

Queensland



**LEGAL PRACTITIONERS
ACT AMENDMENT ACT 1938**

**LEGAL PRACTITIONERS
ACT AMENDMENT ACT 1968**

Reprinted as in force on 28 July 1994

Reprint No. 1

**These reprints are authorised by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

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LEGAL PRACTITIONERS ACT AMENDMENT ACT 1938

**Reprinted as in force on 27 July 1994
(includes amendments up to Act No. 45 of 1968)**

Reprint No. 1

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Information about this reprint

This Act is reprinted as at 28 July 1994. The reprint—

- shows the law as amended by all amendments that commenced on or before that day
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind.

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

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- update citations and references (Pt 4, Div 2)
- update references (Pt 4, Div 3)
- express gender specific provisions in a way consistent with current legislative drafting practice (s 24)
- use standard punctuation consistent with current legislative drafting practice (s 27)
- use expressions consistent with current legislative drafting practice (s 29)
- use aspects of format and printing style consistent with current legislative drafting practice (s 35)
- omit unnecessary referential words (s 41)
- omit the enacting words (s 42A)
- number and renumber certain provisions and references (s 43).

Also see Endnotes for—

- **details about when provisions commenced**
- **any provisions that have not commenced and are not incorporated in the reprint.**

Queensland



**LEGAL PRACTITIONERS ACT
AMENDMENT ACT 1938**

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**NOTICE OF ELECTION BY A BARRISTER TO HAVE HIS OR
HER NAME ENTERED ON THE ROLL OF SOLICITORS**

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LEGAL PRACTITIONERS ACT AMENDMENT ACT 1938

[as amended by all amendments that commenced on or before 28 July 19942]

An Act to amend the *Supreme Court Acts 1861 to 1926* and the *Legal Practitioners Act 1881* in certain particulars

Short title and construction

1.(1) This Act may be cited as the *Legal Practitioners Act Amendment Act 1938*³⁻⁶.

(2) This Act shall be read together with and deemed part of the *Supreme Court Acts 1861 to 1926*.

Restriction on admission to practise as a conveyancer

2.(1) Notwithstanding anything contained in section 42 of the *Supreme Court Act 1867*, but subject as hereinafter provided, no person shall, after 1 January 1940, be admitted to practise as a conveyancer nor shall any certificate as provided by section 42 be issued to any such person except in respect of admissions made prior to the aforesaid date; and section 41 of the *Supreme Court Act 1867*, the *Legal Practitioners Act 1905* and the *Queensland Law Society Acts 1927 to 1938* shall be read and construed accordingly.

(2) Provided that any person who on 1 January 1940, is serving under articles pursuant to the Rules of the Supreme Court relating to the admission of persons to practise as conveyancers, and who completes the final examination prescribed by such rules on or before 31 December 1941, shall, subject to such rules, be entitled to be admitted to practise as a conveyancer and to have a certificate as provided in section 42 of the *Supreme Court Act 1867* issued to the person.

Provision for conveyancer to be admitted as solicitor

3.(1) A conveyancer who—

- (a) has for at least 5 years since he or she became entitled to practise as a conveyancer been a managing clerk in the office of a solicitor practising in Queensland; or
- (b) has for at least 5 years practised as a conveyancer in Queensland; or
- (c) has for at least 5 years since he or she became entitled to practise as a conveyancer been employed in Queensland, whether in the public service or otherwise, in work relating to conveyancing or to documents of title;

and has passed the final law examination prescribed for the admission of solicitors or some examination prescribed as equivalent thereto in all subjects prescribed for that examination except the subjects which at the commencement of this Act are comprised within the section of such examination dealing with the law of real property and the practice of conveyancing, the law of personal property and contracts, and the principles of equity, and who has otherwise complied with such conditions as are prescribed, and who satisfies the court that he or she is a fit and proper person to be admitted to practise as a solicitor, shall be entitled to be admitted as a solicitor.

(2) This section shall apply to conveyancers to whom a certificate has been granted either before or after the commencement of this Act.

Restriction in respect of practice as to barristers and solicitors

5.(1) A barrister shall not be entitled to practice 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 section 1 of the *Legal Practitioners Act 1881* had not been repealed.

Barrister may elect to be enrolled as a solicitor—procedure

6.(1) Within 14 days after 1 March 1939, the secretary of Queensland Law Society Incorporated shall deliver to the registrar of the Supreme Court a list duly certified by the secretary of all barristers whose names are on the roll of practising practitioners kept by the secretary pursuant to section 25 of the *Queensland Law Society Act Amendment Act 1930*.

Schedule

(2) On or before 31 March 1939, or on or before such later date as the court or a Judge thereof may allow, every person whose name shall be on such list and who shall at the date of application be practising or shall desire to practise as a solicitor, shall by notice in the form in the Schedule delivered to the registrar, elect to become enrolled on the Roll of Solicitors kept pursuant to the rules relating to the admission of solicitors.

(3) Upon the delivery by a barrister of such notice of election together with the prescribed oath of office as a solicitor, the registrar shall forthwith enter the name of such person on the Roll of Solicitors with a memorandum that such entry is made pursuant to this section, and it shall not be necessary for such person to sign such roll.

(4) The registrar shall at the same time make a memorandum on the Roll of Barristers that the name of such person has been removed pursuant to this section.

(5) An oath of office shall be made and taken before and a notice of election shall be verified by a certificate of a practising barrister, practising solicitor, notary public, or by a registrar or deputy registrar of the Supreme Court, who are hereby authorised in that behalf.

(6) For the purposes of seniority only, every such person shall be deemed to have been admitted to practise as a solicitor on the date of the person's admission as a barrister.

(7) Upon the enrolment of such person as aforesaid the person shall as from the date of such enrolment be and be deemed to be and shall be described as a solicitor, and shall be entitled to the rights and privileges and subject to the obligations and duties of a solicitor and shall cease to have the rights and privileges or to be subject to the obligations and duties of a barrister.

Saving of s 10 of the Supreme Court Act 1921

8. Nothing in this Act shall prejudice or in any wise affect the provisions of section 10 of the *Supreme Court Act 1921*.

Right of audience preserved

10. 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 this Act other than such rights as were conferred by section 1 of the *Legal Practitioners Act 1881* hereby repealed.

SCHEDULE**NOTICE OF ELECTION BY A BARRISTER TO HAVE
HIS OR HER NAME ENTERED ON THE ROLL OF
SOLICITORS**

I, _____ of _____ having been admitted as a barrister of the Supreme Court of Queensland on the _____ day of _____ 19 _____ HEREBY ELECT pursuant to section 6 of the *Legal Practitioners Act Amendment Act 1938* to have my name entered as a solicitor on the Roll of Solicitors kept pursuant to the rules relating to the admission of solicitors.

Dated this _____ day of _____ 19 _____ .

I, _____ of _____ in the State of Queensland [*barrister, practising solicitor, notary public, or registrar or deputy registrar of the Supreme Court*] HEREBY CERTIFY that the above named _____ who is personally known to me appeared before me and in my presence signed the election above set out, and that the signature now appearing thereon is in the proper handwriting of the said _____ .

Dated this _____ day of _____ 19 _____ .

ENDNOTES

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2 Date to which amendments incorporated

This is the reprint date mentioned in section 5(c) of the Reprints Act 1992. Accordingly, this reprint includes all amendments that commenced operation on or before 28 July 1994. Future amendments of the Legal Practitioners Act Amendment Act 1938 may be made in accordance with this reprint under section 49 of the Reprints Act 1992.

3 List of legislation

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

4 List of annotations**Key to abbreviations in list of annotations**

amd	=	amended
Ch	=	Chapter
cl	=	clause
def	=	definition
Div	=	Division
hdg	=	heading
ins	=	inserted
om	=	omitted
prec	=	preceding
pres	=	present
prev	=	previous
(prev)	=	previously
prov	=	provision
Pt	=	Part
R1	=	Reprint No. 1
RA	=	Reprints Act 1992
renum	=	renumbered
Sdiv	=	Subdivision
sub	=	substituted

Provisions not included in reprint, or amended by amendments not included in reprint, are underlined

Short title and construction

s 1 amd 1993 No. 20 s 7

Amendment of the Act

s 4 om R1 (see RA s 40)

Restriction in respect of practice as to barristers and solicitors

s 5 amd 1946 10 Geo 6 No. 16 s 2

Amendment of the Act

s 7 om R1 (see RA s 40)

Further provisions relating to admission as a solicitor

s 9 amd 1946 10 Geo 6 No. 16 s 3; 1947 11 Geo 6 No. 32 s 2; 1955 4 Eliz 2
 No. 34 s 6; 1961 10 Eliz 2 No. 35 s 2; 1965 No. 8 s 2(1)
 om 1968 No. 45 s 3

5 Table of renumbered provisions

TABLE OF RENUMBERED PROVISIONS under the Reprints Act 1992 ss 43

Original	Renumbered as
1, 1st sentence	1(1)
1, 2nd sentence	1(2)
2, 1st sentence	2(1)
2, proviso	2(2)
5, 1st sentence	5(1)
5, 2nd sentence	5(2)
5, 3rd sentence	5(3)

6 Transitional and savings provision

Section 3 of the Legal Practitioners Acts Amendment Act 1965 provides—

Transitional amendments

3. In applying, after the commencement of this Act, the provisions of section nine of the “*The Legal Practitioners Act Amendment Act of 1938*,” as it was in force immediately prior to the passing of “*The Legal Practitioners Acts Amendment Act of 1961*,” in respect of any person who at the time of the passing of “*The Legal Practitioners Acts Amendment Act of 1961*,” was serving or had served in an office mentioned in subsection (1) of the said section nine (as amended by this Act), the said provisions shall be read as if—

- (a) in subsection (1) of that section, the words “and where the whole or any part of the aforesaid service of ten years has been in an office mentioned in paragraph (d) or paragraph (e) hereof, has also passed the qualifying examination as prescribed for clerks of petty sessions pursuant to the Public Service Regulations” had been always omitted from that subsection;
- (b) in subsection (3) of that section, the words “and who, if prescribed in his case by the said subsection one, has also passed the qualifying examination as prescribed pursuant to the Public Service Regulations for clerks of petty sessions,” had been

always omitted from that subsection; and

- (c) in subsection (4) of that section, the words “at any time thereafter while he is in any service as prescribed by the said subsection (1)” had been always substituted for the words “upon the completion of a further year of service as prescribed.”