

## LEGAL PRACTITIONERS.

### No. 102 of 1971.

#### AN ACT to amend the *Legal Practitioners Act 1959*. [14 December 1971.]

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**—(1) This Act may be cited as the *Legal Practitioners Act 1971*. Short title, citation, and commencement.
- (2) The *Legal Practitioners Act 1959*, as subsequently amended, is in this Act referred to as the Principal Act.
- (3) This Act shall commence on the first day of January 1972.

**2** Section three of the Principal Act is amended— Interpretation.

(a) by inserting before the definition of “articled clerk”, the following definition:—

“‘apprentice’ means a person serving an apprenticeship under Part IVA;” and

(b) by omitting from the definition of “Board” the word “Examiners” and substituting therefor the words “Legal Education”.

**3** Section five of the Principal Act is repealed and the following section is substituted therefor:—

“5—(1) For the purposes of this Act there shall be a board, to be called the Board of Legal Education. Board of Legal Education.

“(2) The Board shall consist of—

- (a) the Attorney-General, who shall be its chairman;
- (b) a judge nominated by the judges;
- (c) a person nominated by the Faculty of Law in the University of Tasmania;
- (d) a person nominated by the Council of Advanced Education; and
- (e) two persons nominated by the Law Society.

“(3) Nomination to the Board shall be proved by writing, in the case of—

- (a) paragraph (b), under the hand of the Chief Justice;
- (b) paragraph (c), under the hand of the Dean of the Faculty;

(c) paragraph (d), under the seal of the Council of Advanced Education; and

(d) paragraph (e), under the seal of the Law Society, dated as of the day of its signing or sealing, and given to the secretary of the Board.

“(4) A nomination to the Board—

(a) shall expire three years after its date; and

(b) shall be deemed to have been sooner revoked on receipt by the secretary of the Board of a nomination by the same persons of another nominee.

“(5) The quorum of the Board is four.

“(6) In the absence of the Attorney-General from a meeting of the Board, the other members present may elect a chairman for that meeting.

“(7) 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.

“(8) 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.

“(9) The Board shall have—

(a) a secretary appointed pursuant to the *Public Service Act* 1923; and

(b) a common seal.

“(10) The Board shall be deemed to be the continuation of the Board of Examiners that existed before the commencement of this section.”

Admission of  
articled clerks  
as practi-  
tioners.

**4** Section thirteen of the Principal Act is amended by omitting from subsection (1) the words “of the age of twenty-one years or upwards”.

**5** After section thirteen of the Principal Act the following section is inserted:—

Admission of  
apprentices-  
at-law.

“13A—(1) The Court may admit as a practitioner a person who has—

(a) passed the examinations required for the degree of Bachelor of Laws in the University of Tasmania or in some other university declared by the Governor, by order, to be a university approved for the purposes of this subsection;

(b) thereafter commenced and successfully completed a course—

(i) of at least six months' duration;

- (ii) of practical instruction in the duties of a solicitor; and
- (iii) approved by the Board of Legal Education;
- (c) completed an apprenticeship in accordance with Part 1VAA; and
- (d) advertised notice of his intention to apply for admission in such manner and for such period as may be prescribed.

“(2) The requirement of subsection (1) of this section that the course referred to in paragraph (b) thereof shall be commenced after passing the examinations referred to in paragraph (a) thereof does not apply to persons at the commencement of this section enrolled as law students in the University of Tasmania to whom the Board has given permission to commence that course before passing all those examinations, which thing it may not do unless it considers that the student concerned has learnt enough to benefit fully from that course.”.

**6** After section eighteen A of the Principal Act the following section is inserted:—

“18B—(1) A practitioner who—

(a) has been admitted under section twelve or section thirteen after the commencement of this section; and

(b) has not successfully completed a course referred to in paragraph (b) of subsection (1) of section thirteen A,

shall not practise as a solicitor on his own account, either alone or in partnership, until he has, after his admission, served a practising solicitor or firm as a law clerk for at least twelve months.

“(2) The Board may, for good cause, waive the requirements of subsection (1) of this section in individual cases and shall in each case notify the Law Society of the waiver.”.

Limited effect  
of certain  
admissions.

**7** Section twenty B of the Principal Act is amended—

(a) by omitting subsection (1) and substituting therefor the following subsection:—

“(1) Subject to this section the court may grant a limited right of audience to an articled clerk who has—

(a) passed the prescribed examinations and completed at least four years’ service under articles; or

(b) passed the examinations required for the degree of LL.B. in a university referred to in paragraph (b) of subsection (1) of section thirteen and completed at least twelve months’ service under articles.”; and

(b) by omitting from subsection (4) the words “ nine months’ service under articles ” and substituting therefor the words “ three years and nine months’ service under articles, or nine months’ service under articles, as the case requires ”.

Grant of  
limited right  
of audience to  
certain  
articled clerks.

**8** After section twenty-three of the Principal Act the following section is inserted in Part IV:—

Restriction on articles.

“23A No person may enter into articles without—

- (a) the consent of the Board under its common seal; and
- (b) if he intends to apply for admission as a practitioner under section thirteen, showing why he should not serve an apprenticeship.”.

Conditions for articling of clerks.

**9** Section twenty-eight of the Principal Act is amended by omitting from subsection (1) the words “has attained the age of sixteen years, and”.

**10** After section thirty-two A the following Part is inserted:—

“ PART IVAA.

“ APPRENTICES-AT-LAW.

Articles of apprenticeship.

“32AB—(1) A person who has the qualifications set forth in paragraphs (a) and (b) of section thirteen A may—

- (a) upon satisfying the Board that he has those qualifications and that he is in every respect of good fame and character and a fit and proper person to be admitted as a practitioner on completion of his apprenticeship; and
- (b) after receiving a certificate under the seal of the Board that he has so satisfied it,

enter into articles of apprenticeship with a practising solicitor.

“(2) Articles of apprenticeship shall be in the prescribed form and bind—

- ✓ (a) the solicitor to give the apprentice experience in the work of a solicitor; and
- ✓ (b) the apprentice to serve the solicitor as a clerk,

for the period of the articles.

“(3) A person who fails to satisfy the Board as provided in paragraph (a) of subsection (1) of this section may appeal against the Board to a judge in chambers and if the judge is so satisfied the Board shall make the judge’s opinion its own.

“(4) Either the appellant or the Board may appeal to the court against the decision of a judge under subsection (3) of this section.

Required duration of apprenticeship.

“32AC For the purposes of section thirteen A an apprentice shall serve under articles of apprenticeship a total period of eighteen months.

Incidents of apprenticeship.

“32AD—(1) Subject to section thirty-two AB, there apply to articles of apprenticeship as if they were articles of clerkship—

- (a) section twenty-four, but as if for subsection (2) were substituted the following subsection:—

“(2) There shall be filed with articles the certificate referred to in paragraph (b) of subsection (1)

of section thirty-two AB, unless it has already been filed.”;

- (b) section twenty-five, twenty-six, and twenty-seven;
- (c) subsections (2), (2A), (2B), and (2C) of section twenty-eight; and
- (d) sections thirty-one and thirty-two A.

“(2) Notwithstanding anything contained in subsection (1) of this section the total period that may be spent effectively for the purposes of section thirty-two AC as apprentice to a solicitor to a State instrumentality within the meaning of subsection (2C) of section twenty-eight is twelve months.

“(3) An apprentice shall before being admitted as a practitioner, prove to the satisfaction of the court or judge, by affidavit or otherwise, that he has served the solicitor in accordance with his articles for the whole period thereof as his clerk in the proper business, practice, and employment of a solicitor.

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

“(5) An apprentice who actually and in good faith is and continues as clerk with, and as such is employed and given experience of the work of a solicitor by, the Hobart agent of the solicitor to whom he is apprenticed for any part of the period of his articles not exceeding twelve months, either by virtue of a provision in his articles or with the permission of his master, may be admitted under this Act in the same manner as if he had served the whole period with his master.

“32AE—(1) When an apprentice has—

**Audience of apprentices.**

- (a) filed his articles of apprenticeship in the court;
- (b) taken and subscribed the oath set forth in the seventh schedule and the oath of allegiance set forth in the *Promissory Oaths Act 1869*; and
- (c) paid the prescribed fee,

the Registrar shall give the apprentice a certificate in the prescribed form that he is an apprentice-at-law.

“(2) An apprentice holding a certificate under subsection (1) of this section—

- (a) has, except in respect of courts of requests, the same right of audience as may be granted to an articulated clerk under section twenty B;
- (b) may appear as counsel in courts of requests; and
- (c) may appear as junior counsel in the court but is not entitled to be heard in the absence of his leader.

“(3) Subject to subsection (4) of this section, when an apprentice’s articles are terminated the Registrar shall call for and cancel his certificate under subsection (1) and the former apprentice shall deliver it up when called for.

“(4) Where—

(a) on the termination of an apprentice’s articles he is qualified for admission under section thirteen A; and  
 (b) it appears to the Registrar that he will apply without delay for admission under that section and that his former master will continue to employ him and wishes his certificate to continue in force until his admission,  
 the Registrar shall not call for the certificate and the former apprentice may so long as he holds the certificate keep his former rights of audience until his admission.

“(5) An apprentice or former apprentice is not entitled to recover any fees, disbursements, or expenses in respect of his appearance in any proceedings pursuant to this section but his master or his master’s firm is entitled to make a reasonable charge in respect of any such appearance directed to be made by his master, which charge may be recovered as if that appearance had been made by his master.

“(6) An apprentice or former apprentice appearing in the Supreme Court on an occasion when counsel robe shall wear the gown of his academic degree.

“(7) When an apprentice or former apprentice appears as counsel under this section, his master is responsible for all his words and acts unless he proves that his apprentice spoke or acted without being instructed, counselled, or encouraged by his master so to do and without his master’s expectation that he would so do.

**Discipline.**

“32AF—(1) If an apprentice or former apprentice does anything in the exercise of his rights under section thirty-two AE that if he were a barrister would cause the court to disbar or suspend him, the court may—

- (a) if he is an apprentice terminate or suspend his apprenticeship; and  
 (b) if he is a former apprentice cause his certificate to be cancelled or temporarily withdrawn.

“(2) Where articles of apprenticeship are terminated under this section the person articulated may not enter into another apprenticeship without the leave of the court.

“(3) Where a certificate is cancelled or withdrawn under this section the court shall take the cause therefor into account on any application for the holder’s admission as a practitioner.

**Clerk to the Solicitor-General.**

“32AG A person who is entitled to enter into articles of apprenticeship and is clerk to the Solicitor-General shall be deemed to be his clerk under articles of apprenticeship and section thirty-two AE applies to him if, instead of filing articles in the court, he files therein a certificate by the Solicitor-General, that he is his clerk.

“ 32AH For the purposes of this Act, except section thirteen— Effect of apprenticeship.

(a) attendance at a course referred to in paragraph (b) of subsection (1) of section thirteen A that has been successfully completed; and

(b) service under articles of apprenticeship,

shall be deemed to be service under articles of clerkship.”

**11** The first schedule to the Principal Act is amended— The first schedule.

(a) by inserting after the word “ articles ” (twice occurring) the words “ of clerkship or apprenticeship ” in either case; and

(b) by adding, at the end, the following item:—

“ For a certificate under section 32AD ..... 2.00 ”.

**12** After the sixth schedule to the Principal Act the following The seventh schedule. schedule is added:—

“ THE SEVENTH SCHEDULE.

(Section 32AE.)

“ I, A.B., do swear [or solemnly affirm, as the case may be] that I will truly and honestly demean myself in the exercise of my right of audience under section thirty-two AE of the *Legal Practitioners Act 1959* to the best of my knowledge and ability. [So help me God.] ”.

---

## LOCAL GOVERNMENT (No. 2).

---

### No. 103 of 1971.

AN ACT to amend the *Local Government Act 1962*.  
[14 December 1971.]

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**—(1) This Act may be cited as the *Local Government Act 1971* (No. 2). Short title and citation.

(2) The *Local Government Act 1962*, as subsequently amended, is in this Act referred to as the Principal Act.