

Legal Profession Practice (Amendment) Bill 1983

NOTES ON CLAUSES

Clause 1, 2 and 3 contain the usual provisions relating to the short title, reference to the Principal Act and the commencement date of the Act.

Clause 4 inserts a definition of “Chief Justice” in S. 2A of the Principal Act.

Clause 5 removes references to “attorney” and “proctor” as these expressions are obsolete.

Clause 6 repeals Section 4 of the Principal Act as this section relates only to persons admitted to practise prior to 1891.

Clause 7 clarifies Section 5 of the Principal Act.

Clause 8 repeals references to persons admitted solely as barristers or solely as solicitors, which has not occurred since 1891.

Clause 9 repeals the interpretation of “Chief Justice” in Sections 14A and 15 (1) of the Principal Act as this definition has been inserted into Section 2A of the Principal Act so as to apply to all Parts of the Principal Act and not solely to Parts IIA and III of the Principal Act.

Clause 10 gives protection against action to the Lay Observer in respect of anything done in relation to complaints against barristers, pursuant to his functions under the Principal Act.

Clause 11 corrects an error in Section 15 of the Principal Act; and repeals the expression “or a barrister or an attorney solicitor or proctor” as this expression is obsolete.

Clause 12 Sub-clause 1 increases from 3 to 15 the number of lay representatives appointed by the Attorney-General from which selection can be made to a Solicitors’ Disciplinary Tribunal.

Sub-clause 2 provides that one lay person must be represented on a summary Tribunal.

Sub-clause 3 increases the lay representation on a full Tribunal.

Sub-clause 4 permits the President of the Law Institute to appoint as Chairman one of the persons assigned to constitute a summary or a full hearing of a Tribunal before the Tribunal meets.

Clause 13 inserts a requirement into sections 28 (2) (a) and 28 (2) (c) of the Principal Act that an explanation given be a “full and accurate explanation”.

Clause 14 provides protection against action to a member of the Law Institute Council in respect of anything done pursuant to the approval in writing given to the Secretary of the Institute to refer a matter to a full Tribunal.

Clause 15 repeals the reference in section 28 (5) of the Principal Act to paragraph “(fb)” of section 84 (1) as no such paragraph appears in Section 84 (1) of the Principal Act.

Clause 16 provides for consistency of procedure in preliminary, summary and full Tribunals.

Clause 17 provides protection to the Lay Observer in respect of anything done in relation to complaints against solicitors pursuant to his functions under the Principal Act.

Clauses 18 and 19 make consequential amendments which were overlooked when the Principal Act was amended in 1980.

Clause 20 repeals the reference in Section 58 (1) of the Principal Act to sub-sections (2A), (2B) and (8) of Section 64 of the Principal Act as these sub-sections were repealed in 1975.

Clause 21 clarifies Section 65 (1) of the Principal Act.

Clause 22 increases the penalties for hindering the inspection of a solicitor's books of accounts.

Clause 23 inserts a definition of "document" into Section 104A of the Principal Act so as to allow a receiver access to information electronically stored.

Clause 24 provides for the appointment of a receiver where a solicitor's trust accounts records are in such a state that clients are unable to obtain payment when money is due to them.

Clause 25 repeals Section 104 GA (9) of the Principal Act, the effect of which is now exhausted.