

# CONCURRENCE COPY

## LEGAL PRACTITIONERS (SOLICITORS' REMUNERATION) AMENDMENT BILL, 1984

### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The following Bills are cognate with this Bill:—

- Conveyancing (Solicitors' Remuneration) Amendment Bill, 1984;
- Supreme Court (Solicitors' Remuneration) Amendment Bill, 1984;
- District Court (Solicitors' Remuneration) Amendment Bill, 1984;
- Courts of Petty Sessions (Civil Claims) (Solicitors' Remuneration) Amendment Bill, 1984.

The object of this Bill is to amend the Legal Practitioners Act, 1898 ("the Act"), so as—

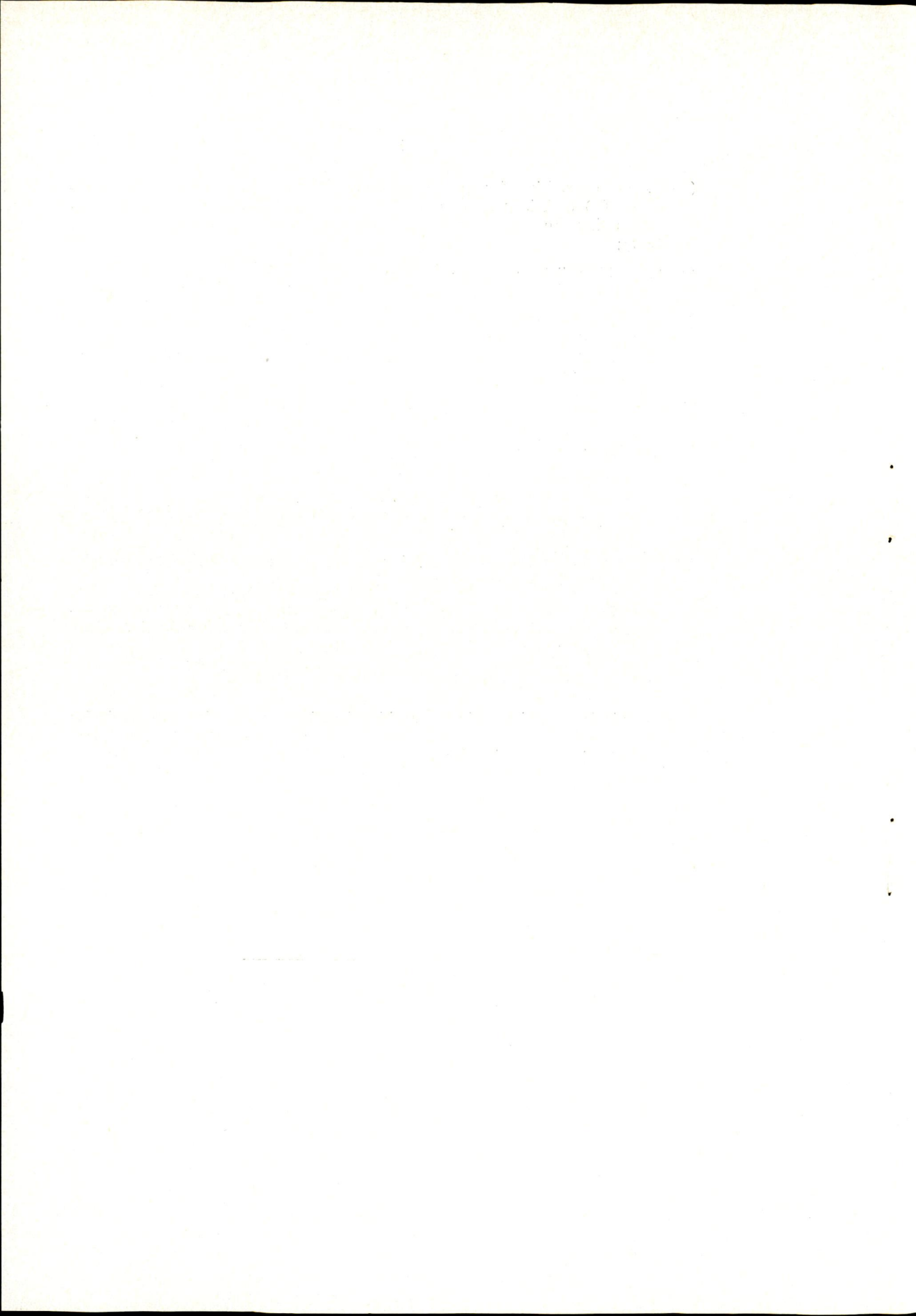
- (a) to constitute a Legal Fees and Costs Board ("the Board") (Schedule 1 (3) —proposed section 20D);
- (b) to provide that the Board shall consist of—
  - (i) a judicial member of the Industrial Commission of New South Wales appointed by the Governor (as Chairperson); and
  - (ii) 3 other persons appointed by the Governor (comprising a practising solicitor and 2 other persons),(Schedule 1 (3) and (9)—proposed section 20E and Schedule 2);
- (c) to make provision with respect to the procedure of the Board (Schedule 1 (3) and (9)—proposed section 20F and Schedule 3);
- (d) to make provision with respect to the staff of the Board (Schedule 1 (3)—proposed section 20G);
- (e) to authorise the Board to investigate, and to report to the Minister on, any matter relating to the remuneration of solicitors (Schedule 1 (3)—proposed section 20H);
- (f) to authorise the Board to make determinations—
  - (i) regulating the remuneration of solicitors in respect of conveyancing and other non-contentious business (that remuneration is at present regulated by a committee under the Conveyancing Act, 1919); and

- (ii) fixing the maximum amount of costs payable to solicitors for litigation and other contentious business done in or for the purpose of civil proceedings in the Supreme Court, the District Court and in Courts of Petty Sessions (those costs are at present fixed by rules of court),  
(Schedule 1 (3)—proposed section 20J);
- (g) to require the Board to review its determinations each year (Schedule 1 (3)—proposed section 20K);
- (h) to enable the Board to provide that solicitors shall be remunerated according to a scale, by a gross sum or in any other manner (Schedule 1 (3)—proposed section 20L);
- (i) to make provisions with respect to inquiries by the Board, including a provision requiring the Board to take into consideration submissions from Ministers of the Crown, the Law Society of New South Wales (“the Society”) and other interested persons (Schedule 1 (3)—proposed section 20M);
- (j) to require the Board to have regard to current State wage decisions and principles of wage fixation (Schedule 1 (3)—proposed section 20N);
- (k) to require the Board to report to the Minister on its determinations and the reasons for its decisions (Schedule 1 (3)—proposed section 20O);
- (l) to provide for the Board’s determinations to be published in the Gazette and laid before both Houses of Parliament and to enable either House of Parliament to disallow any such determination (Schedule 1 (3)—proposed section 20P);
- (m) to provide that the taxation of solicitor and client costs and any other aspect of the remuneration of solicitors for conveyancing and other non-contentious business shall be regulated by determinations in force, except where the solicitor and client otherwise agree (Schedule 1 (3)—proposed section 20Q);
- (n) to provide that the taxation, or other ascertainment, of solicitor and client costs and party and party costs in respect of litigation or other contentious business referred to in paragraph (f) (ii) shall be regulated by determinations in force, except where a court or taxing officer otherwise determines (Schedule 1 (3)—proposed section 20R);
- (o) to allow solicitors to make agreements with their clients as to the solicitors’ remuneration for conveyancing and other non-contentious business, notwithstanding any determination made by the Board (Schedule 1 (3)—proposed section 20S);
- (p) to require a client who enters into an agreement referred to in paragraph (o) to be notified of, and to acknowledge, any waiving of rights to pay a lesser amount under a determination in force (Schedule 1 (3)—proposed section 20T);

- (q) to make provision for the enforcement of agreements referred to in paragraph (o) and, in particular, to allow the Supreme Court to set aside agreements that are unfair or unreasonable (Schedule 1 (3)—proposed section 20u);
- (r) to enable solicitors to take security from their clients for payment of costs for future business (Schedule 1 (3)—proposed section 20v);
- (s) to re-enact a provision (previously contained in the Conveyancing Act, 1919) which reverses the common law rule that solicitors are not entitled to remuneration if mortgages are made to them by their clients (Schedule 1 (3)—proposed section 20w);
- (t) to provide that a bill of costs served on a client by a solicitor shall be in such form, and contain such particulars, as may be prescribed by regulations (Schedule 1 (4));
- (u) to provide that proceedings for an offence against the provisions of, or made under, Part VI (which relate generally to unqualified persons doing the work of solicitors) shall not be instituted without the approval of the Attorney General (Schedule 1 (5));
- (v) to authorise specifically the making of regulations by the Society regulating advertising by solicitors (Schedule 1 (6));
- (w) to make it clear that regulations made by the Governor under the Act prevail over any inconsistent regulations made by the Society under the Act (Schedule 1 (7)); and
- (x) to make provision by way of statute law revision (Schedule 2).

The Bill also contains savings, transitional and other provisions. In particular, the Bill confirms the disallowance by Parliament of Schedule One to the general order for solicitors' remuneration for conveyancing and other non-contentious business which was published on 23rd December, 1983 (Schedule 3).

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**LEGAL PRACTITIONERS (SOLICITORS' REMUNERATION)  
AMENDMENT BILL, 1984**

No. , 1984.

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**A BILL FOR**

An Act to amend the Legal Practitioners Act, 1898, to constitute a Legal Fees and Costs Board, to make provision with respect to the remuneration of solicitors, and for other purposes.

[MR SHEAHAN *on behalf of* MR LANDA—8 May, 1984.]

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See also Conveyancing (Solicitors' Remuneration) Amendment Bill, 1984; Supreme Court (Solicitors' Remuneration) Amendment Bill, 1984; District Court (Solicitors' Remuneration) Amendment Bill, 1984; Courts of Petty Sessions (Civil Claims) (Solicitors' Remuneration) Amendment Bill, 1984.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**5 Short title.**

1. This Act may be cited as the "Legal Practitioners (Solicitors' Remuneration) Amendment Act, 1984".

**Commencement.**

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

10 (2) Except as provided by this section, this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Clause 2 of Schedule 3, and section 5 in its application to that provision, shall be deemed to have commenced on 23rd February, 1984.

15 (4) For the purpose only of enabling the Legal Fees and Costs Board to be constituted in accordance with the Legal Practitioners Act, 1898, as amended by this Act, on or after (but not before) the day referred to in subsection (2), appointments may be made under that Act, as so amended, and any other act, matter or thing may be done, before that day as if the whole of  
20 this Act commenced on the date of assent to this Act, but so that no appointment as a member of that Board as so constituted takes effect before that day.

**Schedules.**

3. This Act contains the following Schedules:—

25 SCHEDULE 1.—AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898.

SCHEDULE 2.—AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898, BY WAY OF STATUTE LAW REVISION.

SCHEDULE 3.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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**Amendment of Act No. 22, 1898.**

4. The Legal Practitioners Act, 1898, is amended in the manner set forth in Schedules 1 and 2.

**Savings, transitional and other provisions.**

5 5. Schedule 3 has effect.

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SCHEDULE 1.

(Sec. 4.)

AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898.

(1) Section 2 (1)—

10 Omit "the Schedule", insert instead "Schedule 1".

(2) Section 3, definition of "Solicitor"—

Omit "Part V of the Act", insert instead "Parts IVA and V".

(3) Part IVA—

Before Part V, insert:—

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PART IVA.

SOLICITORS' REMUNERATION.

DIVISION 1.—*Preliminary.*

**Interpretation.**

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20c. (1) In this Part and Schedules 2 and 3, except in so far as the context or subject-matter otherwise indicates or requires—

"Board" means the Legal Fees and Costs Board constituted by this Part;

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

“Chairperson” means the Chairperson of the Board;

“client” includes—

5 (a) any person who, as principal or on behalf of another, or as a trustee or an executor, or in any other capacity, retains or employs, or is about to retain or employ, a solicitor; and

10 (b) any person who is or may be liable to pay a solicitor's costs;

“contentious business” means business done as a solicitor in or for the purpose of proceedings before a court, a tribunal or an arbitrator, including the administration of estates and trusts;

15 “costs” includes fees, charges, disbursements and expenses;

“determination” means a determination made by the Board under section 20J;

“member” means member of the Board;

20 “non-contentious business” means any business done as a solicitor which is not contentious business;

“non-contentious business agreement” means an agreement made in accordance with Division 4.

(2) In this Part and Schedules 2 and 3, a reference to—

25 (a) a function includes a reference to a power, authority and duty; and

(b) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

(3) The Chairperson may be referred to as the Chairman or Chairwoman, as the case may require.



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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*DIVISION 2.—*Legal Fees and Costs Board.***Constitution of Board.**

- 5           20D. (1) There is hereby constituted a corporation under the corporate name of the "Legal Fees and Costs Board".
- (2) The Board—
- (a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act; and
- 10           (b) does not, for any purpose, represent the Crown.

**Membership of Board.**

- 20E. (1) The Board shall consist of 4 members who shall be appointed by the Governor.
- (2) Of the members—
- 15           (a) one shall be a judicial member of the Industrial Commission of New South Wales and shall, in and by the instrument by which the member is appointed, be appointed as Chairperson of the Board;
- (b) one shall be a practising solicitor; and
- 20           (c) 2 shall be persons (not being practising barristers or practising solicitors) having experience in, and knowledge of, wage-fixing, economics and associated matters.
- (3) Schedule 2 has effect with respect to the members.

**Procedure of the Board.**

- 25           20F. Schedule 3 has effect with respect to the procedure of the Board.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.***Staff of Board.**

- 5 20G. The Board may, with the approval of the Minister and of the Minister administering a government department or administrative office, arrange for the use of the services of any staff or facilities of the department or office.

**Reports, etc., by Board on matters concerning remuneration of solicitors.**

- 10 20H. The Board may investigate, and report and make recommendations to the Minister on, any matter relating to—
- (a) bills of costs;
  - (b) the taxation, or other ascertainment, of costs; or
  - (c) any other aspect of the remuneration of solicitors.

**15 Proof of certain matters not required.**

20I. In any legal proceedings, no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Board;
- (b) the appointment of, or the holding of office by, any member;
- 20 or
- (c) the presence or nature of a quorum at any meeting of the Board.

DIVISION 3.—*Determination of solicitors' remuneration.***Determinations by Board.**

- 25 20J. (1) The Board may make determinations regulating the remuneration of solicitors in respect of non-contentious business done by solicitors, including the fixing of the maximum amount of costs payable in respect of any item or class of items of any such business.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

- 5 (2) The Board may make determinations fixing the maximum amount of costs payable in respect of any item or class of items of contentious business done by solicitors in or for the purpose of—
- (a) proceedings before the Supreme Court (other than criminal proceedings), including the administration of estates and trusts;
- 10 (b) proceedings before the District Court (other than criminal proceedings); or
- (c) proceedings before a court of petty sessions exercising jurisdiction under the Courts of Petty Sessions (Civil Claims) Act, 1970.
- 15 (3) A determination may authorise and regulate the allowance of interest in respect of non-contentious business.
- (4) A determination may be amended or revoked by a subsequent determination.

**Periodic review of determinations.**

- 20 20K. The Board shall review each determination in force at least once in the period of 12 months after it was made and in each period of 12 months thereafter.

**Principles of determination.**

- 25 20L. (1) A determination may provide that solicitors shall be remunerated—
- (a) according to a scale of rates of commission or a scale of percentages;
- (b) by a gross sum;

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

(c) by a fixed sum for each document prepared or perused, without regard to length; or

5 (d) in any other manner,  
or partly in one manner and partly in another.

(2) A provision of a determination may apply differently according to different factors of a specified kind, including (but without limiting the foregoing)—

10 (a) the position of the party for whom the solicitor is concerned in the business, that is, whether the party is vendor or purchaser, lessor or lessee, mortgagor or mortgagee, or the like;

15 (b) the place where, and the circumstances in which, the business or any part of it is transacted;

(c) the amount of the capital money or rent to which the business relates;

(d) the skill, labour and responsibility on the part of the solicitor which the business involves;

20 (e) the number and importance of the documents prepared or perused, without regard to length; and

(f) the amount claimed or recovered in any action.

25 (3) A provision of a determination may authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body.

**Inquiries by Board.**

20M. (1) Before making a determination, the Board may make such inquiry as it thinks necessary.

(2) In the exercise of its functions—

30 (a) the Board may inform itself in such manner as it thinks fit;

*Legal Practitioners (Solicitors' Remuneration) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

- (b) the Board may receive written or oral submissions;
- 5 (c) the Board shall take into consideration submissions received by it relating to the remuneration of solicitors, whether or not those submissions were received in response to an invitation under subsection (3);
- (d) the Board is not required to conduct any proceedings in a formal manner; and
- 10 (e) the Board is not bound by the rules of evidence.

(3) Without affecting the generality of subsection (2), the Board may invite submissions from Ministers of the Crown, the council of the Society and any other persons.

- 15 (4) The Board shall, as far as practicable, conduct in public proceedings in which oral submissions are received.

**Application of quantum and principles determined in State Wage Cases.**

20N. The Board, in making a determination, shall have regard to—

- 20 (a) the most recent determination of the Industrial Commission of New South Wales under section 57 of the Industrial Arbitration Act, 1940, of—
- (i) the amount; or
- (ii) the method by which an amount may be determined,
- 25 by which rates of wages in awards made under that Act shall be varied, following a decision of the Australian Conciliation and Arbitration Commission; and
- (b) the principles of wage fixation for the time being adopted by that Commission, as a general ruling or declaration of
- 30 principle, in connection with awards made under that Act.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.***Report of Board's determinations and reasons therefor.**

5 20o. The Board shall, as soon as practicable after making a determination, make a report to the Minister of its determination and of the reasons for its decisions in respect of the determination.

**Publication, commencement and tabling of Board's determinations.**

20p. (1) The report of a determination and of the reasons for the Board's decisions in respect of the determination shall—

- 10 (a) be published in the Gazette as soon as practicable after the report is received by the Minister; and
- (b) be laid before each House of Parliament within 14 sitting days of that House after the date of publication.

15 (2) A determination, the report of which is published in the Gazette under subsection (1) (a), shall take effect on and from the date of publication or a later date specified in the determination.

20 (3) If either House of Parliament passes a resolution, of which notice has been given within 15 sitting days of that House after a report of a determination has been laid before it under subsection (1) (b), disallowing the determination or any part of it, the determination or part thereupon ceases to have effect.

(4) Nothing in subsection (3) affects any remuneration paid or payable in respect of any period before the date of the resolution referred to in that subsection.

25 (5) A determination revoked by a subsequent determination shall, upon that subsequent determination's ceasing to have effect pursuant to subsection (3), revive.

30 (6) For the purposes of subsections (1) and (3), sitting days shall be counted, whether or not they occur during the same session.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

(7) Judicial notice shall be taken—

- 5 (a) of a determination made or purporting to have been made under section 20J and published in the Gazette; and  
 (b) of the date of its publication.

**Effect of determinations—non-contentious business.**

20Q. Except as provided by or under a non-contentious business agreement or any other Act—

- 10 (a) the taxation of bills of costs under Part V in respect of non-contentious business done by solicitors; or  
 (b) any other aspect of the remuneration of solicitors in respect of any such business,

shall be regulated by determinations in force.

15 **Effect of determinations—contentious business.**

20R. (1) A reference in this section to the taxation, or other ascertainment, of costs includes a reference to—

- (a) the taxation of bills of costs under Part V; and  
 20 (b) the taxation, or other ascertainment, of costs to be paid to a party to any proceedings either by another party to the proceedings or out of a fund.

(2) Except as provided by or under any other Act, the taxation, or other ascertainment, of costs payable in respect of contentious business done by solicitors, being contentious business referred to in section 20J (2), shall be regulated by determinations in force.  
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(3) Nothing in subsection (2) shall be construed as limiting any power of a court or taxing officer of a court to determine in any particular case the amount of costs payable in respect of any contentious business.  
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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*DIVISION 4.—*Non-contentious business agreements.***Making of agreements.**

5       20s. (1) A solicitor and the solicitor's client may, before or after or in the course of the transaction of any non-contentious business by the solicitor, make an agreement as to the solicitor's remuneration in respect of that business.

10       (2) The provisions of a non-contentious business agreement may be inconsistent with the provisions of any determination in force.

(3) The provisions of section 20L apply to and in respect of a non-contentious business agreement in the same way as those provisions apply to a determination.

**Formal requirements for agreements.**

15       20T. (1) A non-contentious business agreement is not enforceable unless the agreement is in writing and signed by the person to be bound by it or the person's agent in that behalf.

20       (2) Where the amount payable by a person under a non-contentious business agreement in respect of any business is greater than the maximum amount payable in respect of that business under a determination in force, the agreement is not enforceable unless, before the agreement is made—

25       (a) the person or the person's agent in that behalf is notified in writing that the person is waiving his or her rights to pay a lesser amount; and

(b) the person or that agent signs a statement acknowledging the waiving of those rights.



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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

5 (3) If the regulations made by the Governor under section 87 so require, a notice or statement referred to in subsection (2) shall be in such form, and given or made in such manner, as may be prescribed by those regulations.

**Enforcement of agreements.**

10 20u. (1) Subject to subsection (2) and Part V, a non-contentious business agreement may be enforced or set aside in the same manner and on the same grounds as an agreement not relating to the remuneration of a solicitor.

(2) If on any taxation, or other ascertainment, of costs—

- 15 (a) a non-contentious business agreement is relied on by the solicitor and objected to by the client; and
- (b) the Supreme Court is of the opinion that the agreement is unfair or unreasonable,

the Supreme Court may set aside the agreement or reduce the amount payable under the agreement and may give such consequential directions as it thinks fit.

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DIVISION 5.—*General.***Security for costs.**

20v. A solicitor may take from his or her client security for the payment of any costs, to be ascertained by taxation or otherwise, for any business to be done by the solicitor.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.***Remuneration of a solicitor who is a mortgagee.**  
**(cf. Act No. 6, 1919, ss. 213, 214.)**

5           20w. (1) Where a mortgage is made to a solicitor, either alone  
or jointly with any other person, the solicitor or the firm of which  
the solicitor is a member shall be entitled to recover from the mort-  
gagor in respect of all business transacted and acts done by the  
10           solicitor or firm in negotiating the loan, deducing and investigating  
the title to the property, and preparing and completing the mortgage,  
such usual costs as the solicitor or firm would have been entitled to  
receive if the mortgage had been made to a person who was not a  
solicitor and that person had retained and employed the solicitor  
or firm to transact that business and do those acts.

15           (2) Where a mortgage has been made to, or has become  
vested by transfer or transmission in, a solicitor, either alone or  
jointly with any other person, and any business is transacted or  
acts are done by the solicitor or by the firm of which the solicitor  
is a member in relation to that mortgage or the security thereby  
20           created or the property thereby charged, the solicitor or firm shall be  
entitled to recover from the person on whose behalf the business  
was transacted or the acts were done, and to charge against that  
security, such usual costs as the solicitor or firm would have been  
entitled to receive if the mortgage had been made to and had  
25           remained vested in a person who was not a solicitor and that person  
had retained and employed the solicitor or firm to transact that  
business and do those acts.

(3) In this section, "mortgage" includes any charge on any  
property for securing money or money's worth.

30 (4) Section 21A—

After section 21, insert:—

**Form of bill.**

21A. (1) A bill shall be in such form, and contain such particulars,  
as may be prescribed by regulations made by the Governor under  
35           section 87.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

5 (2) Subsection (1) does not affect any requirements made by or under any other Act in connection with a bill unless those requirements are inconsistent with the requirements made under subsection (1).

(5) Section 40N—

After section 40M, insert:—

**Consent of Attorney General to prosecutions.**

10 40N. (1) Any proceedings for an offence against this Part or against a regulation made for the purposes of, or to give effect to, this Part shall not be instituted without the written consent of the Attorney General.

15 (2) In proceedings referred to in subsection (1), a consent to institute the proceedings, purporting to have been signed by the Attorney General, shall be evidence of that consent without proof of the signature of the Attorney General.

(6) Section 86 (1) (a) (iia)—

After section 86 (1) (a) (iii), insert:—

20 (iia) regulating advertising by solicitors;

(7) (a) Section 87 (1)—

Omit “, including section 86,”.

(b) Section 87 (1A)–(1C)—

After section 87 (1), insert:—

25 (1A) Regulations may also be made under this section for or with respect to any matter for or with respect to which regulations may be made under section 86.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

5 (1B) If there is any inconsistency between the regulations made under this section and the regulations made under section 86, the regulations made under this section shall prevail.

(1C) A regulation may impose a penalty not exceeding \$400 for any contravention of the regulation.

(8) Schedule—

Omit "SCHEDULE", insert instead "SCHEDULE 1".

10 (9) Schedules 2, 3—

At the end of the Act, insert:—

SCHEDULE 2.

(Sec. 20E (3).)

PROVISIONS RELATING TO THE MEMBERS OF  
THE LEGAL FEES AND COSTS BOARD.

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**Age of members.**

1. A person of or above the age of 70 years is not eligible to be appointed as a member or to act in the office of a member.

**Acting members.**

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2. (1) The Governor may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member.

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(2) The Governor shall not under subclause (1) appoint a person to act in the office of the Chairperson unless the person is a judicial member of the Industrial Commission of New South Wales.

(3) The Governor may remove any person from any office to which the person was appointed under subclause (1).

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

5 (4) A person while acting in the office of a member (other than the Chairperson) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of that person.

(5) For the purposes of this clause, a vacancy in the office of a member shall be deemed to be an absence from office of the member.

(6) In clause 7 and Schedule 3—

10 (a) a reference to a member includes a reference to a person acting in the office of a member;

(b) a reference to the appointment of a member includes a reference to the appointment of a person to act in the office of a member; and

15 (c) a reference to the office of a member includes a reference to the office of a person appointed to act in the office of a member.

**Terms of office.**

3. Subject to this Schedule, a member shall hold office for such period, not exceeding 7 years, as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

20 **Remuneration.**

4. A member (other than the Chairperson) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

**Filling of vacancy in office of a member.**

25 5. In the event of the office of any member becoming vacant a person shall, subject to this Act, be appointed to fill the vacancy.

**Casual vacancies.**

6. (1) A member shall be deemed to have vacated office if the member—  
(a) dies;

*Legal Practitioners (Solicitors' Remuneration) Amendment.*SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

- 5 (b) absents himself or herself from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for being absent from those meetings;
- 10 (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- 15 (d) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- 20 (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- (f) being the Chairperson, ceases to be a judicial member of the Industrial Commission of New South Wales;
- (g) resigns the office by instrument in writing addressed to the Minister;
- 25 (h) attains the age of 70 years; or
- (i) is removed from office by the Governor under subclause (2).

(2) The Governor may remove a member from office for incapacity, incompetence or misbehaviour.

**Effect of certain other Acts.**

30 7. (1) The Public Service Act, 1979, does not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act.

35 (2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.***Liability of members, etc.**

- 5        8. No matter or thing done by the Board, and no matter or thing done by any member or by any person acting under the direction of the Board, shall, if the matter or thing was done bona fide for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand whatever.

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**SCHEDULE 3.**

(Sec. 20F.)

10

**PROVISIONS RELATING TO THE PROCEDURE OF THE LEGAL FEES AND COSTS BOARD.****General procedure.**

- 15        1. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Board.

**Quorum.**

- 20        2. Three members, of whom one shall be the Chairperson, shall form a quorum and any duly convened meeting of the Board at which a quorum is present shall be competent to transact any business of the Board and shall have and may exercise all the functions of the Board.

**Presiding member.**

- 25        3. (1) The Chairperson shall preside at a meeting of the Board.  
(2) At any meeting of the Board the Chairperson shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.***Voting.**

- 5 4. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present shall be the decision of the Board.

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SCHEDULE 2.

(Sec. 4.)

AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898,  
BY WAY OF STATUTE LAW REVISION.

- 10 (1) Part I, heading—

Omit the heading, insert instead:—

## PART I.

## PRELIMINARY.

- (2) Section 1—

- 15 Omit the section, insert instead:—

**Short title.**

1. This Act may be cited as the "Legal Practitioners Act, 1898".

- (3) Section 3, definitions of "Part", "Prescribed"—

Omit the definitions.

- 20 (4) Part II, heading—

Omit the heading, insert instead:—

## PART II.

## BARRISTERS.

- (5) Section 12—

- 25 After "prescribed", insert "by rules of court".



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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898,  
BY WAY OF STATUTE LAW REVISION—*continued.*

- (6) Part III, heading—  
5 Omit the heading, insert instead:—  
PART III.  
SOLICITORS.
- (7) Part V, heading—  
Omit the heading, insert instead:—  
10 PART V.  
BILLS OF COSTS.
- (8) Section 39A (4)—  
Omit “-1932” wherever occurring.
- (9) Part VI, heading—  
15 Omit the heading, insert instead:—  
PART VI.  
UNQUALIFIED PRACTITIONERS.
- (10) Section 40A (2)—  
Omit “or in any district court”, insert instead “, or in the District Court”.
- 20 (11) Section 40M (1)—  
Omit “, as amended by subsequent Acts”.
- (12) Part VII, heading—  
Omit the heading, insert instead:—  
PART VII.  
25 TRUST ACCOUNTS.
- (13) Section 43B (1)—  
Omit “Consolidated Revenue Fund”, insert instead “Consolidated Fund”.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898,  
BY WAY OF STATUTE LAW REVISION—*continued.*

(14) Part VIIA, heading—

5 Omit the heading, insert instead:—

PART VIIA.

STATUTORY INTEREST ACCOUNT.

(15) Part VIII, heading—

Omit the heading, insert instead:—

10

PART VIII.

SOLICITORS' FIDELITY FUND.

(16) Section 55—

15

Omit "with the Colonial Treasurer or with any bank or corporation prescribed by rules of court as a bank or corporation to which trust moneys may be paid under section 15 of the Trustee Act, 1925", insert instead "with the Treasurer or with any bank or corporation prescribed, or deemed to have been prescribed, by the Attorney General under section 14 (2) (f) of the Trustee Act, 1925".

(17) Part IX, heading—

20

Omit the heading, insert instead:—

PART IX.

ANNUAL PRACTISING CERTIFICATES.

(18) Part X, heading—

Omit the heading, insert instead:—

25

PART X.

THE SOLICITORS' STATUTORY COMMITTEE.

(19) Section 76 (6)—

Omit "—1934".

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898,  
BY WAY OF STATUTE LAW REVISION—*continued.*

- (20) Section 81A (1) (c)—  
5 Omit “section 78 of the Act;”, insert instead “section 78.”.
- (21) Part XI, heading—  
Omit the heading, insert instead:—  
PART XI.  
MISCELLANEOUS.
- 10 (22) Section 84A—  
After “this Act” where secondly occurring, insert “or the regulations”.
- (23) Section 86 (2)–(5)—  
Omit the subsections, insert instead:—  
15 (3) A regulation is by this subsection required to be approved by the Governor, and shall have no effect unless so approved.  
(4) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.
- (24) (a) Section 87 (1) (a)—  
20 Omit “paragraph (e) of subsection (2) of section 40c, or paragraph (b) of subsection (2) of section 40D”, insert instead “section 40C (2) (e) or 40D (2) (b)”.
- (b) Section 87 (2A)–(4)—  
Omit the subsections, insert instead:—  
25 (3) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.
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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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## SCHEDULE 3.

(Sec. 5.)

## SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

**Interpretation.**

- 5 1. In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires—

“appointed day” means the day appointed and notified under section 2 (2);

“Board” means the Legal Fees and Costs Board constituted by Part IVA of the Legal Practitioners Act, 1898, as amended by this Act.

**10 General orders for solicitors' remuneration for conveyancing and other non-contentious business.**

2. (1) Subject to subclause (2), the general order made under Part XXIV of the Conveyancing Act, 1919, on 16th December, 1983, and published in Gazette No. 176 of 23rd December, 1983, shall, until the appointed day, continue in force.

- 15 (2) The general order referred to in subclause (1) is hereby amended by omitting Schedule One to the general order and by inserting instead Schedule One to the general order made under Part XXIV of the Conveyancing Act, 1919, on 12th September, 1977, and published in Gazette No. 108 of 23rd September, 1977, as amended by—

- 20 (a) the general order made under that Part on 15th April, 1980, and published in Gazette No. 69 of 2nd May, 1980; and
- (b) the general order made under that Part on 18th February, 1982, and published in Gazette No. 31 of 26th February, 1982.

- 25 (3) Subclauses (1) and (2) have effect notwithstanding anything to the contrary in or done under section 210 of the Conveyancing Act, 1919.

(4) On and from the appointed day, the general order referred to in subclause (1), as amended by subclause (2), shall be deemed to be a determination made under section 20J of the Legal Practitioners Act, 1898, as amended by this Act, and may be amended or revoked by a determination made under that section.

- 30 (5) The Board shall, as soon as practicable after the appointed day, review the determination deemed, pursuant to subclause (4), to have been made under section 20J of the Legal Practitioners Act, 1898, as amended by this Act.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***References to general orders under Conveyancing Act, 1919.**

3. On and from the appointed day, a reference (however expressed) in any other  
5 Act, in any instrument made under any other Act or in any other instrument of any kind  
to a general order made under Part XXIV of the Conveyancing Act, 1919, shall be read  
and construed as a reference to a determination made by the Board under section 20J  
of the Legal Practitioners Act, 1898, as amended by this Act.

**Agreements under section 212 of the Conveyancing Act, 1919.**

- 10 4. An agreement made in accordance with section 212 of the Conveyancing Act,  
1919, before the appointed day shall, on and after that day, be deemed to have been  
made in accordance with the provisions of Division 4 of Part IVA of the Legal  
Practitioners Act, 1898, as amended by this Act.

**Rules fixing costs for certain litigation and other contentious business.**

- 15 5. (1) The Board shall, as soon as practicable after the appointed day, make deter-  
minations under section 20J (2) of the Legal Practitioners Act, 1898, as amended by  
this Act.

- (2) So much of the provisions of the rules made under the Supreme Court Act,  
1970, as fixes scales or other amounts of costs in respect of contentious business referred  
20 to in section 20J (2) (a) of the Legal Practitioners Act, 1898, as amended by this Act,  
shall continue to have effect until the day on which a determination referred to in  
subclause (1) comes into force in respect of that business.

- (3) The provisions of section 122 (2) and (3) of the District Court Act, 1973,  
and so much of the provisions of the rules made under that Act as fixes scales or other  
25 amounts of costs in respect of contentious business referred to in section 20J (2) (b)  
of the Legal Practitioners Act, 1898, as amended by this Act, shall continue to have  
effect until the day on which a determination referred to in subclause (1) comes into  
force in respect of that business.

- (4) Until the rules made under the Courts of Petty Sessions (Civil Claims) Act,  
30 1970, otherwise provide, nothing in this Act or in the Courts of Petty Sessions (Civil  
Claims) (Solicitors' Remuneration) Amendment Act, 1984, affects any scale of profes-  
sional costs prescribed for the purposes of section 27 (1), 34 or 36A (1) of the Courts  
of Petty Sessions (Civil Claims) Act, 1970.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(5) The provisions of this clause have effect notwithstanding anything to the contrary in section 20R of the Legal Practitioners Act, 1898, as amended by this Act.

**5 First meeting of Board.**

6. The Minister shall call the first meeting of the Board on or after the appointed day in such manner as the Minister thinks fit.

**Regulations.**

10 7. (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act, the Conveyancing (Solicitors' Remuneration) Amendment Act, 1984, the Supreme Court (Solicitors' Remuneration) Amendment Act, 1984, the District Court (Solicitors' Remuneration) Amendment Act, 1984, or the Courts of Petty Sessions (Civil Claims) (Solicitors' Remuneration) Amendment Act, 1984.

15 (2) A provision made under subclause (1) may take effect as from the appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

20 (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or

25 (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

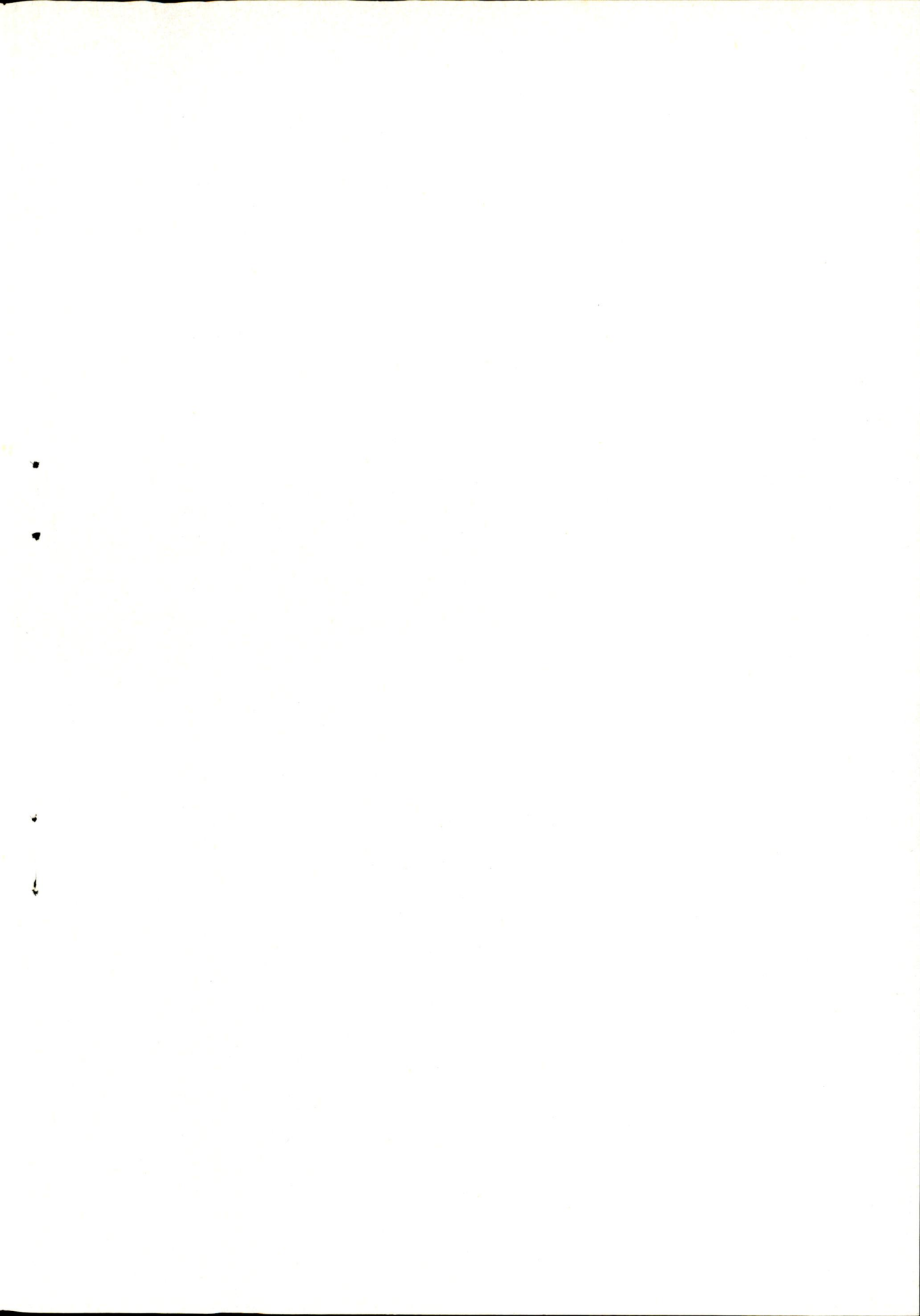
(4) A provision made under subclause (1) shall, if the regulations under this clause so provide, have effect notwithstanding any other clause of this Schedule.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1984

(\$1.50)







**LEGAL PRACTITIONERS (SOLICITORS' REMUNERATION)  
AMENDMENT ACT, 1984, No. 52**

**New South Wales**



ANNO TRICESIMO TERTIO  
**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No. 52, 1984.**

An Act to amend the Legal Practitioners Act, 1898, to constitute a Legal Fees and Costs Board, to make provision with respect to the remuneration of solicitors, and for other purposes. [Assented to, 19th June, 1984.]

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See also Conveyancing (Solicitors' Remuneration) Amendment Act, 1984; Supreme Court (Solicitors' Remuneration) Amendment Act, 1984; District Court (Solicitors' Remuneration) Amendment Act, 1984; Courts of Petty Sessions (Civil Claims) (Solicitors' Remuneration) Amendment Act, 1984.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**Short title.**

1. This Act may be cited as the "Legal Practitioners (Solicitors' Remuneration) Amendment Act, 1984".

**Commencement.**

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by this section, this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Clause 2 of Schedule 3, and section 5 in its application to that provision, shall be deemed to have commenced on 23rd February, 1984.

(4) For the purpose only of enabling the Legal Fees and Costs Board to be constituted in accordance with the Legal Practitioners Act, 1898, as amended by this Act, on or after (but not before) the day referred to in subsection (2), appointments may be made under that Act, as so amended, and any other act, matter or thing may be done, before that day as if the whole of this Act commenced on the date of assent to this Act, but so that no appointment as a member of that Board as so constituted takes effect before that day.

**Schedules.**

3. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898.

SCHEDULE 2.—AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898, BY WAY OF STATUTE LAW REVISION.

SCHEDULE 3.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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**Amendment of Act No. 22, 1898.**

4. The Legal Practitioners Act, 1898, is amended in the manner set forth in Schedules 1 and 2.

**Savings, transitional and other provisions.**

5. Schedule 3 has effect.

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SCHEDULE 1.

(Sec. 4.)

AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898.

(1) Section 2 (1)—

Omit "the Schedule", insert instead "Schedule 1".

(2) Section 3, definition of "Solicitor"—

Omit "Part V of the Act", insert instead "Parts IVA and V".

(3) Part IVA—

Before Part V, insert:—

PART IVA.

SOLICITORS' REMUNERATION.

DIVISION 1.—*Preliminary.*

**Interpretation.**

20c. (1) In this Part and Schedules 2 and 3, except in so far as the context or subject-matter otherwise indicates or requires—

"Board" means the Legal Fees and Costs Board constituted by this Part;

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

“Chairperson” means the Chairperson of the Board;

“client” includes—

- (a) any person who, as principal or on behalf of another, or as a trustee or an executor, or in any other capacity, retains or employs, or is about to retain or employ, a solicitor; and
- (b) any person who is or may be liable to pay a solicitor's costs;

“contentious business” means business done as a solicitor in or for the purpose of proceedings before a court, a tribunal or an arbitrator, including the administration of estates and trusts;

“costs” includes fees, charges, disbursements and expenses;

“determination” means a determination made by the Board under section 20J;

“member” means member of the Board;

“non-contentious business” means any business done as a solicitor which is not contentious business;

“non-contentious business agreement” means an agreement made in accordance with Division 4.

(2) In this Part and Schedules 2 and 3, a reference to—

- (a) a function includes a reference to a power, authority and duty; and
- (b) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

(3) The Chairperson may be referred to as the Chairman or Chairwoman, as the case may require.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*DIVISION 2.—*Legal Fees and Costs Board.***Constitution of Board.**

20D. (1) There is hereby constituted a corporation under the corporate name of the "Legal Fees and Costs Board".

(2) The Board—

- (a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act; and
- (b) does not, for any purpose, represent the Crown.

**Membership of Board.**

20E. (1) The Board shall consist of 4 members who shall be appointed by the Governor.

(2) Of the members—

- (a) one shall be a judicial member of the Industrial Commission of New South Wales and shall, in and by the instrument by which the member is appointed, be appointed as Chairperson of the Board;
- (b) one shall be a practising solicitor; and
- (c) 2 shall be persons (not being practising barristers or practising solicitors) having experience in, and knowledge of, wage-fixing, economics and associated matters.

(3) Schedule 2 has effect with respect to the members.

**Procedure of the Board.**

20F. Schedule 3 has effect with respect to the procedure of the Board.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.***Staff of Board.**

20G. The Board may, with the approval of the Minister and of the Minister administering a government department or administrative office, arrange for the use of the services of any staff or facilities of the department or office.

**Reports, etc., by Board on matters concerning remuneration of solicitors.**

20H. The Board may investigate, and report and make recommendations to the Minister on, any matter relating to—

- (a) bills of costs;
- (b) the taxation, or other ascertainment, of costs; or
- (c) any other aspect of the remuneration of solicitors.

**Proof of certain matters not required.**

20I. In any legal proceedings, no proof shall be required (until evidence is given to the contrary) of—

- (a) the constitution of the Board;
- (b) the appointment of, or the holding of office by, any member; or
- (c) the presence or nature of a quorum at any meeting of the Board.

DIVISION 3.—*Determination of solicitors' remuneration.***Determinations by Board.**

20J. (1) The Board may make determinations regulating the remuneration of solicitors in respect of non-contentious business done by solicitors, including the fixing of the maximum amount of costs payable in respect of any item or class of items of any such business.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

(2) The Board may make determinations fixing the maximum amount of costs payable in respect of any item or class of items of contentious business done by solicitors in or for the purpose of—

- (a) proceedings before the Supreme Court (other than criminal proceedings), including the administration of estates and trusts;
- (b) proceedings before the District Court (other than criminal proceedings); or
- (c) proceedings before a court of petty sessions exercising jurisdiction under the Courts of Petty Sessions (Civil Claims) Act, 1970.

(3) A determination may authorise and regulate the allowance of interest in respect of non-contentious business.

(4) A determination may be amended or revoked by a subsequent determination.

**Periodic review of determinations.**

20k. The Board shall review each determination in force at least once in the period of 12 months after it was made and in each period of 12 months thereafter.

**Principles of determination.**

20L. (1) A determination may provide that solicitors shall be remunerated—

- (a) according to a scale of rates of commission or a scale of percentages;
- (b) by a gross sum;

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

- (c) by a fixed sum for each document prepared or perused, without regard to length; or
  - (d) in any other manner,
- or partly in one manner and partly in another.

(2) A provision of a determination may apply differently according to different factors of a specified kind, including (but without limiting the foregoing)—

- (a) the position of the party for whom the solicitor is concerned in the business, that is, whether the party is vendor or purchaser, lessor or lessee, mortgagor or mortgagee, or the like;
- (b) the place where, and the circumstances in which, the business or any part of it is transacted;
- (c) the amount of the capital money or rent to which the business relates;
- (d) the skill, labour and responsibility on the part of the solicitor which the business involves;
- (e) the number and importance of the documents prepared or perused, without regard to length; and
- (f) the amount claimed or recovered in any action.

(3) A provision of a determination may authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body.

**Inquiries by Board.**

20M. (1) Before making a determination, the Board may make such inquiry as it thinks necessary.

(2) In the exercise of its functions—

- (a) the Board may inform itself in such manner as it thinks fit;



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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

- (b) the Board may receive written or oral submissions;
- (c) the Board shall take into consideration submissions received by it relating to the remuneration of solicitors, whether or not those submissions were received in response to an invitation under subsection (3);
- (d) the Board is not required to conduct any proceedings in a formal manner; and
- (e) the Board is not bound by the rules of evidence.

(3) Without affecting the generality of subsection (2), the Board may invite submissions from Ministers of the Crown, the council of the Society and any other persons.

(4) The Board shall, as far as practicable, conduct in public proceedings in which oral submissions are received.

**Application of quantum and principles determined in State Wage Cases.**

20N. The Board, in making a determination, shall have regard to—

- (a) the most recent determination of the Industrial Commission of New South Wales under section 57 of the Industrial Arbitration Act, 1940, of—
  - (i) the amount; or
  - (ii) the method by which an amount may be determined, by which rates of wages in awards made under that Act shall be varied, following a decision of the Australian Conciliation and Arbitration Commission; and
- (b) the principles of wage fixation for the time being adopted by that Commission, as a general ruling or declaration of principle, in connection with awards made under that Act.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.***Report of Board's determinations and reasons therefor.**

20o. The Board shall, as soon as practicable after making a determination, make a report to the Minister of its determination and of the reasons for its decisions in respect of the determination.

**Publication, commencement and tabling of Board's determinations.**

20p. (1) The report of a determination and of the reasons for the Board's decisions in respect of the determination shall—

- (a) be published in the Gazette as soon as practicable after the report is received by the Minister; and
- (b) be laid before each House of Parliament within 14 sitting days of that House after the date of publication.

(2) A determination, the report of which is published in the Gazette under subsection (1) (a), shall take effect on and from the date of publication or a later date specified in the determination.

(3) If either House of Parliament passes a resolution, of which notice has been given within 15 sitting days of that House after a report of a determination has been laid before it under subsection (1) (b), disallowing the determination or any part of it, the determination or part thereupon ceases to have effect.

(4) Nothing in subsection (3) affects any remuneration paid or payable in respect of any period before the date of the resolution referred to in that subsection.

(5) A determination revoked by a subsequent determination shall, upon that subsequent determination's ceasing to have effect pursuant to subsection (3), revive.

(6) For the purposes of subsections (1) and (3), sitting days shall be counted, whether or not they occur during the same session.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

- (7) Judicial notice shall be taken—
- (a) of a determination made or purporting to have been made under section 20J and published in the Gazette; and
  - (b) of the date of its publication.

**Effect of determinations—non-contentious business.**

20Q. Except as provided by or under a non-contentious business agreement or any other Act—

- (a) the taxation of bills of costs under Part V in respect of non-contentious business done by solicitors; or
- (b) any other aspect of the remuneration of solicitors in respect of any such business,

shall be regulated by determinations in force.

**Effect of determinations—contentious business.**

20R. (1) A reference in this section to the taxation, or other ascertainment, of costs includes a reference to—

- (a) the taxation of bills of costs under Part V; and
- (b) the taxation, or other ascertainment, of costs to be paid to a party to any proceedings either by another party to the proceedings or out of a fund.

(2) Except as provided by or under any other Act, the taxation, or other ascertainment, of costs payable in respect of contentious business done by solicitors, being contentious business referred to in section 20J (2), shall be regulated by determinations in force.

(3) Nothing in subsection (2) shall be construed as limiting any power of a court or taxing officer of a court to determine in any particular case the amount of costs payable in respect of any contentious business.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*DIVISION 4.—*Non-contentious business agreements.***Making of agreements.**

20s. (1) A solicitor and the solicitor's client may, before or after or in the course of the transaction of any non-contentious business by the solicitor, make an agreement as to the solicitor's remuneration in respect of that business.

(2) The provisions of a non-contentious business agreement may be inconsistent with the provisions of any determination in force.

(3) The provisions of section 20L apply to and in respect of a non-contentious business agreement in the same way as those provisions apply to a determination.

**Formal requirements for agreements.**

20t. (1) A non-contentious business agreement is not enforceable unless the agreement is in writing and signed by the person to be bound by it or the person's agent in that behalf.

(2) Where the amount payable by a person under a non-contentious business agreement in respect of any business is greater than the maximum amount payable in respect of that business under a determination in force, the agreement is not enforceable unless, before the agreement is made—

- (a) the person or the person's agent in that behalf is notified in writing that the person is waiving his or her rights to pay a lesser amount; and
- (b) the person or that agent signs a statement acknowledging the waiving of those rights.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

(3) If the regulations made by the Governor under section 87 so require, a notice or statement referred to in subsection (2) shall be in such form, and given or made in such manner, as may be prescribed by those regulations.

**Enforcement of agreements.**

20U. (1) Subject to subsection (2) and Part V, a non-contentious business agreement may be enforced or set aside in the same manner and on the same grounds as an agreement not relating to the remuneration of a solicitor.

(2) If on any taxation, or other ascertainment, of costs—

- (a) a non-contentious business agreement is relied on by the solicitor and objected to by the client; and
- (b) the Supreme Court is of the opinion that the agreement is unfair or unreasonable,

the Supreme Court may set aside the agreement or reduce the amount payable under the agreement and may give such consequential directions as it thinks fit.

DIVISION 5.—*General.***Security for costs.**

20V. A solicitor may take from his or her client security for the payment of any costs, to be ascertained by taxation or otherwise, for any business to be done by the solicitor.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.***Remuneration of a solicitor who is a mortgagee.**  
**(cf. Act No. 6, 1919, ss. 213, 214.)**

20w. (1) Where a mortgage is made to a solicitor, either alone or jointly with any other person, the solicitor or the firm of which the solicitor is a member shall be entitled to recover from the mortgagor in respect of all business transacted and acts done by the solicitor or firm in negotiating the loan, deducing and investigating the title to the property, and preparing and completing the mortgage, such usual costs as the solicitor or firm would have been entitled to receive if the mortgage had been made to a person who was not a solicitor and that person had retained and employed the solicitor or firm to transact that business and do those acts.

(2) Where a mortgage has been made to, or has become vested by transfer or transmission in, a solicitor, either alone or jointly with any other person, and any business is transacted or acts are done by the solicitor or by the firm of which the solicitor is a member in relation to that mortgage or the security thereby created or the property thereby charged, the solicitor or firm shall be entitled to recover from the person on whose behalf the business was transacted or the acts were done, and to charge against that security, such usual costs as the solicitor or firm would have been entitled to receive if the mortgage had been made to and had remained vested in a person who was not a solicitor and that person had retained and employed the solicitor or firm to transact that business and do those acts.

(3) In this section, "mortgage" includes any charge on any property for securing money or money's worth.

## (4) Section 21A—

After section 21, insert:—

**Form of bill.**

21A. (1) A bill shall be in such form, and contain such particulars, as may be prescribed by regulations made by the Governor under section 87.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

(2) Subsection (1) does not affect any requirements made by or under any other Act in connection with a bill unless those requirements are inconsistent with the requirements made under subsection (1).

## (5) Section 40N—

After section 40M, insert:—

**Consent of Attorney General to prosecutions.**

40N. (1) Any proceedings for an offence against this Part or against a regulation made for the purposes of, or to give effect to, this Part shall not be instituted without the written consent of the Attorney General.

(2) In proceedings referred to in subsection (1), a consent to institute the proceedings, purporting to have been signed by the Attorney General, shall be evidence of that consent without proof of the signature of the Attorney General.

## (6) Section 86 (1) (a) (iiia)—

After section 86 (1) (a) (iii), insert:—

(iiia) regulating advertising by solicitors;

## (7) (a) Section 87 (1)—

Omit “, including section 86.”.

## (b) Section 87 (1A)–(1C)—

After section 87 (1), insert:—

(1A) Regulations may also be made under this section for or with respect to any matter for or with respect to which regulations may be made under section 86.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

(1B) If there is any inconsistency between the regulations made under this section and the regulations made under section 86, the regulations made under this section shall prevail.

(1C) A regulation may impose a penalty not exceeding \$400 for any contravention of the regulation.

(8) Schedule—

Omit "SCHEDULE", insert instead "SCHEDULE 1".

(9) Schedules 2, 3—

At the end of the Act, insert:—

SCHEDULE 2.

(Sec. 20E (3).)

PROVISIONS RELATING TO THE MEMBERS OF  
THE LEGAL FEES AND COSTS BOARD.

**Age of members.**

1. A person of or above the age of 70 years is not eligible to be appointed as a member or to act in the office of a member.

**Acting members.**

2. (1) The Governor may, from time to time, appoint a person to act in the office of a member during the illness or absence of the member, and the person, while so acting, shall have and may exercise all the functions of the member.

(2) The Governor shall not under subclause (1) appoint a person to act in the office of the Chairperson unless the person is a judicial member of the Industrial Commission of New South Wales.

(3) The Governor may remove any person from any office to which the person was appointed under subclause (1).



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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

(4) A person while acting in the office of a member (other than the Chairperson) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of that person.

(5) For the purposes of this clause, a vacancy in the office of a member shall be deemed to be an absence from office of the member.

(6) In clause 7 and Schedule 3—

- (a) a reference to a member includes a reference to a person acting in the office of a member;
- (b) a reference to the appointment of a member includes a reference to the appointment of a person to act in the office of a member; and
- (c) a reference to the office of a member includes a reference to the office of a person appointed to act in the office of a member.

**Terms of office.**

3. Subject to this Schedule, a member shall hold office for such period, not exceeding 7 years, as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.

**Remuneration.**

4. A member (other than the Chairperson) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

**Filling of vacancy in office of a member.**

5. In the event of the office of any member becoming vacant a person shall, subject to this Act, be appointed to fill the vacancy.

**Casual vacancies.**

6. (1) A member shall be deemed to have vacated office if the member—
- (a) dies;

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

- (b) absents himself or herself from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Minister (which leave the Minister is hereby authorised to grant) or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Minister for being absent from those meetings;
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (d) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act;
- (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards, or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable;
- (f) being the Chairperson, ceases to be a judicial member of the Industrial Commission of New South Wales;
- (g) resigns the office by instrument in writing addressed to the Minister;
- (h) attains the age of 70 years; or
- (i) is removed from office by the Governor under subclause (2).

(2) The Governor may remove a member from office for incapacity, incompetence or misbehaviour.

**Effect of certain other Acts.**

7. (1) The Public Service Act, 1979, does not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act.

(2) Where by or under any other Act provision is made requiring a person who is the holder of an office specified therein to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of that office, that provision shall not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.***Liability of members, etc.**

8. No matter or thing done by the Board, and no matter or thing done by any member or by any person acting under the direction of the Board, shall, if the matter or thing was done bona fide for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand whatever.

## SCHEDULE 3.

(Sec. 20F.)

## PROVISIONS RELATING TO THE PROCEDURE OF THE LEGAL FEES AND COSTS BOARD.

**General procedure.**

1. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Board.

**Quorum.**

2. Three members, of whom one shall be the Chairperson, shall form a quorum and any duly convened meeting of the Board at which a quorum is present shall be competent to transact any business of the Board and shall have and may exercise all the functions of the Board.

**Presiding member.**

3. (1) The Chairperson shall preside at a meeting of the Board.

(2) At any meeting of the Board the Chairperson shall have a deliberative vote and, in the event of an equality of votes, shall have a second or casting vote.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898—*continued.*

**Voting.**

4. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present shall be the decision of the Board.

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SCHEDULE 2.

(Sec. 4.)

AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898,  
BY WAY OF STATUTE LAW REVISION.

(1) Part I, heading—

Omit the heading, insert instead:—

PART I.  
PRELIMINARY.

(2) Section 1—

Omit the section, insert instead:—

**Short title.**

1. This Act may be cited as the "Legal Practitioners Act, 1898".

(3) Section 3, definitions of "Part", "Prescribed"—

Omit the definitions.

(4) Part II, heading—

Omit the heading, insert instead:—

PART II.  
BARRISTERS.

(5) Section 12—

After "prescribed", insert "by rules of court".

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898,  
BY WAY OF STATUTE LAW REVISION—*continued.*

- (6) Part III, heading—

Omit the heading, insert instead:—

PART III.

SOLICITORS.

- (7) Part V, heading—

Omit the heading, insert instead:—

PART V.

BILLS OF COSTS.

- (8) Section 39A (4)—

Omit “–1932” wherever occurring.

- (9) Part VI, heading—

Omit the heading, insert instead:—

PART VI.

UNQUALIFIED PRACTITIONERS.

- (10) Section 40A (2)—

Omit “or in any district court”, insert instead “, or in the District Court”.

- (11) Section 40M (1)—

Omit “, as amended by subsequent Acts”.

- (12) Part VII, heading—

Omit the heading, insert instead:—

PART VII.

TRUST ACCOUNTS.

- (13) Section 43B (1)—

Omit “Consolidated Revenue Fund”, insert instead “Consolidated Fund”.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898,  
BY WAY OF STATUTE LAW REVISION—*continued.*

- (14) Part VIIA, heading—  
Omit the heading, insert instead:—

## PART VIIA.

## STATUTORY INTEREST ACCOUNT.

- (15) Part VIII, heading—  
Omit the heading, insert instead:—

## PART VIII.

## SOLICITORS' FIDELITY FUND.

- (16) Section 55—

Omit "with the Colonial Treasurer or with any bank or corporation prescribed by rules of court as a bank or corporation to which trust moneys may be paid under section 15 of the Trustee Act, 1925", insert instead "with the Treasurer or with any bank or corporation prescribed, or deemed to have been prescribed, by the Attorney General under section 14 (2) (f) of the Trustee Act, 1925".

- (17) Part IX, heading—  
Omit the heading, insert instead:—

## PART IX.

## ANNUAL PRACTISING CERTIFICATES.

- (18) Part X, heading—  
Omit the heading, insert instead:—

## PART X.

## THE SOLICITORS' STATUTORY COMMITTEE.

- (19) Section 76 (6)—  
Omit "—1934".

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 2—*continued.*AMENDMENTS TO THE LEGAL PRACTITIONERS ACT, 1898,  
BY WAY OF STATUTE LAW REVISION—*continued.*

## (20) Section 81A (1) (c)—

Omit "section 78 of the Act;"; insert instead "section 78,".

## (21) Part XI, heading—

Omit the heading, insert instead:—

## PART XI.

## MISCELLANEOUS.

## (22) Section 84A—

After "this Act" where secondly occurring, insert "or the regulations".

## (23) Section 86 (2)–(5)—

Omit the subsections, insert instead:—

(3) A regulation is by this subsection required to be approved by the Governor, and shall have no effect unless so approved.

(4) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

## (24) (a) Section 87 (1) (a)—

Omit "paragraph (e) of subsection (2) of section 40c, or paragraph (b) of subsection (2) of section 40d", insert instead "section 40c (2) (e) or 40d (2) (b)".

## (b) Section 87 (2A)–(4)—

Omit the subsections, insert instead:—

(3) Section 41 of the Interpretation Act, 1897, applies in respect of a regulation as if this Act had been passed after the commencement of the Interpretation (Amendment) Act, 1969.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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## SCHEDULE 3.

(Sec. 5.)

## SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

**Interpretation.**

1. In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires—

“appointed day” means the day appointed and notified under section 2 (2);

“Board” means the Legal Fees and Costs Board constituted by Part IVA of the Legal Practitioners Act, 1898, as amended by this Act.

**General orders for solicitors' remuneration for conveyancing and other non-contentious business.**

2. (1) Subject to subclause (2), the general order made under Part XXIV of the Conveyancing Act, 1919, on 16th December, 1983, and published in Gazette No. 176 of 23rd December, 1983, shall, until the appointed day, continue in force.

(2) The general order referred to in subclause (1) is hereby amended by omitting Schedule One to the general order and by inserting instead Schedule One to the general order made under Part XXIV of the Conveyancing Act, 1919, on 12th September, 1977, and published in Gazette No. 108 of 23rd September, 1977, as amended by—

(a) the general order made under that Part on 15th April, 1980, and published in Gazette No. 69 of 2nd May, 1980; and

(b) the general order made under that Part on 18th February, 1982, and published in Gazette No. 31 of 26th February, 1982.

(3) Subclauses (1) and (2) have effect notwithstanding anything to the contrary in or done under section 210 of the Conveyancing Act, 1919.

(4) On and from the appointed day, the general order referred to in subclause (1), as amended by subclause (2), shall be deemed to be a determination made under section 20J of the Legal Practitioners Act, 1898, as amended by this Act, and may be amended or revoked by a determination made under that section.

(5) The Board shall, as soon as practicable after the appointed day, review the determination deemed, pursuant to subclause (4), to have been made under section 20J of the Legal Practitioners Act, 1898, as amended by this Act.



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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***References to general orders under Conveyancing Act, 1919.**

3. On and from the appointed day, a reference (however expressed) in any other Act, in any instrument made under any other Act or in any other instrument of any kind to a general order made under Part XXIV of the Conveyancing Act, 1919, shall be read and construed as a reference to a determination made by the Board under section 20J of the Legal Practitioners Act, 1898, as amended by this Act.

**Agreements under section 212 of the Conveyancing Act, 1919.**

4. An agreement made in accordance with section 212 of the Conveyancing Act, 1919, before the appointed day shall, on and after that day, be deemed to have been made in accordance with the provisions of Division 4 of Part IVA of the Legal Practitioners Act, 1898, as amended by this Act.

**Rules fixing costs for certain litigation and other contentious business.**

5. (1) The Board shall, as soon as practicable after the appointed day, make determinations under section 20J (2) of the Legal Practitioners Act, 1898, as amended by this Act.

(2) So much of the provisions of the rules made under the Supreme Court Act, 1970, as fixes scales or other amounts of costs in respect of contentious business referred to in section 20J (2) (a) of the Legal Practitioners Act, 1898, as amended by this Act, shall continue to have effect until the day on which a determination referred to in subclause (1) comes into force in respect of that business.

(3) The provisions of section 122 (2) and (3) of the District Court Act, 1973, and so much of the provisions of the rules made under that Act as fixes scales or other amounts of costs in respect of contentious business referred to in section 20J (2) (b) of the Legal Practitioners Act, 1898, as amended by this Act, shall continue to have effect until the day on which a determination referred to in subclause (1) comes into force in respect of that business.

(4) Until the rules made under the Courts of Petty Sessions (Civil Claims) Act, 1970, otherwise provide, nothing in this Act or in the Courts of Petty Sessions (Civil Claims) (Solicitors' Remuneration) Amendment Act, 1984, affects any scale of professional costs prescribed for the purposes of section 27 (1), 34 or 36A (1) of the Courts of Petty Sessions (Civil Claims) Act, 1970.

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*Legal Practitioners (Solicitors' Remuneration) Amendment.*

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SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

(5) The provisions of this clause have effect notwithstanding anything to the contrary in section 20R of the Legal Practitioners Act, 1898, as amended by this Act.

**First meeting of Board.**

6. The Minister shall call the first meeting of the Board on or after the appointed day in such manner as the Minister thinks fit.

**Regulations.**

7. (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of this Act, the Conveyancing (Solicitors' Remuneration) Amendment Act, 1984, the Supreme Court (Solicitors' Remuneration) Amendment Act, 1984, the District Court (Solicitors' Remuneration) Amendment Act, 1984, or the Courts of Petty Sessions (Civil Claims) (Solicitors' Remuneration) Amendment Act, 1984.

(2) A provision made under subclause (1) may take effect as from the appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision made under subclause (1) shall, if the regulations under this clause so provide, have effect notwithstanding any other clause of this Schedule.

*In the name and on behalf of Her Majesty I assent to this Act.*

J. A. ROWLAND,  
*Governor.*

*Government House,  
Sydney, 19th June, 1984.*



