

CHAPTER 370A

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CHAPTER 370A

LEGAL PROFESSION

An Act to provide for the fusion of the branches of the legal profession, for the legal education and discipline of attorneys-at-law, and for connected purposes.

1972-35.
1978-45.
1981-47.
1992-29.

[31st March, 1973] Commence-
ment.

PART I

Preliminary

1. This Act may be cited as the *Legal Profession Act*.

Short title.

2. (1) For the purposes of this Act,

Interpreta-
tion.

"annual registration fee" means the fee payable annually in accordance with section 4 of the *Profession, Trade and Business Registration Act*;

1978-45.
Cap. 373.

"attorney-at-law" means a person whose name is entered on the Roll in accordance with this Act;

"Bar Association" means the body corporate established by the *Barbados Bar Association Act*,¹ acting through its general or executive body, as determined by the Association;

Cap. 363.

"Caribbean Legal Education Agreement" means the Agreement between certain territories of the Caribbean establishing a system of Legal Education, to which Barbados is a Party;

"client" includes

(a) in relation to contentious business, any person who as principal or on behalf of another person retains or employs or is about to retain or employ an attorney-at-law and any person who is or may be liable to pay to an attorney-at-law costs for such business;

(b) in relation to non-contentious business, any person who take over as a principal or on behalf of another or as a trustee or

¹ Formerly Barbados Law Society Act.

executor or in any other capacity, has power, express or implied, to retain or employ and retains or employs or is about to retain or employ an attorney-at-law, and any person for the time being liable to pay to an attorney-at-law costs for such business;

"costs" has the meaning assigned to it by section 32;

"Disciplinary Committee" or "Committee" means the Disciplinary Committee established under Part V;

"fees" includes remuneration, charges and disbursements;

1978-45.
Cap. 373.

"first registration fee" means the fee payable in accordance with section 3 of the *Profession, Trade and Business Registration Act*;

"Fund" means the Compensation Fund established by section 47 (1);

"Minister" means the Minister responsible for Legal Affairs;

"practise law" means to practise as a barrister or solicitor or as an attorney-at-law, or to undertake or perform the functions of a barrister, solicitor or attorney-at-law as recognised by any law, whether before or after 31st March, 1973;

"Practising Certificate" means a certificate issued pursuant to section 11, and "valid Practising Certificate" means a Practising Certificate which is in force;

"prescribed qualifications" means the qualifications for admission to practise law prescribed by or under section 17;

"Registrar" means the Registrar of the Supreme Court;

"Roll" means the register of attorneys-at-law kept by the Registrar pursuant to section 3.

(2) Any reference (however expressed) in any enactment or any document having legal effect to a barrister or solicitor as respects the conferring of any right or privilege, the performance of any function or in relation to the qualification for appointment to any office shall from and after 31st March, 1973 be deemed to include reference to an attorney-at-law.

(3) For the purposes of any enactment whereby the qualification of an attorney-at-law for holding any office depends upon his having been a barrister or a solicitor for a specified period, or having been registered on the Roll for a specified period, the

number of years during which he was previously a barrister or solicitor or registered under any enactment relating to the registration of barristers or solicitors, as the case may be, shall be treated as part of the period of his enrolment as an attorney-at-law.

PART II

Admission, Enrolment and Status

3. (1) The Registrar shall keep a register of attorneys-at-law, Roll of Attorneys-at-law. to be known as the Roll, on which he shall cause to be registered the name of every person entitled to practise law under section 4 or admitted and entitled to practise law under section 5, together with the following particulars in respect of each such person

- (a) his full name and address;
- (b) the date of his admission to practise law;
- (c) a description and date of the qualifications in respect of which he has been admitted to practise law.

(2) The Roll shall at all reasonable times be open to inspection at the Registry of the Supreme Court.

(3) The Registrar shall

- (a) make such alterations in the particulars registered on the Roll as are necessary; and
- (b) remove from the Roll the name of any attorney-at-law who is deceased or no longer entitled to practise law.

4. (1) The Registrar shall as soon as possible after 31st March, 1973, cause to be registered on the Roll the particulars specified in paragraphs (a) to (c) of section 3(1), of every person to whom this section applies and who is known to him, without application or the payment of a fee for registration in the case of a person mentioned in paragraph (a) or (d) of subsection (2), but on application and the payment of the first registration fee in the case of a person mentioned in paragraph (b) or (c) of subsection (2), and every person to whom this section applies shall be deemed on registration on the Roll, to be an attorney-at-law. Existing practitioners. 1978-45.

- (2) This section applies to any person
- (a) whose name immediately before 31st March, 1973 was registered in the Barristers' Register under the *Barristers Act*,¹ or entered in the Solicitors' Roll under the *Solicitors Act*,¹ as the case may be; or
- (b) who, not being a person mentioned in paragraph (a), is at 31st March, 1973 a citizen of Barbados and is in accordance with section 2 of the *Barristers Act* qualified to plead and practise as a barrister, or in accordance with the provisions of the *Solicitors Act* qualified to practise as a solicitor;
- (c) who, not being a person mentioned in paragraph (a) or (b), was at any time prior to 31st March, 1973 actually admitted by the High Court or any other superior court of record in Barbados in which any part of the jurisdiction of the High Court was formerly vested, to practise as a barrister, and is at that date qualified in accordance with section 2 of the *Barristers Act* to plead and practise as a barrister in Barbados; or
- (d) who, at 31st March, 1973 was an authorised person within the meaning of section 33² of the *Solicitors Act*.

(3) For the purposes of this section, the particulars of paragraph (b) of section 3(1) to be registered by the Registrar in accordance with subsection (1) shall be, in the case of a person mentioned in paragraph (a) or (b) of subsection (2), the date at which the person became qualified to practise as a barrister or solicitor, in the case of a person mentioned in paragraph (c) of subsection (2), the date at which that person was admitted to practise as a barrister by the High Court or other superior court of record in Barbados, as the case may be, and in the case of a person mentioned in paragraph (d) of subsection (2), the date on which he was declared to be an authorised person.

Admission
to practise
and
enrolment.

5. (1) A person who after 31st March, 1973 applies to the High Court to be admitted to practise law, and who satisfies the Court that

¹ Repealed by Part II of Seventh Schedule to Act 1972-35.

² Formerly section 2 of the Conveyancing and Legal Proceedings (Authorisation) Act, 1963-4, now repealed by Part II of Seventh Schedule to Act 1972-35.

- (a) he is
- (i) a citizen of Barbados, or
- (ii) a citizen of a country specified in the First Schedule in which there is a law in force conferring the status of citizenship of that country, or
- (iii) regarded as belonging to a country specified in the First Schedule under any law in force in that country;
- (b) he has attained the age of 21 years;
- (c) he has obtained the prescribed qualifications; and
- (d) he is of good character,

shall, upon compliance with the requirements of this Act and, unless that person is exempt therefrom, on payment to the Registrar of the first registration fee for registration, be entitled to be admitted by order of the court to practise law. 1978-45.

(2) An appeal lies to the Court of Appeal from an order of the High Court refusing an application made under this section.

(3) Rules of court may prescribe the practice and procedure to be followed in relation to applications and appeals under this section.

6. (1) Where the Minister, after consultation with the Chief Justice, is satisfied

- (a) that the law relating to the admission of legal practitioners of a superior court of jurisdiction in any country other than Barbados is such as to secure that such legal practitioners possess suitable qualifications and competency; and
- (b) that by the laws of that country attorneys-at-law of Barbados are entitled, or would if an order were made under this subsection be or become entitled, to admission as legal practitioners of the superior courts of that country on terms as favourable as those on which legal practitioners of that country would, if an order were made under this subsection, be or become entitled to admission as attorneys-at-law in Barbados,

he may by order provide that from the date specified in the order any legal practitioner of the superior courts of that other

country shall be eligible, on proof of his qualifications and good character, and on payment of the prescribed fees, but subject to such exceptions, conditions and modifications as may be prescribed in the order, to be admitted by the High Court to practise law in Barbados.

(2) Every person admitted by the High Court by virtue of an order made under subsection (1) shall be deemed to have been duly admitted to practise law under this Act, and his name shall be registered forthwith on the Roll by the Registrar.

Eligibility of non-citizen who has obtained prescribed qualifications, to be admitted as an attorney-at-law.

7. (1) Where the Minister, after consultation with the Chief Justice, is satisfied that the law relating to the admission of legal practitioners of a superior court of jurisdiction in any country other than Barbados is such as to secure that a citizen of Barbados, who has obtained the qualifications and satisfied the conditions which would entitle a citizen or a national of that country to be admitted to practise as a legal practitioner in that country, is entitled, or would, if an order were made under this subsection, be or become entitled, to admission as a legal practitioner of the superior courts of jurisdiction of that country on terms as favourable as those on which citizens or nationals of that country would, if an order were made under this subsection, be or become entitled to admission as attorneys-at-law in Barbados, he may by order provide that, from the date specified in the order, any citizen or national of a country named in the order shall be eligible, on proof of his having obtained the qualifications prescribed in Appendix I to the Second Schedule, and on payment of the prescribed fees, but subject to such exceptions, conditions and modifications as may be prescribed in that order, to be admitted by the High Court to practise law in Barbados.

Second Schedule.

(2) Every person admitted by the High Court by virtue of an order made under subsection (1), shall be deemed to have been duly admitted to practise law under this Act, and his name shall be registered forthwith on the Roll by the Registrar.

(3) For the purposes of this section, the expression "national" means, in the case of a country where there is no law in force conferring citizenship of that country, a person who is regarded as belonging to a country under any law in force in that country.

8. Noting in sections 4 to 7 affects any enactment relating to the placing of restrictions on any person, not being a citizen of Barbados, entering, leaving, residing, or working in Barbados.

Saving of enactments restricting persons other than citizens of Barbados.

9. Every person, on being admitted to practise law, shall take the following oath:

Oath of attorney-at-law.

"I, do swear that I will truly and honestly conduct myself in the practice of law as an attorney-at-law according to the best of my knowledge and ability and the laws of Barbados."

10. (1) Every person whose name is entered on the Roll in accordance with this Act shall be known as an attorney-at-law and

Status of attorney-at-law.

- (a) subject to subsection (2), is entitled to practise law and to sue for and recover his fees for services rendered in that respect;
- (b) is an officer of the Supreme Court;
- (c) subject to subsection (2), has the right of audience before any court;
- (d) except where engaged as an advocate in any court, is subject to liability in respect of negligence in a professional capacity.

(2) Subject to any other enactment to the contrary, no person may practise law unless he is the holder of a valid Practising Certificate.

(3) A person who practises law in contravention of subsection (2) is not entitled to maintain any action for the recovery of any fee on account of or in relation to any legal business done by him in the course of such practice.

(4) Every attorney-at-law who draws or prepares any legal document shall sign his name under his hand and the name of the firm (if any) in which he is employed together with the appropriate address.

(5) Any attorney-at-law who contravenes subsection (4) is guilty of professional misconduct.

11. (1) A person who is registered on the Roll and who desires to practise law in any year shall, in the month of January

Practising Certificate.

1978-45. in that year, apply to the Registrar for a certificate, to be called a Practising Certificate, and the Registrar shall, on payment of the annual registration fee, unless that person is exempt from such payment, but subject to section 49, issue to him a Practising Certificate.

(2) If a person who is registered on the Roll applies to the Registrar for a Practising Certificate in a month other than January, the Registrar shall, on payment of the appropriate fee for late payment, unless that person is exempt from such payment, but subject to section 49, issue to him a Practising Certificate.

(3) A Practising Certificate is valid for the year in which it is issued and expires on the 31st January of the ensuing year.

Third Schedule. (4) A Practising Certificate shall be in the form set out in the Third Schedule.

(5) The Registrar shall cause to be published in the *Official Gazette*

(a) in the month of February in every year, an alphabetical list of persons who have at the 31st January in that year obtained a Practising Certificate;

(b) as soon as practicable after he obtains a Practising Certificate, the name of any person obtaining a Practising Certificate after the 31st January in any year.

(6) A copy of the *Official Gazette* containing the list referred to in paragraph (a) of subsection (5) or the name of any person published pursuant to paragraph (b) of that subsection shall be *prima facie* evidence in any court of the registration on the Roll of the name of, and the holding of a valid Practising Certificate by, any person mentioned in paragraph (a) or (b) of that subsection.

(7) A person who after the month of January in any year practises law without first obtaining a Practising Certificate is guilty of an offence and liable on summary conviction to a fine of \$250 and to a further fine of \$25 for every day on which the offence continues after conviction thereof.

12. (1) Subject to this Act, if a person whose name is not registered on the Roll—

Unlawful practice and similar offences.

(a) practises law;

(b) wilfully pretends to be an attorney-at-law; or

(c) makes use of any name, title or description implying that he is entitled to be recognised or to act as an attorney-at-law,

he is guilty of an offence and liable on summary conviction to a fine of five thousand dollars or to imprisonment for one year or to both.

(2) A person who, not being entitled to act as an attorney-at-law, acts in any respect as an attorney-at-law in any action or matter or in any court in the name or through the agency of an attorney-at-law entitled so to act, is guilty of an offence and liable on summary conviction to a fine of five thousand dollars or to imprisonment for one year or to both.

(3) No fee in respect of anything done by a person whose name is not registered on the Roll or to whom subsection (2) relates, acting as an attorney-at-law, is recoverable in any action, suit or matter by any person.

(4) Section 11 (7) and this section (subsection (3) excepted) do not extend to—

(a) a public officer or an officer of a statutory board—

(i) drawing or preparing instruments, or

(ii) appearing for the informant, complainant or plaintiff in a magistrate's court, in the course of his duty;

(b) a person employed merely to engross any instrument or proceeding; or

(c) a person drawing or preparing—

(i) a will or other testamentary instrument,

(ii) an agreement under hand only,

(iii) a letter or power of attorney,

(iv) a transfer of stock containing no trust or limitation thereof.

(5) Notwithstanding section 115 of the Magistrates Jurisdiction and Procedure Act, an information for an offence under

this section may be laid at any time within two years next after the commission of the offence or within six months next after the first discovery thereof by the informant, whichever period is the shorter.

PART III

Accounts

Rules as to
accounts and
interest.

13. (1) The Judicial Advisory Council may make rules generally as to the keeping and operating of bank accounts or clients' money by attorneys-at-law, and without prejudice to the generality of the foregoing, such rules may provide—

- (a) for the opening and keeping by attorneys-at-law of accounts at banks for clients' money;
- (b) for the keeping by attorneys-at-law of accounts containing particulars and information as to money received, held or paid by them for or on account of their clients; and
- (c) for the Judicial Advisory Council to take such action as may be necessary to enable them to ascertain whether or not the rules are being complied with.

(2) Rules made under this section may also require an attorney-at-law, in such cases as may be prescribed by the rules, either—

- (a) to keep on deposit in a separate account at a bank for the benefit of the client, money received for or on account of a client; or
- (b) to make good to the client out of the attorney-at-law's own money a sum equivalent to the interest which would have accrued if the money so received had been so kept on deposit.

(3) The cases in which an attorney-at-law may be required to act in accordance with rules made pursuant to subsection (2) may be defined, among other things, by reference to the amount of any sum received or the period for which it is or is likely to be retained or both; and such rules may include provision for enabling a client (without prejudice to any other remedy) to require that any question arising under the rules

in relation to the client's money be referred to and determined by the Bar Association.

(4) Except as provided by rules made pursuant to subsection (2), an attorney-at-law shall not be liable by virtue of the relation between attorney-at-law and client to account to any client for interest received by the attorney-at-law on moneys deposited at a bank being moneys received or held for or on account of his clients generally.

(5) Nothing in subsections (2) to (4), or in rules made pursuant to subsection (2), shall—

- (a) affect any arrangement in writing, whenever made, between an attorney-at-law and his client as to the application of the client's money or interest thereon; or
- (b) apply to money received by an attorney-at-law being money subject to a trust of which the attorney-at-law is a trustee.

14. (1) Subject to subsections (2) and (3), no bank shall, in connection with any transaction on the account of any attorney-at-law kept with it or with any other bank (other than an account kept by an attorney-at-law as trustee for a specified beneficiary) incur any liability or be under any obligation to make any enquiry, or be deemed to have any knowledge of any right of any person to any money paid or credited to any such account, which it would not incur or be deemed to have incurred in the case of an account kept by a person entitled absolutely to all the money paid or credited to it. Relief to banks.

(2) Nothing in subsection (1) relieves a bank from any liability or obligation under which it would be apart from section 13 or this section.

(3) Notwithstanding anything in subsection (1), a bank at which an attorney-at-law keeps an account for clients' moneys shall not, in respect of any liability of the attorney-at-law to the bank, not being a liability in connection with that account, have or obtain any recourse or right, whether by way of set-off, counterclaim, charge or otherwise, against moneys standing to the credit of that account.

Dealings with clients' accounts where improper conduct alleged.

15. (1) Where a Judge is satisfied on application made by summons in chambers by any client of an attorney-at-law, that there is reasonable cause to believe—

- (a) that an attorney-at-law has been guilty of any offence involving fraud or of any improper conduct in relation to the money or property of any person; or
- (b) that any money entrusted to the attorney-at-law has been stolen by his servant or agent,

the Judge shall cause the Registrar forthwith to inform the attorney-at-law of the application and the grounds thereof and require him by summons to attend in chambers before any Judge of the Court on a date and at a time stated in the summons to be examined concerning the matter and shall also cause the Registrar to summon any person who made the application to appear before the same Judge on that date and at that time.

(2) If on enquiry it appears to the Judge that the attorney-at-law has been guilty of any offence involving fraud or any improper conduct, he may make such order as to the keeping of money held by a banker in any clients' account of the attorney-at-law or any account in the name of the attorney-at-law or his firm as he thinks proper, and such order shall be served on the banker.

(3) Where after enquiry it appears to the Judge that the attorney-at-law has been guilty of any offence involving fraud, or any improper conduct, he may make or cause the Registrar to make an application to the Disciplinary Committee in respect of the attorney-at-law, and Part V shall apply *mutatis mutandis*.

(4) Where on any application made pursuant to subsection (3) the Court of Appeal in any proceedings brought under Part V finds the attorney-at-law guilty of professional misconduct, it may make such order as to the keeping or distribution of the money standing to the credit of the account as it thinks proper in the circumstances of the case.

(5) Rules of court may prescribe as to the form and procedure of any application or proceedings made or brought under this section.

16. (1) At any time after the death of an attorney-at-law who immediately before his death was practising as an attorney-at-law on his own account and not in partnership with another attorney-at-law, the Bar Association may, if it thinks fit, serve notice on any banker holding money in any clients' account of the attorney-at-law or his firm that this section applies to that account.

Dealings with clients' accounts on death of attorney-at-law practising on his own account.

(2) From the date of the service of a notice under subsection (1) the right to operate or otherwise deal with the account to which the notice relates shall, notwithstanding anything in any other enactment or rule of law, vest in the Bar Association to the exclusion of any other person.

(3) Not later than the date on which a notice is served on a banker under subsection (1) the Bar Association shall serve a copy of the notice on the legal personal representative (if any) of the attorney-at-law unless the identity or address of such representative cannot after reasonable enquiry be ascertained.

(4) If the Bar Association fails to serve a copy of the notice as required by subsection (3) and in consequence of such failure the legal personal representative suffers loss as a result of his doing a lawful act in good faith in relation to the account to which the notice relates, the Bar Association shall indemnify him against the loss so suffered.

(5) For the purposes of this section a certificate signed by the Secretary of the Bar Association and certifying that a banking account of an attorney-at-law is a clients' account is evidence of the matter certified.

PART IV

Legal Education and Law Reporting

17. (1) The Minister, after consultation with the Judicial Advisory Council, may make arrangements—

Legal education, law reporting and qualifications to practise law.

- (a) for the provision of a system of legal education and practical legal training;
- (b) for the provision of a system of law reporting.

(2) In making arrangements for the carrying out of his functions under subsection (1) the Minister shall give due observance to the provisions of the Caribbean Legal Education Agreement.

(3) The Minister, after consultation with the Judicial Advisory Council, may make rules relating to matters connected with his functions under subsection (1), and, in particular, but without prejudice to the generality of the foregoing, concerning—

- (a) the qualifications required for admission to practise law;
- (b) courses of instruction for students and generally for affording opportunities for students to read and obtain practical experience in law;
- (c) the nature and conditions of examinations, and fees in respect thereof.

Second
Schedule.

(4) Until varied or revoked by rules made under subsection (3), the rules contained in the Second Schedule shall govern—

- (a) the qualifications required for admission to practise law;
- (b) the courses of instruction for and the practical training of students;
- (c) the nature and conditions of examinations and fees in respect thereof.

(5) Rules made under subsection (3) shall be subject to negative resolution.

PART V

Discipline

Disciplinary
Committee.

18. (1) For the purposes of this Act, there is hereby established a Committee, to be known as the Disciplinary Committee, which shall be charged with the duty of upholding standards of professional conduct.

(2) The Registrar or any person deputed by him shall perform the duties of Secretary to the Committee.

Fourth
Schedule.

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

(4) The Committee may make rules—

- (a) prescribing standards of professional etiquette and professional conduct of attorneys-at-law, and may by such rules direct that any specified breach of the rules shall constitute grave professional misconduct;
- (b) prescribing anything which may be or is required to be prescribed for the purposes of this Part.

19. (1) A client, or by leave of the Committee, any other person alleging himself aggrieved by an act of professional misconduct (including any default) committed by an attorney-at-law, other than the Attorney-General or the Director of Public Prosecutions, may apply to the Committee to require the attorney-at-law to answer allegations contained in an affidavit made by such person, and the Registrar or any member of the Committee may make a like application to the Committee in respect of allegations concerning—

Complaints
to Committee.

- (a) any professional misconduct including misconduct which, in pursuance of rules made by the Committee under section 18 (4), is to be treated as grave professional misconduct;
- (b) any such criminal offence as may for the purposes of this section be prescribed.

(2) In any matter or hearing before any court, where the court considers that any act referred to in paragraph (a) or (b) of subsection (1) has been committed by an attorney-at-law other than the Attorney-General or the Director of Public Prosecutions, the court may make or cause the Registrar to make an application to the Committee in respect of the attorney-at-law under that subsection.

(3) Any application under subsection (1) shall be made to and heard by the Committee in accordance with rules made under section 20.

20. (1) The Committee may make rules regulating the presentation, hearing and determination of applications to the Committee under this Act.

Rules of pro-
cedure for
Committee.

(2) The rules contained in the Fifth Schedule shall have effect as if made under subsection (1) until rules are made

Fifth
Schedule.

under that subsection, and may be amended or revoked by the Committee.

(3) For the purposes of any application made to it under this Act, the Committee shall have the powers of the High Court to summon witnesses, call for the production of books and documents and examine witnesses and parties concerned on oath.

Report to
Chief Justice.

21. (1) Where the Committee decides after hearing an application under this Part, that a case of professional misconduct has been made out against an attorney-at-law, the Committee shall within twenty-one days of its decision forward to the Chief Justice a report signed by the Chairman, of its findings, with the reasons for its decision, and with any recommendation in relation thereto, as it thinks just, in accordance with subsection (2).

(2) On the hearing of an application under this Part, the Committee may, as it thinks just, in its report make any recommendation as to—

- (a) removing from the Roll the name of the attorney-at-law to whom the application relates;
- (b) suspending the attorney-at-law to whom the application relates from practice on such conditions as it may determine;
- (c) imposing on the attorney-at-law to whom the application relates, such fine as it thinks proper;
- (d) subjecting the attorney-at-law to whom the application relates, to a reprimand;
- (e) the payment by any party of costs or such sum as they may consider a reasonable contribution towards costs.

(3) On receipt of the report, the Chief Justice shall cause the report to be set down for the consideration of the Court of Appeal.

(4) The Court of Appeal may at any stage refer a report back to the Committee for its findings on any point required by the Court.

(5) Rules of court may prescribe—

- (a) the form and manner in which a report shall be submitted to the Chief Justice;
- (b) any other matter or thing relating to the hearing upon the consideration of the report by the Court of Appeal.

22. (1) The Court of Appeal on the consideration of any report submitted by the Committee may—

Consideration of report of Committee by Court.

- (a) dismiss the application;
- (b) order the name of the attorney-at-law to be removed from the Roll;
- (c) order that the attorney-at-law be suspended from practising law for such period not exceeding three years as it thinks fit;
- (d) impose on the attorney-at-law to whom the report relates such fine as it thinks proper; or
- (e) reprimand the attorney-at-law; and
- (f) make such order as to costs as it thinks fit, and in addition, except where the application is dismissed, the Court may order the attorney-at-law to pay the applicant or person aggrieved such sum by way of compensation and reimbursement and such further sum in respect of expenses incidental to the hearing of the application and the consideration of the report as it thinks fit.

(2) An order made under paragraph (b) or (c) of subsection (1) may contain such provisions as the Court thinks fit for the custody of any deeds, documents or papers in the possession of the attorney-at-law to whom it relates.

(3) Every decision or order made under this section shall be drawn up, settled and signed by the Registrar.

(4) Any sum by way of compensation or reimbursement ordered to be paid by an attorney-at-law under this section shall be taken into account in the assessment of any damages recoverable against the attorney-at-law in any civil proceedings brought against the attorney-at-law by the person to whom such compensation or reimbursement has been ordered to be paid or made with respect to any act or default which was the subject-matter of the application in respect of which he was ordered to pay such sum by way of compensation or reimbursement.

Saving of jurisdiction of courts.

23. Notwithstanding anything in this Act, the jurisdiction, power or authority vested in any court immediately before the commencement of this Act—

- (a) by the common law to discipline; or
- (b) by any enactment to deal with contempt of court committed by,

barristers or solicitors shall continue to be exercisable after such commencement in relation to attorneys-at-law.

Registrar to make entry of order in Roll and publish it in Official Gazette.

24. (1) Where by an order of the Court of Appeal an attorney-at-law is suspended from practice or his name is ordered to be removed from the Roll, the Registrar shall make the appropriate entry or alteration in the Roll.

(2) Every order made by the Court that an attorney-at-law be suspended from practice or his name be removed from the Roll shall be published in the *Official Gazette* by notice under the hand of the Registrar.

(3) If the name of an attorney-at-law is removed from the Roll any Practising Certificate issued to him shall cease to be valid.

(4) During the period of suspension of an attorney-at-law from practice, no Practising Certificate shall be issued to him, and any Practising Certificate issued to him prior to such suspension shall cease to be valid for the period of that suspension.

Bankruptcy.

25. If an attorney-at-law is adjudicated a bankrupt, any Practising Certificate issued to him shall cease to be valid for the period during which he remains an undischarged bankrupt.

Voluntary removal of name from Roll.

26. (1) An application by an attorney-at-law to procure the removal of his name from the Roll shall be made in a summary manner to the High Court, which shall make such order thereon as it thinks fit.

(2) Rules of court may prescribe as to the form and manner of any application made under this section.

Restoration of name to Roll.

27. (1) An attorney-at-law whose name has been removed from the Roll, or who has been suspended from practising law

may, subject to subsection (2), apply to the Court of Appeal by petition to have his name restored to the Roll, or the order of his suspension withdrawn, as the case may be.

(2) A petition under subsection (1) shall not be presented to the Court unless it is accompanied by a written recommendation in support thereof from the Disciplinary Committee certified by the Secretary to the Committee.

(3) On the hearing of an application under this section, the Court may refer it to the Committee for a report, and may, if satisfied that the applicant is a fit and proper person to practise law, order that his name be restored to the Roll or that the order suspending him from practising law be withdrawn, as the case may be.

(4) Rules of court may prescribe the fees to be paid by an attorney-at-law for the restoration of his name to the Roll.

(5) Any order made by the Court under this section restoring the name of an attorney-at-law to the Roll or withdrawing an order suspending him from practising law shall be published in the *Official Gazette* by the Registrar.

(6) Upon the publication in the *Official Gazette* of an order made under subsection (3) and on the payment of any fee prescribed under subsection (4), the Registrar shall restore the name of the attorney-at-law to the Roll and make any necessary entry of the date and effect of the order.

28. (1) If any person while suspended from practising law or whose name has been removed from the Roll

- (a) practises law;
- (b) wilfully pretends to be entitled to practise law; or
- (c) wilfully makes use of any name, title or description implying that he is entitled to be recognised or to act as an attorney-at-law,

he is guilty of an offence and liable on summary conviction to a fine of \$5 000 or to imprisonment for 1 year or to both.

(2) If any person while suspended from practising law, or whose name has been removed from the Roll, seeks or accepts employment from an attorney-at-law in connection with the practice of that attorney-at-law, without previously informing him of the suspension or removal from the Roll, he is guilty of an offence and liable on summary conviction to a fine of \$2 000 or to imprisonment for 6 months.

(3) No attorney-at-law shall in connection with his practice, without the written permission of the Disciplinary Committee, which permission may be given for such period and subject to such conditions as the Committee thinks fit, employ any person who to his knowledge is suspended from practice, during the period of such suspension, or whose name has been removed from the Roll otherwise than at his own request.

(4) Any attorney-at-law who contravenes subsection (3) is guilty of professional misconduct.

29. (1) Where a person who is or was a clerk to an attorney-at-law but is not himself an attorney-at-law

(a) has been convicted by a court

(i) of theft or

(ii) of any other criminal offence in respect of any money or property belonging to or held or controlled by an attorney-at-law by whom he is or was employed or any client of that attorney-at-law; or

(b) is reasonably suspected by the Bar Association of having been a party to any act or default of the attorney-at-law to whom he is or was a clerk in respect of which an application against that attorney-at-law has been or might be made to the Disciplinary Committee under this Act,

an application may be made to the Disciplinary Committee with respect to that person by or on behalf of the Bar Association.

Control of
employ-
ment of
certain
clerks.
1992-29.

(2) On the hearing of an application under subsection (1), the Disciplinary Committee may make an order that as from such date as may be specified in the order no attorney-at-law shall in connection with his practice as an attorney-at-law take into or retain in his employment or remunerate the person with respect to whom the application is made except in accordance with permission in writing granted by the Bar Association for such period and subject to such conditions as the Bar

Association thinks fit to specify in the permission, and may make an order as to the payment of costs by any party to the application.

(3) Section 20 shall *mutatis mutandis* apply for the purposes of an application under this section as it applies to an application under section 19.

(4) Every order made under this section shall be filed by the Registrar and the file kept by him for that purpose may be inspected by any attorney-at-law during office hours without payment but may not be inspected by a person other than an attorney-at-law.

(5) For the purposes of this section—

(a) a probation order under the Probation of Offenders Act Cap. 146. shall, notwithstanding section 10 of that Act, be deemed to be a conviction of the offence for which it was made;

(b) the death of an attorney-at-law against whom an application might have been made under section 19 shall not prevent an application being made under this section in respect of a person who was a clerk to that attorney-at-law but is not himself an attorney-at-law and who is alleged to have been a party to any act or default of that attorney-at-law.

30. (1) An appeal against an order of the Disciplinary Committee on an application made under section 29 lies to the High Court at the instance of the person with respect to whom the application was made and such appeal shall be made within such time after the date of service of a copy of the order on that person, in such form and shall be heard in such manner as may be prescribed by the rules of court.

Appeals against orders of Disciplinary Committee.

(2) The decision of the High Court on an appeal made under subsection (1) shall be final.

31. (1) If a person in respect of whom an order made under section 29 is in force seeks or accepts any employment by or remuneration from an attorney-at-law in connection with the practice of that attorney-at-law without previously informing him of that order, he is guilty of an offence and liable on summary conviction to a fine of one thousand dollars.

Offences in connection with orders under section 29.

(2) Where an order is made under section 29 in respect of any person and no appeal is made against that order or that order is confirmed on appeal, an attorney-at-law who knowingly contravenes that order or any condition subject to which permission for the employment of that person has been granted thereunder is guilty of professional misconduct.

(3) A copy of an order made under section 29 certified by the Registrar shall be *prima facie* evidence of that order in any proceedings under this section.

Cap. 116.

(4) Notwithstanding section 115 of the Magistrates Jurisdiction and Procedure Act, an information for an offence under subsection (1) may be laid at any time before the expiration of six months after the first discovery of the offence by the informant.

(5) No proceedings under subsection (1) may be commenced by a person other than the Bar Association or a person acting on behalf of that Association, except with the consent of the Director of Public Prosecutions.

PART VI

Costs

GENERAL

Interpretation of this Part.

32. For the purposes of this Part—

“attorney-at-law” includes the executors, administrators and assignees of an attorney-at-law;

“costs” includes fees for any legal business done by an attorney-at-law;

“party chargeable” in relation to an attorney-at-law’s bill of costs, includes any person who has paid or is liable to pay the bill either to the attorney-at-law or to any other person chargeable with the bill;

“taxing officer” means—

(a) in relation to the Supreme Court, the Registrar or a Deputy Registrar of that court;

(b) in relation to a magistrate’s court, the person responsible for the taxing of costs under any enactment relating to the jurisdiction and procedure of magistrates’ courts.

33. (1) An attorney-at-law who receives in advance from or on behalf of a client any money to cover prospective costs, other than a retainer, or a security for future costs shall, on the demand of the client made at any time after the expiration of 3 months from the receipt of the money or at any subsequent time during any period which is at least 3 months from the date of the last such demand, deliver to the client a statement in writing showing

Payments in advance and accountability.

(a) the amounts of money so received up to the date of the statement;

(b) the dates when they were so received; and

(c) the purposes for which they or so much of them as has been expended have been applied.

(2) If a client fails to obtain such a statement as is mentioned in subsection (1) after having made a demand therefor in accordance with that subsection, he may apply to a Judge in chambers for an order requiring the attorney-at-law to deliver the statement, and the Judge may give such other directions on the order as he thinks fit.

(3) Rules of court may prescribe the practice and procedure to be followed in relation to applications under subsection (2).

RECOVERY OF COSTS

34. (1) Subject to this section and section 36, an attorney-at-law may not commence any suit for the recovery from his client of the amount of any bill of costs for any legal business done by him unless the bill of costs is taxed and a copy thereof so taxed is served on the client with a demand for payment 15 days before the filing of the suit.

No action on bill of costs without taxation.

(2) The court may on the application of an attorney-at-law authorise him to commence or proceed with a suit for the recovery of any costs before the expiration of 15 days from the delivery of the copy of the bill of costs required by subsection (1) if it is

satisfied that there is reasonable cause for believing that the person chargeable with the costs is about

- (a) to leave Barbados;
 - (b) to become bankrupt; or
 - (c) to do any other act which would tend to prevent or delay the attorney-at-law from obtaining payment.
- (3) If in any proceedings before a court
- (a) the amount set out in a bill of costs is
 - (i) sought to be recovered, or
 - (ii) disputed; and
 - (b) the bill or part thereof relates to matters in respect of which no scale of fees is prescribed,

the court shall decide whether the fees set out in respect of those matters are fair and reasonable having regard to the work done, or are excessive, and shall allow or reduce them accordingly.

(4) It shall not be necessary in the first instance for an attorney-at-law in proving compliance with this section to prove the contents of the bill served and it shall be sufficient to prove that the bill

- (a) signed by the attorney-at-law, 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
- (b) being enclosed in or accompanied by a letter signed in the manner specified in paragraph (a) referring to the bill, was duly served.

35. (1) Subject to section 27 of the *Tenancies Freehold Purchase Act*, the Bar Association may, with the approval of the Judicial Advisory Council, make rules prescribing and regulating the remuneration of attorneys-at-law in respect of non-contentious business.

- (2) Rules made under this section may
- (a) regulate the amount of remuneration with reference to

- (i) the position of the person for whom the attorney-at-law is concerned in the business, whether as vendor or purchaser, lessor or lessee, mortgagor or mortgagee or the like,

Rules as to costs of attorney-at-law for non-contentious business.
1981-47.
Cap. 239B.

- (ii) the place where and the circumstances in which the business or any part thereof is transacted,
 - (iii) the amount of the capital money or rent to which the business relates,
 - (iv) the skill, labour and responsibility involved in the business on the part of the attorney-at-law,
 - (v) the number and importance of documents prepared or perused without regard to length; and
- (b) authorise and regulate—
- (i) the taking by an attorney-at-law from his client of security for payment of any remuneration to be ascertained by taxation or otherwise, which may become due to him, and
 - (ii) the allowance of interest.

(3) So long as rules made under this section are in force, taxation of bills of costs of attorneys-at-law in respect of non-contentious business shall, subject to section 36, be regulated by those rules.

36. (1) Subject to this section, an attorney-at-law and his client may make an agreement as to the amount and manner of payment of remuneration for the whole or part of any legal business done or to be done by the attorney-at-law.

Agreements with respect to remuneration for legal business.

(2) An agreement under this section relating to non-contentious business may—

- (a) provide for the remuneration of the attorney-at-law by a gross sum, percentage, commission, retainer or otherwise; and
- (b) be made on the terms that the amount of the remuneration therein stipulated for shall or shall not include all or any disbursements made by the attorney-at-law in respect of searches, plans, travelling, stamps or other matters.

(3) Where an agreement under this section relates to contentious business—

- (a) it may provide for the remuneration of the attorney-at-law by a gross sum, retainer or otherwise and at a

greater or less rate than that at which he would otherwise have been entitled to charge;

- (b) subject to paragraph (c), it does not affect the amount of any rights or remedies for the recovery of any costs payable by the client to or to the client by any person other than the attorney-at-law and that person may, unless he has otherwise agreed, require those costs to be taxed according to the rules in force relating to the taxation thereof;
- (c) the client is not entitled to recover from any other person under any order for the payment of any costs to which the agreement relates, more than the amount payable by him to his attorney-at-law in respect thereof under the agreement;
- (d) it shall be deemed to exclude any claim by the attorney-at-law in respect of the business to which it relates other than—
 - (i) a claim for agreed costs, or
 - (ii) a claim for such costs as are expressly excepted therefrom;
- (e) subject to this section and section 37, it shall be exempt from taxation and from the provisions of this Part relating to the signing and delivery of an attorney-at-law's bill of costs.

(4) A provision in an agreement under this section that the attorney-at-law shall not be liable for negligence or that he shall be relieved from any responsibility to which he would otherwise be liable as an attorney-at-law is void.

(5) An agreement under this section shall be in writing and signed by the person to be bound thereby or his agent in that behalf.

(6) Subject to this section and section 37, an agreement under this section may be sued and recovered on or set aside in like manner and on the like grounds as an agreement not relating to the remuneration of an attorney-at-law.

(7) If on any taxation of costs an agreement under this section is relied on by the attorney-at-law and objected to by his client, as unfair and unreasonable, the taxing officer may

enquire into the facts and certify them to the court and if on that certificate it appears just to the court that the agreement should be cancelled or that the amount payable thereon should be reduced, the court may order that the agreement be cancelled or the amount payable thereunder be reduced and may give such consequential directions as it thinks fit.

37. (1) Where an agreement under section 36—

- (a) relates to contentious business; and
- (b) is made by the client as the guardian or committee of or as a trustee under a deed or will for any person whose property will be chargeable with the whole or part of the amount payable thereunder,

it shall before payment be laid before the court and the court shall examine it and may disallow any part thereof.

(2) Any client mentioned in paragraph (b) of subsection (1) who pays the whole or any part of the amount payable under an agreement to which that subsection relates without the agreement having been allowed by the court is liable at any time to account to the person whose property is charged with the whole or any part of the amount so paid for the sum so charged and the attorney-at-law who accepts the payment may be ordered by the court to refund the amount received by him.

(3) Rules of court may prescribe the practice and procedure to be followed in relation to references under this section.

38. (1) Nothing in sections 36 and 37 shall give validity to—

- (a) any purchase by an attorney-at-law of the interest, or any part of the interest, of his client in any action, suit or other contentious proceeding;
- (b) any disposition, contract, settlement, conveyance, delivery, dealing or transfer which is under the law relating to bankruptcy invalid against a creditor or trustee in any bankruptcy or composition.

(2) An attorney-at-law may, with respect to any legal business to be done by him, take security from his client for his costs to be ascertained by taxation or otherwise.

(3) Subject to any rules of court, upon any taxation of costs with respect to any legal business the taxing officer may—

Reference of certain agreements to court.

Miscellaneous provisions as to costs.

- (a) allow interest at such rate as he thinks just on moneys disbursed by the attorney-at-law for the client and on moneys in the hand of and on property retained by the attorney-at-law;
- (b) in determining the remuneration of the attorney-at-law, have regard to the skill, labour and responsibility involved in the business done by him.

Procedure on order for delivery and taxation of bills of costs.

39. Rules of court may prescribe the procedure to be followed under this Act on an order for the delivery and taxation of a bill of costs and such rules shall be applicable to proceedings on an order made on the application of a trustee, administrator, executor or other person who, not being the person chargeable with the bill of costs, is liable to pay or has paid such bill.

Remuneration of an attorney-at-law who is a mortgagee.

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

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

(3) For the purposes of this section, the expression "mort-

gage" includes any charge on any property for securing money or money's worth.

41. (1) Where an attorney-at-law is employed to prosecute or defend any suit, matter or proceeding in any court, the court before whom the suit, matter or proceeding is heard or pending may declare the attorney-at-law entitled to a charge upon the property recovered or preserved.

Attorney-at-law's lien on property recovered or preserved.

(2) Upon a declaration being made under subsection (1), the attorney-at-law shall have a charge upon and a right to payment out of the property, notwithstanding its nature or tenure, recovered or preserved through his instrumentality for the taxed costs, charges and expenses of the suit, matter or proceedings.

(3) Subject to subsection (4), the court may make such order for taxation of and for raising and payment of the costs, charges and expenses mentioned in subsection (2) out of the property subject to a charge under this section as the court thinks just.

(4) No order shall be made under subsection (3) where the right to recover payment of the costs, charges and expenses is barred by any enactment relating to the limitation of actions.

(5) All conveyances and acts done to defeat or which operate to defeat a charge or right created under this section shall, unless made to a bona fide purchaser for value without notice, be void and of no effect as against the attorney-at-law or such charge or right.

(6) An attorney-at-law has the right of lien conferred upon a solicitor at common law and nothing in this section shall be constructed so as to take away or abridge that right.

DELIVERY AND TAXATION OF
BILLS OF COSTS

42. (1) A Judge may, on the application by summons in chambers of any client of an attorney-at-law, make an order for the delivery by the attorney-at-law of a bill of the costs for any legal business done by the attorney-at-law for the client which have not been or are not before payment to be taxed, and for the

Summary order for delivery of bill of costs and documents.

delivery up of deeds, documents or papers in his possession, custody or power, relating to the same.

(2) The costs of an application made under subsection (1) shall be in the discretion of the Judge, but no applicant shall be entitled to recover his costs unless the attorney-at-law has, after demand made for a bill of costs, refused or neglected for an unreasonable time to deliver such bill.

Bills may be taxed upon the application of third parties.

43. Where any person is liable to pay or has paid any bill of costs either to an attorney-at-law or to a party chargeable with such bill, such person, his executors, administrators or assignees, may make such application for a reference for the taxation and settlement of such bill as the party immediately chargeable therewith might himself make, and the same reference and order shall be made thereon and the same course pursued in all respects as if the application had been made by the party so chargeable with such bill.

PART VII

Compulsory Membership of Bar Association

Compulsory membership of Bar Association.

44. (1) An attorney-at-law shall, on each occasion on which a Practising Certificate is issued to him, pay to the Bar Association the annual subscription which is or would be payable by him under section 45 as a member of the Association, and shall thereupon (if not already a member), notwithstanding anything in any by-law, ordinance, order, rule or regulation of the Association, become by virtue of this section and without election or appointment by the Association, a member of the Association;

(2) Any person to whom section 4 applies whose name is registered on the Roll, other than a Judge, Magistrate, Registrar or Deputy Registrar, shall be deemed at the date of such registration (if not already a member) to have become a member of the Bar Association as from that date.

(3) Every member of the Bar Association who ceases to hold a valid Practising Certificate shall thereupon cease to be a member of the Association unless he retains his membership in accordance with subsection (4).

(4) The Bar Association may elect and appoint to be a member of the Association any person whose name is for the time being registered on the Roll, whether or not he has held or holds a Practising Certificate and upon appointment and election and payment, subject to subsection (5), of the annual subscription payable under section 45, every such person shall become a member of the Bar Association.

(5) Nothing in this section shall be construed as requiring a Judge, Magistrate, Registrar or Deputy Registrar to be or become a member of the Bar Association or to pay any subscription to the Association.

45. (1) The amount of the annual subscription payable by members of the Bar Association shall be as fixed from time to time by the Association. Annual subscription to Bar Association.

(2) In fixing the amount of the annual subscription, the Bar Association may divide members into categories, provide that different amounts shall be paid by different categories and extend over different periods and generally regulate and vary the subscriptions payable by members or by different categories of members, as the Association thinks fit.

(3) A Practising Certificate issued to an attorney-at-law shall be of no effect until the annual subscription required by section 44 has been paid.

46. (1) Where the name of an attorney-at-law is removed from the Roll, that attorney-at-law shall, unless he becomes a member of the Bar Association by virtue of some other provision of this Act, thereupon cease to be a member of the Association. Cessation and suspension of membership of Bar Association.

(2) A member of the Bar Association who is suspended from practising as an attorney-at-law shall not be entitled during the period of his suspension to any of the rights and privileges of membership of the Association.

PART VIII

Compensation Fund

47. (1) There is hereby established a fund, to be known as the Compensation Fund. Establishment of Compensation Fund.

(2) The Fund shall be the property of the Bar Association,

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and all money belonging to the Fund shall, pending the investment or application thereof in accordance with this Act, be paid into a bank to the credit of a separate account to be called the Attorneys-at-law Compensation Fund.

Administration of Fund.

48. The Fund shall be maintained and administered by the Bar Association and shall be held by the Association on trust for the purposes and in the manner provided for in the Sixth Schedule.

Sixth Schedule.

Annual contribution to the Fund.

49. (1) Every attorney-at-law shall on each occasion on which a Practising Certificate is issued to him pay to the Registrar on behalf of the Bar Association, in addition to all other fees then payable by him in respect of that Certificate, a contribution (in this section referred to as the annual contribution) of such sum as the Bar Association from time to time determines, and no such Certificate shall be issued unless and until the annual contribution is paid.

(2) All annual contributions payable under this section shall be paid in the same manner as the appropriate fee for annual registration is paid and the person receiving any annual contribution under this section shall forthwith pay it into the Fund.

(3) No annual contribution under this section is payable by a person who is exempt from the payment of fees under section 7 of the Professions (Registration Fees) Act.

Cap. 372 A.

Compensation for loss due to dishonesty.

50. (1) Where it is proved to the satisfaction of the Bar Association that any person has sustained loss in consequence of dishonesty on the part of an attorney-at-law or any clerk or servant of an attorney-at-law in connection with that attorney-at-law's practice as an attorney-at-law or in connection with any trust of which that attorney-at-law is a trustee, then, subject to the provisions of this section, the Association may, if it thinks fit, make a grant to that person out of the Fund for the purpose of relieving or mitigating that loss.

(2) A grant may be made under this section whether or not the attorney-at-law had a Practising Certificate in force when the act of dishonesty was committed, and notwithstanding that after the commission of that act the attorney-at-law has died or

had his name removed from the Roll, or has ceased to practise or been suspended from practice.

(3) On the making by the Bar Association of any grant under this section to any person in respect of any loss—

(a) the Association shall to the amount of that grant be subrogated to any rights and remedies in respect of that loss of the person to whom the grant is made or of the attorney-at-law, clerk or servant; and

(b) the person to whom the grant is made shall have no right under bankruptcy or other legal proceedings or otherwise to receive any sum out of the assets of the attorney-at-law, clerk or servant in respect of the loss until the Association has been reimbursed the full amount of its grant, and in paragraphs (a) and (b) of this subsection reference to the person to whom the grant is made or to the attorney-at-law, clerk or servant includes, in the event of his death, insolvency or other disability, a reference to his personal representative or any other person having authority to administer his estate.

(4) The Bar Association may make rules with respect to the procedure to be followed in giving effect to the provisions of this section and of the Sixth Schedule and with respect to any matters incidental, ancillary or supplemental to those provisions or concerning the administration or protection of the Fund.

(5) No grant shall be made under this section in respect of any loss unless notice of the loss is received by the Bar Association in such manner and within such time after the loss first came to the knowledge of the loser as may be prescribed by rules made under subsection (4).

(6) For the purposes of enquiring into any matters which may affect the making or refusal of a grant under this section, the Bar Association or any committee appointed by the Association and authorised by it to exercise any of its functions under this section or to assist it in the exercise of any such functions may administer oaths.

51. (1) Where the Bar Association, on a complaint being made to it against an attorney-at-law, is satisfied that he has failed to account for money due to a person in connection with

Compensation for loss in cases of hardship.

his practice as an attorney-at-law or in connection with any trust of which he is a trustee, and that that person has suffered or is likely to suffer hardship in consequence of the failure, the Bar Association may, subject to this section, make to that person a grant (in this section called a hardship grant) out of the Fund.

(2) The Bar Association shall not make a hardship grant unless—

- (a) it has given to the attorney-at-law (except in a case where he has died) at least eight days notice in writing requiring of him an explanation of the state of affairs to which the complaint against him relates; and
- (b) the attorney-at-law has failed to comply with the notice, or he has complied with it but the Association is of the opinion, and has so notified the attorney-at-law in writing, that his explanation does not constitute a sufficient assurance that the money will be accounted for within a reasonable time.

(3) A hardship grant may be made whether or not the attorney-at-law had a Practising Certificate in force at the time of any act or default by him which is relevant to the matters giving rise to his failure to account, and notwithstanding that after that act or default the attorney-at-law has died or had his name removed from the Roll, or has ceased to practise or been suspended from practice.

(4) A hardship grant may be made either unconditionally or subject to the conditions of this subsection, and if the Bar Association determines that it shall be so subject and, when making the grant, gives to the person receiving the grant notice in writing of its determination—

- (a) the Association shall to the amount of the grant be subrogated to any rights and remedies of that person in respect of any matters giving rise to the attorney-at-law's failure to account; and
- (b) that person shall have no right under bankruptcy or other legal proceedings or otherwise to receive in respect of those matters any sum out of the assets of the attorney-at-law until the Association has been reimbursed the full amount of the grant.

(5) For the purposes of paragraphs (a) and (b) of subsection

(4), references to the person to whom the grant is made or to the attorney-at-law include, in the event of his death, insolvency or other disability, references to his personal representative or any other person having authority to administer his estate.

(6) The Bar Association may make rules with respect to the procedure to be followed in giving effect to the provisions of this section and of the Sixth Schedule, including rules as to the furnishing of particulars by a person appearing to be eligible for a hardship grant. Sixth Schedule.

(7) For the purposes of enquiring into any matters which may affect the making or refusal of a hardship grant, the Bar Association or any committee appointed by it and authorised by it to exercise any of its functions or to assist it in the exercise of any such functions may administer oaths.

52. Notwithstanding this Part

- (a) no payment shall be made out of the Fund in respect of the dishonesty or failure to account for money on the part of a person who is by section 49(3) exempt from the payment of contributions to the Fund; Savings and exceptions in respect of payments from Fund.
- (b) no grant shall be made out of the Fund in respect of any loss in consequence of dishonesty on the part of an attorney-at-law or any clerk or servant of an attorney-at-law, or in respect of hardship in consequence of the failure of an attorney-at-law to account for money due to a person, which was suffered before the commencement of this Act.

FIRST SCHEDULE

s.5.

Antigua
Bahamas
Bermuda
British Honduras
The British Virgin Islands

The Cayman Islands
 Dominica
 Grenada
 Guyana
 Jamaica
 Montserrat
 St. Kitts-Nevis-Anguilla
 St. Lucia
 St. Vincent
 Trinidad and Tobago
 The Turks and Caicos Islands

ss.7(1)
 and 17.

SECOND SCHEDULE

Rules for governing the qualifications required for admission to practise law, and training relating thereto

- Short title. 1. These Rules may be cited as the *Legal Profession (Qualifications for Admission to Practise) Rules, 1972*.
- Qualifications to practise. 2. Subject to these Rules, a person is qualified for admission to practise law who has complied with the provisions of and obtained the qualifications specified in Appendix 1, 2 or 3.
- Appendices 2 and 3 to cease operation on date to be appointed. Interpretation. S.I. 1985 No. 24. 3. Appendices 2 and 3, and any reference thereto in rule 2 shall cease to have effect as from such day as the Governor-General may appoint by proclamation.

APPENDIX I

The Qualification Granted by the Council of Legal Education Established by the Caribbean Legal Education Agreement

A person is qualified for admission to practise law who has pursued the course of study and professional training in law provided by the Council of Legal Education established by the Caribbean Legal Education Agreement and has obtained the certificate, diploma, licence, or other status or form of recognition awarded by the Council of Legal Education.

APPENDIX 2

The Qualification of Barrister-at-Law

1. Subject to paragraph 2, a person is qualified for admission to practise law who is, in accordance with section 2 of the *Barristers Act*,¹ qualified to plead and practise the law as a Barrister in Barbados by virtue of his having been called to the Bar in England and for the purpose of giving effect to this

¹ Formerly Cap. 366, now repealed by this Act.

paragraph, notwithstanding the repeal of that Act, section 2 of that Act, with such modifications, adaptations and qualifications as may be necessary to bring it into conformity with this Act and these Rules, is deemed to be in force as a part of this paragraph.

2. Notwithstanding paragraph 1, no person who has joined any of the S.I. 1985/ Inns of Court of the United Kingdom after the 31st December, 1984, shall be deemed to be qualified, by virtue of his having been called to the Bar of England, to practise law.²⁴

APPENDIX 3

The Qualification of Solicitor

1. A person is qualified for admission to practise law who is, in accordance with the *Solicitors Act*,¹ entitled to be admitted and enrolled as a Solicitor.

2. For the purpose of giving effect to this Appendix, the following provisions of the *Solicitors Act*, as in force immediately prior to 31st March, 1973, namely

- (a) sections 3 to 24;
 (b) section 41 and any arrangement now in force made under that section, with the Incorporated Law Society of England;
 (c) sections 42, 49 and 50; and
 (d) section 2 with the necessary modifications so far as it is necessary for the purpose of interpreting the provisions of this Appendix, are deemed, with such modifications, adaptations and qualifications as may be necessary to bring them into conformity with this Act and these Rules, to be in force as part of this paragraph.

3. Notwithstanding paragraphs 1 and 2, no person shall be entitled to S.I. 1985/ enter into articles of clerkship to any practising Solicitor after the 31st December, 1984, and articles of clerkship entered upon after that day shall be deemed to be of no effect for the purpose of compliance with this Appendix.²⁴

THIRD SCHEDULE

s.11(5)

Form of Practising Certificate

Pursuant to the *Legal Profession Act*, it is hereby certified that Cap. 370A.
whose name is registered on the Roll is entitled to practise

¹ Formerly Cap. 373, now repealed by this Act.

as an attorney-at-law during the year 19..... and for the ensuing January.

Dated this _____ day of _____ 19 _____

Registrar of the Supreme Court

s.19(3).

FOURTH SCHEDULE

The Disciplinary Committee

1. The members of the Committee shall be 7 attorneys-at-law of whom at least 3 shall be of not less than 10 years' standing in the legal profession, nominated by the Bar Association by instrument in writing addressed to the Registrar.
2. The tenure of office of a member shall, subject to this Schedule, be a period not exceeding 2 years, but such member shall be eligible for re-nomination.
3. There shall be a Chairman and a Deputy Chairman of the Committee who shall be elected by the Committee from among the members of at least 10 years' standing in the legal profession.
4. (1) If a member of the Committee is absent or unable to act, another person may be nominated to act in the place of such member.
(2) Where the power to nominate a person to act is being exercised pursuant to this paragraph, such nomination shall be made in such manner and from among such persons as would be required in the case of a substantive nomination.
5. A member may at any time resign his office by letter addressed to the Registrar.
6. The Bar Association may by instrument in writing addressed to the Registrar revoke the appointment of a member.
7. If any vacancy occurs in the membership of the Committee, such vacancy shall be filled by the nomination of another member who shall, subject to this Schedule, hold office for the remainder of the period for which the previous member was nominated, and the nomination shall be made in the same manner and from the same category of persons as the nomination of the previous member.
8. The Registrar shall cause the names of all members of the Committee as first constituted and every change in the membership thereof to be published in the *Official Gazette*.

Constitution and Membership.

Tenure of office.

Chairman.

Acting appointments.

Resignations.

Revocation of appointment.

Filling of vacancies.

Gazetting of appointments.

9. (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 determines.

Procedure at meetings, and protection of members of Committee.

(2) The Chairman, or, in his absence, the Deputy Chairman, shall preside at meetings of the Committee.

(3) If at any meeting of the Committee the Chairman and Deputy Chairman are absent, the members present may elect one of their members of at least ten years standing in the legal profession to act as Chairman at that meeting.

(4) The quorum of the Committee shall be four members, two at least of whom shall be of more than ten years standing in the legal profession.

(5) Subject to this Schedule, the Committee shall have power to regulate its own proceedings.

(6) 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.

(7) No member of the Committee shall be personally liable for any act or default of the Committee done or omitted to be done in good faith in the performance of its functions under this Act.

10. The office of a member shall not be taken to be a public office.

Office of nominated member not to be public office.

11. All expenses incurred by the Committee in carrying out its functions under Part V of the Act shall be defrayed out of moneys voted for the purpose by Parliament.

Expenses.

FIFTH SCHEDULE

s. 20(2).

Disciplinary Proceedings Rules

1. These Rules may be cited as the Legal Profession (Disciplinary Short title Proceedings) Rules, 1972.

2. For the purposes of these Rules, "Secretary" means the Registrar or Secretary, the person deputed by him for the time being to perform all or any of the functions of Secretary.

3. An application to the Committee to require an attorney-at-law to answer allegations contained in an affidavit shall be in writing under the hand of the applicant in Form 1 of the Appendix and shall be sent to the

Application and affidavits.

Secretary together with an affidavit by the applicant in Form 2 of the Appendix stating the matters of fact on which he relies in support of his application.

No case to answer.

4. (1) 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 it thinks 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-at-law to answer the allegations, dismiss the application and notify the applicant and the attorney-at-law of the dismissal.

Notice of hearing.

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

Lists of documents.

6. The notice shall be in Form 3 or Form 4 of the Appendix, as the case may be, and shall require the applicant and the attorney-at-law respectively to furnish to the Secretary and to each other a list of all documents on which they respectively propose to rely, and such lists shall, unless otherwise ordered by the Committee, be furnished by the applicant and by the attorney-at-law 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 party, 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.

Absence of parties.

8. If either or both 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.

Affidavit evidence.

9. The Committee may, in its discretion, either as to the whole case or as to any particular facts, proceed and act upon evidence given by affidavit:

Provided that any party to the proceedings may require a deponent to any such affidavit to be summoned to appear before the Committee, unless the Committee is satisfied that the affidavit is purely formal and that the requirement of the appearance of the deponent is made frivolously.

Subpoenas.

10. A summons issued by the Committee under section 20 of the Act may be in Form 5 of the Appendix with such variations as the case may require.

Privacy of hearings.

11. The Committee shall hear all applications in private.

Notes of proceedings.

12. 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, and every person entitled to be heard at the hearing upon the consideration of the Report by the court, shall be entitled to a copy of such notes on payment of the charges (if any) prescribed by rules of court.

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

14. (1) Attorneys-at-law and witnesses shall have the same privileges and immunities in relation to hearings on applications under the Act as in any court of law. Privileges and immunities.

(2) A party to an application is entitled to be represented by an attorney-at-law.

15. No stamp duty shall be paid on any document and no fee shall be exigible by the Registrar in respect of any application alleging professional misconduct by an attorney-at-law. Exemption from stamp duty.

16. If after hearing an application the Committee is satisfied that no case of professional misconduct has been made out, it may dismiss the application. Dismissal of application after hearing.

APPENDIX

FORM 1

(Paragraph 3)

Form of Application against an Attorney-at-law

Cap. 370A.

To the Committee constituted under the Legal Profession Act,

In the matter of _____ an attorney-at-law
and

In the matter of the Legal Profession Act,

Cap. 370A.

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 whereof 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.

FORM 2

(Paragraph 3)

Form of Affidavit by Applicant

Cap. 370A.

- (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
- (b) Name of applicant. I, (b) make oath and say as follows—
 (1) That I reside at
- (c) Place of residence. (c)
- (d) Parish. in the parish of (d)
- (e) Occupation. and am a (e) and my postal address is
- (f) Postal address (f)
- (g) Name of the attorney-at-law. (2) That (g)
- (h) Set out facts complained of. (h)
 (3) The complaint I make against the attorney-at-law is that he (i)
- (i) Set out shortly the ground of complaint.

.....
 Signature or Mark of Applicant.

Sworn at
 in the parish of
 this _____ day 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

If the person making the affidavit can read and write strike out the words in brackets,

FORM 3

(Paragraph 6)

Form of Notice by Committee to Applicant

Complaint No. _____ of 19 _____
 In the matter of _____ attorney-at-law
 and _____
 In the matter of the Legal Profession Act. Cap. 370A.

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 Disciplinary Committee constituted under the Legal Profession Act.

The Committee will sit 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 _____ day of _____, 19 _____ at least fourteen 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.

FORM 4

(Paragraph 6)

Form of Notice by Committee to Attorney-at-law

Complaint No. _____ of 19 _____
 In the matter of _____ attorney-at-law
 and _____

ap. 370A. In the matter of the Legal Profession Act.
To _____ of _____ attorney-at-law.

Application has been made by _____ of _____ to the Disciplinary 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 least fourteen 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 three days after receipt of the application.

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

Dated the _____ day of _____, 19 _____.

Secretary,
Disciplinary Committee.

FORM 5

(Paragraph 10)

Form of Summons by Committee to Witness

Complaint No. _____ of 19 _____
In the matter of _____ and _____ attorney-at-law

Cap. 370A. In the matter of the Legal Profession Act.
To _____

You are hereby summoned to appear before the Disciplinary 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 application in the above matter is heard, to give evidence on behalf of _____