

LEGAL PRACTITIONERS (TRUST ACCOUNTS) ORDINANCE 1930.*

959

An Ordinance relating to Keeping of Trust Accounts by Legal Practitioners.

1. This Ordinance may be cited as the *Legal Practitioners (Trust Accounts) Ordinance 1930*.* Short title.

2. This Ordinance shall commence on a date to be fixed by the Government Resident by notice in the *Gazette*.† Commencement.

3. In this Ordinance, unless the contrary intention appears— Definitions.

“Practitioner” means any person entitled to practise as a Barrister or Solicitor, or both, in the Territory of North Australia;

“the Trustee Act” means the *Trustee Act*, 1893, of the State of South Australia in its application to North Australia.

4.—(1.) All moneys received for or on behalf of any person by any practitioner shall be held by him exclusively for that person, to be paid to that person or as he directs, and until so paid the moneys shall be paid into a general or separate trust account in a bank carrying on business in North Australia and proclaimed under section four of the Trustee Act as a bank in which deposits may be made by trustees. Duty of practitioners with respect to trust moneys.

(2.) Moneys received for or on behalf of any person by any practitioner shall not be available for payment of the debts of any creditor of the practitioner other than the person for or on behalf of whom the moneys are received, nor shall those moneys be liable to be attached or taken in execution under the order or process of any Court at the instance of any creditor referred to in this sub-section.

(3.) Any practitioner who knowingly acts contrary to the provisions of this section shall be guilty of an offence.

Penalty: One hundred pounds.

(4.) Nothing in this section shall take away or affect any just claim or lien which any practitioner may have against any moneys received by him for or on behalf of any person.

* No. 16, 1930; notified in *Commonwealth Gazette* on 6th November, 1930.

† The date fixed was 1st January, 1931.

Power to mak
Rules of Court
relating to
audit of trust
accounts.

5.—(1.) The Judge of the Northern Territory may make Rules of Court—

- (a) providing for an annual audit of the trust accounts of practitioners and for a report of the result of the audit;
- (b) defining a class or classes of accountants or other persons authorized to make audits of the trust accounts of practitioners;
- (c) requiring the production to the auditor of books, papers and accounts, subject to such conditions as are prescribed;
- (d) specifying the persons to whom the reports of auditors shall be sent for inspection, information or record;
- (e) providing that the auditor shall be subject to an obligation not to divulge otherwise than as provided in the Rules any matter of which he is informed in the course of the audit, and providing that the auditor shall be subject to the like liability in damages to a client of the practitioner for divulging any matter of which the auditor is informed in the course of the audit as the practitioner would be subject to if the practitioner divulged that matter;
- (f) fixing a scale of fees to be paid to auditors;
- (g) providing that, in the absence of any agreement in writing to the contrary between the practitioner and his client, the auditor's fees shall be paid by the practitioner;
- (h) generally by all such means as are provided in the rules to ensure that the trust accounts of practitioners shall be duly kept and audited, and that persons beneficially entitled to moneys and securities held by the practitioners upon trust shall be informed thereof and of the investment thereof; and
- (i) fixing penalties not exceeding One hundred pounds for any breach of any of the provisions or requirements of any Rule of Court made under this section.

(2.) Rules made in pursuance of this section shall—

- (a) be published in the *Gazette*; and
- (b) take effect from the date of publication, or from a later date specified therein.

(3.) Rules made under this section shall be subject at any time to disallowance by the Minister, and any rules so disallowed shall cease to have effect from the date of publication of the disallowance in the *Gazette*.

6. If any practitioner fails to comply with any provision of this Ordinance or of any Rule of Court made thereunder, the failure shall, if the Supreme Court of North Australia thinks fit, be a ground for the exercise in respect of that practitioner of the summary jurisdiction of that Court over practitioners.

Summary jurisdiction of Supreme Court in respect of breaches of Ordinance or the rules thereunder.

