
Fifth Session Second Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 21 of 1986

[L.S.]

AN ACT to provide for the reorganisation and regulation of the legal profession for the qualification, enrolment and discipline of its members and for other matters relating thereto.

[Assented to 1st October, 1986]

WHEREAS it is enacted *inter alia* by subsection (1) of ^{Preamble} section 13 of the Constitution that an Act of Parliament to which that section applies may expressly declare that it shall have effect even though inconsistent with sections 4 and 5 of the Constitution and, if any such Act does so declare, it shall have effect accordingly:

And whereas it is provided by subsection (2) of the said section 13 of the Constitution that an Act of Parliament to which that section applies is one the Bill for which has been passed by both Houses of Parliament and at the final vote thereon in each House has been supported by the votes of not less than three-fifths of all the members of that House:

And whereas it is necessary and expedient that the provisions of this Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution:

Enactment

Now, THEREFORE, BE IT ENACTED by the Parliament of Trinidad and Tobago as follows:—

PART I

PRELIMINARY

Short title
and
commencement

1. (1) This Act may be cited as the Legal Profession Act, 1986.

(2) This Act shall come into operation on such date as the President may appoint by proclamation.

Act inconsistent
with sections 4
and 5 of the
Constitution

(3) This Act shall have effect even though inconsistent with sections 4 and 5 of the Constitution.

Interpretation

2. (1) In this Act—

“Agreement” means the Agreement, including the protocols thereto providing for a system of legal education and training and establishing the Council of Legal Education for the Commonwealth Caribbean and set out in the Schedule to the Council of Legal Education Act;

Chap. 39:50

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

“client” includes—

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

(b) in relation to non-contentious business, any person who, as a principal or on behalf of another or as a trustee or executor or in any other capacity, has power, express or implied, to retain or employ and retains or employs an attorney-at-law for such business;

“Commonwealth citizen” has the meaning assigned to it in section 15 of the Constitution;

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

“Council” means the Council of the Law Association constituted under section 4;

“Council of Legal Education” means the Council of Legal Education established under the Agreement;

“Disciplinary Committee” and “Committee” mean the Disciplinary Committee established by section 36;

“fees” includes charges, disbursements, expenses and remuneration;

“firm” means a partnership of attorneys-at-law;

“Fund” means the Compensation Fund established under section 54;

“Law Association” and “Association” mean the Law Association established by section 3;

“Minister” means the Minister responsible for Legal Affairs;

“practise law” means practise as a barrister or solicitor or an attorney-at-law, or the undertaking or performing of the functions of a barrister or solicitor or attorney-at-law as provided or recognised by any law whatever before or after the passing of this Act;

“practising certificate” means a certificate issued pursuant to section 23;

“Registrar” means the Registrar of the Supreme Court;

“Roll” means the list of attorneys-at-law kept by the Registrar in accordance with section 13;

“unqualified person” means a person who under section 20 is disqualified from practising law.

PART II

LAW ASSOCIATION

Establishment
of Law
Association

3. (1) There is hereby established a body corporate known as the Law Association of Trinidad and Tobago.

(2) The Association shall consist of practitioner members, non-practitioner members and honorary members.

Council to
manage
affairs of
Association
First Schedule

4. The affairs of the Association shall be managed and its functions performed by a Council constituted in accordance with the First Schedule.

Purpose of
Law
Association

5. The purposes of the Association are—

- (a) to maintain and improve the standards of conduct and proficiency of the legal profession in Trinidad and Tobago;
- (b) to represent and protect the interests of the legal profession in Trinidad and Tobago;
- (c) to protect and assist the public in Trinidad and Tobago in all matters relating to the law;
- (d) to promote good relations within the profession, between the profession and persons concerned in the administration of justice in Trinidad and Tobago and between the profession and the public generally;
- (e) to promote good relations between the profession and professional bodies of the legal profession in other countries and to participate in the activities of any international association of lawyers and to become a member thereof;
- (f) to promote, maintain and support the administration of justice and the rule of law;
- (g) to do such other things as are incidental or conducive to the achievement of the purposes set out at (a) to (f).

Practitioner
members

6. (1) Every attorney-at-law to whom a practising certificate is issued is a member of the Association and shall remain a member for so long as his practising certificate has effect.

(2) Subject to this Act, a practising certificate ceases to have effect where the practitioner member to whom it relates fails to pay—

- (a) his contribution to the Fund for one year; or
- (b) his subscription to the Association for three successive years.

(3) Every attorney-at-law who is a member of the Association by virtue of subsection (1) is in this Act referred to as a “practitioner member”.

7. A non-practitioner member is an attorney-at-law who is not the holder of a practising certificate. Non-practitioner members

8. The Council may confer honorary membership in the Association on such distinguished lawyers as it may think fit and may in its discretion revoke any such membership. Honorary members

9. (1) Subject to this section and section 10, all members of the Association have the same rights and privileges. Privileges of membership

(2) Only practitioner members who pay their annual subscription to the Law Association are eligible—

- (a) to attend and vote at a general meeting or at an election of members of the Council; or
- (b) to be elected to the Council.

(3) Practitioner members may by a resolution exclude from a general meeting of the Association or any part thereof all other members.

10. (1) A practitioner member or a non-practitioner member of the Association may in the prescribed manner, and upon such grounds as may be prescribed, after being given a reasonable opportunity to answer all allegations made against him— Expulsion and suspension of rights and privileges

- (a) be expelled from membership; or
- (b) be deprived of any one or more rights and privileges of membership.

(2) In this section “prescribed” means prescribed by rules made by the Council.

11. A member of the Association other than an honorary member, who ceases to be qualified for membership thereupon ceases to be a member. Termination of membership

Annual
subscription to
Association

12. (1) The amount of the annual subscription payable by members other than honorary members of the Association shall, subject to subsection (5), be fixed by the Council and shall be paid to the Association through the Registrar.

(2) The annual subscription is in respect of the period of twelve months commencing on the 1st October, in each year.

(3) In fixing the annual subscription the Council may divide the members into classes and provide that different amounts shall be paid by different classes of members and for different periods, and generally regulate and vary from time to time the subscription payable by members or by different classes of members as the Council may think fit.

(4) The Council may fix levies payable by practitioner members for any of the purposes of the Association.

(5) The annual subscription payable under subsection (1) and levies payable under subsection (4) shall not in any year exceed five hundred dollars per practitioner member or such greater sum as may be prescribed by resolution of a general meeting of the Association.

PART III

MEMBERSHIP OF THE LEGAL PROFESSION

Enrolment, Admission, Status

Roll of
Attorneys-at-law
to be kept

13. (1) The Registrar shall keep in accordance with this Act and any rules of court made under section 60, a chronological list (in this Act referred to as "the Roll") of all attorneys-at-law.

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

Registrar's duty
to register
persons
entitled to
practise
immediately
before this Act
Chap. 4:01
Chap. 6:50

14. (1) The Registrar shall, as soon as practicable after the commencement of this Act, cause to be registered on the Roll the name of every person that immediately before the commencement of this Act, appeared on the roll of barristers kept under section 85 of the Supreme Court of Judicature Act and on the roll of Solicitors kept under section 3 of the Solicitors Act, according to the dates on which they were respectively admitted to practise law.

(2) Where a person had changed his profession from that of solicitor to barrister or from barrister to solicitor, the relevant date for the entry of his name on the Roll is that when he was first admitted to practise in either profession.

(3) Upon payment of any fee that the President may by Order prescribe the Registrar shall cause to be registered on the Roll the name of every person admitted to practise law under section 15 or 16 according to the dates on which the person was admitted to practise law.

15. (1) Subject to this Act a person who makes application to the High Court and satisfies the Court that he— Admission to practise and right of appeal

(a) is a Commonwealth citizen,

(b) is of good character, and

(c) holds the qualifications prescribed by law, shall be eligible to be admitted by the court to practise as an attorney-at-law in Trinidad and Tobago.

(2) Before any person is admitted as an attorney-at-law, the Registrar shall enquire whether the person has fulfilled all the conditions for admission laid down by law, and if the Registrar is satisfied that the person has done so, he shall report accordingly to the High Court.

(3) The High Court may issue directions as to the manner in which the qualifications for admission to practise law may be proved and may order any person to furnish such evidence as may be requested for the purpose of this section or section 16.

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

(5) In this Part—

“High Court” and “Court” mean, subject to section 41(2), the High Court consisting of two or three judges;

“qualifications prescribed by law” means the qualifications for admission to practise law set out in the Agreement.

16. (1) The Minister may by Order provide that, subject Eligibility of non-citizen who has obtained prescribed qualifications to be admitted as an attorney-at-law to such exceptions, conditions and modifications as he may specify, a citizen or national of a country to which

this section applies who has obtained the qualifications prescribed by law shall be eligible to be admitted by the High Court to practise law in Trinidad and Tobago.

(2) This section applies to the country if the Minister after consultation with the Chief Justice is satisfied—

(a) that the law of that country relating to the admission of legal practitioners to practise law in a superior court of jurisdiction in that country is such as to ensure that a citizen of Trinidad and Tobago, who has obtained the qualifications and satisfied the conditions which would entitle a citizen or a national of that country to be admitted to practise as a legal practitioner in that country is entitled, or would if an Order were made under this subsection be or become entitled to admission as a legal practitioner of the superior courts of jurisdiction of that country; and

(b) that such entitlement to admission would be on terms as favourable as those which citizens or nationals of that country would, if an Order were made under this subsection, be or become entitled to admission as attorneys-at-law in Trinidad and Tobago.

(3) A person shall be eligible to be admitted to practise law under subsection (1) only upon satisfying the court of his qualifications and good character and upon payment of the prescribed fees.

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

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

17. Nothing in this Act affects any enactment relating to the placing of restrictions on any person, not being a citizen of Trinidad and Tobago, entering, leaving, residing, or working in Trinidad and Tobago.

Saving of enactments restricting persons other than citizens of Trinidad and Tobago

18. Every person, on being admitted to practise law, shall take the following oath: Oath to be taken on admission

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

19. (1) The Registrar shall, on request, issue to every attorney-at-law duly registered on the Roll a certificate of his enrolment in the form set out as Form 1 in the Second Schedule under the seal of the High Court and signed by the Registrar. Certificate of enrolment
Second Schedule Form 1

(2) The production of such certificate shall be *prima facie* evidence that the person named therein is duly enrolled as an attorney-at-law, and such certificate shall be admissible in evidence without further proof of the sealing and signing thereof by the Registrar.

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

- (a) subject to subsection (2), is entitled to practise law and to sue for and recover his fees for services rendered in that respect;
 - (b) subject to subsection (2)(b), has the right of audience before any court;
 - (c) subject to section 22 except where engaged as an advocate in any court, is subject to liability in respect of negligence in a professional capacity;
 - (d) is an officer of the Supreme Court save and except when he appears in the presentation of a case in any court or before any Tribunal.
- (2) No person may practise law unless—
- (a) his name is entered on the Roll in accordance with this Act; and
 - (b) he is the holder of a valid practising certificate.

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

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

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

Attorney-at-law
not to be
Justice of
the Peace

21. No attorney-at-law shall, so long as he shall be engaged in the business and practice of an attorney, be qualified or capable of holding the appointment of a Justice of the Peace, but such disability shall not extend to any attorney-at-law who may hold any office by virtue of which he is *ex officio* a Justice of the Peace.

Liability for
negligence and
lack of skill

22. (1) Subject to subsection (2) an attorney-at-law shall enjoy no special immunity from action for any loss or damage caused by his negligence or lack of skill in the performance of his function.

(2) An attorney-at-law is immune from suit in negligence in respect of his conduct of litigation only.

(3) The immunity referred to in subsection (2) is not confined to proceedings in court but extends to such pre-trial work as is so intimately connected with the conduct of the cause in court that it could fairly be said to be a preliminary decision affecting the way the cause is to be conducted at the hearing.

(4) In this section "function" means a function undertaken by an attorney-at-law in relation to the conduct or management of litigation or prospective litigation, whether performed in or out of court or before, during or after any court proceedings.

Practising
certificate

23. (1) An attorney-at-law who desires to practise law shall apply to the Registrar for a certificate to be called a practising certificate.

(2) On being satisfied that the attorney-at-law has paid his annual subscription to the Association under section 12 and his annual contribution to the Fund under section 56, the Registrar shall issue to him a practising certificate.

Second
Schedule
Form 2

(3) A practising certificate shall be in the form set out as Form 2 in the Second Schedule

(4) The Registrar shall cause to be published in the *Gazette*—

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

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

(5) A copy of the *Gazette* containing the name of any person published pursuant to subsection (4) is *prima facie* evidence in any court of the registration on the Roll of the name of, and the holding of a valid practising certificate by that person.

24. (1) In the cases enumerated in subsection (2), an attorney-at-law applying for a practising certificate shall, unless the High Court otherwise orders, give to the Registrar at least six weeks before the application is made notice of his intention to make the application and the High Court may in its discretion order the Registrar to issue or refuse the application or to issue a certificate to the applicant subject to such terms and conditions as it may think fit.

Court may in special cases order, issue or refusal of practising certificate or impose conditions on issue

(2) Subsection (1) applies to any case where an attorney-at-law makes an application for a practising certificate—

- (a) where for twelve months or more he has ceased to hold a valid practising certificate; or
- (b) while he is an undischarged bankrupt or there is in force against him a receiving order in bankruptcy; or
- (c) where having been suspended from practice or having had his name struck off the Roll, the period of his suspension has expired, or his name has been restored to the Roll, as the case may be; or
- (d) not having held a valid practising certificate within the twelve months next following the date of his registration on the Roll; or
- (e) when he has been adjudicated a person of unsound mind; or
- (f) without having paid any penalty, compensation or reimbursement or costs ordered by the Disciplinary Committee to be paid by him, or without having otherwise complied with any order of the Disciplinary Committee; or

- (g) after having had an order made against him for the issue of a writ of attachment; or
- (h) after having been adjudicated a bankrupt and obtained his discharge or after having entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors; or
- (i) after having had given against him any judgment which involves the payment of moneys other than costs and is not a judgment as to the whole effect of which upon him he is entitled to indemnity or relief from any other person, and without having produced to the Court evidence of the satisfaction of such judgment.

(3) In the event of an appeal having been made against a receiving order referred to in subsection (2)(b) or against the order for the issue of a writ of attachment referred to in subsection (2)(i), the court shall not refuse the application while the appeal is pending unless in its opinion the proceedings on the appeal have been unduly protracted by the appellant or are unlikely to be successful.

(4) Where, having regard to certain facts, a discretion becomes exercisable by the High Court in any of the cases set out in subsection (2)(a), (c), (d), (g), (h) and (i), as soon thereafter as a practising certificate has been issued in the exercise of such discretion to the applicant free of conditions, those facts shall cease to operate so as to require the attorney-at-law to give the notice mentioned in this section or to vest any discretion in the court.

Suspension of
practising
certificate

25. When and so long as any of the provisions of paragraph (b), (e), (f) or (g) of section 24(2) apply to an attorney-at-law, he shall be suspended from practising law.

Law Officers

Law officers as
attorney-at-law

26. (1) For the purposes of this Act, a law officer is an attorney-at-law who holds office in the Judicial and Legal Service established by the Judicial and Legal Service Act, which office is declared by Order of the Minister to be a law office.

Chap. 6:01

(2) A law officer so long as he remains a law officer shall be deemed to be the holder of a valid practising certificate and to be a practitioner member.

(3) A certificate in the form set out as Form 3 in the Second Schedule signed by the Minister or by a Chief Legal Officer to the effect that a particular person is a law officer is *prima facie* evidence of that fact. Second Schedule
Form 3

(4) In this section "Chief Legal Officer" means the Solicitor General, the Director of Public Prosecutions or the Chief Parliamentary Counsel.

27. Subject to subsection 9(2) a law officer is exempt from paying— Law officers
exempt

- (a) annual subscription to the Law Association; and
- (b) annual contribution to the Compensation Fund.

Removal from Roll and Suspension

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

29. (1) The Registrar shall make the appropriate entry or alteration in the Roll and publish the appropriate notice in the *Gazette* whenever— Removal from
Roll and
suspension
from practice
by order of
Court

- (a) the High Court orders the name of an attorney-at-law to be removed from the Roll or that the attorney-at-law be suspended from practising law;
- (b) by virtue of any law, the name of an attorney-at-law is removed from the Roll or an attorney-at-law is suspended from practising law,

but where there is an appeal against any order from which the suspension or removal results, the Registrar shall ensure that in the event of an appeal he takes no action under this section until the order has been confirmed on appeal.

(2) Where the name of an attorney-at-law is removed from the Roll his practising certificate ceases to be valid.

(3) During the period of suspension of an attorney-at-law from practising law, no practising certificate shall be issued to him and any practising certificate issued to him prior to such suspension ceases to be valid for the period of that suspension.

Expiration of suspension to be noted on Roll

30. Upon the termination of the suspension of an attorney-at-law from practising law, the Registrar shall forthwith cause a note of the termination of the suspension to be entered in the Roll against the name of the attorney-at-law, and cause a notice thereof to be published in the *Gazette*.

Restoration of name to Roll and termination of suspension

Application to Court

31. (1) An attorney-at-law whose name has been removed from the Roll or who has been suspended from practising law may, subject to section 32, apply to the High Court by petition to have his name restored to the Roll or the order of his suspension withdrawn, as the case may be.

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

Procedure on application

32. (1) On the hearing of an application made under section 31, the High Court may refer it to the Disciplinary Committee for a report, and may, if satisfied that the applicant is a fit and proper person to practise law, order that his name be restored to the Roll or that the order suspending him from practising law be withdrawn, as the case may be.

(2) Any order made by the High Court under this section restoring the name of an attorney-at-law or terminating the suspension of an attorney-at-law shall be published in the *Gazette* by the Registrar.

(3) Upon the publication in the *Gazette* of an order made under subsection (2) and on the payment of any fee prescribed under section 60(c), the Registrar shall make an appropriate entry on the Roll of the date and effect of the order, and where appropriate restore the name of the attorney-at-law to the Roll.

PART IV

PROFESSIONAL PRACTICE AND CONDUCT

Accounts

Power to make rules as to accounts

33. The Council may make rules with respect to the keeping and operating of accounts of clients' money by attorneys-at-law and without prejudice to the generality of the foregoing such rules may—

(a) prescribe the type of client's accounts to be kept, the manner of operating them, the

particulars to be recorded and the manner of recording them;

- (b) empower the Council generally to take such action as may be necessary to enable them to ascertain whether the rules are being complied with.

34. (1) In order to protect clients against loss of money or property held on their behalf by attorneys-at-law, the Council shall have power, upon an order of a judge of the High Court, to control the keeping and distribution of money held by a banker in any client's account of an attorney-at-law. Council's control of accounts in certain circumstances

(2) Subject to rules of court, a judge of the High Court, if he thinks it necessary or expedient in the interests of the clients to do so, may make an order under subsection (1) where—

- (a) the judge after due inquiry is satisfied that an attorney-at-law or his servant or agent is guilty of fraud or improper conduct with respect to a client's money or property;
- (b) after the death of the attorney-at-law concerned if the attorney-at-law immediately before his death was practising as an attorney-at-law on his own account and not in partnership with another attorney-at-law.

Discipline

35. (1) The rules contained in the Code of Ethics set out in the Third Schedule shall regulate the professional practice, etiquette, conduct and discipline of attorneys-at-law. Rules to govern professional Third Schedule

(2) A breach of the rules in Part A may constitute professional misconduct and in Part B shall constitute professional misconduct.

(3) Where no provision is made by the rules in respect of any matter, the rules and practice of the legal profession which before the commencement of this Act govern the particular matter shall apply in so far as is practicable.

(4) The Council with the approval of the Chief Justice may amend the Third Schedule. Third Schedule

Disciplinary Committee and Proceedings

Disciplinary
Committee

36. (1) A disciplinary Committee (hereinafter referred to as "the Committee") is established for the purpose of dealing with complaints against attorneys-at-law.

(2) The Registrar, or where he so deputizes a Deputy Registrar or an Assistant Registrar, shall perform the duties of secretary to the Committee.

Fourth Schedule

(3) The provisions of the Fourth Schedule shall have effect in relation to the constitution of the Committee and other matters relating to it.

(4) Expenses incurred by the Committee in the discharge of its functions shall be met from the Compensation Fund.

Complaints
to Committee

37. (1) A client or, by leave of the Committee, any other person alleging himself aggrieved by an act of professional misconduct (including any default) committed by an attorney-at-law, other than the Attorney General or a law officer, may apply to the Committee to require the attorney-at-law to answer allegations contained in a statutory declaration made by such person, and the Registrar or any member of the Committee may make a like application to the Committee in respect of allegations concerning any professional misconduct or any such criminal offence as may for the purposes of this section be prescribed by the Council with the approval of the Chief Justice.

(2) In any matter or hearing before any court, where the court considers that any act of professional misconduct or any criminal offence prescribed under subsection (1) has been committed by an attorney-at-law other than the Attorney General or a law officer, the court may make or cause the Registrar to make an application to the Committee in respect of the attorney-at-law under that subsection.

Disciplinary
proceedings
Fifth Schedule

38. (1) The Fifth Schedule shall have effect in relation to disciplinary proceedings against attorneys-at-law other than the Attorney General or law officers.

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

(3) Where in any proceedings before the Committee a person so conducts himself that had he been in proceedings before the High Court he would have been held in contempt, the Committee may make application to the High Court in accordance with rules made by the Rules Committee established under the Supreme Court of Judicature Act for Chap. 4:01 an order of committal.

(4) The conviction of an attorney-at-law of a criminal offence may, for the purposes of disciplinary proceedings against him, be accepted by the Disciplinary Committee as proof of his having committed the offence.

39. (1) On the hearing of an application under this Part, ^{Powers of Disciplinary Committee} the Committee may—

- (a) dismiss the application,
- (b) impose on the attorney-at-law to whom the application relates, such fine as it thinks proper, or
- (c) reprimand the attorney-at-law to whom the application relates, and

(d) make such order as to costs as it thinks fit, and in addition, except where the application is dismissed, the Committee may order the attorney-at-law to pay the applicant or person aggrieved such sum by way of compensation and reimbursement and such further sum in respect of expenses incidental to the hearing of the application and the consideration of the report as it thinks fit.

(2) The removal from the Roll of the name of an attorney-at-law shall not be a bar to the continuation of the hearing and determination of an application.

(3) Where the Committee is of the opinion that a case has been made out which justifies punishment more severe than may be imposed by it under this section such as suspension from practice or removal from the Roll, the Committee shall forward to the Chief Justice and to the Attorney General a copy of the proceedings before it and its findings thereon.

(4) Every decision or order made under this section shall be drawn up, settled and signed by the Registrar who shall keep a written record of any such decision or order.

(5) Where an attorney-at-law is ordered by the Committee to pay compensation or to make reimbursement to an applicant or other aggrieved person, any compensation or reimbursement shall be taken into account in the assessment of damages recoverable against the attorney-at-law in any civil proceedings brought against him by the applicant or other aggrieved person in respect of any act or default which was the subject matter of the application which gave rise to the order by the Committee.

Appeal from
Disciplinary
Committee

40. (1) An attorney-at-law aggrieved by a decision given or penalty imposed by the Disciplinary Committee may appeal against that decision or penalty to the Court of Appeal.

(2) Upon an appeal under this section, the Court of Appeal may affirm or set aside the decision or penalty appealed against or may substitute any other decision or penalty which the Disciplinary Committee could have made or imposed or resubmit the matter to the Disciplinary Committee for a rehearing.

Disciplinary
proceedings by
Supreme Court

41. (1) Without prejudice to any other rule of law or to any rule of practice whereby the Supreme Court is empowered to take disciplinary action against a person admitted to practise as an attorney-at-law before it, it is hereby declared that the High Court has the power to take disciplinary action in accordance with rules of court made for the purpose under section 78(1)(l) of the Supreme Court of Judicature Act with respect to his professional conduct against an attorney-at-law and in particular the High Court may make any one or more of the following orders, namely:

- (a) an order removing from the Roll the name of the attorney-at-law against whom disciplinary proceedings have been instituted;
- (b) an order suspending the attorney-at-law from practice for such time as the High Court deems fit;
- (c) such order as to costs, as regards both the proceedings before it and the proceedings before the Disciplinary Committee as the High Court deems fit;
- (d) such further or other order as the circumstances of the case may require.

(2) In the exercise of the powers under subsection (1) the High Court shall sit as a full court consisting of three judges.

(3) The attorney-at-law whose professional conduct is the subject of any disciplinary proceedings before the High Court shall be entitled as of right to appeal to the Court of Appeal from any decision or other determination of the High Court in such proceedings.

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

- (a) by the common law with respect to the discipline of, or
- (b) by any written law to deal with contempt of court committed by,
- barristers or solicitors shall continue to be exercisable after such commencement in relation to attorneys-at-law.

Saving of jurisdiction of courts

Disciplinary Offences

43. (1) No attorney-at-law shall wilfully and knowingly act as an agent in any action, or in any matter in bankruptcy or in relation to any business which can only be transacted by a person with legal qualifications, for any unqualified person, or permit his name to be made use of in any such action, or matter upon the account, or for the profit of any unqualified person, or send any process to any unqualified person, or do any other act enabling any unqualified person to appear, act or practise in any respect as an attorney-at-law in any such action or matter.

Attorney-at-law not to act as agent for unqualified person

(2) Where it appears to the Council that an attorney-at-law has acted in contravention of this section the Council shall make application to the High Court for his name to be struck off the Roll.

44. (1) No attorney-at-law whilst a prisoner in any prison shall as an attorney-at-law, in his own name or in the name of any other attorney-at-law, issue any writ or process, or commence, prosecute or defend any action or any matter in bankruptcy.

Attorney-at-law not to commence or defend actions whilst in prison

(2) An attorney-at-law commencing, prosecuting or defending any action, or matter in contravention of this section shall be incapable of maintaining any action for

the recovery of any costs in respect of any business done by him whilst so confined as aforesaid, and he and any attorneys-at-law permitting him to commence, prosecute or defend any such action or matter in his name are guilty of professional misconduct.

Employment of
person suspended
from practice

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

(2) An attorney-at-law who contravenes subsection (1) is guilty of professional misconduct.

General Offences

Unqualified
person acting
through
attorney-at-law

46. Where the High Court orders the name of an attorney-at-law to be struck off the Roll in respect of an offence under section 43, the unqualified person who was enabled by the conduct of the offender to act or practise as an attorney-at-law shall be guilty of an offence and liable on summary conviction to a fine of five thousand dollars and to imprisonment for one year.

Unlawful
practice and
similar
offences

47. (1) Subject to this Act, if a person whose name is not registered on the Roll or who is suspended from practising law—

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

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

(2) A person who, not being entitled to act as an attorney-at-law, acts in any respect as an attorney-at-law in any action or matter or in any court in the name or through the agency of an attorney-at-law entitled so to act

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

(3) This section does not extend to—

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

(i) drawing up or preparing instruments; or

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

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

(c) a person drawing or preparing—

(i) a will or other testamentary instrument;

(ii) an agreement under hand only;

(iii) a letter or power of attorney;

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

(4) Notwithstanding section 33 of the Summary Courts Act, an information for an offence under this section may be laid at any time within two years after the commission of the offence or within six months after the first discovery thereof by the informant. Chap. 4:20

48. If any person while suspended from practising law, or whose name has been removed from the Roll otherwise than at his own request seeks or accepts employment from an attorney-at-law in connection with the practice of that attorney-at-law, without previously informing him in writing of the suspension or removal from the Roll, he is liable on summary conviction to a fine of five thousand dollars and to imprisonment for one year. Unauthorised person seeking employment

PART V

REMUNERATION

General

49. In this Part—

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

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

Interpretation
of this Part

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

“taxing officer” means—

- (a) in relation to the High Court or any Court of Record, the Registrar of that court;
- (b) in relation to a Petty Civil Court, the Judge thereof.

Payments in advance and accountability

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

- (a) the amounts of money so received up to the date of the statement;
- (b) the dates when they were so received; and
- (c) the purposes for which they or so much of them as has been expended have been applied.

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

Recovery of Costs

Bills of costs no action without taxation

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

(2) The High Court may on the application of an attorney-at-law authorise him to commence or proceed with a suit for the recovery of any costs before the expiration of

fifteen days from the delivery of the copy of the bill of costs required by subsection (1) if it is satisfied that there is reasonable cause for believing that the person chargeable with the costs is about—

- (a) to leave Trinidad and Tobago;
- (b) to become bankrupt; and
- (c) to do any other act which would tend to prevent or delay the attorney-at-law from obtaining payment.

(3) If in any proceedings before a court—

- (a) the amount set out in a bill of costs is—
 - (i) sought to be recovered, or
 - (ii) disputed, and

(b) the bill or part thereof relates to matters in respect of which no scale of fees is prescribed, the court shall decide whether the fees set out in respect of those matters are fair and reasonable having regard to the work done or are excessive and shall allow or reduce them accordingly.

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

- (a) signed by the attorney-at-law or, in the case of a partnership, by any one of the partners either in his own name or in the name of the partnership; or
- (b) being enclosed in or accompanied by a letter signed in the manner specified in paragraph (a) referring to the bill, was duly served.

52. (1) The Association may, with the approval of the Chief Justice and the Minister, make rules prescribing and regulating the remuneration of attorneys-at-law in respect of non-contentious business.

Rules as to costs of attorneys-at-law for non-contentious business

(2) Rules made under this section may—

- (a) regulate the amount of remuneration with reference to—
 - (i) the position of the person for whom the attorney-at-law is concerned in the business, whether as vendor or purchaser, lessor or lessee, mortgagor or mortgagee or the like;

- (ii) the place where and the circumstances in which the business or any part thereof is transacted;
- (iii) the amount of the capital money or rent to which the business relates;
- (iv) the skill, labour and responsibility involved in the business on the part of the attorney-at-law;
- (v) the number and importance of documents prepared or perused without regard to length; and

(b) authorise and regulate—

- (i) the taking by an attorney-at-law from his client of security for payment of any remuneration to be ascertained by taxation or otherwise, which may become due to him; and

(ii) the allowance of interest.

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

(4) Notwithstanding the repeal of the Solicitors Act, the Solicitors (Professional Charges) Order made under section 55 of that Act shall be deemed to have been made under this section, and subject to this section, shall have effect.

Chap. 6:50

Agreement with respect to remuneration for non-contentious business

53. (1) Whether or not any rules are in force under section 52, an attorney-at-law and his client may either before or after or in the course of the transaction of any non-contentious business by the attorney-at-law, make an agreement as to the remuneration of the attorney-at-law in respect thereof.

(2) The agreement may provide for the remuneration of the attorney-at-law by a gross sum, or by commission or by percentage, or by salary, or otherwise, and it may be made on the terms that the amount of the remuneration stipulated in the agreement shall not include all or any disbursements made by the attorney-at-law in respect of searches, plans, travelling, stamps, fees or other matters.

(3) The agreement shall be in writing and signed by the person to be bound or his agent.

(4) The agreement may be sued and recovered on or set aside in the same manner and on the same grounds as an agreement not relating to the remuneration of an attorney-at-law; but if on any taxation of costs the agreement is relied on by the attorney-at-law and objected to by the client as unfair or unreasonable, the taxing officer may inquire into the facts and certify them to the Court, and if on that certificate it appears just to the Court that agreement should be cancelled, or the amount payable under it reduced, the Court may order the agreement to be cancelled, or the amount payable under it to be reduced, and may give consequential directions as the Court may think fit.

PART VI

COMPENSATION FUND

54. (1) There is hereby established a fund to be known as the Compensation Fund. Establishment and ownership of Fund

(2) The Fund shall be the property of the Council who shall hold it as trustee for the purposes of this Act.

55. (1) The Fund shall consist of the moneys and assets enumerated in Part A of the Sixth Schedule. Composition and administration of Fund Sixth Schedule

(2) The Council shall maintain and administer the Fund in accordance with the provisions of Part B of the Sixth Schedule.

56. (1) Subject to such exemptions as may be prescribed by this Act every practitioner member shall pay an annual contribution to the Fund of such amount as may be prescribed by the Council. Annual contribution to the Fund

(2) The annual contribution under this section is in respect of the period of twelve months commencing on the 1st October in each year and shall be paid to the Registrar who shall forthwith pay it into the Fund.

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

(2) A grant may be made under this section whether or not the attorney-at-law had a practising certificate in force when the act of dishonesty was committed, and notwithstanding that after the commission of that act the attorney-at-law has died or has had his name removed from the Roll, or has ceased to practise or been suspended from practice.

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

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

(b) the person to whom the grant is made shall have no right under bankruptcy or other legal proceedings or otherwise to receive any sum out of the assets of the attorney-at-law, clerk or servant in respect of the loss until the Council has been reimbursed the full amount of its grant.

(4) In subsection (3)(a) and (b) reference to the person to whom the grant is made or to the attorney-at-law, clerk or servant includes, in the event of death, insolvency or other disability, reference to the personal representative or any other person having authority to administer the estate of the deceased.

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

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

(7) For the purposes of enquiring into any matters which may affect the making or refusal of a grant under this section the Council or any committee appointed by

the Council and authorised by it to exercise any of its functions under this section or to assist it in the exercise of any such functions may administer oaths.

58. (1) Where the Council, on a complaint being made to it against an attorney-at-law, is satisfied that he has failed to account for money due to a person in connection with his practice as an attorney-at-law or in connection with any trust of which he is a trustee, and that that person has suffered or is likely to suffer hardship in consequence of the failure, the Council may, subject to this section, make to that person a grant (hereafter in this section called a "hardship grant") out of the Fund.

Compensation for
loss in cases of
hardship

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

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

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

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

- (a) the Council shall to the amount of the grant be subrogated to any rights and remedies of that person in respect of any matters giving rise to the failure of the attorney-at-law to account; and

(b) that person shall have no right under bankruptcy or other legal proceedings or otherwise to receive in respect of those matters any sum out of the assets of the attorney-at-law until the Council has been reimbursed the full amount of the grant.

(5) In paragraphs (a) and (b) of subsection (4), reference to the person to whom the grant is made or to the attorney-at-law include in the event of death, insolvency or other disability, references to the personal representative or any other person having authority to administer the estate of the deceased.

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

(7) For the purpose of enquiring into any matters which may affect the making or refusal of a hardship grant the Council or any Committee appointed by it and authorised by it to exercise any of its functions or to assist it in the exercise of any function may administer oaths.

59. Notwithstanding this Part—

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

Sixth Schedule

Savings and exceptions in respect of payments from Fund

PART VII

MISCELLANEOUS PROVISIONS

60. The Rules Committee established by section 77 of the Supreme Court of Judicature Act may make rules prescribing—

Power to make rules of court

- (a) the form of the Roll and the manner in which it is to be kept;
- (b) the practice and procedure to be followed in relation to applications for admission to practise in Trinidad and Tobago and to appeals under sections 15 and 31;
- (c) the fees to be paid by an attorney-at-law for the restoration of his name to the Roll under section 32;
- (d) the mode of exercise of the power conferred by section 34(1) on the Council to control the keeping and distribution of money held by a banker in any client's account of an attorney-at-law;
- (e) the circumstances and manner in which the High Court may make an order under section 34(1);
- (f) the practice and procedure to be followed in relation to applications to the Court of Appeal under this Act.

PART VIII

TRANSITIONAL PROVISIONS

61. The provisions of Part B of the First Schedule shall apply to the constituting of the first Council under this Act.

Constituting first Council First Schedule

62. Any application pending on the date of commencement of this Act—

Pending applications for admission

- (a) for admission to the Bar of Trinidad and Tobago,
- (b) for admission as a solicitor under the Solicitors Act,

shall be dealt with as if it were an application under section 16 for admission as an attorney-at-law and for this purpose shall be read with all necessary adaptations.

Pending disciplinary proceedings
G.N. No. 51 of 1965,
Chap. 6:50

63. Any disciplinary proceedings under the Barristers (Disciplinary Proceedings) Rules, or under the Solicitors Act, pending at the date of commencement of this Act, shall be dealt with as if they were proceedings under section 37, and for this purpose all documents forming part of the record of the proceedings shall be read with all necessary adaptations.

References to "barristers" or to "solicitors"

64. A reference to a barrister or to a solicitor in any written law or in any document having legal effect shall be construed in its application after the commencement of this Act, to include a reference to an attorney-at-law.

Period of qualification as an attorney-at-law

65. For the purposes of any law whereby the qualifications of any person, whether for an office or otherwise, depends upon his having been an attorney-at-law for a specified period, the number of years during which he was previously a barrister or a solicitor shall be treated as part of the period.

Amendments to Written Laws

Revocations and amendments
Chap. 4:01

66. (1) The Barristers (Disciplinary Proceedings) Rules made under section 78 of the Supreme Court of Judicature Act and the Solicitors Rules made under section 70 of the Solicitors Act are revoked.

Chap. 6:50

(2) The written laws mentioned in the first Column of the Seventh Schedule are amended in the manner specified in the Second Column of that Schedule.

Seventh Schedule

FIRST SCHEDULE

(Sections 4 and 61)

PART A

Council of the Law Association

Council to be governing and executive body of Association

1. The Council shall be the governing and executive body of the Association and shall exercise and perform such functions, duties and powers as are imposed or conferred upon it by this Act or any other enactment.

Types of members

2. (1) The Council shall consist of—
 (a) the immediate past President of the Association when he is resident in Trinidad and Tobago,
 (b) elected members comprising—
 (i) officers of the Association, and
 (ii) ordinary members,
 who shall be nationals of Trinidad and Tobago.

(2) In this paragraph "national" means a citizen of Trinidad and Tobago and a person who is a resident of Trinidad and Tobago by virtue of section 5(1) of the Immigration Act.

Chap. 18:01

3. (1) The officers of the Association shall be the President, the Vice-President and the Treasurer who shall be elected at the same time as the ordinary members in accordance with paragraph 6 and the Secretary who shall be appointed by the Council as soon as it is constituted from among the ordinary members.

Officers of the Association

(2) Subject to paragraph 2, every practitioner member of the Association of more than ten years standing shall be eligible for election as President, Vice-President or Treasurer.

Officers to be of more than ten years standing

4. There shall be fifteen ordinary members of the Council comprising—
(a) ten practitioner members, each of whom shall be of not less than ten years standing on the day of his nomination for election to the Council; and

Ordinary members

(b) five practitioner members, each of whom shall be of not more than ten years standing on the day of his nomination for election to the Council.

5. In every year elections shall be held in accordance with this Schedule and any rules made thereunder for the election of President, Vice-President and Treasurer of the Association and the ordinary members of the Council.

Elections to be held every year

6. In the month of January every year the Council shall publish in the *Gazette* and in any other manner which it deems expedient so to do, the closing date for nomination of candidates for election to the Association and the Council.

Closing date for nomination

7. Every nomination of a candidate for election to the Association and the Council shall be in writing signed by not less than five practitioner members and shall name only one candidate whose consent shall be endorsed thereon.

Candidate's consent to be obtained

8. Election of elected members to the Council shall be held as soon as practicable after the month of January in every year but the names of the candidates nominated shall not be published before the first day of February in that year.

Date of election and the publication

9. Voting shall be by ballot.

Ballot voting

10. (1) A person may at the same election be a candidate for two or more of the offices of President, Vice-President, Treasurer and ordinary member of the Council.

Election to offices

(2) The election to these offices shall be determined in the order in which the offices are mentioned in subparagraph (1).

11. In the event of an equality of votes between candidates, the one to be declared elected shall be determined by lot in such manner as may be prescribed.

Equality of votes

- Names of members of new Council to be published in *Gazette* 12. (1) The names of the members of the new Council shall be published in the *Gazette*.
 (2) On the date of such publication the new Council shall be deemed to have been constituted and its members to have taken office.
 (3) On that date, the terms of office of the members of the previous Council shall expire.
- New Council 13. Subject to the provisions of this Act, all members of the Council shall hold office until the coming into office of a new Council in the following year under paragraph 12.
- Filling of vacancies 14. If a vacancy arises in the office of an elected member it shall be filled in one of the following ways—
 (a) where it arises less than six months after a member took office, by a by-election; and
 (b) where it arises six months or more after the member took office, by the appointment by the Council of a person qualified for election to the office.
- Presiding at meetings of Council and Association 15. (1) The President of the Association or, in his absence the Vice-President of the Association shall be the Chairman of the Council and the Association and shall preside at all meetings of the Council and the Association.
 (2) In the absence from a meeting of both the President and the Vice-President the members present shall select one of their members to preside at that meeting.
- Appointment of officer due to illness, etc. 16. Subject to paragraph 15, where for any reason an officer of the Association is unable to carry out his functions under this Act, the Council shall appoint a member from among the elected members of the Council to act in his place.
- Vacation of office of statutory member 17. The statutory member of the Council shall vacate his office if—
 (a) he is struck off the Roll or is suspended from practising as an attorney-at-law;
 (b) he becomes bankrupt or is insolvent;
 (c) he becomes of unsound mind; or
 (d) he resigns his seat on the Council.
- Vacation of office of elected member 18. An elected member shall vacate his office in any of the circumstances specified in paragraph 17 and shall also vacate his office if—
 (a) being elected under paragraph 5, he ceases for any reason to have in force a practice certificate; or
 (b) he is absent from three consecutive meetings of the Council without its consent.
- Quorum of Council 19. Seven members present at a meeting of the Council shall constitute a quorum for the transaction of any business.
- Out-of-pocket expenses to be paid to members of the Council 20. No fees shall be paid to any member of the Council but a member may be reimbursed from the funds of the Association for out-of-pocket and travelling expenses incurred by him in relation to the affairs of the Association.

21. (1) The Council shall convene an Annual General Meeting which shall be held on or before the 31st day of March in each year and shall cause to be prepared and presented to the Annual General Meeting—

Annual General Meeting

(a) a report on the activities of the Association, and

(b) proper accounts, duly audited, of all funds, property and assets of the Association,

for the year terminating on the 31st day of January preceding such General Meeting.

(2) The Auditor shall be appointed at each Annual General Meeting.

22. The Council may convene a Special General Meeting of the Association at such time or times as the Council deems expedient.

General Meeting

23. (1) Any twenty-five practitioner members of the Association may at any time requisition a Special General Meeting by written notice signed by them stating the objects of the meeting and served on the President, Vice-President or Secretary of the Association.

Twenty-five practitioner members can requisition general meeting

(2) The Council shall convene a General Meeting to be held within thirty days of the service of the notice.

(3) If the Council fails to convene a Special General Meeting within the time required by subparagraph (2), the requisitioning members may convene that General Meeting within sixty days of the service of the Notice.

Requisitioning members can convene meeting when Council fails to do so

24. At every General Meeting, every practitioner member present shall have one vote and the person presiding at that meeting shall have a casting as well as an original vote.

Chairman to have casting vote at general meeting

25. (1) All such powers, acts, or things which are not by this Act expressly authorised, directed or required to be exercised or done by the Association in General Meeting may, subject to this Act or any rules made thereunder or any resolution passed from time to time by the Association in General Meeting, be exercised or done by the Council.

Management of Association to be vested in Council

(2) No resolution of the Association passed under subparagraph (1) shall invalidate the previous exercise of any power or the previous doing of any act or thing by the Council which would have been valid if such resolution had not been passed.

26. (1) The Council shall have power to make rules to provide for all matters not expressly reserved to the Association in General Meeting (whether the same be expressed to be among its powers or not) and for all such things as may appear to it to be necessary or desirable for carrying out its functions under this Act or any other enactment.

Council to have power to make rules

(2) Without prejudice to the generality of the power conferred by subparagraph (1) the Council may make rules on any of the following matters—

(a) the manner of nominating candidates;

(b) the manner of communicating to members the names of the persons nominated for election;

(c) the form of nomination paper and the ballot paper;

(d) the times at which the various steps in an election are to take place;

(e) the mode of voting; and

(f) the number of practitioner members (not being less than fifty) to constitute a quorum at a General Meeting.

PART B

Constitution of First Council

1. Until the First Council is constituted and a person is appointed to perform the functions of Secretary of the Association, the Registrar shall perform these functions and shall be responsible for making arrangements for constituting the first Council and for holding elections for this purpose.

2. If any difficulties arise in applying any of the provisions of Part A of this Schedule to the constituting of the first Council, the Minister may issue directions modifying these provisions so far as may appear to him necessary or expedient for removing the difficulty, and the Registrar shall for the purpose of constituting the first Council apply these provisions as modified by the Minister.

3. Without prejudice to the generality of subparagraph (1), paragraph 4 of Part A of the First Schedule shall, for the purpose of constituting the first Council, apply as if—

- (a) the words "President of either the Bar Association or the Law Society" were substituted for "President of the Association" in paragraph (a); and
- (b) the words "of the Bar Association and of the Law Society" were substituted for the words "of the Association".

SECOND SCHEDULE

FORM 1

(Section 19(1))

THE LEGAL PROFESSION ACT, 1986

Certificate of Enrolment

It is hereby certified that _____ is registered on the Roll of attorneys-at-law under section 14 of the Legal Profession Act, 1986, his name having been entered on the Roll.

Dated this _____ day of _____, 19 _____.

Registrar of the Supreme Court

FORM 2

(Section 23(3))

THE LEGAL PROFESSION ACT, 1986

Practising Certificate

Pursuant to the Legal Profession Act, 1986, it is hereby certified that _____ whose name is registered on the Roll of the attorneys-at-law is entitled to practise as an attorney-at-law.

Dated this _____ day of _____, 1986.

Registrar of the Supreme Court

FORM 3

(Section 26(3))

THE LEGAL PROFESSION ACT, 1986

Law Officer's Certificate

It is hereby certified that _____ is
 a law officer holding the office of _____ in the
 Judicial and Legal Service established under the Judicial and Legal
 Service Act, Chap. 6:01.

Dated this _____ day of _____ 19 _____

Minister/Chief Legal Officer

THIRD SCHEDULE

(Section 35)

PART A

Code of Ethics

GENERAL GUIDELINES

I. In Relation to the Profession and Himself

1. An attorney-at-law shall observe the rules of this Code, maintain his integrity and the honour and dignity of the legal profession and encourage other attorneys-at-law to act similarly both in the practice of his profession and in his private life, shall refrain from conduct which is detrimental to the profession or which may tend to discredit it.

2. An attorney-at-law shall expose without fear or favour before the proper tribunals unprofessional or dishonest conduct by any other attorneys-at-law and shall not lightly refuse a retainer against another attorney-at-law who is alleged to have wronged his client or committed any other act of professional misconduct.

3. (1) An attorney-at-law shall scrupulously preserve his independence in the discharge of his professional duties.

(2) An attorney-at-law practising on his own account or in partnership, shall not engage in any other business or occupation if doing so may cause him to cease to be independent.

4. An attorney-at-law shall protect the profession against the admission thereto of any candidate whose moral character or education render him unfit for such admission.

5. (1) An attorney-at-law shall not endeavour by direct or indirect means to attract the clients of another attorney-at-law and where a client is referred to him by another attorney-at-law the client remains for all other purposes the client of the referring attorney-at-law and the attorney-at-law to whom the client is referred shall act with due deference to the relationship between the client and the referring attorney-at-law.

(2) Where a referred client offers other work to the attorney-at-law to whom he is referred and the offer is sufficiently proximate to the referral, that attorney-at-law shall not accept that offer unless it has been brought to the attention of the referring attorney-at-law.

6. An attorney-at-law may speak in public or write for publication on legal topics so long as he does not thereby advertise his own professional competence and is not likely to be regarded as being concerned thereby with the giving of individual advice.

7. The best advertisement for an attorney-at-law is the establishment of a well merited reputation for personal integrity, capacity, dedication to work and fidelity to trust and it is unprofessional—

(a) to solicit business by circulars or advertisements or interviews not warranted by personal relations;

(b) to seek retainers through agents of any kind.

8. An attorney-at-law shall defend the interests of his client without fear of judicial disfavour or public unpopularity and without regard to any unpleasant consequences to himself or to any other person.

9. Subject to paragraph 17, no attorney-at-law is obliged to act either as adviser or advocate for every person who may wish to become his client; he has a right to decline employment.

10. No client is entitled to receive nor should any attorney-at-law render, any service or advice involving disloyalty to the State or disrespect for judicial office or the corruption of any persons exercising a public or private trust or deception or betrayal of the public.

11. Every attorney-at-law should bear in mind that the oath of office taken on his admission to practise is not a mere form but is a solemn undertaking to be strictly observed on his part.

12. An attorney-at-law should also bear in mind that he can only maintain the high traditions of his profession by being a person of high integrity and dignity.

II. In Relation to the State and the Public

13. An attorney-at-law owes a duty to the State to maintain its integrity, its constitution and its laws and not to aid, abet, counsel or assist anyone to act in any way contrary to those laws.

14. When engaged as a public prosecutor the primary duty of an attorney-at-law is not to secure a conviction but to see that justice is done and to that end he shall not withhold facts tending to prove either the guilt or innocence of the accused.

15. An attorney-at-law shall endeavour by lawful means where the needs of society require, to promote and encourage the modernization, simplification and reform of the laws.

16. An attorney-at-law shall not by his actions, stir up strife or litigation by seeking out defects in titles, claims for personal injury or other causes of action for the purpose of securing a retainer to prosecute a claim therefor; or pay or reward any person directly or indirectly for the purpose of procuring him to be retained in his professional capacity, and where it is in the interest of his client he shall seek to obtain reasonable settlements of disputes.

17. An attorney-at-law shall not except for good reasons refuse his services in capital offences.

18. An attorney-at-law shall not be deterred from accepting proffered employment owing to the fear or dislike of incurring disapproval of officials other attorneys-at-law or members of the public.

19. Where an attorney-at-law consents to undertake legal aid and he is appointed by the Legal Aid and Advisory Authority or is requested by the Law Association and consents to undertake the representation of a person unable to afford such representation or to obtain legal aid, the attorney-at-law shall not, except for compelling reasons, seek to be excused from undertaking such representation.

20. An attorney-at-law in undertaking the defence of persons accused of crime shall use all fair and reasonable means to present every defence available at law.

III. In Relation to Clients

21. (1) An attorney-at-law shall always act in the best interests of his client, represent him honestly, competently and zealously and endeavour by all fair and honourable means to obtain for him the benefit of any and every remedy and defence which is authorised by law, steadfastly bearing in mind that the duties and responsibilities of the attorney-at-law are to be carried out within and not without the bounds of the law.

(2) The interests of his client and the exigencies of the administration of justice should always be the first concern of an attorney-at-law and rank before his right to compensation for his services.

22. (1) Before advising on a client's cause an attorney-at-law should obtain full knowledge thereof and give a candid opinion of the merits or demerits and probable results of pending or contemplated litigation.

(2) An attorney-at-law should beware of proffering bold and confident assurances to his client (especially where employment may depend on such assurances) always bearing in mind that seldom are all the law and facts on the side of his client and that "*audi alteram partem*" is the safest rule to follow.

(3) Whenever the controversy admits of fair adjustment an attorney-at-law should inform his client accordingly and advise to avoid or settle litigation.

23. (1) An attorney-at-law shall at the time of retainer disclose to his client all the circumstances of his relations to the parties and his interest in or connection with the controversy (if any) which might influence the client in his selection of an attorney-at-law.

(2) An attorney-at-law shall scrupulously guard and never divulge his client's secrets and confidences.

24. An attorney-at-law shall treat adverse witnesses, litigants and other attorneys-at-law with fairness and courtesy refraining from all offensive personal references and shall avoid imparting to his professional duties his client's personal feelings and prejudices.

25. It is the right of an attorney-at-law to undertake the defence of a person accused of crime regardless of his own personal opinion as to the guilt of the accused and having undertaken such defence he is bound by all fair and honourable means to present every defence that the law of the land permits so that no person may be deprived of life or liberty except by due process of law.

26. (1) An attorney-at-law may represent multiple clients only if he can adequately represent the interests of each and if each consents to such representation after full disclosure of the possible effects of multiple representation.

(2) In all situations where a possible conflict of interest arises, an attorney-at-law shall resolve all conflicts by leaning against multiple representation.

27. (1) An attorney-at-law shall deal with his client's business with all due expedition and shall whenever reasonably so required by the client provide him with full information as to the progress of the client's business.

(2) It is improper for an attorney-at-law to accept a case unless he can handle it without undue delay.

28. Where an attorney-at-law determines that the interest of his client requires it, he may with the specific or general consent of the client refer his business or part of it to another attorney-at-law whether or not a member of his own firm.

29. (1) An attorney-at-law on the record may instruct one or more attorneys-at-law to appear as advocates, in the same way as a solicitor on the record prior to the commencement of the Act, instructed Counsel.

(2) Senior Counsel shall be entitled to accept instructions, appear or do any work without a junior, except where he would be unable properly to carry out his instructions or conduct his case if he were to do so.

(3) Where more than one attorney-at-law appears as advocate for the same party in the same proceedings, who shall lead the conduct of that party's case shall, subject to the instructions of the client be settled by the attorneys-at-law representing that party before they appear in court and shall not be altered during the course of the proceedings and the leader shall have all authority over the conduct of the case.

30. An attorney-at-law including a Senior Counsel who appears with the leader is entitled to a negotiated fee appropriate for his conduct of the case.

31. (1) An attorney-at-law is entitled to reasonable compensation for his services but should avoid charges which either overestimate or undervalue the service rendered.

(2) The ability of a client to pay cannot justify a charge in excess of the value of the service rendered, though the client's indigence may require a charge that is below such value, or even no charge at all.

(3) An attorney-at-law should avoid controversies with clients regarding compensation for his services as far as is compatible with self-respect and his right to receive reasonable compensation for his services.

32. The right of an attorney-at-law to ask for a deposit or to demand payment of out-of-pocket expenses and commitments, failing payment of which he may withdraw from the case or refuse to handle it, shall not be exercised where the client may be unable to find other assistance in time to prevent irreparable damage being done.

33. Where an attorney-at-law engages a foreign colleague to advise on a case or to co-operate in handling it, he is responsible for the payment of the latter's charges except there is express agreement to the contrary, but where an attorney-at-law directs a client to a foreign colleague he is not responsible for the payment of the latter's charges, nor is he entitled to a share of the fee of his foreign colleague.

34. An attorney-at-law may at any time withdraw from employment—

- (a) where the client fails, refuses, or neglects to carry out an agreement with, or his obligation to, the attorney-at-law as regards the expenses or fees payable by the client;
- (b) where his inability to work with colleagues indicates that the best interest of the client is likely to be served by his withdrawal;
- (c) where his client freely assents to the termination of his employment;
- (d) where by reasons of his mental or physical condition or other good and compelling reason it is difficult for him to carry out his employment effectively; or
- (e) in cases of conflict as contemplated in Rule 26 of this part or Rule 11 of Part B hereof.

35. (1) An attorney-at-law should not appear as a witness for his own client except as to merely formal matters or where such appearance is essential to the ends of justice.

(2) If an attorney-at-law is a necessary witness for his client with respect to matters other than such as are merely formal, he should entrust the conduct of the case to another attorney-at-law of his client's choice.

IV. In Relation to the Courts and the Administration of Justice

36. (1) An attorney-at-law shall maintain a respectful attitude towards the court and shall not engage in undignified or discourteous conduct which is degrading to the court.

(2) An attorney-at-law shall encourage respect for the courts and the judges.

(3) An attorney-at-law shall support judges and magistrates against unjust criticisms.

(4) Where there is ground for complaint against a judge or magistrate an attorney-at-law may make representation to the proper authorities and in such cases, the attorney-at-law shall be protected.

37. An attorney-at-law shall endeavour always to maintain his position as an advocate and shall not either in argument to the court or in address to the jury assert his personal belief in his client's innocence or in the justice of his cause or his personal knowledge as to any of the facts involved in the matter under investigation.

38. An attorney-at-law should never seek privately to influence directly or indirectly the Judges of the Court in his favour or in the favour of his client, nor should he attempt to curry favour with juries by fawning, flattery or pretended solicitude for their personal comfort.

39. An attorney-at-law shall be punctual in attendance before the Courts and concise and direct in the trial and disposition of causes.

40. An attorney-at-law appearing before the Court shall at all times be attired in such a manner as prescribed or agreed by the proper authorities and as befits the dignity of the Court.

V. In Relation to his Fellow Attorneys-at-Law

41. (1) The conduct of an attorney-at-law towards his fellow attorneys shall be characterized by courtesy fairness and good faith and he shall not permit ill-feeling between clients to affect his relationship with his colleagues.

(2) All personal conflicts between attorneys-at-law should be scrupulously avoided as should also colloquies between them which cause delay and promote unseemly wrangling.

42. (1) An attorney-at-law shall reply promptly to letters from other attorneys-at-law making inquiries on behalf of their clients.

(2) An attorney-at-law shall endeavour as far as is reasonable to suit the convenience of the opposing attorney-at-law when the interest of his client or the cause of justice will not be injured by so doing.

43. An attorney-at-law shall not give a professional undertaking that he cannot fulfil, and he shall fulfil every such undertaking that he gives.

44. (1) There is a duty on every attorney-at-law to report improper or unprofessional conduct by a colleague to the Disciplinary Committee, save where the information relating to the improper or unprofessional conduct is received in professional confidence in which case he must respect the duty of silence imposed in such circumstances.

(2) An attorney-at-law shall expose without fear or favour before the proper tribunal unprofessional or dishonest conduct by another attorney-at-law and shall not lightly refuse a retainer against another attorney-at-law who is alleged to have wronged a client.

45. Where an attorney-at-law has been sent money, documents or other things by a colleague which, at the time of sending, are expressed to be sent only on the basis that the attorney-at-law to whom they are sent will receive them on his undertaking to do or refrain from doing some act, the receiving attorney-at-law shall forthwith return whatever was sent if he is unable to accept them on such undertaking, otherwise he must comply with the undertaking.

46. An attorney-at-law shall not in any way communicate upon a subject in controversy or attempt to negotiate or compromise a matter

directly with any party represented by another attorney-at-law except through such other attorney-at-law or with his prior consent.

47. (1) An attorney-at-law shall not ignore the customs or practices of the legal profession even when the law expressly permits it, without giving timely notice to the opposing attorney-at-law.

(2) An attorney-at-law should avoid all sharp practices and should refrain from taking any paltry advantage when his opponent has made or overlooked some technical error or matter, bearing in mind that no client has a right to demand that an attorney-at-law representing him shall be illiberal or shall do anything repugnant to his own sense of honour and propriety.

48. An attorney-at-law shall not accept instructions to act in Court proceedings in which to his knowledge the client has previously been represented by another attorney-at-law, unless he first notifies the other attorney-at-law of the change, and makes reasonable efforts to ensure that attorney has been paid for his services, but shall be deemed to have notified the other attorney-at-law if he has made reasonable efforts to notify him.

49. An attorney-at-law shall not accept instructions to act in proceedings (other than Court proceedings) in which to his knowledge, another attorney-at-law has previously represented the client unless he makes reasonable efforts to ascertain that the retainer of that attorney-at-law has been determined by the client, or that the client wishes both attorneys-at-law to represent him.

50. An attorney-at-law who instructs or employs another attorney-at-law to act on behalf of his client, unless otherwise agreed, shall pay the proper fee of such attorney-at-law whether or not he has received payment from his client.

51. In undertaking to render assistance to a foreign colleague, an attorney-at-law shall remember that his responsibility is much greater both when giving advice and handling a case, that it would be had he undertaken to assist a colleague in Trinidad and Tobago.

VI. General

52. Nothing herein contained shall be construed as derogating from any existing rules of professional conduct and duties of an attorney-at-law which are in keeping with the traditions of the legal profession although not specifically mentioned herein.

53. Where in any particular matter explicit ethical guidance does not exist, an attorney-at-law shall determine his conduct by acting in a manner that promotes public confidence in the integrity and efficiency of the legal system and the legal profession.

54. (1) A person who previously held a substantive appointment as a Judge of the Supreme Court shall not appear as an attorney-at-law in any of the Courts of Trinidad and Tobago for a period of ten years commencing on the date of his retirement, resignation or other termination of such appointment.

(2) This rule shall not apply to a person who is appointed to act as a Judge in a temporary capacity.

PART B

Mandatory Provisions and Specific Prohibitions

1. An attorney-at-law shall not practise as such unless he has been issued a practising certificate in accordance with the provisions of the Act.

2. (1) An attorney-at-law shall never knowingly mislead the Court.

(2) An attorney-at-law shall not withhold facts or secrete witnesses in order to establish the guilt or innocence of the accused.

3. An attorney-at-law shall not hold out any person who is not qualified to practise law as a partner associate, consultant or attorney-at-law.

4. An attorney-at-law shall not solicit business or consent to become involved in a matter unless at the request of a party thereto. Provided however that it is proper for an attorney-at-law to become involved in matters assigned to him by the Legal Aid and Advisory Authority or referred by the Law Association or by another attorney-at-law or for which he is engaged in any other manner not inconsistent with these Rules.

5. An attorney-at-law shall not in the carrying on of his practice or otherwise permit any act or thing which is likely or is intended to attract business unfairly or can reasonably be regarded as touting or advertising.

6. (1) An attorney-at-law shall not in any way make use of any form of advertisement calculated to attract clients to himself or any firm with which he is associated and he shall not permit, authorise or encourage anyone to do so or reward anyone for doing so on his behalf.

(2) An attorney-at-law shall not permit his professional standing to be used for the purpose of advertising any particular product, service or commercial organization.

(3) An attorney-at-law shall not advertise for business indirectly by furnishing or inspiring newspaper comment concerning cases or causes in which an attorney-at-law has been or is connected or concerning the manner of their conduct, the magnitude of the interests involved, the importance of the attorney-at-law's position and any similar self-laudations.

Provided however that—

(a) an attorney-at-law may permit limited and dignified identification of himself as an attorney-at-law—

- (i) in political advertisements relevant to the course of a political campaign or issue;
- (ii) in public notices where the announcement of his professional status is required or authorised by law, or is reasonably necessary for a purpose other than the attraction of potential clients;
- (iii) in reports and announcements of *bona fide* commercial, civic, professional or political organizations in which he serves as a director or officer;

- (iv) in and on legal textbooks, articles, professional journals and other legal publications and in dignified and restrained advertisements thereof;
 - (v) in announcements of any public address, lecture, or publication by him on legal topics, provided that such announcements do not emphasize his own professional competence and are not likely to be regarded as being concerned with the giving of individual advice by him.
- (b) An attorney-at-law may speak in public or write for publication on legal topics so long as he does not thereby emphasize his own professional competence and is not likely to be regarded as being concerned thereby with the giving of individual advice.
- (c) The following cards, office signs, letterheads or directory listings may be used by an attorney-at-law but in a restrained and dignified form—
- (i) a professional card identifying the attorney-at-law by name and as an attorney-at-law giving his decorations and degrees, legal or otherwise, his addresses, telephone numbers and the name of his law firm or professional associates so however that such cards are not published in the news media and are only handed out on request and for the purposes of identification or address;
 - (ii) a brief professional announcement card to be delivered only to attorneys-at-law, clients, personal friends and relations and government bodies and stating new or changed associations or addresses, changes of firm name or like professional matters;
 - (iii) a sign or a size and design compatible with the existing practice of the profession, on or near the door of the office and in the building directory identifying the law office;
 - (iv) a letterhead identifying the attorney-at-law by name and as an attorney-at-law and giving his decorations and degrees, legal or otherwise, his addresses, telephone numbers and the name of his law firm and of his associates;
 - (v) a listing in a telephone directory, a reputable law list, legal directory or biographical reference giving brief biographical or other relevant information; and any such professional card, office sign, letterhead or listing may state the attorney-at-law is also a notary public.

7. Where an attorney-at-law commits any criminal offence which in the opinion of the Disciplinary Committee is of a nature likely to bring the profession into disrepute, such commission of the offence shall constitute professional misconduct if—

- (a) he has been convicted by any Court, including a foreign Court of competent jurisdiction, for the offence; or

- (b) although he has not been prosecuted the Committee is satisfied of the facts constituting the criminal offence; or
- (c) he has been prosecuted and has been acquitted by reason of a technical defence or he has been convicted but such conviction is quashed by reason of some technical defence.

8. An attorney-at-law shall not acquire directly or indirectly by purchase, or otherwise a financial or other interest in the subject matter of a case which he is conducting.

9. (1) An attorney-at-law shall not enter into partnership or fee sharing arrangements concerning the practice of law with non-qualified bodies or persons.

(2) An attorney-at-law shall not enter into an agreement for or charge or collect a fee in contravention of these Rules or any other law.

10. (1) An attorney-at-law shall not charge fees that are unfair or unreasonable.

(In determining the fairness and reasonableness of a fee the following factors may be taken into account—

- (a) the time and labour required, the novelty and difficulty of the questions involved and the skill required to perform the legal service properly;
- (b) the likelihood that the acceptance of the particular employment will preclude other employment by the attorney-at-law;
- (c) the fee customarily charged in the locality for similar legal services;
- (d) the amount, if any involved;
- (e) the time limitations imposed by the client or by the circumstances;
- (f) the nature and length of the professional relationship with the client;
- (g) the experience, reputation and ability of the attorney-at-law concerned;
- (h) any scale of fees or recommended guide as to charges prescribed by law or by the Law Association).

(2) An attorney-at-law shall not accept any fee or reward for merely introducing a client or referring a case or client to another attorney-at-law.

(3) An attorney-at-law shall not charge a contingency fee save and except reasonable commissions on collection of liquidated claims with the prior agreement of the client.

11. (1) Except with the specific approval of his client given after full disclosure, an attorney-at-law shall not act in any manner in which his professional duties and his personal interests conflict or are likely to conflict.

(2) An attorney-at-law shall not accept or continue his retainer or employment on behalf of two or more clients if their interests are likely to conflict or if his independent professional judgment is likely to be impaired.

12. (1) An attorney-at-law who withdraws from employment under Rule 34 of Part A shall not do so until he has taken reasonable steps to avoid foreseeable prejudice or injury to the position and rights of his client including—

- (a) giving due notice;
- (b) allowing time for employment of another attorney-at-law;
- (c) delivering to the client all documents and property to which he is entitled subject however to any lien which the attorney-at-law may have over the same;
- (d) complying with such laws, rules or practice as may be applicable; and
- (e) where appropriate, obtaining the permission of the Court where the hearing of the matter has commenced.

(2) An attorney-at-law who withdraws from employment shall refund promptly such part of the fees, if any, already paid by his client as may be fair and reasonable having regard to all the circumstances.

13. An attorney-at-law shall withdraw forthwith from employment or from a matter pending before a tribunal—

- (a) where the client insists upon his representing a claim or defence that he cannot conscientiously advance;
- (b) where the client seeks to pursue a course of conduct which is illegal or which will result in deliberately deceiving the Court;
- (c) where a client has in the course of the proceedings perpetrated a fraud upon a person or tribunal and on request by the attorney-at-law has refused or is unable to rectify the same;
- (d) where his continued employment will involve him in the violation of the law or a disciplinary rule;
- (e) where the client by any other conduct renders it unreasonably difficult for the attorney-at-law to carry out his employment as such effectively, or in accordance with the judgment and advice of the attorney-at-law, or the rules of law or professional ethics;
- (f) where for any good and compelling reason it is difficult for him to carry out his employment effectively.

14. An attorney-at-law shall not retain money he received for his client for longer than is absolutely necessary.

15. An attorney-at-law shall never disclose, unless lawfully ordered to do so by the Court or required by statute, what has been communicated to him in his capacity as an attorney-at-law by his client's attorney-at-law and this duty not to disclose extends to his partners, to junior attorneys-at-law assisting him and to his employees provided however that an attorney-at-law may reveal confidences or secrets necessary to establish or collect his fee or to defend himself or his employees or associates against an accusation of wrongful conduct.

16. An attorney-at-law shall not permit his professional services or his name to be used in any way which would make it possible for persons who are not legally authorised to do so to practise law.

17. An attorney-at-law shall not delegate to a person not legally qualified and not in his employ or under his control, any functions which are by the laws of Trinidad and Tobago only to be performed by a qualified attorney-at-law.

18. In the performance of his duties an attorney-at-law shall not act with inexcusable or undue delay, negligence or neglect.

19. An attorney-at-law shall not engage in undignified or discourteous conduct which is degrading to the Court or his profession.

20. An attorney-at-law shall not wilfully make false accusations against a Judge or Magistrate.

21. An attorney-at-law who holds a public office shall not use his public position to influence or attempt to influence a tribunal to act in favour of himself or of his client.

22. An attorney-at-law shall not accept private employment in a matter upon the merits of which he previously acted in a judicial capacity or for which he had substantial responsibility while he was in public employment.

23. An attorney-at-law shall not give, lend or promise anything of value to a Judge, juror or official of a tribunal before which there is a pending matter in which he is engaged.

24. In any proceedings in a Court an attorney-at-law shall not communicate or cause any other person to communicate with a juror as to the merits of such proceedings, and shall only do so with a Judge or person exercising judicial functions—

(a) in the normal course of the proceedings; or

(b) where authorised by law, or the practice of the Courts.

25. An attorney-at-law shall not for the purpose of making any person available as a witness, advise or cause that person to secrete himself or leave the jurisdiction of the Court.

26. An attorney-at-law shall not pay or offer to pay or acquiesce in the payment of compensation to a witness for giving evidence in any cause or matter save as reimbursement for expenses reasonably incurred and as reasonable compensation for loss of time in attending for preparation and for testifying, and in the case of an expert witness a reasonable fee for his professional services.

27. An attorney-at-law shall not knowingly use perjured testimony or false evidence or participate in the creation of or use of evidence which he knows to be false.

28. An attorney-at-law shall not counsel or assist his client or a witness, in conduct that the attorney-at-law knows to be illegal or fraudulent, and where he is satisfied that his client has in the course of the particular representation perpetrated a fraud upon a person or tribunal, he shall promptly call upon him to rectify the same.

29. An attorney-at-law shall not knowingly make a false statement of law or fact.

30. (1) An attorney-at-law shall not commit a breach of an undertaking given by him to a Judge, a Court or other Tribunal or an official thereof, whether such undertaking relates to an expression of intention as to future conduct or is a representation that a particular state of facts exists.

(2) An attorney-at-law shall not knowingly represent falsely to a Judge, a Court or other Tribunal or to an official of a Court or other Tribunal, that a particular state of facts exists.

31. In pecuniary matters an attorney-at-law shall be most punctual and diligent, he shall never mingle funds of others with his own and he shall at all times be able to refund money he holds for others.

32. (1) An attorney-at-law shall keep such accounts as clearly and accurately distinguish the financial position between himself and his client as and when required.

(2) An attorney-at-law shall comply with such rules as may be made by the Council under section 33 of the Act.

Provided that nothing contained in Rules 31 and 32 shall deprive an attorney-at-law of any recourse or right whether by way of lien, set-off, counterclaim, charge or otherwise against monies standing to the credit of a client's account maintained by that attorney-at-law.

33. An attorney-at-law shall reply promptly to any letter received from the Law Association relating to his professional conduct.

34. Where no provision is made in these rules in respect of any matter, the rules and practice of the legal profession which formerly governed the particular matter shall apply in so far as is practicable.

35. (1) Breach by an attorney-at-law of any of the Rules contained in this Part shall constitute professional misconduct and an attorney-at-law who commits such a breach shall be liable to any of the penalties which the Disciplinary Committee and/or the Court is empowered to impose.

(2) Breach by an attorney-at-law of any of the provisions of Part A of this Code while not automatically amounting to punishable professional misconduct is a derogation from the high standards of conduct expected from an attorney-at-law and may, depending on the circumstances of the particular case, amount to such misconduct or form a material ingredient thereof.

FOURTH SCHEDULE

(Section 36)

THE DISCIPLINARY COMMITTEE

Constitution and membership

1. (1) The Disciplinary Committee shall consist of the President of the Association and fifteen other persons appointed by the Chief Justice after consultation with the Council.

(2) The appointed members shall include three members of the Council.

(3) Subject to subparagraph (4) the other appointed members shall be attorneys-at-law of not less than ten years standing.

(4) The Chairman and Vice-Chairman of the Committee shall be appointed by the Chief Justice after consultation with the Council and shall be members who have held high judicial office or, are attorneys-at-law of not less than ten years standing.

Term of office

2. Subject to the provisions of this Schedule the members of the Committee shall hold office for a period not exceeding three years, and are eligible for re-appointment.

Power of Disciplinary Committee to sit in divisions

3. (1) For the purposes of hearing applications made pursuant to section 37 of the Act, the Disciplinary Committee may sit in two divisions.

(2) Subject to the directions of the Council, the Chairman of the Committee shall determine the composition of each division.

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

Resignation

4. A member of the Committee may at any time resign his office by letter addressed to the Chief Justice and to the Chairman of the Committee.

Revocation of appointment

5. The Council may, if it thinks it expedient so to do and with the approval of the Chief Justice, at any time revoke the appointment of any member of the Committee.

Filling of vacancies

6. Where an appointed member of the Council vacates his seat before the expiration of his term of office a person similarly qualified to him shall be appointed in a similar manner to fill the vacancy for the remainder of that term of office.

Publication of membership

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

Liability for default of Committee

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

Proceedings at meetings

9. (1) The Committee shall meet in private at such times as may be expedient for the transaction of business and such meeting shall be held in such places and times and on such days as the Committee shall determine.

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

(3) If, at any meeting of the Committee, the Chairman or Vice-Chairman is for any reason unable to act as such, the members present may elect one of their members to preside at that meeting.

(4) The quorum of the Committee shall, subject to paragraph 3, be three.

(5) The validity of any proceedings of the Committee shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.

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

FIFTH SCHEDULE

(Section 38)

THE LEGAL PROFESSION (DISCIPLINARY PROCEEDINGS) RULES, 1986

1. These Rules may be cited as the Legal Profession (Disciplinary Proceedings) Rules, 1986. Short title

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

3. An application to the Committee to require an attorney-at-law to answer allegations contained in an affidavit shall be in writing under the hand of the applicant in Form 1 of the Appendix and shall be sent to the Secretary together with an affidavit by the applicant in Form 2 of the Appendix stating the matters of fact on which he relies in support of his application. 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 it thinks fit, and in any case where in the opinion of the Committee, no *prima facie* case is shown, the Committee may, without requiring the attorney-at-law to answer the allegations, dismiss the application and notify the applicant and the attorney-at-law of the dismissal. Further information and document no case to answer

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

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

- Inspection of document** 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 parties fail to appear at the hearing the Committee may, upon proof of service of the notice of hearing, proceed to hear and determine the application in his or their absence.
- Affidavit evidence** 9. The Committee may in its discretion, either as to the whole case or as to any particular facts, proceed and act upon evidence given by affidavits.
- Committee may summon deponent to give oral evidence** 10. Where the Committee proceeds to act upon evidence given by affidavit in accordance with rule 9, any party to the proceedings may require any deponent to any such affidavit to be summoned to appear before the Committee, unless the Committee is satisfied that the affidavit is purely formal and the requirement of the appearance of the deponent is made with the sole object of causing delay.
- Subpoena Form 5** 11. A summons issued by the Committee under section 38 of this Act may be in Form 5 of the Appendix 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 date of hearing, notice shall be given to the parties of the date when the findings and order will be pronounced.
- Applications to be heard in private** 13. The Committee shall hear all applications in private.
- Adjournment of hearing** 14. The Committee may of their own motion, or upon the application of either party, adjourn the hearing upon such terms as to the Committee may appear just.
- Notes of proceedings** 15. 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 the payment of the charges presented by the Committee.
- Service of notice of documents** 16. Service of any notice or document 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 authorised by the Committee in that behalf.
- Power to extend time** 17. Notwithstanding anything to the contrary the Committee may extend or abridge the time for doing anything under these Rules.
- Secretary to retain affidavits** 18. All affidavits shall be filed and kept by the Secretary. The Committee may order that any books, papers or other exhibits produced or used at a hearing shall be retained by the Secretary until the time for appealing has expired, and, if notice of the appeal be given, until appeal is heard or otherwise disposed of.

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

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

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

APPENDIX

FORM 1

(Paragraph 3)

Form of Application against an attorney-at-law

To the Committee constituted under the Legal Profession Act, 1986
In the matter of an attorney-at-law
and
In the matter of the Legal Profession Act, 1986

I, the undersigned hereby make application that* of attorney-at-law, may be required to answer the allegations contained in the affidavit which accompanies this application.

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

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

Signature

Address

Profession, business or occupation

FORM 2

(Paragraph 3)

Form of Affidavit by Applicant

(a) Name of attorney-at-law In the matter of (a) an attorney-at-law and In the matter of the Legal Profession Act, 1986

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

Sworn at _____ this day of _____, 19__

If the person making the Affidavit can read and write, strike out the words in bracket. (The same having first read over and explained to the deponent when he/she appeared fully to understand the same)

Before me:

.....
Justice of the Peace

FORM 3

(Paragraph 6)

Form of Notice by Committee to Applicant

Complaint No. _____ of 19__

In the matter of _____ attorney-at-law

and

In the matter of the Legal Profession Act, 1986 (Act _____ 1986)

To

of

The _____ day of _____, 19__ is the day fixed for the hearing of your application in the matter of _____ attorney-at-law by the Disciplinary Committee constituted under the Legal Profession Act, 1986.

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, 1986 proceed in your absence.

You are requested by the Rules under the Legal Profession Act, 1986, to furnish to the said _____ and the Secretary of the Committee at _____ at _____ day of _____ 19__ a list of all documents on which you propose to rely.

PART B

1. All moneys from time to time forming part of the Fund shall be applicable— Purposes of Fund

- (a) for payment of any costs, charges and expenses of establishing, maintaining, administering and applying the Fund;
- (b) for payment of any premiums on insurances effected by the Council under paragraph 4;
- (c) for repayment of any moneys borrowed by the Council for the purposes of the Fund and for payment of interest on any moneys so borrowed;
- (d) for payment of any grants which the Council may make under section 57 or 58;
- (e) for payment of any other sums properly payable out of the Fund by virtue of section 57 or this Schedule.

2. The Council may invest, in securities in which trustees are authorised by law to invest trust funds in their hands, any moneys which form part of the Fund and are not immediately required for any of the purposes provided for in this Act. Investment of moneys

3. (1) The Council may borrow for the purposes of the Fund from any Lender and may charge any investments of the Fund by way of security for any such loan. Power to borrow

(2) The aggregate sum owing at any one time in respect of any loans made under sub-paragraph (1) shall not exceed one hundred thousand dollars.

4. The Council may insure with any person authorised by law to carry on insurance business in Trinidad and Tobago for such purposes and on such terms as the Council may deem expedient in relation to the Fund. Power to insure

5. The accounts of the Fund shall be audited annually by an accountant appointed for the purpose by the Council. Annual Audit

SEVENTH SCHEDULE

[Section 66(2)]

AMENDMENTS TO WRITTEN LAWS

<i>First Column</i>	<i>Second Column</i>
The Supreme Court of Judicature Act, Chap. 4:01	1. In section 2, delete the definition of "roll". 2. In section 7(1) substitute for the words "of the Bar of Trinidad and Tobago" occurring in lines two and three, the words "is an attorney-at-law within the meaning of the Legal Profession Act".

First Column

The Judicial and
Legal Service Act,
Chap. 6:01

The Solicitors Act
Chap. 6:50

Rules of the Supreme
Court 1975
L.N. No. 121 of 1980

Second Column

3. In section 77, substitute for paragraphs (e) and (f), the following—

“(e) two practitioner members of the Law Association nominated by the Council of the Law Association and who shall hold office for three years”.

4. Substitute for section 78(1)(i) the following—

“(1) for regulating and prescribing the procedure in disciplinary proceedings against attorneys-at-law.”

5. Repeal sections 85 to 95 and the Schedule.

Repeal section 5 and the Third Schedule.

Repeal the whole Act.

In order 58A—

- (a) revoke and replace rule 1 by the following—

“Interpretation

1. In this Order—

“the Act” means the Legal Profession Act, 1986;

“the Committee” means the Disciplinary Committee established by section 36 of the Act;

“the Court” means the High Court sitting as a full court consisting of three judges;

“the Roll” means the list of attorneys-at-law kept by the Registrar in accordance with section 13 of the Act;

“the Rules” means the Legal Profession (Disciplinary Proceedings) Rules, 1986.”;

*First Column**Second Column*

- (b) in rule 2(1), substitute the words "section 39(2) of the Act" for the words "rule 17 of the Rules", and in rules 2(1) and (5), substitute the words "section 41 of the Act" for the words "section 81(3) of the Act";
- (c) in rules 2(5) and 3(1), substitute the words "attorney-at-law" for the word "barrister";
- (d) in rule 5, substitute the word "Roll" for the words "Roll of Barristers".

Passed in the House of Representatives this 31st day of July, 1986.

R. L. GRIFFITH

Acting Clerk of the House

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the House of Representatives and at the final vote thereon in the House has been supported by the votes of not less than three-fifths of all the members of the House that is to say by the votes of 33 members of the House.

R. L. GRIFFITH

Acting Clerk of the House

Passed in the Senate this 26th day of August, 1986.

M. CARRINGTON

Acting Clerk of the Senate

IT IS HEREBY CERTIFIED that this Act is one the Bill for which has been passed by the Senate and at the final vote thereon in the Senate has been supported by the votes of not less than three-fifths of all the members of the Senate, that is to say by the votes of 21 Senators.

M. CARRINGTON

Acting Clerk of the Senate

