

AUSTRALIAN CAPITAL TERRITORY

Legal Practitioners (Amendment) Ordinance (No. 3) 1986

No. 82 of 1986

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I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 18 December 1986.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

LIONEL BOWEN
Attorney-General

An Ordinance to amend the *Legal Practitioners Ordinance 1970*

Short title

1. This Ordinance may be cited as the *Legal Practitioners (Amendment) Ordinance (No. 3) 1986*.¹

Commencement

2. (1) Subject to sub-section (2), this Ordinance shall come into operation on the date on which it is notified in the *Gazette*.

(2) Section 10 shall come into operation on 1 March 1987.

Principal Ordinance

3. In this Ordinance, "Principal Ordinance" means the *Legal Practitioners Ordinance 1970*.²

Interpretation

4. Section 5 of the Principal Ordinance is amended by omitting the definitions of “Chief Judge” and “Director” and substituting the following definitions:

“ ‘Chief Justice’ has the same meaning as in the *Australian Capital Territory Supreme Court Act 1933*;

‘prescribed person’ means a person referred to in sub-section 29 (1A);”.

Her Majesty’s Counsel

5. Section 6A of the Principal Ordinance is amended by omitting from sub-section (3) “Ten Dollars” and substituting “\$50”.

Barristers and Solicitors Admission Board

6. Section 7 of the Principal Ordinance is amended by omitting “Chief Judge” (wherever occurring) and substituting “Chief Justice”.

Admission as barrister and solicitor

7. (1) Section 10 of the Principal Ordinance is amended—

- (a) by inserting in paragraphs (1) (a) and (ab) “, or is qualified for admission,” after “admitted”;
- (b) by inserting in paragraph (1) (c) “, or is qualified for the award of,” after “awarded”;
- (c) by omitting paragraph (2) (b) and substituting the following paragraph:

“(b) he or she has passed an examination approved by the Judges appointed under the sub-section 7 (1) of the *Australian Capital Territory Supreme Court Act 1933* or any 2 of them in legal ethics and accounts and completed—

- (i) the course of professional training in law in the Legal Workshop within the Faculty of Law in the Faculties within the Australian National University; or
- (ii) a course of a similar nature of not less than 6 months’ duration conducted in a State or another Territory, being a course the completion of which is recognised in that State or Territory as a qualification for admission to practise in that State or Territory.”;

- (d) by omitting from sub-section (3) “sub-paragraph (ii) of paragraph (b) of the last preceding sub-section” and substituting “paragraph (2) (b)”;
and
 - (e) by omitting from sub-section (5) “sub-paragraph (i) or (ii) of paragraph (b) of sub-section (2) of this section” and substituting “paragraph (2) (b)”.
- (2) Notwithstanding the amendments of section 10 effected by sub-section (1)—
- (a) the provisions of sub-paragraph 10 (2) (b) (i) of the Principal Ordinance as in force immediately before the date of commencement of this Ordinance continue in force until 1 March 1987 as if those amendments had not been made; and
 - (b) nothing in sub-section (1) shall be taken as affecting the entitlement to apply for admission to practice as a barrister and solicitor acquired by a person by virtue of having completed articles of clerkship as referred to in that sub-paragraph.

Admission of overseas practitioners

8. Section 11 of the Principal Ordinance is amended—

- (a) by adding at the end of paragraph (2) (a) “and”;
- (b) by omitting from paragraph (2) (b) “character; and” and substituting “character.”; and
- (c) by omitting paragraph (2) (c).

9. Section 12 of the Principal Ordinance is repealed and the following section substituted:

Report by Admission Board on applicant’s qualifications

“12. (1) The Admission Board shall, in respect of each application for admission to practise under section 10, 10A or 11, make a report in writing to the Court stating whether, in the opinion of the Board, the applicant—

- (a) is entitled to apply to be admitted to practice;
- (b) is of good fame and character; and
- (c) is a person whose right to practice in federal courts or in a State or another Territory is not suspended or has not been cancelled.

“(2) Where the Board reports that it is of the opinion that an applicant is not of good fame and character, the Board shall state in the report the grounds for its belief.

“(3) Where the Board reports that it is of the opinion that an applicant is of good fame and character, the Board may include in its report any matter that in the opinion of the Board is relevant to the question of the applicant’s good fame and character.

“(4) The Board shall furnish a copy of its report to the applicant and to the Law Society not less than 3 days before the date on which the application is to be heard.”.

Repeal of Part IV

10. (1) Part IV of the Principal Ordinance is repealed.

(2) Notwithstanding the repeal of Part IV of the Principal Ordinance effected by sub-section (1)—

- (a) Part IV of the Principal Ordinance, as in force immediately before the date of commencement of this section, continues to apply to and in relation to a person who had entered into articles of clerkship before that date; and
- (b) such a person has the same entitlement to admission to practice as a barrister and solicitor as the person would have had if the person had completed articles of clerkship before that date.

Limitations on issue of unrestricted practising certificates

11. Section 15E of the Principal Ordinance is amended by omitting from paragraph (1) (b) “, being a course prescribed for the purposes of sub-paragraph (ii) of paragraph (b) of sub-section (2) of section 10 of this Ordinance or for the purposes of this paragraph,” and substituting “of the kind referred to in sub-paragraph 10 (2) (b) (i) or (ii)”.

12. Section 25 of the Principal Ordinance is repealed and the following section substituted:

Disciplinary Committee

“25. (1) There shall be a body to be known as the Disciplinary Committee of The Law Society of the Australian Capital Territory.

“(2) The Disciplinary Committee shall consist of 7 members, as follows—

- (a) 5 members appointed by the Council of the Law Society; and
- (b) 2 members appointed by the Attorney-General after consultation with the Law Society.

“(3) A person is not eligible for appointment as a member referred to in paragraph (2) (a), or for appointment under paragraph (6) (a), unless not less than 5 years have elapsed since the person was first admitted to practise as a legal practitioner (however described) in a State or Territory and the person—

- (a) holds a current unrestricted practising certificate; or
- (b) is a barrister and solicitor practising as a barrister.

“(4) A person is not eligible for appointment as a member referred to in paragraph (2) (b), or for appointment under paragraph (6) (b), if the person is enrolled as a barrister, as a solicitor, or as a barrister and solicitor, whether in the Territory or elsewhere.

“(5) A member of the Disciplinary Committee holds office for such period, not exceeding 3 years, as is specified in the instrument of appointment and is eligible for re-appointment.

“(6) In the event of a member of the Disciplinary Committee ceasing to hold office before the member’s term of office has expired—

- (a) in the case of a member referred to in paragraph (2) (a)—the Law Society; and
- (b) in the case of a member referred to in paragraph (2) (b)—the Attorney-General, after consultation with the Law Society,

may appoint a person to hold the vacant office for the balance of that term.

“(7) The members of the Disciplinary Committee shall elect one of their number to be Chairman of the Committee.

“(8) A member of the Disciplinary Committee may resign by writing signed by the member and delivered to—

- (a) in the case of a member referred to in paragraph (2) (a)—the Law Society; and
- (b) in the case of a member referred to in paragraph (2) (b)—the Attorney-General.”.

13. Section 27 of the Principal Ordinance is repealed and the following section substituted:

Removal of member of Disciplinary Committee

“27. (1) The Court may, on the application of the Law Society, remove a member of the Disciplinary Committee from office for misbehaviour or physical or mental incapacity.

“(2) If a member of the Disciplinary Committee—

- (a) becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (b) in the case of a member referred to in paragraph 25 (2) (a)—ceases to be a person referred to in paragraph (3) (a) or (b);
- (c) in the case of a member referred to in paragraph 25 (2) (b)—becomes enrolled as a barrister, as a solicitor, or as a barrister and solicitor, whether in the Territory or elsewhere;
- (d) is convicted for an offence punishable by imprisonment for 1 year or longer; or
- (e) is absent, except on leave granted by the Disciplinary Committee, from 3 consecutive meetings of the Committee,

the Court may remove the member from office.”.

Meetings of Disciplinary Committee

14. Section 28 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1) “three” and substituting “4”;
- (b) by inserting after sub-section (1) the following sub-section:

“(1A) Of the members referred to in sub-section (1)—

- (a) at least one shall be a member referred to in paragraph 25 (2) (b); and
 - (b) a majority shall be members referred to in paragraph 25 (2) (a);”;
- (c) by adding at the end the following sub-section:

“(4) At a meeting of the Disciplinary Committee, the Chairman or person elected under sub-section (3) has a deliberative vote and, in the event of an equality of voting, also has a casting vote.”.

Complaints concerning conduct of certain legal practitioners, &c.

15. Section 29 of the Principal Ordinance is amended—

(a) by inserting after sub-section (1) the following sub-section:

“(1A) Where the Council of the Law Society is of the opinion that a person who is or was employed by a barrister and solicitor, but is not himself or herself a barrister and solicitor, has, with or without the connivance of the barrister and solicitor, been a party to, or has caused, an act or default in relation to the barrister and solicitor’s practice, being an act or default in respect of which a complaint under this section has been or could be made against the barrister and solicitor, the Council of the Law Society may make a complaint in writing to the Disciplinary Committee with respect to the person.”; and

(b) by adding at the end of paragraph (2) (b) “or, in the case of a complaint made under sub-section (1A), by the person concerned”.

Inquiry by Disciplinary Committee

16. Section 30 of the Principal Ordinance is amended—

(a) by inserting in sub-section (2) “, or other person,” after “barrister and solicitor” (first occurring); and

(b) by omitting sub-section (3) and substituting the following sub-sections:

“(3) Subject to sub-section (3A), an inquiry under this Division shall be open to the public.

“(3A) The Committee may order the exclusion of the public, of members of the public other than a person or persons specified by the Committee, or of persons specified by the Committee, from the inquiry where the Committee is satisfied that the presence of the public or of those persons, as the case may be, would be contrary to the interests of justice.

“(3B) A person who refuses or fails to comply with an order under sub-section (3A) is guilty of an offence punishable, on conviction, by a fine not exceeding \$500.”.

Disciplinary Committee to fix date and notify persons concerned

17. Section 31 of the Principal Ordinance is amended by omitting paragraphs (a) and (b) and substituting the following paragraphs:

- “(a) the barrister and solicitor, or other person, to whose behaviour the inquiry will relate;
- (b) where the inquiry is being held as the result of a written complaint to the Law Society by a person—that person; and
- (c) the Law Society.”.

Disciplinary Committee may summon witnesses, &c.

18. Section 32 of the Principal Ordinance is amended—

- (a) by omitting the penalty set out at the foot of sub-section (2) and substituting the following penalty:
“Penalty: \$500.”; and
- (b) by inserting in sub-section (3) “, or other person,” after “barrister and solicitor”.

Record of proceedings at inquiry

19. Section 34 of the Principal Ordinance is amended by inserting in paragraph (10) (a) “, or other person,” after “barrister and solicitor”.

Refusal to be sworn or give evidence

20. Section 35 of the Principal Ordinance is amended by omitting the penalty set out at the foot of sub-section (1) and substituting the following penalty:

“Penalty: \$500.”.

Powers of Disciplinary Committee—barristers and solicitors

21. Section 36 of the Principal Ordinance is amended—

- (a) by inserting in sub-section (1) “with respect to the professional behaviour of a barrister and solicitor” after “Division”;
- (b) by omitting from paragraph (1) (b) “Five hundred dollars” and substituting “\$2,000”;
- (c) by inserting after sub-section (1) the following sub-sections:

“(1A) Where, after an inquiry held as the result of a complaint made under sub-section 29 (1A) in respect of a person, the Disciplinary Committee finds that the actions of the person have been such as to justify it so doing, the Disciplinary Committee may make an order that, on and from a date specified in the order, no barrister and solicitor shall, in connection with his or her practice as a barrister and solicitor, employ or otherwise remunerate the person with respect to whom the inquiry was held, except in accordance with a permission granted under section 129.

“(1B) The Disciplinary Committee may, on the application of the Law Society or the person with respect to whom an order under sub-section (1A) is in force, revoke the order and may make such order as to the costs of the application as it thinks just.”;

- (d) by omitting from sub-section (2) “it shall order the barrister and solicitor” and substituting “or (1A), it shall order the barrister and solicitor or prescribed person, as the case requires,”;
- (e) by inserting in sub-section (2A) “or (1A)” after “sub-section (1)”;
- (f) by inserting in sub-section (2A) “or prescribed person, as the case requires,” after “solicitor”;
- (g) by omitting from sub-section (3) “The amount of the costs” and substituting “The amount of costs referred to in sub-section (1B), (2) or (2A)”;
- (h) by inserting in sub-sections (5) and (5A) “or prescribed person, as the case requires” after “solicitor” (wherever occurring).

Protection of members of Disciplinary Committee and witnesses appearing before it

22. Section 38 of the Principal Ordinance is amended by omitting sub-sections (1) and (2) and substituting the following sub-section:

“(1) A member of the Disciplinary Committee has, in the performance of the duties of a member, the same protection and immunity as a Judge of the Supreme Court.”.

23. Section 40A of the Principal Ordinance is repealed and the following section substituted:

Publication of proceedings, &c., of Disciplinary Committee

“40A. (1) Where an inquiry is being or has been held under this Division, a person who, otherwise than as provided by sub-section (2), publishes, in relation to the inquiry—

- (a) in the case of an inquiry held as a result of a complaint made under sub-section 29 (1)—
 - (i) the name of the barrister and solicitor to whose behaviour the inquiry relates; or
 - (ii) the address at which the barrister and solicitor is practising;
- (b) in the case of an inquiry held as a result of a complaint made under sub-section 29 (1A)—
 - (i) the name of the person to whose behaviour the inquiry relates; or
 - (ii) the name of the barrister and solicitor by whom the person was employed and the address at which the person was so employed;
- (c) any particulars likely to lead to the identification of the barrister and solicitor, the person or the barrister and solicitor by whom the person was employed, as the case requires;
- (d) any evidence given at the inquiry;
- (e) the name of a person who appeared as a witness at the inquiry; or
- (f) the name of a person who was summoned to give evidence at the inquiry but did not give evidence,

is guilty of an offence punishable, on conviction, by—

- (g) in the case of a body corporate—a fine not exceeding \$10,000; or
- (h) in the case of a natural person—imprisonment for a period not exceeding 12 months or a fine not exceeding \$2,000, or both.

“(2) Where—

- (a) the Disciplinary Committee has made an order under sub-section 36 (1), (1A) or (1B);
- (b) the period of 21 days after the date on which the order was made has expired; and

- (c) either—
 - (i) no appeal has been instituted under section 42 in relation to the order; or
 - (ii) an appeal under section 42 having been instituted, the appeal has been withdrawn or struck out or has been determined otherwise than by a decision of the Supreme Court after a hearing,

then—

- (d) a person may publish a report of the prescribed matters in relation to the order; and
- (e) a person who publishes a fair and accurate report of the prescribed matters in relation to the order has the same protection, in relation to the publication of that report, as the person would have if the Disciplinary Committee were a court of justice.

“(3) For the purposes of sub-section (2), the prescribed matters in relation to an order made by the Disciplinary Committee under sub-section 36 (1), (1A) or (1B) are—

- (a) in the case of an order under sub-section 36 (1)—the name of the barrister and solicitor against whom the order was made and the address at which, when the order was made, the barrister and solicitor was practising;
- (b) in the case of an order under sub-section 36 (1A) or (1B)—the name of the prescribed person in respect of whom the order was made, the name of the barrister and solicitor by whom the person was employed and the address at which the person was so employed;
- (c) the findings of the Disciplinary Committee;
- (d) where the Disciplinary Committee so orders—the evidence, or part of the evidence, given at the inquiry and the name of a witness at the inquiry; and
- (e) the terms of the order.”.

Powers of Court to discipline

24. Section 41 of the Principal Ordinance is amended by omitting from paragraph (1) (b) “One thousand dollars” and substituting “\$10,000”.

Appeal against decision of Disciplinary Committee

25. (1) Section 42 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1) “sub-section (1) of section 36 of this Ordinance, the barrister and solicitor against whom” and substituting “sub-section 36 (1), (1A) or (1B), the barrister and solicitor against whom, or prescribed person in respect of whom,”;
- (b) by inserting after sub-section (1) the following sub-section:

“(1A) Where the Disciplinary Committee refuses to make an order under sub-section 36 (1A), the Law Society may, within 21 days after the date on which the Committee made its decision, appeal to the Court from the decision of the Committee.”;

and

- (c) by omitting from sub-section (3) “under this section” and substituting “of the kind referred to in sub-section (1)”.

26. Section 42A of the Principal Ordinance is repealed and the following section substituted:

Evidence before Disciplinary Committee may be read before Court

“42A. In any proceedings before the Court concerning the conduct of a barrister and solicitor or prescribed person, evidence given before the Disciplinary Committee concerning the conduct the subject of the proceedings may, with the consent of the barrister and solicitor or the prescribed person, as the case requires, be read as evidence.”.

Failure to comply with, or contravention of, certain laws, &c.

27. Section 42E of the Principal Ordinance is amended by inserting “an order made under sub-section 36 (1A) or” before “a provision”.

28. After section 45 of the Principal Ordinance the following section is inserted in Division 1 of Part VII:

Application of division

“45A. Where—

- (a) a solicitor does not have a place in the Territory from which the solicitor conducts his or her practice; and
- (b) all trust moneys received by the solicitor in the Territory are paid into a trust bank account maintained by the solicitor in accordance with the

laws in force in the State or Territory in which the solicitor has a place from which the solicitor conducts his or her practice, nothing in Division 3, 4 or 5 (other than sub-section 56 (1) and (1A)) applies to or in relation to the solicitor.”.

Law Society to be informed of location and title of trust account

29. Section 52 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (2) “and address of the bank” and substituting “of the bank and address of the branch”; and
- (b) by omitting sub-section (3) and substituting the following sub-section:

“(3) If a change is made in the title under which, or address at which, a trust bank account referred to in sub-section (2) is kept, the solicitor by whom the account is maintained shall, within 7 days after the change, inform the Law Society in writing of the new title or address, as the case requires.”.

Audit of trust accounts

30. Section 58 of the Principal Ordinance is amended—

- (a) by inserting in sub-section (1) “in writing” after “Law Society”; and
- (b) by inserting in sub-section (1B) “in writing” after “Law Society”.

Auditor to report

31. Section 61 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1) “the preceding Divisions of this Part have” and substituting “this Part has”; and
- (b) by inserting after paragraph (2) (a) the following paragraph:

“(ab) the notional amount, within the meaning of sub-section 70 (2), standing to the credit of the general trust bank account of the solicitor in the year to which the report relates;”.

Appointment of examiner

32. Section 66 of the Principal Ordinance is amended—

- (a) by omitting “and any amount so recovered shall be paid into the Fidelity Fund” from sub-section (5); and
- (b) by adding at the end the following sub-sections:

“(6) Where an examination of records under this section discloses that, in relation to trust moneys, a solicitor has failed to comply with the provisions of Part VII, the Law Society may recover the costs of the examination from that solicitor as a debt due to the Society.

“(7) An amount recovered by the Law Society under sub-section (5) or (6) shall be paid into the Fidelity Fund.”.

Interpretation

33. Section 70 of the Principal Ordinance is amended by omitting sub-section (7) and substituting the following sub-section:

“(7) For the purposes of this Division, the amount standing to the credit of a general trust bank account on a day shall be the amount shown by the bank statement in relation to the account as standing to the credit of the account on that day.”.

Repayment of deposits

34. Section 72 of the Principal Ordinance is amended by omitting from paragraph (3) (b) “one-half” and substituting “two-thirds”.

Investment of deposits and Statutory Interest Account

35. Section 74A of the Principal Ordinance is amended by omitting paragraph (4) (cb) and substituting the following paragraphs:

- “(caa) to pay the amount of any costs and disbursements incurred by the Law Society or to reimburse the Law Society for any such amount paid by it, in relation to the making of an objection by the Law Society to an application made under section 10, 10A or 11, including any amount of legal costs incurred or paid by the Law Society in relation to the making of a decision whether such an objection should be made;
- (cb) to assist in the conduct and maintenance of a course of legal education of the kind referred to in sub-paragraph 10 (2) (b) (i); and”.

36. (1) After section 108 of the Principal Ordinance the following section is inserted in Part IX:

Reimbursement of Law Society

“108A. (1) Where the Law Society is a party to proceedings under this Part, the costs and disbursements of the Society in respect of the proceedings are payable out of the Fidelity Fund.

“(2) Where the costs and disbursements are in respect of an application under section 93 and a receiver is appointed on that application, the costs and disbursements are recoverable as a debt due to the Law Society from the solicitor, or from the solicitors, in respect of whose trust property the receiver was appointed.

“(3) Where an amount is recoverable under sub-section (2) from 2 or more persons, the liability of those persons is joint and several.

“(4) An amount recovered under sub-section (2) shall be paid into the Fidelity Fund.”.

(2) Sub-section 108A (1) of the Principal Ordinance as amended by this Ordinance applies in relation to costs and disbursements—

- (a) incurred, but not paid, before 1 November 1986; or
- (b) incurred on or after that date.

(3) Sub-section 108A (2) of the Principal Ordinance as amended by this Ordinance applies in relation to costs and disbursements incurred in respect of proceedings instituted after the date of commencement of this section.

37. Section 109 of the Principal Ordinance is repealed and the following section substituted:

Interpretation

“109. In this Part—

‘client’, in relation to costs or disbursements payable to a solicitor, means the person from whom the solicitor is entitled to claim the costs and disbursements;

‘solicitor’ has the same meaning as in Part VII.”.

38. After section 110 of the Principal Ordinance the following section is inserted:

Certain persons may request statement

“110A. (1) A person who is liable to pay or, being so liable, has paid, a solicitor’s costs or disbursements, other than the client of the solicitor, may

request in writing the solicitor to give to the person an itemised statement of the costs and disbursements.

“(2) The person making the request shall cause a copy of the request to be given to the client.

“(3) Where—

- (a) a solicitor receives a request pursuant to sub-section (1) from a person who has paid the costs and disbursements to which the request relates; and
- (b) the solicitor does not, within 3 months of the date of receiving the request, give to the person an itemised statement of the costs and disbursements,

the solicitor is liable to repay the amount of the costs and disbursements to the person.

“(4) Where a solicitor receives a request pursuant to sub-section (1) and the client is given a copy of that request pursuant to sub-section (2)—

- (a) any proceedings instituted in respect of those costs and disbursements are stayed; and
- (b) proceedings may not be instituted for the recovery of those costs and disbursements,

until the expiration of one month after the solicitor gives an itemised statement of those costs and disbursements to the person who made the request.

“(5) Where a solicitor gives an itemised statement to a person in accordance with a request made under sub-section (1), the solicitor shall inform the client that the solicitor has given the statement to the person.”.

Application for taxation of costs, etc.

39. Section 111 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1) “Registrar and” and substituting “Registrar,”; and
- (b) by inserting in that sub-section “and to the solicitor’s client” after “delivered”.

Stay of proceedings

40. Section 118 of the Principal Ordinance is amended by omitting “by the solicitor in relation to costs or disbursements claimed in the statement” and

substituting “in relation to the costs and disbursements to which the statement relates”.

41. After section 119 of the Principal Ordinance the following section is inserted:

Costs payable by mortgagor or lessee

“119A. Where a person who proposes to take a mortgage, or grant a lease, over property (in this sub-section called the mortgagee or the lessor, as the case requires) gives or causes to be given, to the proposed mortgagor or lessee, before the mortgagor or lessee enters into the mortgage or lease, as the case requires, in respect of the property, a notice in writing—

- (a) informing the mortgagor or lessee, as the case requires, that he or she is liable to pay the costs and disbursements of the mortgagee or lessor, as the case requires, in relation to the taking of the mortgage or the granting of the lease; and
- (b) containing a statement of those costs and disbursements,

then—

- (c) the preceding provisions of this Part do not apply in relation to those costs and disbursements; and
- (d) the mortgagor or lessee, as the case requires, is not liable to pay, in respect of the costs of the mortgagee or lessor, as the case requires, an amount greater than the amount shown in that statement in respect of those costs.”.

Agreement as to costs

42. Section 120 of the Principal Ordinance is amended by inserting in sub-section (1) “, other than sections 110A and 119A,” after “Part”.

Persons other than barristers and solicitors not to hold themselves out to be qualified

43. Section 122 of the Principal Ordinance is amended by omitting the penalty set out at the foot of the section and substituting the following penalty:

“Penalty: \$2,000.”.

Preparation of certain documents by persons who are not legal practitioners

44. Section 123 of the Principal Ordinance is amended by omitting the penalty set out at the foot of sub-section (1) and substituting the following penalty:

“Penalty: \$2,000.”.

Preparation of papers relating to an application for probate

45. Section 124 of the Principal Ordinance is amended by omitting the penalty at the foot of sub-section (1) and substituting the following penalty:

“Penalty: \$2,000.”.

Offences by corporations

46. Section 125 of the Principal Ordinance is amended by omitting from sub-section (1) “Five hundred dollars” and substituting “\$2,000”.

47. After section 128 of the Principal Ordinance the following sections are inserted:

Council may grant permission for employment of certain persons

“129. (1) The Council of the Law Society may, by instrument in writing, grant permission, for such a period and subject to such conditions as the Council thinks fit, for the employment by a barrister and solicitor of—

- (a) a person with respect to whom an order under sub-section 36 (1A) is in force; or
- (b) a person of the kind referred to in section 128.

“(2) A person—

- (a) with respect to whom an order under sub-section 36 (1A) is in force; or
- (b) of the kind referred to in section 128,

may, within 21 days of the Council’s granting or refusing to grant permission in respect of the person under sub-section (1), or within such further time as the Court, on an application made before or after the expiration of that period, allows, appeal to the Court from a decision of the Council—

- (c) refusing to grant permission under sub-section (1) in respect of the person; or

- (d) granting permission subject to conditions.

“(3) The Law Society shall be the respondent to an appeal under this section.

Protection of Law Society, &c.

“129A. (1) Civil proceedings do not lie against—

- (a) the Law Society;
- (b) a member or employee of the Law Society; or
- (c) a person appointed by the Law Society under section 66,

for or in respect of an act or thing done in good faith by the Society, member, employee or person, as the case may be—

- (d) in the course of the making or investigation of a complaint in respect of the professional behaviour of a barrister and solicitor or the conduct of a prescribed person; or
- (e) otherwise in the exercise of its or his or her powers, or the performance of its or his or her duties or functions, under this Ordinance or any other law of the Territory.

“(2) Civil proceedings do not lie against a person in respect of loss, damage or injury of any kind suffered by a barrister and solicitor, or a partner or employee of a barrister and solicitor, by reason of any matter arising out of the making or investigation of a complaint made in respect of the professional behaviour of the barrister and solicitor or the conduct of a prescribed person.”.

Unclaimed moneys

48. Section 130 of the Principal Ordinance is amended by omitting from sub-section (3) “the last preceding sub-section” and substituting “sub-section (1)”.

Application

49. Notwithstanding the amendments of the Principal Ordinance effected by sections 13 to 21 (inclusive), Part V of the Principal Ordinance as in force immediately before the date of commencement of this Ordinance continues to apply to and in relation to inquiries by the Disciplinary Committee into complaints made under section 29 before that date.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 22 December 1986.
2. No. 43, 1970 as amended to date. For previous amendments *see* Note 2 to No. 7, 1986 and *see also* Nos. 7 and 79, 1986.