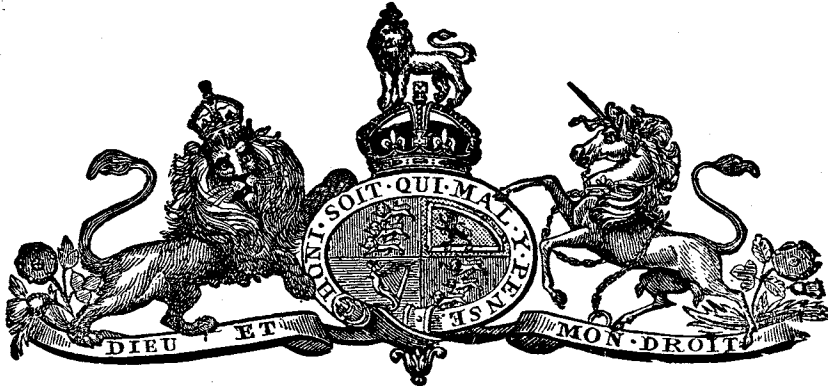


TASMANIA.



1935.

ANNO VICESIMO SEXTO
 GEORGII V. REGIS.
 No. 14.

ANALYSIS.

1. Short title.
2. Repeal.
3. Amendment of 60 Vict. No. 43.
 - Section 17.
 - New section 17A.
 - Admission of practitioners of other States.
 - Barrister, &c., struck off rolls in his State to be struck off in Tasmania.
 - Section 20.
 - Section 21.
 - New section 22.
 - General conditions relating to applications.
 - Section 49.
 - Section 55.
4. Further amendment of 60 Vict. No. 43.

AN ACT to amend the *Legal Practitioners Act* 1896 and to consolidate and amend the Amendments previously made thereto.

[27 August, 1935.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows :—

1 This Act may be cited as the *Legal Practitioners Act* 1935.

Short title.

8d.]

A.D.
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Repeal.

2—(1) The enactments set forth in the first schedule are hereby repealed.

(2) The repeal by this Act of the enactments set forth in the fourth column of the first schedule shall not affect the operation of the amendments inserted or effected in the Principal Act by such repealed enactments, and the Principal Act shall continue to be read and construed as altered by such repealed enactments as if the same had not been repealed, subject, however, to any amendments or alterations therein made by any subsequent enactments.

Amend-
ment of
60 Vict.
No. 43.
Section 17.

3 The Principal Act is hereby amended—

I. As to section seventeen thereof, by deleting the words—

- (a) “those” to “dependencies” and substituting therefor “any part of His Majesty’s Dominions”;
- (b) “and where” (at the end of paragraph i.);
- (c) “or by” to “hereunder”; “previous” and substituting “prior”; and “where” (in paragraph ii.);
- (d) “provided” to “unless” and substituting “if”; “Colony or Dependency” and substituting “Part of the said Dominions”; and “Colony” and substituting “State” (in the first proviso):

New section 2 Ed. VII.
17A. No. 10.

Admission
of prac-
titioners of
other
States.

II. By inserting after section seventeen the following new sections 17A and 17B—

“**17A**—(1) Any person who is a practitioner of the Supreme Court of any State of the Commonwealth to which this section applies may be admitted as a practitioner of Tasmania, subject to the following conditions:—

i. Any solicitor or barrister and solicitor seeking admission to practise as a practitioner in Tasmania shall—

- (a) Have served five years under articles to a solicitor or barrister and solicitor: or
- (b) Be a graduate of the University of Tasmania, or of any university recognised by the University of Tasmania, and have served at least three years under articles to a solicitor or barrister and solicitor: or
- (c) Have become qualified to practise as a barrister and solicitor in Victoria under the *Legal Profession Practice Acts* 1891, and any Act amending the same, of the State of Victoria, and have served there for three years under articles to a solicitor or a barrister and solicitor: or

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- (d) Have practised on his own account in any State as a solicitor or barrister and solicitor for at least three years immediately preceding his application for admission.
- ii. Any barrister seeking admission to practise as a practitioner in Tasmania shall have practised in a State of the Commonwealth for at least three years immediately preceding his application for admission :
- iii. The applicant shall give the notices and pay the fees prescribed by this Act, and shall produce evidence of his admission in the Supreme Court in his State, together with—
- (a) A certificate from the proper authority of his State stating that his name is still on the roll of the Supreme Court, and has never been removed therefrom, and that no order has ever been made directing him to be suspended from practising : and
- (b) One or more certificates of fitness and character signed by one of the judges of the Supreme Court of his State and by the Attorney-General or other principal law officer of such State : and
- (c) An affidavit from the applicant that he has never been bankrupt or insolvent, or made a composition or arrangement with his creditors, or, if he has been bankrupt or insolvent, or made such a composition or arrangement, an affidavit stating the facts, with dates, and showing that a complete discharge from his debts has been granted to him.

“(2) Any person applying to be admitted under the provisions of this section or section sixteen shall, before being admitted as a practitioner in Tasmania, have ceased to practise in any other State of the Commonwealth in which he has practised.

“(3) The provisions of this section shall not deprive any person who is entitled to be admitted as a practitioner in this State under any other provision of this Act from being so admitted.

“(4) In this section practitioner shall include a barrister or solicitor, or a barrister and solicitor respectively, of any other State of the Commonwealth.

“(5) Where the Governor is satisfied, on the report of the Attorney-General, that provisions similar to those of this section are in force in any State in the Commonwealth,

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Barrister,
&c., struck
off rolls in
his State to
be struck
off in Tas-
mania.

Section 20.

providing for the admission of practitioners of Tasmania as practitioners of such State, the Governor, by proclamation, may order that this section shall, so long as such a law remains in force in such State, apply to all persons from such State who seek admission to practise by virtue of this section in Tasmania, and thereupon this section shall apply accordingly.

“17 B If any person admitted as a practitioner in Tasmania is, for misconduct, struck off the rolls or suspended from practice in any other State, he shall, upon proof thereof to the satisfaction of a judge, be struck off or suspended for a similar period in Tasmania.”:

III. As to section twenty thereof—

(a) Expunging paragraph i. and substituting therefor the following new paragraph i.—

“i. Has been articled as prescribed for the full period of—

(a) Two years, if before being articled he has taken the degree of Bachelor of Laws in the University of Tasmania or in some university recognised by the University of Tasmania:

(b) Three years, if before applying for admission he has taken such degree as aforesaid:

(c) Four years, if before applying for admission he has taken the degree of Bachelor of Arts in any such university as aforesaid:
or

(d) Five years, in any other case:”

(b) By deleting “examination or” in paragraph ii.:

(c) By expunging paragraph iii. and deleting the word “and” at the end thereof and expunging paragraph v. and the proviso at the end of the section: and

(d) By renumbering paragraph iv. as iii.:

IV. As to section twenty-one thereof—

(a) By inserting the figure “(1)” at the commencement:

(b) By expunging the proviso and substituting therefor the following new subsections (2), (3), and (4):—

“(2) Such society or person shall lodge with the Registrar, at least seven days before the application is to be heard, written notice in duplicate stating the grounds of the objection.

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“(3) The Registrar, on receipt of such notice, shall forward one duplicate thereof to the applicant or his solicitor.

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“(4) No objection to any such application shall be made on the ground that the applicant is a woman.”:

V. By substituting for repealed section twenty-two the following new section twenty-two—

New section 22.

“**22** No application for admission under this Act shall be granted unless the applicant has—

General conditions relating to applications.

- I. Satisfied the Court that he is in every respect of good fame and character and a fit and proper person to be admitted and that he has observed and complied with the provisions of this Act: and
- II. Paid to the Registrar the prescribed fees payable in respect of his application.”:

VI. As to section forty-nine thereof—

Section 49.

(a) By inserting the figure “(1)” at the commencement:

(b) By deleting the words—

- (i) “court of bankruptcy or”;
- (ii) “or Court of General” to “Sessions”;
- (iii) “or justices”;
- (iv) “Provided that” and substituting “(2)”;
- (v) “thirty-six” to “thereof” and substituting “thirty-nine of the *Local Courts Act 1896*”:

VII. As to section fifty-five thereof—

Section 55.

(a) By deleting the words “All” to “notwithstanding” in the first six lines and substituting therefor—

“(1) Except as otherwise provided by this Act, all fees paid, and penalties recovered, under this Act and the stamp duty payable on any articles of clerkship or assignment thereof shall”: and

(b) By inserting at the end thereof the following new subsection (2):—

“(2) All such stamp duty as aforesaid shall be denoted by the receipt of the Registrar therefor endorsed on the instrument in respect of which it is payable.”.

4 The Principal Act is hereby further amended in the manner and to the extent set forth in the second schedule.

Further amendment of 60 Vict. No. 43.

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FIRST SCHEDULE.

Regnal Year and Number.	Title of Act.	Extent of Repeal.	Sections the Operation of Which is Preserved.
60 Vict. No. 43...	<i>The Legal Practitioners Act 1896</i>	Sections 3, 4, 22, 56, and 57	
2 Ed. VII. No. 10.....	<i>The Legal Practitioners Amendment Act 1902</i>	The whole Act	
4 Ed. VII. No. 14.....	<i>The Legal Practitioners Amendment Act 1904</i>	The whole Act	
6 Geo. V. No. 22	<i>The Legal Practitioners Amendment Act 1915</i>	The whole Act	
7 Geo. V. No. 8	<i>The Legal Practitioners Amendment Act 1916</i>	The whole Act	Section 2
10 Geo. V. No. 37	<i>The Legal Practitioners Amendment Act 1919</i>	The whole Act	Section 2
15 Geo. V. No. 40	<i>The Legal Practitioners Act 1924</i>	The whole Act	Sections 2 and 3
18 Geo. V. No. 48	<i>The Legal Practitioners Act 1927</i>	The whole Act	Sections 2, 4, 5, and 6
20 Geo. V. No. 74	<i>The Legal Practitioners Act 1929</i>	The whole Act	Section 2

SECOND SCHEDULE.

Regnal Year and Number.	Title of Act Amended.	Part or Section Amended or Expunged.	How Amended.
60 Vict. No. 43...	<i>The Legal Practitioners Act 1896</i>	Preamble Section 1 Section 2	By expunging, or by deleting the words (as the case may be)— The whole “and after” “mean” (twice occurring) and substituting “means”; and the definitions of “Gazette”, “Judge”, and “Prescribed”; and inserting (at the end of the definition of “Practitioner”) “and in Part IV. includes the executor or administrator, and the assignee, of a practitioner”
		Section 5	“or” to “thereunder”; subsection (3); “for the time being” “such” (before “chairman”) and substituting “the”; and subsection (7); and renumbering “(8)” as “(7)”
		Section 10	“and any” to “Act”

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Regnal Year and Number.	Title of Act Amended.	Part or Section Amended or Expunged.	How Amended.
60 Vict. No. 43...	<i>The Legal Practitioners Act 1896</i>	Section 12	By expunging, or by deleting the words (as the case may be)— “another or”; and “and” (lastly occurring) to “hereunder”
		Section 13A	“in this State”; “for the time being”; “and <i>bona fide</i> ”; and subsection (3)
		Section 14	“entered” to “Act”; and “the second subsection of”
		Section 15	“Provided that” and substituting “(2)”; “be held to”; and inserting “(1)” before “Every” at the commencement
		Section 18	“either” to “Sections” and substituting “section sixteen or section seventeen”; “one of” to “newspapers” (twice occurring) and substituting “a newspaper” in each case; “of the Court”; and “Provided” to “hereunder”
		Section 19	“The Secretary” to “Department”; “and” (after paragraph II.); paragraph III.; and “Provided” to “thereunder”
		Section 26	“as such respectively”; “contained”; and “31st” and substituting “thirty-first”
		Section 28	“nor” to “practitioner”; “or the” to “practitioner”; and “or by” to “practitioner”
		Section 29	“thereof”; “or such” to “assignee”; “or the” to “practitioner” (thrice occurring)
		Section 30	“or the” to “practitioner” (twice occurring)
		Section 31	“or the” to “practitioner” (thrice occurring)
		Section 37	“or the” to “practitioner”
		Section 38	“such” and substituting “any”; “or the” to “practitioner”; and “ <i>bona fide</i> ” and substituting “reasonable”
		Section 40	“his” to “assignee”
		Section 41	“or executor’s” to “assignee’s”; and “or the” to “practitioner” (wherever occurring)
		Section 42	“or the” to “practitioner”
		Section 46	“thereof in chambers”

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Regnal Year and Number.	Title of Act Amended.	Part or Section Amended or Expunged.	How Amended.
60 Vict. No. 43...	<i>The Legal Practitioners Act 1896</i>	Section 48 Section 50 Section 51 Section 52 Section 54 Section 57 Wherever occurring	By expunging, or by deleting the words (as the case may be)— “and such” to “rescind”; “who” to “prescribed” (in paragraph VII.); paragraph VIII. and substituting (in alignment with commencement of section and not as a paragraph) “and generally for the purposes of this Act”; “all such” to “Act” (lastly occurring) “the next preceding” and inserting “forty-nine” after “section” “or not” to “Act” (secondly occurring); “for every” to “pay” and substituting “be liable to”; and “or sum” “forfeit” to “or act” and substituting “be liable to a daily penalty of five pounds”; and “The penalty” to “Act” “or was intended to be made” “by and” to “Act” “of Tasmania”; and “said” (before “Court”) And by inserting— “Northern” (before “Ireland” twice occurring in section sixteen)