



ANNO TRICESIMO SEXTO

ELIZABETHAE II REGINAE

A.D. 1987

No. 84 of 1987

An Act to amend the Legal Practitioners Act, 1981.

[Assented to 27 November 1987]

The Parliament of South Australia enacts as follows:

- Short title.** 1. (1) This Act may be cited as the "Legal Practitioners Act Amendment Act, 1987".
- (2) The Legal Practitioners Act, 1981, is in this Act referred to as "the principal Act".
- Commencement.** 2. (1) This Act will come into operation on a day to be fixed by proclamation.
- (2) The Governor may, in a proclamation fixing a day on which this Act is to come into operation suspend the operation of specified provisions until a subsequent day fixed in the proclamation or a day to be fixed by subsequent proclamation.
- Repeal of s. 52 and substitution of new section.** 3. Section 52 of the principal Act is repealed and the following section is substituted:
- Professional indemnity insurance scheme.**
52. (1) The Society may, with the approval of the Attorney-General, establish a scheme providing professional indemnity insurance, to an extent provided by the scheme, for the benefit of legal practitioners.
- (2) The scheme—
- (a) will operate for the benefit of a class, or classes, of legal practitioners defined in the scheme;
- (b) will provide for insurance indemnity partially under a master policy negotiated between the Society and insurers participating in the scheme and partially from a professional indemnity fund to be established, administered and applied in accordance with the scheme;
- (c) may provide for the determination and settlement of claims against legal practitioners covered by the scheme;

- (d) may impose on legal practitioners obligations to pay premiums, levies, fees or other charges (which may vary according to factors stipulated in the scheme);
- (e) may impose, or provide for the imposition of, civil or criminal sanctions or penalties against legal practitioners who fail to comply with their obligations under the scheme;
- (f) may confer discretionary powers on the Society in relation to the administration or enforcement of the scheme;
- (g) may make any other provision reasonably necessary for, or incidental to, the administration or enforcement of the scheme.

(3) The scheme (and any amendment to it that may subsequently be made by the Society with the approval of the Attorney-General) will be promulgated in the form of regulations.

(4) As from the date of promulgation of the scheme or the amendment (or some later date stipulated in the scheme or the amendment) it has the force of law and is binding on—

- (a) the Society;
- (b) the legal practitioners covered by the scheme;
- (c) the insurers and other persons to whom the scheme applies.

(5) In this section—

“legal practitioner” includes—

- (a) a member of a faculty of law in a university;
- (b) a person who has ceased to be a legal practitioner but who was a legal practitioner when a liability covered by the scheme arose:

“professional indemnity insurance” means insurance against—

- (a) civil liability arising in connection with legal practice (whether the liability arises from an act or omission on the part of the insured legal practitioner or some other person);
- (b) civil liability incurred by a legal practitioner in connection with the administration of a trust of which the legal practitioner is a trustee.

4. Section 53 of the principal Act is amended—

- (a) by striking out from subsection (1) “the first day of January and the first day of July” and substituting “31 May and 30 November”;

and

- (b) by striking out subsection (9) and substituting the following subsection:

(9) A legal practitioner who fails to make the deposit required by this section by the required date is personally liable to pay the Society interest on the outstanding amount

Amendment of
s. 53—
Duty to deposit
trust money with
the Society.

at the prescribed rate for the period of the default (but if the appropriate deposit is made within seven days after the relevant date, no liability arises under this subsection).

5. Section 56 of the principal Act is amended by striking out from subsection (6) "five thousand dollars" and substituting "\$7 500".

Amendment of
s. 56—
The Statutory
Interest Account.

6. Section 86 of the principal Act is amended—

Amendment of
s. 86—
Appeal.

(a) by striking out subsections (1) and (2) and substituting the following subsections:

(1) Subject to subsection (2), a right of appeal to the Supreme Court lies against a decision of the Tribunal made in the exercise or purported exercise of powers or functions under this Act.

(2) An appeal must be instituted within one month of the date on which the appellant is notified of the decision unless the Supreme Court is satisfied that there is good reason to dispense with the requirement that the appeal should be so instituted.;

and

(b) by striking out paragraph (a) of subsection (3) and substituting the following paragraph:

(a) affirm, vary, quash or reverse the decision subject to the appeal and administer any reprimand, or make any order, that should have been administered or made in the first instance.;

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

D. B. DUNSTAN, Governor