

Judiciary

No. 55 of 1966

An Act to amend the *Judiciary Act* 1903–1965
in relation to Legal Practitioners and in relation to the
Application of that Act in the Territories of
the Commonwealth.

[Assented to 27 October 1966]

[Date of commencement, 24 November 1966]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1.) This Act may be cited as the *Judiciary Act* 1966.

Short title and
citation.

(2.) The *Judiciary Act* 1903–1965* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Judiciary Act* 1903–1966.

2. Section 1A of the Principal Act is amended by inserting **Part** after the words—

“Part VIII.—Members and Officers of the High Court
(Sections 47–55).”

* Act No. 6, 1903, as amended by No. 5, 1906; No. 8, 1907; No. 34, 1910; No. 31, 1912; No. 11, 1914; No. 4, 1915; No. 38, 1920; No. 39, 1926; No. 9, 1927; No. 60, 1932; Nos. 34 and 65, 1933; No. 45, 1934; No. 5, 1937; No. 43, 1939; No. 50, 1940; No. 10, 1946; No. 52, 1947; No. 65, 1948; Nos. 51 and 80, 1950; Nos. 17 and 35, 1955; No. 50, 1959; Nos. 32 and 109, 1960; and No. 91, 1965.

the words—

“ Part VIIIA.—Legal Practitioners (Sections 55A–55B).”.

3. Section 3A of the Principal Act is repealed and the following section inserted in its stead:—

Extension of
certain
provisions to
Territories.

“ 3A.—(1.) Without prejudice to the application of this Act in a Territory forming part of the Commonwealth, sections fifty-six, sixty-one and sixty-three to sixty-seven (inclusive) and Parts VIIIA. and XI. of this Act extend to all the Territories, including the Territory of Nauru.

“(2.) In the provisions referred to in the last preceding sub-section—

- (a) a reference to a Territory or the Territories includes a reference to the Territory of Nauru; and
- (b) a reference to the Supreme Court of a Territory shall, in relation to the Territory of Nauru, be read as a reference to the Central Court of the Island of Nauru constituted by the Judge or an Acting Judge of that Court.”.

Repeal.

4. The heading appearing before section 49, and sections 49 and 50, of the Principal Act are repealed.

5.—(1.) After section 55 of the Principal Act the following Part is inserted:—

“ PART VIIIA.—LEGAL PRACTITIONERS.

Right of
barristers and
solicitors
admitted in
federal courts
to practise in
those courts.

“ 55A. A person who has been admitted to practise as a barrister or solicitor, or as both, under rules made in pursuance of paragraph (ga) of section eighty-six of this Act is, subject to those rules, entitled to practise in any federal court as a barrister or solicitor, or as both, as the case may be.

Right of
certain other
persons to
practise as
barristers or
solicitors in
federal courts.

“ 55B.—(1.) Subject to this section, a person who—

- (a) is for the time being entitled to practise as a barrister or solicitor, or as both, in the Supreme Court of a State; or
- (b) is for the time being entitled, under a law (including this Act) in force in a Territory, to practise as a barrister or solicitor, or as both, in the Supreme Court of that Territory,

has the like entitlement to practise in any federal court.

“(2.) A person is not entitled to practise in a federal court as a solicitor by reason of paragraph (b) of the last preceding sub-section unless—

- (a) he has been admitted to practise as a solicitor or legal practitioner by the Supreme Court of the Territory; or

(b) he practises as a solicitor in the Territory and his sole or principal place of business as a solicitor is in the Territory.

“(3.) A person is not entitled to practise as a barrister or solicitor in a federal court by reason of sub-section (1.) of this section unless his name appears in the Register of Practitioners kept in accordance with the next succeeding section as a person entitled to practise in that capacity.

“55c.—(1.) For the purposes of the last preceding section, the Principal Registrar of the High Court shall cause a Register of Practitioners to be kept at the Principal Registry of the High Court and a copy of the Register to be kept at every District Registry. Register of Practitioners.

“(2.) Where it is shown to the satisfaction of the Principal Registrar that a person would, but for sub-section (3.) of the last preceding section, be for the time being entitled by reason of that section to practise as a barrister or solicitor, or as both, in federal courts, the Principal Registrar shall cause the name of the person, and the capacity in which he is to be entitled to practise, to be entered in the Register of Practitioners.

“(3.) Where, otherwise than by reason of an order by the High Court under sub-section (5.) of this section, the Principal Registrar is satisfied that a person whose name appears in the Register of Practitioners—

(a) is not for the time being entitled by reason of the last preceding section—

- (i) to practise in federal courts; or
- (ii) to practise in federal courts in a capacity specified in the Register; or

(b) would, but for sub-section (3.) of the last preceding section, be for the time being entitled by reason of that section to practise in federal courts in a capacity not specified in the Register,

the Principal Registrar shall cause the particulars in the Register in relation to the person to be struck out or amended, as the case requires.

“(4.) Where the Principal Registrar is satisfied that a person whose name appears in the Register of Practitioners has died, the Principal Registrar shall cause the particulars in the Register in relation to the person to be struck out.

“(5.) Where it is proved to the satisfaction of the High Court that a person whose name appears in the Register of Practitioners has been guilty of conduct that justifies it in so doing, the High Court may—

(a) order that the person be not entitled to practise in federal courts and that his name be struck off the Register; or

(b) order that the person's entitlement to practise in federal courts be suspended for a specified period,
but the High Court may at any time, by order, revoke or vary such an order.

“(6.) Where the High Court makes an order under the last preceding sub-section, the Principal Registrar shall cause such entries or amendments to be made in the Register of Practitioners as are necessary to give effect to, or show the effect of, the order.

“(7.) Where the Principal Registrar causes an entry to be made in the Register of Practitioners, or causes an entry in the Register to be struck out or amended, he shall cause the ground on which, and the date upon which, the entry is so made, struck out or amended to be noted in the Register.

Right to
practise as
barrister or
solicitor in
Territories.

“55D.—(1.) Subject to this section, a person—

(a) whose name is on the roll of barristers and solicitors of the High Court kept in pursuance of rules in force under this Act; or

(b) whose name is on the roll of barristers, of solicitors, of barristers and solicitors or of legal practitioners of the Supreme Court of a State or Territory,

is entitled to practise as a barrister and solicitor in any Territory.

“(2.) A person is not entitled to practise as a barrister or solicitor in a Territory by reason of the last preceding sub-section at any time at which his entitlement to practise as a barrister or solicitor, or as both, in the High Court, in a State or in another Territory is suspended in pursuance of rules in force under this Act, in pursuance of a law of the State or in pursuance of a law (including this Act) in force in that other Territory, as the case may be.

“(3.) Where it is proved to the satisfaction of the Supreme Court of a Territory that a person who is entitled to practise as a barrister and solicitor in the Territory by reason of sub-section (1.) of this section has been guilty of conduct that justifies it in so doing, the Court may—

(a) order that the person be not entitled to practise as a barrister and solicitor in the Territory; or

(b) order that the person's entitlement to practise as a barrister and solicitor in the Territory be suspended for a specified period,

but the Court may at any time, by order, revoke or vary any such order.

“(4.) A person who is entitled by reason of sub-section (1.) of this section to practise as a barrister and solicitor in a Territory is entitled so to practise in any court of the Territory and is so entitled whether the court is sitting within or outside the Territory.

“(5.) This section does not affect the operation of a law of a Territory (whether made before or after the commencement of this section) in so far as that law provides for the admission by the Supreme Court of the Territory of persons to practise as barristers or solicitors, or as both, in the Territory and for the suspension or discontinuance of their entitlement to practise.

“(6.) Where—

- (a) a law of a Territory contains provisions of the kind referred to in the last preceding sub-section; and
- (b) under those provisions, any person referred to in sub-section (1.) of this section who duly applies to the Supreme Court of that Territory to be admitted to practise as a barrister and solicitor in that Territory and satisfies that Court that he is of good fame and character is entitled, notwithstanding that he may reside or practise in a State or in another Territory—
 - (i) to be admitted to practise as a barrister and solicitor in the first-mentioned Territory; and
 - (ii) upon being so admitted, to practise in that Territory, subject only to the same conditions and requirements as apply to other persons admitted to practise in that Territory,

sub-sections (1.) to (4.), inclusive, of this section do not apply in relation to practice in that Territory.

“(7.) Nothing in this section applies in relation to practice in a federal court or to practice in the Territory of Papua, the Territory of New Guinea or the Territory of Nauru.

“ 55E. The Crown Solicitor may, in his official capacity, act as solicitor for—

Rights and
privileges of
Crown Solicitor.

- (a) the Crown in right of the Commonwealth;
- (b) the Commonwealth;
- (c) a person suing or being sued on behalf of the Commonwealth;
- (d) a Minister;
- (e) a body established by an Act or a law of a Territory;
- (f) an officer of, or a person employed by—
 - (i) the Commonwealth; or
 - (ii) a body established by an Act or a law of a Territory;
- (g) a person holding office under an Act or a law of a Territory;

- (h) a member of the Defence Force; or
- (i) any other person or body for whom the Attorney-General requests him to act,

and is, for the purpose of so acting, entitled to practise as a solicitor in any court and entitled to all the rights and privileges of a solicitor in each State or Territory whether or not he is, apart from this section, entitled to practise as a solicitor in any State or Territory.”.

(2.) The Register of Practitioners kept under section 49 of the Principal Act shall be incorporated with and form part of the Register to be kept under section 55C of that Act as amended by this Act.
