

1993

**LEGISLATIVE ASSEMBLY  
FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**LEGAL PRACTITIONERS (AMENDMENT) BILL 1993**

**EXPLANATORY MEMORANDUM**

**Circulated by authority of  
Mr Terry Connolly MLA  
Attorney General**

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

# Legal Practitioners (Amendment) Bill 1993

## OUTLINE

The *Legal Practitioners Act 1970* ('the Principal Act') sets out the functions of the Supreme Court, the Barristers and Solicitors Admission Board and the Law Society in regulating the legal profession in the Territory.

The Legal Practitioners (Amendment) Bill 1993 ('the Bill') amends the Principal Act in relation to a range of matters, principally to widen the Law Society's disciplinary powers over solicitors, to provide a statutory basis for conciliation of complaints about the professional conduct of solicitors and persons employed by solicitors, to enable the Society to appoint an investigator to pursue complaints about a solicitor and to enable the Society to appoint a person to manage a solicitor's practice in specified circumstances. In addition, the opportunity has been taken to make a number of routine amendments to the Act, including replacing gender-specific with gender-neutral terms, bringing the Act up to a modern drafting standard, and generally rationalising a number of provisions.

**Financial Considerations:** None.

## DETAILS OF INDIVIDUAL CLAUSES

### Formal clauses

Clauses 1, 2 and 3 are formal provisions relating to the short title of the Bill, its commencement on a date notified in the Gazette and defining the term 'Principal Act' to mean the *Legal Practitioners Act 1970*.

### Interpretation

Clause 4 amends section 5 of the Act to delete the definitions of 'prescribed person' and 'the Disciplinary Committee'. The term 'prescribed person' is replaced by 'employee', which is defined in clause 11, new section 24. A new definition is inserted for 'Professional Conduct Board' which is the new name for the Disciplinary Committee. Clause 4 also inserts a definition of the term 'Council' to mean the Council of the Law Society.

### **Legal protection for members of the Admission Board**

**Clause 5** inserts new section 9A which provides protection against legal action for members of the Barristers and Solicitors Admission Board.

### **Inspection of the Roll of Barristers and Solicitors**

**Clause 6** amends section 13 of the Act to provide that the Roll of Barristers and Solicitors is to be available for public inspection.

### **Issue of practising certificates**

**Subclause 7(a)** amends subsection 15D(1) of the Act to omit the reference to section 15H (which is repealed by clause 9) and to include a reference to new section 15GA. **Subclause 7(b)** amends subsection 15D(1) to describe fees payable for the issue of a practising certificate and contributions to the Fidelity Fund as 'payable under this Act' rather than as 'referred to in section 15M of this Act'. **Subclause 7(c)** omits subsection 15D(2), the substance of which is re-enacted by clause 8 as new section 15GB.

### **Law Society's powers regarding practising certificates**

**Clause 8** sets out the powers of the Law Society to refuse to issue, to suspend and to cancel a practising certificate. This is essentially a more logical statement of the Society's powers than the present formulation in sections 15G and 15H.

#### *Mandatory refusal or cancellation*

Where a barrister and solicitor who becomes bankrupt applies for an unrestricted practising certificate the Law Society must refuse to issue such a certificate. Where a barrister and solicitor who holds an unrestricted practising certificate becomes bankrupt the Law Society must cancel that certificate (new section 15G). This provision continues the substance of present section 15H.

#### *Discretionary refusal, suspension or cancellation*

The Law Society may refuse to issue a practising certificate to, and may cancel a practising certificate held by, a barrister and solicitor who is sentenced to a term of imprisonment (new subsection 15GA(1)). The power will be triggered when the barrister and solicitor is 'sentenced to a term of imprisonment' rather than 'undergoing a term of imprisonment' as presently provided in paragraphs 15G(1)(a) and 15G(2)(a) of the Act. This will enable the Society to take action during the course of an appeal against a conviction or if a suspended sentence is imposed. The power is made discretionary in the new provision rather than mandatory as at present.

The Law Society may refuse to issue a practising certificate applied for, or suspend a practising certificate for up to 12 months, where the barrister and solicitor concerned:

- fails to pay a fine or any costs, fees or expenses payable to the Law Society (new paragraph 15GA(2)(c), which restates existing paragraphs 15G(1)(d) and 15G(2)(b));
- fails to give a reasonable explanation to the Council for conduct which the Council asked the barrister and solicitor to explain (new paragraph 15GA(2)(d));
- fails to fulfil any obligations he or she has entered into as a result of the conciliation process under new Division 1AA of Part V (new paragraph 15GA(2)(e)); or
- fails to comply with a direction of the Professional Conduct Board (new paragraph 15GA(2)(f)).

The Law Society may refuse to issue an unrestricted practising certificate applied for, and may suspend for up to 12 months an unrestricted practising certificate held, by a barrister and solicitor who fails to comply with audit requirements or where a report by an auditor, a trust account examiner or an investigator identifies a deficiency in that practitioner's trust moneys (new subsection 15GA(3)). This continues the substance of existing paragraphs 15G(1)(b) and (c), except that the power to cancel a certificate is changed to a power to suspend.

A barrister and solicitor whose practising certificate is suspended is, during the term of its suspension, taken not to hold a practising certificate and is not entitled to apply for the issue of a practising certificate (new subsection 15GA(4)). This continues a provision presently at section 42Q(3), which is repealed by clause 27.

*Notice of refusal, cancellation and suspension*

Where the Law Society refuses to issue, cancels or suspends a practising certificate it is required to give the barrister and solicitor written notice of, and the grounds for, the refusal, cancellation or suspension (new section 15GB). This continues the substance of existing subsections 15D(2) (which is repealed by subclause 7(c)) and 15G(3) (which is repealed by clause 8).

### *Repeal*

Clause 9 repeals section 15H, the substance of which is continued in new section 15G.

### *Powers of Supreme Court in such matters*

Clause 10 amends section 15J of the Act in consequence of the Law Society being given power in new section 15GA to suspend a practising certificate. The amendments to section 15J will enable the Supreme Court to revoke the suspension of a practising certificate, in addition to the Court's present powers to revoke the cancellation of, and direct the issue of, a practising certificate.

### **Preliminary matters relating to conciliation and discipline**

Clause 11 inserts a new Division at the start of Part V which consists of new section 24 defining the terms used in Part V. The definitions include the new term 'employee' which replaces the term 'prescribed person' previously defined in section 5 and now omitted by clause 4. The new term 'interested party' specifies the categories of persons who may participate in conciliation conferences convened under new Division 1AA (clause 14), and those who are entitled to be legally represented at inquiries by the Professional Conduct Board under new subsection 30(2) (clause 18). The terms 'professional misconduct', and 'unsatisfactory professional conduct' are also introduced. Those terms describe the types of professional conduct by solicitors that warrant disciplinary action by the Law Society. 'Professional misconduct' is the more serious of the two. The terms are substantially the same as used in the New South Wales *Legal Profession Act 1987*. The term 'unsatisfactory employment conduct' is introduced, which is based on existing subsection 29(1A).

### **Qualifications for lay membership of the Professional Conduct Board**

Clause 12 amends subsection 25(4) of the Act to provide that a person cannot be appointed as a lay member of the Professional Conduct Board, which is the new title for the existing Disciplinary Committee, if that person has the educational qualifications prescribed for admission as a barrister and solicitor of the Supreme Court. This extends the existing provision which prevents a person being appointed as a lay member if that person is enrolled as a legal practitioner.

### **Meetings of Professional Conduct Board**

Clause 13 amends section 28 of the Act to provide that, where a member of the Professional Conduct Board chairs a conciliation conference and there is a subsequent inquiry by the Board into that conduct, an interested party

may object to that member participating in the inquiry, in which case the member is not entitled to be present at a meeting of the Board for the purpose of such an inquiry.

### **Conciliation**

**Clause 14** introduces a new Division 1AA into Part V to provide a conciliation mechanism for dealing with issues relating to the professional conduct of solicitors and employees of solicitors. Under the mechanism, where the Law Society has reason to believe that unsatisfactory professional conduct, professional misconduct or unsatisfactory employment conduct may have occurred, it may direct that a conciliation conference be convened between the interested parties (new subsection 28A(1)).

The main elements of the conciliation mechanism are:

- a conference shall be chaired by a member, or a member of staff, of the Law Society appointed by the Council (new subsection 28A(2));
- interested parties (defined in new section 24) shall be given reasonable notice of the time and place of a conference, which may be adjourned (new subsection 28A(3));
- interested parties are entitled to be represented at a conference (new subsection 28B(1));
- the only persons who may attend a conference are the convenor, interested parties, representatives of interested parties and persons present with the consent of interested parties (new subsection 28B(2));
- in any subsequent proceedings, evidence shall not be given of anything said or done at a conference unless the interested parties otherwise agree (new subsection 28C(1));
- the conference convenor may inform the Council of any matters which he or she believes the Council should consider in deciding whether or not to institute disciplinary proceedings (new subsection 28C(2));
- where conciliation leads to agreement between the interested parties, the terms of the agreement are to be put in writing and lodged with the Law Society (new section 28D);
- where conciliation is unsuccessful, the Council shall be notified (new sections 28E and 28F); and

- any agreement between interested parties at a conciliation conference is not a bar to the Council initiating disciplinary action against the solicitor or employee involved (new section 28G).

### **Complaints**

Clause 15 creates a new Division headed 'Complaints'.

Clause 16 omits existing subsections 29(1) and 29(1A), and combines the substance of those provisions into new subsection 29(1). This subsection provides the mechanism by which the Council of the Law Society places matters regarding the professional conduct of solicitors and the employment conduct of employees before the Professional Conduct Board.

### **Inquiries**

Clause 17 inserts a new Division heading called 'Inquiries' before section 30.

Subclause 18(a) amends section 30 to substitute the title 'Professional Conduct Board' for 'Disciplinary Committee' and to provide that where the Board conducts an inquiry the Law Society and each interested party are entitled to be legally represented. That entitlement extends to employees of solicitors because of the definition of 'interested party' in new section 24.

### **Inquiry procedure**

Clause 19 inserts a new section 31A which sets out the procedures to be followed at an inquiry of the Board. Those procedures are more detailed than the present provision relating to the Disciplinary Committee at subsection 30(4) which is repealed by subclause 18(b). New section 31A provides that the Board's procedures are, subject to the Act, within the discretion of the Board, that the rules of evidence shall be observed, and that proceedings be conducted with as little formality and technicality and as much expedition as proper consideration of matters permits.

### **Summons to witness**

Clause 20 amends section 32, mainly to enable the Board to summons a person to produce documents without the requirement that a person also gives evidence at an inquiry. The penalty for failing to comply with such a summons is increased to \$5,000 or imprisonment for 6 months or both. Existing subsection 32(3) is repealed, removing the provision that currently makes a barrister and solicitor, or an employee of a barrister and solicitor, not compellable to give evidence at an inquiry. Although such persons will

now be compellable to give evidence, existing subsection 35(2) provides that such evidence is not admissible in criminal proceedings.

### **Disciplinary powers of Professional Conduct Board**

**Clause 21** replaces section 36 with new sections 36, 36A, 36B and 36C which significantly expand the powers of the Board compared with the present powers of the Disciplinary Committee. At present, the Committee may only reprimand the solicitor, impose a fine up to \$2,000, or in the case of an employee, order that no solicitor employ the employee.

#### *Disciplinary powers regarding solicitors*

In cases of proven professional misconduct, the Board will be able to suspend a practising certificate for up to 12 months (new paragraph 36(1)(a)) and/or impose a fine not exceeding \$10,000 (new paragraph 36(1)(c)).

In cases of both proven professional misconduct or unsatisfactory professional conduct the Board will be able to direct a solicitor to do all or any of the following:

- cease to accept, for a specified time, instructions in relation to a specified class of work (new subparagraph 36(1)(b)(i));
- cease to employ a specified person or persons (new subparagraph 36(1)(b)(ii));
- undertake further legal education (new subparagraph 36(1)(b)(iii));
- seek advice in relation to management of the practice from a specified person or persons (new subparagraph 36(1)(b)(iv));
- reprimand the solicitor (new paragraph 36(1)(d)).

In cases of both proven professional misconduct or unsatisfactory professional conduct where the Board is satisfied that a person has suffered loss or other detriment as a consequence of that conduct it will be able, with the consent of that person, to direct a solicitor to do all or any of the following:

- carry out specified work for the person, either free of charge or for a specified fee (new paragraph 36(2)(a));
- waive the whole or a specified part of fees otherwise payable, or refund the whole or a specified part of fees paid, by the person in respect of specified work (new paragraph 36(2)(b));



- pay a specified amount not exceeding \$2,000 to the person by way of compensation (new paragraph 36(2)(c));
- waive any lien in respect of a specified document or class of documents (new paragraph 36(2)(d)).

Payment of compensation to a person under new paragraph 36(2)(c) will not affect any other remedy available to the person in respect of the loss or detriment. However, the amount paid in compensation under paragraph 36(2)(c) may be taken into account in determining the amount of compensation payable to the person by the Law Society from the Fidelity Fund or in other proceedings for the recovery of damages or for compensation in respect of the person's loss or detriment (new subsection 36(3)).

#### *Disciplinary powers regarding employees of solicitors*

Where the Board has inquired into the conduct of an employee of a solicitor and is satisfied that he or she is guilty of unsatisfactory employment conduct, it may do all or any of the following:

- direct that no solicitor employ or otherwise remunerate that employee in connection with his or her practice except in accordance with permission granted by the Council of the Law Society under section 129 (new paragraph 36A(1)(a));
- direct the solicitor who employed the employee to do all or any of the range of compensatory-type actions set out in paragraphs 36(2)(a) to (d) inclusive (new paragraph 36A(1)(b));
- reprimand the solicitor who employed the employee (new paragraph 36A(1)(c)).

The Board may, on application, revoke such directions (new subsection 36A(2)). The effective change to the disciplinary process for employees is the addition of the second and third powers listed above.

#### *Dismissal of complaint*

Where the Board inquires into the conduct of a solicitor or an employee and, in the case of a solicitor, is not satisfied that the solicitor is guilty of professional misconduct or unsatisfactory professional conduct or, in the case of an employee, is not satisfied that the employee is guilty of unsatisfactory employment conduct, the Board shall dismiss the complaint (new section 36B).

### *Costs*

Costs may be awarded against unsuccessful parties to Professional Conduct Board proceedings (new section 36C). This continues the substance of existing provisions.

### **Publication of proceedings of Professional Conduct Board**

Clause 22 amends section 40A of the Act in consequence of introducing the new definitions of 'solicitor' and 'employee' in clause 11.

### **Disciplinary powers of the Supreme Court**

Clause 23 repeals section 41 and inserts new sections 41 and 41A.

Where the Supreme Court is satisfied that a barrister and solicitor is guilty of professional misconduct or unsatisfactory professional conduct the Court may, by order, do all or any of the following:

- direct that the person's name be removed from the Roll of Barristers and Solicitors (new paragraph 41(1)(a));
- suspend the person's right to practice in the Territory for such period as the Court considers appropriate (new paragraph 41(1)(b));
- impose a fine of up to \$20,000 (new paragraph 41(1)(c)).

In addition, new subsection 41(2) provides that the Court has the same powers as the Professional Conduct Board has under new section 36.

When the Supreme Court suspends a barrister and solicitor's right to practice, it may also order that he or she may be employed in the practice of another barrister and solicitor for a specified period and on specified conditions (new subsection 41(3)).

The Law Society is entitled to be represented in such proceedings (new subsection 41(4), which continues the substance of existing section 41(2)).

Costs may be awarded against unsuccessful parties (new section 41A)).

### **Appeal against decision of the Professional Conduct Board**

Clause 24 amends section 42 of the Act:

- to enable the Law Society, as well as a solicitor or an employee, to appeal to the Supreme Court where the Board exercises its disciplinary powers (subclause 24(a));

- to enable the Law Society to appeal to the Supreme Court where the Board refuses to exercise its powers in respect of a solicitor or an employee (subclause 24(b));
- to enable an employee in respect of whom the Board has refused to revoke a direction under new subsection 36A(2) to appeal to the Supreme Court (subclause 24(c)); and
- to specify the party that shall be the respondent in appeals under section 42 (subclause 24(d)).

#### **Admission of evidence before the Professional Conduct Board**

Clause 25 amends section 42A of the Act as a consequence of introducing the new term 'employee'.

#### **Furnishing of information to Law Society**

Clause 26 amends section 42M of the Act to make it an offence for a solicitor or former solicitor to fail to comply with a notice issued by the Law Society under subsection 42M(1) requiring information of the kind specified in that subsection to be provided. The penalty is a \$5,000 fine or 6 months imprisonment or both.

#### **Failure to pay levy**

Subclauses 27(a) and (c) amend subsection 42Q(1) and 42Q(4) to correct an anomaly in the Act whereby the Law Society is presently given power to suspend a right to practice as a solicitor in the ACT. Such a power correctly belongs to the Supreme Court. The appropriate power for the Law Society is to suspend a practising certificate.

Subclause 27(b) omits subsections 42Q(2) (which is replaced by new section 15GB) and 42Q(3) (which is replaced by new subsection 15GA(4)).

#### **Application of trust moneys requirements (Part VII)**

Clause 28 amends section 45A of the Act to provide that several Divisions of Part VII do not apply to the category of solicitors described in this section, in addition to those presently exempted. Divisions 6 and 7 are added to the list of exempt Divisions to correct a present anomaly in the Act. Since solicitors who fall into the section 45A category are not required to maintain trust bank accounts under Division 3 or to keep accounting records under Division 4, there is no basis for them to be subject to the 'Examination of Records' provisions in Division 6 or to

make deposits with the Law Society under Division 7. The amendment also makes such solicitors exempt from new Division 6A of Part VII for similar reasons. Solicitors who fall into the section 45A category will, in most cases, be based in areas of NSW close to the ACT and practise in the ACT from time to time. They will be subject to provisions of the NSW *Legal Profession Act* parallel to the provisions of the ACT *Legal Practitioners Act* from which they are exempted by section 45A.

#### **Solicitor to furnish documents etc. to auditor**

Clause 29 makes it an offence for a solicitor to fail to comply with an auditor's requirement under section 60(1) of the Act. The penalty is \$5,000 or imprisonment for 6 months or both.

#### **Legal protection for auditor**

Clause 30 inserts new section 65A which provides legal protection for an auditor who audits a solicitor's trust accounts.

#### **Investigation of affairs of solicitors**

Clause 31 inserts a new Division into the Act to give the Law Society additional powers to investigate solicitors' business affairs. Similar provisions exist in the NSW *Legal Profession Act 1987*.

#### *Interpretation*

Definitions to apply in Division 6A are contained in new section 69.

#### *Appointment of investigator*

The Law Society may, by instrument, appoint an investigator to investigate the affairs, or specified affairs, of a solicitor or solicitors (new subsection 69A(1)). To be appointed as an investigator, a person must be a solicitor, an accountant or an officer or employee of the Law Society (new subsection 69A(2)). 'Affairs' are defined to include accounts and other records kept by or on behalf of the solicitor or an associate of the solicitor, and transactions to which the solicitor was party or in which the solicitor acted for a party (new section 69).

#### *Investigator's assistant*

An investigator may, with the approval of the Council of the Law Society, appoint an assistant (new section 69B).

### *Offences regarding investigations*

It is an offence for a solicitor, or any other person who has possession or control of records relating to the affairs of a solicitor, not to comply with an investigator's requirements (new section 69C). It is also an offence for a person to hinder, obstruct or delay an investigator in the performance of his or her functions (new section 69D). In both cases, the penalty is \$5,000 or 6 months imprisonment or both. In addition, a solicitor who contravenes either provision is guilty of professional misconduct (new section 69E).

### *Report of investigation*

An investigator is required to provide progress reports when requested by the Council, and to provide a final report to Council. An investigator shall send a copy of his or her final report to the solicitor under investigation (new section 69F).

### *Costs of investigation*

The costs of an investigation are to be paid from the Law Society's Fidelity Fund, but those costs are recoverable from the solicitor if, as a result of the investigation, he or she is found guilty of professional misconduct or unsatisfactory professional conduct (new section 69G).

### *Secrecy*

Reports and information that result from an investigation shall be confidential (new section 69H).

### **Statutory Interest Account**

Clause 32 amends paragraph 74A(4)(ca) to enable the Law Society to use moneys in the Statutory Interest Account to cover *all* the costs it incurs in taking disciplinary action against a solicitor under Part V of the Act, and similarly amends paragraph 74A(4)(caa) regarding costs incurred by the Society in objecting to an application to the Supreme Court for admission as a barrister and solicitor. The Act presently enables the Society to use the Account to cover only *legal* costs in such matters.

### **Contributions to Fidelity Fund**

Clause 33 amends subsection 79(2) of the Act to provide that where a solicitor applies to the Law Society for a practising certificate for a period less than 12 months the amount of the solicitor's contribution to the Fidelity Fund shall be calculated on a pro rata basis.

### **Call for claims against Fidelity Fund**

Clause 34 amends section 81 of the Act to provide that the Law Society must have reasonable grounds for believing that there has been a failure to account on the part of a solicitor before it publishes a notice inviting people to apply for compensation in respect of pecuniary loss. It also extends the present protection from legal action in subsection 81(3) to a publisher, printer or distributor of a newspaper in which such a notice appears.

### **Interpretation**

Clause 35 amends section 92 of the Act to remove a possible uncertainty in the meaning of 'solicitor' as used in Part IX of the Act. The amendment specifically provides that the term 'solicitor' as used in the Part does not include a barrister and solicitor referred to in section 45A; that is, a barrister and solicitor who does not have a place in the ACT from which he or she conducts his or her practice and who deposits trust moneys received in the ACT into trust bank accounts maintained in accordance with the provisions of interstate legislation. This is to ensure that the Law Society's power to appoint a receiver does not extend to such solicitors. Those solicitors will be subject to similar powers of an interstate Law Society, and it is more appropriate that a receiver to such a practice be appointed from interstate.

### **Appointment of receiver**

Clause 36 amends subparagraph 93(1)(b)(i) to replace the word 'infirmary' with the more appropriate word 'incapacity', and amends subsection 93(1A) to include the word 'suspended' as a consequence of other provisions which enable the Law Society to suspend a practising certificate. A new subsection 93(5) is added to enable the Law Society to appoint a person as both manager of a solicitor's practice and receiver of that solicitor's trust property.

### **Concealing of documents**

Clause 37 redrafts section 107 in current terminology and increases the penalty for the offence of concealing etc documents.

### **Managers**

Clause 38 inserts a new Part into the Act to enable the Law Society to appoint a manager to a solicitor's practice and to regulate the management process.

*Interpretation*

New section 108B provides definitions for the terms 'manager' and 'solicitor'. The latter definition does not include a solicitor referred to in section 45A for the same reason set out above regarding section 92 (clause 35): the primary responsibility for regulating such a practice rests with an interstate Law Society. Most such solicitors will come within the operation of the NSW *Legal Profession Act* which has parallel provisions regarding appointment of a manager.

*Appointment of manager*

A manager may be appointed by the Law Society in the same circumstances that enable the Supreme Court to appoint a receiver under section 93 (new subsection 108C(1)). To be appointed a manager, a person must be a solicitor with an unrestricted practising certificate (new subsection 108C(2)).

*Management of a practice under receivership*

A manager may perform his or her functions even though a receiver has been appointed to the practice. In exercising those functions, the manager is required to comply with lawful directions given by the receiver (new section 108D).

*Solicitor as employee of manager*

A person who practises as a solicitor in a practice to which a manager has been appointed does so only as an employee of the manager (new section 108E).

*Powers of manager*

The powers of a manager are specified in new section 108F, which also provides that a manager shall not exercise a function in relation to the affairs of a client without the written consent of that client.

*Act of manager is act of solicitor*

Acts of the manager of a solicitor's practice are taken to have been done by the solicitor, but that solicitor is not personally liable for any act of the manager (new section 108G).

*Reimbursement for damages*

A manager may be reimbursed from the Fidelity Fund for damages or costs awarded against the manager, or persons working for the manager, in

respect of acts or omissions that have occurred in good faith and in the exercise of a function under the Act. Neither the manager nor the Law Society are to be liable to the solicitor for any such act or omission (new section 108H).

*Expenses of management*

Expenses of the manager that are otherwise unpaid shall be paid out of the Fidelity Fund. Such amounts may be recovered from the relevant solicitor (new section 108I).

*Reports by manager*

A manager is required to provide progress reports when requested by the Council, and to provide a final report to the Council. An investigator shall send a copy of his or her final report, together with all records relating to the managership, to the solicitor (new section 108J).

*Application of Act to managers*

The provisions of the Act regarding trust accounts, Fidelity Fund contributions, appointment of a receiver and actions for costs apply to a manager of a solicitor's practice (new section 108K).

*Termination of management - reversion of moneys*

Money that is earned in connection with a solicitor's practice while it is under management, and that is not needed to pay for the expenses of management, becomes the property of the solicitor when the practice ceases to be under management (new section 108L).

**Permission for employment of certain persons**

Clause 39 amends section 129 in consequence of earlier amendments.

**Investigator and assistant immune from suit**

Clause 40 amends section 129A to provide protection against legal action to an investigator and an assistant to an investigator.

**Repeal - service of documents**

Clause 41 repeals section 131 which provides for service of documents. Sections 17A and 18 of the *Interpretation Act 1967* contain similar provisions.



### **Transitional**

**Clause 42** provides that proceedings relating to the conduct of a solicitor occurring before the commencement of the amending Act shall be determined by the Supreme Court and Professional Conduct Board under the powers of the Court and Disciplinary Committee respectively as in force immediately before the commencement of the amending Act.

### **Further amendments - Schedule**

**Clause 43** provides that the Principal Act is further amended as set out in the Schedule. These are routine in nature. They consist of consequential amendments, of amendments to make the Principal Act gender-neutral and of amendments to bring the Principal Act up to a modern drafting standard.

### **Renumbering of provisions**

**Clause 44** renumbers the Principal Act.

### **Amendments to the *Supreme Court Act 1933***

**Clause 45** amends section 11 of the *Supreme Court Act 1933* in consequence of amendments made to section 41 of the Principal Act.