

LEGAL PRACTITIONERS.

No. 76 of 1952.

AN ACT to amend the *Legal Practitioners Act 1896*.
[12 December, 1952.]

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:—

Short title and citation.

1—(1) This Act may be cited as the *Legal Practitioners Act 1952*.

(2) The *Legal Practitioners Act 1896*, as subsequently amended, is in this Act referred to as the Principal Act.

2 Sections seventeen A and seventeen B of the Principal Act are repealed and the following sections are substituted therefor:—

Admission of practitioners of other States.

“17A.—(1) Any person who is a practitioner of the Supreme Court of any 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, may be admitted as a practitioner in Tasmania, subject to the following conditions:—

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

- (a) Have served five years under articles to a solicitor or barrister and solicitor:
- (b) Be a graduate of the University of Tasmania, or of any university recognised by the University of Tasmania, and have served at least three years under articles to a solicitor or barrister and solicitor: or
- (c) Have 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:

II. Any barrister seeking admission to practise as a practitioner in Tasmania 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

III. The applicant shall give the notices and pay the fees prescribed by this Act, and shall produce evidence of his admission in the Supreme Court in his State or Territory, together with—

- (a) 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:
- (b) 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
- (c) An affidavit from the applicant that he has never been bankrupt or insolvent, or made a composition or arrangement with his creditors, or, if he has been bankrupt or insolvent, or made such a composition or arrangement, an affidavit stating the facts, with dates, and showing that a complete discharge from his debts has been granted to him.

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

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

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

(5) Where the Governor is satisfied, on the report of the Attorney-General, that provisions not substantially less favourable to practitioners admitted to practice under this Act 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 practitioners 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.”

Practitioner
struck off
roll in any
State may
be struck off
in Tasmania.

“ 17B. If any person admitted as a barrister or practitioner in Tasmania is for misconduct disbarred, struck off the rolls, or suspended from practice in any other State or Territory mentioned in section seventeen A he shall, upon proof thereof—

- I. To the satisfaction of the Court, be disbarred: or
- II. To the satisfaction of a judge, be struck off, or suspended for a similar period in Tasmania.”

Admission of
of articled
clerks as
practitioners.

3 Section twenty of the Principal Act is amended—

- (a) by omitting the word “ taken ” (wherever occurring) and substituting therefor, in each case, the words “ passed the examinations required for ”; and
- (b) by inserting in paragraph II., after the word “ examinations ”, the words “ or the examinations required for the degree of Bachelor of Laws in the University of Tasmania ”.

Admission of
barristers.

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

“ 20A.—(1) The Court may, subject to the conditions set out in paragraph III. of subsection (1) of section seventeen A and to the giving of such notices as may be prescribed, admit as a barrister of the Court any person who is a barrister of any Supreme Court mentioned in that subsection whether or not he is also an advocate, attorney, solicitor, or proctor of that Court.

(2) Notwithstanding anything contained in sections forty-nine to fifty-two 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 shall be determined by the dates of their respective admissions.

(4) A barrister admitted under this section who—

I. Would otherwise be entitled to admission as a practitioner: or

II. 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 an attorney, solicitor, and proctor of the Court, and shall then be deemed to be a practitioner for all purposes.”.

5 Section twenty-one of the Principal Act is amended by inserting in subsection (1), after the word “practitioner”, the words “barrister, or attorney, solicitor, and proctor”. Objection to admission.

6 Section fifty-three of the Principal Act is amended by inserting after subsection (2) the following subsections:— Fees to be paid before admission as practitioner.

“(2A.) Every person applying to be admitted as a barrister under this Act shall pay to the Registrar the fee mentioned in the seventh part of the said schedule before any motion shall be made for such admission.

(2B.) Every person applying to be admitted as an attorney, solicitor, and proctor under this Act shall pay to the Registrar the fee mentioned in the eighth part of the said schedule before any motion shall be made for such admission.”.

7 The second schedule to the Principal Act is amended— Second schedule.

(a) by omitting from the fourth part the figures “10 10 0” and substituting therefor the figures “1 1 0”; and

(b) by adding at the end thereof the following parts:—

“*Seventh Part.*

(Section 53).

Enrolment fee on motion for admission as a barrister 21 0 0

“*Eighth Part.*

(Section 53).

Enrolment fee on motion for admission as an attorney, solicitor, and proctor 1 1 0.”

8 The third schedule to the Principal Act is amended by inserting after the word “Practitioner” the words “[or Barrister or Attorney, Solicitor, and Proctor, as the case may be]”. Third schedule.

