



ANNO DECIMO SEPTIMO

GEORGI V REGIS.

A.D. 1926.

No. 1756.

An Act to provide for the keeping by Practitioners of the Supreme Court of Trust Banking Accounts, and for the Audit of such Accounts.

[Assented to, December 9th, 1926.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. This Act may be cited as the "Legal Practitioners (Trust Accounts) Act, 1926," and shall come into operation on a day to be fixed by proclamation. Short title.

2. In this Act the term "Practitioner" means any person admitted and enrolled in the Supreme Court as a Barrister, Attorney, Solicitor, or Proctor. Interpretation.

3. (1) All moneys received for or on behalf of any person by any practitioner shall be held by him exclusively for such person, to be paid to such person or as he directs, and until so paid such moneys shall be paid into a general or separate trust account in a bank carrying on business in the State of South Australia, and proclaimed under section 4 of the Trustee Act, 1893, as a bank in which deposits may be made by trustees. Duty of practitioners with respect to trust moneys. Cf. N.Z., 1908, No. 100, s. 47.

(2) Such moneys shall not be available for payment of the debts of any other creditor of such practitioner, nor shall such moneys be liable to be attached or taken in execution under the order or process of any Court at the instance of any such creditor.

(3) Any practitioner who knowingly acts contrary to the provisions of this section shall be guilty of an offence and shall be liable to a fine not exceeding One Hundred Pounds. (4) Nothing

Legal Practitioners (Trust Accounts) Act.—1926.

(4) Nothing in this section shall be construed to take away or affect any just claim or lien which any practitioner may have against any moneys so received by him.

(5) All proceedings in respect of offences against this section shall be disposed of summarily.

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

Cf. N.Z., 1913, No. 72, s. 14.

4. (1) Any three Judges of the Supreme Court may from time to time make Rules of Court for any of the following purposes, namely:—

- (a) Providing for an annual audit of the trust accounts of every practitioner and for a report of the result of such audit;
- (b) Defining a class or classes of accountants authorised to make such audits;
- (c) Requiring the production to the auditor of books, papers, and accounts, subject to such conditions as are prescribed;
- (d) Prescribing 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 prescribed any matter of which he shall be informed in the course of the audit, and shall also be subject to the like liability in damages to a client of the practitioner as the practitioner would be if the practitioner divulged such matter;
- (f) Prescribing a scale of fees to be paid to such auditors;
- (g) Prescribing that, in the absence of any agreement in writing with the client to the contrary, the auditor's fees shall be paid by the practitioner; and
- (h) Generally by all such means as may be prescribed to ensure that such trust accounts 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.

(2) Any such rule may prescribe a penalty not exceeding One Hundred Pounds for the breach of any of the provisions and requirements of the same or any other rule.

Summary jurisdiction of Supreme Court in respect of breaches of this Act or the rules.

5. If any practitioner fails to comply with any provision of this Act or of any rule made under this Act, such failure shall, if the Supreme Court think fit, be ground for the exercise in respect of that practitioner of the summary jurisdiction of the said Court over practitioners.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

TOM BRIDGES, Governor.