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**"mortgage financing"** means facilitating a loan secured by mortgage by—

- (a) acting as an intermediary to match a prospective lender and borrower; and
- (b) subsequently arranging the loan; and
- (c) receiving or dealing with payments for the purposes of, or under, the loan,

but does not include the provision of legal advice or the preparation of an instrument;

**"participating State"** means a State in which a corresponding law is in force;

**"practise the profession of the law", "legal practice" or "practise"**, in relation to a legal practitioner—*see section 21*;

**"practising certificate"** means a practising certificate issued under Part 3;

**"regulatory authority"** means—

- (a) in relation to this State—the Supreme Court, LPEAC, the Society, the Board or the Tribunal;
- (b) in relation to a participating State—a person or body in that State having a function conferred by legislation relating to regulation of legal practice that corresponds to a function exercised under this Act by a regulatory authority of this State;

**"solicitor"** includes attorney and proctor;

**"State"** includes a Territory;

**"the statutory interest account"** means the Statutory Interest Account maintained by the Society under Part 4;

**"the Tribunal"** means the *Legal Practitioners Disciplinary Tribunal* established under Part 6;

**"trust account"** means an account maintained at an ADI by a legal practitioner under Part 3;

**"trust money"** means money received by a legal practitioner to which the practitioner is not wholly entitled both at law and in equity, but does not include money received by a practitioner in the course of mortgage financing;

**"unprofessional conduct"**, in relation to a legal practitioner, means—

- (a) an offence of a dishonest or infamous nature committed by the legal practitioner in respect of which punishment by imprisonment is prescribed or authorised by law; or
- (b) any conduct in the course of, or in connection with, practice by the legal practitioner that involves substantial or recurrent failure to meet the standard of conduct observed by competent legal practitioners of good repute;

**"unqualified person"** means a person (including a body corporate) who is not entitled to practise the profession of the law;

"**unsatisfactory conduct**", in relation to a legal practitioner, means conduct in the course of, or in connection with, practice by the legal practitioner that is less serious than unprofessional conduct but involves a failure to meet the standard of conduct observed by competent legal practitioners of good repute.

(2) If under a corresponding law an interstate legal practitioner's right to practise does not derive from the holding of an interstate practising certificate, then a reference in this Act to an interstate practising certificate, or the endorsement of a condition on an interstate practising certificate, is to be read as a reference to the practitioner's right to engage in legal practice under that law or to the imposition of a condition on that right.

(3) For the purposes of this Act, a legal practitioner establishes an office in a State when the practitioner offers or provides services in the course of legal practice to the public in the State from an office maintained by the practitioner, or by the employer or a partner of the practitioner, for the purpose in the State.

(4) A reference in this Act to trust money received by a legal practitioner includes a reference to—

- (a) money coming under the direct control of the legal practitioner, whether or not by the exercise of an express power or authority or by operation of law; and
- (b) money paid on the advice of the legal practitioner to a person in a prescribed relationship with the legal practitioner, but only if the money comes under the indirect control of the legal practitioner through the prescribed relationship or otherwise; and
- (c) money in relation to which the legal practitioner (whether directly or through a person in a prescribed relationship with the legal practitioner) has a power of disposal exercisable jointly and severally with the person on whose behalf it was received or a nominee of the person.

(5) For the purposes of subsection (4), a person will be taken to be in a prescribed relationship with a legal practitioner if the person is—

- (a) a partner of the legal practitioner (whether or not the person is a legal practitioner); or
- (b) an employee or agent of the legal practitioner, or a director of the legal practitioner (being a body corporate); or
- (c) a body corporate, or a member of a body corporate, partnership, syndicate or joint venture, in which the legal practitioner or a person referred to in paragraph (a), (b) or (f) has a beneficial interest; or
- (d) a co-trustee of the legal practitioner; or
- (e) a related body corporate (within the meaning of the *Corporations Act 2001* of the Commonwealth) of a person referred to in a preceding paragraph that is a body corporate; or
- (f) the legal practitioner's spouse or putative spouse (within the meaning of the *Family Relationships Act 1975*) or a child, grandchild, sibling, parent or grandparent of the legal practitioner or of the legal practitioner's spouse or putative spouse; or
- (g) a person of a class prescribed by the regulations.

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(6) The Governor may, by proclamation, declare a law of another State to be a corresponding law and may, by subsequent proclamation, vary or revoke any such declaration.

**Fusion of the legal profession**

6. (1) It is Parliament's intention that the legal profession should continue to be a fused profession of barristers and solicitors.

(2) The voluntary establishment of a separate bar is not, however, inconsistent with that intention, nor is it inconsistent with that intention for legal practitioners voluntarily to confine themselves to practice as solicitors.

(3) An undertaking by a legal practitioner to practise solely as a barrister or to practise solely as a solicitor is contrary to public policy and void (but this subsection does not extend to an undertaking contained in or implied by a contract or professional engagement to provide legal services of a particular kind for or on behalf of another person).

(4) Despite this section, an association of legal practitioners may be lawfully constituted on the basis that membership is confined to legal practitioners who practise solely in a particular field of legal practice or in a particular way.

(5) No contractual or other requirement may be lawfully imposed on a legal practitioner to join an association of legal practitioners.

**PART 2**  
**THE LAW SOCIETY OF SOUTH AUSTRALIA**

**DIVISION 1—ESTABLISHMENT AND ADMINISTRATION OF THE SOCIETY**

**Incorporation and powers of Society**

7. (1) The society formerly known as the "Law Society of South Australia Incorporated" continues in existence as a body corporate under the name *The Law Society of South Australia*.

(2) The Society—

(a) has perpetual succession and a common seal; and

(b) is capable of suing and being sued.

(2a) Where an apparently genuine document purports to bear the common seal of the Society, it will be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Society was duly affixed to that document.

(2b) The Society has the powers of a natural person.

(3) The membership of the Society consists of all persons who have been admitted to membership of the Society, and who, for the time being, continue to be members of the Society, in accordance with the rules of the Society.

**Officers and employees of Society**

8. (1) The following officers of the Society will be elected in accordance with the rules of the Society:

(a) the President; and

(ab) the President-Elect; and

(b) the Vice-Presidents (the number of whom will be determined by the rules); and

(c) such other elective officers as may be stipulated by the rules.

(2) There will be an Executive Director of the Society.

(3) The Executive Director and any other employees of the Society will be appointed and hold office on such terms and conditions as the Society may determine.

**Council of Society**

9. (1) There will be a council of the Society.

(2) The Council consists of—

(a) the Attorney-General; and

(b) the President of the Society; and

(ba) the President-Elect of the Society; and

(c) the Vice-Presidents of the Society; and

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- (d) the other elective officers of the Society; and
- (e) any persons who are, in accordance with the rules of the Society, members of the Council *ex officio*; and
- (f) any persons who are co-opted in accordance with the rules of the Society to membership of the Council; and
- (g) such other persons as are elected, in accordance with the rules of the Society, to be members of the Council.

**Validation of acts of Council**

**10.** No act or proceeding of the Council is invalid by virtue of any vacancy in its membership or any defect in the appointment or election of any member of the Council.

**Management of Society's affairs**

**11.** (1) Subject to this Act, and to the rules of the Society, the Council has the management of all the affairs of the Society, and may exercise all the powers of the Society.

(2) Subject to this Act, the Council may delegate any of its powers to—

- (a) a committee consisting of such persons as the Council thinks fit; or
- (ab) a company that is a subsidiary of the Society within the meaning of section 46 of the *Corporations Act 2001* of the Commonwealth; or
- (b) any officer or employee of the Society.

(3) A delegation under this section is revocable at will and does not derogate from the power of the Council to act itself in any matter.

**Minutes of proceedings**

**12.** (1) The Society must cause minutes of the proceedings of—

- (a) all general meetings of the members of the Society; and
- (b) all meetings of the Council,

to be entered in a book or books kept for the purpose.

(2) An apparently genuine document purporting to be verified by the Executive Director and—

- (a) purporting to be—
  - (i) minutes entered in pursuance of this section; or
  - (ii) an extract from any such minutes; or
- (b) purporting to be—
  - (i) minutes of the proceedings of any committee established by the Council; or

- (ii) an extract from any such minutes,

will be accepted in any legal proceedings as evidence of the proceedings to which the document relates.

(3) Subject to subsection (4), the Society must at the request of any member of the Society produce for inspection the minutes of—

- (a) any general meeting of the Society; and
- (b) any meeting of the Council; and
- (c) any meeting of any committee established by the Council.

(4) The Society is not required to produce minutes for inspection under subsection (3) if the minutes are of a confidential nature and have been entered in a minute book kept specifically for the purpose of recording minutes of such a nature.

(5) In any legal proceedings it will be presumed, in the absence of proof to the contrary, that any meeting of—

- (a) the members of the Society; or
- (b) the Council; or
- (c) any committee established by the Council,

was duly convened and constituted, and that the proceedings of any such meeting were regularly conducted.

(6) An apparently genuine document purporting to be under the hand of the President, the President-Elect, a Vice-President, or the Executive Director, of the Society and to certify that a person named in the document has been duly elected or appointed to a specified office in the Society, or in the employment of the Society, will be accepted in any legal proceedings, in the absence of proof to the contrary, as proof of the matter so certified.

### **Society's right of audience**

**13.** (1) The Society may appoint a legal practitioner to appear before any court, commission or tribunal in any matter affecting the interests of the Society or the members of the Society, or in which the Society is directly or indirectly concerned or interested.

(2) Without limiting the generality of subsection (1), a practitioner so appointed is entitled to appear—

- (a) in any proceedings instituted by the Society; or
- (b) in any proceedings in which a person seeks admission as a legal practitioner; or
- (c) in any proceedings in which it is alleged that a practitioner is guilty of unprofessional or unsatisfactory conduct; or
- (d) in any proceedings under this Act.



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**Rules of Society**

**14.** (1) The Society, in general meeting, may make rules—

- (a) to define the objects of the Society; or
- (b) to provide for the election of a President, the President-Elect, Vice-Presidents and other elective officers of the Society and to define the conditions on which they hold office; or
- (c) to provide for the election of members of the Council, and to define the conditions on which they hold office; or
- (d) to provide for the filling of casual vacancies occurring in elective offices of the Society and in the membership of the Council; or
- (e) to regulate the meetings and proceedings of, and the conduct of business by, the Council, or any committee to which it has delegated any of its powers; or
- (f) to provide for the execution of documents by or on behalf of the Society; or
- (g) to define the terms and conditions on which a person may be admitted to membership of the Society and to provide for the resignation, expulsion and re-admission of members of the Society; or
- (h) to prescribe, and provide for the payment of, subscriptions by members of the Society; or
- (i) to provide for the administration of any fund or ADI account under the control of the Society; or
- (j) to make any other provision relating to the administration of the Society.

(2) A member of the Society, or a legal practitioner, is entitled, on payment of such fee as may be prescribed by rules under this section, to receive a printed copy of the rules in force for the time being under this section.

(3) The Attorney-General may, by instrument in writing, certify that a rule made by the Society under this section relates only to the internal administration of the Society and where such a certificate has been given under this section, section 10 of the *Subordinate Legislation Act 1978* does not apply in respect of the rule.

**DIVISION 2—THE LITIGATION ASSISTANCE FUND****The Litigation Assistance Fund**

**14A.** (1) The Society is authorised and required to administer the Litigation Assistance Fund in accordance with the Deed of Trust.

(2) The Society may, despite any other law, enter into an agreement with a party to legal proceedings to whom assistance is provided in accordance with the Deed of Trust, under which the party is required to make a payment to the Society, for the credit of the Litigation Assistance Fund, if those legal proceedings are resolved in favour of that party.

(3) In this section—

**"Deed of Trust"** means the Deed of Trust dated 2 April 1992 under which the Litigation Assistance Fund is established, and includes that Deed as amended from time to time.

- (4) Any—
- (a) communication between the Society, or any officer, employee or agent of the Society, and an applicant for assistance from the Litigation Assistance Fund; or
  - (b) document in the possession of the Society concerning the affairs of an applicant for assistance from the Fund,

is privileged from production or disclosure in the same way and to the same extent as if it were a communication between legal practitioner and client.

### **DIVISION 3—REPORTING OBLIGATIONS**

#### **Certain matters to be reported by Society**

**14AB.** (1) If—

- (a) the Society appoints an inspector under Division 5 of Part 3 or a supervisor or a manager under Division 9 of Part 3; or
- (b) the Society determines that a claim made against the guarantee fund is valid; or
- (c) a matter comes to the attention of the Society such that the Society decides that there are reasonable grounds to suspect that a legal practitioner or former legal practitioner has committed an act or omission that would constitute unprofessional or unsatisfactory conduct,

the Society must, as soon as practicable, provide a report to the Board in relation to the matter.

(2) The Society must comply with any reasonable request of the Board for further information in relation to the subject matter of a report under this section.

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**PART 2A**  
**THE LEGAL PRACTITIONERS EDUCATION AND ADMISSION COUNCIL AND**  
**THE BOARD OF EXAMINERS**

**DIVISION 1—THE LEGAL PRACTITIONERS EDUCATION AND**  
**ADMISSION COUNCIL**

**Establishment of LPEAC**

**14B.** (1) The *Legal Practitioners Education and Admission Council* ("LPEAC") is established.

(2) LPEAC—

- (a) is a body corporate; and
- (b) has perpetual succession and a common seal; and
- (c) is capable of suing and being sued.

(3) Where an apparently genuine document purports to bear the common seal of LPEAC, it will be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of LPEAC was duly affixed to that document.

(4) LPEAC has the powers of a natural person.

(5) LPEAC consists of—

- (a) the Chief Justice; and
- (b) the Attorney-General; and
- (c) three judges (each of whom is either a judge of the Supreme Court or a judge of the Federal Court) appointed by the Chief Justice; and
- (d) the Dean (or acting Dean) of the faculty or school of law at The University of Adelaide; and
- (e) the Dean (or acting Dean) of the faculty or school of law at The Flinders University of South Australia; and
- (f) a law student nominated in a manner determined by the Chief Justice and appointed by the Chief Justice; and
- (g) a legal practitioner appointed by the Attorney-General; and
- (h) four legal practitioners appointed by the Society (at least one of whom will, at the time of appointment, be a legal practitioner who is practising predominantly as a barrister).

(6) The Chief Justice and the Attorney-General may each appoint a person to act as his or her deputy at any meeting of LPEAC that the Chief Justice or the Attorney-General is unable to attend.

(7) The Chief Justice will be the presiding member of LPEAC.

**Functions of LPEAC**

**14C.** (1) LPEAC has the following functions:

- (a) to make rules prescribing—
  - (i) the qualifications for admission of a person as a barrister and solicitor of the Supreme Court; and
  - (ii) the qualifications for the issue and renewal of practising certificates, including requirements for post-admission education, training or experience;
- (b) to participate in the development of uniform national standards relating to the qualifications necessary for persons practising the profession of the law;
- (c) to keep the effectiveness of legal education and training courses and post-admission experience under review so far as is relevant to qualifications for legal practice;
- (d) to perform any other functions assigned to LPEAC by this Act.

(2) A rule made under this section may leave a matter to be determined according to the discretion of LPEAC or the Supreme Court.

(3) Subject to subsection (4), a rule requiring legal practitioners to undertake further education or training or obtain further experience may only be made under this section with the concurrence of the Attorney-General.

(4) A rule requiring legal practitioners who have been practising the profession of the law for less than two years to undertake further education or training or obtain further experience within a time specified in the rule, or providing for extensions of the specified time to be granted, may be made without the concurrence of the Attorney-General.

**Conditions of membership**

**14D.** (1) Subject to this Act, an appointed member of LPEAC (other than the member appointed as a law student) will be appointed for a term of office of three years and, on the expiration of a term of office, is eligible for reappointment.

(2) The member of LPEAC appointed as a law student will hold office for a term of one year.

(3) The Chief Justice may remove an appointed member of LPEAC from office for—

- (a) mental or physical incapacity to carry out official duties satisfactorily; or
- (b) neglect of duty; or
- (c) dishonourable conduct.

(4) The office of an appointed member of LPEAC becomes vacant if the member—

- (a) dies; or
- (b) completes a term of office; or
- (c) resigns by written notice addressed to the Chief Justice; or

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- (d) in the case of a member who is a legal practitioner—ceases to be a legal practitioner or is disciplined under this Act or by the Supreme Court or under an Act or law of another State or Territory of the Commonwealth for regulating the conduct of persons practising the profession of the law; or
- (e) in the case of a member appointed as a law student—ceases to be a law student; or
- (f) is removed from office pursuant to subsection (3).

(5) On the office of a member of LPEAC becoming vacant, a person may be appointed in accordance with this Act to the vacant office but, where the office of a member of LPEAC becomes vacant before the expiration of a term of appointment, the successor will be appointed only for the balance of the term.

**Procedures of LPEAC**

**14E.** (1) Seven members of LPEAC (one of whom must be the presiding member or a judicial member of LPEAC) constitute a quorum of LPEAC, and no business may be transacted at a meeting of LPEAC unless a quorum is present.

(2) A decision carried by a majority of the votes cast by the members present at a meeting of LPEAC is a decision of LPEAC.

(3) Subject to this section, each member of LPEAC is entitled to one vote on any matter arising for decision by LPEAC and, in the event of an equality of votes, the person presiding at the meeting is entitled to a second or casting vote.

(4) The member of LPEAC appointed as a law student is not to be counted for the purposes of determining whether a quorum is present and is not entitled to vote on any matter arising for decision by LPEAC.

(5) The presiding member will preside at any meeting of LPEAC at which the member is present and, in the absence of the presiding member, a judicial member chosen in a manner determined by the Chief Justice, will preside at the meeting.

(6) Subject to this Act, the business of LPEAC may be conducted in such manner as LPEAC may determine.

**Validity of acts and immunity of members**

**14F.** (1) An act or proceeding of LPEAC is not invalid by reason only of a vacancy in its membership, and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.

(2) No liability attaches to a member of LPEAC for any act or omission by the member, or by LPEAC, in good faith and in the exercise or purported exercise of powers or functions, or in the discharge or purported discharge of duties, under this Act.

**Advisory Committees**

**14G.** (1) LPEAC may appoint such advisory committees as LPEAC considers necessary for the purpose of providing LPEAC with expert advice on any matter to be determined by LPEAC.

(2) A member of an advisory committee holds office on terms and conditions determined by LPEAC.

(3) The procedures to be observed in relation to the conduct of the business of a committee will be—

- (a) as determined by LPEAC; or
- (b) insofar as the procedure is not determined under paragraph (a), as determined by the relevant committee.

#### **Annual report**

**14H.** (1) LPEAC must, on or before 31 October in each year, prepare and present to the Attorney-General a report on the operations of LPEAC for the last financial year.

(2) The Attorney-General must, within 12 sitting days after receiving a report from LPEAC, cause copies of the report to be laid before both Houses of Parliament.

### **DIVISION 2—THE BOARD OF EXAMINERS**

#### **Establishment of Board of Examiners**

**14I.** (1) The *Board of Examiners* is established.

(2) The Board of Examiners will consist of 15 members appointed by the Chief Justice of whom—

- (a) one must be a Master of the Supreme Court; and
- (b) two must be persons nominated by the Attorney-General; and
- (c) 12 must be legal practitioners.

(3) A member of the Board of Examiners holds office on terms and conditions determined by the Chief Justice.

(4) The Chief Justice may appoint a person to be the deputy of the member of the Board of Examiners who is a Master of the Supreme Court and the deputy may, in the absence of the member, act in his or her place.

(5) The member of the Board of Examiners who is a Master of the Supreme Court will be the presiding member.

#### **Functions of Board of Examiners**

**14J.** The Board of Examiners has the functions and powers conferred on it under this Act or by LPEAC.

#### **Procedures of Board of Examiners**

**14K.** (1) Five members of the Board of Examiners (one of whom must be the presiding member or the presiding member's deputy) constitute a quorum of the Board, and no business may be transacted at a meeting of the Board of Examiners unless a quorum is present.

(2) Subject to this Act, the procedures to be observed in relation to the conduct of the business of the Board of Examiners will be—

- (a) as determined by LPEAC; or
- (b) insofar as the procedure is not determined under paragraph (a), as determined by the Board.

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**Validity of acts and immunity of members**

**14L.** (1) An act or proceeding of the Board of Examiners is not invalid by reason only of a vacancy in its membership, and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.

(2) No liability attaches to a member of the Board of Examiners for any act or omission by the member, or by the Board, in good faith and in the exercise or purported exercise of powers or functions, or in the discharge or purported discharge of duties, under this Act.

**PART 3  
THE PRACTICE OF THE LAW**

**DIVISION 1—ADMISSION AND ENROLMENT OF LEGAL PRACTITIONERS**

**Entitlement to admission**

**15.** (1) A person who satisfies the Supreme Court—

- (a) that he or she is of good character; and
- (b) that he or she is resident in Australia; and
- (c) that—
  - (i) he or she has complied with—
    - (A) the rules of the Supreme Court relating to the admission of barristers and solicitors of the Supreme Court; and
    - (B) the rules made by LPEAC under this Act prescribing the qualifications for admission as a barrister and solicitor of the Supreme Court; or
  - (ii) insofar as there has been non-compliance with those rules, he or she should be exempted from such compliance,

is entitled to be admitted and enrolled as a barrister and solicitor of the Supreme Court.

(2) The Supreme Court must refer each application for admission and enrolment to the Board of Examiners for its report and recommendation on the application.

(3) The Board of Examiners may refer any matter raised by an application to LPEAC for its advice or, if the rules so provide, its determination.

(4) The Board of Examiners must, on or before the day on which its report and recommendation on an application is provided to the Supreme Court, provide the applicant with—

- (a) a copy of the report and recommendation; and
- (b) if the recommendation is that the application be rejected—a statement of the reasons for the recommendation.

(5) In this section—

"**Board of Examiners**" means the *Board of Examiners* established under Division 2 of Part 2A.

**DIVISION 2—PRACTISING CERTIFICATES**

**Issue of practising certificate**

**16.** (1) Where a legal practitioner who has been admitted and enrolled as a barrister and solicitor of the Supreme Court (not being a legal practitioner who has been suspended from practice) applies to the Supreme Court for a practising certificate, the Court will, subject to this Act, issue a practising certificate in the practitioner's name.



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(2) Where a company applies to the Supreme Court for a practising certificate, and satisfies the Court—

- (a) that the memorandum and articles of association of the company contain stipulations to the following effect:
- (i) the sole object of the company must be to practise the profession of the law; and
  - (ii) the director of the company (or, if there is more than one director, each of them) must be a natural person who is a legal practitioner holding a current practising certificate (but if the company only has two directors they may consist of a legal practitioner holding a current practising certificate and a person who is not a legal practitioner holding a current practising certificate but is a prescribed relative of that practitioner); and
  - (iii) no share issued by the company, and no right to participate in the distribution of the profits of the company, is to be owned beneficially otherwise than by a legal practitioner who is a director or employee of the company, or a prescribed relative of such a legal practitioner; and
  - (iv) the total voting rights exercisable at a meeting of the members of the company must be held by legal practitioners who are directors or employees of the company; and
  - (v) no director of the company may, without the approval of the Supreme Court, be a director of any other company that holds a practising certificate; and
  - (vi) the shares of a legal practitioner and of the practitioner's prescribed relatives must, on the legal practitioner ceasing to be a director or employee of the company, be redeemed by the company, distributed amongst the remaining members of the company, or transferred to a legal practitioner who is to become a director or employee of the company, in accordance with the memorandum and articles of association of the company; and
  - (vii) the shares of a person who is a shareholder by virtue of being the spouse of a legal practitioner must—
    - (A) on dissolution or annulment of marriage with the legal practitioner; or
    - (B) in the case of a putative spouse, on cessation of cohabitation with the legal practitioner,  
  
be redeemed by the company, or distributed amongst the remaining members of the company, in accordance with the memorandum and articles of association of the company; and
- (b) that the memorandum and articles of association are otherwise appropriate to a company formed for the purpose of practising the profession of the law,

the Court may issue a practising certificate in the name of the company.

(3) Where a company holds a practising certificate and the stipulations contained in the memorandum and articles of association are, in any respect, not complied with, the company must, within 14 days, report the non-compliance to the Supreme Court, and the Court may give such directions (if any) as may be necessary to secure compliance with those stipulations.

(4) If a direction of the Supreme Court under subsection (3) is not complied with within the time allowed by the Court, the practising certificate of the company is, by virtue of this subsection, suspended during the period of non-compliance.

(5) An application for a practising certificate must be accompanied by the prescribed fee and levy.

(6) In this section—

"**prescribed relative**" in relation to a legal practitioner means a parent, brother, sister, spouse, putative spouse, child or grandchild of the legal practitioner;

"**putative spouse**" includes a putative spouse in relation to whom a declaration under the *Family Relationships Act 1975* has not been made.

#### **Restriction on issue of practising certificates in certain cases**

**17.** (1) If, for a period exceeding one month, a legal practitioner has not held a practising certificate, the Supreme Court may, on application for a practising certificate, require the practitioner to furnish evidence satisfying it that the practitioner—

- (a) has not practised the profession of the law without holding a practising certificate; or
- (b) has not committed any other act that might constitute a proper ground for disciplinary action.

(2) Where an applicant for a practising certificate has, without lawful excuse, practised the profession of the law while not holding a practising certificate, the Supreme Court may require the applicant to pay a prescribed fine before it issues a practising certificate to the applicant.

(3) The Supreme Court may, in any case that it considers appropriate, issue a practising certificate that has effect from a date prior to the date of issue of the certificate.

#### **Conditions as to training, etc.**

**17A.** (1) A practising certificate will, if the rules made by LPEAC under this Act so require, be issued or renewed subject to conditions determined by LPEAC—

- (a) requiring the holder of the certificate to undertake or obtain further education, training and experience required or determined under the rules; and
- (b) limiting the rights of practice of the holder of the certificate until that further education, training and experience is completed or obtained.

(2) LPEAC may, on such terms as it thinks fit, determine that such conditions will not apply, either wholly or in part, in relation to any practitioner or practitioners of a particular class.

(3) If the holder of a practising certificate issued or renewed subject to conditions under subsection (1) fails to satisfy LPEAC, in accordance with the rules, of compliance with the conditions, LPEAC may determine—

- (a) that further conditions (determined by LPEAC) are to be imposed; or
- (b) that the practising certificate is to be cancelled, or is not to be renewed, and no new practising certificate is to be issued to the person until stipulated conditions have been complied with,

(and a determination under this subsection takes effect on a date fixed by LPEAC).

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(4) LPEAC may delegate any of its functions or powers under this section to the Board of Examiners.

(5) A delegation under this section—

- (a) must be in writing; and
- (b) may be conditional or unconditional; and
- (c) is revocable at will; and
- (d) does not prevent LPEAC from acting in any matter.

(6) A decision of LPEAC or the Board of Examiners under this section may be appealed against to the Supreme Court by the person in relation to whom the decision was made or the Attorney-General or the Society.

(7) On such an appeal, the Supreme Court—

- (a) may confirm, vary or reverse the decision of LPEAC or the Board of Examiners; and
- (b) may make any consequential or ancillary order.

**Term and renewal of practising certificates**

**18.** (1) Subject to this Act, a practising certificate remains in force until 1 January next ensuing after the day on which it was issued.

(2) Subject to this Act, the Supreme Court will, on receipt of due application for the renewal of a practising certificate made before the date of expiration of the practising certificate, renew the practising certificate and the practising certificate then, subject to this Act, remains in force for a further period of 12 months.

(3) The practising certificate of a legal practitioner who is required to submit a copy of an auditor's report to the Supreme Court under Division 5 will not be renewed until the practitioner complies with that requirement.

**Evidence of insurance to be produced to Court**

**19.** (1) Where a scheme under section 52 is in force requiring legal practitioners to be insured against liabilities that may arise in the course of, or in relation to, legal practice, the Supreme Court cannot issue or renew a practising certificate unless the applicant produces evidence to the satisfaction of the Court that, throughout the term for which the certificate is to be issued or renewed, the applicant will be insured to the extent required by the scheme against such liabilities.

(2) This section does not apply in relation to a legal practitioner of a class excluded by regulation from the provisions of this section.

**Register of practising certificates**

**20.** (1) The Supreme Court must cause a register of practising certificates to be kept.

(2) A member of the public may inspect the register of practising certificates kept under this section.

**Endorsement of conditions on practising certificates**

**20AA.** (1) If, in accordance with this Act, a regulatory authority of this or any participating State makes a determination or order—

- (a) imposing conditions on, or requiring the endorsement of conditions on, a legal practitioner's practising certificate; or
- (b) varying or revoking conditions on, or requiring the variation or revocation of conditions on, a legal practitioner's practising certificate,

the Supreme Court may record or give effect to the determination or order by revoking the practising certificate currently held by the legal practitioner and issuing the legal practitioner with a new practising certificate in the appropriate form.

(2) A regulatory authority must notify the Supreme Court of the making of a determination or order referred to in subsection (1).

(3) If a determination or order is made imposing, varying or revoking conditions on a practising certificate, the determination or order will be taken to have effect from the date it is made, or from a subsequent date specified in the determination or order, and not from the date of issue of a new practising certificate under this section.

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**DIVISION 3—ENTITLEMENT TO PRACTISE, ETC.**

**Entitlement to practise**

**21.** (1) A person must not practise the profession of the law, or hold himself or herself out, or permit another to hold him or her out, as being entitled to practise the profession of the law unless—

- (a) in the case of a natural person, the person—
  - (i) is a local legal practitioner; or
  - (ii) is an interstate legal practitioner; or
- (b) in the case of a company, it holds a practising certificate issued and in force under this Act.

Maximum penalty: \$10 000.

(2) Without limiting the generality of subsection (1), but subject to subsections (3) and (3a), a person practises the profession of the law, if acting for fee or reward on behalf of some other person he or she—

- (a) prepares any will or other testamentary instrument; or
- (b) prepares an instrument creating, transferring, assigning, modifying or extinguishing any estate or interest in real or personal property; or

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- (c) prepares any instrument relating to the formation of a body corporate, any amendment to the memorandum or articles of association, rules or regulations of a body corporate, any prospectus or take-over scheme relating to a body corporate, or any instrument affecting the rights of shareholders or debenture holders in a body corporate or any scheme of arrangement in respect of a body corporate; or
  - (d) prepares any other instrument creating, transferring, assigning, modifying or extinguishing any right, power or liability at law or in equity; or
  - (e) represents any party to proceedings in a court or tribunal.
- (3) This section does not prevent—
- (a) an employee whose employer is a party to an instrument or otherwise entitled to prepare an instrument and who is acting in the ordinary course of employment from preparing the instrument provided that no separate charge is made by the employer or the employee for the preparation of the instrument; or
  - (b) an unqualified person from charging a fee for the preparation of a bill of sale, stock mortgage or lien over wool or fruit to which the person is the party in whose favour the security is given or an instrument varying or discharging a bill of sale, stock mortgage or lien over wool or fruit to which the person is such a party; or
  - (c) an unqualified person from charging a fee for the preparation of a mortgage over land to which the person is the party in whose favour the security is given, or an instrument varying or discharging a mortgage over land to which the person is such a party, provided that the mortgage or other instrument is prepared by a legal practitioner or conveyancer registered under the *Conveyancers Act 1994*; or
  - (d) an unqualified person from charging a fee for the preparation of an instrument provided that—
    - (i) the instrument is prepared by a legal practitioner in the employment of that unqualified person; and
    - (ii) the legal practitioner has been in the employment of that unqualified person continuously since 1 July, 1980; or
  - (da) an unqualified person from reproducing, or completing the standard variables of, a pro forma loan instrument for fee or reward for an ADI or other commercial lending institution provided that—
    - (i) the substantive terms and conditions of the loan instrument are modified only by the parties or a legal practitioner or, where authorised by this or any other Act, by a conveyancer registered under the *Conveyancers Act 1994*; and
    - (ii) the pro forma loan instrument is an approved Lands Titles Office document or has been prepared by a legal practitioner or, where authorised by this or any other Act, by a conveyancer registered under the *Conveyancers Act 1994*; or
  - (e) an agent who has been commissioned to sell goods or let them out on hire, or to contract for the performance of services from preparing a contract for the sale or hire of goods or the provision of services provided that the agent is remunerated only by salary or commission and no separate charge is made by the agent or the principal for the preparation of the contract; or

- (f) an unqualified person from engrossing an instrument for fee or reward; or
- (g) an unqualified person from representing a party to proceedings in a court or tribunal for fee or reward, if the person is authorised by or under the Act by which the court or tribunal is constituted, or any other Act, to do so; or

\* \* \* \* \*

- (i) an unqualified person who is an employee or officer of an association of employers or employees from representing the association or any of its members in proceedings brought pursuant to an Act relating to industrial conciliation or arbitration provided that the unqualified person (as distinct from the association of which the person is an employee or officer) makes no charge for providing the representation; or
- (j) an unqualified person who is an employee of a body corporate that is a party to proceedings brought pursuant to an Act relating to industrial conciliation or arbitration from representing the body corporate in the proceedings; or
- (k) an unqualified person who was on 2 March, 1981, carrying on the business of representing parties to proceedings brought pursuant to an Act relating to industrial conciliation and arbitration from continuing to carry on that business; or
- (l) an unqualified person from preparing, for fee or reward, any instrument relating to the transfer of shares or securities issued, or made available, by a body corporate; or
- (m) an agent registered under the *Land Agents Act 1994* from preparing an instrument (other than an instrument registrable under the *Real Property Act 1886*) relating to the sale and purchase of any land or business that the agent has been commissioned to sell or buy, provided that the instrument is prepared by the agent personally or by a sales representative lawfully employed by the agent and no charge (apart from the commission payable to the agent in respect of the transaction) is made for the preparation of the instrument; or
- (n) an agent registered under the *Land Agents Act 1994* from preparing for fee or reward—
  - (i) a tenancy agreement—
    - (A) relating to residential premises; and
    - (B) under which a rental not exceeding a maximum prescribed for the purposes of this subparagraph is payable; or
  - (ii) a tenancy agreement—
    - (A) arising from a transaction in respect of which the agent has acted as agent; and
    - (B) relating to non-residential premises; and
    - (C) under which a rental not exceeding a maximum prescribed for the purposes of this subparagraph is payable,

provided that the instrument is prepared by the agent personally or by a sales representative lawfully employed by the agent; or

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- (o) a conveyancer registered under the *Conveyancers Act 1994* from preparing for fee or reward an instrument registrable under the *Real Property Act 1886*, the *Community Titles Act 1996*, the *Strata Titles Act 1988*, the *Bills of Sale Act 1886*, the *Stock Mortgages and Wool Liens Act 1924* or the *Liens on Fruit Act 1923*; or
- (p) a conveyancer registered under the *Conveyancers Act 1994* from preparing for fee or reward—
  - (i) a contract for the sale and purchase of land or a business;
  - (ii) a tenancy agreement;
  - (iii) an assignment of the benefit of a contract for the sale and purchase of land or a business or of a tenancy agreement;
  - (iv) an instrument that arises from, and is incidental to, a contract, agreement or assignment of the kind mentioned in subparagraph (i), (ii) or (iii); or
- (q) an agent registered under the *Land Agents Act 1994*, being the employer of a legal practitioner or conveyancer registered under the *Conveyancers Act 1994* from charging a fee for the preparation of an instrument of a kind mentioned in paragraph (o) or (p) where—
  - (i) the instrument is prepared by the legal practitioner or conveyancer; and
  - (ii) the agent is authorised by the *Land and Business (Sale and Conveyancing) Act 1994* to charge a fee for the preparation by the legal practitioner or conveyancer of instruments registrable under the *Real Property Act 1886*; or
- (r) a public notary acting in the ordinary course of business from preparing an instrument for fee or reward; or
- (s) a body corporate authorised by a special Act of Parliament of this State to administer the estates of deceased persons from preparing a will or other testamentary instrument where the body corporate is named as the executor, or one of the executors, of the will or other testamentary instrument and the body corporate does not seek to recover any fee or reward in respect of the preparation of the will or testamentary instrument beyond the commission or other remuneration allowed under the special Act; or
- (t) a body corporate authorised by a special Act of Parliament of this State to administer the estates of deceased persons from preparing a will or other testamentary instrument for fee or reward where the will or other testamentary instrument is prepared by a legal practitioner employed by the body corporate; or
- (u) an unqualified person from serving any process for fee or reward where the person is authorised or permitted by statute to do so; or
- (v) a clerk employed by a legal practitioner from serving any process for fee or reward; or
- (w) the preparation for fee or reward of an opinion on a question of law by a member of the faculty of law of a university provided that the opinion is prepared at the request of a legal practitioner, the Attorney-General of the State or of the Commonwealth, the Crown Solicitor or the Australian Government Solicitor or the Director of Public Prosecutions; or

- (x) the preparation for fee or reward of any prescribed instrument or the performance for fee or reward of any prescribed service.

(3a) A person will not be taken to be practising the profession of the law by reason only of the fact that the person provides legal advice or legal services relating to the law of a place outside Australia.

(4) For the purposes of this Act—

- (a) a person practises the profession of the law, or holds himself or herself out as entitled to practise the profession of the law, if the person does so personally, or through the agency or instrumentality of some other person;
- (b) a person acts for fee or reward if the person acts for, or in expectation of, a pecuniary benefit or material advantage;
- (ba) a person prepares an instrument if the person takes instructions for the preparation of such an instrument;
- (c) a person represents a party to proceedings before a court or tribunal if the person—
  - (i) prepares, on behalf of that party, any legal process relating to the proceedings; or
  - (ii) takes instructions from or gives advice to that party in relation to the conduct of the proceedings; or
  - (iii) takes, on behalf of that party, any other step in the proceedings;
- (d) an employed legal practitioner who provides legal advice, or legal services of a kind mentioned in subsection (2), for or on behalf of his or her employer or clients of his or her employer practises the profession of the law.

(5) In this section—

"**business**" means a business as defined by the *Land and Business (Sale and Conveyancing) Act 1994*;

"**loan instrument**" means a loan contract, mortgage, mortgage discharge, guarantee, or other instrument arising from, or incidental to, a loan transaction;

"**member**" in relation to an association whose members include another association includes a member of that other association;

"**tribunal**" includes a royal commission and an arbitrator who is a judge, special magistrate or legal practitioner.

**Practising while under suspension, etc.**

**22.** If a legal practitioner—

- (a) practises the profession of the law, or holds him or herself out as being entitled to practise the profession of the law, while his or her right to do so is under suspension; or



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- (b) contravenes or fails to comply with any conditions imposed on the practitioner's practising certificate (whether a practising certificate under this Act or an interstate practising certificate) by order of the Tribunal or the Supreme Court,

the practitioner is guilty of an offence.

Maximum penalty: \$10 000.

**Unlawful representation**

**23.** (1) If any person (whether or not a legal practitioner) with a view to attracting business, falsely pretends to be the holder of any degree, diploma or certificate in law or adopts any style that leads reasonably to the false inference that the person holds any degree, diploma or certificate in law, the person is guilty of an offence.

Maximum penalty: \$10 000.

(2) If a person (whether or not a legal practitioner) holds out an unqualified person as being entitled to practise the profession of the law, the person is guilty of an offence.

Maximum penalty: \$10 000.

(3) If a legal practitioner—

- (a) permits or aids an unqualified person to practise the profession of the law, or acts in collusion with an unqualified person so as to enable that person to practise the profession of the law; or
- (b) enters into an agreement or an arrangement with an unqualified person under which the unqualified person is entitled to share in the profits arising from the practice of the law (otherwise than as permitted by this Act, or as may be authorised by the Society),

the practitioner is guilty of an offence.

Maximum penalty: \$10 000.

**Employment of disqualified person**

**23AA.** (1) Subject to this section, if a legal practitioner is a party to an agreement or arrangement to employ or engage, in connection with the practitioner's legal practice—

- (a) a person whose practising certificate is under suspension (whether a practising certificate under this Act or an interstate practising certificate); or
- (b) a person whose name has been struck off the roll of legal practitioners maintained under this Act or the roll kept in a participating State that corresponds to the roll maintained under this Act (unless the person has been re-admitted),

the practitioner is guilty of an offence.

Maximum penalty: \$10 000.

(2) It is a defence to a charge of an offence under subsection (1) to prove that the defendant did not know, and could not reasonably be expected to have known, that the person's practising certificate was under suspension or that the person's name had been struck off a roll of legal practitioners.

(3) On application, the Tribunal may authorise a legal practitioner to be a party to an agreement or arrangement of a kind referred to in subsection (1), subject to conditions (if any) specified by the Tribunal.

(4) An application for such an authorisation may be made to the Tribunal by—

- (a) a legal practitioner; or
- (b) a person whose practising certificate is under suspension or whose name has been struck off a roll of legal practitioners.

(5) The Tribunal may grant such an authorisation in its discretion but only if satisfied—

- (a) that the person to be employed or engaged will not practise the profession of the law; and
- (b) that granting the authorisation on the specified conditions (if any) is not likely to create a risk to the public.

(6) For the purposes of a hearing of an application under this section, the Tribunal is constituted of a panel of three of its members chosen by the presiding member (one of whom may be the presiding member).

(7) The Tribunal must give to the Board, and to any person on whose application a hearing is to be held, not less than seven days written notice of the time and place at which it intends to conduct the hearing, and must afford the Board, and any such person, a reasonable opportunity to call and give evidence, to examine witnesses, and to make submissions to the Tribunal.

(8) Subject to this section, sections 80, 84, 84B, 85, 86 and 88 apply to a hearing of an application under this section in the same way as to proceedings before the Tribunal under Part 6.

(9) Where an application is granted by the Tribunal, and the Tribunal or the Supreme Court is satisfied that an appeal against the authorisation has been instituted, or is intended, it may suspend the operation of the authorisation until the determination of the appeal.

(10) Where the Tribunal has suspended the operation of an authorisation under subsection (9), the Tribunal may terminate the suspension, and where the Supreme Court has done so, the Supreme Court may terminate the suspension.

(11) A legal practitioner must comply with any conditions imposed on an authorisation by the Tribunal or the Supreme Court.

Maximum penalty: \$10 000.

(12) A legal practitioner is not guilty of an offence against this section in relation to an agreement or arrangement to which the practitioner is a party at the commencement of this section if—

- (a) the agreement or arrangement is authorised under this section on an application made within 12 months after that commencement; and
- (b) the legal practitioner complies with any conditions imposed on the authorisation.

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**DIVISION 3A—PROVISIONS RELATING TO INTERSTATE LEGAL PRACTICE**

**Interstate legal practitioners to be officers of Court**

**23A.** An interstate legal practitioner who practises the profession of the law in this State is an officer of the Supreme Court.

**Limitations or conditions on practice under laws of participating States**

**23B.** (1) An interstate legal practitioner must, in practising the profession of the law in this State—

- (a) observe any limitations in relation to the practitioner's entitlement to practise the profession of the law that apply under the law of a State in which the practitioner is admitted as a legal practitioner; and
- (b) comply with any condition in respect of his or her practice imposed by a regulatory authority in a participating State.

(2) A condition imposed on a person by a regulatory authority in this or any other participating State has no effect for the purposes of subsection (1) to the extent (if any) to which it is inconsistent with a more onerous condition imposed on the person by another regulatory authority.

(3) An interstate legal practitioner practising the profession of the law in this State must give written notice to the Supreme Court of any conditions or limitations imposed on the practitioner's interstate practising certificate.

(4) A contravention of or non-compliance with this section is unprofessional conduct.

**Additional conditions on practice of interstate legal practitioners**

**23C.** (1) A regulatory authority of this State may, by notice in writing, at any time impose any condition on the practice of the profession of the law by an interstate legal practitioner in this State that it might impose by attaching a condition to the practising certificate of a local legal practitioner, as a result of disciplinary action or otherwise, and may at any time vary or revoke any such condition.

(2) A regulatory authority of this State must not impose a condition that is more onerous than it would attach to the practising certificate of a local legal practitioner in the same or similar circumstances.

**Notification of establishment of office required**

**23D.** (1) An interstate legal practitioner who establishes an office in this State must, within the period after establishing the office prescribed by the regulations, give written notice to the Supreme Court.

Maximum penalty:       \$10 000.

(2) A notice under this section must contain the particulars prescribed by the regulations and be accompanied by the prescribed fee.

(3) A person giving notice to the Supreme Court under this section must furnish to the Supreme Court any evidence or information that the Supreme Court may require in relation to the practitioner's legal practice in this or any other State.

(4) If an interstate legal practitioner fails to give notice, or furnish evidence or information, in accordance with this section, the Supreme Court may, on application by the Board, the Attorney-General or the Society, suspend the practitioner's right to practise the profession of the law in this State until this section is complied with.

(5) The Supreme Court must give notice of a suspension imposed under subsection (4) to any regulatory authority that is authorised to seek or impose a corresponding suspension in a State in which the practitioner is admitted as a legal practitioner.

(6) The Supreme Court must cause a register to be kept of the interstate legal practitioners who have given notice under this section.

(7) A member of the public may inspect the register kept under subsection (6).

**DIVISION 4—PROVISIONS REGULATING LEGAL PRACTICE BY COMPANIES**

**Returns by companies**

**24.** (1) Every company that is a legal practitioner must—

- (a) within one month after any person becomes or ceases to be a director or member of the company lodge with the Supreme Court a notice stating the full name and usual residential address of that person and the fact that the person has become or ceased to be such a director or member; and
- (b) in the month of July in each year lodge with the Supreme Court a return in the prescribed form.

Maximum penalty: \$2 500.

(2) The annual return must state—

- (a) the full name and usual residential address of every person who on 30 June preceding the lodging of the return was a director or member of the company; and
- (b) the number of shares in the company held by each such person and the number of votes that the person is entitled to cast at a meeting of members of the company; and
- (c) in relation to each member, the qualification by virtue of which the person is entitled to be a member of the company; and
- (d) any other prescribed matters.

**Companies not to practise in partnership**

**25.** A company that is a legal practitioner must not practise as a legal practitioner in partnership with any other person unless it has been authorised to do so by the Supreme Court.

Maximum penalty: \$1 250.

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**Criminal liability of directors**

27. Where a company that is a legal practitioner commits an offence against this Act, or any other Act, each person who was a director of the company at the time of commission of the offence by the company is guilty of an offence and liable to the same penalty as that prescribed for the principal offence, unless that person proves that he or she could not, by the exercise of reasonable diligence, have prevented the commission of the offence by the company.

**Joint and several liability**

28. Any civil liability incurred by a company that is a legal practitioner is enforceable jointly and severally against the company and the persons who were directors of the company at the time the liability was incurred.

**Alteration to memorandum or articles of association**

29. (1) No alteration to the memorandum or articles of association of a company that is a legal practitioner may be made unless the proposed alteration has been submitted to, and approved by, the Supreme Court.

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**Certain provisions of Corporations Act 2001 not to apply**

30. A company that is a legal practitioner is declared to be an excluded matter for the purposes of section 5F of the *Corporations Act 2001* of the Commonwealth in relation to Part 2M.4 of the Corporations legislation to which Part 1.1A of that Act applies.

**DIVISION 5—TRUST ACCOUNTS AND AUDIT**

**Interpretation**

30A. (1) Except as otherwise provided, in this Division—

"legal practitioner" means—

- (a) a local legal practitioner; or
- (b) an interstate legal practitioner who has established an office in this State; or
- (c) a person who would be a legal practitioner described in paragraph (a) or (b) but for the person's failure to renew his or her practising certificate or interstate practising certificate.

(2) A reference in this Division to trust money received by a legal practitioner includes, in the case of a local legal practitioner, trust money received outside of the State (other than trust money that the practitioner pays into a trust account or otherwise deals with in accordance with the law of another State).

**Disposition of trust money**

31. (1) Subject to subsection (2), a legal practitioner must, as soon as practicable after receipt of any trust money in the course of practice, deposit the money in a trust account and must not withdraw or permit it to be withdrawn except as authorised by this Part.

(2) Where at or before the time that a legal practitioner receives trust money the practitioner is given a written direction by the person entitled to the money to dispose of it in a manner specified in the direction, it is lawful for the legal practitioner to act in accordance with that direction.

(3) A legal practitioner may withdraw trust money from a trust account—

- (a) for payment to the person entitled to the money or in accordance with the direction of that person; and
- (b) for satisfaction of a claim that the practitioner has against the person on behalf of whom the money is held for legal costs; and
- (c) to satisfy the order of a court of competent jurisdiction against the person on behalf of whom the practitioner is holding the money; and
- (d) if the money is subject to an instrument of trust, for making a payment in compliance with the terms of that instrument; and
- (e) for dealing with any unclaimed money in accordance with the *Unclaimed Moneys Act 1891*; and
- (f) for making payments to the Society under Part 4 for the credit of the combined trust account; and
- (g) for making any other payment authorised by law.

(4) The legal practitioner must keep detailed accounts of all trust money received, and of any disbursement or other dealings with the money in a manner—

- (a) that accurately discloses the state of any trust accounts maintained by the legal practitioner; and
- (b) that enables the receipt and disposition of trust money to be conveniently and properly audited.

(5) The legal practitioner must keep detailed accounts of any trust money received that is, by virtue of a direction to which subsection (2) relates, not paid into the practitioner's trust account, and of any disbursement, or dealing, affecting that money.

(6) A legal practitioner—

- (a) must not, without the approval of the Supreme Court, permit trust money to be intermixed with other money; and
- (b) must not, without the approval of the Supreme Court, keep a trust account at an ADI, or a branch of an ADI, outside the State; and
- (c) must, unless approval has been given under paragraph (b) to keep a trust account outside the State, keep it at an ADI 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.

(7) An approval under subsection (6) may be given on such conditions as the Supreme Court thinks fit.

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(7a) A legal practitioner who receives trust money in the course of acting in a matter must provide the person who instructed him or her in the matter with trust account statements in accordance with the regulations.

(8) A person who contravenes this section or a condition imposed by the Supreme Court under this section, is guilty of an offence.

Maximum penalty: \$10 000.

(9) A legal practitioner who fails to deposit trust moneys in a trust account as required by this section is (apart from any penalty incurred under subsection (8)) liable to pay the Society interest on the amount of those trust moneys at the prescribed rate for the period of the default.

(10) The Society may, for proper reasons, remit interest payable under subsection (9) wholly or in part.

(11) Any interest received or recovered by the Society under subsection (9) must be paid into the statutory interest account.

**Protection to ADIs**

**32.** (1) Subject to subsection (2), an ADI will not be regarded as affected with notice of any specific trust to which money deposited in a trust account is subject, and is not bound to satisfy itself of the due application of that money.

(2) This section does not relieve an ADI of any liability for negligence.

**Audit of trust accounts, etc.**

**33.** (1) A legal practitioner who maintains a trust account must in each year—

(a) have the accounts and records kept by the legal practitioner under this Division (made up to 30 June in that year) audited by an auditor approved by the Supreme Court in accordance with the regulations (an "**approved auditor**"); and

(b) submit a copy of the auditor's report to the Supreme Court on or before 31 October in that year or such later date as the Supreme Court may allow.

Maximum penalty: \$10 000.

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**Compliance with trust money requirements by firms**

**33A.** The following actions when taken by or on behalf of a firm of legal practitioners in relation to trust money received by the partners in the firm will be effective for the purposes of discharging the corresponding obligations of each of the partners under this Division in relation to that trust money:

- (a) the establishment and maintenance of a trust account for the firm;
- (b) the keeping of combined trust accounts and records for the firm;
- (c) the obtaining of a Supreme Court approval in relation to trust money or a trust account;
- (d) the appointment of an auditor for the firm;
- (e) the auditing of the firm's accounts and records;

- (f) the provision to the firm's auditor of statements required under the regulations;
- (g) the submission to the Supreme Court of the auditor's report on the firm's accounts and records.

**Appointment of inspector**

**34.** (1) The Attorney-General or the Society may at any time appoint a competent inspector—

- (a) to examine, either generally or in a particular case, any accounts or records required to be kept under this Division; and
- (b) to examine, either generally or in a particular case, the documents used, prepared or obtained by an auditor in the course of auditing any accounts and records as required by this Division; and
- (c) to confer with any such auditor in relation to the audit of any accounts and records.

(2) An inspector may, if the inspector thinks fit, and must if required by the Attorney-General or the Society to do so, furnish the Attorney-General or the Society with a confidential report as to the state of any accounts, records or other documents the inspector is appointed to examine.

(3) The Attorney-General or the Society must, as soon as practicable after receiving a report under this section as to the state of a person's or firm's accounts, records or other documents, provide a copy of the report to the person or firm.

**Obtaining information for purposes of audit or examination**

**35.** (1) An approved auditor or an inspector appointed under this Division may require a prescribed person to furnish or produce specified information or documents or information or documents of a specified kind (including authorities and orders to ADIs or others) that are reasonably required for the purposes of an audit or examination under this Division.

(2) An inspector appointed under this Division may require an approved auditor to produce to the inspector any documents used, prepared or obtained by the auditor in the course of auditing any accounts and records as required by this Division (but the auditor cannot be required to produce the auditor's own working papers).

(3) A person who, without reasonable excuse, refuses or fails to comply forthwith with a requirement of an approved auditor or inspector under this section is guilty of an offence.

Maximum penalty: \$10 000.

(4) In this section—

**"financial institution"** means an ADI, insurance company, trustee company, broker or other body or person that carries on a business involving the acceptance of money on deposit or by way of investment;

**"prescribed person"** means—

- (a) the legal practitioner or former legal practitioner whose accounts or records are being audited or examined; or
- (b) a person who is, or was formerly, the partner, employer, employee or agent of the legal practitioner or former legal practitioner; or



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- (c) a financial institution with which the legal practitioner or former legal practitioner has deposited or invested money.

**ADI to report deficiencies in trust account**

**36.** An ADI with which a trust account has been established by a legal practitioner or firm of legal practitioners must report any deficiency in that account to the Attorney-General and the Society.

Maximum penalty: \$750.

**Confidentiality**

**37.** (1) An approved auditor or inspector employed or appointed to make any audit or examination of any accounts and records of a legal practitioner or firm of legal practitioners for the purposes of this Division must not (otherwise than is permitted or required by or under this Act) communicate any matter of which he or she is informed or which comes to his or her knowledge in the course of the audit or examination to any person except in the course of the report.

(1a) A person who contravenes subsection (1) is (in addition to the penalty provided by this section and in addition to any liability the person may incur to the legal practitioner or firm of legal practitioners) subject to the same liabilities to a client or *cestui que trust* of the practitioner or firm as those to which the practitioner or firm would be subject if the practitioner or firm divulged such matters.

(2) Neither the Society, nor any officer or employee of the Society, may divulge any information disclosed in a report furnished to the Society under this Division except—

- (a) for the purpose of confidential consideration of the report by the Council; or  
(b) in the performance of a duty.

(3) A person who contravenes or fails to comply with a provision of this section is, in addition to any other penalty or punishment to which the person may be liable, guilty of an offence.

Maximum penalty: \$10 000.

(4) The duty of confidentiality imposed by this section does not prevent the Society, an officer or employee of the Society, or an auditor or inspector from divulging information arising out of an audit or inspection—

- (a) to a member of a law enforcement or prosecution authority of a State, or of the Commonwealth, relating to a matter referred to the authority by the Attorney-General or reported to the authority by the Board, to which the information is relevant; or  
(b) to the Board; or  
(ba) to a regulatory authority of a participating State; or  
(c) to a court in which criminal proceedings arising from matters subject to the audit or examination have been brought.

(5) If an auditor divulges information under subsection (4), the auditor may inform the Society and the practitioner or firm of practitioners by which he or she was employed to make the audit of that fact.

### Regulations

**38.** The Governor may make regulations for the purposes of this Division—

- (a) prescribing and providing for the payment of fees for an audit or examination under this Division; and
- (ab) prescribing qualifications for approved auditors generally or for specified classes of approved auditors; and
- (ac) prescribing records to be kept by legal practitioners for the purposes of the Division; and
- (b) generally ensuring that the accounts and records required to be kept under this Division are properly kept and audited and that persons beneficially entitled to money and securities held by legal practitioners on trust are properly informed of the investment and disposition of the money and securities; and
- (c) exempting legal practitioners from this Division, or specified provisions of this Division, in respect of transactions of a specified class; and
- (d) prescribing fines not exceeding a fine of \$10 000 for contravention of any regulation under this Division.

### **DIVISION 6—DELIVERY UP OF LEGAL PAPERS**

#### **Delivery up of legal papers**

**39.** (1) The Supreme Court may, on the application of any person, order a legal practitioner or former legal practitioner to deliver up documents—

- (a) held by the practitioner or former practitioner on behalf of the applicant; or
- (b) relating to proceedings taken or work done by the practitioner or former practitioner on behalf of the applicant.

(2) The powers conferred by subsection (1) may be exercised notwithstanding the existence of a lien on the documents.

(3) An order may be made under this section on such terms and conditions as the Supreme Court thinks fit and, in particular, on conditions protecting the rights of the legal practitioner or former legal practitioner to costs for legal work done by the practitioner on behalf of the applicant.

### **DIVISION 7—AUTHORITY OF A LEGAL PRACTITIONER TO ACT ON BEHALF OF A PERSON OF UNSOUND MIND**

#### **Authority of legal practitioner to act on behalf of person of unsound mind**

**40.** (1) The authority of a legal practitioner to act on behalf of a person is not abrogated by reason only of the fact that that person becomes of unsound mind.

(2) When the mental unsoundness of a person on behalf of whom a legal practitioner is acting comes to the knowledge of the practitioner, the practitioner's authority to act on behalf of that person ceases, subject to subsection (3), and determines.

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(3) Where it is necessary for the purpose of protecting the interests of a person of unsound mind in any legal proceedings or other business, the authority of a legal practitioner, notwithstanding that the practitioner knows of the mental unsoundness of the person on behalf of whom the practitioner is acting, continues for the purpose of completing those proceedings or that business.

**DIVISION 8—RECOVERY OF LEGAL COSTS****Bill of costs to be delivered**

**41.** (1) A person cannot bring an action for the recovery of legal costs or appropriate money in or towards satisfaction of a claim for legal costs unless a bill specifying the total amount of those costs, and describing the legal work to which the costs relate, has been delivered to the person liable to the costs either personally, or by post addressed to the person at the person's last known place of business or residence.

(2) The person liable to legal costs may at any time within six months after delivery of a bill of costs under subsection (1) request the person claiming to be entitled to the costs to provide a statement showing in detail how the amount of the costs to which the bill relates is made up.

(3) A person of whom a request is made under subsection (2) must comply with the request.

Maximum penalty: \$750.

(4) Where the defendant to an action for the recovery of legal costs has made a request of the plaintiff under subsection (2), and the plaintiff has not complied with the request, the court must, at the request of the defendant, stay the action until the plaintiff has complied with the request.

**Costs**

**42.** (1) On the application—

(a) of a person claiming to be entitled to legal costs; or

(b) of a person who is liable to pay, or who has paid, any legal costs,

the Supreme Court may tax and settle the bill for those costs.

(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 lies to a judge against a decision of the Registrar pursuant to subsection (1a).

(2) Where an application has been made under subsection (1), the Supreme Court may—

(a) restrain a person claiming to be entitled to the costs from commencing an action for recovery of the costs; or

(b) stay any proceedings for recovery of the costs.

(3) The Court may, on taxation of a bill of costs under this section—

(a) order the refund of any amount overpaid; or

- (b) where the proceedings have been instituted by the person seeking recovery of the costs—order payment of legal costs in accordance with the taxed bill.

(4) The Board may institute proceedings for the taxation of legal costs under this section on behalf of a person who is liable to pay, or has paid, the legal costs and must institute such proceedings if ordered to do so by the Tribunal.

(5) Any court in which proceedings for the recovery of legal costs have been instituted may order the plaintiff to apply to have the legal costs taxed in accordance with this section, and may adjourn the proceedings until the taxation has been completed.

- (6) A legal practitioner may make an agreement in writing with a client for—

- (a) payment of a specified amount by way of legal costs (which may—but need not—consist of a daily, hourly or other time-related rate for professional work carried out by the legal practitioner on the client's behalf); or
- (b) payment of legal costs in accordance with a specified scale; or
- (c) subject to any limitations imposed by the Society's professional conduct rules or the regulations—payment of a contingency fee to be calculated on a basis set out in the agreement on fulfilment of a condition stated in the agreement.

(7) The Supreme Court may, in proceedings under this section, rescind or vary an agreement under subsection (6) if it considers that any term of the agreement is not fair and reasonable.

#### **Application of this Division**

**43.** This Division applies to costs for any business done by a legal practitioner in his or her professional character whether the business is of a litigious nature or not.

### **DIVISION 9—APPOINTMENT OF SUPERVISORS AND MANAGERS**

#### **Interpretation**

**43A.** In this Division—

"legal practitioner" means—

- (a) a local legal practitioner; or
- (b) an interstate legal practitioner who has established an office in this State.

#### **Control over trust accounts of legal practitioners**

**44.** (1) If the Society knows, or suspects on reasonable grounds, that—

- (a) a legal practitioner has died (or in the case of a company, has been dissolved or is being wound up); or
- (b) a legal practitioner is for any reason not attending properly, or unable to attend properly, to the affairs of his or her practice; or
- (c) a legal practitioner has committed a serious irregularity in the course of practice, or a serious irregularity has occurred in the course of practice; or
- (d) a person has ceased to be a legal practitioner without making proper provision for winding up the affairs of his or her practice; or

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(e) any other proper cause exists for the appointment of a supervisor under this section, the Society may, by resolution of the Council, appoint a supervisor to exercise the powers conferred by this section.

(2) A person appointed under subsection (1) has power to—

- (a) ascertain and verify entitlements to trust money; and
- (b) dispose of trust money to persons entitled to the money or in accordance with the *Unclaimed Moneys Act 1891*; and
- (c) execute cheques or other instruments for the purpose.

(3) As soon as practicable after any such resolution has been passed, the Society must cause a written copy of the resolution to be served on—

- (a) the legal practitioner or former legal practitioner or his or her personal representative; and
- (b) any other person authorised to operate the trust account of the legal practitioner; and
- (c) the auditor (if any) of the trust account maintained by the legal practitioner or former legal practitioner; and
- (d) the manager or other principal officer of the office or branch of the ADI at which the legal practitioner or former legal practitioner maintained the trust account.

(4) After service of the notice on the ADI, and until the resolution ceases to be effective—

- (a) no payment may be made by the ADI of any cheque or other instrument drawn on the trust account to which the resolution relates unless it bears the signature of the person appointed pursuant to this section; and
- (b) if it bears the signature of the person so appointed (whether or not it bears the signature of any other person) it is lawful for the ADI to make a payment in accordance with the cheque or other instrument.

(5) A person on whom a copy of the resolution has been served must not sign any cheque or other instrument drawn on the trust account to which the resolution relates unless that cheque or instrument is signed by the person appointed pursuant to this section.

(6) A person who contravenes this section is guilty of an offence.

Maximum penalty: \$1 250.

(7) A resolution under this section is effective for a term of 12 months or such lesser term as may be fixed by the Society but the Society may, from time to time, renew the resolution for a term not exceeding 12 months.

(8) The Society may, at any time, revoke an appointment under this section.

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**Appointment of manager**

**45.** (1) If the Society knows or suspects on reasonable grounds that—

- (a) a legal practitioner has died (or in the case of a company, has been dissolved or is being wound up); or
- (b) a legal practitioner is for any reason not attending properly, or unable to attend properly, to the affairs of his or her practice; or
- (c) a legal practitioner has committed a serious irregularity in the course of practice, or a serious irregularity has occurred in the course of practice; or
- (d) a person has ceased to be a legal practitioner without making proper provision for winding up the affairs of his or her practice; or
- (e) any other proper cause exists for the appointment of a manager under this section,

the Society may, by resolution of the Council, appoint a legal practitioner as a manager in respect of the practice of the practitioner or former practitioner.

(2) As soon as practicable after any such resolution has been passed, the Society must cause notice of the resolution to be served on—

- (a) the legal practitioner or former legal practitioner or his or her personal representative; and
- (b) any partner of the legal practitioner or former legal practitioner; and
- (ba) any other person authorised to operate the trust account of the legal practitioner; and
- (c) the auditor (if any) of the trust account maintained by the legal practitioner or former legal practitioner; and
- (d) the manager or other principal officer of the office or branch of the ADI at which the legal practitioner or former legal practitioner maintained the trust account.

(3) A manager appointed under this section has full power—

- (a) to transact any urgent business of the legal practitioner or former legal practitioner; and
- (ab) to dispose of trust money to persons entitled to the money, or in accordance with the *Unclaimed Moneys Act 1891*, and to execute cheques or other instruments for the purpose; and
- (ac) to pay to the Society any amounts that the Society is entitled to recover from the legal practitioner or former legal practitioner under section 48; and
- (b) with the approval of clients of the legal practitioner, or former legal practitioner, to transact any other business on their behalf; and
- (c) to perform any other act relating to the practice of the legal practitioner or former legal practitioner that the manager may be authorised to perform by the Society.

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(4) A manager may take possession of any documents relating to the practice and for that purpose may enter any place or premises where the manager reasonably suspects any such documents to be, using such force as may be necessary to enter that place or those premises.

(5) The Society may, at any time, revoke an appointment under this section.

**Appeal against appointment of supervisor or manager**

**46.** (1) A legal practitioner or former legal practitioner may, within 28 days after the appointment of a supervisor or manager, appeal to the Supreme Court against the appointment.

(2) On an appeal under this section the Supreme Court may confirm or annul the appointment.

**Application for directions**

**47.** (1) A supervisor or manager appointed under this Division may apply to the Supreme Court for directions in relation to any matter affecting his or her duties or functions under this Division.

(2) The costs of any application under subsection (1) are payable out of the guarantee fund.

**Remuneration, etc., of persons appointed to exercise powers conferred by this Division**

**48.** (1) A supervisor or manager appointed under this Division is, subject to subsection (3), entitled to such remuneration, allowances and expenses as may be determined by the Society.

(2) Any such remuneration, allowances and expenses will be paid out of the guarantee fund.

(3) The account of a supervisor or manager for remuneration, allowances and expenses may, on the application of the Attorney-General or the Society, be taxed and settled by the Supreme Court.

(4) The Society may recover, as a debt due to it, the costs, charges and disbursements appropriate to legal work performed by a manager appointed under this Division.

(5) The Society may recover as a debt from a legal practitioner or former legal practitioner any expenditure (other than expenditure recouped under subsection (4)) from the guarantee fund in consequence of the appointment of a supervisor or manager for the practice of that practitioner or former practitioner.

(5a) A manager must, in dealing with money in the course of the management of the practice of a legal practitioner or former legal practitioner, give priority to payment of amounts recoverable by the Society under subsections (4) or (5).

(6) Any amount recovered by the Society under subsection (4) or (5) must be paid into the guarantee fund.

(7) A supervisor or manager incurs no liability by reason of an act or omission in good faith and in the exercise of powers or functions under this Division.

**DIVISION 10—RESTRICTION ON PRACTICE BY BANKRUPTS, ETC.**

**Supreme Court may grant authority permitting insolvent persons to practise**

**49.** (1) A legal practitioner—

(a) who has become bankrupt or subject to a composition or deed of arrangement or assignment with or for the benefit of creditors; or

- (b) who is or has been a director of an incorporated legal practitioner during the winding up of the company for the benefit of creditors,

must not, without the authority of the Supreme Court, practise the profession of the law.

Maximum penalty: \$10 000.

(1a) Authority may be granted under this section on the application of a legal practitioner who is or is about to become bankrupt or subject to a composition or deed of arrangement or assignment with or for the benefit of creditors or who is or has been a director of an incorporated legal practitioner that is being or is about to be wound up for the benefit of creditors.

(2) The Supreme Court may grant an authority under this section on such conditions as it thinks fit.

(3) A legal practitioner must not contravene or fail to comply with any condition of an authority granted by the Supreme Court under this section.

Maximum penalty: \$10 000.

#### **DIVISION 11—RIGHT OF PERSONAL REPRESENTATIVE, ETC., TO CARRY ON LEGAL PRACTICE**

##### **Supreme Court may authorise personal representative, etc., to carry on legal practice**

**50.** (1) The personal representative of a deceased legal practitioner may, with the authority of the Supreme Court, carry on the practice of the deceased legal practitioner for a period not exceeding 12 months (or such longer period as the Supreme Court may allow) from the date of death.

(2) The trustee in bankruptcy of a legal practitioner may, with the authority of the Supreme Court, carry on the practice of the legal practitioner for a period not exceeding 12 months, or such longer period as the Supreme Court may allow.

(3) A receiver or liquidator appointed in respect of a company that is a legal practitioner may, with the authority of the Supreme Court, carry on the practice of the company for a period not exceeding 12 months, or such longer period as the Supreme Court may allow.

(4) An authority under this section will be subject to such conditions as the Supreme Court considers appropriate.

(5) A person to whom an authority has been granted under this section must not contravene, or fail to comply with, any condition of the authority.

Maximum penalty: \$10 000.

#### **DIVISION 12—RIGHT OF AUDIENCE**

##### **Right of audience**

**51.** (1) Subject to this Act and any other Act, the following persons are entitled to practise before any court or tribunal established under the law of the State:

- (a) the Attorney-General and the Solicitor-General of the State or of the Commonwealth, the Crown Solicitor and the Australian Government Solicitor and the Director of Public Prosecutions; and



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- (b) a legal practitioner acting on the instructions of—
  - (i) the Attorney-General of the State; or
  - (ii) the Attorney-General of the Commonwealth; or
  - (iii) the Crown Solicitor; or
  - (iv) the Australian Government Solicitor; or
  - (v) the Director of Public Prosecutions; and
- (c) a legal practitioner acting on the instructions of the Corporate Affairs Commission; and
- (ca) a legal practitioner acting on the instructions of the Australian Securities Commission; and
- (d) a legal practitioner employed by the Legal Services Commission and acting in the course of that employment; and
- (da) a legal practitioner employed by a community legal centre and acting in the course of that employment; and
- (e) a legal practitioner who is practising the profession of law as a principal or a legal practitioner who is acting in the course of employment by such a legal practitioner; and
- (f) a legal practitioner employed by the Society; and
- (g) a legal practitioner employed by the Board.

(2) A legal practitioner who is an employee of another legal practitioner who is practising the profession of law as a principal is not entitled to appear on instructions from the principal before a court or tribunal as counsel or solicitor for any other person by whom the practitioner is employed or for any client of that other person.

(3) Where a legal practitioner who is an employee appears as counsel or solicitor before a court or tribunal, any undertaking given by the practitioner in the course of the proceedings is binding on the employer.

**DIVISION 13—PROFESSIONAL INDEMNITY INSURANCE SCHEME****Professional indemnity insurance scheme**

**52.** (1) The Society may, with the approval of the Attorney-General, establish a scheme providing professional indemnity insurance, to an extent provided by the scheme, for the benefit of legal practitioners.

- (2) The scheme—
  - (a) will operate for the benefit of a class, or classes, of legal practitioners defined in the scheme;
  - (b) will provide for insurance indemnity partially under a master policy negotiated between the Society and insurers participating in the scheme and partially from a professional indemnity fund to be established, administered and applied in accordance with the scheme;

- (c) may provide for the determination and settlement of claims against legal practitioners covered by the scheme;
- (d) may impose on legal practitioners obligations to pay premiums, levies, fees or other charges (which may vary according to factors stipulated in the scheme);
- (e) may impose, or provide for the imposition of, civil or criminal sanctions or penalties against legal practitioners who fail to comply with their obligations under the scheme;
- (f) may confer discretionary powers on the Society in relation to the administration or enforcement of the scheme;
- (g) may make any other provision reasonably necessary for, or incidental to, the administration or enforcement of the scheme.

(3) The scheme, and any amendment to the scheme made by the Society with the approval of the Attorney-General, have the force of law and are binding on—

- (a) the Society;
- (b) the legal practitioners covered by the scheme;
- (c) the insurers and other persons to whom the scheme applies.

(4) The Society must keep a copy of the scheme and of any amendment to the scheme available for inspection at its public office and must, on request for a copy of the scheme or amendment and payment of a reasonable fee fixed by the Society, provide such a copy.

(5) In this section—

**"legal practitioner"** includes—

- (a) a member of a faculty of law in a university;
- (b) a person who has ceased to be a legal practitioner but who was a legal practitioner when a liability covered by the scheme arose;

**"professional indemnity insurance"** means insurance against—

- (a) civil liability arising in connection with legal practice (whether the liability arises from an act or omission on the part of the insured legal practitioner or some other person);
- (b) civil liability incurred by a legal practitioner in connection with the administration of a trust of which the practitioner is a trustee.

**Professional indemnity insurance required by interstate practitioner establishing office in this State**

**52AA.** (1) This section applies to an interstate legal practitioner who—

- (a) establishes an office in this State; and
- (b) if he or she were a local legal practitioner, would be covered by a scheme providing professional indemnity insurance.

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(2) An interstate legal practitioner to whom this section applies must not practise the profession of the law in this State unless there is in force approved professional indemnity insurance in respect of his or her legal practice in this State.

Maximum penalty: \$10 000.

(3) If an interstate legal practitioner fails to comply with this section, the Supreme Court may, on application by the Attorney-General or the Society, suspend the practitioner's right to practise the profession of the law in this State until this section is complied with.

(4) The Supreme Court must give notice of a suspension imposed under subsection (3) to any regulatory authority that is authorised to seek or impose a corresponding suspension in a State in which the practitioner is admitted as a legal practitioner.

(5) In this section—

**"approved professional indemnity insurance"** means insurance—

- (a) that has been approved by the Attorney-General; or
- (b) that is of a class or kind that has been approved by the Attorney-General.

**Professional indemnity insurance where no office established in this State**

**52AAB.** If the professional indemnity insurance in force in respect of an interstate legal practitioner who engages in legal practice in this State but has not established an office in this State is not approved professional indemnity insurance (within the meaning of section 52AA), the interstate legal practitioner must disclose that fact to a client before he or she is retained by the client.

Maximum penalty: \$10 000.

**DIVISION 14—MISCELLANEOUS**

**Rules of Supreme Court may assign functions or powers**

**52A.** (1) The Supreme Court may, by rules of court, assign any functions or powers conferred on or vested in it under this Part—

- (a) to a specified person or body; or
- (b) to a person occupying a specified office or position.

(2) The rules of the Supreme Court may specify that an assignment of functions or powers under this section is subject to conditions and limitations.

(3) A decision made by a person or body acting in pursuance of an assignment of functions or powers under this section may, subject to the rules of the Supreme Court, be appealed against to the Supreme Court by the person in relation to whom the decision was made.

(4) On such an appeal, the Supreme Court—

- (a) may confirm, vary or reverse the decision; and
- (b) may make any consequential or ancillary order.

**PART 4**  
**THE COMBINED TRUST ACCOUNT AND OTHER RELATED ACCOUNTS**

**DIVISION 1—THE COMBINED TRUST ACCOUNT**

**Duty to deposit trust money in combined trust account**

**53.** (1) A legal practitioner must, within 14 days after 31 May, and within 14 days after 30 November, in each year, out of trust money held in the practitioner's trust account, deposit the appropriate amount in the combined trust account.

(1a) The appropriate amount is the amount (if any) necessary to ensure that the following formula is satisfied:

$$A_1 \geq \frac{2}{3} A_2$$

Where—

$A_1$  is the amount held on the practitioner's behalf in the combined trust account

$A_2$  is the lowest aggregate (determined by reference to the relevant ADI statements) of the amount held in the practitioner's trust account and the amount (if any) simultaneously held in the combined trust account on the practitioner's behalf during the period of six months ending on 31 May or 30 November (as the case requires).

(2) The combined trust account is a composite account consisting of separate accounts established by the Society at each approved ADI.

(3) Where a legal practitioner maintains two or more trust accounts, those accounts will, for the purposes of this section, be taken to be a single trust account the balance of which is the aggregate of the respective balances of each of those trust accounts but where a legal practitioner maintains, on the instructions of a client, a separate trust account for the exclusive benefit of that client, the balance of that account will, for the purposes of this section, be disregarded.

(4) A legal practitioner—

(a) may withhold money from deposit under subsection (1) if—

(i) the money is necessary to meet an immediate claim on the practitioner's trust account or to establish or maintain a reasonable balance in the trust account sufficient to meet claims reasonably expected in the ordinary course of legal practice in the near future; and

(ii) the practitioner has, on or before the day on which a deposit under subsection (1) is required to be made, given written notice to the Society accordingly; and

(b) is not obliged to deposit money under subsection (1) in relation to a particular period of six months if the lowest aggregate referred to in subsection (1a) was, during that period, less than \$1 000 (or some other sum fixed by regulation for the purposes of this subsection).

(5) If a trust account is maintained by a firm of legal practitioners, the trust account will, for the purposes of this section, be taken to be the trust account of each member of the firm, and the members of the firm are each liable to perform the obligations imposed by this section, but the discharge by one member of the firm of the obligations under this section in relation to the trust account will be taken as a discharge by all the members of the firm of their obligations in relation to that trust account.

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(6) If the Council has reasonable cause to suspect that a legal practitioner has not complied with the obligations of this section, it may, by notice in writing served on the legal practitioner, require the practitioner to attend before it and to produce evidence of the trust money received by the practitioner, the amount from time to time standing to the credit of the trust account, and such other relevant matters as may be specified in the notice.

(7) Where a legal practitioner establishes a trust account and has, at the time of establishing the account, no other trust account, the balance of the trust account during the first month after its establishment is, for the purposes of this section, to be ignored.

(8) A legal practitioner who fails to make the appropriate deposit by the last date for payment is personally liable to pay the Society, for the credit of the statutory interest account, interest on the outstanding amount at the prescribed rate for the period of the default but, if the appropriate deposit is made within seven days after that date, no liability for interest arises under this subsection.

(9) A legal practitioner may withdraw money held on the practitioner's account in the combined trust account if, and only if, the withdrawal is necessary to meet an immediate claim on the practitioner's trust account or to establish a reasonable balance in the trust account sufficient to meet claims reasonably expected in the ordinary course of legal practice in the near future.

(10) If a legal practitioner withholds money from deposit under subsection (4)(a) or withdraws money under subsection (9), the auditor must, in the report on the audit for the relevant year, express an opinion on whether the withholding or withdrawal was justified, and if the amount exceeds the amount that could, in the auditor's opinion, be reasonably justified, on the amount of the excess (but before the auditor includes a statement expressing such an opinion in the report, the auditor must allow the legal practitioner a reasonable opportunity to comment on the proposed statement and may make any modification to the proposed statement that the auditor considers justified in the light of the legal practitioner's comments).

(11) If the withholding or withdrawal of money is not justified, or exceeds an amount that could be reasonably justified, the legal practitioner is personally liable to pay to the Society, for the credit of the statutory interest account, interest on the amount withheld or withdrawn, or the amount of the excess, (as the case requires), from the date of the withholding or withdrawal until the amount on deposit in the combined trust account is restored to the level required by this section.

(12) The Society may, for any proper reason, remit interest payable under subsection (8) or (11) wholly or in part.

(13) The Society—

(a) may approve an ADI for the purposes of this section if satisfied that the ADI is prepared to pay a reasonable rate of interest on money deposited in the combined trust account; and

(b) may revoke an approval previously given under this subsection.

(14) If the Society revokes the approval of an ADI under subsection (13) the combined trust account, so far as it was kept at that ADI, must be transferred to an ADI that continues as an approved ADI.

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### **Immunity from liability**

**55.** (1) No action at law or in equity lies against the Society or a legal practitioner for any action done in compliance with this Division.

(2) This Division does not affect the interest or claim of any person beneficially entitled to trust money and any such interest or claim may be asserted and enforced as effectually as if this Division had not been enacted.

## **DIVISION 2—THE STATUTORY INTEREST ACCOUNT**

### **Statutory interest account**

**56.** (1) The Society must continue to maintain the statutory interest account.

(2) The Society must pay into the statutory interest account all interest earned from deposits in the combined trust account.

(3) The Society may invest any money contained in the statutory interest account in any manner in which trustees are authorised by statute to invest trust funds and must pay the income derived from any such investment into the statutory interest account.

(4) The amount held in the statutory interest account may be applied to defraying any management fee or other expenditure relating to the management or administration of the combined trust account and the statutory interest account.

(5) After making such provision for defraying expenditure under subsection (4) as the Society thinks fit, the Society must pay the balance of the money comprised in the statutory interest account (excepting money advanced to the statutory interest account for the purpose of investment), as to five-eighths to the Legal Services Commission, and, subject to subsection (6), as to three-eighths, to the guarantee fund.

(6) If at any time the amount of the guarantee fund (including the value of any investments in which any of its money has been invested) exceeds an amount calculated by multiplying \$7 500 by the number of legal practitioners who held practising certificates on the last preceding 30 June, the Society must hold the excess in the statutory interest account, to be paid or applied by the Society to the Legal Services Commission, or for any purpose approved by the Attorney-General and the Society.

## **DIVISION 3—THE LEGAL PRACTITIONERS' GUARANTEE FUND**

### **Guarantee fund**

**57.** (1) The Society must continue to maintain the legal practitioners' guarantee fund.

(2) The Society may from time to time invest any of the money constituting, or forming part of, the guarantee fund in any manner in which trustees are authorised by statute to invest trust funds, and may advance, on such terms and conditions as the Society thinks fit, money from the guarantee fund to the statutory interest account.

(3) The guarantee fund consists of—

(a) the money paid into it from the statutory interest account; and

(b) all money recovered by the Society under Part 5; and

(c) a prescribed proportion of the fees paid in respect of the issue or renewal of practising certificates; and

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- (ca) a prescribed proportion of the fees paid by interstate practitioners on giving notice of the establishment of an office in this State; and
  - (d) costs recovered by the Attorney-General, the Board or the Society in disciplinary proceedings against legal practitioners or former legal practitioners; and
  - (da) any fee paid to the Board; and
  - (e) any money that the Society thinks fit to include in the guarantee fund; and
  - (f) the income and accretions arising from the investment of the money constituting the guarantee fund.
- (4) Subject to subsection (5), money in the guarantee fund may be applied for any of the following purposes:
- (aa) meeting any expenses incurred by LPEAC in exercising its functions and powers under this Act; and
  - (aab) the costs incurred by the Society in appointing a legal practitioner to appear in proceedings in which a person seeks admission as a legal practitioner; and
  - (a) the costs of investigating complaints against legal practitioners or former legal practitioners and of disciplinary proceedings against legal practitioners or former legal practitioners; and
  - (ab) the costs of proceedings instituted by the Board for the taxation of legal costs; and
  - (b) the costs of prosecutions for offences against this Act; and
  - (c) costs consequent on the appointment of a supervisor or manager under this Act; and
  - (d) the costs of an examination conducted at the direction of the Attorney-General or the Society under Division 5 of Part 3; and
  - (e) the payment of honoraria, approved by the Attorney-General, to members of the Board and the Tribunal; and
  - (ea) the legal costs payable by—
    - (i) a member of the Board in relation to any action against the member arising from an honest act or omission in the performance or purported performance of a duty imposed by or under this Act; or
    - (ii) any person in relation to any action arising from an honest act or omission in the exercise or purported exercise of powers or functions under Division 5 of Part 3 or delegated by the Board; and
  - (f) the payment of money towards the costs of an arrangement under Division 13 of Part 3 to the extent that those costs are, in accordance with the terms of the scheme and with the approval of the Attorney-General, to be paid from the guarantee fund; and
  - (g) the costs of processing claims under Part 5 and of paying out those claims to the extent authorised by that Part; and

- (h) defraying any management fee or other expenditure relating to the management or administration of the guarantee fund; and
- (i) educational or publishing programs conducted for the benefit of legal practitioners or members of the public.

(5) No payment may be made from the guarantee fund except with the authorisation of the Attorney-General.

(6) The Attorney-General may, before authorising a payment from the guarantee fund, require the Society, the Tribunal, the Board or any person engaged in the administration of this Act to provide such information and explanations as to the reason for the proposed payment as the Attorney-General may reasonably require.

#### DIVISION 4—MISCELLANEOUS

##### Payment of interest accruing on trust accounts

**57A.** (1) Interest accruing on a trust account (other than a separate trust account maintained by a legal practitioner for the exclusive benefit of a particular client) must be paid by the ADI concerned to the Society.

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

- (a) 50 per cent of the money must 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; and
- (b) 40 per cent of the money must be paid to the guarantee fund; and
- (c) 10 per cent of the money must be paid to a person nominated by the Attorney-General subject to such conditions as the Attorney-General directs.

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

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

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##### Accounts and audit

**58.** (1) The Society must keep proper accounts of all money received, disbursed, invested and otherwise dealt with under this Part.



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(2) The Society must cause the combined trust account, the statutory interest account, and the guarantee fund to be audited at least once in every calendar year by a public accountant approved by the Attorney-General and must send copies of the duly audited accounts to the Attorney-General.

**Power to borrow for purposes of this Part**

**59.** The Society may borrow money for the purposes of any account or fund maintained under this Part and may defray the interest and other expenditure resulting from the borrowing from the appropriate account or fund.

**PART 5  
CLAIMS AGAINST GUARANTEE FUND**

**Claims**

**60.** (1) Subject to this Part, where—

- (a) a person suffers loss as a result of a fiduciary or professional default; and
- (b) there is no reasonable prospect of recovering the full amount of that loss (otherwise than under this Part),

the person may, by instrument in writing served on the Society, claim compensation under this Part.

(2) The amount of a claim cannot exceed—

- (a) the actual pecuniary loss suffered by the claimant in consequence of the fiduciary or professional default (including the reasonable costs of making the claim); less
- (b) any amount that the claimant has received, or may reasonably be expected to recover (otherwise than under this Part) in reduction of that loss.

(3) If a valid claim has not been satisfied as provided by this Part at the expiration of 12 months from the day on which it was lodged with the Society it is then, to the extent to which it has not been satisfied, increased by interest at a prescribed rate calculated from the expiration of that period.

(4) No claim can be made under this Part—

- (a) in respect of a fiduciary or professional default occurring before 4 December, 1969; or
- (ab) in respect of a fiduciary or professional default occurring outside this State unless it occurs in the course of, or incidentally to—
  - (i) legal work arising from instructions taken in this State; or
  - (ii) legal work substantially carried out in this State; or
- (b) in respect of a liability for which indemnity is provided under a scheme of professional indemnity insurance under Division 13 of Part 3.

(5) Despite the other provisions of this section—

- (a) a claim can only be made in relation to a fiduciary or professional default by an interstate legal practitioner in circumstances provided for by an agreement or arrangement made by the Society with the approval of the Attorney-General under section 95AA; and
- (b) an agreement or arrangement so made under section 95AA may prescribe limitations or conditions in respect of any such claim.

**Personal representative may make claim**

**60A.** The personal representative of a person (including a deceased person) is entitled to make a claim under this Part on behalf of the person or the person's estate.

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**Limitation of claims**

**61.** (1) The Society may, by notice published in a newspaper circulating generally throughout the State, fix a day, not earlier than three months after the publication of the notice, on or before which claims in respect of a fiduciary or professional default, or a series of professional or fiduciary defaults, referred to in the notice, must be made.

(2) Where a notice is published under subsection (1), a claim that is not made within the time prescribed by the notice is barred unless the Society otherwise determines.

(3) No action in defamation lies in respect of the publication, in good faith, of a notice under this section.

**Power to require evidence**

**62.** (1) The Society may, in considering any claim made under this Part, by notice in writing served on any person, require that person, within the time specified in the notice, to deliver up any document in his or her possession or power relevant to the determination of the claim.

(2) A person must not fail duly to comply with a notice served on him or her pursuant to subsection (1).

Maximum penalty: \$1 250.

**Establishment of validity of claims**

**63.** (1) Where a claim is made under this Part, the Society must determine—

- (a) whether the claim is a valid claim; and
- (b) the amount payable under this Part in, or towards, satisfaction of the claim.

(2) The Society must, by notice in writing, inform the claimant of any determination made by it under subsection (1).

(3) A notice under subsection (2) must be served—

- (a) on the claimant or the claimant's personal representative; or
- (b) where the claimant is dead and has not left a personal representative known to the Society, or where the whereabouts of the claimant is unknown—by publication in the *Gazette*.

(4) A claimant who is aggrieved by a determination of the Society under this section may appeal to the Supreme Court against the determination.

(5) On an appeal under subsection (4), the Supreme Court may reverse or vary the determination of the Society and may make such further orders as it considers just in the circumstances.

(6) An appeal against a determination of the Society under this section must be instituted within three months after the day on which notice of the determination is served under this section but the Court may, if satisfied that proper cause to do so exists, dispense with the requirement that the appeal be so instituted.

(7) In any proceedings under this section, evidence of an admission or confession is admissible to prove a fiduciary or professional default, notwithstanding that the person by whom the admission or confession was made is not a party to the proceedings.

(8) If in any proceedings under this section the Society is satisfied, on the balance of probabilities, that a fiduciary or professional default has been committed, it may determine the claim accordingly notwithstanding that the fiduciary or professional default constitutes a criminal offence and the evidence would not be sufficient to establish the guilt of a person charged with that offence.

### **Satisfaction of claims**

**64.** (1) The Society must satisfy any valid claim under this Part, to the extent determined by the Society or the Supreme Court, out of the guarantee fund.

(2) Where the Society has published a notice under this Part in respect of a specified fiduciary or professional default, or a specified series of fiduciary or professional defaults, the maximum amount that may be applied towards satisfaction of all claims to which the notice relates is the prescribed percentage of the balance of the guarantee fund (calculated to the nearest \$1 000) as disclosed in the accounts of the guarantee fund last audited before the proposed application of money towards satisfaction of the claims.

(3) Where the maximum amount that may be applied to satisfy claims made in respect of a fiduciary or professional default, or a series of fiduciary or professional defaults, does not permit the full satisfaction of the claims, the Society must apportion that amount between the various claims in such manner as it thinks just.

(4) The Society, in apportioning payments under this section, must take into account the relative degrees of hardship suffered or likely to be suffered by the various claimants as a result of non-payment of the full amount of the claim for compensation.

(5) Where the Society apportions payments under this section, the claims in respect of which the payments are made are discharged notwithstanding that they may not have been satisfied in full.

(6) The Society may, with the approval of the Attorney-General, make further payments to any person—

- (a) whose claim has not been satisfied in full by reason of the operation of subsection (2), or for any other reason; or
- (b) whose claim is barred,

but any payment so made does not revive or reinstate a claim.

### **Rights of the Society**

**65.** (1) Subject to this section, where the Society has made any payment to a claimant under this Part, the Society is, to the extent of the payment, subrogated to the rights of the claimant against any person liable at law or in equity for the fiduciary or professional default in respect of which the payment was made.

(2) This section does not confer on the Society any right to recover money from a person whose liability in respect of a fiduciary or professional default does not arise from a wrongful or negligent act or omission on that person's part.

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**Claims by legal practitioners**

**66.** (1) A legal practitioner who has paid compensation to any person for pecuniary loss suffered in consequence of a fiduciary or professional default by a partner, clerk or employee of the legal practitioner may make a claim under this Part in respect of the payment provided that, in the case of a fiduciary or professional default by a partner, the default consisted of a defalcation, misappropriation or misapplication of trust money or dishonest conduct.

(2) A claim of a kind referred to in subsection (1) is not a valid claim for the purposes of this Part unless the Society is satisfied that—

- (a) all legal or equitable claims in respect of the fiduciary or professional default (other than this claim against the guarantee fund) have been fully satisfied; and
- (b) the legal practitioner acted honestly and without negligence.

**Insurance in respect of claims against guarantee fund**

**67.** (1) The Society may, with the approval of the Attorney-General, insure the guarantee fund to such extent as the Society thinks fit against claims under this Part.

(2) The premium on a policy of insurance entered into under this section must be paid out of the guarantee fund.

**Annual report**

**67A.** (1) The Society must, on or before 31 October in each year, report to the Attorney-General on the administration of this Part during the preceding financial year.

(2) The report must state the amount of the payments from the guarantee fund during the financial year and the nature of the claims in respect of which payments were made.

(3) The Attorney-General must, within 12 sitting days after receiving a report under this section, cause copies of the report to be laid before both Houses of Parliament.

**PART 6**  
**INVESTIGATIONS, INQUIRIES AND DISCIPLINARY PROCEEDINGS**

**DIVISION 1—THE LEGAL PRACTITIONERS CONDUCT BOARD**

**Establishment of the Legal Practitioners Conduct Board**

**68.** (1) The Legal Practitioners Complaints Committee continues in existence as the *Legal Practitioners Conduct Board*.

(1a) The Board—

- (a) is a body corporate; and
- (b) has perpetual succession and a common seal; and
- (c) is capable of suing and being sued.

(1b) Where an apparently genuine document purports to bear the common seal of the Board, it will be presumed in any legal proceedings, in the absence of proof to the contrary, that the common seal of the Board was duly affixed to that document.

(1c) The Board has the powers of a natural person.

(2) The Board consists of seven members appointed by the Governor of whom—

- (a) three will be persons nominated by the Attorney-General of whom one will be a legal practitioner and two will be persons who are not legal practitioners; and
- (b) four will be persons nominated by the Society (at least one of whom will, at the time of nomination, be a practitioner of not more than seven years standing and at least one will be a person who is not a legal practitioner).

(3) A member of the Board, nominated by the Attorney-General after consultation with the President of the Society, will be appointed by the Governor to be the presiding member of the Board for such term and on such conditions as may be fixed in the instrument of appointment.

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(5) A member is not eligible for appointment as presiding member of the Board unless the member is a legal practitioner.

(6) The Governor may appoint a suitable person to be a deputy of a member of the Board.

(7) A deputy of a member—

- (a) must be qualified for membership of the Board in the same way as the member of whom he or she is appointed deputy; and
- (b) must be nominated for the appointment by the Attorney-General or the Society according to whether that member was nominated by the Attorney-General or the Society.

(8) If a member of the Board is absent, or unable, because of a conflict of interest or for any other reason, to act as a member of the Board, the deputy may act in his or her place.

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**Conditions upon which members of the Board hold office**

**69.** (1) Subject to this Act, a member of the Board will be appointed for a term of office of three years and, on the expiration of a term of office, is eligible for reappointment.

(2) The Governor may remove a member of the Board from office for—

(a) mental or physical incapacity to carry out official duties satisfactorily; or

(b) neglect of duty; or

(c) dishonourable conduct.

(3) The office of a member of the Board becomes vacant if the member—

(a) dies; or

(b) completes a term of office; or

(c) resigns by written notice addressed to the Attorney-General; or

(d) in the case of a member who is a legal practitioner—ceases to be a legal practitioner or is disciplined under this Act or by the Supreme Court or under an Act or law of another State or Territory of the Commonwealth for regulating the conduct of persons practising the profession of the law; or

(e) is removed from office by the Governor pursuant to subsection (2).

(4) On the office of a member of the Board becoming vacant, a person will be appointed in accordance with this Act to the vacant office but where the office of a member of the Board becomes vacant before the expiration of a term of appointment, the successor will be appointed only for the balance of the term.

**Quorum, etc.**

**70.** (1) Four members of the Board (of whom not less than two are legal practitioners) constitute a quorum of the Board, and no business may be transacted at a meeting of the Board unless a quorum is present.

(2) A decision carried by a majority of the votes cast by the members present at a meeting of the Board is a decision of the Board.

(3) Each member of the Board is entitled to one vote on any matter arising from the decision of the Board and, in the event of an equality of votes, the person presiding at the meeting is entitled to a second or casting vote.

(4) The presiding member will preside at any meeting of the Board at which the member is present, and, in the absence of the presiding member, the members present will decide who is to preside at that meeting.

(5) Subject to this Act, the business of the Board will be conducted in such a manner as the Board determines.

(6) The Board must not meet to transact business on premises of the Society except with the approval of the Attorney-General.

**Validity of acts of the Board and immunity of its members**

**71.** (1) An act or proceeding of the Board is not invalid by reason only of a vacancy in its membership, and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.

(2) No liability attaches to a member of the Board for any act or omission by the member, or by the Board, in good faith and in the exercise or purported exercise of powers or functions, or in the discharge or purported discharge of duties, under this Act.

**Director and staff of Board**

**72.** (1) There will be a Director appointed by the Board with the approval of the Attorney-General.

(2) The Director is the chief administrative officer of the Board.

(3) The Board may appoint other staff to assist in carrying out its functions.

**Confidentiality**

**73.** (1) Subject to this section, a member of the Board or a person employed or engaged on work related to the affairs of the Board must not divulge information that comes to his or her knowledge by virtue of that office or position except—

(a) in the course of carrying out the duties of that office or position; or

(b) as may be authorised by or under this Act; or

(ba) as may be authorised by or under an agreement or arrangement that has been approved by the Attorney-General under section 73A; or

(c) in evidence before a court in which criminal proceedings arising from matters subject to a report of the Board have been brought.

Maximum penalty: \$10 000.

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

(a) the Council; and

(ab) the Attorney-General; and

(ac) a member of a law enforcement or prosecution authority of a State, or of the Commonwealth, relating to a matter referred to the authority by the Attorney-General or reported to the authority by the Board, to which the information is relevant; and

(ad) a regulatory authority of a participating State who has requested the information in connection with actual or possible disciplinary action against a legal practitioner; and

(b) a committee or person to whom the Council has delegated its power to appoint an inspector pursuant to Division 5 of Part 3; and

(c) an inspector appointed pursuant to that Division.



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(3) Nothing in this section prevents the disclosure of information relating to a complaint to the complainant or a person acting on behalf of the complainant.

**Exchange of information between Board and Council**

**73A.** (1) The Board and the Council may enter into an agreement or arrangement providing for the exchange of information relating to legal practitioners.

(2) An agreement or arrangement must be reduced to writing and be approved by the Attorney-General.

**DIVISION 2—FUNCTIONS OF THE BOARD**

**SUBDIVISION 1—PRELIMINARY**

**Functions of Board**

**74.** (1) The functions of the Board are as follows:

- (a) to investigate suspected unprofessional or unsatisfactory conduct by legal practitioners in accordance with Subdivision 2;
- (b) following an investigation, to take action authorised under Subdivision 3 or to lay charges before the Tribunal;
- (c) to receive and deal with complaints of overcharging in accordance with Subdivision 4;
- (d) to arrange for the conciliation of complaints in accordance with Subdivision 5;
- (e) to commence disciplinary proceedings against legal practitioners in the Supreme Court on the recommendation of the Tribunal.

(2) The Board may, with the approval of the Attorney-General, fix, and require the payment of, fees in connection with the performance of functions of the Board under this Act.

(3) The Board may exercise any of its functions or powers in relation to a person who is a former legal practitioner if, at the time of the alleged unprofessional or unsatisfactory conduct or overcharging, the person was a legal practitioner.

**Power of delegation**

**75.** (1) Subject to subsection (2), the Board may delegate any of its powers or functions under this Act to any person.

(2) The Board cannot delegate the making of a determination as to—

- (a) whether evidence exists of unprofessional or unsatisfactory conduct by a legal practitioner; or
- (b) whether misconduct by a legal practitioner is relatively minor and should be dealt with under section 77AB; or
- (c) whether to recommend that a legal practitioner reduce or refund an amount charged by the practitioner; or
- (d) whether to lay charges before the Tribunal.

(3) A delegation under this section is revocable at will and does not derogate from the power of the Board to act itself in any matter.

## **SUBDIVISION 2—INVESTIGATION OF UNPROFESSIONAL OR UNSATISFACTORY CONDUCT**

### **Investigations by Board**

**76.** (1) The Board may, of its own motion, make an investigation into the conduct of a legal practitioner or former legal practitioner who the Board has reasonable cause to suspect has been guilty of unprofessional or unsatisfactory conduct.

(1a) The Board must make an investigation into the conduct of a legal practitioner or former legal practitioner where—

- (a) the Board has been directed to make the inquiry by the Attorney-General or the Society; or
- (b) a complaint has been received in relation to the conduct of the legal practitioner or former legal practitioner.

(1b) Despite subsection (1a), the Board may determine not to commence or continue an investigation that would otherwise be required as a result of receipt of a complaint if it is apparent to the Board that the complaint is frivolous or vexatious or if the Board is satisfied that the subject matter of the complaint has been resolved prior to commencement or completion of an investigation.

(2) No direction may be given to the Board under this section unless the Attorney-General or the Society (as the case may require) has reasonable cause to suspect that the legal practitioner or former legal practitioner to whom the proposed investigation relates has been guilty of unprofessional or unsatisfactory conduct.

(3) For the purposes of an investigation the Board, or a person authorised by the Board to exercise the powers conferred by this subsection, may—

- (a) by notice in writing, require specified documents, or documents of a specified class, in the custody or control of a prescribed person to be produced at a time and place specified in the notice; and
- (b) at any time during ordinary business hours, inspect any documents in the custody or control of a prescribed person; and
- (c) seize or make notes or copies of any documents produced in accordance with this subsection, or take extracts from them.

(4) A person who—

- (a) wilfully delays or obstructs the Board or an authorised person in the exercise of powers conferred by subsection (3); or
- (b) being a prescribed person, refuses without reasonable excuse to produce a document when required to do so in accordance with subsection (3),

is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for one year.

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(4a) The Board may, by notice in writing, require a legal practitioner or former legal practitioner whose conduct is under investigation to make a detailed report to the Board, within the time specified in the notice, in relation to any matters relevant to the investigation.

(4b) A legal practitioner or former legal practitioner must comply with a requirement under subsection (4a).

Maximum penalty: \$10 000 or imprisonment for one year.

(5) In this section—

**"financial institution"** means an ADI, insurance company, trustee company, broker or other body or person that carries on a business involving the acceptance of money on deposit or by way of investment;

**"prescribed person"** means—

- (a) the legal practitioner or former legal practitioner whose conduct is under investigation; or
- (b) a person who is, or was formerly, the employer, employee or partner of the legal practitioner or former legal practitioner; or
- (c) the person (including a legal practitioner or the Legal Services Commission) who instructed the legal practitioner or former legal practitioner whose conduct is under investigation in the matter in relation to which that conduct occurred or a servant or agent of the person who instructed the legal practitioner or former legal practitioner; or
- (d) a financial institution with which the legal practitioner or former legal practitioner has deposited or invested money; or
- (e) an auditor or inspector employed or appointed to make an audit or examination of accounts of the legal practitioner or former legal practitioner under Division 5 of Part 3.

**SUBDIVISION 3—ACTION FOLLOWING INVESTIGATION**

**Report on investigation**

**77.** (1) If, in the course or in consequence of an investigation under this Division, the Board is satisfied that there is evidence of unprofessional conduct by a legal practitioner or former legal practitioner, the Board must make a report on the matter to the Attorney-General and the Society.

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(4) The Board must, in addition, report any suspected unprofessional conduct that would constitute an offence to all relevant law enforcement and prosecution authorities.

(5) The Board must, at the request of the Attorney-General, furnish the Attorney-General with any material in its possession relevant to the investigation or prosecution of the suspected offence.

(6) If it appears to the Attorney-General from a report or material furnished under this section that criminal proceedings should be taken against any person, the Attorney-General may take any action that may be appropriate for that purpose.

**Board to notify persons of suspected loss**

**77AA.** If, in the course or in consequence of an investigation under this Division, the Board has reason to believe that a person has suffered loss as a result of unprofessional or unsatisfactory conduct by a legal practitioner, the Board may notify the person.

**Powers of Board in relation to minor misconduct**

**77AB.** (1) If, after conducting an investigation into conduct by a legal practitioner under this Division, the Board is satisfied that—

- (a) there is evidence of unprofessional or unsatisfactory conduct by the legal practitioner; but
- (b) the misconduct in question was relatively minor and can be adequately dealt with under this subsection,

the Board may, if the legal practitioner consents to such a course of action, determine not to lay charges before the Tribunal and instead—

- (c) reprimand the legal practitioner; or
- (d) make an order imposing conditions on the legal practitioner's practising certificate (whether a practising certificate under this Act or an interstate practising certificate)—
  - (i) relating to the practitioner's legal practice; or
  - (ii) requiring that the legal practitioner, within a specified time, complete further education or training, or receive counselling, of a type specified by the Board; or
- (e) make an order requiring that the legal practitioner make a specified payment (whether to a client of the practitioner or to any other person) or do or refrain from doing a specified act in connection with legal practice.

(2) The Board may, in determining whether to exercise a power under this section in relation to a legal practitioner, take into account any previous action under this section or finding by the Tribunal or the Supreme Court of unprofessional or unsatisfactory conduct relating to the practitioner.

(3) An order under this section must be reduced to writing and be signed—

- (a) by the legal practitioner to whom it relates; and
- (b) on behalf of the Board.

(4) A condition imposed on a practising certificate or interstate practising certificate by an order under this section may be varied or revoked at any time on application by the legal practitioner to the Tribunal.

(5) An apparently genuine document purporting to be a copy of an order under this section and providing for the payment of a monetary sum by a legal practitioner, will be accepted in legal proceedings, in the absence of proof to the contrary, as proof of such a debt.

(6) A contravention of or non-compliance with an order under this section is unprofessional conduct.

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**SUBDIVISION 4—COMPLAINTS OF OVERCHARGING**

**Investigation of allegation of overcharging**

**77A.** (1) Subject to subsection (2), if a complaint of overcharging is made against a legal practitioner, the Board must, unless the Board is of the opinion that the complaint is frivolous or vexatious, investigate the complaint.

(2) The Board may require a complainant to pay a reasonable fee, fixed by the Board, for investigation of the complaint and decline to proceed with the investigation unless the fee is paid.

(3) For the purposes of an investigation the Board may, by notice in writing—

(a) require the legal practitioner to make a detailed report to the Board, within the time specified in the notice, on the work carried out for the complainant;

(b) require the legal practitioner to produce to the Board, within the time specified in the notice, documents relating to the work.

(4) A legal practitioner must comply with a requirement under subsection (3).

Maximum penalty: \$10 000 or imprisonment for 1 year.

(5) At the conclusion of the investigation the Board—

(a) must report to the complainant and the legal practitioner on the results of the investigation; and

(b) may recommend that the legal practitioner reduce a charge or refund an amount to the claimant.

**SUBDIVISION 5—CONCILIATION**

**Board may conciliate complaints**

**77B.** (1) The Board may, at any time, arrange for a conciliation to be conducted in relation to a matter the subject of a complaint received by the Board.

(2) Nothing said or done in the course of a conciliation under this section can subsequently be given in evidence in any proceedings (other than proceedings for a criminal offence).

(3) A person who has been involved in a conciliation under this section is disqualified from investigating or further investigating conduct to which the complaint relates and from otherwise dealing with the complaint.

(4) If agreement is reached through a conciliation under this section—

(a) the agreement must be recorded in writing and signed by the parties to the agreement and on behalf of the Board by a person authorised by the Board for the purpose; and

(b) a copy of the agreement must be given to each of the parties.

(5) An apparently genuine document purporting to be an agreement signed in accordance with this section and providing for the payment of a monetary sum by a party to the agreement, will be accepted in legal proceedings, in the absence of proof to the contrary, as proof of such a debt.

(6) If a legal practitioner contravenes or fails to comply with the terms of an agreement reached following conciliation under this section, the contravention or non-compliance is unprofessional conduct.

(7) The fact that a conciliation is conducted or an agreement is reached in relation to a matter the subject of a complaint does not prevent investigation or further investigation or the laying of a charge in relation to conduct to which the complaint relates.

### DIVISION 3—THE LEGAL PRACTITIONERS DISCIPLINARY TRIBUNAL

#### Establishment of Tribunal

**78.** (1) The *Legal Practitioners Disciplinary Tribunal* is established.

(2) There will be 15 members of the Tribunal appointed by the Governor on the nomination of the Chief Justice.

(3) A person is not eligible for appointment as a member of the Tribunal unless that person is a legal practitioner of at least 5 years standing (taking into account, for that purpose, periods of legal practice and judicial service within and outside the State).

(4) One member of the Tribunal will be appointed, on the nomination of the Chief Justice, to be the presiding member of the Tribunal, and another member will be appointed by the Governor, on the nomination of the Chief Justice, to be the deputy of that member.

(5) The deputy may, in the absence of the presiding member, exercise any powers conferred by this Act on the presiding member.

#### Conditions of membership

**79.** (1) Subject to this Act, a member of the Tribunal will be appointed for a term of office of three years and, on the expiration of a term of office, is eligible for reappointment.

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(3) The Governor may remove a member of the Tribunal from office for—

- (a) mental or physical incapacity to carry out official duties satisfactorily; or
- (b) neglect of duty; or
- (c) dishonourable conduct.

(4) The office of a member of the Tribunal becomes vacant if the member—

- (a) dies; or
- (b) completes a term of office; or
- (c) resigns by written notice addressed to the Attorney-General; or
- (d) ceases to be a legal practitioner or is disciplined under this Act or by the Supreme Court or under an Act or law of another State or Territory of the Commonwealth for regulating the conduct of persons practising the profession of the law; or
- (e) is removed from office by the Governor pursuant to subsection (3).

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(5) On the office of a member of the Tribunal becoming vacant a person will be appointed, in accordance with this Act, to the vacant office, but where the office of a member of the Tribunal becomes vacant before the expiration of a term of appointment, the successor will be appointed only for the balance of the term.

(6) A member of the Tribunal who completes his or her term of office and is not reappointed may continue to act as a member of the Tribunal for the purpose of completing the hearing and determination of proceedings part-heard at completion of the term.

**Constitution and proceedings of Tribunal**

**80.** (1) In relation to any proceedings instituted before the Tribunal alleging unprofessional conduct by a legal practitioner, the Tribunal consists of a panel of three of its members chosen by the presiding member to constitute the Tribunal for the purposes of those proceedings (one of whom may be the presiding member).

(1a) In relation to any proceedings instituted before the Tribunal alleging only unsatisfactory conduct by a legal practitioner, the Tribunal consists of one of its members chosen by the presiding member to constitute the Tribunal for the purposes of those proceedings (and that member may be the presiding member).

(2) Where the presiding member is a member of a panel chosen under subsection (1), the member will preside at the proceedings, and in any other case a member of the panel nominated by the presiding member will preside.

(3) The Tribunal separately constituted under this section in respect of separate proceedings may sit contemporaneously to hear and determine those separate proceedings.

(4) If, before proceedings are finalised, a member of a panel chosen under subsection (1) dies or is otherwise unable to continue acting, the two remaining members of the panel may continue to hear and determine the proceedings.

(4a) The Tribunal, when constituted of a panel of three, may decide matters by majority decision of its members.

(4b) If the Tribunal is completing the hearing and determination of proceedings in relation to a charge with two members only under subsection (4), a decision of the Tribunal must be arrived at unanimously (and if a decision cannot be arrived at unanimously the charge may be relaid).

(5) Subject to this Act, the proceedings of the Tribunal will be conducted in such manner as the Tribunal determines.

**Validity of acts of the Tribunal and immunity of its members**

**81.** (1) An act or proceeding of the Tribunal is not invalid by reason only of a vacancy in its membership, and, notwithstanding the subsequent discovery of a defect in the nomination or appointment of a member, any such act or proceeding is as valid and effectual as if the member had been duly nominated or appointed.

(2) No liability attaches to a member of the Tribunal for any act or omission by the member, or by the Tribunal, in good faith and in the exercise or purported exercise of functions, or in the discharge or purported discharge of duties under this Act.

**DIVISION 4—PROCEEDINGS BEFORE THE TRIBUNAL**

**Inquiries**

**82.** (1) A charge may be laid under this section alleging unprofessional or unsatisfactory conduct—

- (a) on the part of any legal practitioner; or
- (b) on the part of any former legal practitioner who was at the time of the alleged unprofessional or unsatisfactory conduct a legal practitioner.

(2) A charge may be laid under this section by—

- (a) the Attorney-General; or
- (b) the Board; or
- (c) the Society; or
- (d) a person claiming to be aggrieved by reason of the alleged unprofessional or unsatisfactory conduct.

(2a) A charge relating to conduct by a legal practitioner must be laid before the Tribunal within five years of the conduct unless the charge is laid by, or with the written consent of, the Attorney-General.

(2b) In any proceedings, an apparently genuine document purporting to be the written consent of the Attorney-General given under subsection (2a) will be accepted, in the absence of proof to the contrary, as proof of such consent.

(2c) A charge may be laid before the Tribunal despite the fact that criminal proceedings have been or are to be commenced in relation to a matter to which the charge relates.

(3) A charge laid under this section must be in the form prescribed by rules under this Division.

(4) Where a charge has been laid under this section, the Tribunal must, subject to subsection (5), inquire into the conduct of the legal practitioner or former legal practitioner to whom the charge relates.

(5) The Tribunal may summarily dismiss any charge that it considers frivolous or vexatious.

(6) If after conducting an inquiry under this section the Tribunal is satisfied—

(a) that a legal practitioner is guilty of unprofessional or unsatisfactory conduct it may, subject to subsection (6a), exercise any one or more of the following powers:

(i) it may reprimand the legal practitioner;

\* \* \* \* \*

(ib) it may make orders with respect to the examination of the legal practitioner's files and records by a person approved by the Tribunal (at the expense of the legal practitioner) at the intervals, and for the period, specified in the order;



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- (ii) it may order the legal practitioner to pay a fine not exceeding \$10 000;
  - (iii) it may make an order imposing conditions on the legal practitioner's practising certificate (whether a practising certificate under this Act or an interstate practising certificate)—
    - (A) relating to the practitioner's legal practice (provided that, in the case of an order made without the consent of the practitioner, such conditions must not operate for a period exceeding 12 months); or
    - (B) requiring that the legal practitioner, within a specified time, complete further education or training, or receive counselling, of a specified type;
  - (iv) it may make an order suspending the legal practitioner's practising certificate (whether a practising certificate under this Act or an interstate practising certificate) until the end of the period specified in the order (not exceeding three months);
  - (v) it may recommend that disciplinary proceedings be commenced against the legal practitioner in the Supreme Court; or
- (b) that a former legal practitioner was, while he or she remained a legal practitioner, guilty of unprofessional conduct, it may order the former legal practitioner to pay a fine not exceeding \$10 000; or
- (c) that a former legal practitioner was, while he or she remained a legal practitioner, guilty of unsatisfactory conduct, it may order the former legal practitioner to pay a fine not exceeding \$5 000.

(6a) If a legal practitioner is found guilty only of unsatisfactory conduct, the Tribunal may not impose a fine or suspension on the practitioner or recommend that disciplinary proceedings be commenced against the practitioner in the Supreme Court.

(6b) A condition imposed on a practising certificate or interstate practising certificate pursuant to an order under this section may be varied or revoked at any time on application by the legal practitioner.

(7) After completing an inquiry under this section, the Tribunal must transmit the evidence taken by the Tribunal on the inquiry together with a memorandum of its findings to the Attorney-General, the Society and the Board.

(8) If, after conducting an inquiry into a charge alleging unprofessional conduct by a person who is a legal practitioner or former legal practitioner, the Tribunal—

- (a) is not satisfied that the person is guilty of unprofessional conduct; but
- (b) is satisfied that the person is guilty of unsatisfactory conduct,

the Tribunal must find the person not guilty of unprofessional conduct, but may find the person guilty of unsatisfactory conduct.

**Notice of inquiry**

**83.** (1) The Tribunal must give to a legal practitioner or former legal practitioner whose conduct is subject to inquiry under this Part, and to any person on whose application an inquiry is to be held, not less than seven days written notice of the time and place at which it intends to conduct the inquiry, and must afford any such person a reasonable opportunity to call and give evidence, to examine or cross-examine witnesses, and to make submissions to the Tribunal.

(2) If a person to whom notice has been given pursuant to subsection (1) does not attend at the time and place fixed by the notice, the Tribunal may proceed with the inquiry in the person's absence.

(3) A person whose conduct is subject to an inquiry under this Part is entitled to be represented at the inquiry by counsel.

**Powers of Tribunal**

**84.** (1) For the purposes of an inquiry under this Part, the Tribunal may—

- (a) by summons signed on behalf of the Tribunal by a member of the Tribunal, require the attendance before the Tribunal of any person (including a party to the proceedings) whom the Tribunal thinks fit to call before it; or
- (b) by summons signed on behalf of the Tribunal by a member of the Tribunal, require the production of documents; or
- (c) inspect any documents produced before it, and retain them for such reasonable period as it thinks fit, and make copies of any of them, or of any of their contents; or
- (d) require any person to make an oath or affirmation to truly answer all questions put by the Tribunal, or by any person appearing before the Tribunal, relevant to any matter being inquired into by the Tribunal (which oath or affirmation may be administered by any member of the Tribunal); or
- (e) require any person appearing before the Tribunal (whether summoned to appear or not) to answer any relevant question put by any member of the Tribunal, or by any other person appearing before the Tribunal; or
- (f) require any person appearing before the Tribunal (whether summoned to appear or not) to prepare a document (including a bill of costs in taxable form) as reasonably directed by the Tribunal, or to comply with any other reasonable direction issued by the Tribunal in furtherance of the inquiry.

(2) A summons may be issued under subsection (1) on the application of a party to proceedings before the Tribunal, notwithstanding that the Tribunal has not met to authorise the issue of the summons.

(3) If a person—

- (a) who has been served with a summons to attend before the Tribunal, neglects or fails without reasonable excuse to attend in obedience to the summons; or
- (b) who has been served with a summons to produce any documents neglects or fails without reasonable excuse to comply with the summons; or
- (c) misbehaves before the Tribunal, wilfully insults the Tribunal or any member of the Tribunal, or interrupts the proceedings of the Tribunal; or

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- (d) refuses to be sworn or to affirm or to answer any relevant question when required to do so by the Tribunal; or
- (e) neglects or fails without reasonable excuse to comply with any other reasonable requirement of the Tribunal,

the person is guilty of an offence.

Maximum penalty: \$10 000.

(4) If a person summoned as mentioned in subsection (1) refuses or fails to attend before the Tribunal as required by the summons, or having attended refuses to be sworn or to affirm, or to answer any relevant question when required to do so by the Tribunal, a certificate of the refusal or failure, signed by a member of the Tribunal, may be filed in the Supreme Court.

(5) Where a certificate has been filed under subsection (4), a party requiring the attendance of the person may apply (either *ex parte* or on notice) to the Supreme Court for an order directing that person to attend, or to be sworn or to affirm, or to answer questions (as the case may require), and on that application the Court may make such orders as it thinks fit (including orders for costs).

\* \* \* \* \*

- (7) In the course of an inquiry, the Tribunal may—
  - (a) receive in evidence a transcript of evidence taken in proceedings before a court of any State (and any exhibits referred to in such a transcript), and draw any conclusions of fact from the evidence that it considers proper;
  - (b) adopt, as in its discretion it considers proper, any findings, decision, judgment, or reasons for judgment, of any such court that may be relevant to the proceedings.

**Proceedings to be generally in public**

**84A.** (1) Subject to subsection (2), an inquiry under this Part must be held in public.

(2) The Tribunal may order that an inquiry or part of an inquiry be conducted in private if satisfied that it is necessary to do so in the interests of justice or in order to protect the privacy of clients of the legal practitioner or former legal practitioner whose conduct is the subject of the inquiry.

(3) If proceedings of the inquiry are held in private, the Tribunal must prepare a summary of the proceedings containing such information as may be disclosed consistently with the interests of justice and the need to protect the privacy of clients.

(4) A copy of any such summary must be made available on request at the Tribunal's public office for inspection by any interested member of the public.

**Tribunal's proceedings to be privileged**

**84B.** Anything said or done in the course of the Tribunal's proceedings is protected by absolute privilege.

**Costs**

**85.** (1) The Tribunal may make such orders as to costs against any person on whose application an inquiry has been held, or against any legal practitioner or former legal practitioner whose conduct has been subject to inquiry, as the Tribunal considers just and reasonable.

(2) Costs of proceedings before the Tribunal may be taxed in the Supreme Court.

(3) Where the Tribunal has ordered payment of a fine or costs, a certificate of the fine or costs must be filed in the Supreme Court.

(4) Where a certificate has been filed under subsection (3), proceedings may be taken for the recovery of the fine or costs as if the certificate were a judgment of the Supreme Court.

### **Appeal**

**86.** (1) Subject to subsection (2), a right of appeal to the Supreme Court lies against a decision of the Tribunal made in the exercise or purported exercise of powers or functions under this Act.

(2) An appeal must be instituted within one month of the date on which the appellant is notified of the decision unless the Supreme Court is satisfied that there is good reason to dispense with the requirement that the appeal should be so instituted.

(3) The Supreme Court may, on the hearing of an appeal exercise any one or more of the following powers, as the case requires:

- (a) affirm, vary, quash or reverse the decision subject to the appeal and administer any reprimand, or make any order, that should have been administered or made in the first instance;
- (b) remit the subject matter of the appeal to the Tribunal for further hearing or consideration or for rehearing;
- (c) make any further or other order as to costs or any other matter that the case requires.

### **Operation of order may be suspended**

**87.** (1) Where an order has been made by the Tribunal, and the Tribunal or the Supreme Court is satisfied that an appeal against the order has been instituted, or is intended, it may suspend the operation of the order, until the determination of the appeal.

(2) Where the Tribunal has suspended the operation of an order under subsection (1), the Tribunal may terminate the suspension, and where the Supreme Court has done so, the Supreme Court may terminate the suspension.

### **Rules of the Tribunal**

**88.** Any three or more Judges of the Supreme Court may make rules for any of the following purposes:

- (a) regulating the practice and procedure of the Tribunal;
- (b) conferring on the Tribunal any additional powers necessary or expedient for carrying out its functions;
- (c) making any other provision that is necessary or expedient for carrying into effect the provisions of this Part relating to the Tribunal.

**Legal Practitioners Act 1981****DIVISION 5—DISCIPLINARY PROCEEDINGS BEFORE THE SUPREME COURT****Proceedings before Supreme Court**

**89.** (1) Where the Tribunal after conducting an inquiry into the conduct of a legal practitioner recommends that disciplinary proceedings be commenced against the legal practitioner in the Supreme Court, the Board, the Attorney-General or the Society may institute disciplinary proceedings in the Supreme Court against the legal practitioner.

(2) In any disciplinary proceedings against a legal practitioner (whether instituted under this section or not) the Supreme Court may exercise any one or more of the following powers:

- (a) it may reprimand the legal practitioner;
- (b) it may make an order imposing conditions on the legal practitioner's practising certificate (whether a practising certificate under this Act or an interstate practising certificate)—
  - (i) relating to the practitioner's legal practice; or
  - (ii) requiring that the legal practitioner, within a specified time, complete further education or training, or receive counselling, of a specified type;
- (c) it may make an order suspending the legal practitioner's practising certificate (whether a practising certificate under this Act or an interstate practising certificate) until the end of the period specified in the order or until further order;
- (d) it may order that the name of the legal practitioner be struck off the roll of legal practitioners maintained under this Act or the roll kept in a participating State that corresponds to the roll maintained under this Act;
- (e) it may make any other order (including an order as to the costs of proceedings before the Court and the Tribunal) that it considers just.

(3) This Part does not derogate from the inherent jurisdiction of the Supreme Court to discipline legal practitioners.

(4) In any disciplinary proceedings the Supreme Court may refer any matter to a Judge or Master, or to the Tribunal, for investigation and report.

(5) In any disciplinary proceedings—

- (a) the Supreme Court may, without further inquiry, accept and act on any findings of the Tribunal or of a Judge or Master to whom a matter has been referred for investigation and report under subsection (4); and
- (b) the Supreme Court may—
  - (i) receive in evidence a transcript of evidence taken in any proceedings before a court of any State and draw any conclusions of fact from the evidence that it considers proper;
  - (ii) adopt, as in its discretion it considers proper, any findings, decision, judgment or reasons for judgment of any such court that may be relevant to the proceedings.

(6) Where the Supreme Court is satisfied, on the application of the Board, the Attorney-General or the Society, that a legal practitioner is disqualified or suspended from practice under the law of any other State (whether or not that State is a participating State), it may, without further inquiry, impose a corresponding disqualification or suspension under the provisions of this section.

\* \* \* \* \*

**Court may order interim suspension of legal practitioner or impose interim conditions**

**89A.** If—

- (a) disciplinary proceedings have been instituted against a legal practitioner before the Tribunal or the Supreme Court or a legal practitioner has been charged with or convicted of a criminal offence; and
- (b) the Supreme Court is satisfied that the circumstances are such as to justify invoking the provisions of this section,

the Supreme Court may, of its own motion or on the application of the Board, the Attorney-General or the Society, make an interim order—

- (c) imposing conditions on the legal practitioner's practising certificate (whether a practising certificate under this Act or an interstate practising certificate) relating to the practitioner's legal practice; or
- (d) suspending the legal practitioner's practising certificate (whether a practising certificate under this Act or an interstate practising certificate),

until disciplinary proceedings against the practitioner have been finalised or until further order.

**DIVISION 6—LAY OBSERVERS**

**Lay observers**

**90.** (1) The Attorney-General may appoint suitable persons (not being legal practitioners) to be lay observers for the purposes of this Part.

(2) A lay observer is not, as such, subject to the *Public Sector Management Act 1995*, but holds office on terms and conditions determined by the Attorney-General.

(3) A lay observer is entitled to be present at any proceedings of the Board or the Tribunal and may report to the Attorney-General on any aspect of the proceedings of the Board or the Tribunal.

(4) A complainant in proceedings before the Board or Tribunal who is dissatisfied with the proceedings or the decision of the Board or Tribunal is entitled to make representations directly to the lay observer.

**DIVISION 6A—PROVISIONS RELATING TO INTERSTATE LEGAL PRACTICE**

**Conduct of local legal practitioners outside State**

**90AA.** The provisions of this Part extend in their operation to conduct by a local legal practitioner in a participating State or elsewhere outside this State.

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**Conduct not to be the subject of separate proceedings**

**90AB.** If conduct by a legal practitioner has been the subject of disciplinary proceedings in a participating State that have been finally determined, no proceedings are to be commenced or continued under this Part in relation to that conduct (other than proceedings authorised under section 89(6)).

**Referral or request for investigation of matter to regulatory authority in participating State**

**90AC.** (1) If it considers it appropriate to do so, a regulatory authority in this State may refer a complaint made to it in relation to a local legal practitioner or an interstate legal practitioner to a regulatory authority in a participating State, to be dealt with according to the law of that State.

(2) If it considers it appropriate to do so, a regulatory authority in this State may request a regulatory authority in a participating State to investigate the conduct of a local legal practitioner or an interstate legal practitioner (whether or not the subject of a complaint), in accordance with the law of that State.

(3) After a referral under subsection (1) has been made, no further action (other than action required to comply with section 90AE) may be taken by any regulatory authority in this State in relation to the subject-matter of the referral.

**Dealing with matter following referral or request by regulatory authority in participating State**

**90AD.** If a regulatory authority in a participating State—

- (a) refers a complaint against a local legal practitioner or an interstate legal practitioner to a regulatory authority in this State; or
- (b) requests a regulatory authority in this State to investigate the conduct of a local legal practitioner or an interstate legal practitioner,

the conduct of the practitioner may be investigated by the regulatory authority in this State and, following such investigation, a charge may be laid and disciplinary proceedings may be brought against the practitioner, whether or not the conduct investigated allegedly occurred in or outside this State.

**Furnishing information**

**90AE.** (1) A regulatory authority in this State must furnish without delay any information about a local legal practitioner or interstate legal practitioner reasonably required by a regulatory authority in a participating State in connection with actual or possible disciplinary action against the practitioner.

(2) A regulatory authority may provide the information despite any law relating to secrecy or confidentiality.

(3) Nothing in this section affects any obligation or power to provide information apart from this section.

**Local legal practitioners are subject to interstate regulatory authorities**

**90AF.** (1) A local legal practitioner practising in this State must comply with any condition in respect of his or her legal practice imposed by a regulatory authority in a participating State as a result of disciplinary action against the practitioner.

- (2) A contravention of or non-compliance with this section is unprofessional conduct.

(3) A regulatory authority in a participating State that has the appropriate jurisdiction under the corresponding law of that State may suspend, cancel, vary the conditions of, or impose conditions or further conditions on, a local legal practitioner's practising certificate as a result of disciplinary action against the practitioner in that State, or may make an order for such suspension, cancellation, variation or imposition.

(4) A regulatory authority in this State must comply with an order of a regulatory authority in a participating State under subsection (3).

(5) A regulatory authority in a participating State that has jurisdiction to order the removal of the name of a person from the roll kept in that State that corresponds to the roll of practitioners in the Supreme Court in this State may order that the name of the local legal practitioner be removed from the roll in this State.

(6) If an order is made in relation to a local legal practitioner under subsection (5), the Supreme Court will remove the local legal practitioner's name from the roll in this State.

### **DIVISION 7—ANNUAL REPORTS**

#### **Annual reports**

**90A.** (1) The Board and the Tribunal must each, on or before 31 October in each year, prepare and present to the Attorney-General and the Chief Justice a report on their proceedings for the last financial year.

(2) A report must contain—

- (a) a statement of the nature of the matters subject to investigation or inquiry; and
- (b) information as to case management, and the number of uncompleted matters outstanding at the end of the financial year; and
- (c) such other information as the Attorney-General may require.

(3) The Attorney-General must, within 12 sitting days after receiving a report from the Board or the Tribunal under this section, cause copies of the report to be laid before both Houses of Parliament.



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**PART 7  
PUBLIC NOTARIES**

**Appointment of notaries**

**91.** (1) A person who desires to be admitted as a public notary may apply to the Supreme Court for an order admitting the person as such.

(2) The Court has power to admit the applicant as a notary or to dismiss the application as, in its discretion, it thinks fit.

(3) A person admitted as a public notary under this Part must make an oath in the prescribed form before the Registrar of the Supreme Court or a Commissioner authorised to take affidavits in the Supreme Court.

(4) A person admitted as a notary under this Part has all the powers and authorities (including the power to take affidavits) exercisable by law or custom by public notaries.

**Roll of notaries**

**92.** (1) The Registrar of the Supreme Court must cause a roll to be kept of all notaries admitted in pursuance of this Part.

(2) On the application of any person whose name appears on the roll, the Registrar must grant a certificate in the prescribed form certifying that that person is a public notary duly authorised and admitted to practise as such in this State.

(3) An apparently genuine document purporting to be a certificate under this section will, in the absence of proof to the contrary, be accepted in any legal proceedings as evidence that the person named in the certificate is a public notary.

**Power of Court to strike off name of any notary**

**93.** (1) Where the Supreme Court is satisfied that the name of a public notary should be struck from the roll of public notaries, the Court may, of its own motion, or on the application of the Attorney-General or the Society, strike the name of the public notary from the roll of public notaries.

(2) Any person whose name is struck off the roll of public notaries ceases to be a public notary, but the Court may at any time, if it thinks fit, order the name of that person to be reinstated on the roll.

(3) Where a legal practitioner is admitted as a public notary, and the name of that legal practitioner is struck from the roll of legal practitioners, his or her name must also be struck from the roll of public notaries.

**Persons acting as notaries contrary to this Part**

**94.** If any person in his or her own name, or in the name of any other person, acts as a public notary without being admitted under this Part, the person is guilty of an offence.

Maximum penalty:       \$10 000.

**PART 8  
MISCELLANEOUS**

**Application of certain revenues**

**95.** (1) Subject to subsection (1aa), the Treasurer must in each year pay to the Society, from the money paid by way of practising certificate fees and the fees paid by interstate practitioners on giving notice of the establishment of an office in this State—

- (a) an amount approved by the Attorney-General towards the Society's costs in exercising any powers or functions delegated to the Society under this Act; and
- (b) after deduction of the amount described in paragraph (a)—
  - (i) a prescribed proportion of the balance for the purpose of maintaining and improving the library of the Society;
  - (ii) a prescribed proportion of the balance to be credited by the Society to the guarantee fund.

(1aa) If the Society collects practising certificate fees pursuant to an assignment of functions by the Supreme Court, the Society may retain a proportion of those fees approved by the Attorney-General for the purposes specified in subsection (1).

(1a) The revenue raised from practising certificate levies will be applied for the purpose of maintaining and improving the Supreme Court library.

(2) The Treasurer may, on the recommendation of the Attorney-General, make payments towards—

- (a) meeting any expenses incurred by LPEAC in exercising its functions and powers under this Act; and
- (b) defraying the costs of administering Part 6.

(3) This section is, without further appropriation, sufficient authority for the payment of the money to which it relates from the Consolidated Account.

**Agreements and arrangements with other regulatory authorities**

**95AA.** A regulatory authority of this State may, with the approval of the Attorney-General, make agreements or arrangements with a regulatory authority of a participating State for or with respect to matters arising under this Act, including—

- (a) the investigation of complaints;
- (b) professional indemnity insurance;
- (c) contributions to and claims against the guarantee fund or a similar fund maintained in the participating State;
- (d) trust account inspections;
- (e) the appointment of managers and receivers;
- (f) the exchange of information.

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**Inspection of documents**

**95A.** A power to inspect or require production of a document includes, in relation to a record of information that is accessible only through the use of a computer or other device, power to produce or require production of the information in an understandable form through the use of that computer or other device.

**False or misleading information**

**95B.** A person must not knowingly make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of a particular) in information provided, or a record kept, under this Act.

Maximum penalty: \$10 000.

**Mortgage financing**

**95BA.** (1) On and from the commencement of this section, mortgage financing is not to be regarded as part of the practice of the profession of the law.

(2) A legal practitioner who engages in mortgage financing must inform each prospective lender and borrower, orally and in writing, that any loss suffered as a result of mortgage financing will not be compensated by the guarantee fund or covered by professional indemnity insurance required under this Act.

Maximum penalty: \$10 000.

(3) It is not the intention of the Parliament that any implication be drawn from this Act (or the Act that inserted this section) that mortgage financing when engaged in by a legal practitioner before the commencement of this section was part of the practice of the profession of the law.

**Self-incrimination and legal professional privilege**

**95C.** (1) It is not an excuse for a person to refuse or fail to answer a question or to produce a document as required under this Act on the ground that to do so might tend to incriminate the person, or make the person liable to a penalty, or on the ground of legal professional privilege.

(2) If a person objects to answering a question or to producing a document on the ground that the answer or document might tend to incriminate the person or make the person liable to a penalty, then—

(a) in the case of a person who is required to produce a document—the fact of production of the document (as distinct from the contents of the document); or

(b) in any other case—the information furnished in compliance with the requirement,

is not admissible in evidence against the person in proceedings (other than proceedings in respect of the making of a false or misleading statement or perjury) in which the person might be found guilty of an offence or liable to a penalty.

(3) If a person objects to answering a question or to producing a document on the ground of legal professional privilege, the answer or document will not be admissible in civil or criminal proceedings against the person who would, but for this section, have the benefit of the legal professional privilege.

**Service of notices and documents**

**95D.** A notice or document required or authorised by this Act to be served on or given to a person may—

- (a) be served on the person personally; or
- (b) be posted in an envelope addressed to the person at the person's last known address; or
- (c) be left for the person at his or her place of residence or business with someone apparently of or over 16 years of age or in a letterbox to which it would have been delivered if sent by post; or
- (d) be transmitted by facsimile transmission to a facsimile number provided by the person (in which case the notice or document will be taken to have been given or served at the time of transmission).

**Summary offences**

**96.** \* \* \* \* \*

(2) Proceedings for an offence against this Act must not be brought unless the Attorney-General has, by instrument in writing, authorised the institution of the proceedings.

(3) An apparently genuine document purporting to be an authorisation under this section will, in the absence of proof to the contrary, be accepted as such in any legal proceedings.

\* \* \* \* \*

**Regulations**

**97.** (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of the foregoing, those regulations may—

- (a) prescribe, and provide for the recovery of, any fee or levy for the purposes of this Act; and
- (b) prescribe any form for the purposes of this Act; and
- (c) prescribe requirements to be observed by companies holding practising certificates under this Act; and
- (d) prescribe fines not exceeding a fine of \$10 000 for contravention of any regulation.

(3) Regulations may, with the concurrence of the Society, be made under this section—

- (a) declaring that in circumstances specified in the regulations the business of a company is to be regarded as being conducted in association with a legal practice; and
- (b) making special provision with respect to the keeping and auditing of the accounts of any such company; and

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(c) regulating the conduct of business by any such company and restricting the classes of transaction into which any such company may enter.

(4) This section is in addition to, and does not derogate from, any other provision of this Act providing for the making of regulations.

## APPENDIX

### LEGISLATIVE HISTORY

#### Repeals

The *Legal Practitioners Act 1981* repealed the *Legal Practitioners Act 1936-1979*.

#### Transitional Provisions

*(Transitional provision from Legal Practitioners (Qualifications) Amendment Act 1998, s. 15)*

15. (1) If, immediately before the commencement of section 6, a practising certificate is subject to conditions imposed under section 17A of the principal Act, those conditions will, on the commencement of section 6, be taken to be conditions imposed under section 17A of the principal Act as substituted by section 6.

(2) The *Legal Practitioners Education and Admission Council* may take action under section 17A of the principal Act as substituted by this Act in relation to non-compliance with any condition imposed under section 17A of the principal Act as in force before the commencement of section 6 as if the condition were a condition imposed under section 17A as so substituted (whether the non-compliance occurred before or after that commencement).

*(Transitional provision from Legal Practitioners (Miscellaneous) Amendment Act 1998, s. 56)*

56. A condition applying to a legal practitioner immediately before the commencement of this section by virtue of—

- (a) an undertaking entered into by the practitioner and accepted by the Tribunal under section 82 of the principal Act or an order of the Tribunal under that section; or
- (b) an order of the Supreme Court under section 89 of the principal Act,

will, on and after the commencement of this section, be taken to be a condition imposed on the legal practitioner's practising certificate by order of the Tribunal under section 82 of the principal Act as amended by this Act or by order of the Supreme Court under section 89 of the principal Act as amended by this Act, as the case requires (and will be taken to be so imposed for the period specified in the undertaking or order as the period for which the condition was to apply).

*(Transitional provision from Legal Practitioners (Miscellaneous) Amendment Act 1999, s. 7)*

7. The amendments to the principal Act made by this Act do not affect—

- (a) any right to compensation under Part 5 of the principal Act for loss suffered as a result of mortgage financing where the instructions to engage in the mortgage financing were taken before the commencement of this Act; or
- (b) any right to compensation under the principal Act for loss suffered by a legal practitioner in consequence of a fiduciary or professional default by a partner, clerk or employee of the legal practitioner where the fiduciary or professional default was committed before the commencement of this Act.

#### Legislative History

*(entries in bold type indicate amendments incorporated since the last reprint)*

Long title:	amended by 23, 1990, s. 3(1) (Sched. 5)
Sections 2 - 4:	repealed by 23, 1990, s. 3(1) (Sched. 5)
Section 5(1):	redesignated as s. 5(1) by 50, 1998, s. 3(m)
(previously section 5)	definition of "approved auditor" amended by 10, 1996, s. 3(a); substituted by 12, 1998, s. 3(a) definition of "Australian Government Solicitor" inserted by 119, 1985, s. 2 definition of "bank" amended by 23, 1990, s. 3(1) (Sched. 5); repealed by 17, 1994, Sched. 4 cl. 5; inserted by 50, 1998, s. 3(a); repealed by 33, 1999, Sched. (item 33(a)) definition of "banking account" repealed by 50, 1998, s. 3(a) definition of "Board" inserted in 10, 1996, s. 3(b) definition of "Chief Justice" inserted by 12, 1998, s. 3(b) definition of "the combined trust account" amended by 23, 1990, s. 3(1) (Sched. 5)

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	definition of "the Committee" repealed by 10, 1996, s. 3(c)
	definition of "community legal centre" inserted by 70, 1989, s. 3
	definitions of "conduct" and "corresponding law" inserted by 50, 1998, s. 3(b)
	definition of "document" inserted by 10, 1996, s. 3(d)
	definition of "fiduciary or professional default" amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 3(c)
	definition of "the guarantee fund" amended by 23, 1990, s. 3(1) (Sched. 5)
	definitions of "interstate legal practitioner" and "interstate practising certificate" inserted by 50, 1998, s. 3(d)
	definition of "legal practitioner" amended by 50, 1998, s. 3(e)
	definition of "local legal practitioner" inserted by 50, 1998, s. 3(f)
	definition of "LPEAC" inserted by 12, 1998, s. 3(c)
	definition of "money" amended by 23, 1990, s. 3(1) (Sched. 5); 33, 1999, Sched (item 33(b))
	definition of "mortgage financing" inserted by 84, 1999, s. 3(a)
	definitions of "participating State" and "practise the profession of the law" inserted by 50, 1998, s. 3(g)
	definition of "regulatory authority" inserted by 50, 1998, s. 3(h)
	definition of "the repealed Act" repealed by 23, 1990, s. 3(1) (Sched. 5)
	definition of "the Secretary" repealed by 10, 1996, s. 3(e)
	definition of "State" inserted by 50, 1998, s. 3(i)
	definition of "the statutory interest account" amended by 23, 1990, s. 3(1) (Sched. 5)
	definition of "trust account" amended by 50, 1998, s. 3(j); 33, 1999, Sched. (item 33(c))
	definition of "trust money" amended by 23, 1990, s. 3(1) (Sched. 5); 84, 1999, s. 3(b)
	definition of "unprofessional conduct" amended by 23, 1990, s. 3(1) (Sched. 5); substituted by 50, 1998, s. 3(k)
	definition of "unsatisfactory conduct" inserted by 50, 1998, s. 3(l)
	inserted by 50, 1998, s. 3(m)
	inserted by 50, 1998, s. 3(m); <b>amended by 23, 2001, s. 81</b>
	inserted by 50, 1998, s. 3(m)
	substituted by 22, 1993, s. 3
	inserted by 27, 1992, s. 3
	amended by 23, 1990, s. 3(1) (Sched. 5)
	amended by 23, 1990, s. 3(1) (Sched. 5); substituted by 10, 1996, s. 4
	inserted by 10, 1996, s. 4
	amended by 23, 1990, s. 3(1) (Sched. 5)
	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 4
	amended by 23, 1990, s. 3(1) (Sched. 5)
	amended by 23, 1990, s. 3(1) (Sched. 5)
	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 5
	amended by 23, 1990, s. 3(1) (Sched. 5)
	<b>amended by 88, 1996, s. 3; 23, 2001, s. 82</b>
	amended by 23, 1990, s. 3(1) (Sched. 5)
	amended by 23, 1990, s. 3(1) (Sched. 5)
	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 6
	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 7
	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 8; 33, 1999, Sched. (item 33(d))
	amended by 23, 1990, s. 3(1) (Sched. 5)
	Division 2 of Part 2 comprising s. 14A and heading inserted by 27, 1992, s. 4
	Division 3 of Part 2 comprising s. 14AB and heading inserted by 50, 1998, s. 9
	Part 2A comprising ss. 14B - 14L and headings inserted by 12, 1998, s. 4
Section 14A(4):	inserted by 22, 1993, s. 4

Section 15:	amended by 23, 1990, s. 3(1) (Sched. 5); amended and redesignated as s. 15(1) by 12, 1998, s. 5(a), (b)
Section 15(2) - (5):	inserted by 12, 1998, s. 5(b)
Section 16(1):	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 10
Section 16(2):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 5(a)
Section 16(3) and (4):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 16(5):	amended by 90, 1987, s. 2
Section 16(6):	substituted by 23, 1990, s. 3(1) (Sched. 5)
Section 17(1) and (2):	definition of "prescribed relative" amended by 10, 1996, s. 5(b)
Section 17A:	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 18(1) and (2):	inserted by 22, 1993, s. 5; substituted by 12, 1998, s. 6
Section 18(3):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 19(1):	inserted by 3, 1985, s. 3; amended by 23, 1990, s. 3(1) (Sched. 5)
Section 20(1):	amended by 23, 1990, s. 3(1) (Sched. 5); 92, 1993, s. 3
Section 20AA:	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 20A:	inserted by 50, 1998, s. 11
Section 21(1):	inserted by 8, 1982, s. 3; amended by 23, 1990, s. 3(1) (Sched. 5); repealed by 12, 1998, s. 7
Section 21(2):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 32 (Sched. 2); 50, 1998, s. 12(a)
Section 21(3):	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 12(b)
Section 21(3)(h):	amended by 119, 1985, s. 3; 13, 1988, Sched. 1; 23, 1990, s. 3(1) (Sched. 5); 49, 1991, Sched. 2; 38, 1996, s. 11; 12, 1998, s. 14 (Sched.); 70, 2000, s. 2(a), (b)
Section 21(3a):	repealed by 12, 1998, s. 14 (Sched.)
Section 21(4):	inserted by 50, 1998, s. 12(c)
Section 21(5):	amended by 23, 1990, s. 3(1) (Sched. 5); 22, 1993, s. 6; 50, 1998, s. 12(d)-(f)
Section 22:	definition of "business" amended by 23, 1990, s. 3(1) (Sched. 5); 12, 1998, s. 14 (Sched.)
Section 23(1) - (3):	definition of "loan instrument" inserted by 70, 2000, s. 2(c)
Section 23AA:	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 32 (Sched. 2); 50, 1998, s. 13
	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 32 (Sched. 2)
	inserted by 84, 1999, s. 4
	Division 3A of Part 3 comprising ss. 23A - 23D and heading inserted by 50, 1998, s. 14
Section 24(1):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 32 (Sched. 2)
Section 24(2):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 25:	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 32 (Sched. 2)
Section 26:	repealed by 50, 1986, s. 3
Sections 27 and 28:	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 29:	redesignated as s. 29(1) by 3, 1985, s. 4; amended by 23, 1990, s. 3(1) (Sched. 5)
Section 29(2):	inserted by 3, 1985, s. 4; repealed by 12, 1998, s. 8
Section 29(3):	inserted by 3, 1985, s. 4; amended by 23, 1990, s. 3(1) (Sched. 5); repealed by 12, 1998, s. 8
<b>Section 30:</b>	amended by 23, 1990, s. 3(1) (Sched. 5); <b>substituted by 12, 1998, s. 14 (Sched.); 23, 2001, s. 83</b>
Section 30A:	inserted by 50, 1998, s. 15
Section 31(1) and (2):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 31(3):	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 16(a)
Section 31(4):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 31(5):	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 16(b)
Section 31(6):	substituted by 3, 1985, s. 5; amended by 23, 1990, s. 3(1) (Sched. 5); 33, 1999, Sched. (item 33(e))
Section 31(6a):	inserted by 3, 1985, s. 5
Section 31(7):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 31(7a):	inserted by 10, 1996, s. 6
Section 31(8):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 32 (Sched. 2)
Section 31(9) - (11):	inserted by 70, 1989, s. 4
Section 32(1):	amended by 23, 1990, s. 3(1) (Sched. 5); 33, 1999, Sched. (item 33(f))
Section 32(2):	amended by 33 1999, Sched. (item 33(f))



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Section 33:	redesignated as s. 33(1) by 3, 1985, s. 6; amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 32 (Sched. 2); 12, 1998, s. 9(a)
Section 33(2):	inserted by 3, 1985, s. 6; repealed by 12, 1998, s. 9(b)
Section 33(3):	inserted by 3, 1985, s. 6; amended by 23, 1990, s. 3(1) (Sched. 5); repealed by 12, 1998, s. 9(b)
Section 33A:	inserted by 50, 1998, s. 17
Section 34:	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 7; substituted by 50, 1998, s. 18
Section 35:	amended by 3, 1985, s. 7; 23, 1990, s. 3(1) (Sched. 5); 54, 1990, s. 3(1) (Sched. 2); 22, 1993, s. 7; 10, 1996, ss. 8, 32 (Sched. 2); substituted by 50, 1998, s. 18
Section 35(1):	amended by 33, 1999, Sched. (item 33(g))
Section 35(4):	definition of "financial institution" amended by 33, 1999, Sched. (item 33(h))
Section 36:	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 32 (Sched. 2); 33, 1999, Sched. (item 33(i))
Section 37(1):	substituted by 23, 1990, s. 3(1) (Sched. 5); amended by 50, 1998, s. 19(a)
Section 37(1a):	inserted by 23, 1990, s. 3(1) (Sched. 5)
Section 37(2):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 37(3):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 32 (Sched. 2)
Section 37(4):	inserted by 22, 1993, s. 8; amended by 10, 1996, s. 9; 50, 1998, s. 19(b), (c); 70, 2000, s. 3
Section 37(5):	inserted by 22, 1993, s. 8
Section 38:	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 32 (Sched. 2); 12, 1998, s. 10; 50, 1998, s. 20
Section 39(1):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 10
Section 39(2):	amended by 10, 1996, s. 10
Section 39(3):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 40(2) and (3):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 41(1) and (2):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 41(3):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 32 (Sched. 2)
Section 41(4):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 42(1):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 42(1a):	inserted by 3, 1985, s. 8
Section 42(1b):	inserted by 3, 1985, s. 8; amended by 23, 1990, s. 3(1) (Sched. 5)
Section 42(3):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 42(4):	amended by 23, 1990, s. 3(1) (Sched. 5); substituted by 10, 1996, s. 11; amended by 50, 1998, s. 21
Section 42(6):	substituted by 22, 1993, s. 9
Section 43:	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 43A:	inserted by 50, 1998, s. 22
Section 44(1):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 44(2):	amended by 23, 1990, s. 3(1) (Sched. 5); substituted by 50, 1998, s. 23(a)
Section 44(3):	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 23(b)-(d); 33, 1999, Sched. (item 33(j))
Section 44(4):	amended by 23, 1990, s. 3(1) (Sched. 5); 33, 1999, Sched. (item 33(k))
Section 44(5):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 44(6):	substituted by 23, 1990, s. 3(1) (Sched. 5); amended by 10, 1996, s. 32 (Sched. 2)
Section 44(7):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 44(9):	repealed by 50, 1998, s. 23(e)
Section 44(10):	amended by 23, 1990, s. 3(1) (Sched. 5); repealed by 50, 1998, s. 23(e)
Section 45(1):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 45(2):	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 24(a), (b); 33, 1999, Sched. (item 33(l))
Section 45(3):	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 24(c)
Section 45(4):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 12
Section 45(5):	inserted by 50, 1998, s. 24(d)
Section 46(2):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 47:	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 48(1), (2) and (5):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 48(5a):	inserted by 50, 1998, s. 25
Section 48(6) and (7):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 49(1):	amended by 23, 1990, s. 3(1) (Sched. 5); substituted by 10, 1996, s. 13

Section 49(1a):	inserted by 10, 1996, s. 13
Section 49(2):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 49(3):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 32 (Sched. 2)
Section 50(1) and (4):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 50(5):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 32 (Sched. 2)
Section 51(1):	amended by 119, 1985, s. 4; 70, 1989, s. 5; 23, 1990, s. 3(1) (Sched. 5); 25, 1991, s. 3; 49, 1991, Sched. 2; 50, 1998, s. 26
Section 51(2) and (3):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 52:	amended by 3, 1985, s. 9; substituted by 84, 1987, s. 3
Section 52(3) and (4):	substituted by 22, 1993, s. 10
Section 52(5):	definition of "professional indemnity insurance" amended by 23, 1990, s. 3(1) (Sched. 5)
Sections 52AA and 52AAB:	inserted by 50, 1998, s. 27
	Division 14 of Part 3 comprising ss. 52A and heading inserted by 12, 1998, s. 11
Section 53(1):	amended by 84, 1987, s. 4(a); 23, 1990, s. 3(1) (Sched. 5); substituted by 22, 1992, s. 11(a)
Section 53(1a):	inserted by 22, 1993, s. 11(a); amended by 33, 1999, Sched. (item 33(m))
Section 53(2):	amended by 23, 1990, s. 3(1) (Sched. 5); substituted by 22, 1993, s. 11(a); amended by 33, 1999, Sched. (item 33(n))
Section 53(3):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 53(4):	substituted by 50, 1986, s. 4(a); amended by 23, 1990, s. 3(1) (Sched. 5); substituted by 22, 1993, s. 11(b)
Section 53(5):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 53(6):	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 28
Section 53(7) and (8):	amended by 23, 1990, s. 3(1) (Sched. 5); substituted by 22, 1993, s. 11(c)
Section 53(9):	substituted by 84, 1987, s. 4(b); 22, 1993, s. 11(c)
Section 53(10):	substituted by 22, 1993, s. 11(c)
Section 53(11) and (12):	amended by 23, 1990, s. 3(1) (Sched. 5); substituted by 22, 1993, s. 11(c)
Section 53(13):	inserted by 50, 1986, s. 4(b); substituted by 22, 1993, s. 11(c); amended by 33, 1999, Sched. (item 33(o))
Section 53(14):	inserted by 22, 1993, s. 11(c); amended by 33, 1999, Sched. (item 33(p))
Section 54:	amended by 3, 1985, s. 10; 23, 1990, s. 3(1) (Sched. 5); repealed by 22, 1993, s. 12
Section 55:	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 56(1):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 56(2):	amended by 23, 1990, s. 3(1) (Sched. 5); substituted by 22, 1993, s. 13
Section 56(3) and (5):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 56(6):	amended by 84, 1987, s. 5; 23, 1990, s. 3(1) (Sched. 5)
Section 57(1) and (2):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 57(3):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, ss. 14, 31 (Sched. 1); 50, 1998, s. 29(a)
Section 57(4):	amended by 23, 1990, s. 3(1) (Sched. 5); 22, 1993, s. 14; 10, 1996, s. 31 (Sched. 1); 88, 1996, s. 4; 12, 1998, s. 12; 50, 1998, s. 29(b), (c)
Section 57(5):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 57(6):	inserted by 70, 1989, s. 6; amended by 10, 1996, s. 31 (Sched. 1)
Section 57A:	inserted by 3, 1985, s. 11
Section 57A(1):	amended by 23, 1990, s. 3(1) (Sched. 5); 33, 1999, Sched. (item 33(q))
Section 57A(2) - (5):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 57A(6):	repealed by 70, 1989, s. 7
Sections 58 and 59:	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 60(1):	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 30(a)
Section 60(2):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 15
Section 60(3):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 60(4):	amended by 3, 1985, s. 12; 23, 1990, s. 3(1) (Sched. 5); 22, 1993, s. 15; 50, 1998, s. 30(b)
Section 60(5):	inserted by 50, 1998, s. 30(c)
Section 60A:	inserted by 50, 1998, s. 31
Section 61(2) and (3):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 62(1):	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 32

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Section 62(2):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 32 (Sched. 2)
Section 63(1) and (2):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 63(3):	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 33
Section 63(5) and (7):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 64(1) - (5):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 65:	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 66:	amended by 23, 1990, s. 3(1) (Sched. 5); substituted by 84, 1999, s. 5
Section 67(2):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 67A:	inserted by 22, 1993, s. 16
Part 6 Division 1 heading:	amended by 10, 1996, s. 31 (Sched. 1)
Section 68(1):	substituted by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 16
Section 68(1a) - (1c):	inserted by 10, 1996, s. 16
Section 68(2) and (3):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 31 (Sched. 1)
Section 68(4):	amended by 23, 1990, s. 3(1) (Sched. 5); repealed by 22, 1993, s. 17
Section 68(5):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 31 (Sched. 1)
Section 68(6) - (8):	inserted by 27, 1992, s. 5; amended by 10, 1996, s. 31 (Sched. 1)
Section 69(1):	substituted by 23, 1990, s. 3(1) (Sched. 5); amended by 10, 1996, s. 31 (Sched. 1)
Section 69(2):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 31 (Sched. 1)
Section 69(3):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 31 (Sched. 1); 13, 1997, s. 3
Section 69(4):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 31 (Sched. 1)
Section 70(1) - (5):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 31 (Sched. 1)
Section 70(6):	amended by 23, 1990, s. 3(1) (Sched. 5); 25, 1991, s. 4; 10, 1996, s. 31 (Sched. 1)
Section 71(1) and (2):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 31 (Sched. 1)
Section 72:	amended by 23, 1990, s. 3(1) (Sched. 5); substituted by 10, 1996, s. 17
Section 73:	amended and redesignated as s. 73(1) by 3, 1985, s. 13; amended by 23, 1990, s. 3(1) (Sched. 5); 22, 1993, s. 8(a), (b); 10, 1996, s. 31 (Sched. 1), s. 32 (Sched. 2); 50, 1998, s. 34(a), (b)
Section 73(2):	inserted by 3, 1985, s. 13(b); amended by 70, 1989, s. 8; 22, 1993, s. 18(c); 10, 1996, s. 18; 50, 1998, s. 34(c)-(e)
Section 73(3):	inserted by 50, 1998, s. 34(f)
Section 73A:	inserted by 50, 1998, s. 35
Part 6 Division 2 heading:	amended by 10, 1996, s. 31 (Sched. 1)
Part 6 Division 2 Subdivision 1 heading:	inserted by 50, 1998, s. 36
Section 74(1):	amended by 22, 1993, s. 19; 10, 1996, ss. 19(a), 31 (Sched. 1); substituted by 50, 1998, s. 37(a)
Section 74(2):	substituted by 10, 1996, s. 19(b)
Section 74(3):	inserted by 50, 1998, s. 37(b)
Section 75(1):	amended by 10, 1996, s. 31 (Sched. 1)
Section 75(2):	amended by 23, 1990, s. 3(1) (Sched. 5); substituted by 50, 1998, s. 38
Section 75(3):	amended by 10, 1996, s. 31 (Sched. 1)
Heading preceding section 76:	inserted by 22, 1993, s. 20; amended by 10, 1996, s. 20; repealed by 50, 1998, s. 39
Part 6 Division 2 Subdivision 2 heading:	inserted by 50, 1998, s. 39
Section 76(1):	amended by 23, 1990, s. 3(1) (Sched. 5); substituted by 10, 1996, s. 21(a); amended by 50, 1998, s. 40(a), (b)
Section 76(1a):	inserted by 10, 1996, s. 21(a); amended by 50, 1998, s. 40(c)
Section 76(1b):	inserted by 10, 1996, s. 21(a)
Section 76(2):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 31 (Sched. 1); 50, 1998, s. 40(d), (e)
Section 76(3):	amended by 3, 1985, s. 14(a); substituted by 10, 1996, s. 21(b)
Section 76(4):	amended by 3, 1985, s. 14(b); 23, 1990, s. 3(1) (Sched. 5); substituted by 10, 1996, s. 21(b)
Section 76(4a):	inserted by 10, 1996, s. 21(b); amended by 50, 1998, s. 40(f)
Section 76(4b):	inserted by 10, 1996, s. 21(b); amended by 50, 1998, s. 40(g)
Section 76(5):	inserted by 3, 1985, s. 14(c)
	definition of "financial institution" inserted by 22, 1993, s. 21(a); substituted by 50, 1998, s. 40(h); amended by 33, 1999, Sched. (item 33(r))
	definition of "prescribed person" amended by 23, 1990, s. 3(1) (Sched. 5); 22, 1993, s. 21(b); 10, 1996, s. 21(c); 50, 1998, s. 40(i)-(k)
Part 6 Division 2 Subdivision 3 heading:	inserted by 50, 1998, s. 41
Section 77(1):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, ss. 22(a), 31 (Sched. 1); substituted by 50, 1998, s. 42(a)

Section 77(2):	amended by 10, 1996, s. 22(b); repealed by 50, 1998, s. 42(b)
Section 77(3):	amended by 23, 1990, s. 3(1) (Sched. 5); repealed by 10, 1996, s. 22(c)
Section 77(4):	inserted by 70, 1989, s. 9; amended by 10, 1996, ss. 22(d), (e), 31 (Sched. 1); substituted by 50, 1998, s. 42(c)
Section 77(5):	inserted by 70, 1989, s. 9; amended by 10, 1996, s. 31 (Sched. 1)
Section 77(6):	inserted by 70, 1989, s. 9
Sections 77AA and 77AB:	inserted by 50, 1998, s. 43
Heading preceding section 77A:	inserted by 22, 1993, s. 22; repealed by 50, 1998, s. 44
Part 6 Division 2 Subdivision 4 heading:	inserted by 50, 1998, s. 44
Section 77A:	inserted by 22, 1993, s. 22
Section 77A(1) and (2):	amended by 10, 1996, s. 31 (Sched. 1)
Section 77A(3):	substituted by 10, 1996, s. 23
Section 77A(4):	amended by 10, 1996, s. 32 (Sched. 2)
Section 77A(5):	amended by 10, 1996, s. 31 (Sched. 1)
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Section 78(1):	substituted by 23, 1990, s. 3(1) (Sched. 5)
Section 78(2):	amended by 23, 1990, s. 3(1) (Sched. 5); 22, 1993, s. 23(a); 13, 1997, s. 4(a)
Section 78(3):	amended by 23, 1990 s. 3(1) (Sched. 5); repealed by 22, 1993, s. 23(b); inserted by 13, 1997, s. 4(b)
Section 78(4) and (5):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 79(1):	substituted by 23, 1990, s. 3(1) (Sched. 5)
Section 79(2):	amended by 23, 1990, s. 3(1) (Sched. 5); repealed by 22, 1993, s. 24
Section 79(3):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 79(4):	amended by 23, 1990, s. 3(1) (Sched. 5); 13, 1997, s. 5
Section 79(5):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 79(6):	inserted by 10, 1996, s. 24
Section 80(1):	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 46(a)
Section 80(1a):	inserted by 50, 1998, s. 46(b)
Section 80(2):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 80(4):	amended by 23, 1990, s. 3(1) (Sched. 5); substituted by 10, 1996, s. 25; amended by 13, 1997, s. 6
Section 80(4a):	inserted by 10, 1996, s. 25; amended by 50, 1998, s. 46(c)
Section 80(4b):	inserted by 10, 1996, s. 25
Section 80(5):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 81:	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 82(1):	amended by 50, 1998, s. 47(a)
Section 82(2):	amended by 10, 1996, s. 31 (Sched. 1); 50, 1998, s. 47(b)
Section 82(2a) - (2c):	inserted by 50, 1998, s. 47(c)
Section 82(4):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 82(6):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, ss. 26(a), (b), 32 (Sched. 2); 50, 1998, s. 47(d), (f), (g)
Section 82(6)(a)(ia):	repealed by 50, 1998, s. 47(e)
Section 82(6a) and (6b):	inserted by 10, 1996, s. 26(c); substituted by 50, 1998, s. 47(h)
Section 82(7):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 31 (Sched. 1); 50, 1998, s. 47(i)
Section 82(8):	inserted by 50, 1998, s. 47(j)
Section 83:	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 84(1):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 27(a)-(c)
Section 84(3):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, ss. 27(d), (e), 32 (Sched. 2)
Section 84(6):	amended by 23, 1990, s. 3(1) (Sched. 5); repealed by 10, 1996, s. 27(f)
Section 84(7):	amended by 50, 1998, s. 48
Section 84A:	inserted by 22, 1993, s. 25
Section 84A(2):	substituted by 10, 1996, s. 28(a)
Section 84A(3):	amended by 10, 1996, s. 28(b)
Section 84B:	inserted by 22, 1993, s. 25
Section 85(1) and (3):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 86(1) and (2):	substituted by 84, 1987, s. 6(a)
Section 86(3):	amended by 84, 1987, s. 6(b)
Section 89(1):	amended by 50, 1998, s. 49(a)
Section 89(2):	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 49(b), (c)
Section 89(5):	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 49(d)

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Section 89(6):	amended by 23, 1990, s. 3(1) (Sched. 5); 50, 1998, s. 49(e), (f)
Section 89(7):	repealed by 50, 1998, s. 49(g)
Section 89A:	inserted by 50, 1998, s. 50
Section 90(2):	amended by 23, 1990, s. 3(1) (Sched. 5); 12, 1998, s. 14 (Sched.)
Section 90(3) and (4):	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 31 (Sched. 1)
	Division 6A of Part 6 comprising ss. 90AA - 90AF and heading inserted by 50, 1998, s. 51
	Division 7 of Part 6 comprising s. 90A and heading inserted by 22, 1993, s. 26
Section 90A(1) and (3):	amended by 10, 1996, s. 31 (Sched. 1)
Sections 91 - 93:	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 94:	amended by 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 32 (Sched. 2)
Section 95(1):	amended by 23, 1990, s. 3(1) (Sched. 5); substituted by 10, 1996, s. 29; amended by 12, 1998, s. 13(a), (b); 50, 1998, s. 52
Section 95(1aa):	inserted by 12, 1998, s. 13(c)
Section 95(1a):	inserted by 90, 1987, s. 3
Section 95(2):	amended by 23, 1990, s. 3(1) (Sched. 5); substituted by 12, 1998, s. 13(d)
Section 95(3):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 95AA:	inserted by 50, 1998, s. 53
Sections 95A and 95B:	inserted by 10, 1996, s. 30
Section 95BA:	inserted by 84, 1999, s. 6
Section 95C:	inserted by 10, 1996, s. 30
Section 95C(3):	amended by 50, 1998, s. 54
Section 95D:	inserted by 50, 1998, s. 55
Section 96(1):	substituted by 23, 1990, s. 3(1) (Sched. 5); repealed by 12, 1998, s. 14 (Sched.)
Section 96(2) and (3):	amended by 23, 1990, s. 3(1) (Sched. 5)
Section 96(4):	inserted by 50, 1986, s. 5; repealed by 12, 1998, s. 14 (Sched.)
Section 97(2):	amended by 90, 1987, s. 4; 23, 1990, s. 3(1) (Sched. 5); 10, 1996, s. 32 (Sched. 2)