



TASMANIA

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**LEGAL PRACTITIONERS AMENDMENT ACT 1993**

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**No. 1 of 1993**

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**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Principal Act
4. Section 22A inserted  
22A—Practising certificates of certain practitioners
5. Section 55 amended (Enforcement of fidelity bonds)
6. Section 57 amended (Inspection of bank records, &c.)
7. Section 76A amended (Solicitor suffering from mental disorder, missing, &c.)
8. Sections 76B and 76C inserted  
76B—Managers  
76C—Powers of managers
9. Application of amendments



**LEGAL PRACTITIONERS AMENDMENT ACT 1993**

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**No. 1 of 1993**

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**AN ACT to amend the *Legal Practitioners Act 1959*****[Royal Assent 20 April 1993]**

**B**E 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:—

**Short title**

**1**—This Act may be cited as the *Legal Practitioners Amendment Act 1993*.

**Commencement**

**2**—This Act commences on the day on which it receives the Royal Assent.

**Principal Act**

3—In this Act, the *Legal Practitioners Act 1959*\* is referred to as the Principal Act.

**Section 22A inserted**

4—After section 22 of the Principal Act, the following section is inserted:—

**Practising certificates of certain practitioners**

22A—(1) A person who is employed as a legal practitioner in the Australian Securities Commission is taken to hold, and be named in, a practising certificate for the period during which the person is so employed.

(2) The provisions of section 54 do not apply to a person taken to hold, or be named in, a practising certificate under subsection (1).

**Section 55 amended (Enforcement of fidelity bonds)**

5—Section 55 of the Principal Act is amended as follows:—

- (a) by omitting from subsection (3) (c) “benefit,” and substituting “benefit; or”;
- (b) by inserting the following paragraphs after paragraph (c) of subsection (3):—
  - (d) compensation for the loss of interest suffered in connection with a claim referred to in paragraph (a), (b) or (c); or
  - (e) the costs incurred in connection with the preparation, making and lodging of any of these claims—
- (c) by omitting from subsection (9) (d) “thereof.” and substituting “of that claim; and”;

\* No. 78 of 1959. For this Act, as amended to 1968, see Appendix D to the Annual Volume of Statutes for 1969. Subsequently amended by No. 72 of 1970, No. 102 of 1971, No. 52 of 1972, No. 100 of 1973, No. 48 of 1974, No. 88 of 1976, No. 3 of 1977, No. 41 of 1980, No. 27 of 1983, No. 29 of 1984, No. 51 of 1985, No. 91 of 1986, No. 37 of 1987, No. 19 of 1989 and Nos. 20 and 39 of 1990.

(d) by inserting the following paragraph after paragraph (d):—

(e) the payment of costs in relation to a claim made under subsection (3).

**Section 57 amended (Inspection of bank records, &c.)**

6—Section 57 of the Principal Act is amended as follows:—

- (a) by inserting in subsection (1) (c) “account, register, book,” before “documents”;
- (b) by omitting from subsection (1) “Penalty: Two hundred dollars.”;
- (c) by omitting subsections (2) and (3) and substituting the following subsections:—

(2) The banker is to notify the Law Society at which branch or other place of business of the bank in the State anything required to be produced under subsection (1) (c) may be inspected.

(3) A person authorized under subsection (1) (c) to inspect any account, register, book, document or record may take copies of them or extracts from them.

(3A) Any person who—

- (a) fails to comply with subsection (1); or
- (b) obstructs a person authorized under subsection (1) (c) in the exercise of any power conferred under this section—

is guilty of an offence and is liable on summary conviction to a fine not exceeding 10 penalty units.

**Section 76A amended (Solicitor suffering from mental disorder, missing, &c.)**

7—Section 76A of the Principal Act is amended as follows:—

- (a) by inserting in subsection (1) (b) “or has died” after “disappeared”;
- (b) by omitting from subsection (1) “make any order that he may make under section fifty-six.” and substituting the following:—

make any of the following orders:—

- (d) an order specified in section 56 (2);

- (e) an order appointing a person as manager of the practice of that practitioner;
  - (f) an order to suspend the practitioner from practising as a solicitor for such period as is specified in the order.
- (c) by inserting the following subsection after subsection (1A):—

(1B) If a judge makes an order under subsection (1) (e) appointing a manager of the practice of a practitioner, the judge may also make any of the following orders:—

- (a) an order in respect of the remuneration of that manager;
- (b) an order that the remuneration of the manager is payable—
  - (i) out of the estate of that practitioner; or
  - (ii) by the Trust out of the Solicitors' Guarantee Fund; or
- (c) an order that the manager be indemnified wholly or in part by the Trust against liability arising in the course of the management of the practice of that practitioner;
- (d) an order as to the ownership of money and other property received by the manager in the course of the management of that practice.

### Sections 76B and 76C inserted

8—After section 76A of the Principal Act, the following sections are inserted:—

#### Managers

76B—A person appointed as manager pursuant to an order under section 76A (1) (e)—

- (a) must be a legal practitioner; and

- (b) is to be appointed for such period as is specified in the order or such further period as the judge making the order may determine.

### **Powers of managers**

76C—A person appointed as manager of the practice of a practitioner pursuant to an order under section 76A (1) (e) may do any or all of the following:—

- (a) transact the business of the practice of that practitioner;
- (b) operate the trust bank account and trust deposit account of that practitioner;
- (c) take possession of any records, papers, books or documents relating to the practice of that practitioner;
- (d) for the purposes of paragraph (c), enter and remain on any premises which that person reasonably believes to contain those records, papers, books or documents;
- (e) execute deeds and other instruments as attorney for that practitioner.

### **Application of amendments**

9—The amendments made by section 5 of this Act apply to any action or administration under section 55 of the Principal Act but not completed before the commencement of this Act.

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[Second reading presentation speech made in:—  
House of Assembly on 25 November 1993  
Législative Council on 23 April 1993]

