

Queensland



QUEENSLAND LAW SOCIETY ACT 1952

**Reprinted as in force on 2 August 2004
(includes commenced amendments up to 2004 Act No. 11)**

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This Act is reprinted as at 2 August 2004. 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. Also see list of legislation for any uncommenced amendments.

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

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

Dates shown on reprints

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Revised edition indicates further material has affected existing material. For example—

- a correction
- a retrospective provision
- other relevant information.

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QUEENSLAND LAW SOCIETY ACT 1952

[as amended by all amendments that commenced on or before 2 August 2004]

An Act to provide for the incorporation of the Queensland Law Society, for the establishment and administration of a Legal Practitioners' Fidelity Guarantee Fund, for the issue of annual practising certificates, and for other incidental and consequential purposes

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Queensland Law Society Act 1952*.

3 Definitions

In this Act—

“**approved form**” see section 51.¹

“**Australian lawyer**” see the Legal Profession Act, schedule 5.

“**Australian legal practitioner**” see the Legal Profession Act, schedule 5.

“**Brisbane registrar**” see the Legal Profession Act, schedule 5.

“**chief justice**” means the chief justice of the court; in the absence of the chief justice from duty, the term means and includes the senior judge administrator of the court.

“**clerk of the tribunal**”, for part 2A, division 6A, see section 6ZAA.

“**client**” includes a person who has paid, or is liable to pay, the account of a client.

“**client agreement**” means—

¹ Section 51 (Approval of forms)

- (a) an agreement under section 48;² or
- (b) an agreement for urgent work or for work where the maximum amount a practitioner or firm charges as fees for the work is \$750 or less.

“commissioner” see the Legal Profession Act, schedule 5.

“committee of management” means the committee to which the powers of the council in relation to the fund may be delegated pursuant to section 18, or if there shall be no such committee, the council of the society.

“conveyancer” means a person duly admitted as a conveyancer of the court who continues to be on the roll.

“costs” includes disbursements.

“costs assessor” see section 6ZAA.

“council” means the council of the society.

“court” means—

- (a) in part 2A, division 6A, and parts 4A and 4B,³ if otherwise appropriate—
 - (i) in the context of the Supreme Court—the Supreme Court; or
 - (ii) in the context of the District Court—the District Court; or
 - (iii) in the context of the Magistrates Courts—a Magistrates Court; or
- (b) otherwise—the Supreme Court.

“disciplinary body” see the Legal Profession Act, schedule 5.

“discipline application” see the Legal Profession Act, schedule 5.

“fees”, for work of a practitioner or firm, means charges, other than costs.

“firm” means a firm of practitioners.

“government legal officer” see the Legal Profession Act, schedule 5.

2 Section 48 (Usual client agreement)

3 Part 2A (Solicitors complaints tribunal), division 6A (Application for assessment of account under client agreement) and parts 4A (Client agreements) and 4B (Payment for work)

“incorporated legal practice” see the Legal Profession Act, schedule 5.

“interstate legal practitioner” see the Legal Profession Act, schedule 5.

“legal practitioner director” see the Legal Profession Act, schedule 5.

“Legal Practitioners’ Fidelity Guarantee Fund” or **“fund”** means the Legal Practitioners’ Fidelity Guarantee Fund established under this Act.

“Legal Profession Act” means the *Legal Profession Act 2004*.

“Legal Profession Fund” means the Legal Practitioner Interest on Trust Accounts Fund established under the Legal Profession Act, chapter 2, part 8.⁴

“legal profession rule” see the Legal Profession Act, schedule 5.

“local lawyer” see the Legal Profession Act, schedule 5.

“local legal practitioner” means a local legal practitioner under the Legal Profession Act who holds a current local practising certificate granted or renewed by the law society under that Act, but does not include a government legal officer engaged in government work.

“local roll” see the Legal Profession Act, schedule 5.

“practising practitioner” means any solicitor or conveyancer who directly or indirectly practises in Queensland: prima facie a solicitor or conveyancer who draws or prepares any documents relating to real or personal estate or any memorandum or articles of association of any company, or signs any instrument as correct for the purposes of registration, or who receives in trust the moneys of any person shall be deemed to be a practising practitioner, but does not include a solicitor, or conveyancer in any Commonwealth or State department acting in the course of his or her official duties.

“practitioner” means a solicitor or conveyancer.

“registrar” means the registrar of the court.

“roll” means any book, parchment, or paper on which the registrar inscribes the names of persons admitted as practitioners, and **“the roll”** means the solicitors’ roll or the conveyancers’ roll, as the context or the circumstances may require.

4 Legal Profession Act, chapter 2 (Engaging in legal practice other than by Australian-registered foreign lawyers), part 8 (Financial arrangements for those who may engage in legal practice in this jurisdiction)

“**society**” means the Queensland Law Society Incorporated duly incorporated under this Act.

“**solicitor**” means a person duly admitted as a solicitor of the court who continues to be on the roll.

“**solicitors complaints tribunal**” see section 6.

“**State**” includes Territory.

“**tribunal**” means the solicitors complaints tribunal.

“**unprofessional conduct or practice**” see section 3B.

3A References to practitioners in certain provisions

It is declared that, in sections 6Z, 25(1), 26, 27 and 35 the reference to a practitioner includes and always has included reference to a person who ceases, or has ceased, to be qualified or entitled to practise as, or who becomes, or has become, disqualified from practising, or disentitled to practise as, a solicitor or conveyancer.

3B Meaning of “unprofessional conduct or practice”

(1) A practitioner commits “**unprofessional conduct or practice**” if the practitioner, in relation to the practitioner’s practice, is guilty of—

- (a) serious neglect or undue delay; or
- (b) the charging of excessive fees or costs; or
- (c) failure to maintain reasonable standards of competence or diligence; or
- (d) conduct described, under another Act, as unprofessional conduct or practice.

(2) Subsection (1) does not, by implication, limit the type of conduct or practice that may be regarded as unprofessional for this Act.

3C Application of Act to local legal practitioners

(1) A reference under this Act, including in rules continued in force under the Legal Profession Act, section 610,⁵ to any of the following may include a local legal practitioner—

- (a) a practising practitioner;
- (b) a practitioner;
- (c) a solicitor.

(2) Subsection (1) is subject to section 30 and a provision that, after the commencement of this section, states that a term mentioned in that subsection is defined in a particular way for the provision or another provision.

PART 2—THE QUEENSLAND LAW SOCIETY COUNCIL TO MANAGE SOCIETY

5C Right of audience

(1) The council may appoint counsel or a practising practitioner to appear before any committee thereof, the tribunal or any court in any matter affecting the interests of the society or the members thereof, or in which the society is directly or indirectly concerned or interested, and counsel or the practising practitioner so appointed shall have audience in any court in any such matter (including inter alia the conducting of any prosecution instituted by the society and also the opposing of or objecting to any application for admission as a practitioner or moving that any practitioner be suspended from practice or struck off the roll or called upon to answer any matters alleged or contained in any affidavit or otherwise dealt with on the ground of malpractice, professional misconduct or unprofessional conduct or practice).

(2) In this section—

“the tribunal” includes a disciplinary body.

5 Legal Profession Act, section 610 (Continuation of rules of the law society)

5E Complaints against practitioners, their clerks and employees

(1) A person (“**complainant**”) may make a written complaint to the council about the conduct of a practitioner or a practitioner’s clerk or employee.

(2) If a complainant claims to have suffered pecuniary loss because of a practitioner’s conduct, the complainant when making the written complaint or at a later time before the complaint is finally dealt with—

- (a) may give notice of a claim for compensation against the practitioner⁶ to the council; and
- (b) if notice of the claim is given—must state, to the best of the complainant’s knowledge, the pecuniary loss suffered.

(3) The council may require the complainant, within a reasonable stated time—

- (a) to provide further details of the complaint, including any notice about a claim for compensation, in the way the council reasonably directs; and
- (b) to verify the complaint by statutory declaration; and
- (c) if the complaint alleges overcharging by the practitioner—to pay a stated reasonable fee to cover the cost of a costs assessor’s report on the reasonableness of the practitioner’s bill.

(4) A complainant who fails to comply with a requirement under subsection (3) is taken to have withdrawn the complaint immediately after the reasonable stated time ends.

(5) A complaint under this section must be made to the council within 3 years after the conduct complained of happens.

(6) In this section—

“**conduct**” means—

- (a) for a practitioner—alleged malpractice, professional misconduct, or unprofessional conduct or practice; or
- (b) for a practitioner’s clerk or employee—alleged misconduct or default in relation to the practitioner’s practice.

⁶ Notice of a claim for compensation does not affect the complainant’s rights to pursue the claim at law (but see section 6R(6)) and, in particular, does not affect the running of time for the *Limitation of Actions Act 1974*.

5EA Complaints after commencement

(1) Despite section 5E, after the commencement of this section, complaints about Australian lawyers, or employees of Australian lawyers, must be made under the Legal Profession Act.

(2) However, subsection (1) does not prevent a complaint made under section 5E(1) that has started to be heard by the tribunal under its rules before the commencement of this section from being dealt with under this Act.

5F Council to investigate conduct

(1) The council must investigate a complaint made under section 5E.

(2) The council may also investigate the conduct of a practitioner or a practitioner's clerk or employee at any time if it considers the conduct may amount to—

- (a) for a practitioner—malpractice, professional misconduct, or unprofessional conduct or practice; or
- (b) for a practitioner's clerk or employee—misconduct or default in relation to the practitioner's practice.

5G Council's powers for investigations

The council may, for an investigation—

- (a) require a practitioner to give the council, in writing or personally, within a stated reasonable time an explanation of the matter being investigated; or
- (b) require a practitioner to appear before the council at a stated reasonable time and place; or
- (c) require a practitioner to produce to the council within a stated reasonable time any document in the practitioner's custody, possession or control that the practitioner is entitled at law to produce; or
- (d) engage a costs assessor to report on the reasonableness of a practitioner's bill of costs.

5H Practitioners to comply with council's requirements

(1) A practitioner must comply with a council requirement under section 5G.

(2) If the practitioner fails to comply with the requirement, the council may give the practitioner written notice that if the failure continues for a further 14 days after the notice is given the practitioner may be dealt with for professional misconduct.

(3) If notice under subsection (2) is given and the failure continues for the 14 day period—

- (a) the practitioner is taken to have committed professional misconduct, unless the practitioner has a reasonable excuse for not complying with the requirement within the period; and
- (b) the council may bring a charge of professional misconduct against the practitioner.

(4) In a hearing before the tribunal about a charge of professional misconduct, a copy of the notice mentioned in subsection (2) and any enclosures with the notice is evidence of the matters in the notice and the enclosures.

(5) A practitioner may refuse to give the council an explanation of a matter being investigated if the practitioner satisfies the council that to give the explanation would contravene, or invalidate, a policy for professional indemnity insurance held by the practitioner.

5I Council may facilitate mediation process if parties agree

(1) If the council considers that the matter of a complaint is capable of resolution by mediation, the council may suggest to the complainant and the person complained about (the “**parties**”) that they enter into a process of mediation to resolve the matter of the complaint.

(2) If the parties agree to enter into a mediation process, the council may facilitate the mediation to the extent it considers appropriate.

5J Things council may do following investigation

The council may do any of the following things after conducting an investigation—

- (a) censure or admonish a practitioner;

- (b) seek and obtain undertakings from a practitioner about the complaint;
- (c) if the complaint was an allegation of overcharging—recommend to a practitioner that the practitioner—
 - (i) reduce the practitioner’s bill of costs or refund an amount to the complainant; and
 - (ii) if the practitioner’s bill of costs was assessed by a costs assessor at the complainant’s expense—pay to the complainant an amount equal to the amount of the costs assessor’s fee;
- (d) bring a charge of malpractice, professional misconduct or unprofessional conduct or practice against a practitioner;
- (e) bring a charge of misconduct or default in relation to a practitioner’s practice against a clerk or employee employed in relation to that practice;
- (f) dismiss the complaint and take no action in relation to the notice of the claim for compensation.

PART 2A—SOLICITORS COMPLAINTS TRIBUNAL

Division 1A—Application of part after commencement

50 Purpose of this division

The purpose of this division is to provide for matters relating to the tribunal on and after the commencement of this section.

5P Application of part

(1) If a hearing has, under the tribunal’s rules, started in the tribunal on or before the commencement of this section, it must continue to be dealt with under this part.

(2) However, for the application of this part to a hearing, a reference to the legal ombudsman is to be taken as a reference to the commissioner.

(3) If a hearing has not, under the tribunal's rules, started on or before the commencement of this section, the commissioner may make a discipline application under the Legal Profession Act to a disciplinary body in relation to the matter the subject of the complaint under this Act.

Division 1—The tribunal and its functions

6 Solicitors complaints tribunal

The solicitors complaints tribunal (the “**tribunal**”) is established.

6A Functions of tribunal

The tribunal's functions are—

- (a) to hear and decide charges of malpractice, professional misconduct or unprofessional conduct or practice brought against a practitioner; and
- (b) to hear and decide charges of misconduct or default in relation to a practitioner's practice brought against a clerk or employee employed in relation to that practice.

Division 2—Membership of tribunal

6B Membership of tribunal

(1) The tribunal consists of the following 12 members—

- (a) 9 practitioners, 1 of whom is to be appointed as the tribunal's chairperson;
- (b) 3 lay members.

(2) A practitioner is eligible for appointment if the practitioner—

- (a) has been in actual practice in Queensland for at least 5 years; and
- (b) is selected from a panel of 18 practitioners nominated by the council.

(3) A person is eligible for appointment as a lay member only if the person—

- (a) is nominated by the Minister; and
- (b) is not—
 - (i) a lawyer; or
 - (ii) legally qualified; or
 - (iii) a public service officer.

(4) The members, including the chairperson, are to be appointed by the Governor in Council by gazette notice.

Division 3—Hearings

6C Constitution of tribunal for hearing

A tribunal is constituted for a hearing by 3 members, 1 of whom must be a lay member, sitting together.

6D Conduct of hearings

(1) The chairperson presides at all tribunal hearings at which the chairperson is present.

(2) If the chairperson is absent, the member chosen by the members present is to preside.

(3) The decision of the tribunal is the decision of the majority of its members.

6E Who may bring charges

A charge against a practitioner or a practitioner's clerk or employee may be brought only by—

- (a) the council; or
- (b) the legal ombudsman.

6F Tribunal rules

(1) A hearing before the tribunal must be started and conducted under its rules.

(2) The tribunal may make rules for regulating its practice and procedure.

(3) Without limiting subsection (2), the tribunal may make rules about the following matters—

- (a) the qualifications required to be a costs assessor for the tribunal;
- (b) the avoidance of an actual or apparent conflict of interest in the appointment of a costs assessor;
- (c) the conduct of costs assessments and the matters to be considered by a costs assessor;
- (d) the fees allowable to a costs assessor for the tribunal if the assessor is appointed by the clerk of the tribunal;
- (e) the facilitation of mediations under this part.

(4) A rule is subordinate legislation, and must be approved by the Governor in Council.

6FA Costs assessors

(1) The chairperson of the tribunal may approve as a costs assessor for the tribunal a person who has the qualifications required under the rules.

(2) The clerk of the tribunal must maintain a tribunal register of persons approved as costs assessors for the tribunal.

6G Notice of hearing

(1) If the hearing of a charge is brought by the council or legal ombudsman against a practitioner, clerk or employee, the tribunal must give the prescribed period of notice of the time and place of the hearing to the following persons—

- (a) the council;
- (b) the legal ombudsman;
- (c) the person charged;
- (d) if the charge arose out of a complaint by a person (the “**complainant**”)—the complainant.

(2) The tribunal must also give a copy of the charge and any notice of a claim for compensation to—

- (a) the person charged; and
- (b) if the charge was brought by the council—the legal ombudsman; and
- (c) if the charge was brought by the legal ombudsman—the council.

(3) The prescribed period of notice is the period prescribed under the tribunal's rules for this section.

6H Right of appearance and representation

The following persons are entitled to appear before the tribunal at the hearing—

- (a) the person charged;
- (b) the person's lawyer;
- (c) if the charge is brought by the council—
 - (i) the council; and
 - (ii) the council's lawyer;
- (d) if the charge is brought by the legal ombudsman—
 - (i) the ombudsman; and
 - (ii) the ombudsman's lawyer;
- (e) another person to whom the tribunal gives leave to appear.

6I Non-appearance of person charged

If the person charged has been given notice of the hearing under section 6G and does not appear at the hearing, the tribunal may hear and decide the charge in the person's absence.

6J Notice of claims for compensation to be given to tribunal

(1) This section applies if the hearing of a charge by the tribunal is one in which notice of a claim for compensation against a practitioner has been given by a complainant to—

- (a) the council under section 5E(2); or
- (b) the legal ombudsman.

(2) The council or, if the charge was brought by the legal ombudsman, the ombudsman must give the tribunal a copy of the particulars of loss received from the complainant.

6K Hearings involving allegations of overcharging

(1) This section applies if a hearing is concerned with an allegation of overcharging by a practitioner and the council has not already engaged a costs assessor to report on the reasonableness of the practitioner's bill of costs.

(2) The tribunal may engage a costs assessor from its register of costs assessors to report on the reasonableness of the practitioner's account.

(3) The tribunal may—

- (a) set a reasonable fee to cover the cost of the costs assessor's report; and
- (b) decide who must pay the fee.

Example—

The tribunal may decide it will pay the fee or the parties, or 1 of them, must pay the fee

(4) The tribunal may adjourn the hearing until the fee is paid and the costs assessor's report is available.

6L Hearings to be in public unless tribunal orders otherwise

(1) Tribunal hearings must be held in public, unless the tribunal orders otherwise.

(2) The tribunal may make an order under subsection (3) if it is satisfied that it is desirable to do so—

- (a) because of the confidential nature of the evidence or other matter;
or
- (b) for another appropriate reason.

(3) The tribunal may, by order—

- (a) direct that a hearing, or part of a hearing, is to be held in private;
and
- (b) give directions about the persons who may be present at a hearing held in private.

- (4) The tribunal may, by order, prohibit or restrict the publication of—
- (a) evidence given before the tribunal, whether the hearing was held in public or in private; or
 - (b) matter contained in documents filed with, or received in evidence by, the tribunal.

Division 4—Tribunal’s powers

6M Power to require attendance of witnesses etc.

(1) The tribunal may, on the application of a party to a hearing or of its own initiative, issue an attendance notice requiring a person to appear before the tribunal at a stated time and place to give evidence or to produce documents.

(2) A person served with an attendance notice must not, without reasonable excuse, fail to attend as required by the notice and continue to attend as required by the presiding member until excused from further attendance.

Maximum penalty for subsection (2)—80 penalty units.

(3) In this section—

“**party**” means—

- (a) the person bringing the charge; or
- (b) the person against whom the charge is brought.

6MA Application for directions

(1) A party to a charge or other matter referred to the tribunal may apply to the chairperson of the tribunal for directions about the conduct of the charge or other matter.

(2) The chairperson or a member of the tribunal chosen by the chairperson, who is a practitioner, may give the directions the chairperson or member considers appropriate (with or without consulting another tribunal member).

(3) However, if an application to the chairperson for directions is made, or pursued, before the tribunal, the tribunal, rather than the chairperson or

member, must deal with the application and give any directions it considers appropriate.

(4) A member may be chosen under subsection (2) to give directions generally, or in certain circumstances or for a particular charge or other matter.

6N Powers of tribunal relating to taking of evidence

(1) For the hearing, the tribunal may—

- (a) take evidence on oath; or
- (b) require a person appearing before the tribunal to give evidence to take an oath; or
- (c) administer an oath to a person appearing before the tribunal.

(2) A person appearing as a witness at a tribunal hearing must not, without reasonable excuse—

- (a) fail to be sworn; or
- (b) fail to answer a question that the person is required to answer by the tribunal; or
- (c) fail to produce a document that the person was required to produce by an attendance notice served on the person.

Maximum penalty for subsection (2)—80 penalty units.

6O Contempt of tribunal

A person must not—

- (a) insult the tribunal or a tribunal member in relation to the performance of the member's functions as a member; or
- (b) deliberately interrupt a tribunal hearing; or
- (c) create or continue, or join in creating or continuing, a disturbance in or near a place where the tribunal is sitting; or
- (d) do anything that would, if the tribunal were a court of record, constitute a contempt of that court.

Maximum penalty—100 penalty units.

6P Institution of proceedings by tribunal

(1) The tribunal may, in its own name or by its agent, bring a proceeding for the imposition or enforcement of a penalty under this division.

(2) This section does not, by implication, affect the council's power under section 5D to bring a proceeding for the imposition or enforcement of a penalty under this division.

6Q Protection of members etc.

(1) A tribunal member has, in the performance of the member's duties as a member, the same protection and immunity as a Supreme Court judge carrying out the functions of a judge.

(2) A person representing a person before the tribunal has the same protection and immunity as a barrister appearing for a party in a proceeding in the Supreme Court.

(3) A person appearing before the tribunal as a witness has the same protection as a witness in a proceeding in the Supreme Court.

(4) A document produced at, or used for, a hearing has the same protection during the hearing it would have if produced before the Supreme Court.

*Division 5—Tribunal orders***6R Orders tribunal may make against a practitioner after charge brought under this part**

(1) The tribunal may make any of the following orders in relation to a practitioner the tribunal finds guilty of a charge brought under this Act—

- (a) an order that the practitioner be struck off the roll of solicitors or, if that roll is included in the local roll, the local roll;
- (b) an order that the practitioner be suspended from practice, with or without conditions;
- (c) an order that the practitioner pay a penalty of not more than \$100 000 to the fund;
- (d) a compensation order directing the practitioner to pay a stated amount to the complainant;

- (e) an order that the practitioner waive or repay the whole or part of any fees or costs paid by or charged to a stated person;
- (f) an order that the practitioner pay to a complainant the amount the complainant paid to—
 - (i) the council under section 5E(3)(c); or
 - (ii) the tribunal under section 6K(2)(a);
- (g) an order that the practitioner carry out stated work for a stated person either free of charge or for a stated fee;
- (h) an order that the practitioner waive any lien in relation to a stated document or class of documents, with or without conditions;
- (i) if an order under paragraph (a) is not made—an order that the practitioner—
 - (i) make the practitioner's practice documents available for inspection at the times and by the persons stated in the order; or
 - (ii) make reports about the practitioner's practice in a way and at the times and to the persons stated in the order; or
 - (iii) comply with stated conditions, including, for example, attendance at legal education programs.

(2) The tribunal may also censure a practitioner it finds guilty of a charge under this Act, if it does not order the practitioner to be struck off the roll of solicitors or, if that roll is included in the local roll, the local roll.

(3) The tribunal may order that no further action be taken against the practitioner, whether or not the tribunal finds the practitioner guilty of a charge brought under this Act.

(4) The tribunal may make a compensation order only if it is satisfied that—

- (a) a complainant has suffered pecuniary loss because of the practitioner's malpractice, professional misconduct, or unprofessional conduct or practice; and
- (b) the complainant has given notice of a claim for compensation, and particulars of the complainant's loss, to the council or the legal ombudsman.

(5) The amount payable under a compensation order must not be more than \$7 000 or a higher amount prescribed under a regulation.

(6) A compensation order made by the tribunal under this section does not affect the claimant's right to recover damages for the same loss in other proceedings, but—

- (a) the amount paid under the compensation order must be taken into account in the other proceedings; and
- (b) the tribunal's findings giving rise to the compensation order are not binding on the court or decision-making body in the other proceedings.

(7) In this section—

“legal education programs” includes educational programs and seminars relating to legal education, practice management and other related topics in relation to the conduct of a practitioner's practice.

“practice documents”, of a practitioner, includes the ledgers, books of account, records, deeds, files and other documents relating to the practitioner's practice.

6S Orders tribunal may make against a practitioner's employee after charge brought under this part

(1) If the tribunal finds a practitioner's employee guilty of a charge brought against the employee under this Act, the tribunal may order that on and from a stated day a person must not employ the employee in relation to a practitioner's practice except on the conditions (if any) stated in the order.

(2) The tribunal may order that no further action be taken against the employee, whether or not the tribunal finds the employee guilty of a charge brought under this Act.

(3) In this section—

“employee”, of a practitioner, includes the practitioner's clerk.

6T Orders tribunal may make after practitioner struck off or suspended outside Queensland

(1) This section applies if a practitioner is struck off an interstate roll or suspended from practice in another State.

(2) The tribunal may order the practitioner be struck off the roll or suspended for a similar period in this State, unless the practitioner satisfies the tribunal the practitioner should not be struck off or suspended.

(3) In this section—

“**interstate roll**” means the roll of barristers or solicitors or barristers and solicitors in another State.

(4) This section is repealed on the commencement of the Legal Profession Act, section 238.⁷

6U Orders about costs

(1) The tribunal may make an order about costs in a hearing under this part it considers appropriate.

(2) Without limiting subsection (1), the tribunal may—

- (a) fix the amount of costs, or any part of the costs; or
- (b) direct that the costs be assessed by a costs assessor and, after assessment, be referred back to the tribunal for further order; or
- (c) direct that the costs be taxed.

(3) Costs in relation to a hearing are chargeable as if the matter were before the Supreme Court, unless the tribunal otherwise orders.

6V Form of order

(1) A tribunal order must—

- (a) be signed by the presiding member; and
- (b) state the tribunal’s findings in relation to the facts of the case.

(2) To avoid any doubt, it is declared that an order made by the tribunal may be given by a single member, regardless of whether the member was a member of the tribunal as constituted for the hearing.

⁷ Legal Profession Act, section 238 (Peremptory removal of local lawyer’s name from local roll following removal in another jurisdiction)

6W Orders to be filed in Supreme Court and are enforceable as orders of the court

(1) A tribunal order—

- (a) must be filed in a Supreme Court registry; and
- (b) on being filed, is taken to be an order of the Supreme Court and may be enforced accordingly.

(2) Subsection (1)(b) is subject to section 6R(6)(b).

6X Orders may be inspected

A tribunal order filed in the Supreme Court registry may be inspected on payment of the fee (if any) prescribed under the Rules of the Supreme Court.

6Y Service of orders

(1) The person bringing a charge must give a copy of a tribunal order relating to the charge to the following persons—

- (a) if a person against whom the order was given was not present at the time the order was given—the person;
- (b) the legal ombudsman, unless the ombudsman brought the charge;
- (c) the council, unless the council brought the charge;
- (d) the Minister.

(2) Service may be effected on the Minister by giving a copy of the order to the chief executive.

(3) A copy of the order must be served within 7 days after the order is made.

Division 6—Appeals**6Z Appeal may be made to Court of Appeal**

(1) A party dissatisfied with a tribunal decision may appeal the decision to the Court of Appeal.

(2) An appeal is by way of rehearing, unless all parties to the appeal accept the facts as found by the tribunal.

(3) The appeal must be made—

- (a) if the dissatisfied party is the Minister—within 30 days after a copy of the tribunal’s order is served on the Minister under section 6Y(2); or
- (b) otherwise—within 28 days after the tribunal’s order is made.

(4) The appeal must be made and heard in accordance with rules of court made for this Act.

(5) Without limiting subsection (4), the rules may provide for the extent to which any record of the proceeding before the tribunal may be used for the appeal.

(6) In this section—

“dissatisfied party” means—

- (a) the practitioner or the practitioner’s clerk or employee affected by the tribunal’s decision; or
- (b) the Minister; or
- (c) the council; or
- (d) the legal ombudsman.

Division 6A—Application for assessment of account under client agreement

6ZA Application of div 6A

(1) This division applies if a client—

- (a) is given an account that—
 - (i) is in a form agreed to in a client agreement between the client and the practitioner or firm; or
 - (ii) clearly sets out all items of work done for the client and the amount charged for each item; and
- (b) applies to the tribunal for an appointment by the clerk of the tribunal of a costs assessor to assess the account and gives the clerk a notice of objection stating, to the best of the client’s

ability, the items in the account to which the client objects and the client's grounds for the objection.

(2) However, this division does not apply if—

- (a) the client agreement is for a lump sum amount only; or
- (b) the client is 1 of the following—
 - (i) the Commonwealth or a State;
 - (ii) a public company, subsidiary of a public company, a foreign company or a registered Australian body (within the meaning of the Corporations Law);
 - (iii) a partnership if 1 of the partners is an entity mentioned in subparagraphs (i) or (ii);
 - (iv) a joint venture if 1 of the joint venturers is an entity mentioned in subparagraphs (i) or (ii).

6ZB Effect of request for appointment of assessor

(1) A client who asks for the appointment of a costs assessor under this division is taken to dispute only the amount payable under the client agreement.

(2) The client may not subsequently challenge the validity or enforceability of the client agreement.

6ZC Clerk may appoint costs assessor to assess account

(1) The clerk of the tribunal may appoint a costs assessor from the tribunal's register of costs assessors to assess a practitioner's or firm's account.

(2) However—

- (a) the clerk may not appoint a costs assessor if the clerk considers the costs assessor would have an actual or apparent conflict of interest; and
- (b) a costs assessor may not undertake an assessment if the costs assessor has an actual or apparent conflict of interest.

6ZD Fees of costs assessor

(1) A client and a practitioner or firm may agree about payment of the fee for a costs assessor appointed by the clerk of the tribunal.

(2) If there is no agreement and the practitioner's or firm's account is reduced by the costs assessor by 15% or more, the practitioner or firm must pay all of the assessor's fee.

(3) Otherwise, the client must pay all of the assessor's fee.

6ZE When costs assessment binding

(1) A costs assessment by an assessor appointed by the clerk of the tribunal is binding on the client and practitioner or firm only if—

- (a) the client and practitioner or firm have agreed in writing that it will be; or
- (b) at the end of 30 days after the assessment, no application has been made to a court to decide the reasonableness of the fees and costs charged in the assessed account.⁸

(2) A binding costs assessment may be enforced as a debt for the assessed amount and the parties may not subsequently challenge the amount payable.

6ZF Application to court after assessment

(1) Within 30 days after a costs assessment by an assessor appointed by the clerk of the tribunal, the client or the practitioner or firm may apply to a court having jurisdiction for the amount in the account for the court to decide the reasonableness of the fees and costs charged in the account.

(2) A court having jurisdiction for the amount in the account may extend the application time and order that, despite section 6ZE(1)(b), the costs assessment by an assessor appointed by the clerk of the tribunal is not binding.

(3) If an application is made to a court, the court must decide the reasonableness of the fees and costs charged in the assessed account.

(4) In deciding the reasonableness of the fees and costs, the court may—

⁸ Also see section 6ZF(2) (Application to court after assessment).

- (a) appoint a person from the tribunal's register of costs assessors or another person to assess the account and make an order about the appointee's fee; and
- (a) receive in evidence any written costs assessment (whether by the assessor appointed by the clerk of the tribunal or by the assessor appointed by the court) and have regard to a matter contained in the assessment.

(5) The court may make any order it considers appropriate, including, for example, an order that a party pay an amount to another party.

Division 7—Other jurisdiction not affected

6AA Saving of jurisdiction

(1) This Act does not affect the jurisdiction or powers exercisable by the court, the registrar or the department over practitioners.

(2) This Act does not affect the entitlement of a person to apply to the court—

- (a) to strike a practitioner off the roll; or
- (b) to require a practitioner to answer allegations contained in an affidavit.

(3) Subsection (2) applies whether or not the matter complained of was the subject of a complaint.

(4) However, the court may refer any charges arising out of the application to the council for reference to the tribunal in the way provided by this Act.

Division 8—Other provisions about tribunal and tribunal members

6AB Judicial notice of tribunal and its members

Every court must take judicial notice of the appointment of the members of the tribunal and of the signature of a tribunal's presiding member.

6AC Duration of appointment

(1) The appointment of a member is for the term, not longer than 3 years, decided by the Governor in Council.

(2) However, a member may continue to hold office until the member's successor assumes office, unless the member vacates office under subsection (3) or the member's appointment is ended under subsection (4).

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

- (a) the member dies or resigns by signed notice of resignation given to the secretary; or
- (b) the member is found guilty of an indictable offence or an offence against this Act; or
- (c) the member's appointment is ended by the Governor in Council under subsection (4).

(4) The Governor in Council may, at any time, end the appointment of a member for any reason or none.

6AD Fees and expenses of lay members

A lay member of the tribunal is entitled to be paid from department funds—

- (a) fees for attendance at tribunal meetings and the discharge of the member's functions under this Act approved by the Governor in Council; and
- (b) expenses necessarily and reasonably incurred by the member in attending tribunal meetings or discharging the member's functions under this Act and approved by the Minister.

6ADA Tribunal may engage staff

(1) The tribunal may engage the staff necessary to enable it to perform its functions.

(2) The cost of engaging the staff is payable out of the fund.

PART 3—SUPPLEMENTARY PROVISIONS RELATING TO TRUST ACCOUNTS

30 References to practitioner etc. in this part

(1) Subject to subsection (2), a reference in this part to any of the following means a solicitor within the meaning of the *Trust Accounts Act 1973*—

- (a) practising practitioner;
- (b) practitioner;
- (c) solicitor.

(2) A reference in this part to a firm of practitioners means a firm that comprises or includes a solicitor within the meaning of the *Trust Accounts Act 1973*.

31 Council may appoint accountant to investigate affairs of practitioner

(1) The council may at any time appoint—

- (a) an accountant for the time being qualified to conduct the audit of trust accounts under the *Trust Accounts Act 1973*; or
- (b) a person employed by the society (whether on a full-time or a part-time basis) who, at the time the person commences employment with the society, is qualified to conduct the audit of trust accounts under the *Trust Accounts Act 1973*;

(the “**accountant**”) to examine the accounts of any specified practitioner or firm of practitioners whether a member or members of the society or not, and to furnish to the council a confidential report thereon.

(1B) The council shall forthwith cause the Minister to be advised of particulars of any appointment under subsection (1).

(2) Every appointment made under this section shall be in writing, and shall be signed on behalf of the council by the president or 2 members thereof.

(3) Upon production by such accountant of the accountant’s appointment as aforesaid, the accountant may require the practitioner or practitioners in respect of whom the appointment has been made, or any employee or agent of such practitioner or practitioners to produce to the

accountant all books, papers, accounts, securities, or other documents relating to the business or accounts of such practitioner or practitioners, and to give all information in relation thereto and to furnish all authorities and orders to financial institutions and others that may be reasonably required of him, her or them, and if any such person, without lawful justification or excuse, the proof whereof shall lie on the person, refuses or fails so to do, or otherwise hinders, obstructs, or delays the accountant in the performance of the accountant's duties or the exercise of the accountant's powers under this section, the person shall be guilty of an offence and shall be liable accordingly.

(5A) If such report in the opinion of the council discloses that an auditor of the account in respect of which the report is made has been guilty of any breach of duty, the council—

- (a) may refer to any accountancy institute or organisation of which the auditor is or has been a member the report or such part of the report as the council considers necessary to enable that institute or organisation to investigate the conduct of the auditor; and
- (b) may, and if required by the Minister shall, furnish the report or a copy of the report to the Minister.

(5AA) When any such report or part thereof has been so referred to such an accountancy institute or organisation—

- (a) the accountant who furnished such report, may, with the permission of the council, give evidence regarding the examination to which such report relates; or
- (b) any officer or member of the council may, with the permission of the council, give evidence of the contents of such report or such part thereof;

upon any such investigation as aforesaid made by such an accountancy institute or organisation, or by any properly constituted committee thereof.

(5AB) Moreover the accountant who furnished such report may give all such evidence regarding the examination to which such report relates as is admissible in proceedings in any court of criminal jurisdiction.

(5B) Notwithstanding anything contained in any Act or in any regulation made thereunder, and notwithstanding any law, rule, or practice to the contrary, it shall be the duty of every manager or other principal officer of any financial institution with which a practitioner has deposited any moneys, whether in the practitioner's own account or in any general or separate trust account, to disclose every such account to an auditor

appointed pursuant to this Act upon demand made by such auditor, and to permit the auditor to make a copy of or extract from any such account, and if such manager or other principal officer fails so to do he or she shall be guilty of an offence and liable accordingly.

(5C) The society shall have an action for damages against an auditor guilty of neglect in relation to the audit of the accounts of any practitioner or firm of practitioners (whether a member or members of the society or not) who or any member of which, or any clerk or employee of whom or which, is guilty of stealing or fraudulent misappropriation similar to, and for the same amount (not exceeding the total amount applied from the fund in the reimbursement of all persons who suffer loss through such stealing or fraudulent misappropriation) as, the action for damages which such practitioner or firm of practitioners or any member of which would have had against such auditor and, in a case where the practitioner or 1 or more of the members of the firm of practitioners is guilty of the stealing or fraudulent misappropriation, as if the stealing or fraudulent misappropriation had been committed by a clerk or employee of such practitioner or firm of practitioners.

(6) Every person who commits a breach of any of the provisions of this section shall in addition to any other proceedings, penalty or punishment to which the person may be liable, be subject on summary conviction to a fine not exceeding 10 penalty units.

32 When bond under Trust Accounts Acts or other Act unnecessary

(1) Save as herein expressly provided and notwithstanding anything contained in the *Trust Accounts Act 1973* or any other Act, it shall not be necessary for any practising practitioner who complies in full with the provisions of this Act to deposit any moneys or securities or any fidelity bond by way of guarantee for the proper application of trust moneys coming to the practising practitioner in the practice of his or her profession.

(2) However, where any such other Act as aforesaid makes provision for the regulation or licensing of any other profession, business, or occupation or for any purpose incidental to the regulation or licensing thereof, any practising practitioner who carries on such other profession, business, or occupation (and either alone or in connection with his or her practice to which this Act applies) shall save as herein provided comply in full in respect thereto with such other Act.

(3) In addition, such practising practitioner shall not be required to deposit any moneys or securities or any fidelity bond by way of guarantee

for the proper application of trust moneys coming to the practising practitioner in the practice of such other profession, business, or occupation if the practising practitioner shall produce to the court charged with the duty of issuing any licence under the Act relating to such other profession, business, or occupation a certificate from the council stating that such practitioner has complied in full with the provisions of this Act.

(4) The council is hereby authorised to give such certificate.

(5) Also, the certificate shall render the fund liable to the same extent as such other Act renders moneys, securities, or a fidelity bond deposited pursuant to the provisions thereof liable.

33 When report of auditor of trust account may not be accepted

Where the council becomes aware of irregularities in the trust accounts of a practitioner the council may if it thinks fit request the Minister no longer to accept the reports of the practitioner's trust account auditor as the report of a certificated accountant for the audit of trust accounts of a practitioner, and the Minister may if the Minister thinks fit direct accordingly.

34 Solicitor or conveyancer not to act as auditor of trust accounts

No solicitor or conveyancer shall act as a certificated accountant for the audit of the trust account of a practitioner, and a report on the trust account of a practitioner by a solicitor or conveyancer shall not be accepted or in any way regarded as a compliance with the *Trust Accounts Act 1973*.

35 Audit fee in default of payment by practitioner a charge against the fund

Notwithstanding any Act or law to the contrary, in any case where the Attorney-General has pursuant to the Attorney-General's powers and authorities under the *Trust Accounts Act 1973* appointed an auditor to examine the books and accounts of a practitioner and the practitioner fails or neglects to pay the audit fee in connection with such examination, such audit fee shall be a charge against the fund and payable from the fund accordingly, but the society shall have full power and authority to sue for and recover such audit fee from the practitioner so failing or neglecting to pay same in any court of competent jurisdiction; and in the event of the recovery of such fee, the same shall be paid into the fund accordingly.

36 Saving of trust accounts

Save as provided in sections 32, 33, 34 and 35, nothing in this Act shall prejudice, limit, or otherwise affect the provisions of the *Trust Accounts Act 1973*.

PART 4—ANNUAL PRACTISING CERTIFICATE AND RULES**44 Solicitor may not act or recover fees whilst uncertificated**

(1) No person acting as a solicitor for a client shall sue, prosecute, defend, or carry on any action or suit or any proceedings in any court without having previously obtained a practising certificate which shall be then in force, or shall be capable of maintaining any action or suit for the recovery of any fee, reward, or disbursement for or in respect of any business, matter, or thing done by the person as a solicitor whilst the person shall have been without such practising certificate.

(2) Subsection (1) does not apply to conduct happening after the commencement of this subsection.

45 The like in relation to conveyancers and others

(1) No person acting as a solicitor or conveyancer for a client without having previously obtained a practising certificate which shall be then in force, shall be capable of maintaining any action or suit for the recovery of any fee, reward, or disbursement for or in respect of instructions for, or drawing, preparing, engrossing, stamping, registering, or recording any deed, document, or instrument whilst the person shall have been without such practising certificate.

(2) Subsection (1) does not apply to conduct happening after the commencement of this subsection.

PART 4A—CLIENT AGREEMENTS

47A Definitions for pt 4A

In this section—

“**firm**” includes a partnership that includes an interstate legal practitioner engaged in legal practice in this jurisdiction.

“**practitioner**” includes an interstate legal practitioner engaged in legal practice in this jurisdiction.

48 Usual client agreement

(1) This section does not apply to urgent work or work if the maximum amount a practitioner or firm charges as fees for the work is \$750 or less.

(2) Within a reasonable time after starting work for a client, a practitioner or firm must make a written agreement with the client expressed in clear plain language and specifying the following matters—

- (a) the work the practitioner or firm is to perform;
- (b) the fees and costs payable by the client for the work.

(3) The fees and costs payable by the client for work must specify—

- (a) a lump sum amount; or
- (b) the basis on which fees and costs will be calculated (whether or not including a lump sum amount).

(4) The notice in the schedule⁹ must be completed by the practitioner or firm and given to the client, together with a copy of any scale for the work provided under an Act, before the client signs the client agreement.

(4A) If the practitioner or firm must complete a notice mentioned in subsection (4) and that practitioner or firm is or includes an interstate legal practitioner engaged in legal practice in this jurisdiction, the notice must be changed to reflect that fact.

(5) The client agreement must not be inconsistent with the notice in the schedule.

⁹ Schedule (Important notice to client)

(6) Subsections (4) and (5) do not apply if the client is 1 of the following—

- (a) a public company, a subsidiary of a public company, a foreign company or a registered Australian body (within the meaning of the Corporations Law);
- (b) the Commonwealth or a State;
- (c) a partnership if 1 of the partners is an entity mentioned in paragraph (a) or (b);
- (d) a joint venture if 1 of the joint venturers is an entity mentioned in paragraph (a) or (b).

48A Enforcement of client agreement

A client agreement may be enforced in a court of competent jurisdiction in the same way as another contract.

48B Agreement may be amended

(1) A client and a practitioner or firm may agree to amend a client agreement at any time.

(2) However, an agreement to amend a client agreement under section 48¹⁰ must be in writing.

48C Provision protecting from liability or responsibility prohibited

(1) A client agreement may not include a provision preventing a civil liability (including liability for negligence) attaching to a practitioner or firm or relieving a practitioner or firm from a responsibility the practitioner or firm would otherwise have as a practitioner or firm.

(2) However, subsection (1) does not prohibit the inclusion of a qualified advice provision in a client agreement.

(3) In this section—

“qualified advice provision” means a provision to the effect that—

10 Section 48 (Usual client agreement)

- (a) certain advice to be given to the client may be qualified by, or is conditional on, information not yet available or future events; and
- (b) if the client acts on a part of an advice that is clearly specified as qualified or conditional advice, the practitioner or firm is not liable in relation to the part of the advice to the extent that the information or events make the part incorrect.

48D Contingency fees and costs prohibited

(1) A client agreement must not include a provision by which all or part of fees or costs payable for the work are calculated by reference to the amount of the award or settlement or the value of property that may be recovered in a proceeding to which the work relates.

(2) Subsection (1) does not apply to the extent that the client agreement adopts the scale for the work provided under an Act.

(3) Also, subsection (1) does not prevent a solicitor or firm accepting a lower fee if the actual outcome of the work is less than the outcome sought, for example, the amount recovered is less than the amount sought.

48E Interest in proceeding prohibited

A client agreement must not include a provision transferring to the practitioner or firm all or part of the client's interest in a proceeding instead of the client being required to pay the practitioner or firm all or part of fees or costs that would otherwise be payable.

48F Effect of non-compliance or prohibited provision

(1) If a client agreement to which section 48¹¹ applies does not comply with that section, the client agreement is void.

(2) If a provision is included in a client agreement and inclusion of the provision is prohibited by this part, the provision is void.

11 Section 48 (Usual client agreement)

48G Disclosure of client agreement

In a proceeding before a court or tribunal about work done, or the fees or costs payable for work done, for a client, a practitioner or firm must disclose any client agreement for the work between the practitioner or firm and the client.

PART 4B—PAYMENT FOR WORK*Division 1—Interpretation***48H Definitions for pt 4B**

In this part—

“**firm**” includes partnership that includes an interstate legal practitioner engaged in legal practice in this jurisdiction.

“**practitioner**” includes an interstate legal practitioner engaged in legal practice in this jurisdiction.

“**tribunal costs assessor**”, for an assessment, means a person from the tribunal’s register of costs assessors who is approved for the assessment by the chairperson of the tribunal.

*Division 2—General***48I Maximum payment for work**

(1) The maximum amount of fees and costs a practitioner or firm may charge and recover from a client for work done is—

- (a) an amount calculated in accordance with the client agreement between the practitioner or firm and the client for the work; or
- (b) if there is no client agreement and there is a scale for the work provided under an Act—an amount calculated in accordance with the scale; or

- (c) if there is no client agreement and there is no scale for the work provided under an Act—an amount assessed as a reasonable amount for the work by a tribunal costs assessor.

(2) However, a practitioner or firm may only charge and recover from the client for an extraordinary item of work if the extraordinary item is expressly authorised by the client after the practitioner or firm has warned the client that the item of work may not be recoverable from another party to the action or transaction.

(3) Subsection (2) does not apply if there is a client agreement for the work specifying a lump sum amount only.

(4) In this section—

“**extraordinary item of work**” means an item of work that would not normally be incurred in doing work similar to the work done for the client.

Division 2A—Speculative personal injury claims

48IA Definitions for div 2A

In this division—

“**speculative personal injury claim**” means a claim for, or substantially for, damages for personal injury if the right of a practitioner or firm to charge and recover from a client for work done is made dependent on the client’s success in pursuing the claim.

48IB Purpose

The purpose of this division is to provide for the maximum payment for a practitioner’s or firm’s conduct of a speculative personal injury claim.

48IC Maximum payment for conduct of speculative personal injury claim

(1) The maximum amount of fees that a practitioner or firm may charge and recover from a client for work done in relation to a speculative personal injury claim must not be more than the amount worked out using the formula—

$$[E - (R + D)] X 0.5$$

where—

“**E**” means the amount to which the client is entitled under a judgment or settlement.

“**R**” means the total amount the client must, under an Act, or a law of the Commonwealth or another jurisdiction, or otherwise, refund on receipt of the amount to which the client is entitled under the judgment or settlement.

“**D**” means the total amount of disbursements the client must pay, or reimburse, to the practitioner or firm in relation to the speculative personal injury claim.

(2) If—

- (a) the amount of fees that a practitioner or firm may charge and recover from a client is more than the amount calculated under subsection (1); and
- (b) the practitioner or firm wishes to charge and recover the amount (the “**greater amount**”) from the client;

the practitioner may apply, in writing, to the council for approval to charge and recover the greater amount.

(3) The council may, in writing, approve an amount up to the greater amount.

(4) This section applies despite part 4A and section 48I.¹²

(5) This section applies to any request for payment made on or after the day this section commences, whether or not a client agreement was entered into before that date.

Division 3—Legal proceedings

48J Prerequisite to legal proceeding to recover payment for work

(1) A practitioner or firm may start a proceeding in a court to recover fees or costs from a client only if the practitioner or firm has given the client an account that—

12 Part 4A (Client agreements) and section 48I (Maximum payment for work)

- (a) is in a form agreed to in a client agreement between the practitioner or firm and the client; or
- (b) clearly sets out all items of work done for the client and the amount charged (whether by way of fees or costs) for each item.

(2) Further, the practitioner or firm must obtain the court's leave to start the proceeding if—

- (a) it is 1 month or less since the account was given; or
- (b) the client has applied for an appointment by the clerk of the tribunal of a costs assessor to assess the account and the assessment has not concluded.

48K Court may appoint costs assessor to assess account

(1) In a proceeding to recover the fees or costs, the court may—

- (a) appoint a tribunal costs assessor or another person to assess the account; and
- (b) make an order about payment of the appointee's fee.

(2) Subsection (1) does not apply if the client and the practitioner or firm are bound by an assessment of the fees or costs by a costs assessor appointed by the clerk of the tribunal.¹³

48L Court may have regard to assessor's assessment

In a proceeding to recover the fees or costs, the court may—

- (a) receive in evidence a written costs assessment by an assessor appointed under this Act by the clerk of the tribunal or a court; and
- (b) have regard to a matter contained in the assessment.

48M Client may change practitioner

(1) A client may change practitioner or firm at any time.

(2) Subsection (1) applies despite any contrary provision in a client agreement between a practitioner or firm and the client.

¹³ See section 6ZE (When costs assessment binding).

(3) If a client has a client agreement with a practitioner or firm (the “**original practitioner or firm**”) and the client changes practitioner or firm, the original practitioner or firm may charge and recover fees and costs from the client for work done before the original practitioner or firm was given notice of the change.

(4) Nothing in this section affects a right a practitioner or firm may have to maintain or enforce a lien or charge for unpaid fees or costs.

Division 4—Other provisions about costs assessors

48N Application of div 4

This division applies for a costs assessor appointed under this Act by the clerk of the tribunal or a court to assess a practitioner’s or firm’s account.

48O Information for costs assessor

(1) The client, practitioner or firm must comply with all reasonable requests for information made by the assessor if the request will facilitate the assessment.

(2) The client, practitioner or firm may apply, to a court having jurisdiction for the amount in the account, for an order about disclosure of the requested information.

(3) Compliance with this section does not affect a right the practitioner or firm may have to maintain or enforce a lien or charge for unpaid fees or costs.

48P Written costs assessment

The costs assessor must make a written assessment.

48Q When costs assessment concluded

The costs assessment is not concluded until the costs assessor gives a copy of the assessment to the client and the practitioner or firm.

48R Protection from liability

(1) The costs assessor is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to a costs assessor, the liability attaches instead to the State.

48S Preservation of confidentiality

(1) If a person gains confidential information because of being, or an opportunity given by being, a costs assessor, the person must not make a record of the information or intentionally or recklessly disclose the information other than under subsection (2).

(2) The person may make a record of confidential information, or disclose it to someone else—

- (a) for this Act; or
- (b) to discharge a function under another law; or
- (c) for a proceeding in a court or tribunal; or
- (d) if authorised under a regulation or another law; or
- (e) if authorised by the person to whom the information relates.

(3) In this section—

“confidential information” includes information about a person’s affairs, but does not include—

- (a) information already publicly disclosed unless further disclosure of the information is prohibited by law; or
- (b) statistical or other information that could not reasonably be expected to result in the identification of the person to whom the information relates.

48T Preservation of privilege

Privilege attaching to a document or thing, including, for example, legal professional privilege, continues despite disclosure of the document or thing to a costs assessor.

PART 5—GENERAL

49 Protection for acts and omissions under Act

(1) No matter or thing done or omitted to be done by the society, and no matter or thing done or omitted to be done by the president, deputy president, vice-president or any member of the council or by the secretary or by any officer or employee or other person acting under the direction of or appointed by the society or the council shall, if it is done or omitted to be done, or purports to be done or omitted to be done, bona fide for the purpose of executing this Act or any function of the society or the council under this Act or under any other Act, subject to the president, deputy president, vice-president, any member of the council or the secretary or any officer or employee or other person acting under the direction of or appointed by the society or the council to any personal liability in respect thereof and any expense incurred or sustained by the president, deputy president, vice-president, any member of the council or the secretary or any such officer, employee or other person acting as aforesaid shall be deemed to be an expense authorised by this Act.

(2) The president, deputy president, vice-president and every member of the council and the secretary and every officer and employee and other person acting under the direction of or appointed by the society or the council shall be indemnified out of the funds of the society against all liability incurred by him or her as such president, deputy president, vice-president, member of the council, secretary or officer or employee or other person acting under the direction of or appointed by the society or the council as aforesaid.

(3) When any question arises under this section whether a matter or thing was or was not done or omitted to be done or purported to be done or omitted to be done, bona fide, the burden of proof of the absence of bona fides shall lie upon the party alleging such absence.

50 Confidentiality

(1) For the purposes of this section, any information, document or matter is confidential as respects an official if it was acquired by him or her, was furnished to him or her, is in his or her custody or he or she has access to it by reason of his or her office, appointment, employment or his or her being authorised in that respect in the making of an examination of accounts and

a report thereon under section 31 or, as the case may be, an investigation of a complaint to which subsection (2)(b)(i) refers.

(2) For the purposes of this section—

“official” means—

- (a) every person who is an accountant appointed under section 31 to make an examination of accounts of a practitioner; and
- (b) every person who is employed, appointed or authorised to perform any function in relation to—
 - (i) the investigation of a complaint against a practitioner concerning any matter relating to his or her conduct or his or her practice in the practitioner’s profession;
 - (ii) an examination of the accounts of a practitioner and the report thereon in pursuance of section 31; and
- (c) every person who is a member of the council; and
- (d) every person who is a member of a committee of the council; and
- (e) every person who is an officer of the council; and
- (f) the commissioner or the staff of the commission; and
- (g) an accountant, auditor or other professional consulted by the commissioner.

(3) An official—

- (a) shall not—
 - (i) communicate to any person any confidential information;
 - (ii) produce to any person any confidential document;
relating to the affairs of another person, except in the performance of the official’s functions under this Act;
- (b) shall not—
 - (i) be required to produce in any court or other court or tribunal (other than a court in the exercise of its criminal jurisdiction) any confidential document;
 - (ii) communicate to any court or other court or tribunal (other than a court in the exercise of its criminal jurisdiction) any confidential information or matter;

relating to the affairs of another person, except where, in the opinion of the council it is necessary so to do to carry the provisions of this Act into effect.

Maximum penalty—10 penalty units.

(4) Subsection (3) does not prevent an official communicating to the Australian Securities and Investments Commission particulars of—

- (a) any practitioner dealing in excluded mortgages; or
- (b) any breach by a practitioner of—
 - (i) a rule about mortgage investments; or
 - (ii) a condition of an exemption given by the Australian Securities and Investments Commission under the Corporations Act, section 601QA.¹⁴

(5) If a provision of this Act that commences on or after the commencement of this subsection provides that a person is to give documents to the commissioner or the Brisbane registrar, the person must comply with the provision despite anything to the contrary in this section.

(6) In this section—

“**practitioner**” includes the following—

- (a) an Australian legal practitioner or an employee of the practitioner;
- (b) an incorporated legal practice or a legal practitioner director or employee of the practice.

52 Regulation making power

The Governor in Council may make regulations under this Act on the recommendation of the council.

¹⁴ Corporations Act, section 601QA (ASIC’s power to make exemption and modification orders)

53 References to the statutory committee and solicitors disciplinary tribunal

In an Act or document, a reference to the statutory committee or the solicitors disciplinary tribunal may, if the context permits, be taken to be a reference to the solicitors complaints tribunal.

PART 6—TRANSITIONAL*Division 1—Transitional provisions for Act No. 13 of 1997***54 Reopening of complaints**

(1) If, before the commencement of this part, the council investigated a complaint, the council may refuse to reopen the investigation even though the council has, after the commencement, power to investigate aspects of the complaint it did not have when the investigation was first done.

(2) If, before the commencement of this part, the lay observer investigated a complaint, the legal ombudsman may refuse to reopen the investigation even though the ombudsman or the council has, after the commencement, power to investigate aspects of the complaint the lay observer or council did not have when the investigation was first done.

55 Charges before the statutory committee or the solicitors disciplinary tribunal

(1) This section applies if, at the commencement of this part, a charge was before the statutory committee or the solicitors disciplinary tribunal, but not fully dealt with.

(2) The charge may be continued before the statutory committee or the solicitors disciplinary tribunal and dealt with by the committee or tribunal as if the *Queensland Law Society Legislation Amendment Act 1997* had not been enacted.

Division 2—Transitional provision for Act No. 20 of 1998**56 Transitional provision for costs agreements and retainers—Civil Justice Reform Act 1998**

(1) A agreement made under the *Legal Practitioners Act 1995*, part 4, division 3 and in force immediately before the commencement of this section is taken to be a client agreement under section 48 of this Act.¹⁵

(2) Another retainer continues to be legally binding for work done before the commencement of this section or within 3 months after the commencement.

(3) The *Uniform Civil Procedure Rules* may provide for the assessment of costs under another retainer, including by a costs assessor from the tribunal's register of costs assessors.

(4) Any right that a person may have had under the *Legal Practitioners Act 1995* to taxation of costs under another retainer continues only until the commencement of the provisions of the *Uniform Civil Procedure Rules* providing for the assessment of costs under the retainer.

(5) In this section—

“**another retainer**” means a retainer, other than an agreement made under the *Legal Practitioners Act 1995*, part 4, division 3, that was—

- (a) in force immediately before the commencement of this section; and
- (b) legally binding under the *Legal Practitioners Act 1995* as in force immediately before the commencement.

Division 3—Transitional provision for Queensland Law Society Amendment Act 1999**57 Transitional provisions for particular practitioner levies**

(1) This section applies if, within the 5 years immediately before the commencement of this section—

15 *Legal Practitioners Act 1995*, part 4 (Provisions from Solicitors Act 1891), division 3 (Agreements between solicitors and their clients) and section 48 (Usual client agreement) of this Act

- (a) the fund has been insufficient to satisfy the liabilities of the society for the fund; and
- (b) under rules of the society made under section 5A,¹⁶ the council has levied practising practitioners for an amount (the “**levy amount**”) payable into its general funds to enable the society to give or advance an amount to the fund under section 22.¹⁷

(2) It is declared that despite the provisions of section 21, as in force immediately before the commencement of this section, the levy is taken to have been validly imposed under section 21.¹⁸

(3) It is further declared that—

- (a) the levy amount is taken—
 - (i) to be an amount paid to or on account of the fund by a practising practitioner under section 14(a);¹⁹ and
 - (ii) not to have been paid to the general funds of the society; and
- (b) any advance under section 22 by the society to the fund arising out of or because of the levy is taken to have not been made.

16 Section 5A (Rules)

17 Section 22 (Society may advance moneys from its general funds to the fund)

18 Section 21 (In addition to annual contributions, practitioners may be required to pay levy for benefit of fund)

19 Section 14 (Moneys payable into fund)

SCHEDULE

IMPORTANT NOTICE TO CLIENT

section 48(4)

Who to contact if there are problems

1. You may contact the Queensland Law Society if you have a complaint about the fees and costs charged or the work performed by your solicitor or firm.

2. Here are the phone number and postal address for the Queensland Law Society— (*insert phone number and postal address*).

Client able to negotiate agreement and get legal advice

3. You have the right to negotiate this client agreement with your solicitor or firm before you sign it.

4. You may obtain independent legal advice before signing this client agreement.

Client able to change solicitor or firm

5. You may change solicitor or firm at any time even if this client agreement says otherwise.

6. If you change solicitor or firm, it is important for you to give your original solicitor or firm notice of the change as your original solicitor or firm may charge and recover fees and costs from you for work done before notice is given.

7. Your original solicitor or firm may keep your file until you pay all fees and costs or reach an agreement about paying them.

Agreement about who will do legal work

8. This client agreement must state the names and status (for example, partner/associate/employed solicitor/articled clerk/paralegal/consultant) of the people who will do legal work for you.

SCHEDULE (continued)

Agreement about fees and costs payable for work

9. This client agreement is the basis for determining how much you pay for work done by your solicitor or firm.

10. A client agreement may set a lump sum amount for fees and costs.

11. Otherwise, the client agreement must state the basis on which fees and costs will be calculated (whether or not including a lump sum) and give either—

- an estimate of the total amount of fees and costs likely to be payable for the work; or
- if it is not reasonably practicable to estimate the total amount of fees and costs likely to be payable for the work—a range of estimates of the total amount of fees and costs likely to be payable for the work and an explanation of the significant variables that will affect the calculation of the amount.

12. However, your solicitor or firm is not bound by the estimate or range of estimates given in this client agreement.

13. Extraordinary items of work not normally done for similar work must be expressly approved by you even if this client agreement says otherwise.

14. Clause 13 has no application if this client agreement sets a lump sum amount only for fees and costs.

Agreement about type and frequency of accounts

15. An account from your solicitor or firm must be in the form agreed to in this client agreement or must clearly set out all items of work done for you and the amount charged for each item.

16. If a form of account is agreed to, it must be a form resulting in the inclusion in each account of sufficient details of the work done to allow you to decide whether the fees and costs in the account are reasonable.

17. This client agreement should state the intervals for giving you accounts.

SCHEDULE (continued)

Advice if work includes litigation

18. If the work involves or is likely to involve litigation, this client agreement must include an explanation and estimate of the range of costs you may recover from another party if you are successful or you may be required to pay the other party if you are not successful.

19. Also, if your solicitor agrees to do the work on a speculative basis, this client agreement must include the terms and conditions on which fees and costs become payable by you.

Agreement may be amended

20. This agreement may be amended if you and your solicitor or firm agree to the changes in writing.

Challenging the amount of an account

21. You may formally challenge the amount of an account by applying to the Solicitors Complaints Tribunal for the appointment of a costs assessor to assess the account.

22. If you do this, you can not subsequently challenge the validity or enforceability of this client agreement.

23. This means that before applying for the appointment of a costs assessor, you should consider, and, if necessary obtain advice about, whether there are grounds for challenging the validity or enforceability of this agreement.

When client may be sued for outstanding fees or costs

24. Generally, before your solicitor or firm may sue you for outstanding fees or costs, more than 1 month must have passed from the time you were given the account.

25. However, your solicitor or firm may ask the court for permission to sue before that time.

SCHEDULE (continued)

Can a client be sued for outstanding fees or costs if the client has applied to the Solicitors Complaints Tribunal for an assessment?

26. Generally, your solicitor or firm may not sue you for an outstanding account if you have applied to the Solicitors Complaints Tribunal for the appointment of a costs assessor to assess the account and the assessment has not concluded.

27. However, your solicitor or firm may ask the court for permission to sue.

Other remedies

28. You may have other remedies against your solicitor or firm concerning this agreement or the work done under it.

29. You may obtain independent legal advice about the remedies available.

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 2 August 2004. Future amendments of the Queensland Law Society Act 1952 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No.[X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
o in c	= order in council	s	= section
om	= omitted	sch	= schedule
orig	= original	sdiv	= subdivision
p	= page	SIA	= Statutory Instruments Act 1992
para	= paragraph	SIR	= Statutory Instruments Regulation 2002
prec	= preceding	SL	= subordinate legislation
pres	= present	sub	= substituted
prev	= previous	unnum	= unnumbered

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

TABLE OF REPRINTS

Reprint No.	Amendments included	Effective	Reprint date
1	to 1994 Act No. 29	1 July 1994	24 May 1995
2	to 1995 Act No. 58	28 November 1995	18 December 1995
2A	to 1996 Act No. 21	16 May 1996	23 August 1996
2B	to 1996 Act No. 79	16 May 1996	14 February 1997
2C	to 1996 Act No. 79	28 February 1997	7 March 1997
3	to 1997 Act No. 82	19 December 1997	19 January 1998
3A	to 1998 Act No. 20	2 July 1998	30 July 1998
3B	to 1999 Act No. 84	14 December 1999	5 January 2000
4	to 2000 Act No. 5	23 March 2000	5 May 2000
			(Column discontinued)
			Notes
4A	to 2002 Act No. 34	16 August 2002	
4B	to 2002 Act No. 38	29 August 2002	
4C	to 2003 Act No. 4	4 March 2003	
4D	to 2003 Act No. 77	6 November 2003	

Reprint No.	Amendments included	Effective	Notes
4DA	to 2004 Act No. 11	31 May 2004	
4E rv	to 2004 Act No. 11	1 July 2004	
4F rv	to 2004 Act No. 11	2 August 2004	provs exp 1 August 2004

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed citations and remade laws	2
Changed names and titles	1
Corrected minor errors	1, 2
Obsolete and redundant provisions	1
Renumbered provisions	1, 2

6 List of legislation

Queensland Law Society Act 1952

(Queensland Law Society Acts 1927 to 1952 and Queensland Law Society Acts 1930 to 1952 consolidated by authority of Queensland Law Society Acts Amendment Act 1952 1 Eliz 2 No. 24 pt 4)
 date of assent 26 September 1952
 commenced on date of assent

List of legislation to Queensland Law Society Act 1927 18 Geo 5 No.14—before consolidation

Queensland Law Society Act 1927 18 Geo 5 No. 14

date of assent 17 December 1927
 commenced on date of assent
 amending legislation—

Queensland Law Society Act Amendment Act 1930 21 Geo 5 No. 46

date of assent 30 December 1930
 commenced on date of assent

Queensland Law Society Acts Amendment Act 1938 2 Geo 6 No. 6

date of assent 10 October 1938
 commenced on date of assent

Queensland Law Society Acts Amendment Act 1952 1 Eliz 2 No. 24

date of assent 26 September 1952
 commenced on date of assent

List of legislation to Queensland Law Society Act Amendment Act 1930 21 Geo 5 No. 46—before consolidation**Queensland Law Society Act Amendment Act 1930 21 Geo 5 No. 46**

date of assent 30 December 1930

commenced on date of assent

amending legislation—

Queensland Law Society Acts Amendment Act 1938 2 Geo 6 No. 6

date of assent 10 October 1938

commenced on date of assent

Queensland Law Society Acts Amendment Act 1939 3 Geo 6 No. 33 (as from 30 December 1930 (see s 2(2)))

date of assent 6 December 1939

commenced on date of assent

Queensland Law Society Acts Amendment Act 1941 5 Geo 6 No. 4

date of assent 16 October 1941

commenced on date of assent

Queensland Law Society Acts Amendment Act 1952 1 Eliz 2 No. 24

date of assent 26 September 1952

commenced on date of assent

List of legislation to Queensland Law Society Act 1952—after consolidation**Queensland Law Society Act 1952**

(Queensland Law Society Acts 1927 to 1952 and Queensland Law Society Acts 1930 to 1952 consolidated by authority of Queensland Law Society Acts Amendment Act 1952 1 Eliz 2 No. 24 pt 4)

date of assent 26 September 1952

commenced on date of assent

amending legislation—

Queensland Law Society Acts Amendment Act 1952 1 Eliz 2 No. 24

date of assent 26 September 1952

commenced on date of assent

Queensland Law Society Act Amendment Act 1961 10 Eliz 2 No. 24

date of assent 7 April 1961

commenced on date of assent

Queensland Law Society Acts Amendment Act 1962 No. 37

date of assent 21 December 1962

commenced on date of assent

Queensland Law Society Acts Amendment Act 1963 No. 5

date of assent 23 September 1963

commenced on date of assent

Queensland Law Society Acts Amendment Act 1967 No. 12

date of assent 5 April 1967
commenced on date of assent

Queensland Law Society Acts Amendment Act (No. 2) 1967 No. 26

date of assent 3 November 1967
commenced on date of assent

Queensland Law Society Act Amendment Act 1971 No. 64

date of assent 16 December 1971
commenced on date of assent

Queensland Law Society Act Amendment Act 1974 No. 4

date of assent 2 April 1974
commenced 18 April 1974 (proc pubd gaz 20 April 1974 p 1519)

Queensland Law Society Act Amendment Act 1978 No. 9

date of assent 24 May 1978
commenced 1 June 1978 (proc pubd gaz 1 June 1978 p 655)

Queensland Law Society Act and Another Act Amendment Act 1979 No. 17 pt 2

date of assent 15 May 1979
commenced on date of assent

Queensland Law Society Act Amendment Act 1980 No. 9

date of assent 10 April 1980
commenced on date of assent

Queensland Law Society Act Amendment Act 1985 No. 109

date of assent 20 December 1985
commenced on date of assent

Queensland Law Society Act and Another Act Amendment Act 1988 No. 93 pt 2

date of assent 1 December 1988
commenced on date of assent

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

date of assent 14 November 1990
commenced 7 December 1989 (see s 2(4)(b))

Public Accountants Registration (Repeal and Consequential Amendments) Act 1990 No. 85 s 5 sch 2

date of assent 29 November 1990
commenced 1 January 1991 (see s 2(3) of Act)

Legal Aid Act Amendment and Public Defence Act Repeal Act 1991 No. 3 pt 5

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

Statute Law (Miscellaneous Provisions) Act 1993 No. 32 ss 1–3 sch 1 (this Act is amended, see amending legislation below)

date of assent 3 June 1993
commenced on date of assent

amending legislation—

**Statute Law (Miscellaneous Provisions) Act 1994 No. 15 ss 1–3 sch 2
(amends 1993 No. 32 above)**

date of assent 10 May 1994
commenced on date of assent

Statute Law (Miscellaneous Provisions) Act 1994 No. 15 ss 1–3 sch 2

date of assent 10 May 1994
commenced on date of assent

Anti-Discrimination Amendment Act 1994 No. 29 ss 1–3 sch

date of assent 28 June 1994
ss 1–2 commenced on date of assent
remaining provisions commenced 1 July 1994 (see s 2)

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

Queensland Law Society Legislation Amendment Act 1996 No. 21 pts 1, 2

date of assent 15 August 1996
ss 1–2 commenced on date of assent
remaining provisions commenced 16 May 1996 (see s 2)

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, 28

date of assent 12 December 1996
ss 1–2 commenced on date of assent
remaining provisions commenced 28 February 1997 (1997 SL No. 35)

Queensland Law Society Legislation Amendment Act 1997 No. 13 pts 1–2 s 3 sch

date of assent 15 May 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 3 November 1997 (1997 SL No. 362)

**Miscellaneous Acts (Non-bank Financial Institutions) Amendment Act 1997 No. 17
ss 1–2 pt 8**

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 1–2, pt 22**

date of assent 5 December 1997
ss 1–2 commenced on date of assent
remaining provisions commenced 19 December 1997 (1997 SL No. 452)

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

date of assent 1 May 1998
 ss 1–2 commenced on date of assent
 ss 3–4(1), (2) (to the extent it ins defs “client agreement”, “costs”, “court”, “fees”
 and “firm”), 5–10 commenced 1 July 1998 (1998 SL No. 122)
 remaining provisions (s 4(2) (to the extent that it ins def “client”)) commenced
 2 July 1998 (1998 SL No. 196)

Queensland Law Society Amendment Act 1999 No. 84

date of assent 14 December 1999
 commenced on date of assent

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2(1)–(2), 373 sch 2

date of assent 23 March 2000
 commenced on date of assent (see s 2(1)–(2))

Justice and Other Legislation (Miscellaneous Provisions) Act 2002 No. 34 s 1, pt 14

date of assent 16 August 2002
 commenced on date of assent

Personal Injuries Proceedings Amendment Act 2002 No. 38 ss 1, 3 sch pt 2

date of assent 29 August 2002
 commenced on date of assent

Financial Services Reform (Consequential Amendments) Act 2003 No. 4 pts 1, 6

date of assent 4 March 2003
 commenced on date of assent

Justice and Other Legislation Amendment Act 2003 No. 77 ss 1, 2(2), pt 22A

date of assent 6 November 2003
 commenced on date of assent (see s 2(2))

Legal Profession Act 2003 No. 97 ss 1, 2(2), 405 sch 4

date of assent 3 December 2003
 ss 1–2 commenced on date of assent
 remaining provisions never proclaimed into force and rep 2004 No. 11 s 642

Legal Profession Act 2004 No. 11 ss 1–2, 638(1), 640 sch 4

date of assent 31 May 2004
 ss 1–2 commenced on date of assent
 s 638(1) commenced on date of assent (see s 2(1))
 sch 4 amdts 12, 14 not yet proclaimed into force (see s 2(2))
 remaining provisions commenced 1 July 2004 (2004 SL No. 106)

7 List of annotations

Note—(Queensland Law Society Acts 1927 to 1952 and Queensland Law Society Acts 1930 to 1952 consolidated by authority of Queensland Law Society Acts Amendment Act 1952 1 Eliz 2 No. 24 pt 4)

Long title—[1927 Act]

om 1952 1 Eliz 2 No. 24 s 9(2)(a)

Long title—[1930 Act]

om 1952 1 Eliz 2 No. 24 s 9(2)(a)

Long title

ins 1952 1 Eliz 2 No. 24 s 9(2)(a)

Short title and commencement of Act—[1927 Act]

s 1 om 1952 1 Eliz 2 No. 24 s 9(2)(b)

PART 1—PRELIMINARY—[1930 Act]

pt hdg om 1952 1 Eliz 2 No. 24 s 9(2)(b)

Short title and commencement—[1930 Act]

s 1 om 1952 1 Eliz 2 No. 24 s 9(2)(b)

Parts of Act—[1930 Act]

s 2 om 1952 1 Eliz 2 No. 24 s 9(2)(b)

PART 1—PRELIMINARY

pt hdg ins 1952 1 Eliz 2 No. 24 s 9(2)(b)

Short title

s 1 ins 1952 1 Eliz 2 No. 24 s 9(2)(b)

Parts of Acts 2 ins 1952 1 Eliz 2 No. 24 s 9(2)(b)
amd 1985 No. 109 s 2
om R1 (see RA s 36)**THE QUEENSLAND LAW SOCIETY INCORPORATED AND THE COUNCIL—[1927 Act]**

hdg prec s 3 om 1952 1 Eliz 2 No. 24 s 9(2)(d)

Definitions

prov hdg ins 1952 1 Eliz 2 No. 24 s 9(2)(c)

sub 1995 No. 58 s 4 sch 1

s 3 amd 1952 1 Eliz 2 No. 24 s 9(2)(c); 1974 No. 4 s 3(a), (i); 1985 No. 109 s 3(b)

def “**approved form**” ins 1995 No. 58 s 4 sch 1def “**Australian lawyer**” ins 2004 No. 11 s 640 sch 4def “**Australian legal practitioner**” ins 2004 No. 11 s 640 sch 4def “**Brisbane registrar**” ins 2004 No. 11 s 640 sch 4def “**chief justice**” (prev 1927 18 Geo 5 No. 14 s 2(1))

reloc 1952 1 Eliz 2 No. 24 s 9(2)(c)

amd 1985 No. 109 s 3(a)(i)

def “**clerk of the tribunal**” ins 2004 No. 11 s 640 sch 4def “**client**” ins 1998 No. 20 s 4(2)def “**client agreement**” ins 1998 No. 20 s 4(2)def “**commissioner**” ins 2004 No. 11 s 640 sch 4def “**committee of management**” (prev 1930 21 Geo 5 No. 46 s 3)

reloc 1952 1 Eliz 2 No. 24 s 9(2)(c)

amd 1974 No. 4 s 3(b); 1985 No. 109 s 3(a)(ii)

def “**conveyancer**” (prev 1927 18 Geo 5 No. 14 s 2(1))

reloc 1952 1 Eliz 2 No. 24 s 9(2)(c)

amd 1974 No. 4 s 3(c)

- def “**costs**” ins 1998 No. 20 s 4(2)
- def “**costs assessor**” ins 2004 No. 11 s 640 sch 4
- def “**council**” (prev 1927 18 Geo 5 No. 14 s 2(1))
reloc 1952 1 Eliz 2 No. 24 s 9(2)(c)
- def “**court**” (prev 1927 18 Geo 5 No. 14 s 2(1))
reloc 1952 1 Eliz 2 No. 24 s 9(2)(c)
sub 1998 No. 20 s 4(1)–(2)
- def “**Director-General**” ins 1990 No. 80 s 3 sch 1
om R1 (see RA s 39)
- def “**disciplinary body**” ins 2004 No. 11 s 640 sch 4
- def “**discipline application**” ins 2004 No. 11 s 640 sch 4
- def “**fees**” ins 1998 No. 20 s 4(2)
- def “**firm**” ins 1998 No. 20 s 4(2)
- def “**government legal officer**” ins 2004 No. 11 s 640 sch 4
- def “**incorporated legal practice**” ins 2004 No. 11 s 640 sch 4
- def “**interstate legal practitioner**” ins 2004 No. 11 s 640 sch 4
- def “**legal ombudsman**” ins 1997 No. 13 s 4(2)
om 2004 No. 11 s 640 sch 4
- def “**legal practitioner director**” ins 2004 No. 11 s 640 sch 4
- def “**Legal Practitioners’ Fidelity Guarantee Fund**” or “**fund**” (prev 1930 21 Geo 5 No. 46 s 3)
reloc 1952 1 Eliz 2 No. 24 s 9(2)(c)
- def “**Legal Profession Act**” ins 2004 No. 11 s 640 sch 4
- def “**Legal Profession Fund**” ins 2004 No. 11 s 640 sch 4
- def “**legal profession rule**” ins 2004 No. 11 s 640 sch 4
- def “**local lawyer**” ins 2004 No. 11 s 640 sch 4
- def “**local legal practitioner**” ins 2004 No. 11 s 640 sch 4
- def “**local roll**” ins 2004 No. 11 s 640 sch 4
- def “**Minister**” (prev 1927 18 Geo 5 No. 14 s 2(1))
reloc 1952 1 Eliz 2 No. 24 s 9(2)(c)
sub 1990 No. 80 s 3 sch 1
om R1 (see RA s 39)
- def “**practising practitioner**” (prev 1930 21 Geo 5 No. 46 s 3)
reloc 1952 1 Eliz 2 No. 24 s 9(2)(c)
amd 1974 No. 4 s 3(d); 1985 No. 109 s 3(a)(iii)
- def “**practitioner**” (prev 1927 18 Geo 5 No. 14 s 2(1))
amd 1930 21 Geo 5 No. 46 s 36(a)
reloc 1952 1 Eliz 2 No. 24 s 9(2)(c)
sub 1974 No. 4 s 3(e)
- def “**prescribed**” (prev 1927 18 Geo 5 No. 14 s 2(1))
reloc 1952 1 Eliz 2 No. 24 s 9(2)(c)
om 1985 No. 109 s 3(a)(iv)
- def “**prescribed**” (prev 1930 21 Geo 5 No. 46 s 3)
om 1952 1 Eliz 2 No. 24 s 9(2)(c)
- def “**registrar**” (prev 1927 18 Geo 5 No. 14 s 2(1))
reloc 1952 1 Eliz 2 No. 24 s 9(2)(c)
- def “**roll**” (prev 1927 18 Geo 5 No. 14 s 2(1))
amd 1930 21 Geo 5 No. 46 s 36(b)
reloc 1952 1 Eliz 2 No. 24 s 9(2)(c)
amd 1974 No. 4 s 3(f)

- def **“rules”** (prev 1927 18 Geo 5 No. 14 s 2(1))
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(c)
 om R1 (see RA s 39)
- def **“society”** (prev 1927 18 Geo 5 No. 14 s 2(1))
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(c)
- def **“solicitor”** (prev 1927 18 Geo 5 No. 14 s 2(1))
 amd 1930 21 Geo 5 No. 46 s 36(c)
 om 1952 1 Eliz 2 No. 24 s 9(2)(c)
- def **“solicitor”** (prev 1930 21 Geo 5 No. 46 s 3)
 reloc 1952 1 Eliz 2 No 24 s 9(2)(c)
 amd 1952 1 Eliz 2 No 24 s 9(2)(c)
 sub 1974 No. 4 s 3(g)
- def **“solicitors complaints tribunal”** ins 1997 No. 13 s 4(2)
- def **“State”** ins 1997 No. 13 s 4(2)
- def **“statutory committee”** (prev 1927 18 Geo 5 No. 14 s 2(1))
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(c)
 om 1997 No. 13 s 4(1)
- def **“This Act”** (prev 1927 18 Geo 5 No. 14 s 2(1))
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(c)
 om 1985 No. 109 s 3(a)(iv)
- def **“tribunal”** ins 1985 No. 109 s 3(a)(v)
 amd 1997 No. 13 s 4(3)
- def **“Trust Accounts Act”** (prev 1930 21 Geo 5 No. 46 s 3)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(c)
 sub 1974 No. 4 s 3(h)
 om 1985 No. 109 s 3(a)(iv)
- def **“unprofessional conduct or practice”** ins 1997 No. 13 s 4(2)

References to practitioners in certain provisions

- s 3A** (prev s 3(2)) renum 1995 No. 58 s 4 sch 1
 amd 1997 No. 13 s 3 sch

Meaning of “unprofessional conduct or practice”

- s 3B** ins 1997 No. 13 s 5
 amd 2002 No. 38 s 3 sch pt 2

Application of Act to local legal practitioners

- s 3C** ins 2004 No. 11 s 640 sch 4

PART 2—LEGAL PRACTITIONERS’ FIDELITY GUARANTEE FUND—[1930 Act]

- pt hdg** om 1952 1 Eliz 2 No. 24 s 9(2)(e)

PART 2—THE QUEENSLAND LAW SOCIETY INCORPORATED AND THE COUNCIL

- pt hdg** ins 1952 1 Eliz 2 No. 24 s 9(2)(d)

Incorporation of the society

- s 4** (prev 1927 18 Geo 5 No. 14 s 3)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(d)
 amd 1980 No. 9 s 2; 1985 No. 109 ss 4, 40; 1997 No. 13 s 3 sch
 om 2004 No. 11 s 640 sch 4

Officers of the society

s 4A ins 1980 No. 9 s 3
om 2004 No. 11 s 640 sch 4

Council of the society

prov hdg om 1980 No. 9 s 4(a)
ins 1985 No. 109 s 5(a)

s 5 (prev 1927 18 Geo 5 No. 14 s 4)
reloc 1952 1 Eliz 2 No. 24 s 9(2)(d)
amd 1963 No. 5 s 2; 1967 No. 12 s 2; 1974 No. 4 s 4; 1978 No. 9 s 3; 1980
No. 9 s 4; 1985 No. 109 ss 5(b)–(g), 40; 1988 No. 93 s 4; 1993 No. 32 s 3
sch 1; 1995 No. 58 s 4 sch 1; 1997 No. 13 s 6
om 2004 No. 11 s 640 sch 4

Rules

s 5A (prev s 5(9)) renum 1993 No. 32 s 3 sch 1
amd 1993 No. 32 s 3 sch 1; 1995 No. 58 s 4 sch 1; 2002 No. 34 s 51
om 2004 No. 11 s 640 sch 4

s 5B (prev s 5(9A)) renum 1993 No. 32 s 3 sch 1
om 2004 No. 11 s 640 sch 4

Right of audience

s 5C (prev s 5(10)) renum 1993 No. 32 s 3 sch 1
amd 1997 No. 13 s 3 sch; 2004 No. 11 s 640 sch 4

Institution of proceedings by council

prov hdg amd 1997 No. 13 s 3 sch

s 5D (prev s 5(11)) renum 1993 No. 32 s 3 sch 1
om 2004 No. 11 s 640 sch 4

Complaints against practitioners, their clerks and employees

s 5E ins 1997 No. 13 s 7

Complaints after commencement

s 5EA ins 2004 No. 11 s 640 sch 4

Council to investigate conduct

s 5F ins 1997 No. 13 s 7

Council's powers for investigations

s 5G ins 1997 No. 13 s 7

Practitioners to comply with council's requirements

s 5H ins 1997 No. 13 s 7

Council may facilitate mediation process if parties agree

s 5I ins 1997 No. 13 s 7

Things council may do following investigation

s 5J ins 1997 No. 13 s 7

Illegal practices

s 5K (prev 1927 18 Geo 5 No. 14 s 6)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(d)
 amd 1974 No. 4 s 6; 1985 No. 109 ss 8, 40; 1995 No. 58 s 4 sch 1
 renum and reloc (prev s 7) 1997 No. 13 s 11
 om 2004 No. 11 s 640 sch 4

Recovery of fees etc.

s 5L (prev 1927 18 Geo 5 No. 14 s 7)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(d)
 amd 1985 No. 109 ss 9, 40; 1997 No. 13 s 10
 renum and reloc (prev s 8) 1997 No. 13 s 11
 om 2004 No. 11 s 640 sch 4

Minutes

s 5M (prev 1927 18 Geo 5 No. 14 s 8)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(d)
 amd 1985 No. 109 ss 10, 40; 1997 No. 13 s 3 sch
 renum and reloc (prev s 9) 1997 No. 13 s 11
 om 2004 No. 11 s 640 sch 4

Delegation under pt 2

s 5N ins 1997 No. 13 s 7
 om 2004 No. 11 s 640 sch 4

PART 2A—SOLICITORS COMPLAINTS TRIBUNAL

pt hdg (prev 1927 18 Geo 5 No. 14 hdg prec s 5)
 prev hdg prec s 6 reloc 1952 1 Eliz 2 No. 24 s 9(2)(d)
 sub 1997 No. 13 s 8

Division 1A—Application of part after commencement

div 1A (ss 5O–5P) ins 2004 No. 11 s 640 sch 4

Division 1—The tribunal and its functions

div hdg ins 1997 No. 13 s 9

Solicitors complaints tribunal

s 6 (prev 1927 18 Geo 5 No. 14 s 5)
 amd 1930 21 Geo 5 No. 46 s 37; 1938 2 Geo 6 No. 6 s 2; 1952 1 Eliz 2 No. 24
 s 4
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(d)
 amd 1952 1 Eliz 2 No. 24 s 9(2)(d)(i); 1974 No. 4 ss 5, 23(a); 1978 No. 9 s 4;
 1985 No. 109 ss 6, 40; 1988 No. 93 s 5; 1990 No. 80 s 3 sch 1; 1995 No. 58
 s 4 sch 1
 sub 1997 No. 13 s 9

Functions of tribunal

s 6A ins 1985 No. 109 s 7
 amd 1993 No. 32 s 3 sch 1
 sub 1997 No. 13 s 9

Division 2—Membership of tribunal

div hdg ins 1997 No. 13 s 9

Membership of tribunal

- s 6B** ins 1985 No. 109 s 7
 amd 1994 No. 29 s 3 sch
 sub 1997 No. 13 s 9

Division 3—Hearings

- div hdg** ins 1997 No. 13 s 9

Constitution of tribunal for hearing

- s 6C** ins 1985 No. 109 s 7
 sub 1997 No. 13 s 9

Conduct of hearings

- s 6D** ins 1985 No. 109 s 7
 sub 1997 No. 13 s 9

Who may bring charges

- s 6E** ins 1985 No. 109 s 7
 sub 1997 No. 13 s 9

Tribunal rules

- s 6F** ins 1985 No. 109 s 7
 sub 1997 No. 13 s 9
 amd 1998 No. 20 s 5

Costs assessors

- s 6FA** ins 1998 No. 20 s 6

Notice of hearing

- s 6G** ins 1985 No. 109 s 7
 sub 1997 No. 13 s 9

Right of appearance and representation

- s 6H** ins 1985 No. 109 s 7
 sub 1997 No. 13 s 9

Non-appearance of person charged

- s 6I** ins 1985 No. 109 s 7
 sub 1997 No. 13 s 9

Notice of claims for compensation to be given to tribunal

- s 6J** ins 1985 No. 109 s 7
 amd 1988 No. 93 s 6; 1993 No. 32 s 3 sch 1
 sub 1997 No. 13 s 9

Hearings involving allegations of overcharging

- s 6K** ins 1985 No. 109 s 7
 amd 1993 No. 32 s 3 sch 1
 sub 1997 No. 13 s 9
 amd 1998 No. 20 s 7

Hearings to be in public unless tribunal otherwise orders

- s 6KA** ins 1993 No. 32 s 3 sch 1
 om 1997 No. 13 s 9

Hearings to be in public unless tribunal orders otherwise

s 6L ins 1985 No. 109 s 7
amd 1995 No. 58 s 4 sch 1
sub 1997 No. 13 s 9

Division 4—Tribunal's powers

div hdg ins 1997 No. 13 s 9

Power to require attendance of witnesses etc.

s 6M ins 1985 No. 109 s 7
amd 1993 No. 32 s 3 sch 1
sub 1995 No. 58 s 4 sch 1; 1997 No. 13 s 9

Application for directions

s 6MA ins 1997 No. 82 s 84

Powers of tribunal relating to taking of evidence

s 6N ins 1985 No. 109 s 7
amd 1995 No. 58 s 4 sch 1
sub 1997 No. 13 s 9

Contempt of tribunal

s 6O ins 1985 No. 109 s 7
amd 1993 No. 32 s 3 sch 1
sub 1997 No. 13 s 9

Institution of proceedings by tribunal

s 6P ins 1985 No. 109 s 7
amd 1994 No. 29 s 3 sch
sub 1997 No. 13 s 9

Protection of members etc.

s 6Q ins 1985 No. 109 s 7
amd 1993 No. 32 s 3 sch 1
sub 1997 No. 13 s 9

Division 5—Tribunal orders

div hdg ins 1997 No. 13 s 9

Orders tribunal may make against a practitioner after charge brought under this part

s 6R ins 1985 No. 109 s 7
sub 1997 No. 13 s 9
amd 2004 No. 11 s 640 sch 4

Orders tribunal may make against a practitioner's employee after charge brought under this part

s 6S ins 1985 No. 109 s 7
sub 1997 No. 13 s 9

Orders tribunal may make after practitioner struck off or suspended outside Queensland

s 6T ins 1997 No. 13 s 9
amd 2004 No. 11 s 640 sch 4

Orders about costs

s 6U ins 1997 No. 13 s 9

Form of orders 6V ins 1997 No. 13 s 9
amd 1997 No. 82 s 86**Orders to be filed in Supreme court and are enforceable as orders of the court**

s 6W ins 1997 No. 13 s 9

Orders may be inspected

s 6X ins 1997 No. 13 s 9

Service of orderss 6Y ins 1997 No. 13 s 9
amd 1997 No. 82 s 87**Division 6—Appeals**

div hdg ins 1997 No. 13 s 9

Appeal may be made to Court of Appeal

s 6Z ins 1997 No. 13 s 9

Division 6A—Application for assessment of account under client agreement

div 6A (ss 6ZA–6ZF) ins 1998 No. 20 s 8

Division 7—Other jurisdiction not affected

div hdg ins 1997 No. 13 s 9

Saving of jurisdictions 6AA ins 1997 No. 13 s 9
amd 2004 No. 11 s 640 sch 4**Division 8—Other provisions about tribunal and tribunal members**

div hdg ins 1997 No. 13 s 9

Judicial notice of tribunal and its members

s 6AB ins 1997 No. 13 s 9

Duration of appointment

s 6AC ins 1997 No. 13 s 9

Fees and expenses of lay members

s 6AD ins 1997 No. 13 s 9

Tribunal may engage staff

s 6ADA ins 1997 No. 82 s 85

PART 2B—LEGAL OMBUDSMANpt hdg ins 1997 No. 13 s 9
rep 2004 No. 11 s 638(1)**Division 1—The legal ombudsman and the ombudsman's functions**div hdg ins 1997 No. 13 s 9
rep 2004 No. 11 s 638(1)

Legal ombudsman

s 6AE ins 1997 No. 13 s 9
rep 2004 No. 11 s 638(1)

Functions of the legal ombudsman

s 6AF ins 1997 No. 13 s 9
rep 2004 No. 11 s 638(1)

Department to provide administrative support

s 6AG ins 1997 No. 13 s 9
rep 2004 No. 11 s 638(1)

Legal ombudsman may refuse to investigate certain complaints

s 6AH ins 1997 No. 13 s 9
rep 2004 No. 11 s 638(1)

Division 2—Legal ombudsman’s powers

div hdg ins 1997 No. 13 s 9
rep 2004 No. 11 s 638(1)

Legal ombudsman’s powers

s 6AI ins 1997 No. 13 s 9
rep 2004 No. 11 s 638(1)

Division 3—Other provisions about legal ombudsman

div hdg ins 1997 No. 13 s 9
rep 2004 No. 11 s 638(1)

Duration of appointment

s 6AJ ins 1997 No. 13 s 9
rep 2004 No. 11 s 638(1)

Acting legal ombudsman

s 6AK ins 1997 No. 13 s 9
rep 2004 No. 11 s 638(1)

Fees and expenses of legal ombudsman

s 6AL ins 1997 No. 13 s 9
rep 2004 No. 11 s 638(1)

Annual report

s 6AM ins 1997 No. 13 s 9
rep 2004 No. 11 s 638(1)

PART 2C—TRUST ACCOUNTS AND TRUST PROPERTY

pt hdg ins 1997 No. 13 s 9
om 2004 No. 11 s 640 sch 4

MISCELLANEOUS

hdg prec s 8 (prev 1927 18 Geo 5 No. 14 hdg prec s 7)
reloc 1952 1 Eliz 2 No. 24 s 9(2)(d)
om 1997 No. 13 s 3 sch

When council may assume control over practitioner’s trust accounts

s 10 (prev 1927 18 Geo 5 No. 14 s 9)
ins 1952 1 Eliz 2 No. 24 s 5

reloc 1952 1 Eliz 2 No. 24 s 9(2)(d)
 amd 1952 1 Eliz 2 No. 24 s 9(2)(d)(ii); 1962 No. 37 s 2; 1974 No. 4 s 7; 1985
 No. 109 ss 11, 40; 1995 No. 58 s 4 sch 1; 1997 No. 17 s 35
 om 2004 No. 11 s 640 sch 4

Powers of the council with respect to trust accounts of deceased practitioners etc.

s 11 (prev 1927 18 Geo 5 No. 14 s 10)
 ins 1952 1 Eliz 2 No. 24 s 6
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(d)
 amd 1952 1 Eliz 2 No. 24 s 9(2)(d)(iii); 1985 No. 109 ss 12, 40; 1988 No. 93
 s 7; 1997 No. 17 s 36
 om 2004 No. 11 s 640 sch 4

Appointment of receiver of trust property

s 11A ins 1962 No. 37 s 3
 amd 1974 No. 4 s 8; 1978 No. 9 s 5; 1985 No. 109 s 13; 1988 No. 93 s 8; 1995
 No. 58 s 4 sch 1; 1997 No. 17 s 37; 2000 No. 5 s 373 sch 2
 om 2004 No. 11 s 640 sch 4

PART 3—SUPPLEMENTARY PROVISIONS RELATING TO TRUST ACCOUNTS

pt hdg ins 1952 1 Eliz 2 No. 24 s 9(2)(f)
 sub 2004 No. 11 s 640 sch 4

Establishment of fidelity guarantee fund

s 12 (prev 1930 21 Geo 5 No. 46 s 4)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1985 No. 109 ss 14, 40
 om 2004 No. 11 s 640 sch 4

Society is statutory body for guarantee fund

s 12A ins 1996 No. 54 s 9 sch
 om 2004 No. 11 s 640 sch 4

Fund to be kept in separate account

prov hdg amd 1997 No. 17 s 38(1)
s 13 (prev 1930 21 Geo 5 No. 46 s 5)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1985 No. 109 s 40; 1997 No. 17 s 38(2)
 om 2004 No. 11 s 640 sch 4

Moneys payable into fund

s 14 (prev 1930 21 Geo 5 No. 46 s 6)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1985 No. 109 ss 15, 40
 om 2004 No. 11 s 640 sch 4

Expenditure from fund

s 15 (prev 1930 21 Geo 5 No. 46 s 7)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1985 No. 109 s 40; 1995 No. 58 s 4 sch 1; 1997 No. 13 s 3 sch
 om 2004 No. 11 s 640 sch 4

Audit of accounts

s 16 (prev 1930 21 Geo 5 No. 46 s 8)

reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1974 No. 4 s 23(a); 1985 No. 109 ss 16, 40
 om 2004 No. 11 s 640 sch 4

Council to administer fund

s 17 (prev 1930 21 Geo 5 No. 46 s 9)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1985 No. 109 s 40
 om 2004 No. 11 s 640 sch 4

Council may delegate its powers in relation to the fund to a committee of management

s 18 (prev 1930 21 Geo 5 No. 46 s 10)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1974 No. 4 s 9; 1985 No. 109 s 40
 om 2004 No. 11 s 640 sch 4

Minister may require report about fund

s 18A ins 1999 No. 84 s 3
 om 2004 No. 11 s 640 sch 4

Practising practitioners to pay prescribed contribution into fund

s 19 (prev 1930 21 Geo 5 No. 46 s 11)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1952 1 Eliz 2 No. 24 s 9(2)(f)(i); 1974 No. 4 s 10; 1985 No. 109 s 40;
 1995 No. 58 s 4 sch 1
 om 2004 No. 11 s 640 sch 4

Administration of fund

s 20 (prev 1930 21 Geo 5 No. 46 s 12)
 sub 1938 2 Geo 6 No. 6 s 3
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1961 10 Eliz 2 No. 24 s 2; 1967 No. 26 s 2; 1979 No. 17 s 4; 1985
 No. 109 ss 17, 40; 1988 No. 93 s 9; 1993 No. 32 s 3 sch 1
 om 2004 No. 11 s 640 sch 4

In addition to annual contributions, practitioners may be required to pay levy for benefit of fund

s 21 (prev 1930 21 Geo 5 No. 46 s 13)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1985 No. 109 s 40; 1999 No. 84 s 4
 om 2004 No. 11 s 640 sch 4

Prescribed levy to be paid for benefit of fund

s 21A ins 1999 No. 84 s 5
 exp 14 December 2000 (see s 21A(6))

Society may advance moneys from its general funds to the fund

s 22 (prev 1930 21 Geo 5 No. 46 s 14)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1985 No. 109 s 40
 om 2004 No. 11 s 640 sch 4

Investment of fund

s 23 (prev 1930 21 Geo 5 No. 46 s 15)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1985 No. 109 ss 18, 40
 om 1996 No. 54 s 9 sch

Application of fund

s 24 (prev 1930 21 Geo 5 No. 46 s 16)
 amd 1939 3 Geo 6 No. 33 s 2(1); 1941 5 Geo 6 No. 4 s 2
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1961 10 Eliz 2 No. 24 s 3; 1967 No. 26 s 3; 1971 No. 64 s 2; 1978 No. 9
 s 6; 1985 No. 109 ss 19, 40; 1988 No. 93 s 10; 1993 No. 32 s 3 sch 1; 1995
 No. 58 s 4 sch 1; 1999 No. 84 s 6
 om 2004 No. 11 s 640 sch 4

Minister may direct further reimbursement

s 24AA ins 1999 No. 84 s 7
 om 2004 No. 11 s 640 sch 4

Fund offers no protection for certain mortgages

s 24A ins 1996 No. 21 s 4
 om 2004 No. 11 s 640 sch 4

Practitioners to notify clients about non-liability of fund for certain mortgages or details of their insurance

prov hdg amd 1997 No. 82 s 88(1)
s 24B ins 1996 No. 21 s 4
 amd 1997 No. 82 s 88(2)
 om 2004 No. 11 s 640 sch 4

Fund does not protect investments

s 24C ins 1999 No. 84 s 8
 om 2004 No. 11 s 640 sch 4

Council may settle claims without action

s 25 (prev 1930 21 Geo 5 No. 46 s 17)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1974 No. 4 s 11; 1985 No. 109 ss 20, 40
 om 2004 No. 11 s 640 sch 4

Defences to claims against fund

s 26 (prev 1930 21 Geo 5 No. 46 s 18)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1974 No. 4 s 12; 1985 No. 109 s 40
 om 2004 No. 11 s 640 sch 4

Subrogation of rights of action

s 27 (prev 1930 21 Geo 5 No. 46 s 19)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 sub 1985 No. 109 s 21
 om 2004 No. 11 s 640 sch 4

If fund insufficient to satisfy claims, such claims to be charged on future accumulations

s 28 (prev 1930 21 Geo 5 No. 46 s 20)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1974 No. 4 s 13; 1985 No. 109 s 40
 om 2004 No. 11 s 640 sch 4

Council may enter into contracts of indemnity for purposes of Act

s 29 (prev 1930 21 Geo 5 No. 46 s 21)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1985 No. 109 s 40; 1997 No. 13 s 3 sch
 om 2004 No. 11 s 640 sch 4

References to practitioner etc. in this part

s 30 (prev 1930 21 Geo 5 No. 46 s 22)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1985 No. 109 ss 22, 40
 sub 2004 No. 11 s 640 sch 4

SUPPLEMENTARY PROVISIONS

hdg prec s 31 (prev 1930 21 Geo 5 No. 46 hdg prec s 23)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 om 2004 No. 11 s 640 sch 4

Council may appoint accountant to investigate affairs of practitioner

prov hdg amd 1990 No. 85 s 5 sch 2
s 31 (prev 1930 21 Geo 5 No. 46 s 23)
 amd 1938 2 Geo 6 No. 6 s 4; 1941 5 Geo 6 No. 4 s 3; 1952 1 Eliz 2 No. 24 s 8
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1974 No. 4 s 14; 1985 No. 109 ss 23, 40; 1988 No. 93 s 11; 1990 No. 85
 s 5 sch 2; 1995 No. 58 s 4 sch 1; 1997 No. 17 s 39

When bond under Trust Accounts Acts or other Act unnecessary

prov hdg sub 1938 2 Geo 6 No. 6 s 5(1)
s 32 (prev 1930 21 Geo 5 No. 46 s 24)
 amd 1938 2 Geo 6 No. 6 s 5
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1952 1 Eliz 2 No. 24 s 9(2)(f)(ii); 1974 No. 4 s 23(a); 1985 No. 109 ss 24,
 40; 1995 No. 58 s 4 sch 1

When report of auditor of trust account may not be accepted

s 33 (prev 1930 21 Geo 5 No. 46 s 24A)
 ins 1938 2 Geo 6 No. 6 s 6
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1985 No. 109 s 40

Solicitor or conveyancer not to act as auditor of trust accounts

s 34 (prev 1930 21 Geo 5 No. 46 s 24B)
 ins 1938 2 Geo 6 No. 6 s 6
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1974 No. 4 s 23(b); 1985 No. 109 ss 25, 40

Audit fee in default of payment by practitioner a charge against the fund

s 35 (prev 1930 21 Geo 5 No. 46 s 24C)
 ins 1938 2 Geo 6 No. 6 s 6
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1967 No. 26 s 4; 1974 No. 4 s 23(a); 1985 No. 109 ss 26, 40

Amendments of 18 Geo 5 No. 14 s 2—[1930 Act]

s 36 om 1952 1 Eliz 2 No. 24 s 9(2)(h)

Saving of trust accounts

s 36 (prev 1930 21 Geo 5 No. 46 s 24D)
 ins 1938 2 Geo 6 No. 6 s 6
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(f)
 amd 1952 1 Eliz 2 No. 24 s 9(2)(f)(iii); 1974 No. 4 s 23(a); 1985 No. 109
 ss 27, 40

PART 3—ANNUAL PRACTISING CERTIFICATE AND RULES—[1930 Act]

pt hdg om 1952 1 Eliz 2 No. 24 s 9(2)(e)

PART 3A—GENERAL TRUST ACCOUNTS' CONTRIBUTION FUND AND GRANTS FUND

pt hdg ins 1985 No. 109 s 28
 exp 1 August 2004 (see s 36V)

Division 1—Preliminary

div hdg ins 2004 No. 11 s 640 sch 4
 exp 1 August 2004 (see s 36V)

Relationship between divs 2 and 3

s 36AA ins 2004 No. 11 s 640 sch 4
 exp 1 August 2004 (see s 36V)

Meaning of terms

s 36A ins 1985 No. 109 s 28
 exp 1 August 2004 (see s 36V)

Division 2—Contribution fund and grants fund

div hdg ins 2004 No. 11 s 640 sch 4
 exp 1 August 2004 (see s 36V)

Establishment of contribution fund

s 36B ins 1985 No. 109 s 28
 amd 1997 No. 17 s 40
 exp 1 August 2004 (see s 36V)

Moneys payable into the contribution fund

s 36C ins 1985 No. 109 s 28
 amd 1997 No. 17 s 41
 exp 1 August 2004 (see s 36V)

Society is statutory body for contribution fund

s 36D ins 1985 No. 109 s 28
 sub 1996 No. 54 s 9 sch
 exp 1 August 2004 (see s 36V)

Distributions from contribution fund

s 36E ins 1985 No. 109 s 28
amd 1990 No. 80 s 3 sch 1; 1991 No. 3 s 5.2
exp 1 August 2004 (see s 36V)

Establishment of grants fund

s 36F ins 1985 No. 109 s 28
exp 1 August 2004 (see s 36V)

Society is statutory body for grants fund

s 36FA ins 1996 No. 54 s 9 sch
exp 1 August 2004 (see s 36V)

Moneys payable into the grants fund

s 36G ins 1985 No. 109 s 28
exp 1 August 2004 (see s 36V)

Grants committee

s 36H ins 1985 No. 109 s 28
amd 1993 No. 32 s 3 sch 1; 1996 No. 54 s 9 sch
om 2004 No. 11 s 640 sch 4

Vacation of office

s 36I ins 1985 No. 109 s 28
amd 1994 No. 29 s 3 sch
om 2004 No. 11 s 640 sch 4

Filling casual vacancies

s 36J ins 1985 No. 109 s 28
om 2004 No. 11 s 640 sch 4

Proceeding of grants committee

s 36K ins 1985 No. 109 s 28
om 2004 No. 11 s 640 sch 4

Fees and expenses

s 36L ins 1985 No. 109 s 28
om 2004 No. 11 s 640 sch 4

Other officers

s 36M ins 1985 No. 109 s 28
om 2004 No. 11 s 640 sch 4

Functions of grants committee

s 36N ins 1985 No. 109 s 28
om 2004 No. 11 s 640 sch 4

Objectives of grants

s 36O ins 1985 No. 109 s 28
om 2004 No. 11 s 640 sch 4

Moneys granted cease to form part of grants fund

s 36P ins 1985 No. 109 s 28
om 2004 No. 11 s 640 sch 4

Investment of grants fund

s 36Q ins 1985 No. 109 s 28
 sub 1996 No. 54 s 9 sch
 om 2004 No. 11 s 640 sch 4

Audit of account

s 36R ins 1985 No. 109 s 28
 exp 1 August 2004 (see s 36V)

Division 3—Closure of contribution fund and grants fund and related matters

div 3 (ss 36S–36U) ins 2004 No. 11 s 640 sch 4
 exp 1 August 2004 (see s 36V)

Division 4—Expiry of part

div 4 (s 36V) ins 2004 No. 11 s 640 sch 4
 exp 1 August 2004 (see s 36V)

PART 4—AMENDMENTS OF THE PRINCIPAL ACT—[1930 Act]

pt hdg om 1952 1 Eliz 2 No. 24 s 9(2)(e)

PART 4—ANNUAL PRACTISING CERTIFICATE AND RULES

pt hdg ins 1952 1 Eliz 2 No. 24 s 9(2)(g)

Amendment of s 5—[1930 Act]

s 37 om 1952 1 Eliz 2 No. 24 s 9(2)(h)

Roll of solicitors and conveyancers

s 37 (prev 1930 21 Geo 5 No. 46 s 25)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(g)
 amd 1985 No. 109 ss 29, 40
 om 2004 No. 11 s 640 sch 4

Prohibition on practising without practising certificate

prov hdg om 1979 No. 17 s 5
 ins 1988 No. 93 s 12(a)

s 38 (prev 1930 21 Geo 5 No. 46 s 26)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(g)
 amd 1974 No. 4 s 15; 1979 No. 17 s 5; 1985 No. 109 ss 30, 40; 1988 No. 93
 s 12(b)–(c)
 om 2004 No. 11 s 640 sch 4

Persons practising without certificates

s 39 (prev 1930 21 Geo 5 No. 46 s 27)
 amd 1938 2 Geo 6 No. 6 s 7
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(g)
 amd 1974 No. 4 s 16; 1979 No. 17 s 6; 1985 No. 109 s 31; 1995 No. 58 s 4
 sch 1
 om 2004 No. 11 s 640 sch 4

Practice of deceased practitioner

s 39A ins 1974 No. 4 s 17
 om 2004 No. 11 s 640 sch 4

Application for and issue of certificate

s 40 (prev 1930 21 Geo 5 No. 46 s 28)

amd 1938 2 Geo 6 No. 6 s 8
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(g)
 amd 1974 No. 4 s 18; 1978 No. 9 s 7; 1979 No. 17 s 7; 1985 No. 109 ss 32, 40;
 1988 No. 93 s 13; 1995 No. 58 s 4 sch 1
 om 2004 No. 11 s 640 sch 4

Condition attaching to practising certificate

prov hdg amd 1985 No. 109 s 33(a)
s 40A ins 1979 No. 17 s 8
 amd 1985 No. 109 s 33(b)–(d)
 om 2004 No. 11 s 640 sch 4

Grounds for refusing or cancelling certificate

s 41 (prev 1930 21 Geo 5 No. 46 s 29)
 amd 1938 2 Geo 6 No. 6 s 9
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(g)
 amd 1952 1 Eliz 2 No. 24 s 9(2)(g)(i)
 sub 1974 No. 4 s 19
 amd 1978 No. 9 s 8; 1985 No. 109 s 34; 1997 No. 13 s 3 sch
 om 2004 No. 11 s 640 sch 4

Refusal or cancellation of certificate on ground of infirmity

s 41A ins 1974 No. 4 s 19
 om 2004 No. 11 s 640 sch 4

Ground for suspension of certificate

s 41B ins 1974 No. 4 s 19
 amd 1985 No. 109 s 35; 1997 No. 13 s 3 sch
 om 2004 No. 11 s 640 sch 4

Appeal

s 42 (prev 1930 21 Geo 5 No. 46 s 30)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(g)
 sub 1974 No. 4 s 20
 amd 1995 No. 58 s 4 sch 1
 om 2004 No. 11 s 640 sch 4

Appeal

s 43 (prev 1930 21 Geo 5 No. 46 s 31)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(g)
 om 1974 No. 4 s 20

Solicitor may not act or recover fees whilst uncertificated

s 44 (prev 1930 21 Geo 5 No. 46 s 32)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(g)
 amd 1985 No. 109 ss 36, 40; 2004 No. 11 s 640 sch 4

The like in relation to conveyancers and others

s 45 (prev 1930 21 Geo 5 No. 46 s 33)
 renum 1952 1 Eliz 2 No. 24 s 9(2)(g)
 amd 1985 No. 109 ss 37, 40; 1993 No. 32 s 3 sch 1; 2004 No. 11 s 640 sch 4

Governor in Council may make rules for purposes of this Act

s 46 (prev 1930 21 Geo 5 No. 46 s 34)

amd 1938 2 Geo 6 No. 6 s 10
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(g)
 amd 1952 1 Eliz 2 No. 24 s 9(2)(g)(ii); 1974 No. 4 s 21; 1985 No. 109 ss 38,
 40; 1993 No. 32 s 3 sch 1; 1995 No. 58 s 4 sch 1
 om 2004 No. 11 s 640 sch 4

Recovery of moneys

s 47 (prev 1930 21 Geo 5 No. 46 s 35)
 reloc 1952 1 Eliz 2 No. 24 s 9(2)(g)
 amd 1952 1 Eliz 2 No. 24 s 9(2)(g)(iii); 1985 No. 109 s 40
 om 2004 No. 11 s 640 sch 4

PART 4A—CLIENT AGREEMENTS

pt hdg ins 1998 No. 20 s 9

Definitions for pt 4A

s 47A ins 2004 No. 11 s 640 sch 4

Usual client agreement

s 48 (orig 1930 21 Geo 5 No. 46 s 38)
 prev s 48 reloc 1 Eliz 2 No. 24 s 9(2)(i)
 amd 1985 No. 109 s 40
 om 1997 No. 13 s 3 sch
 pres s 48 ins 1998 No. 20 s 9
 amd 2004 No. 11 s 640 sch 4

Enforcement of client agreement

s 48A ins 1998 No. 20 s 9

Agreement may be amended

s 48B ins 1998 No. 20 s 9

Provision protecting from liability or responsibility prohibited

s 48C ins 1998 No. 20 s 9

Contingency fees and costs prohibited

s 48D ins 1998 No. 20 s 9

Interest in proceeding prohibited

s 48E ins 1998 No. 20 s 9

Effect of non-compliance or prohibited provision

s 48F ins 1998 No. 20 s 9

Disclosure of client agreement

s 48G ins 1998 No. 20 s 9

PART 4B—PAYMENT FOR WORK

pt hdg ins 1998 No. 20 s 9

Division 1—Interpretation

div hdg ins 1998 No. 20 s 9

Definitions for pt 4B

s 48H ins 1998 No. 20 s 9

def “**firm**” ins 2004 No. 11 s 640 sch 4
def “**practitioner**” ins 2004 No. 11 s 640 sch 4

Division 2—General

div hdg ins 1998 No. 20 s 9

Maximum payment for work

s 48I ins 1998 No. 20 s 9

Division 2A—Speculative personal injury claims

div 2A (ss 48IA–48IC) ins 2003 No. 77 s 109B

Division 3—Legal proceedings

div hdg ins 1998 No. 20 s 9

Prerequisite to legal proceeding to recover payment for work

s 48J ins 1998 No. 20 s 9

Court may appoint costs assessor to assess account

s 48K ins 1998 No. 20 s 9

Court may have regard to assessor’s assessment

s 48L ins 1998 No. 20 s 9

Client may change practitioner

s 48M ins 1998 No. 20 s 9

Division 4—Other provisions about costs assessors

div hdg ins 1998 No. 20 s 9

Application of div 4

s 48N ins 1998 No. 20 s 9

Information for costs assessor

s 48O ins 1998 No. 20 s 9

Written costs assessment

s 48P ins 1998 No. 20 s 9

When costs assessment concluded

s 48Q ins 1998 No. 20 s 9

Protection from liability

s 48R ins 1998 No. 20 s 9

Preservation of confidentiality

s 48S ins 1998 No. 20 s 9

Preservation of privilege

s 48T ins 1998 No. 20 s 9

PART 5—GENERAL

pt hdg ins 1952 1 Eliz 2 No. 24 s 9(2)(i)

Protection for acts and omissions under Act

s 49 ins 1974 No. 4 s 22
amd 1985 No. 109 s 39; 1988 No. 93 s 14

Confidentiality

s 50 ins 1988 No. 93 s 15
amd 1996 No. 79 s 103; 2003 No. 4 s 15; 2004 No. 11 s 640 sch 4

Duty of council to report suspected offences

s 50A ins 1997 No. 13 s 11A
om 2004 No. 11 s 640 sch 4

Approval of forms

s 51 (prev s 52) ins 1993 No. 32 s 3 sch 1
renum 1994 No. 15 s 3 sch 2
sub 1995 No. 58 s 4 sch 1
om 2004 No. 11 s 640 sch 4

Regulation making power

s 52 ins 1995 No. 58 s 4 sch 1

References to the statutory committee and solicitors disciplinary tribunal

s 53 prev s 53 ins 1995 No. 58 s 4 sch 1
exp 28 May 1996 (see s 53(3))
pres s 53 ins 1997 No. 13 s 12

PART 6—TRANSITIONAL

pt hdg ins 1997 No. 13 s 12

Division 1—Transitional provisions for Act No. 13 of 1997

div hdg ins 1999 No. 84 s 9

Reopening of complaints

s 54 ins 1997 No. 13 s 12

Charges before the statutory committee or the solicitors disciplinary tribunal

s 55 ins 1997 No. 13 s 12

Division 2—Transitional provision for Act No. 20 of 1998

div hdg ins 1999 No. 84 s 10

Transitional provision for costs agreements and retainers—Civil Justice Reform Act 1998

s 56 ins 1998 No. 20 s 10

Division 3—Transitional provision for Queensland Law Society Amendment Act 1999

div hdg ins 1999 No. 84 s 11

Transitional provisions for particular practitioner levies

s 57 ins 1999 No. 84 s 11

SCHEDULE—IMPORTANT NOTICE TO CLIENT

ins 1998 No. 20 s 10

8 List of forms notified or published in the gazette

Form 1 Version 1—Practising certificate

pubd gaz 24 May 1996 p 706

Form 8 Version 1—Application for assessment of account under a client agreement

pubd gaz 3 July 1998 p 1184

Form 8 Version 1—Schedule to application for assessment of account under a client agreement

pubd gaz 3 July 1998 p 1185

Form 9 Version 1—Appointment of cost assessor

pubd gaz 3 July 1998 p 1186

Form 10 Version 1—Cost assessor’s written agreement

pubd gaz 3 July 1998 p 1187

9 Transitional and savings provisions

Queensland Law Society Act Amendment Act 1930 21 Geo 5 No. 46 s 38 provides—

38 Validation of proceedings, &c., of statutory committee

Every proceeding, investigation, hearing, direction, decision, order, or other act, matter, or thing had, commenced, continued, given, pronounced, made, or done before or by not less than three members of the statutory committee, and any person acting as a member or the chairman of such committee, whether before or after the passing of this Act shall, notwithstanding that it has been or shall afterwards be discovered that there was some defect in the appointment of such person so acting or purporting to act as a member or the chairman of such committee or absence of any right or authority in such person so to act be and be deemed to have been as valid, effectual, and binding and may be maintained, enforced, and (subject to the due appointment of such person as a member or the chairman of such committee) continued as if the person so acting or purporting to act had been at all material times a duly appointed member or the duly appointed chairman of such committee.