

THE SECOND SCHEDULE.

(Section 86.)

SCALE OF MAXIMUM TERMS OF IMPRISONMENT FOR NON-PAYMENT.

<i>Where the amount of the sum or sums of money adjudged to be paid—</i>	<i>The period of imprisonment shall not exceed—</i>
Does not exceed four pounds	Seven days
Exceeds four pounds but does not exceed eight pounds	Fourteen days
Exceeds eight pounds but does not exceed twenty pounds	One month
Exceeds twenty pounds but does not exceed forty pounds	Three months
Exceeds forty pounds	Six months

LEGAL PRACTITIONERS.

No. 78 of 1959.

AN ACT to consolidate and amend the law relating to legal practitioners. [23 December 1959.]

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:—

PART I.

PRELIMINARY.

1 This Act may be cited as the *Legal Practitioners Act 1959*.

2 The *Legal Practitioners Act 1896* and the *Legal Practitioners Act 1946* are repealed.

3—(1) In this Act, unless the contrary intention appears—

Interpretation.
60 Vict.
No. 43, s. 2.

- “articled clerk” means a clerk serving under articles;
- “articles” mean articles of clerkship binding a clerk to serve a practitioner as his clerk;
- “barrister” means barrister and advocate of the court;
- “Board” means the Board of Examiners constituted under section five;

- “ court ” means the Supreme Court;
 “ judge ” means a judge in chambers;
 “ the judges ” means the judges or a majority of them;
 “ law society ” means a law society incorporated under the *Law Societies Act 1887*;
 “ practitioner ” means barrister and solicitor, and in Part V includes the executor or administrator and the assignee of a practitioner;
 “ Registrar ” means the Registrar or Principal Registrar of the court;
 “ solicitor ” means attorney, solicitor, and proctor of the court.

(2) A reference in any Act to a legal practitioner shall be construed as a reference to a practitioner.

4 Persons who were admitted and enrolled as practitioners under the *Legal Practitioners Act 1896* shall be deemed to have been admitted and enrolled as barristers and solicitors. Practitioners under the repealed Act.

5—(1) For the purpose of conducting such examinations as may be prescribed there shall be a Board, to be called the Board of Examiners. Board of Examiners. *Ibid.*, s. 5.

(2) The Board shall consist of not less than five persons, of whom three shall form a quorum.

(3) The Attorney-General and Solicitor-General are, by virtue of their respective offices, members of the Board, and the remaining members shall be appointed by the judges, and shall be practitioners.

(4) The Board of Examiners constituted under the *Legal Practitioners Act 1896* is continued and is the Board for the purposes of this Act.

(5) The judges may at any time revoke the appointment of any member.

(6) The Attorney-General shall be the chairman of the Board.

(7) In the absence of the Attorney-General the members present at any meeting may elect a chairman for that meeting.

(8) Each member, including the chairman, has one vote, and, in case of an equality of votes, the chairman has a casting vote in addition to his ordinary vote; and all questions at any meeting of the Board shall be decided by a majority of the votes of the members present.

(9) No proceedings of the Board are invalidated by reason of a defect in an appointment or by reason of there being a vacancy in the number of members at the time of those proceedings, so long as the number of members is not reduced below four.

6—(1) The Board shall hold such examinations as they may be directed to hold under this Act. Examinations. *Ibid.*, s. 6.

(2) The Board's examinations shall be held at least once in every year, and the Board shall, by notice under the hand of the chairman published in the *Gazette*, and affixed to the doors of the buildings in which the civil and criminal sittings of the Supreme Court are usually held in Hobart and Launceston, signify the days on which, and the hour and place at which, examinations will be held.

Candidates to give notice. *Ibid.*, s. 7.

7—(1) A candidate for examination shall give notice to the Board of his intention to present himself for examination at least two months immediately preceding the first day appointed for the examination, and shall pay to the Board the fee mentioned in the first schedule.

(2) A candidate for examination shall, at least fourteen days before the first day appointed for the examination, pay to the Board the fees mentioned in the first schedule.

PART II.

ADMISSION OF BARRISTERS AND SOLICITORS.

Admission of barristers, &c., of United Kingdom. *Ibid.*, s. 16.

8 The court may, subject to subsection (2) of section eleven and to such conditions as may be prescribed, admit as a practitioner without an examination—

- (a) a barrister entitled to practise in the High Court of Justice in England or Northern Ireland;
- (b) a member of the Faculty of Advocates in Scotland; or
- (c) a solicitor admitted and entitled to practise in the High Court of Justice in England or Northern Ireland, or in the Supreme Court of Scotland.

Admission of practitioners of certain courts of Dominions. *Ibid.*, s. 17.

9—(1) The court may, subject to such conditions as may be prescribed, admit as a practitioner, without an examination, a person who has been admitted as a barrister, or as an attorney or solicitor, in any Supreme Court or superior court of law or equity in any part of Her Majesty's Dominions where, in the opinion of the court—

- (a) the system of jurisprudence is founded on or assimilated to the common law and principles of equity as administered in England;
- (b) the like service as mentioned in section thirteen under articles to an attorney or solicitor, and the passing of examinations which are substantially equivalent to those prescribed under this Act, to test the qualifications of candidates, are or may be required before admission; and
- (c) persons are entitled to be admitted to practise by virtue of their being practitioners of this State,

if that person has been articled to an attorney or solicitor in that part of Her Majesty's Dominions, and has duly served therein as a clerk for and during a term equal to the term for which he would be required to be articled in this State under the provisions of this Act.

(2) No person shall be admitted under this section for any purpose other than that of practising in this State.

10 A person who intends to apply for admission as a practitioner under section eight or section nine shall cause his name and place of abode, written in legible characters, to be affixed in the Registrar's office for one month before application is made for his admission, and shall also cause notice of his intended application, and of the time at which it is to be made, to be published twice in a newspaper published in Hobart, and twice in a newspaper published in Launceston, at least one month, and not more than three months, before the application is made, and to be given to the secretaries of every law society.

Notice of application to be published.
Ibid., s. 18.

11—(1) The court may admit as a practitioner a person who is a barrister, solicitor, or barrister and solicitor of the Supreme Court of a State of the Commonwealth or of the Australian Capital Territory, the Northern Territory of Australia, or the Territory of Papua-New Guinea to which State or Territory this section applies, subject to the following conditions, namely:—

Admission of practitioners of other States.
Ibid., s. 17A.

(a) A solicitor or barrister and solicitor seeking admission as a practitioner—

- (i) shall have served five years under articles to a solicitor or barrister and solicitor;
- (ii) shall be a graduate of the University of Tasmania, or of a university recognized by the University of Tasmania, and have served at least three years under articles to a solicitor or barrister and solicitor; or
- (iii) shall have practised on his own account in any one or more of the States and Territories mentioned in this subsection as a solicitor, or barrister and solicitor, for at least one year during the five years immediately preceding his application for admission;

(b) A barrister seeking admission as a practitioner shall have practised in one or more of the States and Territories mentioned in this section for at least one year during the five years immediately preceding his application for admission; and

- (c) The applicant shall give the prescribed notices, and shall produce evidence of his admission in the Supreme Court in his State or Territory, together with—
- (i) a certificate from the proper authority of his State or Territory 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;
 - (ii) one or more certificates of fitness and character signed by one of the judges of the Supreme Court of his State or Territory and by the Attorney-General or other principal law officer of that State or Territory; and
 - (iii) 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) A person applying to be admitted under the provisions of this section or section eight shall, before being admitted as a practitioner, have ceased to practise in any other State or Territory of the Commonwealth in which he has practised.

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

(4) Where the Governor is satisfied, on the report of the Attorney-General, that provisions not substantially less favourable to practitioners than the provisions of this section are, or, if a proclamation is made under this section, will be, in force in any State or Territory mentioned in subsection (1) of this section providing for the admission of practitioners admitted to practise under this Act as barristers, solicitors, or barristers and solicitors of that State or Territory, the Governor, by proclamation, may order that this section shall apply to all persons who seek admission to practise by virtue of this section in this State in respect of their admission to practise in that State or Territory, and thereupon this section shall apply accordingly, and if the Attorney-General reports to the Governor that the necessary provisions in the other State or Territory are no longer in force or have not been brought into force within a reasonable time the Governor shall revoke the proclamation.

12—(1) The court may admit as a practitioner without being articled a person who holds or has held any of the following offices, namely:—

Admission of
certain
officers and
clerks.
Ibid., s. 19.

- (a) The Registrar of the court;
- (b) The clerk of the court;
- (c) The assistant clerk of the court; and
- (d) The clerk to the Solicitor-General.

(2) Persons seeking admission under this section—

- (a) shall have served in their respective offices for the term of five years, or partly in one of those offices and partly in another of those offices for that term, either before or after the commencement of this Act; and
- (b) shall, before their application for admission, have passed one of the examinations mentioned in section twenty-eight, and all the examinations prescribed for persons applying to be admitted under section thirteen.

13 The court may admit as a practitioner a person of the age of twenty-one years or upwards who—

Admission of
articled
clerks as
practitioners.
Ibid., s. 20.

- (a) has been articled as prescribed for the full period of—
 - (i) two years, if before being articled he has passed the examinations required for the degree of Bachelor of Laws in the University of Tasmania or in some university recognized by the University of Tasmania;
 - (ii) three years, if, before applying for admission, he has passed the examinations required for the degree referred to in paragraph (b) of this section;
 - (iii) four years, if, before applying for admission, he has passed the examinations required for the degree of Bachelor of Arts in the University of Tasmania or in some university recognized by the University of Tasmania; or
 - (iv) five years, in any other case;
- (b) has passed the prescribed examinations; and
- (c) has advertised notice of his intention to apply for admission in such manner and for such period as may be prescribed.

Special provision for ex-service men.

10 Geo. VI
No. 19, s. 2.

14—(1) Notwithstanding anything in paragraph (a) of subsection (1) of section thirteen, the period of service under articles required for the admission as a practitioner of any person to whom this section applies is—

(a) in the case of a person who, before applying for admission, has passed the examinations required for the degree of Bachelor of Laws in the University of Tasmania or in some university recognized by the University of Tasmania, two years; or

(b) in any other case, three years.

(2) A person to whom this section applies who has served in any of the offices specified in section twelve for the term of two years, and complies with the provisions of that section is, notwithstanding anything contained in paragraph (a) of subsection (2) of that section, but otherwise subject to the provisions of this Act, entitled to be admitted as a practitioner if, before applying for admission, he has passed the examinations required for the degree of Bachelor of Laws in the University of Tasmania.

(3) This section applies to all persons who, having been members of the Forces as defined by section four of the *Re-establishment and Employment Act 1945* of the Commonwealth, have been discharged therefrom after not less than one year's service, but does not apply to articulated clerks who are entitled to the benefits of section three of the *Legal Practitioners Act 1942*.

Admission of barristers.
60 Vict.
No. 43,
s. 20A.

15—(1) The court may admit as a barrister a person who is a barrister of a Supreme Court mentioned in subsection (1) of section eleven, whether or not he is also an advocate, attorney, solicitor, or proctor of that Court.

(2) A person applying to be admitted under this section shall—

(a) give such notices as may be prescribed; and

(b) produce evidence of the admission as a barrister on which he relies together with the certificates and affidavit prescribed in paragraph (c) of that subsection.

(3) Notwithstanding anything in Part III or Part VII a barrister admitted under this section may do all things that a practitioner may do by virtue of being a barrister; and where by any Act any right, power, or duty is given to or imposed upon a practitioner as such it shall be deemed to be given to or imposed on a practitioner as a barrister so far as it is analogous to the rights, powers, or duties of barristers and advocates at common law.

(3) As between persons who are barristers by virtue of their admission as practitioners and persons who are admitted under this section seniority is determined by the dates of their respective admissions.

(4) A barrister admitted under this section who—

(a) would otherwise be entitled to admission as a practitioner; or

(b) has practised in this State for three years,

and who has ceased to practise in any other State or Territory of the Commonwealth in which he has practised may, on his own motion and subject to giving the prescribed notices, be admitted as a solicitor, and shall then be deemed to be a practitioner for all purposes.

16—(1) A law society or a person having reasonable grounds to object to the admission of a person as a practitioner, a barrister, or a solicitor may appear before the court or judge and is entitled to be heard by counsel with or without witnesses to oppose the admission.

Objection to admission.
Ibid., s. 21.

(2) A person intending to appear 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.

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

(4) No objection shall be made under this section on the grounds that the applicant is a woman.

17—(1) An application for admission under this Act shall not be granted unless the applicant has—

General provisions.
Cf. *ibid.*, ss. 18, 22, & 24.

(a) 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

(b) paid to the Registrar the prescribed fees payable in respect of his application.

(2) A person who applies to be admitted under this Act shall, before his admission, take and subscribe the oath set forth in the second schedule and the oath of allegiance set forth in the *Promissory Oaths Act 1869*.

(3) When a person is admitted as—

(a) a practitioner, his name shall be enrolled in the roll of practitioners in accordance with the order of the court; or

(b) a barrister, he shall sign the roll of barristers.

(4) Application for admission as a practitioner may be made to a judge in vacation, and persons so applying shall be admitted and enrolled on the order of the judge.

18 No person shall be admitted as a practitioner during the period of his holding the office of Registrar, or the office of Registrar of Deeds.

Certain officers not to be admitted.
Ibid., s. 23.

Certificate of admission. *Ibid.*, s. 25.

19 A practitioner is entitled to obtain from the Registrar a certificate of his admission in such form as may be prescribed.

Practitioner, &c., struck off roll in any State may be struck off in Tasmania. *Ibid.*, s. 17a.

20 If a person who is admitted as a barrister or practitioner is for misconduct disbarred, struck off the rolls, or suspended from practice in any other State or Territory mentioned in section eleven he shall, upon proof thereof—

(a) to the satisfaction of the court, be disbarred; or

(b) to the satisfaction of a judge, be struck off,

or suspended for a similar period in this State.

PART III.

ANNUAL PRACTISING CERTIFICATES.

Registrar to issue annual certificate upon application. *Ibid.*, s. 26.

21 On application made to him for that purpose by any practitioner whose name is on the roll of practitioners and on payment to him of the fee mentioned in the first schedule, the Registrar shall issue an annual certificate to him under the seal of the court in the form in the third schedule, and every such certificate continues in force until the thirty-first day of December next after the issue thereof.

Omission to take out certificate. *Ibid.*, s. 27.

22 A person who, having been duly admitted as a practitioner, omits for a period exceeding twelve months to obtain an annual certificate under section twenty-one, and thereafter applies for such a certificate, shall before being entitled to receive the certificate satisfy the court as to the circumstances in which he has omitted to commence or has discontinued to practise, and as to his conduct and employment during the term of the omission or discontinuance.

Penalty upon practitioner practising without annual certificate. *Ibid.*, s. 52.

23 A person who, having been admitted as a practitioner practises or acts as a practitioner without an annual certificate in force under this Part is liable to a daily penalty of five pounds, and is incapable of maintaining an action for the recovery of costs, fees, or disbursements on account of, or in relation to, any act or proceedings done or taken by him as a practitioner while without the certificate, until he has taken out a new certificate.

PART IV.

ARTICLED CLERKS.

Articles and assignments thereof to be filed in Supreme Court. *Ibid.*, s. 14.

24—(1) All articles and assignments thereof shall, within three months from the date thereof respectively, be filed with the Registrar, together with an affidavit verifying the due execution and true date thereof.

(2) There shall be filed with articles and assignments thereof such documentary evidence as the Registrar may require to prove that the person bound by the articles has passed the examination mentioned in section twenty-eight.

(3) Upon the filing of articles or assignments thereof the fees mentioned in the first schedule in respect thereof shall be paid by the person filing them.

(4) Articles and assignments of articles that are not filed in accordance with the provisions of this section are void.

25 Articles may, by mutual consent of the parties, be assigned to another practitioner.

Assignment
of articles.
Ibid., s. 10.

26 If a practitioner to whom a clerk is articed becomes bankrupt, or if the affairs of the practitioner are liquidated by arrangement, or if the practitioner makes a composition with his creditors, the court or a judge may, upon the application of the clerk, order his articles to be discharged or assigned to such person, upon such terms, and in such manner, as the court or judge may direct.

Bankruptcy,
&c., of
master.
Ibid., s. 11.

27—(1) If a practitioner to whom a clerk is articed dies before the expiration of the term for which the clerk is articed, or discontinues, or ceases to practise in the court, or if the articles are, by mutual consent of the parties, cancelled, or if the clerk is legally discharged before the expiration of his term by a rule or order of the court, the clerk may be bound by other articles to serve as clerk to another practising practitioner of the court during the residue of the term, or for such period as, together with the portion of the term which he has served under the former articles, makes up the period which he is required by this Act to serve.

Death, &c.,
of master.
Ibid., s. 12.

(2) Subject to this Act, service under further or other articles as provided in this section is good and effectual.

28—(1) No person shall be articed to a practitioner until he has attained the age of sixteen years, and has—

Conditions
for articing
of clerks.

(a) matriculated in the University of Tasmania; or

Ibid., ss. 8, 9,
& 23.

(b) passed, in such subjects as may be prescribed—

(i) such public examination of that University as may be prescribed; or

(ii) such other examination as may be prescribed as equivalent to that public examination.

(2) A practitioner shall not have articed to him more than two articed clerks at the same time, or take, have, or retain any articed clerk while—

(a) he does not actually carry on business as a practitioner in the court; or

(b) he is retained as a clerk or writer by another practitioner.

(3) A person holding the office of Registrar or of Registrar of Deeds is incapable of entering into a contract whereby a person may be bound to serve the person holding either of those offices as articulated clerk in order to his admission as a practitioner, and such a contract if entered into is void.

How articulated
clerks are to
be employed.
Ibid., s. 15.

29—(1) Subject to this Act, an articulated clerk shall, during the whole term of service specified in his articles, continue and be actually employed by the practitioner to whom he is articulated in the proper business, practice, and employment of a practitioner.

(2) An articulated clerk shall, before being admitted as a practitioner, prove to the satisfaction of the court or judge, by affidavit or otherwise, that this section has been complied with.

(3) Nothing in this section prevents an articulated clerk from being employed for remuneration, or, with the consent of the practitioner to whom he is articulated, performing services of any kind for a person other than that practitioner, out of the usual hours during which he is required to serve that practitioner.

Service with
Hobart agent.
Ibid., s. 13.

30 An articulated clerk who actually and in good faith is and continues as clerk with, and as such is employed by, the Hobart agent of the practitioner to whom he is articulated for any part of his term not exceeding two years, either by virtue of a stipulation in his articles or with the permission of the practitioner, may be examined and admitted under this Act in the same manner as if he had served the whole of the period for which he was articulated with the practitioner to whom he was articulated.

Service as
Judge's
associate
to count
as service
under
articles.
Ibid., s. 13A.

31—(1) A person who is articulated to a practitioner for any term may, with the consent of the practitioner, accept the office of and serve as a judge's associate for any part of the term not exceeding one-third thereof.

(2) Upon the certificate of the judge whom he has served that a person has so served as a judge's associate to his satisfaction, the period of service as judge's associate shall be reckoned as actual part service under the articles of clerkship entered into by such person.

(3) A person so serving as a judge's associate shall not by reason thereof be deemed to have contravened any Act or practice relating to the qualification of articulated clerks applying to be admitted as practitioners.

Service under
articles in
another
State to
count.
Ibid., s. 15A.

32 Subject to this Act, service in any State of the Commonwealth in accordance with the law there in force under articles to a person entitled during the whole of the service to practise in that State as a solicitor or as a barrister and solicitor may be reckoned as part of the service under articles required by this Act.

PART V.

COSTS.

33—(1) A practitioner shall not commence or maintain an action for the recovery of fees, charges, or disbursements for any business done by him until the expiration of one month after he has delivered to the party to be charged therewith, either in person or sent by post to, or left for, him at his place of business or usual or last known place of abode, a bill of those fees, charges, and disbursements.

Practitioner not to commence an action for fees, &c., until one month after delivery of bill.
Ibid., s. 28.

(2) A bill for the purposes of this section—

(a) shall be signed by the practitioner or, in the case of a partnership, by any of the partners, either with his own name or with the name or style of the partnership; or

(b) shall be enclosed in or accompanied by a letter, signed in like manner, referring to the bill.

34—(1) Upon the application of the party chargeable by a bill delivered under section thirty-three within the month therein mentioned, the court or a judge may, whether the bill contains charges for business transacted in the court or not, refer the bill and the demand of the practitioner thereon to be taxed and settled by the taxing officer of the court without bringing any money into court.

Reference of bills for taxation.
Ibid., s. 29.

(2) The court or judge when making a reference under this section shall restrain the practitioner from commencing an action touching his demand pending the reference.

(3) Where no application is made within the month, a reference may be made upon the application of the practitioner whose bill has been delivered, or of the party chargeable by the bill, with such directions and subject to such conditions as the court or judge thinks proper; and the court or judge may restrain the practitioner from commencing or prosecuting an action touching the demand pending the reference, upon such terms as the court or judge thinks proper.

35 No reference under section thirty-four shall be directed upon an application made by the party chargeable by the bill after a verdict or judgment has been obtained in an action for the recovery of the demand of the practitioner, or after the expiration of twelve months after the bill has been delivered, except in special circumstances, to be proved to the satisfaction of the court or judge.

Delayed taxation.
Ibid., s. 30(1).

36 If upon the reference of a bill for taxation either the practitioner whose bill it is, or the party chargeable by the bill, having due notice, refuses or neglects to attend the taxation, the taxing officer may proceed to tax and settle the bill and demand *ex parte*.

Taxation *ex parte*.
Ibid., s. 30(1).

Payment of costs of taxation.

Ibid., ss. 31, 36.

37—(1) If a bill is referred for taxation upon the application of the party chargeable by the bill, or of the practitioner, and the party chargeable by the bill attends upon the taxation, the costs of the reference shall, except as provided in subsection (3) of this section and section forty-two, be paid according to the event of the taxation; that is to say, if the bill when taxed is less by a sixth part than the bill delivered, then the practitioner shall pay the costs; and if the bill when taxed is not less by a sixth part than the bill delivered, then the party chargeable by the bill making the application or so attending shall pay the costs.

(2) An order for a reference to taxation shall direct the taxing officer to tax the costs of the reference to be paid as provided in this section, and to certify what, upon the reference, is found to be due to or from the practitioner in respect of the bill and demand, and of the costs of the reference if payable.

(3) Where there is a reference for taxation in special circumstances as provided in section thirty-five, the court or judge may give special directions as to the costs of the reference.

Security for future costs.
Ibid., s. 32.

38 A practitioner may take security from his client for his future fees, charges, and disbursements, to be ascertained by taxation or otherwise.

Allowance of interest on taxation in respect of disbursements and advances.
Ibid., s. 33.

39 Upon a taxation of costs, fees, charges, or disbursements, the taxing officer may, subject to such rules as may be prescribed, allow interest at such rate and from such time as he thinks just on moneys disbursed by the practitioner for his client, and to the client upon all moneys of the client in the hands of the practitioner and improperly retained by him.

Revival of order for payment of costs.
Ibid., s. 34.

40 When a judgment or order has been made for payment of costs in a proceeding and that proceeding has afterwards become abated, a person interested under the judgment or order may revive the proceeding, and prosecute and enforce the judgment or order, and so on as often as abatement happens.

Costs to be estimated by skill and labour, not by length of document.
Ibid., s. 35.

41 In taxing a bill for preparing a deed, agreement, or other legal document the taxing officer shall, in estimating the proper sum to be charged for the transaction, consider not the length of the deed, agreement, or other document, but only the skill and labour employed and the responsibility incurred in the preparation thereof, and in the investigation, if any, of the title of the property conveyed or affected by the deed, agreement, or document.

42 The taxing officer may in all cases certify specially any circumstances relating to a bill or taxation, and the court or a judge may thereupon make such order as it or he thinks right respecting the payment of the costs of the taxation.

Special certificate.
Ibid., s. 36.

43 Where the court or a judge may refer a bill for taxation, it or he may make an order for the delivery by a practitioner of a bill, and for the delivery up of deeds, documents, or papers in his possession, custody, or power, or otherwise touching the bill.

Power of Court to order practitioner to render his bill, and to deliver up deeds, &c.

Ibid., s. 37.

44 It is not necessary in the first instance for a practitioner, in proving a compliance with this Act, to prove the contents of the bill he has delivered, but it is sufficient to prove that a bill of fees, charges, or disbursements signed or enclosed in or accompanied by a letter as provided in section thirty-three was delivered as provided in that section; but the other party may show that the bill so delivered was not such a bill as constituted a reasonable compliance with this Act.

Evidence of delivery of bill.

Ibid., s. 38.

45 A judge may authorize a practitioner to commence an action for the recovery of his fees, charges, or disbursements against the party chargeable thereby, notwithstanding that one month has not expired from the delivery of the bill therefor, on proof to the satisfaction of the judge that there is probable cause for believing that that party is about to quit this State.

Power of judge to authorize action before expiration of month.

Ibid., s. 39.

46—(1) Where a person, other than the party chargeable by a bill, is liable to pay or has paid the bill either to the practitioner or to the party chargeable thereby, that person, or his executor, administrator, or assignee, may make such application for a reference for the taxation of the bill as the party chargeable thereby might himself make; and the same reference and order shall be made thereon and the same course pursued in all respects, as if the application were made by the party chargeable by the bill.

Taxation of bill upon application of third party.

Ibid., s. 40.

(2) Where an application is made when under section thirty-five a reference may be made only in special circumstances, the court or a judge may take into consideration any additional special circumstances applicable to the person making the application, notwithstanding that those circumstances might not be applicable to the party chargeable by the bill if he were the party making the application.

47—(1) Where a trustee, executor, or administrator has become chargeable by a practitioner's bill a judge may, if in his discretion he thinks fit, upon the application of a person interested in the property out of which that trustee, executor, or administrator has paid, or is entitled to pay, the bill,

Power of judge to direct taxation of bill chargeable on executors, &c.

Ibid., s. 41.

refer the bill and the practitioner's demand thereupon to be taxed by the taxing officer of the court with such directions and subject to such conditions as the judge thinks fit.

(2) The judge may make such order for the payment of what may be found due, and of the costs of the reference to or by the practitioner, by or to the person making the application, having regard to the provisions of this Part relating to applications for the like purpose by the party chargeable by the bill, so far as they are applicable to the case.

(3) In exercising his discretion under subsection (2) of this section, the judge may take into consideration the extent and nature of the interest of the party making the application.

(4) Where money is directed to be paid by a practitioner under this section, the judge may, if he thinks fit, order the money, or a part thereof, to be paid to the trustee, executor, or administrator chargeable by the bill instead of being paid to the person making the application.

(5) When the person making the application pays money to the practitioner in respect of the bill, he has the same right to be paid by the trustee, executor, or administrator as the practitioner had, and the court or a judge may make an order accordingly.

Copy of bill to be delivered to person making application for reference for taxation.

43 For the purpose of a reference under section forty-six or section forty-seven the court or judge may order the practitioner to deliver to the person making the application a copy of the bill, upon payment of the costs of that copy.

Ibid., s. 42.

Re-taxation only in special circumstances.

Ibid., s. 43.

Taxation of bill after payment.

Ibid., s. 44.

49 A bill which has been previously taxed and settled shall not be again referred unless, in special circumstances, the court or a judge thinks fit to direct a re-taxation thereof.

50—(1) The payment of a practitioner's bill does not preclude the court or a judge from referring that bill for taxation, if the special circumstances of the case appear in the opinion of the court or a judge so to require, upon such terms and conditions and subject to such directions as to the court or judge seem right.

(2) An application for a reference under this section shall be made within twelve months after payment.

Procedural provisions.

Ibid., s. 45.

51—(1) Applications made under this Part to refer any bill for taxation, and for the delivery of a bill, and delivering up deeds, documents, and papers, shall be made in the matter of the practitioner.

(2) Upon the taxation and settlement of a bill under this Part the certificate of the taxing officer is, unless set aside or altered by judgment or order, final and conclusive as to the amount thereof, and the court or a judge may order judgment

to be entered for the amount certified to be due and directed to be paid with costs, unless the retainer is disputed, or make such other order thereon as it or he deems proper.

52—(1) Where a practitioner is employed to prosecute or defend any matter or proceeding in any court, he is entitled to a first charge upon the property recovered or preserved, and has a prior right to payment thereout for the taxed costs, charges, and expenses as between solicitor and client of or in reference to that matter or proceeding.

Practitioner's costs to be a first charge on the property recovered or preserved.
Ibid., s. 46.

(2) The court before which the matter or proceeding has been heard or is pending, or a judge, may make *ex parte* such orders for taxation of, and for raising and paying, the costs, charges, and expenses out of the property as to it or him appears just and proper.

53—(1) A practitioner and his client may make an agreement for the remuneration of the practitioner to such amount and in such manner as the practitioner and the client think fit by a gross sum, and remuneration may be given and accepted accordingly.

Right of practitioner and client to agree on form and amount of remuneration.
Ibid., s. 47.

(2) The agreement shall be in writing, signed by the person to be bound thereby or by his agent in that behalf.

(3) The agreement may, if the practitioner and the client think fit, be made on the terms that the amount of the remuneration therein stipulated for either shall include or shall not include all or any disbursements made by the practitioner in respect of searches, plans, travelling, stamps, fees, or other matters.

(4) The agreement may be sued and recovered on, or impeached and set aside, in the like manner and on the like grounds as an agreement not relating to the remuneration of a practitioner.

(5) If, under a reference for taxation, the agreement relied on by the practitioner is objected to by the client as unfair or unreasonable, the taxing officer may inquire into the facts and certify them to the court, and if on the certificate it appears to the court that just cause has been shown either for cancelling the agreement or for reducing the amount payable under it, the court may order such a cancellation or reduction, and may give all such directions necessary or proper for the purpose of carrying the order into effect, or otherwise consequential thereon, as to the court may seem fit.

PART VI.

SOLICITORS' GUARANTEE FUND.

54 In this Part, unless the contrary intention appears—

“commencing date” means the first day of January 1959;

Interpretation.
60 Vict. No. 43 (Tas.), s. 47A.
1931, No. 46 (N.Z.), ss. 71, 72.
No. 5182 (Vict.), s. 3.

“committee of management” means the committee of management to which the powers of the Council in relation to the fund may be delegated pursuant to this Act or, if there is no committee of management, the Council;

“Council” means the United Law Council of Tasmania;

“fund” means the Solicitors’ Guarantee Fund established under Part IVA of the *Legal Practitioners Act 1896*;

“practising solicitor” means a solicitor practising as an attorney, solicitor, or proctor either solely on his own account or in partnership with any other practitioner or upon terms of sharing with any other practitioner the remuneration for any business;

“solicitor” means a practitioner holding an annual certificate issued and in force under section twenty-one;

“theft” means stealing contrary to the *Criminal Code* and includes any fraudulent dealing or other act that is a crime in relation to money or other property.

55 The fund is the property of the Council and shall be held in trust for the purposes of this Part.

Establishment of Solicitors’ Guarantee Fund.
Tas., s. 47B.
N.Z., s. 73.

56 All moneys belonging to the fund shall, pending the investment or application thereof in accordance with this Part, be paid into a bank for the time being carrying on business in this State to the credit of a separate account to be called the Solicitors’ Guarantee Fund Account.

Fund to be kept in separate bank account.
Tas., s. 47C.
N.Z., s. 74.

57 The fund shall consist of—

Moneys payable into fund.
Tas., s. 47D.
N.Z., s. 75.

- (a) all sums paid to or on account of the fund by solicitors, either as annual contributions or as levies, in accordance with this Part;
- (b) the interest from time to time accruing from the investment of the fund;
- (c) all moneys recovered by or on behalf of the Council in the exercise of any right of action conferred by this Part; and
- (d) any other moneys that may lawfully be paid into the fund.

58 There shall from time to time be paid out of the fund, as required—

Expenditure from fund.
Tas., s. 47E.
N.Z., s. 76.

- (a) the amount of all claims, including costs, allowed or established against the fund;

- (b) all legal expenses incurred in defending claims made against the fund, or otherwise incurred in relation to the fund;
- (c) all premiums payable in respect of contracts of insurance entered into by the Council pursuant to section seventy;
- (d) all refunds made to practitioners or to their personal representatives pursuant to section seventy-two;
- (e) the expenses involved in the administration of the fund, including allowances to members of the Council or the committee of management in respect of their services and their reasonable travelling expenses incurred in connection with the management of the fund; and
- (f) any other moneys payable out of the fund in accordance with this Part or with rules made under this Part.

59—(1) The accounts of the fund shall be audited annually by an accountant appointed for the purpose by the Council.

Audit of accounts.
Tas., s. 47F.
N.Z., s. 77.

(2) A person acting as auditor under this section has, in respect of the fund, the same powers and duties, and is subject to the same responsibilities and obligations, with such modifications as may be necessary, as he would have in respect of the audit of solicitors' trust accounts, if he were authorized to audit those accounts under the rules for the time being in force under section twelve of the *Tasmanian Law Societies Act 1887*.

60—(1) Subject to subsection (2) of this section, the fund shall be administered by the Council.

Administration of fund.
Tas., s. 47G.
N.Z., ss. 78, 79.

(2) The Council may, by resolution, delegate its powers in relation to the fund or any of those powers to a committee of management, consisting of not less than three persons nor more than five persons, being members of the Southern Law Society or the Northern Law Society.

61—(1) Subject to section sixty-two, every solicitor on making application for an annual certificate under section twenty-one in respect of the year commencing on the commencing date or any subsequent year shall, in addition to all other fees then payable by him, pay as a contribution to the fund—

Solicitors to pay prescribed fees into fund.
Tas., s. 47H.
N.Z., s. 80.
Vict., s. 11.

- (a) in the case of a practising solicitor—
 - (i) if he commenced to practise less than four years before the date on which the annual certificate will cease to be in force and has not become a partner of

another practising solicitor or taken over an established practice, the sum of five pounds; and

- (ii) in any other case, the sum of five pounds or such other sum, not being more than ten pounds, as may from time to time be prescribed as the contribution to be paid to the fund; and

- (b) in the case of a solicitor other than a practising solicitor, the sum of five pounds,

and no annual certificate shall be issued to the solicitor until he has paid the contribution.

(2) If a practitioner intends to commence to practise as a practising solicitor, he shall, before commencing so to practise, give notice of his intention to the secretary of the Council and—

- (a) if he is a solicitor, shall pay to the fund any sum in excess of five pounds for which he would be liable under sub-paragraph (ii) of paragraph (a) of subsection (1) of this section if he were practising in accordance with his intention at the beginning of the year in which he intends so to commence; or
- (b) if he is not a solicitor, on making application for an annual certificate under section twenty-one he becomes liable to pay to the fund the amount of the contribution for the year in which it is to be in force, and no annual certificate shall be issued to him until he has paid the contribution.

(3) If an annual certificate will be issued under section twenty-one after the last day of June in any year the contribution to be paid by the applicant for that year shall be half the contribution payable under paragraph (b) of subsection (2) of this section.

(4) Contributions payable—

- (a) under this section, otherwise than under paragraph (a) of subsection (2) of this section, shall be paid in the same manner as fees paid under section twenty-one are paid; and
- (b) under paragraph (a) of subsection (2) of this section shall be paid to the secretary of the Council,

and the persons receiving them shall forthwith pay them into the fund.

(5) No contribution is payable under this section by a solicitor—

- (a) in the service of the Crown;
- (b) employed by a statutory authority having the privileges and immunities of the Crown in respect of its revenue; or

(c) in the public service of the Commonwealth, who is not a practising solicitor, but such a solicitor, if he intends to practise as a practising solicitor, shall pay to the fund the sum of five pounds in addition to any sum payable under paragraph (a) of subsection (2) of this section.

62—(1) While the fund exceeds the sum of fifteen thousand pounds, a solicitor who has made twenty annual contributions to the fund under section sixty-one and in respect of whom no payment from the fund has been made or, if any such payment has been made, the fund has been reimbursed, is freed and discharged from further annual contributions to the fund.

Provision where fund exceeds £15,000.

Tas., s. 47J.
Vict., s. 12.

(2) If at any time the fund ceases to exceed the sum of fifteen thousand pounds the Council shall determine to what extent, if any, a solicitor who is freed and discharged under subsection (1) of this section shall again be required to pay annual contributions.

63—(1) If at any time the fund is not sufficient to satisfy the liabilities that are then ascertained of the Council in relation thereto, the Council may impose on every solicitor who first obtained an annual certificate under section twenty-one two years or more before the date for payment and who is liable to pay contributions under section sixty-one, a levy of such amount, not exceeding ten pounds, as it thinks fit, for payment into the fund.

Levy in addition to annual contributions.

Tas., s. 47K.
Vict., s. 13.

(2) The amount of a levy under this section becomes payable on such date, and shall be paid in such manner, as is fixed by the Council, which may in any special case allow further time for payment of the levy or part thereof, in which event the levy or that part of it does not become payable until the expiration of that time.

(3) No person shall be required to pay by way of levy under this section more than ten pounds in the aggregate in any period of twelve months or more than fifty pounds during the whole period for which he holds certificates issued under section twenty-one.

(4) In fixing the amount of a levy under this section, the Council may differentiate between practising solicitors and other solicitors.

64 Any moneys in the fund that are not immediately required for the purposes thereof may be invested in any manner in which trustees are for the time being authorized to invest trust funds.

Investment of fund.

Tas., s. 47L.
N.Z., s. 83.

Application
of fund.

Tas., s. 47M.

N.Z., s. 84.

Vict., s. 16

(1), (2).

65—(1) Subject to the provisions of this Part, the fund shall be held and applied for the purpose of compensating persons who suffer pecuniary loss—

- (a) by reason of theft committed after the commencing date by a solicitor (including a practitioner who would be a practising solicitor if he had continued to obtain an annual certificate under section twenty-one) or by his clerks or servants, or by any practitioner with whom the solicitor shares remuneration for any business, of or in relation to any money or other property which, whether before or after the commencement of this Part, in the course of or in connection with the solicitor's practice or any act done by him as a practitioner—
- (i) has been entrusted to or received by the solicitor or any of his clerks or servants or any such practitioner for or on behalf of any person; or
 - (ii) (the solicitor being in respect of the money or other property either the sole trustee or a trustee with another person) has been entrusted to or received by him or any of his clerks or servants or any such practitioner for or on behalf of the trustees of the said money or property; or
- (b) by reason of theft committed after the commencing date by the members, or by any of the members, of a firm of practising solicitors (including practitioners who would be practising solicitors if they had continued to obtain annual certificates under section twenty-one) or by any of the clerks or servants of any such firm or of any of the members thereof, or by any practitioner with whom the members of any such firm or any of them share remuneration for any business, of or in relation to any money or other property which, whether before or after the commencement of this Part, in the course of or in connection with the firm's practice—
- (i) has been entrusted to or received by the members of the firm or any of them or any of their clerks or servants or any such practitioner for or on behalf of any other person; or
 - (ii) (the members of the firm of solicitors or any of them being in respect of the money or other property either the sole trustee or trustees or trustees with another person) has been entrusted to or received by the firm or any of its members or any of their clerks or

servants or any such practitioner for or on behalf of the trustees of the money or property,

and those persons may obtain compensation by action against the Council.

(2) The total amount that may be applied in the compensation of all persons who suffer loss—

(a) by reason of thefts by—

- (i) a solicitor who is not in partnership with any other practising solicitor;
- (ii) any of his clerks or servants; or
- (iii) a practitioner with whom he shares the remuneration for any business; or

(b) by reason of theft by—

- (i) the members or any of the members of any firm of practising solicitors;
- (ii) any of their clerks or servants; or
- (iii) a practitioner with whom they or any of them share the remuneration of any business,

shall not in any event exceed in respect of that solicitor or that firm of practising solicitors the appropriate sum prescribed in subsection (3) of this section or, where the Council has a contract of insurance under section seventy, the sum payable thereunder in respect of losses included in that total amount, whichever sum is the greater.

(3) For the purposes of subsection (2) of this section, the appropriate sum is—

- (a) in respect of thefts committed in the period of five years beginning on the commencing date, the sum of two thousand five hundred pounds;
- (b) in respect of thefts committed in the year beginning on the fifth anniversary of the commencing date or partly in that year and partly before that year, the sum of three thousand pounds;
- (c) in respect of thefts committed in the year beginning on the sixth anniversary of the commencing date or partly in that year and partly before that year, the sum of three thousand five hundred pounds;
- (d) in respect of thefts committed in the year beginning on the seventh anniversary of the commencing date or partly in that year and partly before that year, the sum of four thousand pounds;
- (e) in respect of thefts committed in the year beginning on the eighth anniversary of the commencing date or partly in that year and partly before that year, the sum of four thousand five hundred pounds; and

- (f) in respect of thefts committed in or after the year beginning on the ninth anniversary of the commencing date or partly in or after that year and partly before that year, the sum of five thousand pounds,

but for the purposes of this subsection any amount paid from the fund shall, to the extent to which the fund has been subsequently reimbursed therefor, otherwise than under a contract of insurance entered into under section seventy, be disregarded.

(4) No person has any claim against the fund in respect of any theft committed before the commencing date, and, in respect of any theft that may be committed after the commencing date, no person has a claim against the fund unless notice of the claim is given in writing to the Council or committee of management within twelve months after the claimant has become aware of the theft.

(5) No compensation shall be paid under this section by reason of theft committed by a solicitor who is not liable to pay contributions under section sixty-one.

Claims
against
fund.

Tas., s. 47N.
N.Z., s. 85.
Vict., s. 13
(3), (4).

66—(1) The Council may receive and settle any claim against the fund at any time after the commission of the theft in respect of which the claim arose, but no person is entitled, without leave of the Council, to commence an action in relation to the fund unless and until the claimant has exhausted all relevant rights of action and other legal remedies available against the defaulting practitioner or any other person in respect of the loss suffered by him.

(2) No person is entitled to recover from the fund by action an amount greater than the balance of the loss suffered by him after deducting from the total amount of his loss the amount or value of all moneys or other benefits received or receivable by him from any source other than the fund in reduction of his loss.

(3) No amount shall be paid or is payable out of the fund as interest on the amount of any judgment obtained, or of any claim admitted, against the fund.

(4) No right of action lies in relation to the fund in respect of any loss suffered by any person by reason of any theft that may be committed by a practitioner at any time after the claimant or his privies have received a notification in writing from the Council or committee of management warning him or them against the employment or continued employment of that practitioner.

(5) No action for damages lies against the Council or any member or servant of the Council or committee of management for—

- (a) any notification given in good faith and without malice for the purposes of subsection (4) of this section; or

(b) giving any notice or information in accordance with a contract of insurance entered into under section seventy with regard to any theft or dishonesty or suspicion thereof committed or practised by a practitioner.

(6) In any proceedings brought to establish a claim against the fund, evidence of any admission or confession by, or other evidence which would be admissible against, the practitioner or other person by whom it is alleged that the theft was committed is admissible to prove the commission of the theft, notwithstanding that the practitioner or other person is not the defendant in or a party to those proceedings.

(7) The Council or, where proceedings are brought to establish a claim, the court, if satisfied that the theft on which the claim is founded was actually committed, may allow the claim and act accordingly, notwithstanding that the person who committed the theft has not been convicted or prosecuted therefor or that the evidence on which the Council or court (as the case may be) acts would not be sufficient to establish the guilt of that person upon a criminal trial for the theft.

67 In any action brought against the Council in relation to the fund, all defences which would have been available to the defaulting practitioner or firm of practitioners or other person by reason of whose theft the action arises are available to the Council.

Defences to claims against fund.
Tas., s. 47P.
N.Z., s. 86.

68 On payment out of the fund of any moneys in settlement in whole or in part of any claim under this Part the Council is subrogated, to the extent of the payment, to all the rights and remedies of the claimant against the practitioner or the members of the firm of practitioners in relation to whom the claim arose and against the person by whom the theft was committed or, in the event of death or bankruptcy or other disability, against his or their personal representatives or other persons having authority to administer his estate or their estates.

Subrogation of rights of action against defaulting solicitor.
Tas., s. 47Q.
N.Z., s. 87.

69—(1) No money or other property belonging to the Council, other than the fund, is available for the satisfaction of any judgment obtained against the Council in relation to the fund, or for the payment of any claim allowed by the Council; but if at any time the fund is not sufficient to provide for the satisfaction of all such judgments and claims they shall, to the extent to which they are not so satisfied, and subject to subsection (2) of section sixty-five, be charged against future accumulations of the fund.

If fund insufficient to satisfy claims such claims to be charged on future accumulations.
Tas., s. 47R.
N.Z., s. 88.

(2) The Council shall, if the fund is not sufficient to satisfy all judgments and claims payable out of it, make payments ratably out of the fund and the future accumulations thereof

as they are received to all persons who have recovered judgment against it or whose claims it has allowed subject to subsection (3) of this section.

(3) Where the Council makes payments ratably under this section, it—

(a) is not bound to make payments to the same person more than once a year; and

(b) may, except in the case of a final payment, withhold payment of any sum less than five pounds.

Power of Council to enter into contracts of insurance.

Tas., s. 47s.
N.Z., s. 89.

70—(1) Notwithstanding anything to the contrary in this Part, the Council may, in its discretion, enter into a contract of insurance with any person carrying on fidelity insurance business in this State, whereby the Council will be indemnified to the extent and in the manner provided by the contract against liability to pay claims under this Part.

(2) A contract of insurance under this section may be entered into in relation to practising solicitors generally or in relation to any practising solicitor or solicitors named therein.

(3) No action lies against the Council, or against any member or servant of the Council, or against any member of the committee of management, for injury alleged to have been suffered by any solicitor by reason of the publication in accordance with fact of a statement that any contract of insurance entered into under this section does or does not apply with respect to that solicitor.

(4) A contract of insurance entered into under section forty-seven s of the *Legal Practitioners Act 1896* continues in force under and for the purposes of this section notwithstanding the repeal of that Act.

Application of insurance moneys.

Tas., s. 47t.
57 Vict. No. 12 (W.A.),
s. 28v.

71 No claimant against the fund has a right of action against a person with whom a contract of insurance is made under this Part in respect of that contract, or has a right to claim any moneys paid by the insurer in accordance with the contract of insurance; but all such moneys shall be paid into the fund and shall be applied in or towards the settlement of relevant claims.

Repayment from fund on death or retirement of practitioners.

Tas., s. 47u.
N.Z., s. 93.

72 While the fund exceeds fifteen thousand pounds the Council—

(a) upon the death of a solicitor shall pay to his personal representative a sum equal to the aggregate amount of his contributions to the fund; and

(b) upon the voluntary retirement from practice of a practising solicitor or his voluntary or statutory retirement from legal employment of a solicitor who is not a practising solicitor may, in its discretion, pay to him a sum not exceeding the aggregate amount of his contributions to the fund in satisfaction *pro tanto* of the amount payable under paragraph (a) of this section.

73 The Council may, with the approval of the judges, make rules for the purposes of this Part, and in particular for—

Power of Council to make rules.
Tas., s. 47v.
N.Z., s. 93.

- (a) providing for the investment of so much of the fund as is not immediately required for the purposes thereof; and
- (b) prescribing forms of notice to be given to the Council in relation to claims against the fund, and the conditions subject to which and the extent to which the Council may settle any such claims without recourse to legal proceedings.

PART VII.

ILLEGAL PRACTICE.

74—(1) No person shall act as a barrister or solicitor in the Supreme Court, or as a barrister, advocate, attorney, solicitor, or proctor sue out any writ or process, or commence, carry on, solicit, defend, or appear in any action or other proceeding in the name of any other person or in his own name in the court, or in a court of requests or court of mines, or before any justice, unless that person has been admitted as a practitioner.

Persons not to act as barristers or solicitors unless admitted.
60 Vict. No. 43 (Tas.).
Ibid., ss. 49, 50.

(2) Nothing contained in this section prevents—

- (a) a party from appearing or defending in person as heretofore;
- (b) a person from addressing the court by leave under the provisions of section one hundred and thirty-nine of the *Local Courts Act 1896*; or
- (c) a person from conducting a case or examining and cross-examining witnesses under section forty-seven of the *Justices Procedure Act 1919*.

(3) A person who, contrary to the provisions of this section directly or indirectly practises or acts as a practitioner, or who, not being admitted a practitioner, represents or holds himself out as or to be a practitioner, or makes or claims to make a charge or demand whether as legal costs, expenses, or commissions, which he would only be entitled to make if a practitioner, is liable to a penalty of not less than ten pounds and not more than one hundred pounds.

(4) Upon the trial of any proceeding brought for the recovery of a penalty under this section proof as to the defendant being admitted lies upon him.

75 A person not being duly admitted a practitioner who, for fee or reward, given or to be given, prepares or assists in preparing a deed, will, or an instrument in writing purporting to create or convey any estate or interest, legal or

Illegal conveyancing for reward.
Ibid., s. 51.

equitable, either originally or in execution of a power, in real or personal property, or otherwise practises the business of a conveyancer, is liable to a penalty of not less than ten pounds and not more than one hundred pounds.

PART VIII.

MISCELLANEOUS.

Control of
practitioners
by the court.
Ibid., s. 54.

76 A person may appear before the court or a judge, and be heard by counsel upon an application for a rule or order to compel a practitioner to answer the matters or allegations contained in an affidavit, and may apply to the court or judge to make absolute a rule or order *nisi* which has been granted in the matter of his application, and the court or a judge may order the costs, charges, and expenses of the application to be paid by the practitioner against whom the application is made, or by the person by or on whose behalf the application is made, or partly by the one and partly by the other of them.

Fees to be
paid before
admission.
Cf. ibid., s.
53.

77 Before a motion is made for a person's admission as a practitioner or barrister, he shall pay the Registrar the appropriate fee mentioned in the first schedule.

Appropriation
of fees,
penalties, and
duty.
Ibid., s. 55.

78—(1) Except as provided in subsection (3) of this section, all fees paid and penalties recovered under this Act and the stamp duty payable on articles and assignments thereof shall be paid to the Registrar, and shall once in every month be paid over by him to, and shall be appropriated to the use of, the law society.

(2) While there is more than one law society, payments under this section shall be shared between them in proportion to the number of their respective members as ascertained and determined by the Registrar on the first day of February in the year in which the payment becomes payable.

(3) The fees payable under section seven and on motion for the admission of an articulated clerk as a practitioner shall be applied in the prescribed manner in defraying the expenses incurred in the conduct of the examinations of articulated clerks and in remunerating the members of the Board for their services on the Board and in connection with the examinations.

Denotation
of stamp
duty.
Ibid., s. 55.

79 The stamp duty payable on articles and assignments thereof shall be denoted by the receipt of the Registrar therefor endorsed on the instrument in respect of which it is payable.

80 The judges may make rules prescribing—

Rules.
ibid., s. 48.

- (a) the mode in which and the conditions under which persons who are not required by this Act to undergo an examination may be admitted;
- (b) regulating the proceedings and times of meeting of the Board;
- (c) the nature and mode of the examinations which articled clerks shall pass before they are entitled to be admitted;
- (d) the books and subjects in which articled clerks shall be examined;
- (e) the conditions under which articled clerks or candidates may submit themselves for examination;
- (f) the conditions under which the passing of an examination held by the University of Tasmania, or of a university recognized by the University of Tasmania, or of subjects in such an examination shall be deemed to be equivalent to the passing of an examination held by the Board, or of subjects in that examination;
- (g) the mode in which persons may be admitted; and
- (h) matters generally for the purposes of this Act (other than Part VI).

THE FIRST SCHEDULE.

Fees to be paid under this Act.

	£	s.	d.
On filing articles	1	1	0
On filing an assignment of articles	0	10	6
On giving notice of intention to be examined under section 7 (1)	1	1	0
For each subject of examination under section 7 (2)	1	1	0
NOTE.—Where two or more separate examination-papers are prescribed in respect of any one subject, each of such papers shall, for the purposes of this schedule, constitute a separate subject of examination.			
On motion for admission of an articled clerk as a practitioner	1	1	0
On motion for admission as a practitioner without examination	21	0	0
On motion for admission as a barrister	21	0	0
On motion for admission as a solicitor	1	1	0
For an annual certificate under section 21	1	1	0

THE SECOND SCHEDULE.

(Section 17.)

I, A.B., do swear [or solemnly affirm, as the case may be] that I will truly and honestly demean myself in the practice of a Practitioner [or a Barrister and Advocate or an Attorney, Solicitor, and Proctor, as the case may be] of the Supreme Court according to the best of my knowledge and ability. So help me God.

THE THIRD SCHEDULE.

(Section 21.)

IN THE SUPREME COURT
OF TASMANIA.

I HEREBY certify that _____, Esquire, is on the Roll of the Supreme Court of Tasmania as a Practitioner of the Court, and is entitled to practise as such until the 31st day of December next.

Dated at Hobart this _____ day of _____, 19____.
Registrar.

HIRE-PURCHASE.

No. 79 of 1959.

AN ACT to consolidate and amend the law relating to the hire-purchase of goods.
[23 December 1959.]

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:—

PART I.

PRELIMINARY.

Short title
and com-
mencement.

1—(1) This Act may be cited as the *Hire-Purchase Act 1959*.

(2) This Act shall commence on a date to be fixed by proclamation.

Repeal.

2—(1) The *Hire-purchase Act 1943* and the *Hire-purchase Act 1947* are repealed.

(2) Notwithstanding the repeal of the Acts mentioned in subsection (1) of this section, those Acts continue to have the same operation and effect in relation to hire-purchase agreements entered into before the commencement of this Act as if this Act had not been enacted.

Application
of Act.

3 This Act applies to and in relation to all hire-purchase agreements, and agreements made in relation to hire-purchase agreements, entered into at any time on or after the date of the commencement of this Act.