

**THE LEGAL PROFESSION ACT**

**AND**

**THE LEGAL PROFESSION**

**(CANONS OF PROFESSIONAL ETHICS) (RULES)**



## LEGAL PROFESSION

### THE LEGAL PROFESSION ACT

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(The inclusion of this page is authorized by L.N. 480/1973)

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## SCHEDULES

THE LEGAL PROFESSION ACT

Acts  
15 of 1977,  
4 of 1981,  
19 of 1994

[3rd January, 1972.]

PART I. *Preliminary*

1. This Act may be cited as the Legal Profession Act. Short title
  
- 2.—(1) In this Act— Interpreta-  
tion.
  - “alien” has the meaning assigned to it in the Jamaican Nationality Act;
  - “appointed day” means the 3rd January, 1972;
  - “attorney-at-law” or “attorney” has the meaning assigned to it by section 5;
  - “Court” means the Supreme Court;
  - “enrolment” means the entry of a name on the Roll;
  - “fees” includes charges and disbursements;
  - “former disciplinary body” means a committee which prior to the appointed day had been constituted under section 25 of the Solicitors Law (repealed) or section 5 of the Bar Regulation Law, 1960 (repealed); Cap. 263  
(1953 Edm.),  
Law 3 of  
1960.
  - “functions” includes duties and powers;
  - “General Legal Council” or “Council” means the General Legal Council established under section 3;
  - “international agreement on legal education” means any agreement between the Governments of territories in the Western Hemisphere including Jamaica, for the establishment of a body responsible for legal education within such territories;
  - “legal document” means any document conferring, transferring, altering or extinguishing or purporting

to confer, transfer, alter or extinguish any right, title or interest in property, moveable or immovable, or any document (including a letter) indicating that legal proceedings may be brought against the person to whom it is addressed or any other person;

"Legal Education Authority" means—

- (a) the General Legal Council; or
- (b) any other body for the time being designated by the Minister as the Legal Education Authority, being a body established pursuant to the terms of an international agreement on legal education;

"Minister" means the Minister responsible for the Law Courts;

"practise as a lawyer" means practise as a barrister or a solicitor or both as provided or recognized by law whether before or after the passing of this Act;

"practising certificate" means a certificate issued by the Council pursuant to subsection (2) of section 5;

"qualifying certificate" means a certificate issued by the Legal Education Authority pursuant to section 9;

"qualified person" means a person qualified for enrolment in accordance with section 6;

"Registrar" means the Registrar of the Supreme Court;

"Roll" means the list of attorneys kept by the Registrar in accordance with section 4.

(2) Any reference (howsoever expressed) in any law to a barrister or a solicitor as respects the conferring of any right or privilege, the exercise of any function or in relation to the qualification for appointment to any office, shall from and after the appointed day be deemed to include reference to an attorney-at-law.

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PART II. *General Legal Council and enrolment and practice in the Legal Profession*

3.—(1) There shall be established for the purposes of this Act a body to be called the General Legal Council which shall be concerned with the legal profession and, in particular—

General  
Legal  
Council  
and its  
functions.

- (a) subject to the provisions of Part III, with the organization of legal education; and
- (b) with upholding standards of professional conduct.

(2) The Council shall have power to do all such things as may appear to it to be necessary or desirable for carrying out its functions under this Act.

(3) The Council shall appoint on such terms and conditions as it thinks fit a secretary and such other officers as it may think necessary for the proper carrying out of its functions:

Provided that no salary in excess of \$3,000 may be assigned to any post without the prior approval of the Minister.

(4) The provisions of the First Schedule shall have effect as to the constitution of the Council and otherwise in relation thereto.

First  
Schedule.

4.—(1) The Registrar shall keep, in accordance with the provisions of this Act and any regulations made thereunder, an alphabetical list of attorneys-at-law (in this Act referred to as the Roll) and subject to the provisions of this Act and regulations made thereunder and to the payment to the Registrar of the prescribed fees, every qualified person shall be entitled to have his name entered on the Roll and to receive a certificate of enrolment in the prescribed form from the Registrar.

Registrar  
to keep  
Roll of  
attorneys-  
at-law.

(2) (a) Forthwith upon the appointed day the Registrar shall cause to be entered on the Roll the name

of every person who immediately prior thereto was a barrister or a solicitor and shall issue to every such person a certificate of enrolment in the prescribed form without the payment of any fee.

(b) For the purposes of any provision whereby the qualification of an attorney-at-law for holding any office depends upon his having been enrolled for a specified period, the number of years during which he was previously enrolled as a barrister or a solicitor, as the case may be, shall be treated as part of the period of his enrolment as an attorney-at-law.

(3) The Registrar-General shall, upon the entry in the Register of Deaths of the death of an attorney-at-law, forward to the Registrar particulars of such entry, and the Registrar shall cause such particulars to be entered on the Roll.

(4) The Registrar upon receiving satisfactory proof of the death at any place outside Jamaica of an attorney-at-law shall cause the particulars of the date and place of such death to be entered on the Roll.

(5) The Registrar shall have the custody of the Roll and of all documents relating thereto, and shall allow any person to inspect the Roll during office hours without payment.

(6) Rules of court may be made prescribing—

- (a) the form of the certificate of enrolment, the procedure for the enrolment of qualified persons and the fees to be paid in relation thereto;
- (b) the duties of the Registrar with respect to the keeping of the Roll; and
- (c) fees to be charged in relation to the issue of practising certificates.

(7) For the purposes of subsection (2)—  
“barrister” means a barrister as defined in section 2 of

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the Bar Regulation Law, 1960 (repealed), and whose name appears on the Roll kept in accordance with that Law; Law  
3 of 1960.

“solicitor” means a person admitted and enrolled as a solicitor of the Supreme Court.

5.—(1) Every person whose name is entered on the Roll shall be known as an attorney-at-law (hereinafter in this Act referred to as an attorney) and— Status of  
attorney-  
at-law and  
practice as  
a lawyer

- (a) subject to subsection (2), be entitled to practise as a lawyer and to sue for and recover his fees for services rendered as such;
- (b) be an officer of the Supreme Court except for the purposes of section 23 of the Judicature (Supreme Court) Act; and
- (c) when acting as a lawyer, be subject to all such liabilities as attach by law to a solicitor.

(2) Subject to section 7, a person shall not practise as a lawyer except by virtue of and in accordance with a practising certificate which shall be issued by the Council, on payment to the Secretary of the Council of the prescribed fee, in the appropriate form in the Second Schedule. Second  
Schedule.

(3) A person who practises in contravention of subsection (2) shall be incapable of maintaining any action for the recovery of any fee or reward on account of or in relation to any act or proceeding done or taken by him in the course of such practice.

(4) If the name of an attorney is removed from the Roll any practising certificate issued to him shall cease to be in force.

(5) During the period of suspension of an attorney from practice as a lawyer, no practising certificate shall be issued to him and any practising certificate issued to him prior to such suspension shall cease to be in force during the period of his suspension.



(6) Where a person enrolled by virtue of paragraph (a) of subsection (2) of section 4 was at the time of such enrolment under an order of suspension from practice, his enrolment under this Act shall not affect the order of suspension; so, however, that the Council may at any time direct that the order of suspension be withdrawn.

(7) If an attorney is adjudicated a bankrupt any practising certificate issued to him shall cease to be in force.

(8) An application by an attorney to procure the removal of his name from the Roll shall be made to the Registrar and such application shall be granted if the Council gives its approval.

Qualifica-  
tion for  
enrolment.

6.—(1) A person shall be qualified for enrolment if he holds a qualifying certificate and satisfies the Council that he has attained the age of twenty-one years, is not an alien, and is of good character.

(2) A person may, at the discretion of the Council, and subject to such conditions as may be prescribed by regulations made under section 10, be enrolled if he satisfies the Council—

- (a) that he has attained the age of twenty-one years, is not an alien, and is of good character; and
- (b) that he is qualified to practise law in any country having a sufficiently analogous system of law and that his qualifications are such as to render him suitable for enrolment.

Legal  
officers  
deemed  
to be  
attorneys  
*ex officio*.

7. Every law officer of the Crown and every legal officer of Government who—

- (a) is enrolled; or
- (b) though not enrolled, possesses a qualifying certificate,

shall so long as he continues to be a law officer of the Crown or a legal officer of Government be entitled to practise in

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all Courts of Justice in Jamaica, and any person referred to in paragraph (b) shall so long as he continues as aforesaid, be deemed to be an attorney *ex officio*.

8.—(1) Subject to the provisions of this Act, if a person who is not enrolled practises as a lawyer he shall be liable on summary conviction before a Resident Magistrate to a fine of two hundred dollars in respect of a first offence and for any second or subsequent offence to a fine of four hundred dollars or to imprisonment for a term of twelve months or to both such fine and imprisonment.

Penalty  
for  
unlawful  
practice.

(2) Subject to the provisions of this Act, if any person who is not enrolled wilfully pretends to be, or makes or uses any name or title or description implying that he is qualified or recognized as qualified to act as an attorney he shall be liable on summary conviction before a Resident Magistrate to a fine of two hundred dollars or to imprisonment for a term of twelve months or to both such fine and imprisonment.

(3) Any person who not being duly qualified and entitled to act as an attorney, acts in any respect as an attorney in any action or matter or in any court in the name or through the agency of an attorney entitled to practise, commits an offence against this Act and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred dollars or to imprisonment for a term of twelve months or to both such fine and imprisonment.

(4) No fees in respect of any thing done by a person who is not enrolled or to whom subsection (3) relates, acting as an attorney, shall be recoverable in any action, suit or matter by any person whomsoever.

PART III *Legal Education*

Arrangements for legal education

9.—(1) It shall be the duty of the Legal Education Authority (hereinafter referred to as the Authority) to make arrangements—

- (a) for a system of legal education;
- (b) for selecting the subjects in which those seeking to qualify for enrolment as attorneys are to be examined;
- (c) for courses of instruction for students and, generally, for affording opportunities for students to read and obtain practical experience in law;
- (d) regulating the admission of students to pursue courses of instruction leading to qualification for enrolment as attorneys; and
- (e) for holding examinations which may include preliminary and intermediate examinations as well as final qualifying examinations.

(2) The Authority may carry out the arrangements in such a manner as it thinks fit and, in particular, either through a school of law established by it or through any other educational institution or both.

(3) The Authority shall issue to any person who has satisfied the Authority that—

- (a) he has obtained adequate practical experience in law; and
  - (b) he is otherwise qualified to practise law,
- a certificate to that effect (in this Act referred to as a qualifying certificate).

Power to make regulations.

10. The Authority may make regulations relating to matters connected with legal education and, in particular, but without prejudice to the generality of the foregoing concerning—

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- (a) the conduct of examinations and the fees to be charged in respect of persons sitting for examinations; and
- (b) the issue of diplomas to persons who have passed examinations held pursuant to section 9.

PART IV. *Discipline*

11.—(1) The Council shall appoint from among persons—

- (a) who are members, or former members, of the Council; or
- (b) who hold or have held high judicial office; or
- (c) who are attorneys who were members of a former disciplinary body; or
- (d) who are attorneys who have been in practice for not less than ten years,

a Disciplinary Committee consisting of such number of persons, not being less than fifteen, as the Council thinks fit.

(2) The provisions of the Third Schedule shall have effect as to the constitution of the Disciplinary Committee and otherwise in relation thereto.

12.—(1) Any person alleging himself aggrieved by an act of professional misconduct (including any default) committed by an attorney may apply to the Committee to require the attorney to answer allegations contained in an affidavit made by such person, and the Registrar or any member of the Council may make a like application to the Committee in respect of allegations concerning any of the following acts committed by an attorney, that is to say—

- (a) any misconduct in any professional respect (including conduct which, in pursuance of rules made by the Council under this Part, is to be treated as misconduct in a professional respect);
- (b) any such criminal offence as may for the purposes of this provision be prescribed in rules made by the Council under this Part.

Disciplinary  
Committee  
3/1981  
S. 2.

Third  
Schedule.

Complaints  
to  
Committee.

(2) In any matter or hearing before a court a Judge, where he considers that any act referred to in sub-paragraph (a) or (b) of subsection (1) has been committed by an attorney, may make or cause the Registrar to make an application to the Committee in respect of the attorney under that subsection.

In this subsection "court" means the Supreme Court, the Court of Appeal, a Resident Magistrate's Court, the Traffic Court or any other court which may be prescribed.

(3) Any application under subsection (1) or (2) shall be made to and heard by the Committee in accordance with the rules mentioned in section 14.

(4) On the hearing of any such application the Committee may as they think just make any such order as to—

- (a) striking off the Roll the name of the attorney to whom the application relates, or suspending him from practice on such conditions as they may determine, or imposing on him such fine as they may think proper, or subjecting him to a reprimand;
- (b) the payment by any party of costs or of such sum as they may consider a reasonable contribution towards costs;

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(c) the payment by the attorney of any such sum by way of restitution as they may consider reasonable.

(5) Any fine or any part thereof imposed under subsection (4) may at the discretion of the Committee be paid to the person making the application in whole or part satisfaction of any damage caused to him by the act or default giving rise to his application.

(6) Section 8 shall apply, *mutatis mutandis*, to an attorney who pursuant to an order made under this section is suspended from practising as it applies to a person who is not enrolled.

(7) The Council may—

(a) prescribe standards of professional etiquette and professional conduct for attorneys and may by rules made for this purpose direct that any specified breach of the rules shall for the purposes of this Part constitute misconduct in a professional respect;

(b) prescribe anything which may be or is required to be prescribed for the purposes of this Part.

13.—(1) For the purposes of hearing applications made pursuant to section 12 the Disciplinary Committee may sit in two or more divisions.

Power of  
Disciplinary  
Committee  
to sit in  
divisions

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(2) Each division shall be entitled to hear and determine any such application and shall be entitled to exercise all the powers of the Disciplinary Committee; and any hearing by or determination or order of such division shall be deemed to be a hearing by or determination or order of the Disciplinary Committee.

(3) Each division shall appoint its own chairman and, subject to subsection (3A), shall act only while at least three members thereof are present.

19/1994  
S. 2 (a)

(3A) If the Disciplinary Committee, or a division thereof, has commenced, but not concluded, the hearing of an application pursuant to section 12, whether such hearing had commenced before or after the 28th day of June, 1994, and the number of members of the Committee or Division, as the case may be, is reduced by reason of the illness, death or incapacity of any of its members, the Committee or Division may continue to hear and determine that application notwithstanding the reduction in its members, if—

- (a) in a case where the Committee or Division originally consisted of five or more members, the number is not reduced to less than three; or
- (b) in a case where the Committee or Division originally consisted of three or four members, the number is not reduced to less than two; or
- (c) another member is substituted, with the consent of the parties to the proceedings, for the member who has died or has become ill or incapacitated.

[The inclusion of this page is authorized by L.N. 79/1996]

(4) Subject to subsection (3A), no order shall be made by the Disciplinary Committee under section 12 striking off the Roll the name of an attorney unless at least three members present vote in favour of the order. 19/1994 S. 2 (c)

14.—(1) The Disciplinary Committee may from time to time make rules for regulating the presentation, hearing and determination of applications to the Committee under this Act. Rules of procedure.

(2) Until varied or revoked by rules made by the Committee pursuant to subsection (1) the rules contained in the Fourth Schedule shall be in force.

Fourth  
Schedule.

(3) For the purposes of any application made to them under this Act, the Committee may administer oaths and the applicant or the attorney to whom the application relates may sue out writs of subpoena *ad testificandum* and *duces tecum*, but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.

(4) An application to, or an enquiry or proceeding before, the Committee shall be deemed to be a legal proceeding within the meaning of that expression as used in Part II of the Evidence Act.



Filing  
effect and  
notice of  
orders  
made by the  
Committee.

15.—(1) Every order made by the Committee under this Act shall be prefaced by a statement of their findings in relation to the facts of the case and shall be signed by the chairman of the Committee or division of the Committee, as the case may be, so, however, that if the findings are not unanimous, dissenting opinions may be expressed in the statement.

(2) The Committee shall, subject to rules under section 14, cause a copy of every such order to be filed with the Registrar.

(3) Every order filed pursuant to subsection (2) shall, as soon as it has been so filed be acted upon by the Registrar and be enforceable in the same manner as a judgment or order of the Supreme Court to the like effect.

(4) The Register shall upon the filing of any order as aforesaid cause a notice stating the effect of the operative part of the order to be published in the *Gazette*.

(5) The file of orders made by the Committee under this section may be inspected at the Registry of the Supreme Court by any person, during office hours, without payment.

Appeal  
against  
order of  
the  
Committee.

16. An appeal against any order made by the Committee under this Act shall lie to the Court of Appeal by way of:

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rehearing, at the instance of the attorney or the person aggrieved to whom the application relates, and every such appeal shall be made within such time and in such form and shall be heard in such manner as may be prescribed by rules of court.

17.—(1) The Court of Appeal may dismiss the appeal and confirm the order or may allow the appeal and set aside the order or may vary the order or may allow the appeal and direct that the application be reheard by the Committee and may also make such order as to costs before the Committee and as to costs of the appeal, as the Court may think proper:

Powers of Court of Appeal.

Provided that in the rehearing of an application following an appeal by the attorney no greater punishment shall be inflicted upon the attorney concerned than was inflicted by the order made at the first hearing.

(2) Where the Court of Appeal confirms the order (whether with or without variation) it shall take effect from the date of the order made by the Court of Appeal confirming it.

18. Where the name of any attorney has been struck off the Roll in consequence of a decision in a disciplinary case, his name shall not again be entered on the Roll except by the direction of the Council; but the Council may at any time direct that his name be restored to the Roll:

Restoration of name to the Roll.

Provided that if upon an application in writing made by such person to the Council for his name to be entered again on the Roll, the Council fails or refuses to give a direction to that effect, he may appeal to the Court of Appeal; and every such appeal shall be made within such time and in such form and shall be heard in such manner as may be prescribed by rules of court; and any decision given by that Court in the matter shall not be subject to any further appeal.

Review of  
suspension  
from  
practice.

19. Where the Disciplinary Committee have directed that an attorney be suspended from practice they may at any time review their decision and direct that the order of suspension be withdrawn.

Employment by attorney of person struck off the Roll or suspended.

20.—(1) No attorney shall, in connection with his practice as a lawyer, without the written permission of the Council which may be given for such period and subject to such conditions as the Council thinks fit, employ or remunerate any person who to his knowledge is disqualified from practising as a lawyer by reason of the fact that his name has been struck off the Roll, otherwise than at his own request, or that he is suspended from practising as a lawyer.

(2) If any attorney acts in contravention of the provisions of this section or of the conditions subject to which any permission has been given thereunder, his name shall be struck off the Roll, or he shall be suspended from practice for such period as the Disciplinary Committee think fit.

(3) Any person who, whilst he is disqualified from practising as a lawyer by reason of the fact that his name has been struck off the Roll or that he is suspended from practising as a lawyer, seeks or accepts employment by an attorney in connection with that attorney's practice without previously informing him that he is so disqualified shall on summary conviction before a Resident Magistrate be liable to a fine of two hundred dollars or to imprisonment for a term of six months.

(4) Any attorney who wilfully and knowingly acts as agent in any action or matter or in any court for any person who to his knowledge is not duly qualified and entitled to practise as a lawyer, or permits or suffers his name to be made use of in any action upon the account or for the profit of any such person, or sends any such process to any such person, or does any other act to enable any

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such person to act in any respect as a lawyer in any action or matter in any court shall on summary conviction before a Resident Magistrate be liable to a fine of two hundred dollars or to imprisonment for a term of six months.

PART V. *Recovery of Fees*

21.—(1) An attorney may in writing agree with a client as to the amount and manner of payment of fees for the whole or part of any legal business done or to be done by the attorney, either by a gross sum or percentage or otherwise; so, however, that the attorney making the agreement shall not in relation to the same matters make any further charges than those provided in the agreement:

Agreement  
as to fees.

Provided that if in any suit commenced for the recovery of such fees the agreement appears to the court to be unfair and unreasonable the court may reduce the amount agreed to be payable under the agreement.

(2) Fees payable under any such agreement shall not be subject to the following provisions of this Part relating to taxation nor to any other provisions thereof.

22.—(1) An attorney shall not be entitled to commence any suit for the recovery of any fees for any legal business done by him until the expiration of one month after he has served on the party to be charged a bill of those fees, the bill either being signed by the attorney (or in the case of a partnership by any one of the partners either in his own name or in the name of the partnership) or being enclosed in or accompanied by a letter signed in like manner referring to the bill:

Bill of  
fees.

Provided that if there is probable cause for believing that the party chargeable with the fees is about to leave Jamaica, or to become bankrupt, or compound with his creditors or to do any act which would tend to prevent or delay the attorney obtaining payment, the Court may, notwithstanding that one month has not expired from the delivery of

the bill, order that the attorney be at liberty to commence an action to recover his fees and may order those fees to be taxed.

(2) Subject to the provisions of this Part, any party chargeable with an attorney's bill of fees may refer it to the taxing officer for taxation within one month after the date on which the bill was served on him.

(3) If application is not made within the period of one month aforesaid a reference for taxation may be ordered by the Court either on the application of the attorney or on the application of the party chargeable with the fees, and may be ordered with such directions and subject to such conditions as the Court thinks fit.

(4) An attorney may without making an application to the Court under subsection (3) have the bill of his fees taxed by the taxing master after notice to the party intended to be charged thereby and the provisions of this Part shall apply as if a reference for such taxation has been ordered by the Court.

L.N.  
295/1973.

Taxing  
officer.

23. In this Part "taxing officer" means the Registrar or such other person as may be prescribed by rules of court.

Where...  
application  
is not to be  
granted.

24. No reference shall be directed upon application made by the party to be charged after judgment has been obtained in any suit for the recovery of the fees of the attorney or after expiration of twelve months after the bill has been served except under special circumstances to be proved to the satisfaction of the Court to which application for reference has been made.

Non-  
attendance  
of party at  
taxation.

25. Upon any reference, if either the attorney or the party to be charged, having due notice, refuses or neglects to attend the taxation, the taxing officer may proceed to tax and settle the bill *ex parte*.

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26. If on any reference the party to be charged attends on taxation the cost of the reference shall, subject to section 27, be paid according to the event of the taxation so that, if the bill when taxed is less by a sixth part or more, than the bill served, the attorney shall pay the costs; otherwise the party to be charged shall pay the costs.

Costs of taxation

27.—(1) Upon every taxation, whether by order of the Court or otherwise, the taxing officer shall certify what is found to be due to or from the attorney in respect of the bill, including the cost of reference.

Certified by taxing officer subject to review by Court

(2) If either party is dissatisfied with the decision of the taxing officer as to the amount of the bill or the cost of reference, he may within twenty-one days after the date of the decision apply to the Court to review the decision; and the Court may thereupon make such order varying or confirming the decision as the Court considers fair and reasonable.

(3) The certification of the taxing officer or, as the case may be, the order of the Court under this section shall, subject to rules of court, be final and conclusive as to the amount due.

28. It shall not in any case be necessary in the first instance for any attorney in proving compliance with this Part to prove the contents of the bill served; it shall be sufficient to prove that the bill for fees signed in the manner provided and enclosed in or accompanied by the letter as provided was duly served.

Proof of compliance with Act

29. Rules of court may be made repealing, varying or adding to any of the provisions of this Part other than section 21.

Power to vary provisions

## PART VI. Preparation of legal documents

Name and address of draftsman to be endorsed on documents.

30.—(1) Every person who draws or prepares any legal document for reward shall note or endorse or cause to be noted or endorsed thereon his name and address, so, however, that in the case of an attorney the noting or endorsing of his name or the name of the firm in which he is employed together with the appropriate address shall be sufficient.

(2) Any person who commits a breach of subsection (1) shall be liable on summary conviction before a Resident Magistrate to a fine of one hundred dollars.

Unqualified persons not to prepare documents.

31. Except in such cases and to such extent as may be prescribed, no person other than an attorney or notary public shall either directly or indirectly for or in expectation of a fee, gain or reward draw or prepare any legal document; and any person contravening this section shall be liable on summary conviction before a Resident Magistrate to a fine of two hundred dollars.

Agreement to pay fee or reward to unqualified person to be void.

32.—(1) An agreement to pay a fee or reward to any person other than an attorney or a notary public, in consideration of his drawing or preparing any legal document shall be void except in such cases as may be prescribed.

(2) Except as may be prescribed any person who pays to a person, other than an attorney or notary public, any fee or reward for having drawn or prepared or agreed to draw or prepare a legal document, may sue for and recover the amount of the fee or reward from the person to whom it was paid.

Regulations.

33. The Minister may make regulations in respect of anything which may be or is required to be prescribed under this Part.

LEGAL PROFESSION

34. This Part shall not apply to any such class of document as may be prescribed nor any public officer drawing or preparing a legal document in the course of his duties as such, nor to the mere engrossing of a document.

Savings  
public  
officer or  
congressio

PART VII: *Keeping of Accounts*

35.—(1) The Council may make regulations requiring attorneys—

Regulation  
in respect  
of accounts

(a) to open and keep separate bank accounts of clients' moneys and containing provisions as to the manner in which such accounts may be operated; and

(b) to keep accounts containing particulars and information as to moneys received, held or paid by them, for or on account of their clients.

(2) The Council may take such action as may be necessary to ascertain whether or not the regulations are complied with.

36.—(1) If a person fails to comply with any of the regulations made under section 35 any person may make a complaint in respect of that failure to the Disciplinary Committee.

Consequence  
of failure to  
comply  
with regu-  
lations.

(2) The provisions of Part IV shall apply in relation to complaints under this section as they apply in relation to applications to the Disciplinary Committee under that Part.

37. Regulations made under section 35 shall not apply to any person who is in full-time employment as an officer of Government or a local authority.

Savings for  
full-time  
employees  
of Govern-  
ment, etc.

38. Where a person is employed as an officer of Government or a local authority and at the same time engages in private practice as a lawyer the regulations under section 35

Savings for  
part-time  
practi-  
tioners.



shall only apply to him so far as regards moneys received held or paid by him in the course of his private practice.

PART VIII. *Miscellaneous*

Fees to be paid in the funds of the Council.

39. Save as may otherwise be specifically provided by law, any fees received by the Secretary of the Council pursuant to the provisions of this Act or regulations made thereunder shall be placed in the funds of the Council and form part thereof.

Power to make orders adapting existing law.

40.—(1) The Minister may, by order, make such modifications or adaptations in enactments passed before the appointed day or in any instrument having effect under any such enactment, as may appear to him necessary or expedient in consequence of the establishment of the status of attorney-at-law under this Act.

(2) Every order made under subsection (1) shall be subject to affirmative resolution.

LEGAL PROFESSION

FIRST SCHEDULE

(Section 3)

*The General Legal Council*

1. (1) The members of the Council shall be—

- (a) the Chief Justice or his nominee;
- (b) the Attorney-General or his nominee;
- (c) one member appointed by the Minister;
- (d) fourteen members, being legal practitioners, appointed in accordance with sub-paragraph (2).

Constitution  
of General  
Legal  
Council

(2) The members specified at sub-paragraph (1) (d) (hereinafter referred to as nominated members) shall be appointed by the Minister upon nomination by such body or bodies as may for the time being be recognized by him as representing members of the legal profession, so, however, that until one or more other professional body or bodies is or are formed to represent attorneys in Jamaica the Minister shall recognize the Bar Association of Jamaica and the Incorporated Law Society of Jamaica as together representing the legal profession in Jamaica and shall appoint to the Council seven members upon the nomination of the said Association and seven members upon the nomination of the said Society.

(3) In this paragraph "legal practitioner" means—

- (a) in relation to any period prior to the appointed day, a barrister or solicitor; and
- (b) in relation to any period thereafter, an attorney-at-law.

2. The appointment of a nominated member or the member specified in sub-paragraph (1) (c) of paragraph 1 shall, subject to the provisions of this Schedule, be for a period not exceeding three years and such member shall be eligible for reappointment.

Term  
of office

3. The Council shall appoint one of the members of the Council to be chairman thereof.

Chairman

4. (1) If the chairman of the Council is absent or unable to act, the Council may appoint any person to act in his place.

Acting  
appoint-  
ments

(2) If any member of the Council is absent or unable to act, the Minister may appoint any person to act in the place of such member.

(3) Where the power to appoint a person to act in an office is being exercised pursuant to this paragraph, such appointment shall be made in such manner and from among such persons as would be required in the case of a substantive appointment.

5. (1) Any nominated member or the member specified in sub-paragraph (1) (c) of paragraph 1 may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman and from the date of receipt by the Minister of such instrument such member shall cease to be a member of the Council.

Resigna-  
tions

(2) ~~The chairman may at any time resign his office as chairman by instrument in writing addressed to the Council and such resignation shall take effect as from the date of receipt by the Council of such instrument.~~

Revocation  
of appoint-  
ments.

6. The Minister shall revoke the appointment of a nominated member upon a recommendation to that effect made by the Council in writing; and he may at any time, if he considers it expedient so to do, revoke the appointment of the member specified in sub-paragraph (1) (c) of paragraph 1.

Filling of  
vacancies.

7. If any vacancy occurs in the membership of the Council such vacancy shall be filled by the appointment of another member who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed, so, however, that the appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous member.

Gazetting  
of appoint-  
ments.

8. The names of all members of the Council as first constituted and every change in the membership thereof shall be published in the *Gazette*.

Incorporation.

9. (1) The Council shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of land and other property of whatever kind.

(2) The seal of the Council shall be kept in the custody of the chairman or the Secretary and shall be affixed to instruments pursuant to a resolution of the Council in the presence of the chairman or any other two members of the Council.

(3) The seal of the Council shall be authenticated by the signature of the chairman or any person performing the duties of chairman and shall be officially and judicially noticed.

(4) All documents, other than those required by law to be under seal, made by, and all decisions of, the Council may be signified under the hand of the chairman, or any other member authorized to act in that behalf, or the Secretary.

(5) The Council may sue and be sued in its corporate name and may for all purposes be described by such name.

Procedure  
and  
meetings.

10. (1) The Council shall meet at such times as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times and on such days as the Council may determine.

(2) The chairman may at any time call a special meeting of the Council and shall call a special meeting within seven days of the receipt of a written request for that purpose addressed to him by any three members of the Council.

[The inclusion of this page is authorized by L.N. 480/1973]

LEGAL PROFESSION

(3) The chairman shall preside at all meetings of the Council at which he is present, and in the case of the chairman's absence from any meeting the members present and constituting a quorum shall elect a chairman from among their number to preside at that meeting and when so presiding the chairman or person elected as aforesaid to preside shall have an original and a casting vote.

(4) The quorum of the Council shall be seven.

(5) Minutes in proper form of each meeting of the Council shall be kept.

(6) The validity of any proceeding of the Council shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

(7) Subject to the provisions of this Schedule the Council may regulate its own proceedings.

11. The funds of the Council shall consist of such moneys as shall from time to time be placed at its disposition for the purposes of this Act by Parliament and such other moneys as may lawfully be paid to the Council.

Funds of the Council

12. The Council shall keep proper accounts of its receipts, payments, credits and liabilities and such accounts shall be audited annually by an auditor appointed in each year by the Council with the approval of the Minister.

Accounts and audit

13. (1) The Council shall in each year prepare and submit to the Minister on or before the 30th day of June a report on its proceedings during the twelve months ending on the 31st day of March in each year, including a statement of its accounts audited in accordance with paragraph 12.

Annual reports and estimates

(2) The Council shall, on or before the 31st day of October in each year, submit to the Minister for approval its estimates of revenue and expenditure in respect of the period commencing on the 1st day of April next following and ending on the 31st day of March of the next year.

14. (1) No member of the Council shall be personally liable for any act or default of the Council done or omitted to be done in good faith in the course of the operations of the Council.

Protection of members

(2) Where any member of the Council is exempt from liability by reason only of the provisions of this paragraph the Council shall be liable to the extent that it would be if the member was a servant or agent of the Council.

15. There shall be paid from the funds of the Council to the chairman and other members of the Council such remuneration, whether by way of honorarium, salary or fees, and such allowances as the Minister may determine.

Remuneration of members

16. The office of chairman or other member of the Council shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.

Office of chairman not public office

## SECOND SCHEDULE

(Section 5)

*Practising Certificate*

Pursuant to the Legal Profession Act, it is hereby certified that  
 whose name is enrolled in the  
 Roll of attorneys-at-law of the Supreme Court of Jamaica is entitled  
 to practise as a lawyer in the year ending 31st day of December, 19

Dated this            day of            19  
 Secretary of the General Legal Council.

## THIRD SCHEDULE

(Section 11)

*The Disciplinary Committee*

Term of  
 office of  
 members.  
 1/1/82  
 S. 3 (1)  
 (a) & (b).

(1) The members of the Committee shall, subject to the provisions of this Schedule, hold office for such period not exceeding three years as the General Legal Council (hereinafter referred to as the Council) may determine and shall be eligible for reappointment.

(2) Where members of a division of the committee had commenced, but not concluded, the hearing of an application pursuant to section 12 those members may continue to hear and determine that application notwithstanding the expiration by the effluxion of time, of the term of office of all or any of them.

Chairman.

2. (1) The Council shall appoint one of the members of the Committee to be the chairman thereof.

(2) If the chairman of the Committee is absent or unable to act, the Council may appoint another member to act in his place.

Temporary appointments.

3. The Council may appoint any person who would be eligible for appointment as a member of the Committee in accordance with subsection (1) of section 11 of this Act to act temporarily in the place of any member of the Committee in the case of the absence or inability to act of such member.

Resignations.

4. (1) Any member of the Committee other than the chairman may at any time resign his office by instrument in writing addressed to the Council and transmitted through the chairman, who shall forthwith cause it to be forwarded to the Council and, from the date of the receipt by the Council of such instrument, such member shall cease to be a member of the Committee.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Council and, from the date of the receipt by the Council of such instrument, such chairman shall cease to be chairman of the Committee.

Revocation of appointments.

5. The Council may, if it thinks it expedient so to do, at any time revoke the appointment of the chairman or any other member of the Committee.

[The inclusion of this page is authorized by LN. 17/1982]

LEGAL PROFESSION

6. The names of all members of the Committee as first constituted and every change in the membership thereof shall be published in the *Gazette*. Publication of membership list

7. (1) The Committee shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Committee shall determine. Proceedings and meetings

(2) The quorum of the Committee shall, subject to section 13 of this Act, be five.

(3) Subject to the provisions of this Schedule the Committee shall have power to regulate their own proceedings.

(4) The validity of any proceeding of the Committee shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

8. The provisions of paragraph 14 of the First Schedule shall apply to a member of the Committee who is not a member of the Council in like manner as they apply to a member of the Council. Protection of members of Committee

FOURTH SCHEDULE

(Section 14)

*The Legal Profession (Disciplinary Proceedings) Rules*

1. These Rules may be cited as the Legal Profession (Disciplinary Proceedings) Rules. Citation

2. In these Rules "secretary" means the person appointed by the Committee to be secretary of the Committee or any person for the time being with the authority of the Committee performing all or any of the duties of secretary. Secretary of Committee

3. An application to the Committee to require an attorney to answer allegations contained in an affidavit shall be in writing under the hand of the applicant in Form 1 of the Schedule to these Rules and shall be sent to the secretary, together with an affidavit by the applicant in Form 2 of the Schedule to these Rules stating the matters of fact on which he relies in support of his application. Application and affidavits. Form 1. Form 2.

4. Before fixing a day for the hearing, the Committee may require the applicant to supply such further information and documents relating to the allegations as they think fit, and in any case where, in the opinion of the Committee, no *prima facie* case is shown the Committee may, without requiring the attorney to answer the allegations, dismiss the application. If required so to do, either by the applicant or the attorney, the Committee shall make a formal order dismissing such application. Further information and documents

5. In any case in which, in the opinion of the Committee, a *prima facie* case is shown the Committee shall fix a day for hearing, and the secretary shall serve notice thereof on the applicant and on the attorney, and shall also serve on the attorney a copy of the application and affidavit. The notice shall not be less than a twenty-one days' notice. Notice of hearing.

- Lists of documents for hearing. Form 3. Form 4.
6. The notice shall be in Form 3 or Form 4 of the Schedule to these Rules, as the case may be, and shall require the applicant and attorney respectively to furnish to the secretary and to each other a list of all documents on which they respectively propose to rely. Such lists shall, unless otherwise ordered by the Committee, be furnished by the applicant and by the attorney respectively at least fourteen days before the day of hearing.
- Inspection of documents.
7. Either party may inspect the documents included in the list furnished by the other; and a copy of any document mentioned in the list of either party, shall, on the application of the party requiring it, be furnished to that party by the other within three days after the receipt of the application.
- Proceedings in absence of parties.
8. If either or both of the parties fail to appear at the hearing the Committee may, upon proof of service of the notice of hearing, proceed to hear and determine the application in his or their absence.
- Application for rehearing.
9. Where the Committee have proceeded in the absence of either or both of the parties any such party may, within one calendar month from the pronouncement of the findings and order, apply to the Committee for a rehearing upon giving notice to the other party and to the Secretary. The Committee, if satisfied that it is just that the case should be reheard, may grant the application upon such terms as to costs or otherwise, as they think fit. Upon such rehearing the Committee may amend, vary, add to or reverse their findings or order pronounced upon such previous hearing.
- Proceedings on evidence given by affidavit.
10. The Committee may, in their discretion, either as to the whole case or as to any particular fact or facts, proceed and act upon evidence given by affidavit:
- Provided that any party to the proceedings may require the attendance upon subpoena of any deponent to any such affidavit for the purpose of giving oral evidence, unless the Committee are satisfied that the affidavit is purely formal and that the requirement of the attendance of the deponent is made with the sole object of causing delay.
- Subpoena. Form 5. Form 6.
11. A subpoena issued under section 14 of this Act may be in Form 5 or Form 6 of the Schedule to these Rules as may be appropriate in the particular circumstances, with such variations as the case may require.
- Notice to parties of date of findings.
12. If the findings and order of the Committee are not pronounced on the day of hearing, notice shall be given to the parties of the date when the findings and order will be pronounced.
- Filing of findings and order with Registrar.
13. The secretary shall on the day of pronouncement or if the Committee have suspended the filing of the findings and order pursuant to rule 19 of these Rules, forthwith upon the termination of the period for which such filing is so suspended, file the findings and order with the Registrar and shall within fourteen days of the date thereof send a copy thereof to the applicant, the attorney and to any other person specified by the Committee.

14. ~~The Committee shall hear all applications in private, but shall pronounce their findings and orders in public.~~ Applications to be heard in private.

15. No application shall be withdrawn after it has been sent to the secretary, except by leave of the Committee. Application for leave to withdraw shall be made on the day fixed for the hearing unless the Committee otherwise direct. The Committee may grant leave subject to such terms as to costs or otherwise as they think fit, or they may adjourn the matter under rule 16 of these Rules. Withdrawal of application.

16. The Committee may of their own motion, or upon the application of either party, adjourn the hearing upon such terms as to costs, or otherwise, as to the Committee may appear just. Adjournment of hearing.

17. If upon the hearing it appears to the Committee that the allegations in the affidavit require to be amended or added to, the Committee may permit such amendment or addition, and may require the same to be embodied in a further affidavit, if in the judgment of the Committee such amendment or addition is not within the scope of the original affidavit, so, however, that if such amendment or addition be such as to take the attorney by surprise or prejudice the conduct of his case, the Committee shall grant an adjournment of the hearing upon such terms as to costs or otherwise as to the Committee may appear just. Amendment of allegations in affidavit.

18. Upon the hearing or determination of any application the Committee may, without finding any misconduct proved against the attorney, nevertheless order him to pay the costs of the proceedings if, having regard to his conduct and to all the circumstances of the case, it seems just to the Committee so to do. Costs.

19. (1) The Committee shall have power, upon the application of a party against or with respect to whom they have made an order, to suspend the filing thereof with the Registrar. Power to suspend filing of order.

(2) Where the filing of an order is suspended under this rule the order shall not take effect until it is filed with the Registrar and if the order is an order that an attorney be suspended from practice the period of suspension shall be deemed to commence on the date of the filing of the order with the Registrar.

20. Notes of proceedings shall be taken by the secretary or other person appointed by the Committee; and any party who appeared at the proceedings shall be entitled to inspect the original or a copy thereof. Every person entitled to be heard upon an appeal against an order of the Committee shall be entitled to a copy of such notes on payment of the charges from time to time prescribed by the Committee. Notes of proceedings.

21. Service of any notice or documents required by these Rules may be effected by registered letter addressed to the last known place of abode or business of the person to be served, and proof that such letter was so addressed and posted shall be proof of service. Any notice or document required to be given or signed by the secretary Service of notice or documents.



LEGAL PROFESSION

may be given or signed by him or by any person duly authorized by the Committee in that behalf.

Power to extend time

22. Notwithstanding anything to the contrary the Committee may extend or abridge the time for doing anything under these Rules.

Secretary to retain affidavits

23. All affidavits shall be filed and kept by the secretary. The Committee may order that any books, papers or other exhibits produced or used at a hearing shall be retained by the secretary until the time for appealing has expired, and, if notice of appeal be given, until the appeal is heard or otherwise disposed of.

SCHEDULE

FORM 1

(Paragraph 3)

Form of Application against an Attorney-at-Law

To the Committee constituted under the Legal Profession Act

(Act 15 of 1971)

In the matter of

and

an attorney-at-law

In the matter of the Legal Profession Act

I, the undersigned

hereby make application that\*

of

attorney-at-law, may be required

to answer the allegations contained in the affidavit which accompanies this application.

I make this application on the ground that the matters of fact stated in the said affidavit constitute conduct unbecoming his profession on the part of the said in his capacity of attorney-at-law.

In witness thereof I have hereunto set my hand this day of 19

.....Signature

.....Address

.....Profession, business

or occupation.

\*Insert full name and last known place or places of business

[The inclusion of this page is authorized by L.N. 480/1973]

LEGAL PROFESSION

FORM 2

(Paragraph 3)

Form of Affidavit by Applicant

- (a) Name of the attorney-at-law. In the matter of (a) an attorney-at-law; and In the matter of the Legal Profession Act (Act 15 of 1971)
- (b) Name of Applicant. I, (b) make oath and say as follows--
- (c) Place of residence. (1) That I reside at (c)
- (d) Parish. in the parish of (d)
- (e) Occupation. and am a (e)
- (f) Postal address. and my postal address is (f) P.O.
- (g) Name of attorney-at-law. (2) That (g)
- (h) Set out facts complained of. (3) (h) (4) The complaint I make
- (i) Set out shortly the ground of complaint. against the attorney-at-law is that he (i)

Signature or Mark of Applicant

Sworn at \_\_\_\_\_ in the parish of \_\_\_\_\_ this \_\_\_\_\_ day

If the person making the affidavit can read and write strike out the words in brackets. of \_\_\_\_\_ 19 \_\_\_\_\_ (the same having been first read over and explained to the deponent when he/she appeared fully to understand the same) before me:

Justice of the Peace for the parish

of \_\_\_\_\_

FORM-3

(Paragraph 6)

*Form of Notice by Committee to Applicant*

Complaint Number \_\_\_\_\_ of 19 \_\_\_\_\_  
 In the matter of \_\_\_\_\_ attorney-at-law  
 and \_\_\_\_\_

~~In the matter of the Legal Profession Act (Act 15 of 1971)~~

To \_\_\_\_\_  
 of \_\_\_\_\_

The \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ is the day fixed for  
 the hearing of your application in the matter of  
 attorney-at-law by the Committee appointed under the Legal Profes-  
 sion Act.

The Committee will sit at \_\_\_\_\_  
 at \_\_\_\_\_ o'clock in the forenoon. If you fail to appear the  
 Committee may in accordance with the rules made under the Legal  
 Profession Act, proceed in your absence.

You are required by the rules under the Legal Profession Act, to  
 furnish to the said \_\_\_\_\_  
 and the secretary of the Committee at \_\_\_\_\_  
 at least 14 days before the said \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_  
 a list of all documents on which you propose to rely.

Either party may inspect the documents included in the list furnished  
 by the other and a copy of any document mentioned in the list of  
 either party must, on the application of the party requiring it, be  
 furnished to that party by the other within three days after receipt of  
 the application.

You are requested to acknowledge the receipt of this Notice without  
 delay.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

Secretary,  
 Disciplinary Committee.

**LEGAL PROFESSION**

FORM 4

(Paragraph 6)

*Form of Notice by Committee to Attorney-at-Law*

Complaint Number \_\_\_\_\_ of 19 \_\_\_\_\_  
In the matter of \_\_\_\_\_ attorney-at-law  
\_\_\_\_\_ and \_\_\_\_\_  
In the matter of the Legal Profession Act (Act 15 of 1971).  
To \_\_\_\_\_ of \_\_\_\_\_ attorney-at-law.

Application has been made by \_\_\_\_\_  
of \_\_\_\_\_ to the Committee constituted under the  
Legal Profession Act, that you may be required to answer the  
allegations contained in the affidavit a copy whereof accompanies this  
Notice.

The \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ is the day fixed for the  
hearing of the application by the Committee. The Committee will  
sit at \_\_\_\_\_ at \_\_\_\_\_ o'clock in the  
forenoon. If you fail to appear the Committee may in accordance  
with the rules made under the Legal Profession Act, proceed in  
your absence.

You are required by the rules made under the Legal Profession  
Act, to furnish to the applicant and to the secretary of the Committee  
at \_\_\_\_\_ at least 14 days before the  
day fixed for hearing a list of all the documents on which you  
propose to rely.

Either party may inspect the documents included in the list furnished  
by the other and a copy of any document mentioned in the list of  
either party must, on application of the party requiring it, be furnished  
to that party by the other within 3 days after receipt of the applica-  
tion.

You are requested to acknowledge receipt of this Notice without  
delay.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Secretary,  
Disciplinary Committee.

FORM 5

(Paragraph 11)

*Form of Subpoena Ad Testificandum*

In the Supreme Court of Judicature of Jamaica.  
In the matter of \_\_\_\_\_ attorney-at-law  
\_\_\_\_\_ and \_\_\_\_\_

LEGAL PROFESSION

In the matter of the Legal Profession Act (Act 15 of 1971).  
ELIZABETH II, by the Grace of God of Jamaica and of Her Other  
Realms and Territories Queen, Head of the Commonwealth.

To

GREETING:

We command you to attend before the Committee constituted under  
the Legal Profession Act, at \_\_\_\_\_ on \_\_\_\_\_  
the \_\_\_\_\_ day of \_\_\_\_\_ at the hour of \_\_\_\_\_  
o'clock in the \_\_\_\_\_ noon, and so from day to day until the applica-  
tion in the above matter is heard, to give evidence on behalf of

Witness

Chief Justice of Jamaica the \_\_\_\_\_ day of \_\_\_\_\_  
in the year of Our Lord one thousand nine hundred and \_\_\_\_\_

FORM 6

(Paragraph 11)

Form of Subpoena Duces Tecum

In the Supreme Court of Judicature of Jamaica.

In the matter of \_\_\_\_\_

attorney-at-law

and

In the matter of the Legal Profession Act (Act 15 of 1971).

ELIZABETH II, by the Grace of God of Jamaica and of Her Other  
Realms and Territories Queen, Head of the Commonwealth.

To

GREETING:

We command you to attend before the Committee constituted under  
the Legal Profession Act, at \_\_\_\_\_ on \_\_\_\_\_  
the \_\_\_\_\_ day of \_\_\_\_\_ at the hour of \_\_\_\_\_  
o'clock in the \_\_\_\_\_ noon, and so from day to day until the applica-  
tion in the above matter is heard to give evidence on behalf of

And also to bring with you and produce at the time and place afore-  
said—

Witness

Chief Justice of Jamaica the \_\_\_\_\_ day of \_\_\_\_\_  
in the year of Our Lord one thousand nine hundred and \_\_\_\_\_

[The inclusion of this page is authorized by L.N. 480/1973]



THE  
**JAMAICA GAZETTE**  
SUPPLEMENT

PROCLAMATIONS, RULES AND REGULATIONS

Vol. CI

FRIDAY, DECEMBER 29, 1978

No. 78

No. 168

THE LEGAL PROFESSION ACT

THE LEGAL PROFESSION (CANONS OF PROFESSIONAL ETHICS) RULES

In exercise of the powers conferred upon the General Legal Council by section 12(7) of the Legal Profession Act and of every other power hereunto enabling the following rules are hereby made:—

1. These rules may be cited as the Legal Profession (Canons of Professional Ethics) Rules and shall be read and construed as one with the Legal Profession Act hereafter referred to as the Principal Act.

2. In these rules unless the context otherwise requires:—

“Attorney” includes a Firm of attorneys;

Definitions “Tribunal” includes the Disciplinary Committee as appointed by virtue of section II of the Principal Act.

## CANON I

AN ATTORNEY SHALL ASSIST IN MAINTAINING THE DIGNITY AND INTEGRITY OF THE LEGAL PROFESSION AND SHALL AVOID EVEN THE APPEARANCE OF PROFESSIONAL IMPROPRIETY.

- (a) An Attorney who gives a certificate of character to any candidate for enrolment as an attorney shall satisfy himself that the candidate is of good character.
- (b) An Attorney shall at all times maintain the honour and dignity of the profession and shall abstain from behaviour which may tend to discredit the profession of which he is a member.
- (c) An Attorney shall observe these Canons and shall maintain his integrity and encourage other attorneys to act similarly. He shall not counsel or assist anyone to act in any way which is detrimental to the Legal Profession.
- (d) An Attorney shall expose without fear or favour before the proper tribunal unprofessional or dishonest conduct by any other Attorney and shall not feignly refuse a retainer against another Attorney who is alleged to have wronged his client.

## CANON II

AN ATTORNEY SHALL NOT INDULGE IN OR ASSIST IN ANY UNAUTHORISED, IMPROPER OR UNPROFESSIONAL PRACTICE.

- (a) An Attorney shall not hold out any person (not qualified to practise as a lawyer) as a partner, associate consultant or Attorney.
- (b) An Attorney shall not in the carrying on of his practice or otherwise permit any act or thing which is likely or is intended to attract business unfairly or can reasonably be regarded as touting or advertising.
- (c) An Attorney shall not endeavour by direct or indirect means to attract the client's of his fellow Attorneys and where one Attorney refers a client to another Attorney, the client remains the client of the referring Attorney and the Attorney to whom the client is referred shall act with due deference to the relationship between the client and the referring Attorney.
- (cc) Where a referred client offers other work to the Attorney to whom he was referred and the offer is sufficiently proximate to the referral, that Attorney shall not accept that offer unless it has been brought to the attention of the referring Attorney.
- (d) Except as permitted by clause (e) and (f) of this Canon, an Attorney shall not in any way make use of any form of public advertisement calculated to attract clients to himself or any firm with which he may be associated and he shall not permit, authorise, or encourage anyone to do so, or reward anyone for doing so, on his behalf.
- (e) Notwithstanding the provisions of Canon II (d), an Attorney may permit limited and dignified identification of himself as an Attorney as follows:—
  - (i) in political advertisements relevant to the course of a political campaign or issue;

CANON II, *contd.*

- (ii) in public notices where the announcement of his professional status is required or authorised by Law, or is reasonably necessary for a purpose other than the attraction of potential clients;
  - (iii) in reports and announcements of *bona fide* commercial, civic, professional or political organizations in which he serves as a Director or officer;
  - (iv) in and on legal textbooks, articles and other legal publications and in dignified and restrained advertisements thereof;
  - (v) in announcements of any public address, lecture, or publication by him on legal topics, provided that such announcements do not emphasize his own professional competence and are not likely to be regarded as being concerned with the giving of individual advice by him.
- (f) Notwithstanding the provisions of Canon II (d) an Attorney may speak in public or write for publication on legal topics provided that he does not thereby emphasize his own professional competence and is not likely to be regarded as being concerned thereby with the giving of individual advice.
- \* (g) An Attorney shall not permit his professional standing to be used for the purpose of advertising any particular product, service or commercial organization.
- \* (h) Subject to the provisions of Canon II (i) an Attorney shall not use professional cards, office signs, letter heads, or directory listings or like professional notices or devices.
- (i) Notwithstanding the provisions of Canon II (h), the following cards, office signs, letter heads or directory listings may be used but in a restrained and dignified form:—
- (i) a professional card identifying the Attorney by name and as an Attorney, giving his decorations and degrees (legal or otherwise), his addresses, telephone numbers and the name of his Law firm or professional associates, provided that such cards are not published in the news media and are only handed out on request and for the purposes of identification or address;
  - (ii) a brief professional announcement card stating new or changed associations or addresses, changes of firm name or like professional matters provided that such cards are delivered only to Attorneys, clients, former clients, personal friends, relations and government bodies;
  - (iii) a sign on or near the door of the office, and in the building directory identifying the Law office, provided that it is of a size and design compatible with the existing practice of the profession;
  - (iv) a letterhead identifying the Attorney by name and as an Attorney and giving his decorations and degrees (legal or otherwise), his addresses, telephone numbers and the name of his Law firm and of his associates;
  - (v) a listing in a telephone directory, a reputable law list, legal directory or biographical reference giving brief biographical or other relevant information and any such professional card, office sign, letter head or listing may state that the Attorney is also a Notary Public.



CANON II - *contd.*

- (j) Save as provided by Section 7 of the Principal Act, an Attorney shall not practise as a lawyer unless he has paid the prescribed fee in accordance with Section 5(2) of the Principal Act and has been issued with a Practising Certificate by the General Legal Council.

## CANON III

AN ATTORNEY OWES A DUTY TO THE PUBLIC TO MAKE HIS COUNSEL AVAILABLE AND A DUTY TO THE STATE TO MAINTAIN ITS CONSTITUTION AND ITS LAWS AND SHALL ASSIST IN IMPROVING THE LEGAL SYSTEM.

- (a) An Attorney is under no obligation to act on behalf of every person who may wish to become his client, but in furtherance of the ethics of the profession to make legal services fully available, he shall not lightly decline a proffered retainer.
- (b) An Attorney may accept a general or special retainer from a client, and the retainer rules hitherto applicable in the case of counsel shall apply *mutatis mutandis*.
- (c) An Attorney shall not be deterred from accepting proffered employment owing to the fear or dislike of incurring disapproval of officials, fellow Attorneys or members of the public.
- (d) When an Attorney consents to undertake legal aid and he is appointed by the Court or is requested by his professional association to undertake the representation of a person unable to afford such representation or to obtain legal aid such attorney shall not (except for compelling reasons) seek to be excused from undertaking such representation.
- (e) An Attorney shall not (except for good reasons) refuse his services in Capital offences.
- (f) An Attorney shall not act contrary to the laws of the land, or aid, counsel or assist any man to break those laws.
- (g) An Attorney in undertaking the defence of persons accused of crime shall use all fair and reasonable means to present every defence available at law, without regard to any personal views he may hold as the guilt of the accused.
- (h) An Attorney engaged in conducting the prosecution of an accused person has a primary duty to see that justice is done and he shall not withhold facts or secrete witnesses which tend to establish the guilt or innocence of the accused.
- (i) An Attorney shall not by his actions stir up strife or litigation, and where it is in the interest of his client he shall seek to obtain reasonable settlements of disputes.
- (j) An Attorney shall endeavour by lawful means where the needs of society require to promote and encourage the modernization, simplification and reform of laws.
- (k) Where an Attorney commits any criminal offence which in the opinion of the Disciplinary Committee is of a nature likely to bring the profession into disrepute, such commission of the offence shall constitute misconduct in a professional respect if—

CANON III, *contd.*

- (i) he has been convicted by any court (including a foreign court of competent jurisdiction) for such offence; or
- (ii) although he has not been prosecuted the Committee is satisfied of the facts constituting such criminal offence; or
- (iii) he has been prosecuted and has been acquitted by reason of a technical defence or he has been convicted but such conviction is quashed by reason of some technical defence.

## CANON IV

AN ATTORNEY SHALL ACT IN THE BEST INTERESTS OF HIS CLIENT AND REPRESENT HIM HONESTLY, COMPETENTLY AND ZEALOUSLY WITHIN THE BOUNDS OF THE LAW. HE SHALL PRESERVE THE CONFIDENCE OF HIS CLIENT AND AVOID CONFLICTS OF INTEREST.

- (a) An Attorney may enter into partnership with one or more Attorneys but he shall not enter into partnership or fee sharing arrangements concerning the practice of law with non-qualified persons or bodies.
- (b) An Attorney may employ another Attorney for any purpose and on any terms as may be agreed upon.
- (c) An Attorney shall exercise independent judgment within the bounds of the law and the ethics of the profession for the benefit of his client.
- (d) Where an Attorney determines that the interest of his client requires it, he may with the specific or general consent of the client refer his business or part of it to another Attorney whether or not a member of his own firm.
- (e) An Attorney shall not enter into an agreement for or charge or collect an illegal fee.
- (f) The fees that an Attorney may charge shall be fair and reasonable and in determining the fairness and reasonableness of a fee any of the following factors may be taken into account:—
  - (i) the time and labour required, the novelty and difficulty of the questions involved and the skill required to perform the legal service properly;
  - (ii) the likelihood that the acceptance of the particular employment will preclude other employment by the Attorney;
  - (iii) the fee customarily charged in the locality for similar legal services;
  - (iv) the amount, if any, involved;
  - (v) the time limitations imposed by the client or by the circumstances;
  - (vi) the nature and length of the professional relationship with the client;
  - (vii) the experience, reputation and ability of the Attorney concerned;
  - (viii) whether the fee is fixed or contingent;

CANON IV, *contd.*

- (ix) any scale of fees or recommended guide as to charges prescribed by the Incorporated Law Society of Jamaica, the Bar Association, the Northern Jamaica Law Society or any other body approved by the General Legal Council for the purpose of prescribing fees.
- (g) An Attorney shall not pay or accept any fee or reward for merely introducing a client or referring a case or client to another Attorney.
- (h) An Attorney on the record may instruct one or more Attorneys to appear as Advocates, in the same way as a Solicitor on the record has hitherto instructed Counsel.
- (i) Where more than one Attorney appear as Advocates for the same party in the same proceeding, the question of who should lead the conduct of that party's case shall (subject to the instructions of the client) be settled between the Attorneys representing that party, before they appear in Court and shall not be altered during the course of the proceedings, and the leader so appointed shall have all the authority over the conduct of the case as was hitherto possessed by the leading counsel.
- (j) Except with the specific approval of his client given after full disclosure, an Attorney shall not act in any manner in which his professional duties and his personal interests conflict or are likely to conflict.
- (k) Subject to the provisions of Canon IV (l), an Attorney shall not accept or continue his retainer or employment on behalf of two or more clients if their interests are likely to conflict or if the independent professional judgment of the Attorney is likely to be impaired.
- (l) Notwithstanding the provisions of Canon IV (k), an Attorney may represent multiple clients if he can adequately represent the interests of each and if each consent to such representation after full disclosure of the possible effects of such multiple representation.
- (m) In all situations where a possible conflict of interest arises, an Attorney shall resolve all doubts against the propriety of multiple representation.
- (n) An Attorney may at any time withdraw from employment:—
- (i) where the client fails, refuses, or neglects to carry out an agreement with, or his obligation to, the Attorney as regards the expenses or fees payable by the client; or
  - (ii) where his inability to work with co-Attorneys indicates that the best interest of the client is likely to be served by his withdrawal; or
  - (iii) where his client freely assents to the termination of his employment; or
  - (iv) where by reasons of his mental or physical condition or other good and compelling reason it is difficult for him to carry out his employment effectively, or
- (v) where any of the provisions of Canon IV (j), (k) or (m) apply.

CANON IV, *contd.*

- ~~\*(o) An Attorney who withdraws from employment by virtue of any of the provisions of Canon IV (n) shall not do so until he has taken reasonable steps to avoid foreseeable prejudice or injury to the position and rights of his client including~~
- ~~(i) giving due notice;~~
  - ~~(ii) allowing time for employment of another Attorney;~~
  - ~~(iii) delivering to the client all documents and property to which he is entitled;~~
  - ~~(iv) complying with such laws, rules or practice as may be applicable; and~~
  - ~~(v) where appropriate obtaining the permission of the Court where the hearing of the matter has commenced.~~
- ~~\*(p) An Attorney who withdraws from employment in accordance with Canon IV (o) shall refund promptly such part of the fees (if any) paid in advance, as may be fair and reasonable having regard to all the circumstances.~~
- ~~\*(q) An Attorney shall withdraw forthwith from employment or from a matter pending before a Tribunal—~~
- ~~(i) where the client insists upon his representing a claim or defence that he cannot conscientiously advance;~~
  - ~~(ii) where the client seeks to pursue a course of conduct which is illegal or which will result in deliberately deceiving the Court;~~
  - ~~(iii) where a client has in the course of the proceedings perpetrated a fraud upon a person or tribunal and on request by the Attorney has refused or is unable to rectify the same;~~
  - ~~(iv) where his continued employment will involve him in the violation of a Rule of Law or a disciplinary rule;~~
  - ~~(v) where the client by any other conduct renders it unreasonably difficult for the Attorney to carry out his employment as such effectively, or in accordance with the judgment and advice of the Attorney, or the Canons of professional ethics;~~
  - ~~(vi) where for any good and compelling reason it is difficult for him to carry out his employment effectively.~~
- ~~\*(r) An Attorney shall deal with his client's business with all due expedition and shall whenever reasonably so required by the client provide him with all information as to the progress of the client's business with due expedition.~~
- ~~\*(s) In the performance of his duties an Attorney shall not act with inexcusable or deplorable negligence or neglect.~~
- ~~\*(t) An Attorney shall not knowingly—~~
- ~~(i) reveal a confidence or secret of his client, or~~
  - ~~(ii) use a confidence or secret of his client—~~
    - ~~(1) to the client's disadvantage; or~~
    - ~~(2) to his own advantage; or~~

CANON IV, *contd.*

(3) to the advantage of any other person unless in any case it is done with the consent of the client after full disclosure.

Provided however, that an Attorney may reveal confidences or secrets necessary to establish or collect his fee or to defend himself or his employees or associates against an accusation of wrongful conduct.

## CANON V

AN ATTORNEY HAS A DUTY TO ASSIST IN MAINTAINING THE DIGNITY OF THE COURTS AND THE INTEGRITY OF THE ADMINISTRATION OF JUSTICE.

- (a) An Attorney shall maintain a respectful attitude towards the Court, not for the sake of the holder of any office, but for the maintenance of its supreme importance, and he shall not engage in undignified or discourteous conduct which is degrading to the Court.
- (b) An Attorney shall encourage respect for the Courts and Judges.
- (c) An Attorney shall not wilfully make false accusations against a Judicial officer, and shall support such officers against unjust criticisms.
- (d) Where there is ground for complaint against a Judicial officer, an Attorney may make representation to the proper authorities and in such cases an Attorney shall be protected.
- (e) An Attorney who holds a Public Office shall not use his public position to influence or attempt to influence a Tribunal to act in favour of himself or of his client.
- (f) An Attorney shall not accept private employment in a matter upon the merits of which he previously acted in a Judicial capacity or for which he had substantial responsibility while he was in public employment.
- (g) An Attorney who previously held a substantive appointment as a Judge of the Supreme Court or the Court of Appeal shall not appear as an Attorney in any of the Courts of the island, after demitting such office.
- (h) An Attorney shall not give, lend or promise anything of value to a Judge, juror or official of a tribunal before which there is a pending matter in which he is engaged.
- (i) In any proceeding in a Court an Attorney shall not communicate or cause any other person to communicate with a juror as to the merits of such proceedings, and shall only do so with a Judge or person exercising Judicial functions:—
  - (i) in the normal course of the proceedings, or
  - (ii) where authorised by law, or the practice of the Courts or with the consent of the parties.
- (j) An Attorney shall endeavour always to maintain his position as an Advocate and shall not either in argument to the Court or in address to the jury assert his personal belief in his client's innocence or in the justice of his cause or his personal knowledge as to any of the facts involved in the matter under investigation.

CANON V, *contd.*

- (k) An Attorney shall not for the purpose of making any person unavailable as a witness, advise or cause that person to secrete himself or leave the jurisdiction of the Court.
- (l) An Attorney shall not pay or offer to pay or acquiesce in the payment of compensation to a witness for giving evidence in any cause or matter save as reimbursement for expenses reasonably incurred and as reasonable compensation for loss of time in attending for preparation and for testifying, and in the case of an expert witness a reasonable fee for his professional services.
- (m) An Attorney shall not knowingly use perjured testimony or false evidence or participate in the creation or use of evidence which he knows to be false.
- (n) An Attorney shall not counsel or assist his client or a witness, in conduct that the Attorney knows to be illegal or fraudulent, and where he is satisfied that his client has in the course of the particular representation perpetrated a fraud upon a person or tribunal, he shall promptly call upon him to rectify the same.
- (o) An Attorney shall not knowingly make a false statement of law or fact.
- (p) While appearing on behalf of his client, an Attorney shall avoid testifying on behalf of that client, except as to merely formal matters, or when essential to ends of justice, and if his testimony is material to the cause he shall, wherever possible, leave the conduct of the case to another Attorney.
- (q) An Attorney shall be punctual in attendance before the Courts and concise and direct in the trial and disposition of causes.
- (r) An Attorney appearing before the Court shall at all times be attired in such manner as may be prescribed or agreed by the proper Authorities and as may befit the dignity of the Court.
- (s) Subject to the provisions of subsection 2 of section 5 of the Principal Act, an Attorney shall not practise as a lawyer except by virtue of and in accordance with the practising certificate issued to him by the General Legal Council.

## CANON VI

AN ATTORNEY HAS A DUTY TO MAINTAIN A PROPER PROFESSIONAL  
ATTITUDE TOWARDS HIS FELLOW ATTORNEYS

- (a) An Attorney's conduct towards his fellow Attorneys shall be characterized by courtesy and good faith and he shall not permit ill-feeling between clients to affect his relationship with his fellow Attorneys or his demeanour towards the opposing party.
- (b) An Attorney shall endeavour as far as is reasonable to suit the convenience of the opposing Attorney when the interest of his client or the cause of justice will not be injured by so doing.
- (c) An Attorney shall not commit a breach of an undertaking given by him to a Judge, a Court or other tribunal or an official thereof, whether such undertaking

CANON VI, *contd.*

relates to an expression of intention as to future conduct or is a representation that a particular state of facts exists.

- \* (cc) An Attorney shall not knowingly represent falsely to a Judge, a Court or other tribunal or an official of a Court, or other tribunal, that a particular state of facts exists.
- \* (d) An Attorney shall not give a professional undertaking which he cannot fulfil and shall fulfil every such undertaking which he gives.
- \* (e) Where an Attorney has been sent money, documents or other things by another Attorney which (at the time of sending) are expressed to be sent only on the basis that the Attorney to whom they are sent will receive them on his undertaking to do or refrain from doing some act, the receiving Attorney shall forthwith return such things if he is unable to accept them on such undertaking, but otherwise must comply with such undertakings.
- \* (f) An Attorney shall not in any way communicate upon a subject in controversy or attempt to negotiate or compromise a matter directly with any party represented by another Attorney except through such other Attorney or with his prior consent.
- \* (g) An Attorney shall not ignore the customs or practices of the Profession even when the law expressly permits it, without giving timely notice to the opposing Attorney.
- \* (h) An Attorney shall not accept instructions to act in Court proceedings in which to his knowledge the client has previously been represented by another Attorney, unless he first notifies the other Attorney of the change. Provided that an Attorney shall be deemed to have notified the other Attorney if he has made reasonable efforts to notify him.
- \* (i) An Attorney shall not accept instructions to act in proceedings (other than Court proceedings) in which to his knowledge, another Attorney has previously represented the client unless he makes reasonable efforts to ascertain that the retainer of that Attorney has been determined by the client, or that the client wishes both Attorneys to represent him.
- \* (j) An Attorney who instructs or employs another Attorney to act on behalf of his client, unless otherwise agreed, shall pay the proper fee of such Attorney whether or not he has received payment from his client.

## CANON VII

AN ATTORNEY SHALL MAINTAIN PROPER ACCOUNTS AND OBSERVE PROPER ACCOUNTING PRINCIPLES IN THE CONDUCT OF HIS ACCOUNTS ESPECIALLY AS REGARDS ACCOUNTING FOR THE FUNDS OF HIS CLIENTS.

- \* (a) An Attorney shall comply with rules as may from time to time be prescribed by the General Legal Council relating to the keeping in separate accounts—
  - (i) the funds of himself or any firm with which he is associated; and
  - (ii) those of his clients.
- \* (b) An Attorney shall—

CANON VII, *contd.*

- (i) keep such accounts as shall clearly and accurately distinguish the financial position between himself and his client as and when required; and
- (ii) ~~account to his client for all monies in the hands of the Attorney for the account or credit of the client, whenever reasonably required to do so~~ and he shall for these purposes keep the said accounts in conformity with the regulations which may from time to time be prescribed by the General Legal Council.
- (c) Nothing in these Canons shall deprive an Attorney of any recourse or right whether by way of lien, set-off, counter-claim, charge or otherwise against monies standing to the credit of a client's account maintained by that Attorney.

## CANON VIII

## GENERAL

- (a) ~~Nothing herein contained shall be construed as derogating from any existing rules of professional conduct and duties of an Attorney which are in keeping with the traditions of the legal profession, although not specifically mentioned herein.~~
- (b) Where in any particular matter explicit ethical guidance does not exist, an Attorney shall determine his conduct by acting in a manner that promotes public confidence in the integrity and efficiency of the legal system and the legal profession.
- (c) Where no provision is made herein in respect of any matter, the rules and practice of the legal profession which formerly governed the particular matter shall apply in so far as is practicable, and a breach of such rules and practice (depending on the gravity of such breach) may constitute misconduct in a professional respect.
- (d) Breach by an Attorney of any of the provisions of Canons I(b), II(a), (b), (d), (g), (h), (j), III(d), (e), (h), (k), IV(a), (c), (g), (j), (o), (p), (r), (s), (t), V(c), (f), (g), (h), (i), (m), (n), (s), VI(c), (cc), (d), (e), (h), (i), (j), VII(a), (b), VIII(b) shall constitute misconduct in a professional respect and an Attorney who commits such a breach shall be subject to any of the orders contained in section 12(4) of the Principal Act.
- (e) The Canons of Professional Etiquette for Attorneys-at-Law published in the Jamaica Gazette Extraordinary of the 6th January, 1972 are hereby repealed but nothing contained herein shall be construed as derogating from the right of the Disciplinary Committee of the General Legal Council to hear and determine complaints relating to acts of misconduct alleged to have been committed before the coming into effect of these rules.

Dated this 12th day of December 1978.

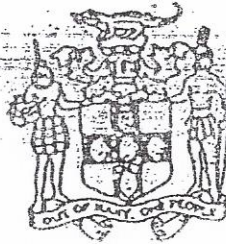
DAVID M. MUIRHEAD,  
Chairman

General Legal Council

DOROTHY C. LIGHTBOURNE  
Secretary

General Legal Council,  
Supreme Court Building,  
Kingston.





THE  
**JAMAICA GAZETTE**  
**SUPPLEMENT**

PROCLAMATIONS, RULES AND REGULATIONS

246A

Vol. CVI

MONDAY, NOVEMBER 28, 1983

No. 643

No. 142A

**THE LEGAL PROFESSION ACT**

**THE LEGAL PROFESSION (CANONS OF PROFESSIONAL ETHICS) (AMENDMENT)  
RULES, 1983**

In exercise of the powers conferred upon the General Legal Council by section 12 (7) of the Legal Profession Act and of every other power hereunto enabling, the following rules are hereby made:—

1. These rules may be cited as the Legal Profession (Canons of Professional Ethics) (Amendment) Rules, 1983, and shall be read and construed as one with the Legal Profession (Canons of Professional Ethics) Rules (hereinafter referred to as the principal Rules) and all amendments thereto.

2. Canon I of the principal Rules is amended by adding after paragraph (d) thereof two paragraphs lettered (e) and (f) as follows:

- (e) An Attorney shall as far as possible comply with a request from the General Legal Council or the Disciplinary Committee for comments or information on any aspect of a complaint being considered by the General Legal Council or the Disciplinary Committee.
- (f) An Attorney shall ensure his attendance at Disciplinary Committee proceedings when so requested by the Disciplinary Committee.

3. Canon II of the principal Rules is amended by adding after paragraph (j) thereof four paragraphs lettered (k), (l), (m) and (n) as follows:

- (k) An Attorney who is the holder of a Practising Certificate or who by virtue of section 7 of the Legal Profession Act is entitled to practise without such certificate shall not later than the 31st day of December, 1983 inform the General Legal Council of the address at which he practises and whenever he changes such address shall inform the General Legal Council of his new address within fourteen (14) days of such change.
- (l) An Attorney who is not the holder of a Practising Certificate and every person who qualifies as an Attorney and is enrolled shall if he applies for a Practising Certificate include in such application a notification of the address at which he proposes to practise and if he changes such address shall inform the General Legal Council of his new address within fourteen (14) days of such change.
- (m) Every person who hereafter becomes entitled by virtue of section 7 of the Legal Profession Act to practise without obtaining a Practising Certificate shall before commencing such practice inform the General Legal Council of the address at which he proposes to practise and whenever he changes such address shall within fourteen (14) days of such change inform the General Legal Council of such change.
- (n) The address notified to the General Legal Council in accordance with Canon II (k), (l) and (m) shall be the Attorney's address for service within the meaning of the Legal Profession (Disciplinary Proceedings) Rules.

Dated this 30th day of June, 1983.

DAVID M. MUIRHEAD,  
Chairman, General Legal Council.

DEDRICK H. ROBINSON,  
Secretary, General Legal Council.

JAMAICA

No. 8--2007

I assent,

[L.S.]

KENNETH O. HALL  
*Governor-General*

23rd day of April, 2007.

AN ACT to Amend the Legal Profession Act.

[ 24th April, 2007 ]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Legal Profession (Amendment) Act, 2007, and shall be read and construed as one with the Legal Profession Act (hereinafter referred to as the principal Act) and all amendments thereto.

Short title  
and  
construction.

2. Subsection (3) of section 3 of the principal Act is amended by deleting—

Amendment  
of section 3  
of principal  
Act.

- (a) the colon appearing after the word "functions" and substituting therefor a fullstop; and
- (b) the proviso thereto.

Amendment  
of section 5  
of principal  
Act.

3. Section 5 of the principal Act is amended by—

- (a) deleting subsection (3) and substituting therefor the following—

“ (3) Where the Council is satisfied that an attorney is practising in contravention of subsection (2), the Council shall, by notice in writing, require such attorney to pay the prescribed fees within such time as may be prescribed by the Council; and any attorney who, having been issued with a notice, continues to practise after such time without having paid the prescribed fees, shall be guilty of professional misconduct.”;

- (b) inserting next after subsection (8) the following as subsection (9)—

“  
Second  
Schedule. (9) The Council may make regulations amending the Second Schedule.”.

Amendment  
of section 8  
of principal  
Act.

4. Section 8 of the principal Act is amended—

- (a) in subsection (1), by deleting the words “two hundred” and “four hundred” and substituting therefor the words “five hundred thousand” and “one million” respectively;
- (b) in subsection (2), by deleting the words “two hundred” and substituting therefor the words “five hundred thousand”; and
- (c) in subsection (3)—
- (i) by deleting the word “and” appearing immediately after the word “qualified” and substituting therefor the word “or”; and
- (ii) by deleting the words “two hundred” and substituting therefor the words “five hundred thousand”.

5. The principal Act is amended by inserting next after section 8 the following as section 8A—

Insertion of new section 8A in principal Act.

“ Admission to practice gained by fraud or misrepresentation.

8A.—(1) It is hereby declared, for the avoidance of doubt, that, subject to subsection (2); where the Supreme Court, the Council or the Legal Education Authority (hereinafter referred to as the Authority) as the case may be, is satisfied that the issue of a qualifying certificate or a practising certificate or the enrolment of an attorney-at-law is obtained as a result of fraud or misrepresentation—

- (a) the Authority may revoke the qualifying certificate issued to the attorney;
- (b) the Council may cancel any practising certificate issued to the attorney; and
- (c) the Supreme Court, on the application of the Council, may strike the name of the attorney from the Roll.

(2) The Authority or Council shall before taking action under subsection (1), give written notice to the attorney-at-law concerned of its intention to take such action and shall afford to that attorney-at-law an opportunity to be heard.”

6. Section 11 of the principal Act is amended by inserting therein next after subsection (2) the following as subsections (3) and (4)—

Amendment of section 11 of principal Act.

“ (3) It is hereby declared, for the avoidance of doubt, that the Committee shall have jurisdiction to hear and determine or continue to hear and determine or otherwise deal with the following allegations made under section 12, that is to say—

- (a) in the case of attorneys who are suspended from practice, allegations of misconduct committed prior to or during suspension; and

- (b) in the case of persons whose names are struck off the Roll, allegations of misconduct committed prior to such striking off.

(4) Subsection (3) shall apply in like manner to any case where the striking off or suspension took place before the coming into operation of the Legal Profession (Amendment) Act, 2006, as it applies to such cases subsequent thereto.”.

Amendment  
of section 12  
of principal  
Act.

7. Section 12 of the principal Act is amended by—

- (a) deleting subsection (4) and substituting therefor the following—

“ (4) On the hearing of any such application the Committee may, as it thinks just, make one or more of the following orders as to—

- (a) striking off the Roll the name of the attorney to whom the application relates;
- (b) suspending the attorney from practice on such conditions as it may determine;
- (c) the imposition on the attorney of such fine as the Committee thinks proper;
- (d) subjecting the attorney to a reprimand;
- (e) the payment by any party of costs of such sum as the Committee considers a reasonable contribution towards costs; and
- (f) the payment by the attorney of such sum by way of restitution as it may consider reasonable,

so, however, that orders under paragraphs (a) and (b) shall not be made together.”;

- (b) inserting next after subsection (4) the following as subsections (4A), (4B) and (4C)—

“ (4A) Subject to subsection (4B), the Disciplinary Committee may, pending the hearing or

determination of any application, make an interim order suspending an attorney from practice in any case in which the attorney is convicted of any offence prescribed by the Council by rules made under this Part.

(4B) An order under subsection (4A) shall cease to have effect if—

- (a) the conviction is quashed on appeal; or
- (b) the attorney shows good cause as to why the order of suspension should be revoked.

(4C) Upon the hearing or determination of any application the Committee may—

- (a) without finding any misconduct proved against the attorney, nevertheless order him to pay the costs of the complainant, or any part thereof, if, having regard to his conduct and to the circumstances of the case, it seems just to the Committee so to do;
  - (b) if satisfied that an attorney against whom a complaint has been made has, by his conduct in relation to the complaint, caused delay or committed acts wasteful of the Committee's time, make an order awarding costs against the attorney whether or not any other order as to costs has been made; and the amount of any such costs shall be paid into the funds of the Council.”; and
- (c) by deleting subsection (5) and substituting therefor the following—
- “ (5) Where a fine is imposed under subsection (4)
- (c)—
- (a) the amount of such fine or part thereof may, if the Committee so directs, be paid

to the person making the application in full or partial satisfaction of any damage caused to him by the act or default giving rise to the application; or

- (b) if no direction is made under paragraph (a), or direction is made only as to part thereof, the amount of such fine or remainder thereof shall be paid into the funds of the Council.”.

Insertion of new sections 12A and 12B in principal Act.

8. The principal Act is amended by inserting next after section 12 the following as sections 12A and 12B—

“ Power to suspend filing of orders.

12A.—(1) The Committee shall have power, upon the application of a party against or with respect to whom it has been made an order, to suspend the filing thereof with the Registrar.

(2) The filing of an order may be suspended under this section for a period ending not later than—

- (a) the period prescribed for the filing of an appeal against the order; or  
(b) where such an appeal is filed, the date on which the appeal is determined.

(3) Where the filing of an order is suspended under this section, the order shall not take effect until it is filed with the Registrar and if the order is an order that an attorney be suspended from practice, the period of suspension shall be deemed to commence on the date of the filing of the order with the Registrar.

Committee may hear applications pending criminal proceedings.

12B.—(1) It is hereby declared, for the avoidance of doubt that where—

- (a) an application made in respect of an attorney pursuant to section 12 is pending; and



- (b) criminal proceedings arising out of the facts or circumstances which form the basis of the application are also pending,

the committee may proceed to hear and determine the application, unless to do so would, in the opinion of the Committee, be prejudicial to the fair hearing of the pending criminal proceedings.

(2) Where the Committee hears an application in the circumstances described in subsection (1), the Committee may, if it thinks fit, on its own initiative or at the request of the attorney, defer the filing, pursuant to section 15 (2), of any order made by it in relation to that application until the conclusion of the criminal proceedings mentioned in subsection (1) (b)."

9. Section 13 of the principal Act is amended—

Amendment  
of section 13  
of principal  
Act.

- (a) in subsection (1), by inserting immediately after the words "section 12" the words "and of reviewing its decision pursuant to section 19,";
- (b) in subsection (2)—
  - (i) by inserting immediately after the word "application" the words "or carry out such review"; and
  - (ii) by inserting immediately after the word "determination", wherever it appears, the word "; review";
- (c) by inserting next after subsection (2) the following as subsection (2A)—

" (2A) Any division of the Committee, whether or not constituted in the same manner as the division which directed that an attorney be suspended from practice, may make an order in accordance with section 19 in relation to that decision."

Amendment  
of section 15  
of principal  
Act.

10. Section 15 of the principal Act is amended—

- (a) in the marginal note thereto, by inserting immediately after the word “made” the words “and directions given”;
- (b) in subsection (1), by inserting immediately after the word “made” the words “and all directions given”;
- (c) in subsection (2), by inserting immediately after the word “order” the words “and directions”;
- (d) in subsection (3), by inserting immediately after the word “order” the words “and all directions”;
- (e) by deleting subsection (4) and substituting therefor the following—

“ (4) Upon the filing of any order or directions as aforesaid—

- (a) the Register shall cause a notice stating the effect of the operative part of the order or directions to be published in the *Gazette*; and
- (b) the Committee may, in such manner as it thinks fit, publish a notice of the operative part of any order—
  - (i) suspending an attorney from practice or withdrawing an order of suspension; or
  - (ii) striking the name of an attorney from the Roll or reinstating the name of an attorney to the Roll.”;
- (f) in subsection (5), by inserting immediately after the word “orders” the words “and directions”; and
- (g) by inserting next after subsection (5) the following as subsection (6)—

“ (6) An order of the Committee shall be enforceable at the instance and on the application of the Secretary of the Council.”.

11. Section 16 of the principal Act is amended by—

Amendment  
of section 16  
of principal  
Act.

- (a) renumbering the section as subsection (1);
- (b) inserting in subsection (1) as renumbered immediately after the word “relates,” the words “including the Registrar of the Supreme Court or any member of the Council,”; and
- (c) inserting next after subsection (1) as renumbered the following as subsection (2)—

“ (2) The lodging of an appeal under subsection (1) against an order of the Committee shall not operate as a stay of execution of the order unless the Court of Appeal otherwise directs.”

12. Subsection (2) of section 17 of the principal Act is amended by deleting the words “date of” and substituting therefor the words “date specified in”.

Amendment  
of section 17  
of principal  
Act.

13. Section 20 of the principal Act is amended by deleting—

Amendment  
of section 20  
of principal  
Act.

- (a) from subsection (3) the words “two hundred” and substituting therefor the words “five hundred thousand”;
- (b) from subsection (4) the words “two hundred” and substituting therefor the words “five hundred thousand”.

14. Section 21 of the principal Act is amended—

Amendment  
of section 21  
of principal  
Act.

- (a) in subsection (1), by inserting immediately after the words “attorney may” the words “,subject to any regulations made by the Council under subsection (7),”;
- (b) by inserting next after subsection (2) the following as subsections (3), (4), (5), (6), (7) and (8)—

“ (3) In the absence of evidence to the contrary, it shall be presumed that legal fees agreed to be paid or collected out of the proceeds of a judgment are contingency fees, so, however, that it shall be lawful for the Committee to examine any written agreement mentioned in subsection (1) for the

purpose of determining whether or not the fees agreed in that agreement are contingency fees.

(4) All causes of action and all applications to the Committee pursuant to section 12 in relation to the charging of contingency fees shall be commenced or made within a period of twelve months.

(5) The limitation period mentioned in subsection (4) shall run—

(a) from the date of final payment by the attorney to the client of the proceeds recovered under a judgment, after any deduction of contingency fees; or

(b) where a written tender or offer of such final payment has been made by the attorney to the client, from the date of the receipt by the client, of such tender or offer.

(6) Where the amount of any contingency fees paid to an attorney is in excess of the amount properly chargeable in accordance with regulations made under subsection (7) the amount of such excess shall be refunded by the attorney.

(7) The Council may make regulations with respect to the making of agreements for contingency fees and in particular—

(a) the types of causes of action in respect of which such fees may be charged; and

(b) the requirements to be met by an attorney for the making of such agreements.

(8) In this section “contingency fees” means any sum (whether fixed or calculated either as a percentage of the proceeds or otherwise) payable only in the event of success in the prosecution of any action, suit or other contentious proceedings.”

15. Subsection (2) of section 30 of the principal Act is amended by deleting the words "one hundred" and substituting therefor the words "two hundred and fifty thousand".
16. Section 31 of the principal Act is amended by deleting the words "two hundred" and substituting therefor the words "five hundred thousand".
17. The Minister may amend the monetary penalties specified in the Act, by Order subject to affirmative resolution.
18. The Fourth Schedule to the principal Act is hereby amended by deleting rules 18 and 19.
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| Amendment of section 30 of principal Act.      |
| Amendment of section 31 of principal Act.      |
| Order to amend monetary penalties.             |
| Amendment of Fourth Schedule to principal Act. |