

South Australia

Legal Practitioners (Miscellaneous) Amendment Act 2003

An Act to amend the *Legal Practitioners Act 1981*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Legal Practitioners (Miscellaneous) Amendment Act 2003*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Legal Practitioners Act 1981*

4—Amendment of section 5—Interpretation

Section 5(1), definition of *company*—delete the definition and substitute:

company means a company incorporated or taken to be incorporated under the *Corporations Act 2001* of the Commonwealth that is taken to be registered in South Australia for the purposes of that Act;

5—Amendment of section 6—Fusion of the legal profession

Section 6—after subsection (3) insert:

- (3a) Nothing in this section affects the validity of any undertaking given to the Supreme Court by a legal practitioner who receives the title "Queen's Counsel" relating to the use of that title in the course of legal practice.

6—Amendment of section 15—Entitlement to admission

Section 15(1)(b)—delete paragraph (b)

7—Amendment of section 18—Term and renewal of practising certificates

- (1) Section 18(1)—delete subsection (1) and substitute:

- (1) Subject to this Act, the Supreme Court may issue a practising certificate for such period (not exceeding 12 months) as the Court thinks fit.

- (2) Section 18(2)—delete "a further period of 12 months" and substitute:

the period stated in the practising certificate as renewed (which must not exceed 12 months)

- (3) Section 18(3)—delete the subsection and substitute:

- (3) Where a practising certificate that has been suspended under this Act for a period or until the happening of some event expires before the end of that period or before the happening of that event, the practising certificate may not be renewed until the expiration of that period or the happening of that event (as the case may be).

8—Amendment of section 21—Entitlement to practise

- (1) Section 21(3)(n)(i) and (ii)—delete subparagraphs (i) and (ii) and substitute:

- (i) a tenancy agreement relating to residential premises—
- (A) under which a rental not exceeding a maximum prescribed for the purposes of this subparagraph is payable; or
- (B) in respect of which the agent has approved professional indemnity insurance; or

- (ii) a tenancy agreement relating to non-residential premises arising from a transaction in respect of which the agent has acted as agent—

- (A) under which a rental not exceeding a maximum prescribed for the purposes of this subparagraph is payable; or
 - (B) in respect of which the agent has approved professional indemnity insurance,
- (2) Section 21(3)(s)—delete "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" and substitute:
- for fee or reward provided that, if the body corporate or a related body corporate (within the meaning of the *Corporations Act 2001* of the Commonwealth) is to be named as the executor, or one of the executors, of the will or instrument, any commission or other remuneration that will, or might, become payable in consequence of that appointment must be disclosed to the person on whose instructions the will or instrument is to be prepared
- (3) Section 21(3)(t)—delete paragraph (t)
- (4) Section 21(5)—before the definition of *business* insert:
- 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;

9—Amendment of section 23B—Limitations or conditions on practice under laws of participating State

Section 23B(3)—delete subsection (3) and substitute:

- (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—
 - (a) in relation to conditions or limitations imposed before the practitioner commenced practising the profession of the law in this State—within 14 days of the practitioner commencing practising the profession of the law in this State; or
 - (b) in relation to conditions or limitations imposed after the practitioner commenced practising the profession of the law in this State—within 28 days of the imposition of the conditions or limitations.

10—Amendment of section 33—Audit of trust accounts etc

Section 33—after subsection (1) insert:

- (2) If a local legal practitioner fails to submit a copy of an auditor's report to the Supreme Court in accordance with subsection (1), the legal practitioner's practising certificate will be taken to be suspended until subsection (1) is complied with.

11—Amendment of section 77AB—Powers of Board in relation to minor misconduct

- (1) Section 77AB(1)—delete "and instead—" and substitute:

and may instead exercise any one or more of the following powers:

- (2) Section 77AB(1)(c)—delete "or"
- (3) Section 77AB(1)(d)(ii)—delete "or" (third occurring)

12—Amendment of section 79—Conditions of membership

Section 79(5)—delete ", 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"

13—Amendment of section 82—Inquiries

Section 82(6)(a)(iv)—delete "three" and substitute:

six

14—Amendment of section 97—Regulations

Section 97—after subsection (3) insert:

- (3a) Regulations under this Act—
 - (a) may be of general application or limited application; and
 - (b) may make different provision according to the matters or circumstances to which they are expressed to apply; and
 - (c) may provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Attorney-General, the Supreme Court or the Society.