

THE LEGAL PROFESSION ACT

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SCHEDULES

THE LEGAL PROFESSION ACT

[3rd January, 1972.]

Acts
 15 of 1971,
 4 of 1981,
 19 of 1994,
 8 of 2007,
 9 of 2012,
 26 of 2013,
 2nd Sch.

PART I. *Preliminary*

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

Short title.

2.—(1) In this Act—

Inter-
pretation.

“alien” has the meaning assigned to it in the Jamaican Nationality Act;

“appointed day” means the 3rd January, 1972;

“attorney-at-law” or “attorney” has the meaning assigned to it by section 5;

“Court” means the Supreme Court;

“enrolment” means the entry of a name on the Roll;

“fees” includes charges and disbursements;

“former disciplinary body” means a committee which prior to the appointed day had been constituted under section 25 of the Solicitors Law (repealed) or section 5 of the Bar Regulation Law, 1960 (repealed);

Cap. 363
 (1953
 Edn.).
 Law 3 of
 1960.

“functions” includes duties and powers;

“General Legal Council” or “Council” means the General Legal Council established under section 3;

“international agreement on legal education” means any agreement between the Governments of territories in the Western Hemisphere including Jamaica, for the establishment of a body responsible for legal education within such territories;

“legal document” means any document conferring, transferring, altering or extinguishing or purporting

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

“Legal Education Authority” means—

(a) the General Legal Council; or

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

“Minister” means the Minister responsible for the Law Courts;

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

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

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

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

“Registrar” means the Registrar of the Supreme Court;

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

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

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

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

General
Legal
Council
and its
functions

(a) subject to the provisions of Part III, with the organization of legal education; and

(b) with upholding standards of professional conduct.

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

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

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

First
Schedule

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

Registrar
to keep
Roll of
attorneys-
at-law.

(2) (a) Forthwith upon the appointed day the Registrar shall cause to be entered on the Roll the name of every person who immediately prior thereto was a barrister or a solicitor and shall issue to every such person a certificate of enrolment

in the prescribed form without the payment of any fee.

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

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

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

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

(6) Rules of court may be made prescribing—

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

(7) For the purposes of subsection (2)—

“barrister” means a barrister as defined in section 2 of

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

Law
3 of 1960.

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

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

Status of
attorney-
at-law and
practise as a
lawyer.

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

(2) Subject to section 7, a person shall not practise as a lawyer except by virtue of, and in accordance with, a practising certificate issued under subsection (3).

9/2012
S. 2.

(3) A practising certificate shall be in the appropriate form as set out in the Second Schedule, and shall be issued by the Council where—

9/2012
S. 2.
Second
Schedule.

(a) the prescribed fee has been paid to the Secretary of the Council; and

(b) the Council is satisfied that the attorney has—

26/2013
2nd Sch.

- (i) complied with such requirements for continuing legal professional development as may be prescribed; and

- (ii) filed with the Council a declaration in accordance with subsection (3C).

9/2012
S. 2.

(3A) Where the Council is satisfied that a person is practising in contravention of subsection (2), the Council shall, in writing, direct the person—

- (a) where the prescribed fee has not been paid, to pay the prescribed fee within a specified time;
- (b) where the Council is not satisfied that the prescribed requirements for continuing legal professional development have been met, to provide, within a specified time, evidence of having met the prescribed requirements; or
- (c) where the Council is satisfied that the person is unable to supply evidence of having met the prescribed requirements, to attend and complete, within a specified time, specified courses of training in order to meet the prescribed requirements.

9/2012
S. 2.

(3B) A person who, having been issued with directions under subsection (3A)—

- (a) does not comply with the directions, within the time specified under subsection (3A)(a), (b) or (c), as the case may be; and
- (b) continues to practise as a lawyer,

is guilty of professional misconduct.

26/2013
2nd Sch.

(3C) In respect of each calendar year, an attorney shall, on or before the 31st day of January of the next ensuing calendar year, complete and file with the Council a declaration in such form as may be prescribed by regulations made under this subsection by the Council, with the approval of the Minister, after consultation with the Minister responsible for national

security, indicating whether or not the attorney has in the calendar year concerned engaged in any of the following activities on behalf of any client—

- (a) purchasing or selling of real estate;
- (b) managing clients' money, securities or other assets;
- (c) managing bank, savings or securities accounts;
- (d) organizing contributions for the creation, operation or management of companies;
- (e) creating, operating or managing a legal person or legal arrangement (such as a trust or settlement); or
- (f) purchasing or selling a business entity.

(3D) In the case of a partnership of attorneys, a single declaration filed in accordance with subsection (3C) in respect of the activities of all the attorneys constituting the partnership and signed by a partner duly appointed by the partnership for that purpose shall be sufficient for compliance with that subsection.

26/2013
Second
Schedule.

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

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

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

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

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

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

8/2007
S. 3(b).
Second
Schedule.

Qualifica-
tion for
enrolment.

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

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

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

Legal officers
deemed to be
attorneys
ex officio.

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

- (a) is enrolled; or
 - (b) though not enrolled, possesses a qualifying certificate,
- shall so long as he continues to be a law officer of the Crown or a legal officer of Government be entitled to practise in all Courts of Justice in Jamaica, and any person referred to

in paragraph (b) shall so long as he continues as aforesaid, be deemed to be an attorney *ex officio*.

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

Penalty
for unlaw-
ful practice.

8/2007
S. 4(a).

8/2007
S. 4(a).

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

8/2007
S. 4(b).

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

8/2007
S. 4(c)(i).

8/2007
S. 4(c)(ii).

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

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

Admission
to practise
gained by
fraud or
mis-
represent-
ation.
8/2007
S. 5.

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

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

PART III. *Legal Education*

Arrange-
ments for
legal
education.

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

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

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

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

- (a) he has obtained adequate practical experience in law; and
- (b) he is otherwise qualified to practise law,

a certificate to that effect (in this Act referred to as a qualifying certificate).

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

- (a) requirements for continuing legal professional development to be complied with by attorneys-at-law for the purposes of sections 5(3)(b) and 12(4)(e) and by the officers referred to in section 7; 9/2012 S. 3.
- (b) the conduct of examinations and the fees to be charged in respect of persons sitting for examinations; and
- (c) the issue of diplomas to persons who have passed examinations held pursuant to section 9.

PART IV. Discipline

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

- (a) who are members, or former members, of the Council; 3/1981 S. 2.
or
- (b) who hold or have held high judicial office; or
- (c) who are attorneys who were members of a former disciplinary body; or
- (d) who are attorneys who have been in practice for not less than ten years,

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

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

8/2007
S. 6.

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

- (a) in the case of attorneys who are suspended from practice, allegations of misconduct committed prior to or during suspension; and
- (b) in the case of persons whose names are struck off the Roll, allegations of misconduct committed prior to such striking off.

8/2007
S. 6.

(4) Subsection (3) shall apply in like manner to any case where the striking off or suspension took place before the 24th April, 2007, as it applies to such cases subsequent thereto.

Complaints to
Committee.

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

- (a) any misconduct in any professional respect (including conduct which, in pursuance of rules made by the Council under this Part, is to be treated as misconduct in a professional respect);

- (b) any such criminal offence as may for the purposes of this provision be prescribed in rules made by the Council under this Part.

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

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

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

(4) On the hearing of any such application the Committee may, as it thinks just, make one or more of the following orders as to— 8/2007
S. 7(a).

- (a) striking off the Roll the name of the attorney to whom the application relates;
- (b) suspending the attorney from practice on such conditions as it may determine;
- (c) the imposition on the attorney of such fine as the Committee thinks proper;

(d) subjecting the attorney to a reprimand;

9/2012
S. 4.

(e) the attendance by the attorney at prescribed courses of training in order to meet the requirements for continuing legal professional development;

(f) the payment by any party of costs of such sum as the Committee considers a reasonable contribution towards costs; and

(g) the payment by the attorney of such sum by way of restitution as it may consider reasonable,

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

8/2007
S. 7(b).

(4A) Subject to subsection (4B), the Disciplinary Committee may, pending the hearing or determination of any application, make an interim order suspending an attorney from practice in any case in which the attorney is convicted of any offence prescribed by the Council by rules made under this Part.

8/2007
S. 7(b).

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

(a) the conviction is quashed on appeal; or

(b) the attorney shows good cause as to why the order of suspension should be revoked.

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

8/2007
S. 7(b).

(a) without finding any misconduct proved against the attorney, nevertheless order him to pay the costs of the complainant, or any part thereof, if, having regard to his conduct and to the circumstances of the case, it seems just to the Committee so to do;

(b) if satisfied that an attorney against whom a complaint has been made has, by his conduct in relation to the complaint, caused delay or committed acts wasteful of the Committee's time, make an order awarding costs against the attorney whether or not any other order as to costs has been made; and the amount of any such costs shall be paid into the funds of the Council; and

8/2007
S. 7(c).

(5) Where a fine is imposed under subsection (4)(c)—

- (a) the amount of such fine or part thereof may, if the Committee so directs, be paid to the person making the application in full or partial satisfaction of any damage caused to him by the act or default giving rise to the application; or
- (b) if no direction is made under paragraph (a), or direction is made only as to part thereof, the amount of such fine or remainder thereof shall be paid into the funds of the Council.

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

(7) The Council may—

- (a) prescribe standards of professional etiquette and professional conduct for attorneys and may by rules made for this purpose direct that any specified breach of the rules shall for the purposes of this Part constitute misconduct in a professional respect;
- (b) prescribe anything which may be or is required to be prescribed for the purposes of this Part.

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

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

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

(3) Where the filing of an order is suspended under this section, the order shall not take effect until it is filed with

Power to
suspend
filing of
orders.
8/2007
S. 8.

the Registrar and if the order is an order that an attorney be suspended from practice, the period of suspension shall be deemed to commence on the date of the filing of the order with the Registrar.

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

- (a) an application made in respect of an attorney pursuant to section 12 is pending; and
- (b) criminal proceedings arising out of the facts or circumstances which form the basis of the application are also pending,

Committee may hear applications pending criminal proceedings. 8/2007 S. 8.

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

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

13.—(1) For the purposes of hearing applications made pursuant to section 12 and of reviewing its decision pursuant to section 19, the Disciplinary Committee may sit in two or more divisions.

Power of Disciplinary Committee to sit in divisions. 8/2007 S. 9(a).

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

8/2007 S.9(b)(i)(ii).

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

8/2007 S. 9(c).

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

19/1994
S. 2 (a).

19/1994
S. 2(b).

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

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

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

19/1994
S. 2(c).

Rules of
procedure.

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

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

Fourth
Schedule.

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

the trial of an action.

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

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

Filing,
effect and
notice of
orders made
and
directions
given by the
Committee.
8/2007
S.10(a)(b).

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

8/2007
S. 10(c).

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

8/2007
S. 10(d).

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

8/2007
S. 10(e).

(a) the Registrar shall cause a notice stating the effect of the operative part of the order or directions to be published in the *Gazette*; and

(b) the Committee may, in such manner as it thinks fit, publish a notice of the operative part of any order—

(i) suspending an attorney from practice or withdrawing an order of suspension; or

(ii) striking the name of an attorney from the Roll or reinstating the name of an attorney to the Roll.

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

8/2007
S. 10(f).

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

8/2007
S. 10(g).

Appeal
against
order of
the
Committee.
8/2007
S. 11(b).

16.—(1) An appeal against any order made by the Committee under this act shall lie to the Court of Appeal by way of rehearing at the instance of the attorney or the person aggrieved to whom the application relates, including the Registrar of the Supreme Court or any member of the Council, and every such appeal shall be made within such time and in such form and shall be heard in such manner as may be prescribed by rules of court.

8/2007
S. 11(c)

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

Powers of
Court of
Appeal.

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

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

8/2007
S. 12.

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

Restoration
of name to
the Roll.

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

Provided that if upon an application in writing made by such person to the Council for his name to be entered again on the Roll, the Council fails or refuses to give a direction to that

effect, he may appeal to the Court of Appeal; and every such appeal shall be made within such time and in such form and shall be heard in such manner as may be prescribed by rules of court; and any decision given by that Court in the matter shall not be subject to any further appeal.

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

Review of suspension from practice.

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

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

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

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

8/2007
S. 13(a).

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

sends any such process to any such person, or does any other act to enable any such person to act in any respect as a lawyer in any action or matter in any court shall on summary conviction before a Resident Magistrate be liable to a fine of five hundred thousand dollars or to imprisonment for a term of six months.

8/2007
S. 13(b).

9/2012
S. 5.

PART IVA. *Powers of the General Legal Council to take action to protect client property*

Interpretation.
9/2012
S. 5.

20A.—(1) In this Part—

- (a) a reference to the exercise of any function by the Council shall be deemed to include a reference to the exercise of that function by an agent of the Council duly authorized to act in that behalf;
- (b) “client property” means any money or other property entrusted to an attorney in his capacity as an attorney.

(2) In this Part and section 35(1), “banking account” means an account held at—

- (a) a bank licensed under the *Banking Act*;
- (b) a financial institution licensed under the *Financial Institutions Act*; or
- (c) a building society registered and licensed under the *Building Societies Act*.

Application of,
and protection
for, acts done
under this Part.
9/2012
S. 5.

20B.—(1) This Part applies where the Council acts to protect client property in accordance with section 20C.

(2) No action, suit or other proceedings may be brought or instituted against the Council, its servants or agents, or any member of the Council, in respect of any act done or omission made in good faith in the course of carrying out the provisions of this Part.

Intervention
by Council.
9/2012
S. 5.

20C.—(1) This Council may apply to the Court for an order to take action to protect client property in the possession or control of an attorney on the grounds that—

- (a) the attorney has been found guilty by a court of competent jurisdiction of any offence involving dishonesty, or any improper conduct, in relation to the money or other property of any other person;
- (b) the attorney is of unsound mind or, by reason of the attorney's ill health, his clients' accounts are not being properly administered;
- (c) an employee or agent of the Attorney has stolen client property, and any client property, or any records concerning client property, in the possession or control of the attorney are at risk of loss or destruction as a result; or
- (d) the attorney has ceased to practise, or has ceased to reside in Jamaica, but has failed to wind up his practice or settle his clients' accounts,

and the Court may grant the application if satisfied as to any of the grounds set out in paragraphs (a) to (d).

(2) The Council may—

- (a) subject to subsection (3) and without an application to the Court for an order to do so, take action to protect client property in the possession or control of an attorney, where—
 - (i) a Court has made an absolute order for bankruptcy against the attorney, under the *Bankruptcy Act*; or
 - (ii) the attorney has died; or
- (b) subject to subsection (4), apply without notice to a Judge in Chambers for an order to take action to protect client property in the possession or control of an attorney where—
 - (i) the attorney's name has been struck off the Roll; or
 - (ii) the attorney is suspended from practice for a period of six months or more.

(3) The powers of the Council under subsection (2)(a) shall be exercised only where the Council determines that no satisfactory arrangements are in place for protecting the interests of the attorney's clients.

(4) An order under subsection (2)(b) shall—

- (a) be granted only where the Judge determines that no satisfactory arrangements are in place for protecting the interests of the attorney's clients;
- (b) expire after a period specified in the order, not being more than twenty-eight days, unless its duration is extended under subsection (6) or (7); and
- (c) direct that the attorney concerned and the Council attend, or be represented by a legal representative, before a Judge in Chambers on a date specified in the order, being a date before the expiration of the order, at a hearing for the purpose of determining whether the order should be varied or discharged or its duration extended.

(5) The actions which the Council may take pursuant to—

- (a) an order under subsection (1) or (2) (b), subject to the terms and conditions of the order; or
- (b) subsection (2)(a),

shall be any one or more of the actions specified in section 20D, 20E, 20F or 20G, as the circumstances require.

(6) Upon conducting a hearing under subsection (4)(c), the Judge may—

- (a) vary or discharge the order; or
- (b) extend its duration for such further period as may be specified.

(7) Notwithstanding subsection (4)(b) and (c), either party may at any time before the expiration of an order under subsection (2)(b), apply to a Judge in Chambers, after giving three days notice in writing to the other party, for a variation or

discharge of the order or for the extension of its duration, and the Judge may grant the application if the Judge thinks fit.

(8) Where it is impossible or impracticable to serve any application under this section on an attorney, the Council may, in lieu of such service, publish the notice on at least two separate occasions in a daily newspaper in circulation throughout Jamaica.

20D.—(1) Pursuant to section 20C (5), the Council may serve on any person or entity in possession or control of any money entrusted to an attorney by a client, a notice in the prescribed form and duly authenticated by the Council, requiring that person or entity to pay to the Council the money so held.

Notice re payment out of money entrusted to attorney by client.
9/2012
S. 5.

(2) A person or entity who is served with a notice pursuant to subsection (1), shall pay the money to the Council, and shall incur no liability from having made the payment in accordance with the notice.

20E.—(1) Where the Council receives any money pursuant to section 20D—

Council to pay moneys into separate account.
9/2012
S. 5.

- (a) the Council shall pay the money into a separate banking account in the name of the Council or of a person nominated on behalf of the Council; or
- (b) if the client concerned instructs that the money be paid over to another attorney or into a banking account, the Council shall pay the money to that attorney or into the banking account (as the case may require), in accordance with those instructions.

(2) The Council shall hold sums of money to which this section applies on trust and shall, subject to the rights of those beneficially entitled thereto, exercise in relation to such sums the powers conferred by this Part.

20F.—(1) Pursuant to section 20C (5), the Council may take possession of any records or documents belonging to or in the possession, or under the control, of the attorney in the course of his practice and may for that purpose enter and search premises pursuant to a warrant issued under subsection (2).

Possession of records or documents of attorney.
9/2012
S. 5.

(2) The Court, on the application of the Council, may issue a warrant authorizing the Council to enter premises specified in the warrant in order to search for, and seize, any records or documents to which subsection (1) relates.

(3) In the case of any records or documents which are the subject of a lien for unpaid fees owing to the attorney, the Council, when acting pursuant to the powers conferred by subsection (1) or (2), shall be entitled only to make copies of such records or documents.

20G.—(1) Pursuant to section 20C (5), the Council may, from time to time, apply to the Court for an order that such period, not exceeding eighteen months, as the Court thinks fit, any—

- (a) postal article; or
- (b) article deliverable by courier,

addressed to the attorney or his firm at any place mentioned in the order, shall be directed instead to the Council.

(2) The Council may, pursuant to an order made under subsection (1), take possession of any such redirected article.

(3) Where an order under subsection (1) is made, the Council shall pay to the Post Office or courier agency, as the case may be, the like charges (if any), as would have been payable for the redirection of the articles if the addressee had permanently ceased to occupy the premises to which they were addressed and had applied to the Post Office or courier agency to redirect them to him at the address mentioned in the order.

(4) Where the Council takes possession of any article pursuant to this section—

- (a) the Council shall, where reasonably practicable, give the attorney concerned, his personal representative, or a person designated by either of them, the opportunity to observe when the article is opened; and

Order for
postal articles
of attorney to
be redirected
to Council.
9/2012
S. 5.

(b) if it appears to the Council that the article does not relate to the practice of the attorney concerned, the Council shall give the article—

- (i) to the attorney or his personal representative;
- (ii) as the circumstances require, to such other person to whom the article belongs or to whom the Court directs it to be given pursuant to directions made under section 20I.

(5) For the purposes of this section and section 20H, “postal article” has the meaning assigned to it by section 2(1) of the *Post Office Act*.

(6) The Court shall require an order under subsection (1)(b) to be served on all known courier agencies operating in Jamaica, and published in a daily newspaper in circulation throughout Jamaica.

20H.—(1) The Council on taking possession of any money, record, document, postal article or article deliverable by courier, under section 20D, 20F or 20G, shall serve upon the persons specified in subsection (2) a notice—

Notice of possession to be given to attorney or personal representative.
9/2012
S. 5.

(a) stating that possession has been taken on the date specified in the notice and, and in the case of postal articles or articles deliverable by courier—

- (i) informing the attorney of his entitlement under section 20G (4) to be present when the article is opened; and
- (ii) specifying the date and time when the article is to be opened; and

(b) identifying the money, records, documents or articles taken.

(2) The persons referred to in subsection (1) are—

(a) the attorney concerned, or his personal representative;

- (b) any other person from whom, or from whose premises, the possession was taken; and
- (c) any other person to whom the Court directs that a notice under subsection (1) should be given, in any order for directions made under section 20I.

Application to
Court for
directions.
9/2012
S. 5.

20I.—(1) The Council may apply to the Court for an order for directions in relation to any matter in which the Council may exercise functions under this Part.

(2) Without prejudice to the generality of subsection (1), an order for directions under that subsection may—

- (a) give the Council, or any other person concerned in the matter, directions as to the powers exercisable by the Council in relation to the practice of the attorney concerned in the manner;
- (b) prohibit any person (whether or not named in the order) from dealing with any client property concerned in the matter, without the leave of the Court; and
- (c) where there are reasonable grounds to believe that a person holds client property concerned in the matter, direct that person to give to the Council, within a specified time, information as to the particulars of such property and the places at which they are held.

Application to
Court for
return of
records and
documents.
9/2012
S. 5.

20J.—(1) Any person adversely affected by the removal of records or documents pursuant to section 20F may, within twenty-one days after the service of a notice under section 20H or such longer period as the Court may allow, apply to the Court for an order directing the Council to return, or deliver (as the case may require), to the applicant any records or documents referred to in the notice.

(2) Upon an application under subsection (1) the Court may, if it thinks fit—

- (a) order that the records or documents be returned or delivered, or that only such parts of the records or documents as it may specify in the order be returned or delivered; and

- (b) authorize the Council to make and retain copies of any such records or documents, or parts thereof, before their return or delivery pursuant to paragraph (a).

20K.—(1) Any person who is, or may be, adversely affected by any payment made pursuant to section 20D may apply to the Court for—

Application to Court for repayment of money under section 20D. 9/2012 S. 5.

- (a) an order directing the Council to repay the money, or any part of it, into the account from which it was paid; or
- (b) such other order as the Court thinks fit.

(2) The Court may, on hearing an application under subsection (1), make an order directing the Council to repay the money into the account from which it was paid, or make such other order as the Court thinks fit.

20L.—(1) Rules of Court may make provision—

- (a) governing the procedure in respect of applications made to the Court under this Part; and
- (b) specifying the modes of service of notices and other documents required to be given in respect of applications made pursuant to this Part.

Rules and regulations. 9/2012 S. 5.

(2) The Council may, with the approval of the Minister, make regulations governing the procedures to be followed in respect of actions to protect client property under this Part.

PART V. *Recovery of Fees*

21.—(1) An attorney may, subject to any regulations made by the Council under subsection (7), in writing agree with a client as to the amount and manner of payment of fees for the whole or part of any legal business done or to be done by the attorney, either by a gross sum or percentage or otherwise; so, however, that the attorney making the agreement shall not in relation to the same matters make any further charges than those provided in the agreement:

Agreement as to fees. 8/2007 S. 14(a).

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

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

8/2007
S. 14(b).

(3) In the absence of evidence to the contrary, it shall be presumed that legal fees agreed to be paid or collected out of the proceeds of a judgment are contingency fees, so, however, that it shall be lawful for the Committee to examine any written agreement mentioned in subsection (1) for the purpose of determining whether or not the fees agreed in that agreement are contingency fees.

8/2007
S. 14(b).

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

8/2007
S. 14(b).

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

- (a) from the date of final payment by the attorney to the client of the proceeds recovered under a judgment, after any deduction of contingency fees; or
- (b) where a written tender or offer of such final payment has been made by the attorney to the client, from the date of the receipt by the client, of such tender or offer.

8/2007
S. 14(b).

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

8/2007
S. 14(b).

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

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

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

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

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

Provided that if there is probable cause for believing that the party chargeable with the fees is about to leave Jamaica, or to become bankrupt, or compound with his creditors or to do any act which would tend to prevent or delay the attorney obtaining payment, the Court may, notwithstanding that one month has not expired from the delivery of the bill, order that the attorney be at liberty to commence an action to recover his fees and may order those fees to be taxed.

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

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

L.N. 295/1973. (4) An attorney may without making an application to the Court under subsection (3) have the bill of his fees taxed by the taxing master after notice to the party intended to be charged thereby and the provisions of this Part shall apply as if a reference for such taxation has been ordered by the Court.

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

Where application is not to be granted. **24.** No reference shall be directed upon application made by the party to be charged after judgment has been obtained in any suit for the recovery of the fees of the attorney or after expiration of twelve months after the bill has been served except under special circumstances to be proved to the satisfaction of the Court to which application for reference has been made.

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

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

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

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

(3) The certification of the taxing officer or, as the case may be, the order of the Court under this section shall,

subject to rules of court, be final and conclusive as to the amount due.

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

Proof of compliance with Act.

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

Power to vary provisions.

PART VI. *Preparation of legal documents*

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

Name and address of draftsman to be endorsed on documents.

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

8/2007 S. 15.

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

Unqualified persons not to prepare documents.

8/2007 S. 16.

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

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

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

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

Savings for public officer and engrossing. 9/2012 S. 6. **34.** This Part shall not apply to any such class of document as may be prescribed nor any public officer drawing or preparing a legal document in the course of his duties as such, nor to the mere engrossing of a document.

PART VII. *Keeping of Accounts*

Regulations in respect of accounts. 9/2012 S. 6. **35.—(1)** The Council may make regulations—

(a) requiring attorney to—

- (i) keep accounting records containing particulars and information as to moneys received, held or paid, by them for or on account of their clients;
- (ii) furnish, at such intervals as may be prescribed, an accountant's report containing such information as may be prescribed;
- (iii) open and keep separate banking accounts for clients' money;

(b) prescribing the manner in which such banking accounts are to be operated.

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

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

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

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

38. Where a person is employed as an officer of Government or a local authority and at the same time engages in private practice as a lawyer the regulations under section 35 shall only apply to him so far as regards moneys received, held or paid by him in course of his private practice.

Saving for part-time practitioners.

PART VIII. *Miscellaneous*

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

Fees to be paid in the funds of the Council.

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

Power to make orders adapting existing law.

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

41. The Minister may, by order published in the *Gazette* and subject to affirmative resolution, upon the recommendation of the Council amend any monetary penalty imposed by this Act.

Amendments of penalties by order.
9/2012
S. 7

42.—(1) There shall be established a compensation fund, which shall be administered by the Council, for the purpose of compensating, on an *ex gratia* basis, persons who have suffered any loss of client property as a result of—

Compensation fund.
9/2012
S. 7.

- (a) any act or omission of an attorney, or former attorney;
- (b) any act or omission of an employee, or former employee, of an attorney or former attorney; or
- (c) the exercise by the Council of any of its powers under Part IVA.

(2) The Council may make regulations concerning maintenance, protection and administration of the compensation fund.

- (3) Without prejudice to the generality of subsection (2), regulations made under that subsection may provide for—
- (a) the sources of the funding of the compensation fund;
 - (b) the circumstances in which grants out of the compensation fund may or may not be made;
 - (c) the form or manner in which claims for compensation are to be made;
 - (d) the procedure for determining claims for compensation out of the compensation fund;
 - (e) the making of advances in respect of any claim for compensation out of the compensation fund before such claim is finally determined;
 - (f) the making of advances out of the compensation fund by way of loan in such circumstances and on such terms as may be prescribed in, or determined in accordance with, the regulations;
 - (g) the making of grants out of the compensation fund by way of making good any deficiency in moneys received by the Council pursuant to section 20D;
 - (h) the minimum and maximum grants payable out of the compensation fund in respect of a compensation claim, or a compensation claim of a prescribed description;
 - (i) the subrogation of the Council, to such extent as may be prescribed, to any rights and remedies of a person to whom compensation is paid out of the compensation fund in relation to the loss in respect of which the compensation is paid; and
 - (j) the criteria to be applied in deciding whether to make a grant in respect of a compensation claim or part of a compensation claim.

(4) For the purposes of subsection (3) (g), there is a deficiency if the moneys mentioned in that provision are insufficient to satisfy the claims of all persons with a beneficial interest in the moneys.

FIRST SCHEDULE

(Section 3)

The General Legal Council

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

Constitution
of General
Legal
Council.

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

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

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

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

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

Tenure
of office.

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

Chairman.

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

Acting
appoint-
ments.

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

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

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

Resigna-
tions.

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

Revocation of appointments.

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

Filling of vacancies.

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

Gazetting of appointments.

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

Incorporation.

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

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

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

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

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

Procedure and meetings.

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

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

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

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

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

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

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

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

Funds
of the
Council.

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

Accounts
and audit.

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

Annual
reports
and
estimates.

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

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

Protection
of members.

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

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

Remunera-
tion of
members.

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

Office of
chairman
not public
office

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

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

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

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

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

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

FOURTH SCHEDULE

(Section 14)

The Legal Profession (Disciplinary Proceedings) Rules

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

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

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

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

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

Lists of documents for hearing. Form 3. Form 4.

6. The notice shall be in Form 3 or Form 4 of the Schedule to these Rules, as the case may be, and shall require the applicant and attorney respectively to furnish to the secretary and to each other a list of all documents on which they respectively propose to rely. Such lists shall, unless otherwise ordered by the Committee, be furnished by the applicant and by the attorney respectively at least fourteen days before the day of hearing.

Inspection of documents.

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

Proceedings in absence of parties.

8. If either or both of the parties fail to appear at the hearing the Committee may, upon proof of service of the notice of hearing, proceed to hear and determine the application in his or their absence.

Application for rehearing.

9. Where the Committee have proceeded in the absence of either or both of the parties any such party may, within one calendar month from the pronouncement of the findings and order, apply to the Committee for a rehearing upon giving notice to the other party and to the Secretary. The Committee, if satisfied that it is just that the case should be reheard, may grant the application upon such terms as to costs or otherwise, as they think fit. Upon such rehearing the Committee may amend, vary, add to or reverse their findings or order pronounced upon such previous hearing.

Proceedings on evidence given by affidavit.

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

Provided that any party to the proceedings may require the attendance upon subpoena of any deponent to any such affidavit for the purpose of giving oral evidence, unless the Committee are satisfied that the affidavit is purely formal and that the requirement of the attendance of the deponent is made with the sole object of causing delay.

Subpoena. Form 5. Form 6.

11. A subpoena issued under section 14 of this Act may be in Form 5 or Form 6 of the Schedule to these Rules as may be appropriate in the particular circumstances, with such variations as the case may require.

Notice to parties of date of findings.

12. If the findings and order of the Committee are not pronounced on the day of hearing, notice shall be given to the parties of the date when the findings and order will be pronounced.

Filing of findings and order with Registrar.

13. The secretary shall on the day of pronouncement or if the Committee have suspended the filing of the findings and order pursuant to rule 19 of these Rules, forthwith upon the termination of the period for which such filing is so suspended, file the findings and order with the Registrar and shall within fourteen days of the date thereof send a copy thereof to the applicant, the attorney and to any other person specified by the Committee.

14. The Committee shall hear all applications in private, but shall pronounce their findings and orders in public. Applications to be heard in private.
15. No application shall be withdrawn after it has been sent to the secretary, except by leave of the Committee. Application for leave to withdraw shall be made on the day fixed for the hearing unless the Committee otherwise direct. The Committee may grant leave subject to such terms as to costs or otherwise as they think fit, or they may adjourn the matter under rule 16 of these Rules. Withdrawal of application.
16. The Committee may of their own motion, or upon the application of either party, adjourn the hearing upon such terms as to costs, or otherwise, as to the Committee may appear just. Adjournment of hearing.
17. If upon the hearing it appears to the Committee that the allegations in the affidavit require to be amended or added to, the Committee may permit such amendment or addition, and may require the same to be embodied in a further affidavit, if in the judgment of the Committee such amendment or addition is not within the scope of the original affidavit, so, however, that if such amendment or addition be such as to take the attorney by surprise or prejudice the conduct of his case, the Committee shall grant an adjournment of the hearing upon such terms as to costs or otherwise as to the Committee may appear just. Amendment of allegations in affidavit.
18. *[Deleted by Act 8 of 2007, S. 18.]*
19. *[Deleted by Act 8 of 2007, S. 18.]*
20. Notes of proceedings shall be taken by the secretary or other person appointed by the Committee: and any party who appeared at the proceedings shall be entitled to inspect the original or a copy thereof. Every person entitled to be heard upon an appeal against an order of the Committee shall be entitled to a copy of such notes on payment of the charges from time to time prescribed by the Committee. Notes of proceedings.
21. Service of any notice or documents required by these Rules may be effected by registered letter addressed to the last known place of abode or business of the person to be served, and proof that such letter was so addressed and posted shall be proof of service. Any notice or document required to be given or signed by the secretary may be given or signed by him or by any person duly authorized by the Committee in that behalf. Service of notice or documents.
22. Notwithstanding anything to the contrary the Committee may extend or abridge the time for doing anything under these Rules. Power to extend time.
23. All affidavits shall be filed and kept by the secretary. The Committee may order that any books, papers or other exhibits produced or used at a hearing shall be retained by the secretary until the time for appealing Secretary to retain affidavits.

LEGAL PROFESSION

has expired, and, if notice of appeal be given, until the appeal is heard or otherwise disposed of.

SCHEDULE

FORM 1

(Paragraph 3)

Form of Application against an Attorney-at-Law

To the Committee constituted under the Legal Profession Act, (Act 15 of 1971)

In the matter of

and an attorney-at-law.

In the matter of the Legal Profession Act.

I, the undersigned

hereby make application that*

of attorney-at-law, may be required

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

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

In witness thereof I have hereunto set my hand this

day of , 19 .

.....Signature

.....Address

.....Profession, business

or occupation.

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

FORM 2

(Paragraph 3)

Form of Affidavit by Applicant

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

.....
Signature or Mark of Applicant

Sworn at in the parish
of this day

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

.....
Justice of the Peace for the parish

of.....

LEGAL PROFESSION

FORM 3

(Paragraph 6)

Form of Notice by Committee to Applicant

Complaint Number of 19 .

In the matter of attorney-at-law and

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

To of

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

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

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

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

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

Dated the day of 19 .

Secretary, Disciplinary Committee.

FORM 4

(Paragraph 6)

Form of Notice by Committee to Attorney-at-Law

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

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

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

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

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

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

Dated the _____ day of _____, 19 ____ .

Secretary,
 Disciplinary Committee.

FORM 5

(Paragraph 11)

Form of Subpoena Ad Testificandum

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

LEGAL PROFESSION

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

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

To

GREETING:

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

Witness

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

FORM 6

(Paragraph 11)

Form of Subpoena Duces Tecum

In the Supreme Court of Judicature of Jamaica.

In the matter of _____

attorney-at-law

and

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

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

To

GREETING:

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

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

Witness

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