

VICTORIA.



ANNO VICESIMO

ELIZABETHÆ SECUNDÆ REGINÆ

No. 8139.

An Act to make Provision for the Registration of Commissioners for taking Declarations and Affidavits under the *Evidence Act* 1958, and for other purposes.

[4th May, 1971.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

1. (1) This Act may be cited as the *Evidence (Registration of Commissioners) Act* 1971. Short title.

(2) The *Evidence Act* 1958 is in this Act referred to as the Principal Act.

Principal Act
No. 6246,
Reprinted to
No. 7933 and
subsequently
amended by
No. 8003.

(3) This Act shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

Commence-
ment.

2. In section 1 of the Principal Act in the portion of the Table relating to Division 8 of Part IV. for the expression "ss. 118-122" there shall be substituted the expression "ss. 118-122J".

Amendment of
No. 6246 s. 1.
Division
Table.

3. For

Amendment of
No. 6246
s. 122.

3. For section 122 of the Principal Act there shall be substituted the following sections :—

Interpretation.

‘ 122. For the purposes of sections 122 to 122J “ commissioner ” means commissioner under this Act for taking declarations and affidavits.

Members of
Parliament
to be
commissioners
ex officio.

122A. (1) Every member for the time being of the Legislative Council and every member for the time being of the Legislative Assembly shall, by virtue of his office as such member and without any further or other authority than this section, be a commissioner.

(2) Sub-section (1) shall not apply with respect to members of the Executive Council.

Commissioners
to apply for
registration.

122B. (1) Every person who—

(a) at the commencement of the *Evidence (Registration of Commissioners) Act 1971* is a commissioner ; or

(b) after the said commencement is appointed a commissioner (otherwise than by virtue of holding any office)—

shall make application to the Secretary to the Law Department for registration.

Application.

(2) Every such application shall be in the form prescribed and shall contain the required particulars with respect to such commissioner.

(3) In the case of a person who is a commissioner at the said commencement the Secretary to the Law Department shall forthwith after receiving an application for registration notify the applicant in writing of the duration of the period of the first registration of the commissioner which shall not exceed five years.

Registration.

(4) Upon receiving any such application the Secretary to the Law Department shall enter particulars of such commissioner and his place of residence and place of business (if any) in a register to be known as the “ Register of Commissioners ” and shall issue a certificate of registration to such commissioner.

(5) Every such registration shall remain in force for the period set forth in the certificate unless the commissioner sooner dies or ceases to be a commissioner by virtue of the provisions of this Act.

122c. The

122C. The fee to be paid upon the renewal of the registration of a commissioner shall be \$3 and shall entitle the applicant to registration for a period of five years. Fees.

122D. (1) Not less than one month before the expiration of the registration or renewal of registration of a commissioner the Secretary to the Law Department shall send notice in writing of the expiry thereof by post to the commissioner addressed to him at the place of residence of the commissioner shown in the Register of Commissioners. Renewal.

(2) A registered commissioner may within one month before or at any time after the expiry of his registration or renewal of registration as a commissioner make application for renewal of registration as a commissioner.

(3) Every such application shall be in the form prescribed, shall contain the required particulars with respect to such commissioner, and shall be accompanied by the fee.

(4) Upon receiving an application for renewal of the registration of a commissioner together with the said fee the Secretary to the Law Department shall note that fact in the Register of Commissioners in relation to such commissioner and issue a certificate of renewal of registration to such commissioner.

(5) Every renewal of registration of a commissioner shall remain in force for the period of five years from the expiry of his registration or renewal of registration unless the commissioner sooner dies or ceases to be a commissioner by virtue of the provisions of this Act.

122E. (1) A commissioner who changes his name or his place of residence or business (if any) shall within one month after such change notify the Secretary to the Law Department thereof in writing and the said Secretary shall amend the Register of Commissioners accordingly. Commissioner to notify change of name or address, &c.

(2) A person appointed a commissioner after the commencement of the *Evidence (Registration of Commissioners) Act 1971* shall not act as a commissioner without being registered for the time being in the Register of Commissioners. Unregistered commissioners not to act, &c.

(3) A person

(3) A person who at the commencement of the *Evidence (Registration of Commissioners) Act 1971* is a commissioner otherwise than by virtue of holding any office shall not act as a commissioner after the expiration of six months from the said commencement without being registered for the time being in the Register of Commissioners.

Non-compliance to be a ground for removal.

(4) Contravention of or failure to comply with any of the foregoing provisions of this section shall be a ground upon which the Governor in Council may remove a commissioner under section 118.

Delegation.

122F. (1) The Secretary to the Law Department may by writing under his hand delegate to any officer under his supervision and control all or any of his duties and functions with respect to the registration of commissioners so that the delegated duties and functions may be exercised by the delegate with respect to the matters specified in the instrument of delegation.

(2) Every delegation under this section shall be revocable at will and no delegation shall prevent the performance of any duty or function by the Secretary to the Law Department.

Regulations as to fees chargeable by commissioners to cease to have effect.

122G. (1) The regulations made on the second day of March, 1891, under the provisions of the *Declarations and Affidavits Act 1890* and continued in force from time to time with respect to the payment of fees to commissioners shall cease to have effect after the expiration of six months from the commencement of the *Evidence (Registration of Commissioners) Act 1971* and shall be deemed to have been revoked.

Taking fee, &c., an offence.

(2) After the expiration of the said period of six months, a commissioner who demands takes accepts or receives any fee gratuity or reward for taking any declaration or affidavit shall be liable to a penalty of \$20.

Pretending, &c., to be a commissioner an offence.

122H. Every person not being a commissioner who assumes or pretends to act as such shall be guilty of an indictable offence and liable to imprisonment for a term of not more than two years.

Regulations.

122J. The Governor in Council may make regulations prescribing forms for the purposes of this Division, and regulating the making of applications under this Division for registration as a commissioner or for renewal of any such registration.

Amendment of No. 6246 s. 119.

4. In section 119 of the Principal Act for the words "Sections one hundred and fifteen and one hundred and sixteen" there shall be substituted the expression "Section 115".

Consequential amendment of No. 6246 s. 120.

5. In paragraph (e) in sub-section (1) of section 120 of the Principal Act the words "of the Parliament of Victoria or" are repealed.