

Queensland



LEGAL PRACTITIONERS ACT 1995

**Reprinted as in force on 31 July 1998
(includes amendments up to Act No. 20 of 1998)**

Warning—see last endnote for uncommenced amendments

Reprint No. 1D

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Information about this reprint

This Act is reprinted as at 31 July 1998. 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 reprints 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.**

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LEGAL PRACTITIONERS ACT 1995

[as amended by all amendments that commenced on or before 31 July 1998]

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**”)—

- *Legal Assistance Act 1965*
- *Legal Practitioners Act Amendment Act 1938*
- *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 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 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 part 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 accounts etc.

51.(1) In this section—

“balance”, in relation to a financial institution 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 account, means the solicitor or solicitors, or anyone else who may lawfully operate on that trust account.

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“**trust account**” means a financial institution 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 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 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 account, a sum which is not less than two-thirds of the lowest aggregate on any day during the initial period of the balances in the solicitor’s trust 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 account on any day during the last preceding year or, where the solicitor maintains more than 1 trust account, the lowest aggregate on any day during the last preceding year of the balances in the solicitor’s trust 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—

- (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 account or, where the solicitor maintains more than 1 trust account, the aggregate of the balances in the solicitor's trust 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—

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- (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 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 account, the lowest aggregate on any day during that period of the balances in the solicitor's trust 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
- (b) at any time when, in relation to the moneys in the trust account or trust 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 financial institution carrying on business in Queensland to a trust 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 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 in accordance with the *Statutory Bodies Financial Arrangements Act 1982*—

- (a) in securities of or guaranteed by the Government of the Commonwealth or the State; or
- (b) with or on deposit with a financial institution or in securities of, guaranteed by, or accepted by a financial institution; 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

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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 account or trust 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.

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*.

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
- (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;

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- (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;
 - (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*;

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- (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;

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- (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*
- *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*

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- *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 accounts

1. Prescribing any matters and things necessary or desirable with respect to the depositing with the Queensland Law Society Incorporated (the “**society**”) of moneys from trust 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 Legal Practitioners’ Fidelity Guarantee Fund established under the *Queensland Law Society Act 1952*.

Accounts

3. Prescribing the accounts required to be kept in relation to the moneys received by Queensland Law Society Incorporated and Legal Aid Queensland 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 proceedings under this Act dispensing with proof of any formal matters as to handwriting or documents or of authority.

ENDNOTES**1 Index to endnotes**

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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 1 July 1998. 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.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	prev	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	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
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered

5 Table of earlier reprints

TABLE OF EARLIER REPRINTS BEFORE CONSOLIDATION

[If a reprint number includes a roman 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 a roman 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
1A	to Act No. 79 of 1996	7 February 1997
1B	to Act No. 82 of 1997	5 January 1998
1C	to Act No. 20 of 1998	1 July 1998

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 commenced 1 June 1997 (1997 SL No. 128)

Justice Legislation (Miscellaneous Provisions) Act 1996 No. 79 pts 1, 22 (as and 1998 No. 20 ss 1, 2(3), 27 sch 2 not yet proclaimed into force)

date of assent 12 December 1996

ss 1–2 commenced on date of assent

remaining provisions not yet proclaimed into force (automatic commencement under AIA s 15DA(2) deferred to 30 November 1998) (1997 SL No. 392 s 2(2) as amd 1997 SL No. 430 s 3)**Miscellaneous Acts (Non-bank Financial Institutions) Amendment Act 1997 No. 17 ss 1–2 pt 4**

date of assent 15 May 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 8 May 1998 (1998 SL No. 111)

Justice and Other Legislation (Miscellaneous Provisions) Act (No. 2) 1997 No. 82 ss 1–3, sch

date of assent 5 December 1997

commenced on date of assent

Civil Justice Reform Act 1998 No. 20 ss 1, 2(3), 27 sch 2

date of assent 1 May 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1998 (1998 SL No. 122)

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 Act 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 1amd 1996 No. 79 s 72 (never proclaimed into force and om 1998 No. 20 s 27 sch 2)**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) (om 1998 No. 20 s 27 sch 2); 1998 No. 20 s 27 sch 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
om 1998 No. 20 s 27 sch 2

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
om 1998 No. 20 s 27 sch 2

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
om 1998 No. 20 s 27 sch 2

Division 1A—Definitions

div 1A (s 4A) ins 1996 No. 79 s 74 (never proclaimed into force and om 1998 No. 20 s 27 sch 2)

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
om 1998 No. 20 s 27 sch 2

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 (never proclaimed into force and om 1998 No. 20 s 27 sch 2)
om 1998 No. 20 s 27 sch 2

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 (never proclaimed into force and om 1998 No. 20 s 27 sch 2)
om 1998 No. 20 s 27 sch 2

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
om 1998 No. 20 s 27 sch 2

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 (never proclaimed into force and om 1998 No. 20
s 27 sch 2)
 om 1998 No. 20 s 27 sch 2

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 (never proclaimed into force and om 1998 No. 20
s 27 sch 2)
 om 1998 No. 20 s 27 sch 2

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
 om 1998 No. 20 s 27 sch 2

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 (never proclaimed into force and om 1998 No. 20
s 27 sch 2)
 om 1998 No. 20 s 27 sch 2

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
 om 1998 No. 20 s 27 sch 2

Skill and responsibility to be considered

- s 10** (prev 1867 31 Vic No. 20 s 27)
 reloc 1995 No. 58 s 4 sch 1
 om 1998 No. 20 s 27 sch 2

Assistance of prothonotary

- s 11** (prev 1867 31 Vic No. 20 s 28)
 reloc 1995 No. 58 s 4 sch 1
 om 1998 No. 20 s 27 sch 2

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 (never proclaimed into force and om 1998 No. 20
s 27 sch 2)
 om 1998 No. 20 s 27 sch 2

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
 om 1998 No. 20 s 27 sch 2

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 (never proclaimed into force and om 1998 No. 20 s 27 sch 2)
 om 1998 No. 20 s 27 sch 2

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 (never proclaimed into force and om 1998 No. 20 s 27 sch 2)
 om 1998 No. 20 s 27 sch 2

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 (never proclaimed into force and om 1998 No. 20 s 27 sch 2)
 om 1998 No. 20 s 27 sch 2

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
 om 1998 No. 20 s 27 sch 2

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 (never proclaimed into force and om 1998 No. 20 s 27 sch 2)
 om 1998 No. 20 s 27 sch 2

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
 om 1998 No. 20 s 27 sch 2

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 (never proclaimed into force and om 1998 No. 20 s 27 sch 2)
om 1998 No. 20 s 27 sch 2

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 FROM SOLICITORS ACT 1891

pt hdg ins 1995 58 s 4 sch 1
om 1998 No. 20 s 27 sch 2

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
om 1998 No. 20 s 27 sch 2

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
om 1998 No. 20 s 27 sch 2

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
om 1998 No. 20 s 27 sch 2

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
om 1998 No. 20 s 27 sch 2

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

om 1998 No. 20 s 27 sch 2

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
om 1998 No. 20 s 27 sch 2

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
om 1998 No. 20 s 27 sch 2

Saving of interests of third parties

s 25 (prev 1891 55 Vic No. 22 s 4)
reloc 1995 No. 58 s 4 sch 1
om 1998 No. 20 s 27 sch 2

Agreements shall exclude further claims

s 26 (prev 1891 55 Vic No. 22 s 5)
reloc 1995 No. 58 s 4 sch 1
om 1998 No. 20 s 27 sch 2

Reservation of responsibility for negligence

s 27 (prev 1891 55 Vic No. 22 s 6)
reloc 1995 No. 58 s 4 sch 1
om 1998 No. 20 s 27 sch 2

Examination and enforcement of agreements

s 28 (prev 1891 55 Vic No. 22 s 7)
reloc 1995 No. 58 s 4 sch 1
om 1998 No. 20 s 27 sch 2

Improper agreements may be set aside

s 29 (prev 1891 55 Vic No. 22 s 8)
reloc 1995 No. 58 s 4 sch 1
om 1998 No. 20 s 27 sch 2

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
om 1998 No. 20 s 27 sch 2

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
om 1998 No. 20 s 27 sch 2

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
om 1998 No. 20 s 27 sch 2

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
 om 1998 No. 20 s 27 sch 2

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
 om 1998 No. 20 s 27 sch 2

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
 om 1998 No. 20 s 27 sch 2

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
 om 1998 No. 20 s 27 sch 2

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
 om 1998 No. 20 s 27 sch 2

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
 om 1998 No. 20 s 27 sch 2

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
 om 1998 No. 20 s 27 sch 2

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
 om 1998 No. 20 s 27 sch 2

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 (as 1991 No. 68 s 116I)
 reloc to Supreme Court Act 1995 s 116I 1998 No. 20 s 27 sch 2

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
reloc 1995 No. 58 s 4 sch 1

Division 2—Interpretation

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

Definitions for pt 7

- s 48** (prev 1965 No. 67 s 3A)
ins 1995 No. 58 s 4 sch 1
reloc 1995 No. 58 s 4 sch 1

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
amd 1997 No. 82 s 3 sch

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 accounts etc.

- prov hdg** amd 1997 No. 17 s 21(1)
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; 1997 No. 17 s 21(2)–(8)

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

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- 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

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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

Approved forms

s 60 prev s 9 om 1991 No. 97 s 3 sch 2

pres s 60 ins 1995 No. 58 s 4 sch 1

Regulation making power

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

Numbering and renumbering of Act

s 12 ins 1995 No. 58 s 4 sch 1

om R1 (see RA s 37)

SCHEDULE—SUBJECT MATTERS FOR REGULATIONS

(prev 1965 No. 67 sch)

amd 1978 No. 23 s 4(1) sch

reloc 1995 No. 58 s 4 sch 1

Trust accounts

prov hdg amd 1997 No. 17 s 22(1)

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

pres s 1 amd 1997 No. 17 s 22(2); 1997 No. 82 s 3 sch

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s 2 prev s 2 om 1978 No. 23 s 4(1) sch

new s 2 (prev s 4) om 1996 No. 54 s 9 sch

Accounts

s 3 (prev s 5) amd 1978 No. 23 s 4(1) sch; 1997 No. 82 s 3 sch

Forms

s 5 om 1997 No. 82 s 3 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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s 9 om 1978 No. 23 s 4(1) sch

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s 10 om 1978 No. 23 s 4(1) sch

9 Table of renumbered provisions

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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)).

Justice Legislation (Miscellaneous Provisions) Act 1996 No. 79 pt 22¹ 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,’.

¹ Part 22 is omitted by 1998 No. 20 s 27 sch 2 which has not yet commenced.

(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’.