

No. 33—1942.

*Solicitors.*AN ORDINANCE relating to solicitors of the
Supreme Court.

Commencement.

[1st January, 1943.]

Short title.

1. This Ordinance may be cited as the Solicitors Ordinance, 1942.

PART I.

PRELIMINARY.

Interpretation.

2. In this Ordinance—

“barrister” means a barrister-at-law who has been admitted to practise at the Bar of the Colony;

“client” (except in relation to non-contentious business) includes any person who as principal or on behalf of another person retains or employs, or is about to retain or employ a solicitor, and any person who is or may be liable to pay a solicitor's costs;

“the Council of the Society” means the Council of the Trinidad Incorporated Law Society elected in accordance with the provisions of its articles of association;

“contentious business” includes any business done by a solicitor in any court whether as a solicitor or advocate;

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

“Court” or “Supreme Court” means the Supreme Court or a Judge thereof;

“the disciplinary committee” or “the Committee” means the Committee appointed under section 10;

“final examination” means an examination by the Law Society of persons applying to be admitted as solicitors as to their fitness and capacity to act as solicitors in all business and matters usually transacted by solicitors;

“intermediate examination” means an examination by the Law Society of persons bound under articles of clerkship to solicitors in order to ascertain the progress made by such persons during their articles in acquiring the knowledge necessary for rendering them fit and capable to act as solicitors;

“the Law Society” means the Society incorporated and regulated by Royal Charter, dated the twenty-sixth day of February, eighteen hundred and forty-five, and Royal Charters supplemental thereto, dated respectively the twenty-sixth day of November, eighteen hundred and seventy-two, the fourth day of June, nineteen hundred and three, and the second day of June, nineteen hundred and nine;

“non-contentious business” includes any business connected with sales, purchases, leases, mortgages, settlements and other matters of conveyancing;

“preliminary examination” means an examination in general knowledge of persons desirous of becoming articulated clerks in such subjects as may be prescribed by the Judges of the Supreme Court and the Principals of the Queen’s Royal College and St. Mary’s College;

“Registrar” means the Registrar of the Supreme Court;

“the roll” means the list of solicitors kept in accordance with the provisions of this Ordinance;

“solicitor” means a solicitor of the Supreme Court;

“the Society” means the Trinidad Incorporated Law Society.

PART II.

THE ROLL OF SOLICITORS.

3. (1) The Registrar shall keep, in accordance with the provisions of this Ordinance and of any rules made thereunder, an alphabetical list (in this Ordinance referred to as “the roll”) of all solicitors. Roll of solicitors to be kept.

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

Admission and enrolment.

Admission and
enrolment of
solicitors.

4. (1) Any person who has obtained from the Law Society a certificate of having passed the final examination and has obtained from the Council of the Society or from the Full Court a certificate that he is a fit and proper person as regards honesty, integrity and financial status to be admitted as a solicitor, may apply to the Full Court to be admitted as a solicitor, and thereupon the Full Court, unless cause to the contrary is shown to the satisfaction of the said Court, shall admit that person to be a solicitor.

(2) The Registrar, upon production by the person admitted of an admission order signed by two Judges of the Full Court and on payment by such person to the Society of the sum of twenty-four dollars shall enter the name of such person on the roll.

Appeal against
refusal by
Council of the
Society to
grant
certificate.

5. In the event of the Council of the Society refusing to grant to an articled clerk any such certificate as is referred to in subsection (1) of section 4, such articled clerk may, within three months after such refusal, appeal by petition in writing to the Full Court and the Full Court may make such order upon such appeal as it may think just.

Declaration to
be made before
admission.

6. Every person entitled under the provisions of this Ordinance to be admitted as a solicitor shall, before he is so admitted, prove by filing with the Registrar a written declaration made by himself and the solicitor or solicitors under whom he has served, that he has actually and diligently served and been employed by such solicitor or solicitors during the whole term and in the manner required by this Ordinance.

Inquiry by
Registrar.

7. Before any person is admitted as a solicitor, the Registrar shall inquire whether such person has complied with the provisions of this Ordinance, and, if he shall be satisfied that such person has so complied, the Registrar shall report accordingly to the Full Court.

8. The Full Court, before admitting any person as a solicitor, shall administer or cause to be administered to such person the oath of allegiance and the following oath or affirmation :—

I, A.B., do swear (or solemnly affirm) that I will truly and honestly demean myself in the practice of a solicitor according to the best of my knowledge and ability. (So help me God.)

9. (1) The Registrar shall, on request, issue to every solicitor duly enrolled under this Ordinance or under any law heretofore in force in the Colony providing for the enrolment of solicitors a certificate of his enrolment in the form set forth in the First Schedule hereto under the seal of the Court and signed by the Registrar.

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

Removal from roll and disciplinary action.

10. The Chief Justice with the concurrence of a Puisne Judge shall appoint a disciplinary committee, consisting of such number of solicitors, not being more than seven (of whom not less than three shall be chosen from among the members of the Council of the Society) as he may from time to time think fit, and may from time to time remove any member from the Committee and fill any vacancy therein.

11. (1) An application at the instance of any person, not being a solicitor applying under section 13, that disciplinary action should be taken against a solicitor shall be made to the Committee.

(2) The Committee shall thereupon proceed to inquire into the truth of the allegations made by the applicant and, if the Committee considers that a case has been made out of the truth of allegations which might justify disciplinary action against the solicitor and that the matter should be considered by the Full Court, the Committee shall forward to the Registrar a copy of the record of the proceedings before it and of its findings

thereon: Provided that, where in the opinion of the Committee no *prima facie* case is shown in favour of the application, the Committee may refuse the application without requiring the solicitor to whom the application relates to answer the allegations and without hearing the applicant.

(3) The Full Court may at any time call for any application made to the Committee under subsection (1) together with the record of any inquiry under subsection (2), and the Committee shall thereupon forward a copy of the same to the Registrar together with its findings thereon.

(4) Whenever the record of any proceedings before the Committee shall have been forwarded to the Registrar in accordance with subsection (2) or an application together with the record has been called for under subsection (2), the Full Court shall have power to inquire into the truth of the allegations made and to do all or any of the following things namely—

(a) order that the name of the solicitor be struck off the roll or that he be suspended from practice for such period as to the Court shall seem fit;

(b) order the payment by the solicitor of a penalty not exceeding two thousand four hundred dollars (which shall be forfeit to His Majesty);

(c) make such order as to the Court may seem fit as to costs or contributions towards costs, both as regards the proceedings before it and as regards the relevant proceedings before the Committee;

(d) make such order as otherwise in relation to the case shall seem fit.

(5) Nothing in this section shall affect the jurisdiction which, apart from this section, is exercisable by the Supreme Court over solicitors.

Rules.

12. The Chief Justice, with the concurrence of a Puisne Judge, may make rules for regulating the making, hearing and determining of applications to the Committee and for all matters arising out of or ancillary thereto, and, without prejudice to the generality of this provision, such rules may—

(a) fix the quorum of the Committee for the conduct of its business;

(b) provide for the taking of evidence by the Committee on oath or affirmation ;

(c) provide for enforcing the attendance of witnesses and the production of documents before the Committee ;

(d) empower the Committee to make orders, as to the payment by parties to proceedings before it of costs or contributions towards costs, and provide for enforcing any such orders.

13. All applications by a solicitor to have his name removed from the roll shall be made direct to the Full Court and the Full Court may make such order thereon as it may think just. Applications to remove name from the roll.

14. Where by an order of the Full Court the name of any solicitor is ordered to be removed from, or struck off the roll, or any solicitor is suspended from practice, the Registrar shall forthwith upon the filing of the order cause a notice stating the effect of the operative part thereof to be published in the *Royal Gazette*. Notice of order of Full Court to be published.

15. Where an order has been made by the Full Court under sections 11 or 13, the Registrar shall with all convenient speed draw up, settle and sign the said order and cause the same to be entered, without making any appointment to settle the same with any party to the proceedings. Power of Registrar to draw up orders.

16. No solicitor shall be liable to have his name struck off the roll or to be suspended from practice on account of any defect in his articles of clerkship, or in the registration thereof, or in his service thereunder, or in his admission and enrolment, unless the application to strike his name off the roll or to suspend him is made within twelve months after the date of his enrolment : Limitation of time for certain applications to the Committee.

Provided that this section shall not apply in any case where fraud is proved to have been committed in connection with the articles, registration, service, admission or enrolment.

Restoration to the roll.

17. (1) The Full Court may, if it thinks fit at any time order the Registrar to replace on the roll the name of a solicitor whose name has been removed from, or struck off, the roll. Power to replace name of solicitor on roll.

(2) In the case of a solicitor whose name has been struck off the roll for such an offence as is mentioned in section 45, an order under this section shall for the purposes of subsection (2) of section 4 be deemed to be equivalent to an admission order.

PART III.

QUALIFICATIONS FOR ADMISSION AS SOLICITOR.

General.

Service under articles and passing of examinations conditions precedent to admission.

18. (1) Subject to the provisions of this Part of this Ordinance, no person shall be admitted as a solicitor unless he is a British subject and—

(a) has been bound by written articles of clerkship (in this Ordinance referred to as "articles") to serve as an articulated clerk to a practising solicitor in the Colony for such term as is required by the next succeeding section and has duly served under those articles for that term; and

(b) has obtained from the Society, or some person authorised in writing by the Society, a certificate or certificates that he has passed (or is wholly or partly exempted from) the preliminary, intermediate and final examinations.

Solicitors in England may be admitted.

(2) Every person duly admitted in England, Scotland or Northern Ireland and for the time being entitled to practise there as a solicitor or law agent, shall, subject to the provisions of this Ordinance but without complying with such provisions as relate to service under articles and examinations, be entitled to be admitted and enrolled as a solicitor in the Colony and thereafter such person shall be entitled to practise in the several courts of the Colony as fully as any solicitor admitted in the Colony:

Provided that nothing in this section contained shall be construed to compel the Full Court to admit any such person to practise as a solicitor where any allegation is made to the Court by the Registrar or any person whomsoever touching the honesty and integrity of the person claiming admission or that his previous conduct as a solicitor has been improper.

(3) If upon inquiry made into the truth of any such allegations as aforesaid the Full Court is satisfied that such allegations are true, it may refuse to admit any such person to practise as a solicitor in the Colony or may make such order in the matter as it may deem fit.

(4) The provisions of subsection (2) of this section shall not be deemed to apply to persons admitted to practise in England under section 35 of the Solicitors Act, 1932.

Articles of clerkship.

19. The term for which a person desirous of being admitted as a solicitor, not being a person exempted from service under articles by virtue of any of the provisions of this Part of this Ordinance, is required to be bound by, and to serve under, articles shall be determined in accordance with the provisions of the Second Schedule hereto :

Term of articles.

2nd Schedule.

Provided that, in the case of any person who, at the commencement of this Ordinance, is serving under articles duly entered into in accordance with the provisions of the Solicitors Ordinance, service under such articles prior to the commencement of this Ordinance, shall, for the purposes of this Ordinance, be deemed to be service under articles entered into and registered in accordance with the provisions of this Ordinance.

Ch. 7. No. 4.

20. (1) All articles shall be produced to the Registrar for registration and the Registrar, on being satisfied by a statutory declaration or such other evidence as he deems sufficient of the due execution of the articles and that the clerk is above the age of 18 years and has passed the preliminary examination or an exempting examination and upon the production to the Registrar of a certificate of the Council of the Society dated not earlier than six months before the date of the articles of clerkship that as regards fitness and character he is a proper person to be an articulated clerk, shall record the names and addresses of the parties to the articles and the date thereof and the date of the making of the entry, in a register, which shall be open to the inspection of any person during office hours without payment.

Registration of articles.

(2) If the articles of any clerk are not produced to the Registrar for registration within six months from the date thereof, the service of the clerk shall, unless the Court otherwise directs, be reckoned as commencing only upon the date of the production of the articles.

Number of
articled clerks.

21. No solicitor shall have more than one articled clerk at the same time.

Solicitor
ceasing to
practise, or
employed by
another
solicitor,
not to take
or retain
articled clerks.

22. (1) No solicitor shall take or retain any articled clerk—
(a) after he has ceased to practise as a solicitor ;
(b) while he is employed as a clerk by another solicitor.

(2) Service by an articled clerk to a solicitor during any period whilst such solicitor is employed as aforesaid shall not be deemed to be good service by the clerk under his articles.

Solicitor to
practise
five years
before taking
articled clerk.

(3) No solicitor who has not at some time been in continuous practice as a solicitor for a period of five years shall, without the leave of the Court, take any articled clerk.

(4) Service by an articled clerk to a solicitor who has taken him in contravention of the provisions of subsection (3) of this section shall not, unless the Court sees fit to direct otherwise, be deemed to be good service by the clerk under his articles.

Articled
clerks to be
employed
continuously
by solicitor.

23. (1) Subject to the provisions of this Part of this Ordinance, every articled clerk shall during the whole term of his articles be actually employed in the proper business, practice and employment of a solicitor by the solicitor to whom he is articled and shall not hold any office or engage in any employment other than the employment of clerk to such solicitor or his partner, if any, in the business, practice and employment of a solicitor.

(2) This section shall not apply to any articled clerk who, before he enters upon or engages in any office or employment has obtained—

(a) the written consent of the solicitor to whom he is bound ; and

(b) an order of the Court sanctioning the holding by him of the office or his engagement in the employment.

(3) An order made under subsection (2) of this section may impose on the applicant such terms and conditions with regard to the office or employment as the Court may think fit, and where any terms or conditions are so imposed and the applicant accepts or engages in the office or employment, he shall, before being admitted, prove to the satisfaction of the Court, that he has duly observed and fulfilled those terms and conditions.

(4) An articled clerk who has omitted to make an application for an order under subsection (2) of this section before entering upon or engaging in an office or employment may at any time during the remainder of the term of his articles, or within one year after the expiration thereof, make to the Court an application for an order relieving him from any disability under subsection (1) of this section; and, if he proves by affidavit from the solicitor to whom he was bound, or other satisfactory evidence, that his holding of the office or engagement in the employment was with the consent of the solicitor and has not interfered with due service under his articles, the Court hearing the application may grant such relief and, as a condition thereof, may make such order as it thinks fit with respect to the applicant's service for the remainder (or any part of the remainder) of the term of his articles subsequent to his entering upon the office or engaging in the employment, or with respect to the passing of any examination.

24. (1) For the purposes of the last preceding section, such employment of an articled clerk as is hereinafter mentioned shall, if undertaken by virtue of a stipulation in his articles or with the permission of the solicitor to whom he is bound, and on notice in writing being given to the Society, be treated as if it had been employment under his articles with that solicitor, that is to say, employment during any part not exceeding one year of the term of his articles as a pupil with a practising solicitor in England who has at the time of taking a pupil been in continuous practice as a solicitor for a period of not less than five years.

Reckoning
of service
as pupil
with agent
in England.

(2) A certificate purporting to be signed by or on behalf of the Secretary of the Law Society that the solicitor in England has held not less than six practising certificates shall be sufficient evidence for the purposes of subsection (1) of the facts stated therein.

Default of solicitor in certain respects not to disqualify his articed clerk.

25. No person shall be disqualified for admission as a solicitor, or be liable to be struck off the roll, by reason only of any solicitor whom he has served for the whole or any part of the term of articed service required by this Ordinance having neglected or omitted to take out a practising certificate in accordance with the provisions of this Ordinance, or by reason only of any solicitor whom he has served for any period having been, after the termination of that period, removed from or struck off the roll.

The Court may in certain cases disregard irregularities of service under articles.

26. Where an articed clerk has not served under his articles in strict accordance with the provisions of this Part of this Ordinance but has, after the execution of his articles, *bona fide* served, either continuously or not, one or more solicitors as an articed clerk for periods equal in the aggregate to the full term for which he was originally articed and has complied with the other requirements of this Part of this Ordinance, the Court may, if it is satisfied that the irregularity in the service was occasioned by accident, mistake or other sufficient cause and that the service, though irregular, was substantially equivalent to service in accordance with the provisions of this Part of this Ordinance, admit the clerk as if the service had been regular service.

Rights of articed clerks upon bankruptcy, etc., of solicitor.

27. (1) Where before the expiration of the term for which a clerk is articed the solicitor to whom he is articed is adjudged bankrupt or is imprisoned for debt and remains in prison for more than twenty-one days, the Court upon the application of the clerk may order his articles to be discharged, or to be transferred to another solicitor on such terms and in such manner as the Court may think fit.

(2) Nothing in the last preceding subsection shall be construed as limiting or affecting—

(a) any power of the Court in relation to articles, other than the powers mentioned in that subsection; or

(b) the provisions of section 38 of the Bankruptcy Ordinance.

Ch. 6. No. 6.

(3) If—

(a) during the term of any articles either the clerk or the solicitor has been continuously absent from the solicitor's place of business for a period of three months or longer ; or

Power of Court to discharge articles in certain cases.

(b) the Court is for any other reason of opinion that the articles ought to be discharged, the Court may, on the application either of the solicitor or of the clerk, discharge the articles upon such terms, including terms as to return of premium, as it thinks fit, and determine what period, if any, of service by the clerk under the articles shall be deemed to be good service :

Provided that so much of any period during which a clerk is absent from the solicitor's place of business as is ascribable to any such employment as is mentioned in section 24 shall be left out of account for the purposes of this subsection.

28. (1) In any case in which the Court has power in its discretion to refuse the application of a solicitor for a practising certificate, the Court may in its discretion direct the Registrar by notice in writing to such solicitor to prohibit him from taking any articted clerk and thereupon it shall not be lawful for such solicitor to take any articted clerk unless and until such prohibition shall have been withdrawn by the Court.

Power to prohibit taking of articted clerk in certain cases.

(2) Service by an articted clerk to a solicitor who has taken him in contravention of a prohibition in force under this section shall not, unless the Court directs otherwise, be deemed to be good service by the clerk under his articles.

(3) In any case where under this section the Court prohibits a solicitor from taking any articted clerk, it may, if it thinks fit, of its own motion discharge the articles of any clerk then already articted to such solicitor upon such terms, including terms as to return of premium, as it thinks fit, and determine what period (if any) of service by such clerk under his then existing articles shall be deemed to be good service.

Fresh articles in case of death or retirement of solicitor or if articles cancelled or discharged.

29. (1) Where before the expiration of the term for which a clerk is articled the solicitor to whom he is articled ceases to practise as a solicitor, or dies, or his articles are cancelled by mutual consent, or discharged by the Court, the clerk may be bound by fresh articles to another practising solicitor for the residue of the said term and service under those articles in accordance with the provisions of this Part of this Ordinance shall be good service.

(2) The foregoing provisions of this Part of this Ordinance with respect to the registration of articles shall apply to fresh articles entered into in accordance with the provisions of this section.

Examinations.

Examinations.

30. (1) The Chief Justice, with the concurrence of a Puisne Judge, may make rules with respect to the times, places, and notices of the preliminary, intermediate, and final examinations, and to the postponement of the final examination in cases where an articled clerk fails to pass the intermediate examination within a time or times prescribed by rules made under this Ordinance, and to the fees payable by candidates, and for regulating any matters relating to such examinations as to which it may be deemed expedient to make such rules.

Fees in respect of examinations.

(2) Any person applying to be examined or re-examined at a preliminary, intermediate or final examination shall pay to the Society in respect of those examinations such fees, and in such proportion and at such times as may from time to time be determined by rules made by the Chief Justice with the concurrence of a Puisne Judge.

Exemptions from preliminary and intermediate examinations.

31. (1) Every person shall be exempted from the preliminary examination who—

3rd Schedule.

(a) has taken a degree, not being an honorary degree, in arts, law or science at any University specified in the Third Schedule hereto; or

(b) has passed the examination in Responsions at Oxford, or the previous examination at Cambridge, or the matriculation or other corresponding examination at any other University specified in the Third Schedule or any examination accepted by any such University as exempting from those examinations and approved by the Law Society: Provided that, in

the case of any such examination as is mentioned in this paragraph, Latin was one of the subjects of the examination and that he satisfied the examiners in that subject ; or

(c) has been called to the Bar in England ; or

(d) had before the 4th of August, 1927, passed any of the examinations referred to in section 10 of the Solicitors Act, 1877 (as amended by any other enactment) or in any regulations made under that section ; or

(e) has passed any other examination which, in accordance with the law for the time being in force in England, would exempt any person from the preliminary examination prescribed by the Solicitors Acts 1932 to 1941 ; or

(f) to the extent (whether the whole examination or any part thereof) that he is specially exempted by the Chief Justice with the concurrence of a Puisne Judge and subject to such conditions as the Chief Justice with the concurrence of such Puisne Judge may think fit.

(2) Any dispute whether an examination is for the purposes of this section an examination corresponding to a matriculation examination shall be decided by the Education Board constituted under the Education Ordinance.

Chg 14: No. 1.

(3) Every person shall be exempt from the intermediate examination to the extent (whether the whole examination or any part thereof) that he would be entitled to exemption from the intermediate examination prescribed by the Solicitors Acts 1932 to 1941 or any amendment thereof by virtue of any regulations made thereunder.

32. A person who has entered into articles for the required term and has duly served thereunder and complied with the provisions of this Part of this Ordinance may present himself for final examination at the examination next preceding the expiration of the term of his articles or at any subsequent examination.

Dates for
admission to
final
examinations.

PART IV.

PRACTISING CERTIFICATES.

Registrar to
issue practising
certificates.

Ch. 33. No. 4.

33. It shall be the duty of the Registrar to issue in accordance with the provisions of this Part of this Ordinance certificates authorising the solicitors named therein to practise as solicitors subject to their certificates being duly stamped in accordance with the provisions of the Stamp Duty Ordinance.

Any certificate so issued and duly stamped as aforesaid is in this Ordinance referred to as a "practising certificate."

Provisions as
to practising
certificates.

34. (1) No solicitor shall in any year practise without obtaining from the Registrar a practising certificate. Each such certificate shall remain in force till the 31st of December following the date of its issue only.

(2) The Registrar shall enter the particulars of every such certificate in a book to be kept for that purpose, and shall allow any person to inspect the same during office hours without payment.

(3) The Registrar shall cause to be published in the *Royal Gazette*, within seven days of the issue of such certificate, a notice containing the names and places of business of the solicitors who obtain certificates, which shall nevertheless take effect on the day on which they are dated: Provided that a certificate issued between the 1st and the 15th of January in any year shall be dated the 1st of January and shall be deemed to have commenced on the 1st of January.

Membership
of Society.

(4) (a) On the issue of a practising certificate to a solicitor, the Accountant General from moneys to be provided by the Legislative Council shall pay to the Society the amount of the annual subscription payable by members of the Society and, notwithstanding anything in the memorandum or articles of association of the Society, such solicitor shall become, by virtue of this Ordinance and without election or appointment by the Council of the Society, a member of the Society and be subject to the memorandum and articles of association for the time being in force. The annual subscription to the Society shall not without the leave of the Governor in Council be greater than five dollars.

(b) All moneys received by the Society under subsection (2) of section 4 and under this subsection shall form part of the funds of the Society to be used exclusively for the purposes of its objects as specified in the memorandum and articles of association.

The Society shall furnish to the Colonial Secretary on or before the 31st of January in each year a statement showing the amount received during the year ending on the preceding 31st of December and the amounts disposed of during the year and the manner of their disposal.

(5) Every solicitor who shall become a member of the Society under subsection (4) of this section shall, subject to the provisions of subsection (8) of this section, remain a member until the end of the current year.

(6) The Council of the Society may appoint and elect to be a member of the Society any person whose name is for the time being on the roll, whether or not he has held a practising certificate, and upon appointment and election and payment of the annual subscription in accordance with the memorandum and articles of association of the Society such person shall become a member of the Society and be subject to the memorandum and articles of association of the Society for the time being in force.

(7) Any person who, in pursuance of the provisions of this section, is for the time being a member of the Society shall be eligible for election as a member of the Council of the Society.

(8) When a solicitor who is a member of the Society has his name, whether at his own request or otherwise, removed from or struck off the roll by an order of the Full Court, he shall thereupon cease to be a member of the Society.

(9) A member of the Society who is suspended from practice shall not be entitled during the period of such suspension to any of the rights or privileges of such membership.

Court may in special cases refuse practising certificate or cause to be issued same subject to terms and conditions.

(10) In any of the following cases, that is to say, where a solicitor applies for a practising certificate—

(a) when for twelve months or more he has ceased to hold a practising certificate duly stamped and in force ; or

(b) whilst he is an undischarged bankrupt or a receiving order in bankruptcy is in force against him ; or

(c) when, 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 practising certificate duly stamped and in force within the twelve months next following the date of his admission to the roll ; or

(e) when having been adjudicated a person of unsound mind ; or

(f) without having paid any penalty or costs ordered by the Full Court, or any costs ordered by the disciplinary committee, to be paid by him ; or

(g) after he has been invited by the Court to give an explanation in respect of any matter affecting his conduct and has failed to give to the Court an explanation in respect of that matter which the Court regards as sufficient and satisfactory, and has been notified in writing by direction of the Court that he has so failed ; or

(h) after having had an order made against him for the issue of a writ of attachment ; or

(i) 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

(j) 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 ;

he must, unless the 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 Court may in its discretion order the Registrar to grant or refuse the application, or to issue a certificate to the applicant subject to such terms and conditions as it may think fit:

Provided that—

- (i) in the event of an appeal having been made to the Full Court in case (b) against the receiving order or in case (h) against the order for the issue of a writ of attachment or in case (j) against the judgment, the Court shall not refuse the application during the pendency of such appeal unless in its opinion the proceedings on such appeal have been unduly protracted by the appellant or are unlikely to be successful; and
- (ii) where, having regard to certain facts, a discretion becomes exercisable by the Court in any of the cases (a), (c), (d), (g), (h), (i) and (j), 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 such solicitor to give the notice mentioned in this section or to vest any discretion in the Court.

(11) Adjudication in bankruptcy of a solicitor shall operate immediately to suspend the practising certificate (if any) of such solicitor for the time being in force, and such suspension shall continue in operation until the certificate expires or the adjudication in bankruptcy is annulled or the suspension is terminated by order of the Court, whichever shall first happen.

(12) (a) So long as the suspension of the practising certificate of a solicitor shall continue in operation, such solicitor shall be deemed to be an "unqualified person" within the meaning given to that expression by section 35.

(b) At any time before the certificate expires and (in the case of adjudication in bankruptcy) the adjudication is annulled such solicitor may apply to the Court to terminate the suspension, and the Court in its discretion

Suspension of practising certificate on adjudication in bankruptcy.

Effect and termination of suspension and notification of suspension or of termination thereof.

may decide to terminate by order the suspension unconditionally or subject to such terms and conditions as it may think fit or may refuse the application.

(c) When the practising certificate of a solicitor has become suspended by virtue of his adjudication in bankruptcy or by virtue of an order of the Court under this section, the Registrar shall forthwith cause a notice of such suspension to be published in the *Royal Gazette* and shall cause a note thereof to be entered against the name of such solicitor in the roll.

(d) When the suspension of the practising certificate of a solicitor has been terminated by annulment of the adjudication in bankruptcy of the solicitor or by order of the Court under this section, the Registrar shall forthwith cause a note of the termination of the suspension to be entered against the name of such solicitor in the roll, and cause a notice thereof to be published in the *Royal Gazette*.

PART V.

PRIVILEGES, RESTRICTIONS AND OFFENCES IN CONNECTION WITH PRACTICE.

Qualifications
for practising
as solicitors.

35. No person shall be qualified to act as a solicitor unless his name is on the roll and he has in force a duly stamped practising certificate, and a person who is not so qualified is in this Part of this Ordinance referred to as an "unqualified person."

Rights of
practising.

36. Every person so qualified as aforesaid may practise as a solicitor.

Unqualified
person not
to act as
solicitor.

37. (1) No unqualified person shall act as a solicitor, or as such sue out any writ or process or commence, carry on or defend any action, suit or other proceeding, in the name of any other person or in his own name, in any court of civil or criminal jurisdiction, or act as a solicitor in any cause or matter, civil or criminal, to be heard or determined before any court.

(2) If any person contravenes the provisions of this section, he shall be guilty of an offence against this Ordinance and of contempt of the court in which the action, suit, cause, matter or proceeding in relation to which he so acts is brought or taken and may be punished accordingly, and shall be incapable of maintaining any action for any

costs in respect of anything done by him in the course of so acting, and shall, in addition to any other penalty or forfeiture and any disability to which he may be subject, be liable for each such offence, on summary conviction, to a fine of two hundred and forty dollars.

38. Any person, not having in force a practising certificate, who wilfully pretends to be, or takes or uses any name, title, addition or description implying that he is, qualified or recognized by law as qualified to act as a solicitor, shall be liable on summary conviction to a fine of two hundred and forty dollars for each such offence.

Penalty for person pretending to be a solicitor.

39. (1) If any act is done by a body corporate or by any director, officer, or servant thereof, of such a nature or in such a manner as to be calculated to imply that the body corporate is qualified, or recognized by law as qualified, to act as a solicitor, the body corporate shall be liable on summary conviction to a fine of four hundred and eighty dollars for each such offence, and, in the case of an act done by a director, officer or servant of the corporation, he also shall be liable on summary conviction to a fine of one hundred and twenty dollars for each such offence.

Penalty for company acting as a solicitor.

(2) It is hereby declared that in sections 37, 40, 41 and 43 references to unqualified persons include references to bodies corporate.

40. (1) Any person, not being a barrister or a duly qualified solicitor conveyancer or notary public, who, unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or indirectly, draws or prepares any instrument relating to real or personal property, or any legal proceedings, shall be liable on summary conviction to a fine of two hundred and forty dollars.

Penalty on unqualified person preparing certain instruments.

(2) For the purposes of this section, the expression "instrument" does not include—

- (a) a will or other testamentary instrument; or
- (b) an agreement under hand only; or
- (c) a letter or power of attorney; or
- (d) a transfer of stock containing no trust or limitation thereof.

Penalty on unqualified person preparing certain documents for purposes of the Real Property Ordinance.
Ch. 27 No. 11.

41. Any person not being a barrister or a duly qualified solicitor or conveyancer, who, unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or indirectly, draws or prepares any instrument of transfer or charge for the purposes of the Real Property Ordinance, or makes any application or lodges any caveat or other instrument or document for registration under that Ordinance shall be liable on summary conviction to a fine of two hundred and forty dollars.

Exceptions to restrictions imposed by sections 40-41.

42. The provisions of sections 40 and 41 shall not extend to—

(a) any public officer drawing or preparing instruments in the course of his duty; or

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

Penalty on unqualified person acting in preparation of papers for probate.

43. Any person not being a duly qualified solicitor who unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or as an agent of any other person, whether a person qualified as above mentioned or not, takes instructions for or draws or prepares any papers on which to found or oppose a grant of probate or of letters of administration shall, without prejudice to any liability or disability to which he may be subject under any other section of this Ordinance or under any other Ordinance, be liable on summary conviction to a fine of two hundred and forty dollars.

No costs recoverable where unqualified person acts as solicitor.

44. No costs in respect of anything done by any person who acts as a solicitor at a time when he has not in force a practising certificate shall be recoverable in any action, suit, or matter by any person whomsoever.

Solicitor not to act as agent for unqualified person.

45. (1) No solicitor 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 a solicitor in any such action or matter.

(2) Where it appears to the Full Court, that a solicitor has acted in contravention of this section, his name shall be struck off the roll.

(3) Where the Full Court orders the name of a solicitor to be struck off the roll in respect of an offence under this section, the unqualified person who was enabled by the conduct of the offender to act or practise as a solicitor shall be guilty of an offence and liable on summary conviction to imprisonment for one year.

46. (1) No solicitor shall, in connection with his practice as a solicitor, employ or remunerate any person who to his knowledge is disqualified from practising as a solicitor by reason of the fact that his name has been struck off the roll, otherwise than at his own request, or that he is suspended from practising as a solicitor.

Employment by solicitor of persons struck off the roll or suspended.

(2) If any solicitor acts in contravention of the provisions of this section his name shall be struck off the roll or he may be suspended from practice for such period as the Full Court may think fit.

47. (1) No solicitor whilst a prisoner in any prison shall as a solicitor, in his own name or in the name of any other solicitor, sue out any writ or process, or commence, prosecute or defend any action or any matter in bankruptcy.

Solicitors not to commence or defend actions whilst in prison.

(2) Any solicitor commencing, prosecuting or defending any such 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 solicitor permitting him to commence prosecute or defend any such action or matter in his name, shall be guilty of contempt of the court in which such action or matter was commenced or prosecuted and may be punished accordingly.

48. No solicitor shall, so long as he shall be engaged in the business and practice of a solicitor, be qualified or capable of holding the appointment of a Justice of the Peace;

Solicitor not to be Justice of the Peace.

Provided that such disability shall not for the time being extend to any solicitor who may hold any office by virtue of which he may be *ex officio* a Justice of the Peace.

Penalty on failure to disclose fact of having been struck off, &c.

49. Any person who, whilst he is disqualified from practising as a solicitor by reason of the fact that he has been struck off the roll otherwise than at his own request or is suspended from practising as a solicitor, seeks or accepts employment by a solicitor in connection with the solicitor's practice without previously informing him that he is so disqualified as aforesaid, shall on summary conviction be liable to a fine of two hundred and forty dollars.

Provisions as to clerk found party of misconduct of solicitor.

50. (1)—(a) Where a person who is or was a clerk to a solicitor but is not himself a solicitor has been convicted of larceny, embezzlement, fraudulent conversion or any other criminal offence in respect of any money or property belonging to or held or controlled by the solicitor by whom he is or was employed or any client of such solicitor, or of forgery; or
(b) where it appears to the Committee in the course or as a result of any proceedings before the disciplinary committee, that a person who is or was a clerk to a solicitor but is not himself a solicitor, has been a party to any act or default of such solicitor in respect of which an application has been or might have been made against such solicitor to the Committee under subsection (1) of section 11, an application may be made by or on behalf of the Committee to the Court that an order be made directing that as from a date to be specified in such order, no solicitor shall in connection with his practice as a solicitor take or retain the said person into or in his employment or remunerate the said person without the permission of the Court, which may be given for such period, and subject to such conditions as the Court may think fit.

(2) Any person who whilst there is in force in respect of him an order under this section, seeks or accepts employment by or remuneration from a solicitor in connection with his practice as a solicitor without previously informing him of such order, shall be liable for each offence to a fine of two hundred and forty dollars.

(3) If any solicitor knowingly acts in contravention of the provisions of an order of the Court under this section as made and not appealed against or as confirmed upon appeal, as the case may be, or of the conditions subject to which any such permission as aforesaid had been given by the Court, a complaint in respect of that contravention may be made by or on behalf of the Committee and thereupon the provisions of section 11 shall apply as if such complaint was an application to the Committee under subsection (1) of that section.

PART VI.

REMUNERATION.

Non-contentious business.

51. (1) For the purposes of this section the Chief Justice with the concurrence of a Puisne Judge may make general orders prescribing and regulating in such manner as he may think fit the remuneration of solicitors in respect of non-contentious business and may revoke or alter any such order :

Power to make general orders as to remuneration of solicitors in non-contentious business.

Provided that general orders made under this section shall have no force or effect until they have been approved by the Legislative Council.

(2) One month at least before any such order is made, the Chief Justice shall cause a draft thereof to be sent to the Society, and the Chief Justice shall, before making the order, consider any observations in writing submitted to the Chief Justice by the Society, within the said month, and may then make the order, either in the form of the draft or with such alterations or additions as he may think fit.

(3) An order under this section may, as regards the mode of remuneration, prescribe that it shall be according to a scale of rates of commission or percentage, varying or not in different classes of business, or by a gross sum, or by a fixed sum for each document prepared or perused, without regard to length, or in any other mode, or partly in one mode and partly in another, and may regulate the amount of remuneration with reference

to all or any of the following, among other, considerations, that is to say—

- (i) the position of the party for whom the solicitor is concerned in the business, that is, whether as vendor, or purchaser, lessor or lessee, mortgagor or mortgagee, and 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 therein on the part of the solicitor ;
- (v) the number and importance of the documents prepared or perused, without regard to length.

(4) An order under this section may authorise and regulate—

- (a) the taking by a solicitor from his client of security for payment of any remuneration, to be ascertained by taxation or otherwise, which may become due to him under any such order ; and
- (b) the allowance of interest.

(5) As long as any order under this section is in operation, the taxation of bills of costs of solicitors shall, subject to the provisions of the next succeeding section with respect to agreements as to remuneration, be regulated by that order.

(6) In this and the next succeeding section the expression "client" includes 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, or is about to retain or employ, a solicitor, and any person for the time being liable to pay to a solicitor for his services, any costs.

Agreements
with respect
to remunera-
tion for
non-conten-
tious business.

52. (1) Whether or not any order is in force under the last preceding section, a solicitor and his client may, either before or after or in the course of the transaction of any non-contentious business by the solicitor, make an agreement as to the remuneration of the solicitor in respect thereof.

(2) The agreement may provide for the remuneration of the solicitor 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 therein stipulated for either shall or shall not include all or any disbursements made by the solicitor 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 thereby or his agent in that behalf.

(4) The agreement may be sued and recovered on or set aside in the like manner and on the like grounds as an agreement not relating to the remuneration of a solicitor :

Provided that if on any taxation of costs the agreement is relied on by the solicitor 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 the agreement should be cancelled or the amount payable thereunder reduced, the Court may order the agreement to be cancelled, or the amount payable thereunder to be reduced, and may give consequential directions as the Court may think fit.

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

Remuneration
of a solicitor
who is a
mortgagee.

(2) If, whether before or after the commencement of this Ordinance, a mortgage had been made to or has become vested by transfer or transmission in a solicitor, either alone or jointly with any other person, and if after the commencement of this Ordinance any business is transacted or acts are done by that solicitor, or by the firm of which he is a member, in relation to that mortgage or the security thereby created or the property comprised

thereunder, then he or they shall be entitled to recover from the person on whose behalf the business was transacted, or the acts were done, and to charge against the security, such usual costs as he or they would have been entitled to receive if the mortgage had been made to and had remained vested in a person who was not a solicitor and that person had retained and employed him or them to transact the said business and do the said acts.

(3) In this section the expression "mortgage" includes any charge on any property for securing money or money's worth.

Contentious business.

Power to make agreement as to remuneration for contentious business.

54. A solicitor may make an agreement in writing with his client as to his remuneration in respect of any contentious business done, or to be done by him providing that he shall be remunerated either by a gross sum, or by salary or otherwise, and at either a greater or a lesser rate than that at which he would otherwise have been entitled to be remunerated.

Miscellaneous provisions as to agreements with respect to costs of contentious business.

55. (1) Such an agreement—

(a) shall not affect the amount of, or any rights or remedies for the recovery of, any costs payable by the client to, or to the client by, any person other than the solicitor, and that person may, unless he has otherwise agreed, require any such costs to be taxed according to the rules for the time being in force for the taxation thereof :

Provided that the client shall not be entitled to recover from any other person under any order for the payment of any costs to which the agreement relates more than the amount payable by him to his solicitor in respect thereof under the agreement ;

(b) shall be deemed to exclude any claim by the solicitor in respect of the business to which it relates other than—

- (i) a claim for the agreed costs ; or
- (ii) a claim for such costs as are expressly excepted therefrom.

(2) A provision in such an agreement that the solicitor shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as a solicitor, shall be void.

(3) No action shall be brought upon any such agreement, but the court may, on the application of any person who is a party to, or the representative of a party to, the agreement, or who is, or who is alleged to be, liable to pay, or who is or claims to be entitled to be paid, the costs due or alleged to be due in respect of the business to which the agreement relates, enforce or set aside the agreement and determine every question as to validity or effect thereof.

(4) On any such application, the court—

(a) if it is of opinion that the agreement is in all respects fair and reasonable, may enforce it ;

(b) if it is of opinion that the agreement is in any respect unfair and unreasonable, may declare it void and may order it to be given up to be cancelled and may order the costs covered thereby to be taxed as if the agreement had never been made ;

(c) in any case, may make such order as to the costs of the application as it may think fit.

(5) If the business covered by any such agreement is business done, or to be done, in any action, the amount payable under the agreement shall not be received by the solicitor until the agreement has been examined and allowed by the court and if the court is of the opinion that the agreement is unfair or unreasonable, the court may reduce the amount payable thereunder, or order the agreement to be cancelled and the costs covered thereby to be taxed as if the agreement had never been made.

(6) When the amount agreed for under any such agreement has been paid by or on behalf of the client or by any person entitled so to do, the person making the payment may at any time within twelve months after payment apply to the court and the court, if it appears to it that the special circumstances of the case require the agreement to be reopened, may, on such terms as may be just, reopen the agreement and may order the costs covered thereby to be taxed and the whole or any part of the amount received by the solicitor to be repaid by him.

(7) Where any such agreement is made by the client as the guardian or committee of, or as a trustee under a deed or will for, any person whose property will be chargeable with the whole or any part of the amount payable under the agreement, the agreement shall, before payment, be laid before the court and the court shall examine the agreement and may disallow any part thereof.

(8) Any such client as is mentioned in the last preceding subsection who pays the whole or any part of the amount payable under the agreement without the agreement having been allowed by the court, shall be liable at any time to account to the person whose property is charged with the whole or any part of the amount so paid for the sum so charged, and the solicitor who accepts the payment may be ordered by the court to refund the amount received by him.

(9) In this and the next succeeding section—

“court” means (i) in relation to an agreement under which any business has been done in any court having jurisdiction to enforce and set aside agreements, any such court in which any of that business has been done ;

(ii) in relation to an agreement under which no business has been done in any such court, and under which more than two hundred and forty dollars is payable, the Supreme Court ;

(iii) in relation to an agreement under which no business has been done in any such court and under which not more than two hundred and forty dollars is payable, the Judge of any Petty Civil Court which would, but for the provisions of this section prohibiting the bringing of an action on the agreement, have had jurisdiction in an action thereon ;

“taxing officer”, in relation to a Petty Civil Court means the Judge thereof.

Death,
incapability
or change
of solicitor.

56. (1) If, after some business has been done under an agreement made in pursuance of the provisions of section 54 but before the solicitor has wholly performed it, the

solicitor dies or becomes incapable of acting, then any party to, or the representative of any party to, the agreement may apply to the court and the court shall have the same jurisdiction as to enforcing the agreement so far as it has been performed, or setting it aside, as it would have had if the solicitor had not died or become incapable of acting :

Provided that the court may, notwithstanding that it is of opinion that the agreement is in all respects fair and reasonable, order the amount due in respect of the business done thereunder to be ascertained by taxation, and in that case—

(a) the taxing officer, in ascertaining that amount, shall have regard so far as may be to the terms of the agreement ; and

(b) payment of the amount found by him to be due may be enforced in the same manner as if the agreement had been completely performed.

(2) The provisions of the last preceding subsection shall apply in the event of the client changing his solicitor (as, notwithstanding the agreement, he shall be entitled to do) before the conclusion of the business to which the agreement relates in the same manner as they apply when the solicitor dies or is incapacitated, with this modification, that if an order is made for the taxation of the amount due to the solicitor in respect of the business done under the agreement, the court shall direct the taxing officer to have regard to the circumstances under which the change of solicitor has taken place, and the taxing officer, unless he is of opinion that there has been no default, negligence improper delay or other conduct on the part of the solicitor affording to the client reasonable ground for changing his solicitor, shall not allow to the solicitor the full amount of the remuneration agreed to be paid to him.

57. Subject to the provisions of the two last preceding sections, the costs of a solicitor in any case where an agreement has been made in pursuance of the provisions of section 54 shall not be subject to taxation, nor to the subsequent provisions of this Part of this Ordinance with respect to the signing and delivery of a solicitor's bill. Agreement excludes taxation.

Miscellaneous provisions as to remuneration for contentious business.

58. (1) Nothing in the last four preceding sections of this Ordinance shall give validity to—

(a) any purchase by a solicitor of the interest or any part of the interest, of his client in any action, suit or other contentious proceeding; or

(b) any agreement by which a solicitor retained or employed to prosecute any action, suit or other contentious proceeding stipulates for payment only in the event of success in that action, suit or proceeding; or

(c) any disposition, contract, settlement, conveyance, delivery, dealing or transfer which is under the law relating to bankruptcy invalid against a trustee or creditor in any bankruptcy or composition.

(2) A solicitor may, with respect to any contentious business to be done by him, take security from his client for his costs to be ascertained by taxation or otherwise.

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

(a) allow interest at such rate from such time as he thinks just on moneys disbursed by the solicitor for the client, and on moneys of the client in the hands of, and improperly retained by, the solicitor;

(b) in determining the remuneration of the solicitor, have regard to the skill, labour and responsibility involved in the business done by him.

General provisions as to remuneration.

Taxing of costs.

59. All costs and fees recoverable by or payable to solicitors shall, subject to any statutory provisions, be taxed in the same manner as costs are taxed in the High Court of Justice in England either as between party and party or as between solicitor and client as the case may be.

“Statutory provisions,” for the purposes of this Ordinance, means any provisions contained in the Judicature Ordinance, or in any other Ordinance, or in any rules of court made pursuant to any such Ordinance or to this Ordinance.

Ch. 3. No. 1.

60. (1) The jurisdiction of the Court to make orders for the delivery by a solicitor of a bill of costs and for the delivery up of, or otherwise in relation to, any deeds, documents, or papers in his possession, custody or power, is hereby declared to extend to cases in which no business has been done by him in the Court.

Power of Court to order a solicitor to deliver his bill and to deliver up deeds.

(2) In this and the three next succeeding sections the expression "solicitor" includes the executors, administrators and assigns of the solicitor in question.

61. (1) Subject to the provisions of this Ordinance, no action shall be brought to recover any costs due to a solicitor until one month after a bill thereof has been delivered in accordance with the requirements of this section :

Action to recover solicitor's costs.

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

(2) The said requirements are as follows —

(a) the bill must be signed by the solicitor, or, if the costs are due to a firm, one of the partners of that firm, either in his own name or in the name of the firm, or be enclosed in, or accompanied by, a letter which is so signed and refers to the bill, and

(b) the bill must be delivered to the party to be charged therewith, either personally or by being sent to him by post to, or left for him at, his place of business, dwelling house, or last known place of abode ; and where a bill is proved to have been delivered in compliance with those requirements, it shall not be necessary in the first instance for the solicitor to prove the contents of the bill, and it shall be presumed, until the contrary is shown, to be a bill *bona fide* complying with this Ordinance.

Taxation of
bills on the
application
of the party
chargeable or
the solicitor.

62. (1) On the application, made within one month of the delivery of a solicitor's bill, of the party chargeable therewith, the Court shall, without requiring any sum to be paid into court, order that the bill shall be taxed and that no action shall be commenced thereon until the taxation is completed.

(2) If no such application is made within the period mentioned in the last preceding subsection then, on the application either of the solicitor, or of the party chargeable with the bill, the Court may upon such terms, if any, as it may think fit (not being terms as to the costs of the taxation), order—

(a) that the bill shall be taxed;

(b) that, until the taxation is completed, no action shall be commenced on the bill, and any action already commenced be stayed:

Provided that—

(i) if twelve months have expired from the delivery of the bill, or if the bill has been paid, or if judgment has been obtained in an action for the recovery of the costs covered thereby, no order shall be made on the application of the party chargeable with the bill except in special circumstances and, if an order is made, it may contain such terms as regards the costs of the taxation as the Court may think fit;

(ii) in no event shall any such order be made after the expiration of twelve months from the payment of the bill.

(3) Every order for the taxation of a bill shall require the taxing officer to tax not only the bill but also the costs of the taxation and to certify what is due to or by the solicitor in respect of the bill and in respect of the costs of the taxation.

(4) If after due notice of any taxation, either party thereto fails to attend, the officer may proceed with the taxation *ex parte*.

(5) Unless—

(a) the order for taxation was made on the application of the solicitor and the party chargeable does not attend the taxation, or

(b) the order for taxation otherwise provides, the costs of the taxation shall be paid according to the event of the taxation, that is to say, if one-sixth of the

amount of the bill (exclusive of disbursements) is taxed off, the solicitor shall pay the costs but otherwise the party chargeable shall pay the costs :

Provided that the taxing officer may certify any special circumstances relating to the bill or the taxation thereof to the Court, and the Court may make thereon any such order as it may think fit respecting the payment of the costs of the taxation.

63. (1) Where a person, other than the person who is the party chargeable with the bill for the purposes of the last preceding section, has paid, or is, or was, liable to pay, the bill either to the solicitor or to the party chargeable with the bill, that person or his administrators, executors or assigns may apply to the Court for an order for the taxation of the bill as if he were the party chargeable therewith, and the Court may make thereon the same order, if any, as it might have made if the application had been made by the party :

"Taxation on application of third parties and beneficiaries under trusts, etc.

Provided that in cases where the Court has no power to make an order except in special circumstances the Court may, in considering whether there are special circumstances sufficient to justify it in making an order, take into account circumstances affecting the applicant, but which do not affect the party chargeable with the bill.

(2) If a trustee, executor or administrator has become liable to pay the bill of a solicitor, the Court may, upon the application of any person interested in any property out of which the trustee, executor or administrator has paid, or is entitled to pay, the bill, and upon such terms, if any, as it may think fit, order the bill to be taxed, and may order such payments, in respect of the amount found due to or by the solicitor and in respect of the costs of the taxation, to be made to or by the applicant, or to or by the solicitor, or to the trustee, executor or administrator as it may think fit :

Provided that in considering any such application, the Court shall have regard to—

(a) the provisions of the last preceding section as to applications by the party chargeable with the taxation of a solicitor's bill so far as they are capable of

being applied to an application made under this subsection ;

(b) the extent and nature of the interest of the applicant.

(3) If an applicant under the last preceding subsection pays any money to the solicitor, he shall have the same right to be paid that money by the trustee, executor or administrator chargeable with the bill as the solicitor had.

(4) The following provisions shall apply to applications made under this section—

(a) except in special circumstances no order shall be made for the taxation of a bill which has already been taxed ;

(b) the Court may, if it orders taxation of the bill, order the solicitor to deliver to the applicant a copy of the bill upon payment of the costs of that copy.

General provisions as to taxation.

64. (1) Every application for an order for the taxation of a solicitor's bill or for the delivery of such a bill and the delivering up of any deeds, documents and papers by a solicitor shall be made in the matter of that solicitor.

(2) The certificate of the taxing officer by whom any bill has been taxed shall, unless it is set aside or altered by the Court, be final as to the amount of the costs covered thereby, and the Court may make such order in relation thereto as it may think fit, including in a case where the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs.

Property recovered may be charged with payment of costs.

65. (1) In every case in which a solicitor shall be employed to prosecute or defend any suit, matter or proceeding in the Court, it shall be lawful for the Court to declare such solicitor entitled to a charge upon the property recovered or preserved, and upon such declaration being made and registered as hereinafter provided, such solicitor shall have a charge upon and against and a right to payment out of the property, of whatsoever nature, tenure, or kind the same may be, which shall have been recovered or preserved through the instrumentality of such solicitor, for his taxed costs, charges and expenses of or in reference to such suit, matter or proceeding ; and it shall be lawful

for the Court to make such order or orders for taxation of such costs, charges and expenses as to such Court shall appear just and proper :

Provided that no such order shall be made by the Court in any case in which the right to recover payment of such costs, charges and expenses is barred by any enactment relative to the limitation of actions.

(2) An office copy of any declaration made by the Court under this section may be left with the Registrar General, who shall, on payment of a fee of \$1.20, forthwith register the same in the judgment book in like manner as if the same were a judgment obtained in an action, and upon such registration, the solicitor to whom such taxed costs, charges, and expenses are payable shall be deemed to be a judgment creditor within the meaning of the Remedies of Creditors Ordinance, and shall be entitled Ch. 6. No. 2. to all the remedies thereby given to judgment creditors.

PART VII.

MISCELLANEOUS.

66. The Chief Justice, with the concurrence of a Puisne Rules. Judge, may make rules for carrying this Ordinance into effect, and in particular for all or any of the following matters—

(a) with respect to inquiries touching the character and fitness of persons who seek to become articled clerks ;

(b) with respect to the fees to be paid to the Society for certificates delivered by the Council of the Society under this Ordinance or rules made thereunder ;

(c) for regulating the mode of enrolment and admission of solicitors, and the practice and procedure in matters involving inquiry touching the honesty and integrity and financial status of persons seeking to be admitted as solicitors or the grant or refusal of certificates of character by the Council of the Society and for enforcing attendance of witnesses at any such inquiry and taxation and payment of the costs of holding any such inquiry ;

(d) the form of practising certificate to be used.

Council of the Society to act on behalf of Society.

67. All acts, authorised or required to be done by the Society under or in pursuance of this Ordinance, may be done or made on behalf of the Society by the Council thereof.

Authenticati- tion of certificates and other documents.

68. All certificates, notices and other documents made or issued by the Society for any purpose whatsoever may be signed on behalf of the Society by the President or Vice-President and by the Secretary, or such other officer of the Society as may be from time to time authorised by the Council.

Saving for persons authorised to conduct legal proceedings.

69. Nothing in this Ordinance shall prejudice or affect any enactment empowering any person, not being a qualified solicitor, to conduct, defend or otherwise act in relation to any legal proceedings.

Saving for jurisdiction of Court and Judges.

70. Any person duly admitted as a solicitor shall be an officer of the Supreme Court, and shall be subject to the jurisdiction thereof.

Legal proceedings.

71. (1) All offences under this Ordinance punishable on summary conviction may be prosecuted before a Magistrate in the manner provided by the Summary Courts Ordinance.

Ch. 3. No. 4.

(2) Proceedings in respect of any offence under Part V of this Ordinance may be brought at any time within two years next after the commission of the offence or within six months next after the first discovery thereof by the prosecutor, whichever period is the shorter.

Evidence.

72. An application to, or any inquiry or other proceeding before, the Committee shall be a "legal proceeding" within the meaning of the Evidence Ordinance.

Ch. 7. No. 9.

Repeal. Ch. 7. No. 4.

73. The Solicitors Ordinance is hereby repealed.

SCHEDULES.

FIRST SCHEDULE.

(Section 9.)

CERTIFICATE OF ENROLMENT AS A SOLICITOR OF THE SUPREME COURT OF TRINIDAD AND TOBAGO.

I hereby certify that was on duly admitted and enrolled as a solicitor of the Supreme Court.

Given under my hand and the seal of the said Court at Port-of-Spain, in the Colony of Trinidad and Tobago this.....day of.....19.....

Registrar of the Supreme Court.

SECOND SCHEDULE.

(Section 19.)

PROVISIONS WITH RESPECT TO THE LENGTH OF A PERSON'S
TERM OF ARTICLED SERVICE,
Certain Graduates.

1. In the case of any person who, before entering into articles, has taken a degree, not being an honorary degree, in arts, law or science at any University specified in the Third Schedule to this Ordinance, the term shall be three years.

Barristers.

2. In the case of a person who has been called to the Bar in England and who ceases to be a barrister before entering into articles, the term shall be three years.

3. In the case of a person who has been called to the Bar in England and who, before being so called was bound by articles for a term of five years and served thereunder for three years and who has ceased to be a barrister before presenting himself for his final examination, the term of three years served under such articles as aforesaid shall suffice if those articles were determined with the consent, endorsed thereon, of the solicitor with whom they were entered into.

4. The Chief Justice, with the concurrence of a Puisne Judge, may make rules directing that—

(a) in the case of any person who has passed any examination held in or by a University specified in the Third Schedule to this Ordinance or any college or educational institution specified in the rules, the term shall be four and a half years;

(b) in the case of any person who has passed any two of the said examinations as may be specified in that behalf in the rules, the term shall be four years; and

(c) in the case of any person who before entering into articles has attended the course of legal instruction specified in the rules and has passed any examination so specified as a qualifying examination in relation to that course, the term shall be four years.

Solicitors' Clerks after ten years service.

5. In the case of any person who, before entering into articles, has been for ten years a *bona fide* clerk to a solicitor and has during that term been *bona fide* engaged in the transaction and performance under the direction and superintendence of that solicitor of such matters of business as are usually transacted and performed by solicitors and who produces to the Society satisfactory evidence that he has served faithfully, honestly and diligently as such, the term shall be three years.

Other Persons.

6. In the case of any other person, the term shall be five years.

THIRD SCHEDULE.

(Section 31.)

UNIVERSITIES RECOGNIZED FOR CERTAIN PURPOSES OF THIS ORDINANCE.

The Universities of Aberdeen, Birmingham, Bristol, Cambridge, Dublin, Durham, Edinburgh, Glasgow, Leeds, Liverpool, London, Oxford, Sheffield, St. Andrew's and Wales, the Victoria University of Manchester, the National University of Ireland and the Queen's University of Belfast and any University in the United Kingdom which may be added to the list of Universities in paragraph (i) of the second Schedule to the Solicitors Act, 1932, in accordance with the provisions of paragraph (ii) of the said Schedule, or by any amendment thereof.