

Queensland



# LEGAL PRACTITIONERS ACT 1995

**Reprinted as in force on 7 February 1997  
(includes amendments up to Act No. 79 of 1996)**

**Warning—see last endnote for uncommenced amendments**

**Reprint No. 1A**

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# Information about this reprint

This Act is reprinted as at 7 February 1997. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

Queensland



**LEGAL PRACTITIONERS ACT 1995**

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# LEGAL PRACTITIONERS ACT 1995

[as amended by all amendments that commenced on or before 7 February 1997]

## An Act to consolidate certain provisions about legal practitioners

### PART 1—PRELIMINARY

#### Short title

1. This Act may be cited as the *Legal Practitioners Act 1995*.

#### Act is a consolidation

**2.(1)** This Act is a consolidation of provisions of the *Legal Practitioners Act Amendment Act 1968* (the “**existing provisions**”) and provisions relocated from the following Acts (the “**relocated provisions**”)—

- *Costs Act 1867*
- *Legal Assistance Act 1965*
- *Legal Practitioners Act Amendment Act 1938*
- *Solicitors Act 1891*
- *Supreme Court Act 1867*
- *Supreme Court Act 1921*.

**(2)** To remove any doubt, it is declared that the relocated provisions were not re-enacted by the *Statute Law Revision Act (No. 2) 1995*, but merely moved (without re-enactment) from the Acts in which they were enacted to this Act.

**(3)** Without limiting subsections (1) and (2) and to further remove any doubt, it is also declared that the relocation to this Act of the relocated provisions did not impliedly repeal or amend, or otherwise affect the

operation of, the existing provisions, the relocated provisions or the provisions of any other law and, in particular, did not affect the meaning or effect that the existing or relocated provisions, or the provisions of the other law, had because of the respective times when they were enacted.

- (4) In addition, it is declared that the relocation did not—
- (a) affect any jurisdiction or power of a court or judge; or
  - (b) affect any principle or rule of law or equity; or
  - (c) affect any right, privilege or liability; or
  - (d) revive anything not existing or in force.

### **Definition**

3. In this Act—

“**approved form**” see section 60.

## **PART 2—PROVISIONS FROM COSTS ACT 1867**

### *Division 1—Purpose of part*

#### **Purpose**

4. The purpose of this part is to consolidate and amend the laws about costs at common law and taxation in general.

### *Division 2—Attorney’s bill of costs*

#### **Bills to be delivered**

5. No attorney nor any executor administrator or assignee of any attorney or the trustee of the attorney’s estate shall commence or maintain any action or suit for the recovery of any fees charges or disbursements for any business done by such attorney until the expiration of 1 month after such

attorney or executor administrator or assignee of such attorney shall have delivered unto the party to be charged therewith or sent by the post to or left for the party at the party's counting house office of business dwelling house or last-known place of abode a bill of such fees charges and disbursements and which bill shall be subscribed by such attorney in the attorney's proper handwriting (or in the case of partnership by any of the partners either with the attorney's own name or with the name and style of such partnership) or by the executor administrator or assignee of such attorney or the trustee of the attorney's estate.

### **Evidence of delivery of bill**

**6.(1)** It shall not in any case be necessary in the first instance for such attorney or the executor administrator or assignee of such attorney or trustee of the attorney's estate in proving a compliance with this part to prove the contents of the bill the attorney may have delivered sent or left but it shall be sufficient to prove that a bill of fees charges or disbursements subscribed in the manner aforesaid was delivered sent or left in manner aforesaid but nevertheless it shall be competent for the other party to show that the bill so delivered sent or left was not such a bill as constituted a bona fide compliance with this part.

**(2)** However, it shall be lawful for any judge of the Supreme Court to authorise an attorney to commence an action or suit for the recovery of the attorney's fees charges or disbursements against the party chargeable therewith although 1 month shall not have expired from the delivery of a bill as aforesaid on proof to the satisfaction of the said judge that there is probable cause for believing that such party is about to quit the State.

### *Division 3—Taxation of costs*

#### **Taxation of bills within a month**

**7.(1)** Upon the application of the party chargeable by such bill within such month an appointment for taxation of the same may be obtained as of course and without order of a judge—

- (a) from the master in equity in case the whole of the business contained in such bill shall have been transacted in the Supreme

Court in its equitable jurisdiction or in any matter of lunacy or shall relate to conveyancing business; and

- (b) from the judge in insolvency in case of the whole of such business contained in such bill shall have been transacted in the Supreme Court in its insolvency jurisdiction; and
- (c) from the prothonotary of the Supreme Court in every other case including criminal business and though the business or part of the business contained in such bill shall not have been transacted in the Supreme Court.

(2) And thereupon such bill and the demand of such attorney executor administrator trustee or assignee shall be taxed and settled by such officer without any money being brought into court.

(3) And the Supreme Court or a judge thereof shall restrain such attorney or executor administrator or assignee of such attorney or the trustee of the attorney's estate from commencing any action or suit touching such demand pending such taxation and the costs of such taxation shall as hereinafter provided be paid according to the event of such taxation.

### **Taxation after 1 month**

8.(1) In case no such application as aforesaid shall be made within such month as aforesaid then it shall be lawful for the Supreme Court or a judge thereof either upon the application of the attorney or the executor administrator or assignee of the attorney or the trustee of the attorney's estate whose bill may have been so delivered sent or left as aforesaid or upon the application of the party chargeable by such bill with such directions and subject to such conditions as the court or judge making such reference shall think proper to refer such bill and the demand of such attorney or executor administrator or assignee of such attorney or the trustee of the attorney's estate thereupon to be settled and taxed by such officer of the court as aforesaid and in case any such reference as aforesaid shall be made on the application of the party chargeable by such bill then without any money being brought into the court.

(2) And such court or judge may restrain such attorney or the executor administrator or assignee of such attorney or the trustee of the attorney's estate from commencing or prosecuting any action or suit touching such demand pending such reference upon such terms as shall be thought fit.

*Legal Practitioners Act 1995*

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(3) However, no such reference as aforesaid shall be directed upon an application made by the party chargeable with such bill after a verdict shall have been obtained judgment signed or a writ of inquiry executed in any action for the recovery of the demand of such attorney or executor administrator or assignee of such attorney or the trustee of the attorney's estate or after the expiration of 12 months after such bill shall have been delivered sent or left as aforesaid except under special circumstances to be proved to the satisfaction of the Supreme Court or a judge thereof to whom the application for such reference shall be made.

*Division 4—Costs of taxation***Payment of costs of taxation**

9.(1) Upon every such appointment or reference if either the attorney or executor administrator or assignee of the attorney or trustee of the attorney's estate whose bill shall have been delivered sent or left or the party chargeable with such bill having due notice shall refuse or neglect to attend such taxation the officer to whom such appointment or reference shall be made may proceed to tax and settle such bill and demand ex parte.

(2) And in case any appointment or reference as aforesaid shall be obtained or made upon the application of the party chargeable with such bill or upon the application of such attorney or the executor administrator or assignee of such attorney or trustee of the attorney's estate and the party chargeable with such bill shall attend upon such taxation the costs of such appointment or reference shall except as hereinafter provided for be paid for according to the event of such taxation that is to say—

- (a) if such bill when taxed be less by a sixth part than the bill delivered sent or left—then such attorney or executor administrator or assignee of such attorney or trustee of the attorney's estate shall pay such costs; and
- (b) if such bill when taxed shall not be less by a sixth part than the bill delivered sent or left—then the party chargeable with such bill making such application or so attending shall pay such costs.

(3) And every order to be made for obtaining such appointment or such reference as aforesaid shall direct the officer to whom such reference shall

be made to tax such costs of such appointment or reference to be so paid as aforesaid and to certify what upon such taxation shall be found to be due to or from such attorney or executor administrator or assignee of such attorney or trustee of the attorney's estate in respect of such bill or demand and of the costs of such appointment or reference (if payable).

(4) However, such officer shall in all cases be at liberty to certify specially any circumstances relating to such bill or taxation and the court or judge shall in all cases be at liberty to make thereupon such order as such court or judge may think right respecting the payment of the costs of such taxation.

(5) In addition, where such reference as aforesaid shall be made as hereinbefore provided then the said court or judge shall be at liberty if it shall be thought fit to give any special directions relative to the costs of such reference.

(6) Also, it shall be lawful for the said court or judge in any case to make such order for the delivery by any attorney or the executor administrator or assignee of any attorney or trustee of the attorney's estate of such bill as aforesaid and for the delivery up of deeds documents or papers in the attorney's custody possession or power or otherwise touching the same in the same manner as has heretofore been done as regards such attorney by such court or judge where any such business had been transacted in the court.

### *Division 5—Mode and consequences of taxation*

#### **Skill and responsibility to be considered**

**10.** In taxing any bill for preparing or drawing any deed contract case or other document it shall be lawful for the taxing officer and the officer is hereby required in estimating the proper sum to be charged for such transaction to consider the skill and labour properly employed and the expense and responsibility incurred in the preparation thereof.

#### **Assistance of prothonotary**

**11.(1)** In all cases in which such bill shall have been referred to be taxed and settled by the prothonotary of the Supreme Court such officer shall be

at liberty to request the master in equity to assist the officer in taxing and settling any bill or any part of such bill.

(2) And such officer so requested shall thereupon proceed to tax and settle the same and shall have the same powers in respect thereof as upon a reference to the officer and shall return the same with the officer's opinion thereon to the prothonotary.

### **Form of application for taxing etc.**

12.(1) All applications made under this part to refer any such bill as aforesaid to be taxed and settled and for the delivery of such bill and for the delivery up of deeds documents and papers shall be made in the matter of such attorney.

(2) And upon the taxation or retaxation and settlement of any such bill the certificate of the officer by whom such bill shall have been taxed shall (unless set aside or altered by order decree or rule of court) be final and conclusive as to the amount thereof.

(3) And payment of the amount certified to be due and directed to be paid may be enforced according to the course and practice of the Supreme Court.

(4) And it shall be lawful for such court or a judge thereof to order judgment to be entered up for such amount with costs unless the retainer shall be disputed or to make such other order thereon as such judge shall deem proper.

## ***Division 6—Taxation on behalf of third parties***

### **Third parties applying for taxation**

13.(1) Where any person not the party chargeable with any such bill within the meaning of sections 5 to 12 shall be liable to pay or shall have paid such bill either to the attorney the attorney's executor administrator or assignee or the trustee of the attorney's estate or to the party chargeable with such bill as aforesaid it shall be lawful for such person the person's executor administrator or assignee or the trustee of the person's estate to make such application for a reference for the taxation and settlement of such bill as the party chargeable therewith might make.

(2) And the same reference and order shall be made thereupon and the same course pursued in all respects as if such application was made by the party so chargeable with such bill as aforesaid.

(3) However, in case such application is made when under the provision herein contained a reference is not authorised to be made except under special circumstances it shall be lawful for the court or judge to whom such application shall be made to take into consideration any additional special circumstances applicable to the person making such application although such circumstances might not be applicable to the party so chargeable with the said bill as aforesaid if the person was the party making the application.

### **Bills against trustees assignees administrators or executors**

14.(1) It shall be lawful in any case in which a trustee assignee executor or administrator has become chargeable with any such bill as aforesaid for a judge of the Supreme Court if in his or her discretion the judge shall think fit upon the application of a party interested in the property out of which such trustee assignee executor or administrator may have been paid or be entitled to pay such bill to refer the same and such attorney's or executor's administrator's or assignee's demand or the demand of the trustee of the attorney's estate thereupon to be taxed and settled by the proper officer aforesaid with such directions and subject to such conditions as such judge shall think fit for the payment of what may be found due and of the costs of such reference to or by such attorney or the executor administrator or assignee of such attorney or the trustee of the attorney's estate by or to the party making the application having regard to the provisions herein contained relative to applications for the like purpose by the party chargeable with such bill so far as the same shall be applicable to such cases.

(2) And in exercising such discretion as aforesaid the said judge may take into consideration the extent and nature of the interest of the party making such application.

(3) However, where any money shall be so directed to be paid by such attorney or the executor administrator or assignee of such attorney or the trustee of the attorney's estate it shall be lawful for such judge if the judge shall think fit to order the same or any part thereof to be paid to such trustee assignee executor or administrator so chargeable with such bill instead of being paid to the party making such application.

(4) And when the party making such application shall pay any money to such attorney or executor administrator or assignee of such attorney or the trustee of the attorney's estate in respect of such bill the party shall have the same right to be paid by such trustee assignee executor or administrator so chargeable with such bill as such attorney or executor administrator or assignee of such attorney or the trustee of the attorney's estate had.

### **Delivery of bill to third parties**

15. For the purpose of any such reference upon the application of the person not being the party chargeable within the meaning of the provisions of this part as aforesaid or of a party interested as aforesaid it shall be lawful for the Supreme Court or a judge thereof to order any such attorney or the executor administrator or assignee of any such attorney or the trustee of the attorney's estate to deliver to the party making such application a copy of such bill upon payment of the costs of such copy.

### *Division 7—Limitation*

### **Taxation of bill after payment**

16.(1) The payment of any such bill as aforesaid shall in no case preclude the court or judge from referring such bill for taxation if the special circumstances of the case shall in the opinion of such court or judge appear to require the same upon such terms and conditions and subject to such directions as to such court or judge shall seem right.

(2) However, the application for such reference be made within 12 calendar months after payment.

### *Division 8—Retaxation*

### **Retaxation and review**

17.(1) No bill which shall have been previously taxed and settled either under an appointment or order of reference shall be again referred unless under special circumstances the court or judge to whom such application is made shall think fit to direct a retaxation.

(2) However, where a bill of costs shall have been taxed an order for review of the taxation may be made after rule or summons to show cause by the Supreme Court or a judge thereof and it shall be lawful for such court or judge in case they or the judge shall think fit thereupon to direct the proper officer aforesaid to review and correct such taxation instanter.

(3) And whether the order applied for be granted or refused the costs of the application shall be in all cases in the discretion of the court or judge and on an order for a review of taxation it may be made part of the order that the registrar do or may examine witnesses viva voce touching any matter in question.

### **PART 3—PROVISIONS FROM SUPREME COURT ACT 1867**

#### **Attorneys in certain cases may be called to the bar upon motion in court**

**18.(1)** Any attorney solicitor or proctor of good repute in his or her profession having been 3 years in actual practice in Great Britain or the State who shall pass the examination in classics or mathematics prescribed for persons seeking admission to the bar or who shall have a certificate of honour or other academical distinction in classics mathematics or law from any university or college within the British dominions may upon motion in open court be called and admitted a barrister-at-law.

(2) However, when so called and admitted he or she shall cease to practise as an attorney solicitor or proctor and shall be struck off the roll of the Supreme Court but nothing herein contained shall extend to relieve persons so called and admitted from any action suit penalty or liability for misconduct neglect or other matter in the practice of his or her profession of an attorney solicitor or proctor nor to disable him or her from recovering the costs and charges due to him or her when so called and admitted or from asserting his or her right of lien or from being again admitted to practice as an attorney solicitor or proctor if disbarred by motion in open court at his or her own request without having been guilty of misconduct in the exercise of his or her profession of a barrister-at-law.

**Conveyancing how prohibited**

**19.** Every person who shall for or in expectation of any fee gain or reward directly or indirectly draw or prepare any conveyance or other deed or instrument in writing relating to any real estate or any proceedings in law or equity (other than and except barristers or attorneys and solicitors of the Supreme Court or certificated conveyancers as hereinafter mentioned and other than and except persons solely employed to engross any deed instrument or other proceeding not drawn or prepared by themselves and for their own account respectively and other than and except public officers drawing or preparing official instruments applicable to their respective offices and in the course of their duty) shall be deemed guilty of a contempt of the Supreme Court and shall and may be punished accordingly for every such offence upon the application of any person complaining thereof or shall for every such offence forfeit and pay the sum of \$40 to be sued for and recovered in a summary way before any 2 or more justices of the peace.

**Certificated conveyancer**

**20.(1)** Every person except a barrister or attorney and solicitor of the Supreme Court who shall be desirous of practising as a conveyancer shall 1 month at least before making application as hereinafter mentioned give notice in such manner and form as the judges of the Supreme Court shall direct of the person's intention to apply to the said court for a certificate to practise as a conveyancer and any person having given such notice as aforesaid shall be at liberty to apply to the said court touching the person's fitness to practise as a conveyancer.

**(2)** And thereupon the judges or 1 of them shall direct that the applicant shall be examined at the earliest convenient time by the master in equity of the said court (or such other 1 or 2 officers of the court as the judges may appoint to assist the master) touching the applicant's skill and knowledge in conveyancing as well as to the applicant's character for integrity and the said master or the master's assistants shall be at liberty to put such questions to such applicant in respect to the matters aforesaid and to require such proof of the applicant's character as shall be deemed proper.

**(3)** And if the said applicant shall be considered of competent ability and knowledge and a fit and proper person to practise as a conveyancer then the

said master shall and the master is hereby empowered to grant a certificate to such applicant authorising the applicant to draw fill up and prepare any conveyance will deed bond lease or agreement for a lease or other contract whatsoever of or relating to any estate or property whether real or personal and every such certificate shall be enrolled in the office of the registrar of the Supreme Court whereupon such applicant shall be deemed a certificated conveyancer and entitled to practise as such with power of appeal to the court in case of refusal of such certificate by the master as aforesaid.

## **PART 4—PROVISIONS FROM SOLICITORS ACT 1891**

### *Division 1—Purpose of part*

#### **Purpose**

**21.** The purpose of this part is to amend the laws about the remuneration of solicitors.

### *Division 2—Interpretation*

#### **Definitions for pt 4**

**22.** In this part—

“**client**” includes any person who as a principal or on behalf of another person retains or employs, or is about to retain or employ, a solicitor, and any person who is or may be liable to pay the bill of a solicitor for any services, fees, costs, charges, or disbursements.

“**solicitor**” includes a solicitor, a barrister practising as a solicitor, or a conveyancer lawfully practising in Queensland.

***Division 3—Agreements between solicitors and their clients*****The remuneration of solicitors may be fixed by agreement**

**23.** A solicitor may make an agreement in writing with his or her client respecting the amount and manner of payment for the whole or any part of any past or future services, fees, charges, or disbursements in respect of business done or to be done by such solicitor in any capacity, either by a gross sum or by commission or percentage or by salary or otherwise, and either at the same or at a greater or at a less rate as or than the rate at which the solicitor would otherwise be entitled to be remunerated subject to the provisions and conditions in this division.

**Amount payable under agreement not to be paid until allowed by taxing officer**

**24.** However, when any such agreement is made in respect of business done or to be done in any action in the Supreme Court, the amount payable under the agreement shall not be received by the solicitor until the agreement has been examined and allowed by the taxing officer, and if it appears to the taxing officer that the agreement is not fair and reasonable, the officer may require the opinion of the court or a judge to be taken thereon by motion or petition, and such court or judge shall have power either to reduce the amount payable under the agreement or to order the agreement to be cancelled, and the costs, fees, charges, and disbursements in respect of the business done to be taxed in the same manner as if no such agreement had been made.

**Saving of interests of third parties**

**25.(1)** Such an agreement shall not affect the amount of or any rights or remedies for the recovery of any costs recoverable from the client by any other person, or payable to the client by any other person, and any such other person may require any costs payable or recoverable by him or her to or from the client to be taxed according to the rules for the time being in force for the taxation of such costs, unless such person has otherwise agreed.

**(2)** However, the client who has entered into such agreement shall not be

entitled to recover from any other person, under any order for the payment of any costs which are the subject of such agreement, more than the amount payable by the client to his or her own solicitor under the same.

### **Agreements shall exclude further claims**

**26.** Such an agreement shall be deemed to exclude any further claim of the solicitor beyond the terms of the agreement in respect of any services, fees, charges, or disbursements in relation to the conduct and completion of the business in reference to which the agreement is made, except such services, fees, charges, or disbursements (if any) as are expressly excepted by the agreement.

### **Reservation of responsibility for negligence**

**27.** A provision in any such agreement that the solicitor shall not be liable for negligence, or that the solicitor shall be relieved from any responsibility to which he or she would otherwise be subject as such solicitor, shall be wholly void.

### **Examination and enforcement of agreements**

**28.** No action shall be brought or instituted upon any such agreement, but every question respecting the validity or effect of any such agreement may be examined and determined, and the agreement may be enforced or set aside on motion or petition of any person, or the representative of any person, a party to such agreement, or being or alleged to be liable to pay, or being or claiming to be entitled to be paid the costs, fees, charges, or disbursements in respect of which the agreement is made, by the court in which the business, or any part thereof, was done, or a judge thereof, or if the business was not done in any court, then where the amount payable under the agreement exceeds \$100, by the Supreme Court or a judge thereof, and where such amount does not exceed \$100 by the judge of a District Court which would have jurisdiction in an action upon the agreement.

**Improper agreements may be set aside**

**29.** Upon any such motion or petition as aforesaid, if it appears to the court or judge that such agreement is in all respects fair and reasonable between the parties, the same may be enforced by such court or judge by rule or order in such manner and subject to such conditions (if any) as to the costs of such motion or petition as such court or judge may think fit, but if the terms of such agreement are not deemed by the court or judge to be fair and reasonable, the same may be declared void, and the court or judge shall thereupon have power to order such agreement to be given up to be cancelled, and may direct the costs, fees, charges, and disbursements incurred or chargeable in respect of the matters included therein to be taxed in the same manner and according to the same rules as if such agreement had not been made, and the court or judge may also make such order as to the costs of and relating to such motion or petition, and the proceedings thereon, as to the said court or judge may seem fit.

**Agreements may be reopened after payment in special cases**

**30.(1)** When the amount agreed for under any such agreement has been paid by or on behalf of the client, or by any person chargeable with or entitled to pay the same, any court or judge having jurisdiction to examine and enforce such an agreement may, upon application by the person who has paid such amount within 12 months after the payment thereof, if it appears to such court or judge that the special circumstances of the case require the agreement to be reopened, reopen the same and order the costs, fees, charges, and disbursements to be taxed, and the whole or any portion of the amount received by the solicitor to be repaid by him or her on such terms and conditions as to the court or judge may seem just.

**(2)** Where any such agreement is made by the client in the capacity of guardian or of trustee under a deed or will, or of committee of any person or persons whose estate or property will be chargeable with the amount payable under such agreement, or with any part of such amount, the agreement shall before payment be laid before the taxing officer of a court having jurisdiction to enforce the agreement, and such officer shall examine the same and may disallow any part thereof, or may require the direction of the court or a judge to be taken thereon by motion or petition, and if in any such case the client pays the whole or any part of the amount payable under the agreement without the previous allowance of such officer or court or

judge as aforesaid, he or she shall be liable at any time to account to the person whose estate or property is charged with the amount paid, or with any part thereof, for the amount so charged, and if in any such case the solicitor accepts payment without such allowance, any court which would have had jurisdiction to enforce the agreement may, if it thinks fit, order the solicitor to refund the amount so received by him or her under the agreement.

### **Prohibition of certain stipulations**

**31.** Nothing in this part shall be construed to give validity to any purchase by a solicitor of the interest or any part of the interest of his or her client in any suit, action, or other contentious proceeding to be brought or maintained, or to give validity to any agreement by which a solicitor retained or employed to prosecute any action stipulates for payment only in the event of success in such action or proceeding.

### **Not to give validity to contracts etc. which may be void in insolvency**

**32.** Nothing in this part shall give validity to any disposition, contract, settlement, conveyance, delivery, dealing, or transfer, which may be void or invalid against a trustee or creditor in insolvency, arrangement, or comparison under the provisions of the laws relating to insolvency.

### **Provision in case of death or incapacity of the solicitor**

**33.** Where a solicitor has made an agreement with his or her client in pursuance of the provisions of this part, and anything has been done by such solicitor under the agreement, and before the agreement has been completely performed by the solicitor, such solicitor dies or becomes incapable to act, an application may be made to any court which would have jurisdiction to examine and enforce the agreement by any party thereto, or by the representatives of any such party, and such court shall thereupon have the same power to enforce or set aside such agreement, so far as the same may have been acted upon, as if such death or incapacity had not happened, and such court, if it deems the agreement to be fair and reasonable, may order the amount due in respect of the past performance of the agreement to be ascertained by taxation, and the taxing officer in

ascertaining such amount shall have regard, so far as may be, to the terms of the agreement, and payment of the amount found to be due may be enforced in the same manner as if the agreement has been completely performed by the solicitor.

### **As to change of solicitor after agreement**

**34.** If, after any such agreement as aforesaid has been made, the client changes his or her solicitor before the conclusion of the business to which such agreement relates (which he or she shall be at liberty to do, notwithstanding such agreement), the solicitor party to such agreement shall be deemed to have become incapable to act under the same within the meaning of section 33, and upon any order being made for taxation of the amount due to such solicitor in respect of the past performance of such agreement, the court shall direct the taxing officer to have regard to the circumstance under which such change of solicitor has taken place, and upon such taxation the solicitor shall not be deemed entitled to the full amount of remuneration agreed to be paid to him or her, unless it appears that there has been no default, negligence, improper delay, or other conduct on the solicitor's part affording reasonable ground to the client for such change of solicitor.

### **Agreement to be disclosed by solicitor**

**35.** A solicitor shall, upon the taxation of the costs of any action or proceeding payable to his or her client by any other person, be bound to disclose on oath whether any agreement has been made by the solicitor with his or her client under this division relating to the costs of the action or proceeding, and to produce every such agreement to the taxing officer.

### **Agreements shall be exempt from taxation**

**36.** Subject to this division, the bill of a solicitor for the amount due under an agreement made under this part shall not be subject to any taxation nor to the provisions of part 2.

***Division 4—General*****Security may be taken for future costs**

**37.** A solicitor may take security from his or her client for future fees, charges, and disbursements, to be ascertained by taxation or otherwise.

**Interest may be allowed on taxation in respect of disbursements and advances**

**38.** Subject to any general rules or orders hereafter to be made upon every taxation of costs, fees, charges, or disbursements, the taxing officer may allow interest at such rate and from such time as the officer thinks just on moneys disbursed by the solicitor for his or her client, and on moneys of the client in the hands of the solicitor and improperly retained by the solicitor.

**Taxing officer to have regard to character of services**

**39.** Upon any taxation of costs the taxing officer may, in determining the remuneration (if any) to be allowed to the solicitor for his or her services, have regard, subject to any general rules or orders hereafter to be made, to the skill, labour, and responsibility involved.

**Revival of order for payment of costs**

**40.** Whenever any judgment or order has been made for payment of costs in any action, and such action afterwards becomes abated, it shall be lawful for any person interested under such judgment or order to revive such action, and thereupon to prosecute and enforce such judgment or order, and so on from time to time as often as any such abatement happens.

## **PART 5—PROVISIONS FROM SUPREME COURT ACT 1921**

### **Admission of certain solicitors as barristers**

**41.** Every solicitor of the Supreme Court of good repute in the solicitor's profession, having been 5 years in actual practice in Queensland, shall upon motion in open court at the solicitor's own request be called and admitted as a barrister-at-law without being required to pass any examination.

### **Admission of certain barristers as solicitors**

**42.** Any barrister of good repute—

- (a) who has been admitted or shall be admitted on or prior to 30 June 1939; or
- (b) who shall have been admitted after 30 June 1939, and who shall have been 3 years in actual practice in Queensland; or
- (c) who shall subsequently to his or her enrolment as a barrister have served under articles of clerkship to a solicitor of the Supreme Court for a period of 3 years; or
- (d) who shall subsequently to his or her enrolment as a barrister have for a period of 3 years served with a solicitor of the Supreme Court as a law clerk, or served as an associate to a judge of the High Court or Supreme Court or in the office of the solicitor-general or the crown solicitor or in the office in Queensland of the Australian government solicitor or in the office of a registrar of the Supreme Court (in the registries at Brisbane, Rockhampton, or Townsville), or in any office (including any branch office) of the public trustee (which period of 3 years in this paragraph may be made up of service wholly for that period in one such capacity as aforesaid or partly in one and partly in any other such capacity or capacities);

shall upon motion in open court at the barrister's own request be admitted as a solicitor without being required to pass any examination, and thereupon the barrister's name shall be removed from the roll of barristers.

## **PART 6—PROVISIONS FROM LEGAL PRACTITIONERS ACT AMENDMENT ACT 1938**

### **Restriction on admission to practise as a conveyancer**

**43.** Notwithstanding anything contained in section 20, no person shall, after 1 January 1940, be admitted to practise as a conveyancer nor shall any certificate as provided by section 20 be issued to any such person except in respect of admissions made prior to that date.

### **Restriction in respect of practice as to barristers and solicitors**

**44.(1)** A barrister shall not be entitled to practise as a solicitor and a solicitor shall not be entitled to practise as a barrister.

**(2)** This section does not apply and never did apply to a barrister or solicitor in any Commonwealth or State department acting in the course of his or her official duties.

**(3)** Any such barrister or solicitor so acting shall have the same rights and privileges as if the *Legal Practitioners Act 1881*, section 1 had not been repealed.

### **Saving of the Supreme Court Act 1921, s 41**

**45.** Nothing in this Act shall prejudice or in anywise affect the provisions of the *Supreme Court Act 1921*, section 41.

### **Right of audience preserved**

**46.** A solicitor in any matter or proceeding in which the solicitor or the solicitor's partner acts as a solicitor shall have the same right of audience as a solicitor in all courts in Queensland as the solicitor had immediately prior to the passing of the *Legal Practitioners Act Amendment Act 1938* other than such rights as were conferred by the *Legal Practitioners Act 1881*, section 1 hereby repealed.

## **PART 7—PROVISIONS FROM LEGAL ASSISTANCE ACT 1965**

### *Division 1—Purpose of part*

#### **Purpose**

47. The purpose of this part is to make legal assistance more readily available to persons of limited means.

### *Division 2—Interpretation*

#### **Definitions for pt 7**

48. In this part—

“**commission**” means the Legal Aid Commission.

“**guarantee fund**” means the Legal Practitioners’ Fidelity Guarantee Fund established under the *Queensland Law Society Act 1952*.

“**legal aid fund**” means the legal aid fund established under the *Legal Aid Act 1978*.

“**society**” means the Queensland Law Society Incorporated.

### *Division 3—Administration and finance*

#### **Administration**

49. This Act shall be administered by the Minister and, subject to the Minister, by the society.

#### **Legal assistance fund**

50. There shall be paid to the commission by the society such part of the interest from time to time accruing in respect of moneys invested pursuant

to section 51(8), as may be prescribed for the time being in that behalf by or under section 51(9).

### **Solicitors trust bank accounts etc.**

**51.(1)** In this section—

“**balance**”, in relation to a bank account, means the amount standing to the credit of the account in excess of nil.

“**commencing date**” means 1 January 1971 or, in the case of a solicitor who commences practice after 1 January, the 1 January in the calendar year next following the calendar year in which the solicitor commenced practice.

“**deposit with**” includes ‘pay to’ and ‘transfer to’.

“**first year**” means the period of 12 months beginning on and including the commencing date.

“**solicitor**” means a solicitor or conveyancer of the Supreme Court and, in relation to any trust bank account, means the solicitor or solicitors, or anyone else who may lawfully operate on that trust bank account.

“**trust bank account**” means any bank account (whether general or particular) into which is paid any money received by a solicitor, or where the solicitor practises in partnership with another solicitor or solicitors into which is paid any money received by the firm or any partner thereof, upon trust or upon terms requiring the solicitor, firm, or partner, as the case may be, to account to any person therefor.

“**year**” means the first year and each period of 12 months thereafter.

(2) Notwithstanding anything contained in the *Trust Accounts Act 1973* every solicitor shall out of the moneys in the solicitor’s trust bank account—

- (a) not later than 20 days after the commencing date deposit with the society a sum which is not less than two-thirds of the amount which was the lowest balance in the solicitor’s trust bank account on any day during the period of 12 months ending on and including the day immediately preceding the commencing date (the “**initial period**”) or, where the solicitor maintains more than 1 trust bank account, a sum which is not less than two-thirds of

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the lowest aggregate on any day during the initial period of the balances in the solicitor's trust bank accounts, excluding any accounts that were maintained for the exclusive benefit of a specific person or specific persons; and

- (b) thereafter during the first year keep deposited with the society a sum which is not at any time less than the amount prescribed by paragraph (a); and
- (c) during each and every year following the first year keep deposited with the society such a sum as may be prescribed or, if not prescribed, a sum which is not at any time less than two-thirds of the aggregate of—
  - (i) the amount standing upon deposit by the solicitor with the society in accordance with the provisions of this subsection on the day of the lowest balance concerned; and
  - (ii) the amount that was the lowest balance in the solicitor's trust bank account on any day during the last preceding year or, where the solicitor maintains more than 1 trust bank account, the lowest aggregate on any day during the last preceding year of the balances in the solicitor's trust bank accounts, excluding any accounts that were maintained for the exclusive benefit of a specific person or specific persons.

(3) Where in order to comply with the provisions of subsection (2) in respect of any year after the first year a solicitor is required to deposit with the society a sum additional to the amount standing upon deposit by the solicitor with the society during the last preceding year in compliance with the subsection, the solicitor shall be deemed to have complied with the provisions if the additional sum is deposited with the society within 20 days after 1 January in the year in question.

(4) A solicitor is deemed to have complied with the provisions of subsection (2) if the sum deposited and kept deposited with the society is not less than the sum in even hundreds of dollars next below the sum that is the minimum sum that the solicitor is required to deposit and keep deposited with the society in order to comply with the subsection.

(5) If at any time during the relevant year two-thirds of the aggregate of—

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- (a) the amount (if any) standing upon deposit by the solicitor with the society in accordance with subsection (2); and
- (b) the balance in the solicitor's trust bank account or, where the solicitor maintains more than 1 trust bank account, the aggregate of the balances in the solicitor's trust bank accounts, excluding any accounts that were maintained for the exclusive benefit of a specific person or specific persons;

is less than the sum that is the minimum sum that the solicitor is required to deposit and keep deposited with the society in order to comply with the provisions of subsection (2), the solicitor is deemed, in relation to the relevant year, to have complied with those provisions if—

- (c) until that condition ceases; or
- (d) until, on each of 30 consecutive days, two-thirds of the aggregate of the amount and balance, or balances, specified in paragraph (a) or (b) equals or exceeds the sum that the solicitor is required to deposit and keep deposited with the society in order to comply with the provisions of the subsection;

whichever last occurs, the sum deposited and kept deposited by the solicitor with the society is a sum that is not less than two-thirds of the aggregate of—

- (e) the amount (if any) standing upon deposit by the solicitor with the society in accordance with subsection (2) on the day of the lowest balance, or lowest aggregate of balances, concerned; and
- (f) the amount that was the lowest balance in the solicitor's trust bank account on any day during the period of 30 days ending on the day in question or, where the solicitor maintains more than 1 trust bank account, the lowest aggregate on any day during that period of the balances in the solicitor's trust bank accounts, excluding any accounts that were maintained for the exclusive benefit of a specific person or specific persons.

(6) The council of the society, for such reasons as it considers sufficient and subject to such conditions (if any) as it thinks fit, may at any time cause to be repaid all or any part of the moneys deposited by a solicitor pursuant to this section to—

- (a) the solicitor; or

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- (b) at any time when, in relation to the moneys in the trust bank account or trust bank accounts in question, another person is trustee, such trustee;

and the guarantee fund shall guarantee such repayment.

(7) All moneys repaid under subsection (6) by the society to a solicitor or trustee shall be paid by the solicitor into a bank carrying on business in Queensland to a trust bank account maintained by the solicitor pursuant to the provisions of the *Trust Accounts Act 1973* and may be dealt with as if such moneys had not been withdrawn from a trust bank account of the solicitor.

(8) Pending repayment under subsection (6), moneys deposited by a solicitor with the society pursuant to this section shall be invested by the society—

- (a) in securities of or guaranteed by the Government of the Commonwealth or the State; or
- (b) with or on deposit with a bank or in securities of, guaranteed by, or accepted by a bank; or
- (c) with any authorised dealer in the short-term money market with established lines of credit with the Reserve Bank of Australia as a lender of last resort; or
- (d) in such other securities as are approved by the Treasurer.

(9) Amounts of interest accruing at any time and from time to time in respect of moneys so invested shall be apportioned and paid as follows—

- (a) to the society—so much of those amounts as will reimburse the society for its costs and expenses incurred (and not previously reimbursed) in administering this section;
- (b) the balance of those amounts—
  - (i) to and into the legal aid fund—the prescribed percentage of the balance;
  - (ii) to and into the guarantee fund—the remainder or so much thereof as will raise and keep that fund credited to the prescribed amount;
- (c) any balance of any such amounts remaining after the

apportionments and payments required by paragraphs (a) and (b) have been made shall be paid to the legal aid fund.

(10) In subsection (9)—

“**prescribed amount**” means \$5 000 000.

“**prescribed percentage**” means 50% or, if another percentage is prescribed under a regulation, the prescribed percentage.

(11) The society shall keep and maintain accounts of all moneys deposited with the society by solicitors pursuant to the provisions of this section separate from all other accounts of the society and those accounts shall be kept and maintained in such a manner as to disclose the true position in regard thereto and to enable the accounts to be conveniently and properly audited.

(12) Such separate accounts shall be regularly and fully audited at the expense of the guarantee fund by the auditor-general and at least once in each half-year an audited balance sheet shall be laid before the council of the society and a copy thereof lodged with the Minister and the commission respectively.

(13) If at any time during the relevant year the lowest balance in the trust bank account or trust bank accounts of a solicitor together with the amount (if any) then deposited with the society by the solicitor amounts to less than \$3 000 the obligations imposed on the solicitor by subsection (2) shall not apply so long as that condition continues.

(14) No action at law or in equity shall lie against any solicitor for or on account of any matter or thing whatsoever done by the solicitor or it for the purpose of complying with the provisions of this section.

(15) Nothing in this section contained or implied shall affect in any way—

- (a) the rights and remedies of the several claimants as against the solicitor or inter se in the event of any stealing, fraudulent misappropriation, failure to account, or other act committed in respect of trust moneys; or
- (b) the obligation imposed upon any person under or pursuant to the *Queensland Law Society Act 1952* to make any payment whether by way of contribution or levy, to the guarantee fund.

**Limitation of actions**

**52.** No matter or thing done by the Minister or by any person acting with the authority of the Minister, or done by the society, or by any member or officer or employee of the society in good faith and without negligence for the purpose of executing this part or in the execution of his, her or its powers and duties under this part, shall subject the Crown, or the Minister, or the society, member, officer, employee or person to any liability in respect thereof.

**Saving of civil rights**

**53.** Subject to section 52 nothing done in this part and no proceedings taken under this part against any person shall in any way interfere with any right or remedy by civil or criminal proceedings or process which any person aggrieved might have had had this part not been passed.

**Summary proceedings etc.**

**54.(1)** Any person who contravenes or fails to comply with any provision of this part shall be guilty of an offence against this part.

**(2)** Except where otherwise provided all offences against this part may be prosecuted in a summary way under the *Justices Act 1886*.

**(3)** A prosecution for an offence against this part may be instituted at any time within 12 months after the commission of the offence or within 12 months after the commission of the offence comes to the knowledge of the complainant, whichever is the later period.

**(4)** Without prejudice to any other right or remedy, all moneys recoverable by the commission may be recovered as a debt by action in any court of competent jurisdiction.

**General penalties**

**55.** A person guilty of an offence against any provision of this part shall be liable, if no specific penalty is provided for that offence, to a fine not exceeding 5 penalty units or to 3 months imprisonment.

## **PART 8—PROVISIONS FROM LEGAL PRACTITIONERS ACT AMENDMENT ACT 1968**

### **Definitions for pt 8**

**56.** In this part—

“**board**” means the Solicitors’ Board constituted under the rules of court.

“**rules of court**” means the *Solicitors’ Admission Rules 1968*.

“**solicitor**” means solicitor of the Supreme Court.

“**solicitors’ board examinations**” means examinations conducted by the board under and in accordance with the rules of court.

### **Construction**

**57.** The rules of court shall be read with and subject to the provisions of this part.

### **Qualifications for admission**

**58.(1)** Notwithstanding any Act or law or rule of court made under any Act or law, any person—

- (a) who is a British subject; and
- (b) who is of good fame; and
- (c) who is an officer within the meaning of this section and has—
  - (i) obtained at a university or at the Queensland Institute of Technology a degree in law approved by the board; or
  - (ii) completed the solicitors’ board examinations;

and has completed a period of 10 years service as prescribed by subsection (2) or, in the case of a person who, before the commencement of the *Legal Practitioners Acts Amendment Act 1977*, has commenced at a university a course leading to a degree in law, has completed a period of 5 years service as prescribed by that subsection; and

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- (d) who has complied with the rules of court relating to—
  - (i) the sticking up, delivery and advertising of notices of intention to apply for admission;
  - (ii) the delivery of certificates of passing or, completion of, the relevant examinations;
  - (iii) the filing and delivery of affidavits relating to compliance with the rules of court;
  - (iv) the payment of fees; and
- (e) who has filed in the Supreme Court office at Brisbane—
  - (i) an affidavit declaring the extent of his or her compliance with this part;
  - (ii) a certificate or certificates referred to in subsection (5) providing evidence that the person has completed the service prescribed by this subsection and subsection (2);

shall be entitled to be admitted to practise as a solicitor.

**(2)** The period of service to be completed for the purposes of subsection (1)—

- (a) shall be served as a clerk (which term shall include any appointment of a higher grade than that of clerk) in 1 or more of the following offices—
  - (i) the solicitor-general's office;
  - (ii) the crown solicitor's office;
  - (iii) the public defender's office;
  - (iv) any other division or other part of the department;
  - (v) the chief office of the department in which this Act is administered;
  - (vi) the office of the parliamentary counsel;
  - (vii) a registry of the Supreme Court;
  - (viii) a registry of a District Court;
  - (ix) the public trust office and any branch of the public trust office;

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- (x) an office of a clerk of a Magistrates Court;
  - (xi) the office of the director of public prosecutions;
  - (xii) the legal aid commission;
- (b) may include service wholly before or wholly after, or partly before and partly after the passing of the *Legal Practitioners Act Amendment Act 1968*;
- (c) need not be continuous service;
- (d) may if the board directs include service in the defence force of the Commonwealth but not so as to reduce the period of actual service to less than 6 years in the case of a person required by subsection (1) to have completed a period of 10 years service and to less than 3 years in the case of a person required by that subsection to have completed a period of 5 years service.

(3) A person who is entitled to be admitted to practise as a solicitor pursuant to subsection (1) shall not be required to serve or have served under any articles of clerkship or to complete or have completed any period of practical training other than the period of service referred to in subsection (1).

(4) Service by any person in an office specified in subsection (2)(a) shall for the purposes of those rules of the rules of court relating to the conditional admission as solicitors in Queensland of persons admitted as solicitors outside Queensland, be and be deemed to be employment as a law clerk or legal officer in Queensland.

(5) For the purposes of this section, a certificate purporting to be signed by a chief executive or by the director of legal aid under the *Legal Aid Act 1978* stating that a person referred to in the certificate has completed a period of service described in the certificate is evidence, and in the absence of evidence to the contrary, conclusive evidence of the matters stated.

(6) In this section—

“**officer**” means—

- (a) an officer under the *Public Service Act 1996*; or
- (b) a member of the staff of the legal aid commission.

**Admission of certain solicitors as barristers**

**59.(1)** Any solicitor of good repute who—

- (a) is serving in any 1 of the following offices—
  - (i) the solicitor-general's office;
  - (ii) the crown solicitor's office;
  - (iii) the public defender's office;
  - (iv) the office of the parliamentary counsel;
  - (v) a registry of the Supreme Court;
  - (vi) the public trust office and any branch of the public trust office;
  - (vii) the office of the director of public prosecutions;
  - (viii) the legal aid commission;
  - (ix) any division or other part of the department that was before 23 October 1989 known as the solicitor-general's office or the crown solicitor's office; or
- (b) is serving in or occupying the position of—
  - (i) chief executive of the department in which this Act is administered; or
  - (ii) a stipendiary magistrate; or
  - (iii) chief Land Court advocate, a Land Court advocate or an assistant Land Court advocate;

and who has completed a period of 5 years service as prescribed by subsection (2) shall upon motion at any sittings of the Court of Appeal at the solicitor's own request be called and admitted as a barrister-at-law without being required to pass any examination, and thereupon the solicitor's name shall be removed from the roll of solicitors.

**(2)** The period of service to be completed for the purposes of subsection (1) shall be served after admission as a solicitor in 1 or more of the following positions or capacities—

- (a) an officer performing official duties as a solicitor in 1 or more of the offices set forth in section 58(2);

- (b) a stipendiary magistrate;
- (c) a registrar, deputy registrar or taxing officer of the Supreme Court;
- (d) a registrar of a District Court;
- (e) a clerk of a Magistrates Court;
- (f) chief Land Court advocate, a Land Court advocate or an assistant Land Court advocate.

(3) In calculating such period of service, service wholly before or wholly after or partly before and partly after the passing of the *Legal Practitioners Act Amendment Act 1968* may be included.

## **PART 9—MISCELLANEOUS**

### **Approved forms**

**60.** The chief executive may approve forms for use under this Act (other than forms for use in or in relation to a court).

### **Regulation making power**

**61.(1)** The Governor in Council may make regulations under this Act.

(2) A regulation may make provision about a matter mentioned in the schedule.

### **References to certain Acts and provisions**

**62.(1)** In an Act or document, a reference to any of the following Acts may, if the context permits, be taken to be a reference to this Act, and a reference (whether express or implied) to a provision of any of the following Acts that was relocated to this Act may, if the context permits, be taken to be a reference to the corresponding provision of this Act—

- *Legal Assistance Act 1965*

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- *Legal Practitioners Act Amendment Act 1938*
- *Solicitors Act 1891*.

(2) In an Act or document, a reference (whether express or implied) to a provision of the Supreme Court Acts (whether or not the reference includes a year or years) or to any of the following Acts that was relocated to this Act may, if the context permits, be taken to be a reference to this Act or the corresponding provision of this Act, as the case requires—

- *Costs Act 1867*
- *Supreme Court Act 1867*
- *Supreme Court Act 1921*.

(3) In an Act or document, a reference to the *Legal Practitioners Act Amendment Act 1968* is a reference to this Act.

## **SCHEDULE**

### **SUBJECT MATTERS FOR REGULATIONS**

section 60(1)

#### **Trust bank accounts**

1. Prescribing any matters and things necessary or desirable with respect to the depositing with the society of moneys from trust bank accounts of solicitors and the repayment of such moneys by the society to solicitors; providing for the furnishing as prescribed of certificates of compliance with respect to the depositing by solicitors of moneys in accordance with section 51 and prescribing the persons to and by whom and the times and occasions when such certificates shall be furnished; prescribing any matters and things in relation to the guaranteeing of those repayments by the guarantee fund.

#### **Investments**

2. Prescribing any matters and things necessary or desirable with respect to the investing of moneys under this Act.

#### **Accounts**

3. Prescribing the accounts required to be kept in relation to the moneys received by the society and the commission for the purposes of this Act and prescribing, regulating and controlling the mode of keeping and maintaining those accounts and making such provision as may be necessary or desirable with respect to the inspection, examination and audit of all or any of those accounts.

#### **Facilitation of proof**

4. The mode and onus of proof required to be proved under and for the purposes of this Act and for facilitating such proof; for the purposes of any

## SCHEDULE (continued)

proceedings under this Act dispensing with proof of any formal matters as to handwriting or documents or of authority.

**Forms**

**5.** Prescribing forms (including registers and records) under and for the purposes of this Act and the respective purposes for which such forms shall be used and specifying any information required to be contained in such forms.

**ENDNOTES****1 Index to endnotes**

	Page
2 Date to which amendments incorporated . . . . .	40
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**2 Date to which amendments incorporated**

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 7 February 1997. Future amendments of the Legal Practitioners Act 1995 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

**3 Legal Practitioners Act 1995—historical context**

The Legal Practitioners Act 1995 was not enacted in 1995. It is a consolidation (see s 2) of provisions of the Legal Practitioners Act Amendment Act 1968 and provisions relocated from the following Acts—

- Costs Act 1867
- Supreme Court Act 1867
- Solicitors Act 1891
- Supreme Court Act 1921
- Legal Practitioners Act Amendment Act 1938
- Legal Assistance Act 1965.

## 4 Key

### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
prev	=	previous			

## 5 Table of earlier reprints

### TABLE OF EARLIER REPRINTS BEFORE CONSOLIDATION

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

#### Costs Act 1867

Reprint No.	Amendments included	Reprint date
1	to Act 8 Edw 7 No. 18 of 1908	19 July 1994

#### Solicitors Act 1891

Reprint No.	Amendments included	Reprint date
1	to Act 8 Edw 7 No. 18 of 1908	22 December 1994

#### Legal Practitioners Act Amendment Act 1938

Reprint No.	Amendments included	Reprint date
1	Act No. 20 of 1993	27 July 1994

**Legal Practitioners Act Amendment Act 1968**

Reprint No.	Amendments included	Reprint date
1	Act No. 32 of 1993	28 July 1994

## TABLE OF EARLIER REPRINTS AFTER CONSOLIDATION

[If a reprint number includes an arabic letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 58 of 1995	8 December 1995

**6 Tables in earlier reprints**

## TABLES IN EARLIER REPRINTS BEFORE CONSOLIDATION

**Costs Act 1867**

Name of table	Reprint No.
Changed names and titles	1
Renumbered provisions	1
Comparative legislation	1

**Solicitors Act 1891**

Name of table	Reprint No.
Obsolete and redundant provisions	1
Renumbered provisions	1
Comparative legislation	1

**Legal Practitioners Act Amendment Act 1938**

Name of table	Reprint No.
Renumbered provisions	1

**Legal Practitioners Act Amendment Act 1968**

Name of table	Reprint No.
Changed names and titles	1
Obsolete and redundant provisions	1
Corrected minor errors	1
Renumbered provisions	1

## TABLES IN EARLIER REPRINTS AFTER CONSOLIDATION

**Legal Practitioners Act 1995**

Name of table	Reprint No.
Changed names and titles	1
Comparative legislation	1
Corrected minor errors	1
Obsolete and redundant provisions	1
Renumbered provisions	1

**7 List of legislation****Legal Practitioners Act 1995 (prev Legal Practitioners Act Amendment Act 1968 No. 45)**

as amended by—

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995  
commenced on date of assent

**Public Service Act 1996 No. 37 ss 1–2, 147 sch 2**

date of assent 22 October 1996  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 December 1996 (1996 SL No. 361)

**Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54 ss 1–2, 9 sch**

date of assent 20 November 1996  
ss 1–2 commenced on date of assent  
remaining provisions not yet proclaimed into force

**Justice Legislation (Miscellaneous Provisions) Act 1996 No. 79 pts 1, 22**

date of assent 12 December 1996  
pt 1 commenced on date of assent  
remaining provisions not yet proclaimed into force

**List of legislation to Costs Act 1867 31 Vic No. 20—before relocation of provisions to Legal Practitioners Act 1995****Costs Act 1867 31 Vic No. 20**

date of assent 28 December 1867  
 commenced 31 December 1867 (see s 37)

as amended by—

**Criminal Code Act 1899 63 Vic No. 9**

date of assent 28 November 1899  
 commenced on date of assent

**Acts Citation Act 1903 3 Edw 7 No. 10 s 10 sch 3 (prev Acts Shortening Act Amendment Act 1903)**

date of assent 13 November 1903  
 commenced on date of assent

**Statute Law Revision Act 1908 8 Edw 7 No. 18**

date of assent 23 December 1908  
 commenced on date of assent

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995  
 commenced on date of assent

**List of legislation to Supreme Court Act 1867 31 Vic No. 23—before relocation of provisions to Legal Practitioners Act 1995****Supreme Court Act 1867 31 Vic No. 23**

date of assent 28 December 1867  
 commenced 31 December 1867 (see s 64)

as amended by—

**Supreme Court Act 1874 38 Vic No. 3 s 1**

date of assent 30 June 1874  
 commenced on date of assent

**Sheriff's Act 1875 39 Vic No. 3 s 1**

date of assent 13 July 1875  
 commenced on date of assent

**Supreme Court Act 1895 59 Vic No. 21 s 3 sch 3**

date of assent 19 December 1895  
 commenced on date of assent

**Criminal Code Act 1899 63 Vic No. 9 s 3(2) sch 3**

date of assent 28 November 1899  
 commenced on date of assent

**Acts Citation Act 1903 3 Edw 7 No. 10 s 10 sch 3 (prev Acts Shortening Act Amendment Act 1903)**

date of assent 13 November 1903

commenced on date of assent

**Statute Law Revision Act 1908 8 Edw 7 No. 18 s 2 sch 1**

date of assent 23 December 1908

commenced on date of assent

**Supreme Court Act 1921 12 Geo 5 No. 15 s 12(2)(iii)**

date of assent 5 November 1921

commenced 31 March 1922 (proc pubd gaz 30 March 1922 p 999)

**Supreme Court Acts Amendment Act 1960 9 Eliz 2 No. 37 s 4**

date of assent 14 December 1960

commenced on date of assent

**Supreme Court Acts Amendment Act 1965 No. 7 s 2**

date of assent 8 April 1965

commenced on date of assent

**Supreme Court Act Amendment Act 1973 No. 50 s 2**

date of assent 22 October 1973

commenced on date of assent

**Supreme Court Acts Amendment Act 1980 No. 57 s 4**

date of assent 30 September 1980

commenced 6 November 1980 (proc pubd gaz 1 November 1980 p 1039)

**Succession Act 1981 No. 69 s 3(1) sch 1**

date of assent 7 October 1981

commenced 1 January 1982 (proc pubd gaz 19 December 1981 p 1622)

**Supreme Court Judges Appointment Act 1983 No. 6 s 6**

date of assent 21 March 1983

commenced on date of assent

**Supreme Court Acts Amendment Act 1985 No. 51 s 3**

date of assent 19 September 1985

commenced on date of assent

**Supreme Court Acts Amendment Act 1989 No. 57 s 3**

date of assent 5 May 1989

commenced on date of assent

**Supreme Court of Queensland Act 1991 No. 68 ss 1–2, 111 sch 2**

date of assent 24 October 1991

ss 1–2 commenced on date of assent

remaining provisions commenced 14 December 1991 (1991 SL No. 173)

**Justice Legislation (Miscellaneous Provisions) Act 1992 No. 40 pts 1, 5**

date of assent 14 August 1992

commenced on date of assent

**Supreme Court Legislation (Miscellaneous Provisions) Act 1993 No. 20 pts 1, 3**

date of assent 28 May 1993  
 commenced on date of assent

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995  
 commenced on date of assent

**List of legislation to Solicitors Act 1891 55 Vic No. 22—before relocation of provisions to Legal Practitioners Act 1995****Solicitors Act 1891 55 Vic No. 22**

date of assent 5 November 1891  
 commenced on date of assent

as amended by—

**Statute Law Revision Act 1908 8 Edw 7 No. 18 sch 1**

date of assent 23 December 1908  
 commenced on date of assent

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995  
 commenced on date of assent

**List of legislation to Supreme Court Act 1921 12 Geo 5 No. 15—before relocation of provisions to Legal Practitioners Act 1995****Supreme Court Act 1921 12 Geo 5 No. 15**

date of assent 5 November 1921  
 commenced 31 March 1922 (proc pubd gaz 30 March 1922 p 999)

as amended by—

**Industrial Arbitration Act Amendment Act 1925 16 Geo 5 No. 13 s 6 sch**

date of assent 26 October 1925  
 commenced on date of assent

**Financial Emergency Act 1931 22 Geo 5 No. 1 s 6(2)(ii)**

date of assent 29 June 1931  
 commenced 1 July 1931 (proc pubd gaz 30 June 1931 p 2505)

**Legal Practitioners Act Amendment Act 1938 2 Geo 6 No. 20 s 7**

date of assent 24 November 1938  
 commenced on date of assent

**Supreme Court Act Amendment Act 1941 5 Geo 6 No. 11 s 2**

date of assent 20 November 1941  
 commenced on date of assent

**Supreme Court Acts Amendment Act 1944 9 Geo 6 No. 3 s 2(2)(ii)**

date of assent 14 December 1944  
commenced on date of assent

**Supreme Court Acts Amendment Act 1946 10 Geo 6 No. 53 s 3**

date of assent 9 December 1946  
commenced on date of assent

**Supreme Court Acts Amendment Act 1949 13 Geo 6 No. 42 s 3**

date of assent 10 November 1949  
commenced on date of assent

**Supreme Court Acts Amendment Act 1952 1 Eliz 2 No. 30 s 3**

date of assent 16 October 1952  
commenced on date of assent

**Supreme Court Acts and Another Amendment Act 1955 4 Eliz 2 No. 34 s 4**

date of assent 24 November 1955  
commenced on date of assent

**Supreme Court Acts Amendment Act (No. 2) 1955 4 Eliz 2 No. 35 s 5**

date of assent 30 November 1955  
commenced on date of assent

**District Courts Act 1958 7 Eliz 2 No. 66 s 4(1)**

date of assent 16 December 1958  
commenced 10 April 1959 (proc pubd gaz 10 April 1959 p 1939)

**Supreme Court Acts Amendment Act 1961 10 Eliz 2 No. 4 s 3**

date of assent 17 March 1961  
commenced on date of assent

**Supreme Court Acts Amendment Act (No. 2) 1963 No. 46 s 2**

date of assent 20 December 1963  
commenced on date of assent

**Supreme Court Acts Amendment Act 1975 No. 3 s 3**

date of assent 3 April 1975  
commenced on date of assent

**Supreme Court Act Amendment Act 1979 No. 18 s 2**

date of assent 15 May 1979  
commenced on date of assent

**Supreme Court Acts Amendment Act 1982 No. 49 s 3**

date of assent 22 October 1982  
commenced on date of assent

**Supreme Court Judges Appointment Act 1983 No. 6 s 7**

date of assent 21 March 1983  
commenced on date of assent

**Supreme Court of Queensland Act 1991 No. 68 ss 1–2, 111 sch 2**

date of assent 24 October 1991

ss 1–2 commenced on date of assent

remaining provisions commenced 14 December 1991 (1991 SL No. 173)

**Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 68 s 3 sch 1**

date of assent 7 December 1992

commenced on date of assent

**Justice and Attorney-General (Miscellaneous Provisions) Act 1994 No. 24  
ss 1–3(1) sch**

date of assent 10 May 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 30 May 1994 (1994 SL No. 168)

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

**List of legislation to Legal Practitioners Act Amendment Act 1938 2 Geo 6  
No. 20—before relocation of provisions to Legal Practitioners Act 1995****Legal Practitioners Act Amendment Act 1938 2 Geo 6 No. 20**

date of assent 24 November 1938

commenced on date of assent

as amended by—

**Legal Practitioners Acts Amendment Act 1946 10 Geo 6 No. 16**

date of assent 11 April 1946

commenced on date of assent

**Legal Practitioners Acts Amendment Act 1947 11 Geo 6 No. 32**

date of assent 24 November 1947

commenced on date of assent

**Supreme Court Acts and Another Act Amendment Act 1955 4 Eliz 2 No. 34 pt 3**

date of assent 24 November 1955

commenced on date of assent

**Legal Practitioners Acts Amendment Act 1961 10 Eliz 2 No. 35**

date of assent 4 December 1961

commenced on date of assent

**Legal Practitioners Acts Amendment Act 1965 No. 8**

date of assent 21 April 1965

commenced on date of assent

**Legal Practitioners Acts Amendment Act 1968 No. 45**

date of assent 19 December 1968

commenced on date of assent

**Supreme Court Legislation (Miscellaneous Provisions) Act 1993 No. 20 pts 1, 5**

date of assent 28 May 1993  
 commenced on date of assent

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995  
 commenced on date of assent

**List of legislation to Legal Assistance Act 1965 No. 67—before relocation of provisions to Legal Practitioners Act 1995****Legal Assistance Act 1965 No. 67**

date of assent 24 December 1965  
 commenced 14 February 1966 (proc pubd gaz 12 February 1966 p 1156)  
 as amended by—

**Legal Assistance Act Amendment Act 1970 No. 46**

date of assent 21 December 1970  
 s 3 commenced 1 January 1971 (see s 3(4))  
 remaining provisions commenced on date of assent

**Legal Assistance Act Amendment Act 1971 No. 44**

date of assent 1 November 1971  
 commenced on date of assent

**Public Defence Act 1974 No. 3 s 3**

date of assent 2 April 1974  
 commenced 1 July 1974 (proc pubd gaz 15 June 1974 p 997)

**Legal Assistance Act Amendment Act 1975 No. 6**

date of assent 1 May 1975  
 commenced on date of assent

**Legal Aid Act 1978 No. 23 s 4 sch**

date of assent 2 June 1978  
 commenced 3 December 1979 (see s 2(2) and notice pubd gaz 15 September 1979 p 278)

**Queensland Law Society Act and Another Act Amendment Act 1979 No. 17 pt 3**

date of assent 15 May 1979  
 commenced on date of assent

**Legal Assistance Act Amendment Act 1981 No. 71**

date of assent 7 October 1981  
 commenced on date of assent

**Queensland Law Society Act and Another Act Amendment Act 1988 No. 93 pt 3**

date of assent 1 December 1988  
 commenced on date of assent

**Public Service (Administrative Arrangements) Act 1990 (No. 2) No. 80 s 3 sch 1**

date of assent 14 November 1990  
commenced on date of assent

**Statute Law Revision (No. 2) Act 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995  
commenced on date of assent

**List of legislation to Legal Practitioners Acts Amendment Act 1968  
No. 45—before relocation of provisions to Legal Practitioners Act 1995****Legal Practitioners Acts Amendment Act 1968 No. 45**

date of assent 19 December 1968  
commenced on date of assent

as amended by—

**Legal Practitioners Acts Amendment Act 1974 No. 5**

date of assent 2 April 1974  
commenced on date of assent

**Legal Practitioners Acts Amendment Act 1977 No. 28**

date of assent 21 April 1977  
commenced on date of assent

**Director of Prosecutions Act 1984 No. 95 s 34(1)–(2) (as amd by Act No. 25 of  
1985 s 7)**

date of assent 6 December 1984  
commenced 17 January 1985 (proc pubd gaz 19 January 1985 p 165)

**Public Service (Administrative Arrangements) Act 1990 (No. 2) No. 80 s 3 sch 1**

date of assent 14 November 1990  
commenced 25 September 1989 (see s 2(3))

**Legal Aid Act Amendment and Public Defence Act Repeal Act 1991 No. 3 pt 4**

date of assent 6 March 1991  
commenced 28 March 1991 (proc pubd gaz 23 March 1991 p 1761)

**Statute Law (Miscellaneous Provisions) Act 1991 No. 97 s 3 sch 2 (as amd by Act  
No. 68 of 1992 s 3 sch 2 as from 17 December 1991 (see s 3 sch 2))**

date of assent 17 December 1991  
commenced on date of assent

**Supreme Court Legislation (Miscellaneous Provisions) Act 1993 No. 20 pts 1, 5**

date of assent 28 May 1993  
commenced on date of assent

**Statute Law (Miscellaneous Provisions) Act 1993 No. 32 ss 1–3 sch 1**

date of assent 3 June 1993  
commenced on date of assent

**Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

## **8 List of annotations**

### **Legal Practitioners Act 1995 (prev Legal Practitioners Act Amendment Act 1968)**

**Long title** sub 1995 No. 58 s 4 sch 1  
amd 1996 No. 79 s 72

#### **PART 1—PRELIMINARY**

**pt hdg** ins 1995 No. 58 s 4 sch 1

#### **Short title**

**s 1** sub 1995 No. 58 s 4 sch 1

#### **Act is a consolidation**

**prov hdg** amd 1996 No. 79 s 73(1)  
**s 2** prev s 2 om 1993 No. 20 s 9  
pres s 2 ins 1995 No. 58 s 4 sch 1  
amd 1996 No. 79 s 73(2)

#### **Definition**

**s 3** prev s 3 om R1 (see RA s 40)  
pres s 3 ins 1995 No. 58 s 4 sch 1

### **PART 2—PROVISIONS FROM COSTS ACT 1867**

**pt hdg** ins 1995 No. 58 s 4 sch 1

#### **Division 1—Purpose of part**

**div hdg** (prev 1867 31 Vic No. 20 div 1 hdg)  
ins 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

#### **Purpose**

**s 4** (prev 1867 31 Vic No. 20 s 1A)  
ins 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

#### **Division 1A—Definitions**

**div 1A (s 4A)** ins 1996 No. 79 s 74

#### **Division 2—Attorney's bill of costs**

**div hdg** (prev 1867 31 Vic No. 20 div 1A hdg)  
ins 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

#### **Bills to be delivered**

**s 5** (prev 1867 31 Vic No. 20 s 22)  
reloc 1995 No. 58 s 4 sch 1  
amd 1996 No. 79 s 75

#### **Evidence of delivery of bill**

- s 6** prev s 6 om 1995 No. 58 s 4 sch 1  
 pres s 6 (prev 1867 31 Vic No. 20 s 23)  
 amd 1995 No. 58 s 4 sch 1  
 reloc 1995 No. 58 s 4 sch 1  
 amd 1996 No. 79 s 76

**Division 3—Taxation of costs**

- div hdg** (prev 1867 31 Vic No. 20 div 2 hdg)  
 ins 1995 No. 58 s 4 sch 1  
 reloc 1995 No. 58 s 4 sch 1

**Taxation of bills within a month**

- s 7** (prev 1867 31 Vic No. 20 s 24)  
 reloc 1995 No. 58 s 4 sch 1  
 amd 1996 No. 79 s 77

**Taxation after 1 month**

- s 8** (prev 1867 31 Vic No. 20 s 25)  
 amd 1995 No. 58 s 4 sch 1  
 reloc 1995 No. 58 s 4 sch 1  
 amd 1996 No. 79 s 78

**Division 4—Costs of taxation**

- div hdg** (prev 1867 31 Vic No. 20 div 3 hdg)  
 ins 1995 No. 58 s 4 sch 1  
 reloc 1995 No. 58 s 4 sch 1

**Payment of costs of taxation**

- s 9** (prev 1867 31 Vic No. 20 s 26)  
 amd 1995 No. 58 s 4 sch 1  
 reloc 1995 No. 58 s 4 sch 1  
 amd 1996 No. 79 s 79

**Division 5—Mode and consequences of taxation**

- div hdg** (prev 1867 31 Vic No. 20 div 4 hdg)  
 ins 1995 No. 58 s 4 sch 1  
 reloc 1995 No. 58 s 4 sch 1

**Skill and responsibility to be considered**

- s 10** (prev 1867 31 Vic No. 20 s 27)  
 reloc 1995 No. 58 s 4 sch 1

**Assistance of prothonotary**

- s 11** (prev 1867 31 Vic No. 20 s 28)  
 reloc 1995 No. 58 s 4 sch 1

**Form of application for taxing etc.**

- prov hdg** amd 1995 No. 58 s 4 sch 1  
**s 12** (prev 1867 31 Vic No. 20 s 29)  
 amd 1995 No. 58 s 4 sch 1  
 reloc 1995 No. 58 s 4 sch 1  
 amd 1996 No. 79 s 80

**Division 6—Taxation on behalf of third parties**

**div hdg** (prev 1867 31 Vic No. 20 div 5 hdg)  
ins 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

**Third parties applying for taxation**

**s 13** (prev 1867 31 Vic No. 20 s 30)  
amd 1903 3 Edw 7 No. 10 s 10 sch 3  
reloc 1995 No. 58 s 4 sch 1  
amd 1996 No. 79 s 81

**Bills against trustees assignees administrators or executors**

**s 14** (prev 1867 31 Vic No. 20 s 31)  
reloc 1995 No. 58 s 4 sch 1  
amd 1996 No. 79 s 82

**Delivery of bill to third parties**

**s 15** (prev 1867 31 Vic No. 20 s 32)  
amd 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1  
amd 1996 No. 79 s 83

**Division 7—Limitation**

**div hdg** (prev 1867 31 Vic No. 20 div 6 hdg)  
ins 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

**Taxation of bill after payment**

**s 16** (prev 1867 31 Vic No. 20 s 33)  
reloc 1995 No. 58 s 4 sch 1  
amd 1996 No. 79 s 84

**Division 8—Retaxation**

**div hdg** (prev 1867 31 Vic No. 20 div 7 hdg)  
ins 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

**Retaxation and review**

**prov hdg** sub 1995 No. 58 s 4 sch 1  
**s 17** (prev 1867 31 Vic No. 20 s 34)  
amd 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1  
amd 1996 No. 79 s 85

**PART 3—PROVISIONS FROM SUPREME COURT ACT 1867**

**pt hdg** ins 1995 No. 58 s 4 sch 1

**Attorneys in certain cases may be called to the bar upon motion in court**

**s 18** (prev 1867 31 Vic No. 23 s 40)  
reloc 1995 No. 58 s 4 sch 1

**Conveyancing how prohibited**

**s 19** (prev 1867 31 Vic No. 20 s 41)  
reloc 1995 No. 58 s 4 sch 1

**Certified conveyancer**

- prov hdg** amd 1995 No. 58 s 4 sch 1  
**s 20** (prev 1867 31 Vic No. 20 s 42)  
 amd 1995 No. 58 s 4 sch 1  
 reloc 1995 No. 58 s 4 sch 1

**PART 4—PROVISIONS FORM SOLICITORS ACT 1891**

- pt hdg** ins 1995 58 s 4 sch 1

**Division 1—Purpose of part**

- div hdg** (prev 1891 55 Vic No. 22 div 1 hdg)  
 ins 1995 No. 58 s 4 sch 1  
 reloc 1995 No. 58 s 4 sch 1

**Purpose**

- s 21** (prev 1891 55 Vic No. 22 s 1)  
 sub 1995 No. 58 s 4 sch 1  
 reloc 1995 No. 58 s 4 sch 1

**Division 2—Interpretation**

- div hdg** (prev 1891 55 Vic No. 22 div 2 hdg)  
 ins 1995 No. 58 s 4 sch 1  
 reloc 1995 No. 58 s 4 sch 1

**Definitions for pt 4**

- prov hdg** sub 1995 No. 58 s 4 sch 1  
**s 22** (prev 1891 55 Vic No. 22 s 2)  
 amd 1995 No. 58 s 4 sch 1  
 reloc 1995 No. 58 s 4 sch 1

**Division 3—Agreements between solicitors and their clients**

- div hdg** (prev 1891 55 Vic No. 22 div 3 hdg)  
 ins 1995 No. 58 s 4 sch 1  
 reloc 1995 No. 58 s 4 sch 1

**The remuneration of solicitors may be fixed by agreement**

- s 23** (prev 1891 55 Vic No. 22 s 3)  
 amd 1995 No. 58 s 4 sch 1  
 reloc 1995 No. 58 s 4 sch 1

**Amount payable under agreement not to be paid until allowed by taxing officer**

- s 24** (prev 1891 55 Vic No. 22 s 3A)  
 reloc 1995 No. 58 s 4 sch 1

**Saving of interests of third parties**

- s 25** (prev 1891 55 Vic No. 22 s 4)  
 reloc 1995 No. 58 s 4 sch 1

**Agreements shall exclude further claims**

- s 26** (prev 1891 55 Vic No. 22 s 5)  
 reloc 1995 No. 58 s 4 sch 1

**Reservation of responsibility for negligence**

- s 27** (prev 1891 55 Vic No. 22 s 6)

reloc 1995 No. 58 s 4 sch 1

**Examination and enforcement of agreements**

**s 28** (prev 1891 55 Vic No. 22 s 7)  
reloc 1995 No. 58 s 4 sch 1

**Improper agreements may be set aside**

**s 29** (prev 1891 55 Vic No. 22 s 8)  
reloc 1995 No. 58 s 4 sch 1

**Agreements may be reopened after payment in special cases**

**s 30** (prev 1891 55 Vic No. 22 s 9)  
reloc 1995 No. 58 s 4 sch 1

**Prohibition of certain stipulations**

**s 31** (prev 1891 55 Vic No. 22 s 10)  
amd 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

**Not to give validity to contracts etc. which may be void in insolvency**

**s 32** (prev 1891 55 Vic No. 22 s 11)  
amd 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

**Provision in case of death or incapacity of the solicitor**

**s 33** (prev 1891 55 Vic No. 22 s 12)  
amd 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

**As to change of solicitor after agreement**

**s 34** (prev 1891 55 Vic No. 22 s 13)  
reloc 1995 No. 58 s 4 sch 1

**Agreement to be disclosed by solicitor**

**s 35** (prev 1891 55 Vic No. 22 s 14)  
amd 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

**Agreements shall be exempt from taxation**

**s 36** (prev 1891 55 Vic No. 22 s 15)  
amd 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

**Division 4—General**

**div hdg** (prev 1891 55 Vic No. 22 div 4 hdg)  
ins 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

**Security may be taken for future costs**

**s 37** (prev 1891 55 Vic No. 22 s 16)  
reloc 1995 No. 58 s 4 sch 1

**Interest may be allowed on taxation in respect of disbursements and advances**

**s 38** (prev 1891 55 Vic No. 22 s 17)  
reloc 1995 No. 58 s 4 sch 1

**Taxing officer to have regard to character of services**

**s 39** (prev 1891 55 Vic No. 22 s 18)  
reloc 1995 No. 58 s 4 sch 1

**Revival of order for payment of costs**

**s 40** (prev 1891 55 Vic No. 22 s 19)  
reloc 1995 No. 58 s 4 sch 1

**PART 5—PROVISIONS FROM SUPREME COURT ACT 1921**

**pt hdg** ins 1995 No. 58 s 4 sch 1

**Admission of certain solicitors as barristers**

**s 41** (prev 1921 12 Geo 5 No. 15 s 10)  
reloc 1995 No. 58 s 4 sch 1

**Admission of certain barristers as solicitors**

**s 42** (prev 1921 12 Geo 5 No. 15 s 10A)  
ins 1938 2 Geo 6 No. 20 s 7  
amd 1955 4 Eliz 2 No. 34 s 4; 1979 No. 18 s 2  
reloc 1995 No. 58 s 4 sch 1

**PART 6—PROVISIONS FROM LEGAL PRACTITIONERS ACT  
AMENDMENT ACT 1938**

**pt hdg** ins 1995 No. 58 s 4 sch 1

**Restriction on admission to practise as a conveyancer**

**s 43** (prev 1938 2 Geo 6 No. 20 s 2)  
amd 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

**Restriction in respect of practice as to barristers and solicitors**

**s 44** (prev 1938 2 Geo 6 No. 20 s 5)  
amd 1946 10 Geo 6 No. 16 s 2  
reloc 1995 No. 58 s 4 sch 1

**Saving of the Supreme Court Act 1921, s 41**

**prov hdg** amd R1 (see RA s 30A)  
**s 45** (prev 1938 2 Geo 6 No. 20 s 8)  
reloc 1995 No. 58 s 4 sch 1

**Right of audience preserved**

**s 46** (prev 1938 2 Geo 6 No. 20 s 10)  
amd 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

**PART 7—PROVISIONS FROM LEGAL ASSISTANCE ACT 1965**

**pt hdg** ins 1995 No. 58 s 4 sch 1

**Division 1—Purpose of part**

**div hdg** (prev 1965 No. 67 div 1 hdg)  
ins 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

**Purpose**

**s 47** (prev 1965 No. 67 s 3)

sub 1995 No. 58 s 4 sch 1  
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### **Division 2—Interpretation**

**div hdg** (prev 1965 No. 67 div 1A hdg)  
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### **Definitions for pt 7**

**s 48** (prev 1965 No. 67 s 3A)  
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### **Division 3—Administration and finance**

**div hdg** (prev 1965 No. 67 div 2 hdg)  
ins 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

### **Administration**

**s 49** (prev 1965 No. 67 s 4)  
amd 1978 No. 23 s 4(1) sch  
reloc 1995 No. 58 s 4 sch 1

### **Legal assistance fund**

**s 50** (prev 1965 No. 67 s 9)  
amd 1978 No. 23 s 4(1) sch; 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

### **Solicitors trust bank accounts etc.**

**s 51** (prev 1965 No. 67 s 10)  
amd 1970 No. 46 s 3(1); 1975 No. 6 s 2; 1978 No. 23 s 4(1) sch; 1979  
No. 17 s 10; 1981 No. 71 s 2; 1988 No. 93 s 17; 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1  
amd 1996 No. 54 s 9 sch

### **Society is statutory body for statutory deposits**

**s 51A** ins 1996 No. 54 s 9 sch

### **Limitation of actions**

**s 52** (prev 1965 No. 67 s 31(1))  
amd 1978 No. 23 s 4(1) sch; 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

### **Saving of civil rights**

**s 53** (prev 1965 No. 67 s 31A)  
amd 1995 No. 58 s 4 sch 1  
prev s 31(2) renum as 31A 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

### **Summary proceedings etc.**

**s 54** (prev 1965 No. 67 s 32)  
amd 1978 No. 23 s 4(1) sch; 1995 No. 58 s 4 sch 1  
reloc 1995 No. 58 s 4 sch 1

**General penalties**

- s 55** (prev 1965 No. 67 s 33)  
 amd 1978 No. 23 s 4(1) sch; 1995 No. 58 s 4 sch 1  
 reloc 1995 No. 58 s 4 sch 1

**PART 8—PROVISIONS FROM LEGAL PRACTITIONERS ACT AMENDMENT ACT 1968**

- pt hdg** ins 1995 No. 58 s 4 sch 1

**Definitions for pt 8**

- prov hdg** sub 1995 No. 58 s 4 sch 1
- s 56** amd 1995 No. 58 s 4 sch 1  
 def “**Director-General**” ins 1990 No. 80 s 3 sch 1  
 amd 1991 No. 3 s 4.2  
 om R1 (see RA s 39)  
 def “**rules of court**” amd 1995 No. 58 s 4 sch 1

**Construction**

- s 57** amd 1995 No. 58 s 4 sch 1

**Qualifications for admission**

- s 58** amd 1974 No. 5 s 3; 1977 No. 28 s 3; 1984 No. 95 s 34(1)(a); 1990 No. 80 s 3 sch 1; 1991 No. 3 s 4.3; 1991 No. 97 s 3 sch 2; 1993 No. 32 s 3 sch 1; 1995 No. 58 s 4 sch 1; 1996 No. 37 s 147 sch 2

**Admission of certain solicitors as barristers**

- s 59** amd 1974 No. 5 s 4; 1984 No. 95 s 34(1)(b); 1990 No. 80 s 3 sch 1; 1991 No. 3 s 4.4; 1991 No. 97 s 3 sch 2; 1995 No. 58 s 4 sch 1

**PART 9—MISCELLANEOUS**

- pt hdg** ins 1995 No. 58 s 4 sch 1

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- s 60** prev s 9 om 1991 No. 97 s 3 sch 2  
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- s 61** ins 1995 No. 58 s 4 sch 1

**References to certain Acts and provisions**

- s 62** ins 1995 No. 58 s 4 sch 1

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- s 12** ins 1995 No. 58 s 4 sch 1  
 om R1 (see RA s 37)

**SCHEDULE—SUBJECT MATTER FOR REGULATIONS**

- (prev 1965 No. 67 sch)  
 amd 1978 No. 23 s 4(1) sch  
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**Accounts**

s 3 (prev s 5) amd 1978 No. 23 s 4(1) sch

**Legal advice**

s 6 om 1978 No. 23 s 4(1) sch

**Legal aid**

s 7 om 1978 No. 23 s 4(1) sch

**Legal assistance**

s 8 om 1978 No. 23 s 4(1) sch

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## **10 Provisions that have not commenced and are not incorporated into reprint**

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

**Statutory Bodies Financial Arrangements Amendment Act 1996 No. 54, s 9 sch amdts 1–3 read as follows—**

### **1. Section 51(8), after ‘by the society’—**

*omit, insert—*

‘in accordance with the *Statutory Bodies Financial Arrangements Act 1982*.’.

### **2. After section 51—**

*insert—*

#### **‘Society is statutory body for statutory deposits**

‘**51A.(1)** Under the *Statutory Bodies Financial Arrangements Act 1982*, the society is a statutory body in relation to the moneys deposited by a solicitor with the society under section 51.

‘**(2)** The *Statutory Bodies Financial Arrangements Act 1982*, part 2B sets out the way in which the society’s powers under this Act are affected by the *Statutory Bodies Financial Arrangements Act 1982*.’.

**3. Schedule, section 2—**

*omit.*

Justice Legislation (Miscellaneous Provisions) Act 1996 No. 79, pt 22 reads as follows—

**Amendment of title**

**72.** Title, after ‘**about**’—

*insert—*

‘, and make other provision for,’.

**Amendment of s 2 (Act is a consolidation)**

**73.(1)** Section 2, heading, after ‘**is**’—

*insert—*

‘, in part,’.

**(2)** Section 2(1), after ‘This Act’—

‘, as in force at the commencement of this section,’.

**Insertion of new pt 2 div 1A**

**74.** After part 2, division 1—

*insert—*

*‘Division 1A—Definitions*

**‘Definitions for pt 2**

‘**4A.** In this part—

“**attorney**” includes executor administrator or assignee of any attorney and the trustee of the attorney’s estate.

“**proper officer**” for business under the *Justices Act 1886* transacted entirely in a Magistrates Court means the clerk of the court.’.

**Amendment of s 5 (Bills to be delivered)**

**75.(1)** Section 5, ‘nor any executor administrator or assignee of any attorney or the trustee of the attorney’s estate’—

*omit.*

**(2)** Section 5, ‘or executor administrator or assignee of such attorney’—

*omit.*

**(3)** Section 5, ‘or by the executor administrator or assignee of such attorney or the trustee of the attorney’s estate’—

*omit.*

**Amendment of s 6 (Evidence of delivery of bill)**

**76.** Section 6(1), ‘or the executor administrator or assignee of such attorney or trustee of the attorney’s estate’—

*omit.*

**Amendment of s 7 (Taxation of bills within a month)**

**77.(1)** Section 7(1)(c), before ‘from’—

*insert—*

‘subject to paragraph (d)’.

**(2)** section 7(1)(c), after ‘prothonotary’—

*insert—*

‘or proper officer’.

**(3)** Section 7(1)—

*insert—*

‘(d) from the proper officer of a Magistrates Court for any business under the *Justices Act 1886* transacted entirely in a Magistrates Court.’.

**(4)** Section 7(2), ‘executor administrator trustee or assignee’—

*omit.*

(5) Section 7(3), after ‘a judge thereof’—

*insert—*

‘or, if subsection (1)(d) applies, a magistrate’.

(6) Section 7(3), ‘or executor administrator or assignee of such attorney or the trustee of the attorney’s estate’—

*omit.*

### **Amendment of s 8 (Taxation after 1 month)**

**78.(1)** Section 8(1), ‘In case no such application as aforesaid shall be’—

*omit, insert—*

‘If no application for an appointment with a person mentioned in section 7(1)(a), (b) or (c) is not’.

(2) Section 8(1), ‘or the executor administrator or assignee of the attorney or the trustee of the attorney’s estate’—

*omit.*

(3) Section 8(1), ‘or executor administrator or assignee of such attorney or the trustee of the attorney’s estate’—

*omit.*

(4) Section 8(2), ‘or the executor administrator or assignee of such attorney or the trustee of the attorney’s estate’—

*omit.*

(5) Section 8(3), ‘or executor administrator or assignee of such attorney or the trustee of the attorney’s estate’—

*omit.*

(6) Section 8(3), after ‘a judge thereof’—

*insert—*

‘or, for business under the *Justices Act 1886* transacted entirely in a Magistrates Court, a magistrate’.

(7) Section 8—

*insert—*

**(2A)** If an application for an appointment with the proper officer of a Magistrates Court is not made under section 7(1)(d), the attorney or the party chargeable with the bill, may apply to a magistrate for the bill to be taxed and settled by the proper officer of the court.

**(2B)** The magistrate may refer the bill to the proper officer for taxation and settling with the directions, and on the conditions, the magistrate considers appropriate.’.

### **Amendment of s 9 (Payment of costs of taxation)**

**79.(1)** Section 9(1), ‘or executor administrator or assignee of the attorney or the trustee of the attorney’s estate’—

*omit.*

**(2)** Section 9(2), ‘or the executor administrator or assignee of such attorney or trustee of the attorney’s estate’—

*omit.*

**(3)** Section 9(2)(a), ‘or executor administrator or assignee of such attorney or trustee of the attorney’s estate’—

*omit.*

**(4)** Section 9(3), ‘or executor administrator or assignee of such attorney or trustee of the attorney’s estate’—

*omit.*

**(5)** Section 9(4), ‘court or judge’—

*omit, insert—*

‘court, judge or magistrate’.

**(6)** Section 9(5), ‘said court or judge’—

*omit, insert—*

‘court, judge or magistrate’.

**(7)** Section 9(6), ‘said court or judge’—

*omit, insert—*

‘court, judge or magistrate’.

(8) Section 9(6), ‘such court or judge’—

*omit, insert—*

‘the court, judge or magistrate’.

(9) Section 9(6), ‘or the executor administrator or assignee of any attorney or trustee of the attorney’s estate’—

*omit.*

### **Amendment of s 12 (Form of application for taxing etc.)**

80.(1) Section 12(3), after ‘Supreme Court’—

*insert—*

‘or, for a taxation by the proper officer of a Magistrates Court, Magistrates Courts’.

(2) Section 12 (4), ‘such court or judge thereof’—

*omit, insert—*

‘the court, a Supreme Court judge or a magistrate’.

(3) Section 12(4), ‘such judge’—

*omit, insert—*

‘the judge or magistrate’.

### **Amendment of s 13 (Third parties applying for taxation)**

81.(1) Section 13(1), ‘the attorney’s executor administrator or assignee or the trustee of the attorney’s estate’—

*omit.*

(2) Section 13(1), ‘the person’s executor administrator or assignee or the trustee of the person’s estate’—

*omit.*

(3) Section 13(3), ‘court or judge’—

*omit, insert—*

‘court, judge or magistrate’.

**Amendment of s 14 (Bills against trustees assignees administrators or executors)**

**82.(1)** Section 14(1), ‘or the executor administrator or assignee of such attorney or the trustee of the attorney’s estate’—

*omit.*

**(2)** Section 14(3), ‘or the executor administrator or assignee of such attorney or the trustee of the attorney’s estate’—

*omit.*

**(3)** Section 14(4), ‘or executor administrator or assignee of such attorney or the trustee of the attorney’s estate’—

*omit.*

**Amendment of s 15 (Delivery of bill to third parties)**

**83.(1)** Section 15, after ‘a judge thereof’—

*insert—*

‘or, for business transacted entirely in a Magistrates Court, a magistrate’.

**(2)** Section 15, ‘or the executor administrator or assignee of any such attorney or the trustee of the attorney’s estate’—

*omit.*

**Amendment of s 16 (Taxation of bill after payment)**

**84.(1)** Section 16(1), ‘court or judge from’—

*omit, insert—*

‘court, judge or magistrate from’.

**(2)** Section 16(1), ‘such court or judge’—

*omit, insert—*

‘the court, judge or magistrate’.

**Amendment of s 17 (Retaxation and review)**

**85.** Section 17(1), ‘or judge’—

*omit, insert—*

‘, judge or magistrate’.