

TASMANIAN LAW SOCIETIES.

No. 50 of 1954.

AN ACT to amend the *Tasmanian Law Societies Act* 1887. [10 December, 1954.]

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 *Tasmanian Law Societies Act* 1954. Short title and citation.

(2) The *Tasmanian Law Societies Act* 1887, as subsequently amended, is in this Act referred to as the Principal Act.

2 After section eleven of the Principal Act the following sections are inserted:—

“12—(1) Until the establishment of a united law society as provided in section eleven, there shall be a body corporate called the ‘United Law Council of Tasmania’ consisting of eight member, of whom—

United Law Council of Tasmania.
Cf. 23 & 24
Geo. 5, c. 24,
s. 1.

I Four shall be members of the Southern Law Society elected by its council: and

II Four shall be members of the Northern Law Society elected by its council, two at least of whom shall be legal practitioners whose principal place of practice is outside the city of Launceston.

(2) Members of the United Law Council of Tasmania elected—

I Ordinarily, shall hold office for three years—

(a) In the case of original members, from their election: and

(b) In the case of subsequent members, including original members again elected, from the end of their predecessors’ term of office: or

II To fill casual vacancies, shall hold office for the residue of the term of the members they replace.

(3) The United Law Council of Tasmania may—

I With the approval of the judges or any three of them, make rules—

- (a) As to the opening and keeping by legal practitioners of accounts at banks for clients' moneys:
- (b) As to the keeping by legal practitioners of accounts containing particulars and information as to moneys received, held, or paid by them, for or on account of their clients:
- (c) Empowering the Council to take such action as may be necessary to enable it to ascertain whether or not the rules are being complied with: and
- (d) For regulating in respect of any other matter the professional practice, conduct, and discipline of legal practitioners including, among other things, requiring the exercise, and penalizing the lack, of diligence and expedition in clients' business: and

II Make rules—

- (a) For the appointment of its own office-bearers: and
- (b) The contribution by societies incorporated under this Act towards its funds.

(4) Upon the publication of resolutions for the formation of a united law society as provided in section eleven—

I The council thereof shall have and may exercise in its own name the powers of the United Law Council of Tasmania under paragraph I of subsection (3) of this section:

II The United Law Council of Tasmania shall be deemed to be dissolved: and

III All property of the United Law Council of Tasmania shall vest in the united law society.

Constitution
of disciplinary
committee.

Cf. 22 & 23
Geo. 5, c. 37,
s. 4.

“12A—(1) The law societies of the two districts herein named shall each forthwith lodge with the Principal Registrar of the Supreme Court a list of six of their members capable of serving on the committee established by this section and shall, as occasion requires, substitute new lists of those persons.

(2) The Supreme Court, with the consent of a majority of the judges, shall appoint from among the persons whose names have been lodged as provided in subsection (1) of this section a disciplinary committee (in this Act called ‘the Committee’) consisting of five members, and may from time to time remove any member from the Committee and fill any vacancy therein.

(3) The members of the Committee shall be appointed for five years, but if any casual vacancy occurs the appointment

shall be made for the remainder of the term of the member whose place is to be filled.

(4) The Committee may act and function by any three or more of its members and notwithstanding one vacancy or two vacancies therein.

“12B—(1) Any application by a legal practitioner to procure his name to be removed from the roll of the Court or by another person to strike the name of a legal practitioner off the roll or to require a legal practitioner to answer allegations contained in an affidavit or a complaint of failure to observe any rule made under section twelve may be made to and heard by the Committee in accordance with rules made under section twelve C.

Powers of Committee.
Cf. 22 & 23
Geo. 5, c. 37,
s. 5, & 23 & 24
Geo. 5, c. 23,
s. 2.

(2) On the hearing of an application to which subsection (1) of this section relates, the Committee shall have power to make any such order—

I As to removing from or striking off the roll the name of any legal practitioner to whom the application relates:

II As to suspending him from practice:

III For imposing on him a penalty not exceeding one thousand pounds:

IV As to the payment by any party of costs: and

V Otherwise in relation to the case,
as the Committee may think fit.

(3) Any penalty imposed under this section shall be forfeited to Her Majesty.

(4) Nothing in this section affects the jurisdiction which, apart from the provisions of this section, is exercisable by the Supreme Court or any judge over legal practitioners, or applies to legal practitioners who are not attorneys, solicitors, and proctors.

“12C—(1) The Committee, with the concurrence of the judges or any three of them, may make rules for regulating the making, hearing, and determining of applications to the Committee under section twelve B.

Procedure of the Committee.
22 & 23 Geo.
5, c. 37, s. 6.

(2) For the purposes of any application made to it under section twelve B, the Committee may administer oaths and the applicant and the legal practitioner to whom the application relates may sue out writs of subpoena *ad testificandum* and *duces tecum*; but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.

“12D—(1) Every order made by the Committee under section twelve B shall be prefaced by a statement of its findings in relation to the facts of the case and shall be signed by its chairman and filed with the Principal Registrar of the Supreme Court; and as soon as it has been so filed shall be

Filing, effect, and notice of orders made by the Committee.
Ibid., s. 7.

acted upon by the Principal Registrar and be enforceable in the same manner as a judgment or an order of the Supreme Court to the like effect.

(2) Where by any order under section twelve B the name of any legal practitioner is ordered to be removed from or struck off the roll or any legal practitioner is suspended from practice, the Principal Registrar shall forthwith upon the filing of the order cause a notice stating the effect of the operative part thereof to be published in the *Gazette*.

(3) The file of orders made by the Committee under section twelve B may be inspected by any person during office hours without payment.

Appeals.

Cf., Ibid., s. 8.

“12E—(1) An appeal against any order made by the Committee under section twelve B shall lie to the Supreme Court at the instance either of the applicant or the legal practitioner to whom the application relates.

(2) Subject to the provisions of subsection (4) of this section, every such appeal under this section shall be made within such time and in such form and shall be heard in such manner as may be prescribed by the rules of court.

(3) On the hearing of any appeal under this section the Supreme Court may make any order which the Committee is empowered by section twelve B to make and may deal with the costs of and incidental to the appeal in any manner it thinks fit.

(4) A legal practitioner who is entitled to appeal under this section against an order that his name be removed from or struck off the roll may, in lieu of appealing as provided in this section, as prescribed by the rules of court set the application against him down for hearing *de novo* by the Supreme Court, and thereupon—

- I The order of the Committee shall cease to operate unless confirmed by the Supreme Court:
 - II The legal practitioner shall be disentitled to practise until the matter is disposed of: and
 - III The Supreme Court shall hear and determine the application *de novo*, and may—
 - (a) In addition to its ordinary powers, exercise any power that the Committee might exercise in similar circumstances:
 - (b) Confirm the order of the Committee or make any other order that the Committee might make: and
 - (c) Make such order as to the costs of the proceedings, both before the Committee and before the court, as to the court seems proper.”
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