

CHAPTER 47

COUNCIL OF LEGAL EDUCATION

ARRANGEMENT OF SECTIONS

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CHAPTER 47

COUNCIL OF LEGAL EDUCATION

An Act to give effect to the Council of Legal Education Agreement. *12 of 2000*

*[Assent 13th March, 2000]
[Commencement 14th March, 2000]*

- 1.** This Act may be cited as the Council of Legal Education Act, 2000. Short title.
- 2.** In this Act — Interpretation.
- “the Agreement” means the Agreement for the establishment of a Council of Legal Education for the Caribbean region the original of which Agreement is deposited with the Secretary-General of the Commonwealth Caribbean Regional Secretariat and of which the text of the Articles is set out in the Schedule to this Act; Schedule.
- “Minister” means the Minister for the time being charged with responsibility for legal education.
- 3.** (1) Subject to subsection 2 the provisions of clause 2 (legal status) of Article 1, Articles 5 and 6 and clause 6 (exemptions from taxation) of Article 9 of the Agreement shall have the force of law in The Bahamas. Certain provisions of the Agreement given force of law in The Bahamas.
- (2) Nothing contained in subsection (1) shall derogate from the provisions of the Legal Profession Act, 1992 relating to the qualification for admission to practise as a counsel and attorney in The Bahamas, which provisions shall remain in effect until such time as the Governor-General shall appoint by notice in the *Gazette*.
- 4.** (1) Where any amendment of the Agreement is accepted by the Government, the Minister may by order amend the Schedule to this Act for the purpose of including therein the amendment so accepted. Minister may amend Schedule.

(2) Any order made under this section may contain such consequential, supplemental or ancillary provisions as appear to the Minister to be necessary or expedient for the purpose of giving effect to the said amendment and, without prejudice to the generality of the foregoing, may contain provisions amending references in this Act to specific provisions of the Agreement.

(3) Where the Schedule to this Act is amended pursuant to this section, any reference in this Act or in any other enactment or any instrument having effect under any such enactment to the Agreement shall, unless the context otherwise requires, be construed as a reference to the Agreement as so amended.

5. (1) The Council of Legal Education shall be exempt from direct taxation upon or against its earnings.

(2) Notwithstanding anything to the contrary contained in any enactment, any deed, agreement, instrument, insurance policy, writing or receipt relating to any loan made to or by the Council under this Act shall be exempt from stamp duty and recording and registration fees.

(3) There shall be exempt from taxation under the Stamp Act any transfer by the Council of property belonging to it or of any right or interest created in, over or otherwise with respect to any such property.

(4) The Council of Legal Education shall be exempt from the payment of all custom duties on goods imported for its official use into The Bahamas.

SCHEDULE (Sections 2 and 4)

AGREEMENT ESTABLISHING THE COUNCIL OF LEGAL EDUCATION

THE CONTRACTING PARTIES:

SHARING a common determination to establish without delay a scheme for legal education and training that is suited to the needs of the Caribbean;

AWARE that the objectives of such a scheme of education and training should be to provide teaching in legal skills and techniques as well as to pay due regard to the impact of law as an instrument of orderly social economic change;

Exemption from income tax and stamp duty.

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CONVINCED that such a scheme of education and training can best be achieved by —

Firstly, a University course of academic training in a Faculty of Law designed to give not only a background of general legal principles and techniques but an appreciation of relevant social science subjects including Caribbean history and contemporary Caribbean affairs;

Secondly, a period of further institutional training directed towards the study of legal subjects, having a practical content and emphasis, and the acquisition of the skills and techniques required for the practice of law;

RECOGNISING the need to vest responsibility for providing the institutional training in a Regional Council of Legal Education which should be established in advance of students being admitted to the Faculty of Law so as to give assurance that the whole scheme for legal education will be implemented in its entirety;

HEREBY AGREE AS FOLLOWS:

ARTICLE 1
Constitution

There shall be a Council of Legal Education (hereinafter called “the Council”) with the following membership, status, functions and powers:

1. Membership.
 - (a) The Council shall consist of:
 - (i) The Dean of the Faculty of Law of the University of the West Indies and another member of the faculty nominated by him;
 - (ii) The Principals of the Law Schools;
 - (iii) The Head of the Judiciary of each participating territory;
 - (iv) The Attorney-General of each participating territory;
 - (v) From each of the four participating territories in which there are now two branches of the legal profession, namely Jamaica, Barbados, Trinidad and Tobago and Guyana, a Barrister and a Solicitor nominated by their appropriate professional bodies, or in the event of the two branches of the profession at any time becoming fused in any such territory two members of the fused profession nominated by their appropriate professional body;

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- (vi) From each of the other participating territories one member of the profession nominated by the appropriate professional body.
 - (b) Each member of the Council appointed under paragraphs (v) and (vi) of clause (a) above shall hold office for three years from the date of his appointment and shall be eligible for reappointment. The effective date of appointment of members under the said paragraphs (v) and (vi) shall be the date on which the Council is notified of the appointment.
 - (c) Each member of the Council may be represented by an alternate to be appointed, in the case of (i) above by the Dean, in the case of (ii), (iii) and (iv) by the member himself and in the case of (v) and (vi) by the body represented by the member.
 - (d) A casual vacancy, however, occurring in the case of a member appointed under (v) and (vi) may be filled by the body appointing such member and the person appointed to fill such casual vacancy shall hold office for the remainder of the period of the appointment of the member whose place he fills.
 - (e) Any committee of the Council shall have the power to co-opt such person or persons as it thinks fit.

2. Legal Status.

The Council shall possess full juridical personality and, in particular, full capacity —

- (a) to contract;
- (b) to acquire, and dispose of movable and immovable property; and
- (c) to institute and defend legal proceedings.

3. Functions and Powers.

The functions and the powers of the Council shall be as follows:

- (a) to undertake and discharge general responsibility for the practical professional training of persons seeking to become members of the legal profession;
- (b) to establish, equip and maintain Law Schools, one in Jamaica, one in Trinidad and Tobago and in such other territories as the Council may from time to time determine, for the purpose of providing post graduate professional legal training;
- (c) to appoint a Principal of each Law School and all necessary staff;

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- (d) to make proper provision for courses of study and practical instruction, for the award of scholarships, studentships, bursaries, and prizes, and for holding examinations and granting diplomas and certificates;
 - (e) to evaluate courses of study provided by and to accord appropriate recognition of legal qualifications obtained at other institutions;
 - (f) in the exercise of any of the above functions or powers to enter into any such agreements with the University of the West Indies, and the University of Guyana as the Council shall think fit;
 - (g) to appoint Committees of the Council and to delegate to any such Committee such of its powers as the Council shall think fit provided that the Council shall nevertheless maintain overall responsibility for co-ordinating training throughout the area on a planned and integrated basis paying due regard to the needs of the several participating territories;
 - (h) to make regulations for the due discharge of its functions, for the courses and examinations at the Law Schools, and for prescribing fees to be paid and disciplinary rules to be observed by persons admitted to the Law Schools and, subject to the provisions of Articles 7 and 8, to regulate its own procedures;
 - (i) to do all such other acts and things whether incidental to the powers aforesaid or not as may be requisite in order to further the objects of the Council.

ARTICLE 2

Principals of Law Schools

The Principal of each Law School shall be responsible to the Council for the organisation and administration of the Law School and for the courses of study and practical instruction and shall exercise such other functions of the Council as the Council may, from time to time, entrust to him.

ARTICLE 3

Admission to Law Schools

Every person who holds a University of the West Indies LL.B. degree shall be eligible for admission to the Law Schools and every person who holds a degree of a University or Institution which is recognised by the Council as being equivalent to the University of

the West Indies LL.B. degree shall, subject to the availability of places and to such conditions (if any) as the Council may require, be eligible for admission to the Law Schools: Provided that any national who prior to 1st October, 1972 was the holder of a University Degree or had commenced upon a degree programme other than in law and completed that programme before 1st October, 1975, shall be eligible to be admitted to one of the Professional Law Schools without being required to obtain a degree of LL.B. from the University of the West Indies or a Law Degree recognised by the Council of Legal Education as equivalent thereto but subject to such other terms and conditions as the Council of Legal Education shall after consultation with the Faculty of Law of the University of the West Indies determine.

ARTICLE 4

Legal Education Certificate

1. On the satisfactory completion by any person of the course of study and professional training at one of the Law Schools established by the Council that person shall be awarded by the Council a certificate herein referred to as a Legal Education Certificate.

2. Any person to whom paragraph 1(b) of Article 6 does not apply and who —

- (a) has obtained a degree of a University or Institution which is recognised by the Council as equivalent to the University of the West Indies LL.B. degree; and
- (b) (i) is the holder of a qualification which had it been obtained prior to 1st October, 1972 would have been recognised by all of the participating territories as a qualification to be admitted to practise as a barrister or solicitor in those territories; or
(ii) is the holder of a qualification, obtained in a Common Law jurisdiction, for admission to practise law in that jurisdiction and which qualification is approved by the Council; and
- (c) has completed, to the satisfaction of the Council, a six-month course of training organised by the Council, shall be awarded by the Council a Legal Education Certificate.

ARTICLE 5**Admission to Practice**

1. The Government of each of the participating territories undertakes that it will recognise that any person holding a Legal Education Certificate fulfils the requirements for practice in its territory so far as institutional training and education are concerned and that (subject to the transitional provisions hereinafter contained and to any reciprocal arrangements that any of the said territories may hereafter make with any other country) no person shall be admitted to practise in that territory who does not hold such certificate. But nothing herein contained shall prevent any territory from imposing additional qualifications as a condition of admission to practise therein.

2. The foregoing provisions of this Article shall be subject to the terms of the Protocols to this Agreement which shall have effect for the purposes specified therein.

ARTICLE 6**Saving and Transitional Provisions**

1. The Government of each of the participating territories agrees that the following persons shall be recognised as professionally qualified for admission to practise in its territory, namely —

- (a) any national who is on 1st October, 1972 qualified to be admitted to practise as a solicitor or a barrister in that territory;
- (b) any national who, prior to 1st January, 1985, had undergone or is undergoing or has been accepted for a course of legal training leading to a qualification such as is referred to in paragraph 2(b)(i) of Article 4 of this Agreement and obtains that qualification.

2. In this Article “national” means a person who —

- (a) is a citizen of any participating territory; or
- (b) is regarded as belonging to any participating territory under any law in force in that territory.

ARTICLE 7**Council – Procedure**

1. The Council shall meet at such time and place as may from time to time be directed by the Council.

2. The Chairman may, in his discretion, and shall, upon the written request of five or more members of the Council specifying the matters to be considered, call a meeting of the Council.

3. Decisions of the Council and of any Committee of the Council shall be by a majority of members present and voting and one third of the members of the Council or of any Committee of the Council shall be a quorum.

4. Each member shall have one vote. The Chairman of a meeting in addition to his original vote shall have a casting vote in the event of any equal division.

5. The Council and any Committee of the Council shall be competent to act notwithstanding any vacancy in its membership or any irregularity subsequently discovered in the appointment of its members.

ARTICLE 8

Council – Chairman

At the first meeting and as required thereafter the Council shall elect one of its members as Chairman who shall hold office for three years. The Chairman, if present, shall preside at all meetings of the Council and in the event of his absence the members present shall appoint a Chairman.

ARTICLE 9

Financial Provisions

1. The revenue of the Council shall be derived from contributions from the Governments of the participating territories, from grants and donations, and from fees payable by persons admitted to the Law Schools.

2. The Council shall have the power to invest any monies belonging to it, including any unapplied income, in such stock, funds, fully paid shares or securities as the Council may from time to time think fit, whether authorized by the general law for the investment of trust monies or not, with the like power of varying such investments from time to time by sale or reinvestment or otherwise.

3. The Council shall govern, manage and regulate its finances, accounts, investments, property, business and all its affairs whatsoever and for that purpose shall have the power to appoint bankers and any officers or agents whom it may deem expedient to appoint.

4. The interim expenses of the Council (other than those relating to the establishment and operation of the Law School) shall be borne by the Governments of the participating territories in the same proportion as the interim expenses of the Faculty of Law of the University of the West Indies. All other expenses relating to the establishment and operation of the Law Schools shall be considered by the Governments of the participating territories and their respective contributions thereto agreed upon at the earliest practicable date.

5. (a) The Council shall cause to be kept proper books of account which shall be audited at least once a year by an auditor who shall be a qualified and independent Accountant in the active practice of his profession appointed by the Council, and shall cause to be prepared not later than three months after the end of each academic year —

- (i) a statement showing in detail the income and expenditure of the Council for the immediately preceding academic year;
- (ii) a statement of the assets and liabilities of the Council as they stood at the end of the immediately preceding academic year.

(b) Such statements shall be certified by the Auditor appointed by the Council and as soon as may be thereafter a copy of each such statement as audited shall be transmitted to each contracting party.

(c) The Council shall in each year not later than the date specified in paragraph 5(a)(i) cause to be prepared and transmitted to each contracting party a report dealing generally with the activities of the Council.

6. The Council, its assets, property, income and its operations and transactions, shall be exempt from all direct taxation and from all custom duties on goods imported for its official use; this shall not include exemption from taxes which are no more than charges for public utility services.

ARTICLE 10

Deposit, Ratification and Entry into Force

1. This Agreement shall come into force upon signature or deposit of letters of ratification or acceptance on behalf of the University of the West Indies and the University of Guyana and on behalf of Barbados, Guyana, Jamaica and Trinidad and Tobago.

2. This Agreement shall be subject to ratification or acceptance by the contracting parties. Instruments of ratification or acceptance shall be deposited by the contracting parties with the Depository who shall notify the other contracting parties.

3. This Agreement shall be deposited with the Secretary-General of the Commonwealth Caribbean Regional Secretariat (herein called the “Depository”).

4. The Depository shall transmit copies of this Agreement to each contracting party

ARTICLE 11**Participation of Territories other than original Signatories**

Any of the territories named in Annex “A” hereof (other than the signatories hereto at the date of the coming into force of this Agreement) may become parties to this Agreement at such time and in accordance with such terms as may be determined by the Council.

ARTICLE 12**Inaugural Meeting**

As soon as this Agreement comes into force, the Vice-Chancellor of the University of the West Indies shall take the necessary steps to secure the nomination of the members of the Council specified in Clause 1(a) paragraphs (v) and (vi) of Article 1 and to convene the Inaugural Meeting of the Council.

IN WITNESS WHEREOF the undersigned representatives, being duly authorized thereto by their respective Governments or institutions, have signed the present Agreement.

ANNEX ‘A’ (Article 11)

Antigua
Bahamas
Barbados
Belize
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
The University of the West Indies
The University of Guyana

PROTOCOL TO PROVIDE FOR THE RESERVATION MADE BY THE GOVERNMENT OF THE BAHAMAS TO PARAGRAPH 1 OF ARTICLE 5 OF THE AGREEMENT ESTABLISHING THE COUNCIL OF LEGAL EDUCATION.

The contracting parties to the Agreement establishing the Council of Legal Education hereby agree that notwithstanding the provisions of paragraph 1 of Article 5, the Government of The Bahamas shall be able to admit to practise in The Bahamas, persons holding qualifications other than a Legal Education Certificate awarded by the Council of Legal Education. The Government of The Bahamas undertakes to review the position within five years of the coming into force of the Agreement with a view to implementing fully the provisions of paragraph 1 of Article 5.

FURTHER PROTOCOL TO PROVIDE FOR THE ADHESION OF THE GOVERNMENT OF THE CAYMAN ISLANDS NOTWITHSTANDING PARAGRAPH 1 OF ARTICLE 5 OF THE AGREEMENT ESTABLISHING THE COUNCIL OF LEGAL EDUCATION.

The contracting parties to the Agreement establishing the Council of Legal Education hereby agree that notwithstanding the provisions of paragraph 1 of Article 5, the Government of the Cayman Islands shall be able to admit to practise in the Cayman Islands persons holding qualifications other than a Legal Education Certificate awarded by the Council of Legal Education.

Provided that the Government of the Cayman Islands may, at any time not later than five years from the date on which that Agreement entered into force, adhere unconditionally to the full terms of that Agreement but if, at the conclusion of the said period of five years, the Government of the Cayman Islands has not so adhered, it shall cease forthwith to be a participating Government in the Council of Legal Education.