

VICTORIA.



ANNO QUINQUAGESIMO QUINTO

VICTORIÆ REGINÆ.

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No. 1216.

An Act to regulate the Practice of the Legal Profession.

[23rd November, 1891.]

**B**E it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows:—

1. This Act may be called and may be cited as the *Legal Profession Practice Act 1891*, and shall come into operation on the first day of January One thousand eight hundred and ninety-two. Short title. Commencement.

2. In the construction of this Act barrister shall mean a barrister of the Supreme Court and solicitor shall mean an attorney solicitor and proctor of the said court. Construction.

3. Every person who has heretofore been admitted as a barrister shall by virtue of this Act be and is hereby admitted as a solicitor as from the date of the passing of this Act, and in addition to his right to practise as a barrister shall be entitled to practise as a solicitor and to all the rights powers and privileges of a solicitor. Barristers entitled to practise as solicitors.

4. Every

**Solicitors entitled to practise as barristers.**

4. Every person who has heretofore been admitted as a solicitor shall by virtue of this Act be and is hereby admitted as a barrister as from the date of the passing of this Act, and in addition to his right to practise as a solicitor shall be entitled to practise as a barrister and to all the rights powers and privileges of a barrister.

**Barristers may sue for work done; and to be liable for negligence.**

5. Every barrister shall in future be entitled to maintain an action for and recover from the solicitor or client respectively by whom he has been employed his fees costs and charges for any professional work done by him. And every barrister shall in future be liable for negligence as a barrister to the client on whose behalf he has been employed to the same extent as a solicitor is now liable to his client for negligence as a solicitor.

**Restriction as to costs.**

6. No barrister or solicitor shall be entitled to any costs whether as between party and party or between solicitor and client for instructions to or attendances upon counsel he or his partner or partners being such counsel or for attendances at court on trial or in chambers as solicitor where he or his partner or partners shall be also acting and receiving a fee as counsel for the like attendance and for the same client.

**No barrister or solicitor to be deemed an officer of the Supreme Court.**

7. After the passing of this Act no barrister attorney solicitor or proctor shall be in any manner whatsoever an officer of the Supreme Court. Provided always that nothing herein contained shall prevent the Supreme Court from having and exercising the same summary jurisdiction over every barrister and solicitor as the Court can now exercise in the case of solicitors.

**Provision as to attendance to case in court by barrister and solicitor.**

8. (1) Any barrister and solicitor who in any case or matter has received or agreed to receive a fee for work the whole or any portion of which involves attendance in court and who does not give substantial attendance to such case or matter in court shall return to the client by or on whose behalf he has been employed or shall be deprived of the whole or such portion of such fee as the prothonotary or other taxing officer may determine on the application of such client.

(2) The question whether or not any barrister and solicitor has given such substantial attendance to any case or matter in court shall be decided by the prothonotary or other taxing officer subject to an appeal to a judge of the Supreme Court in Chambers and such decision shall not affect any liability which such barrister and solicitor may have incurred for negligence.

(3) No contract or agreement between a barrister and solicitor and any other person shall have any force or effect in so far as such contract or agreement may be contrary to the provisions of this section.

**Precedence amongst barristers and solicitors.**

9. Subject to the right of precedence of Her Majesty's Attorney-General and Solicitor-General and Her Majesty's Counsel respectively, the right of precedence amongst barristers and solicitors shall be regulated by

by the date of their admission as barristers or solicitors. Provided always that the Minister of Justice if a barrister and solicitor shall have the same right of precedence as the Solicitor-General.

10. After the passing of this Act no person shall be admitted to practise as a barrister or a solicitor solely, but every person admitted by the Supreme Court shall be admitted both as a barrister and solicitor.

No person to be admitted as a barrister or solicitor solely.

11. Subject to the rights of all persons who have heretofore been admitted as students-at-law or have become duly articled under any rules of the Supreme Court or shall be now serving as a Judge's Associate no person not previously admitted as a barrister or solicitor in some part of Her Majesty's dominions in which the qualification of barristers and solicitors is in the opinion of the Supreme Court of equal value to that required by this section shall be admitted as a barrister and solicitor unless he be a natural born or naturalized British subject of the full age of twenty-one years of good fame and character, and unless—

Qualification of barristers and solicitors.

- (1) He shall before being articled have passed the matriculation or other examination required by the existing rules of the Supreme Court to be passed by clerks before being articled, and
- (2) Shall also either before being articled or after the expiration of such articles pass the two annual examinations including the subject of jurisprudence required to be passed at the University of Melbourne by a person who has obtained the degree of bachelor of arts as a condition to his obtaining the degree of bachelor of laws or such modification thereof as any rules of the Supreme Court may prescribe, and
- (3) Shall also be articled to a barrister and solicitor for the term of three years and shall have served the whole of such time either after passing or before passing the said two annual examinations, and
- (4) Shall also pass the final examination required by the existing rules of the Supreme Court to be passed by clerks before being admitted to practise as solicitors or such modification thereof as any rules of the Supreme Court may prescribe.

Provided always that the Supreme Court consisting of three judges of whom the Chief Justice shall be one may where under special circumstances it shall in its absolute discretion see fit so to do with reference to any person who shall within one year after the passing of this Act satisfy the said Court that he has continuously before the commencement of this Act served for ten years in Victoria as a managing clerk to some practising solicitor or solicitors and has been for such period of ten years *bonâ fide* engaged under his or their direction and supervision

supervision in the transaction and management of such matters of business as are usually transacted by solicitors dispense with such portion of the above-mentioned examinations as to the said Court may seem fit.

**Student-at-law may  
act as clerk to  
solicitor.**

**12.** Any person admitted as a student-at-law may as from the time of the passing of this Act be and act as clerk to a solicitor during the period of his studentship.

**Repeal of  
inconsistent rules  
of court.**

**13.** (1) All rules of the Supreme Court for the admission of barristers and solicitors save as to persons admitted as students-at-law or serving as Judges' associates or duly articulated before the commencement of this Act are so far as they are inconsistent with this Act hereby repealed.

(2) Nothing in this Act shall prevent the Supreme Court from making rules relative to the admission qualification and examination of barristers and solicitors provided such rules are not inconsistent with this Act.

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MELBOURNE:

By Authority: ROBT. S. BRAIN, Government Printer.