



ST. CHRISTOPHER AND NEVIS

CHAPTER 3.28

LEGAL PROFESSION ACT and Subsidiary Legislation

Revised Edition

showing the law as at 31 December 2017

This is a revised edition of the law, prepared by the Law Commission under the authority of the Law Commission Act, Cap. 1.03.

This edition contains a consolidation of the following laws—

	Page
LEGAL PROFESSION ACT	3
Act 33 of 2008 ... in force 12th January 2010	
Amended by: Act 14 of 2010	
Act 15 of 2017	
LEGAL PROFESSION (PRACTISING CERTIFICATE PRESCRIBED FEE)	
ORDER – Section 19	50
S.R.O. 15/2013	

Published in
2019
Consolidated, Revised and Prepared under the Authority of the Law Commission Act,
on behalf of the Government of Saint Christopher and Nevis
by
The Regional Law Revision Centre Inc.,
P.O. Box 1626, 5 Mar Building,
The Valley, AI-2640, Anguilla,
West Indies.

Available for purchase from—

Attorney General's Chambers,
Government Headquarters, P.O. Box 164,
Church Street, Basseterre, St. Kitts,
West Indies

Tel: (869) 465-2521

Ext. 1013

Tel: (869) 465-2127

Fax: (869) 465-5040

Email: attorneygeneral@gov.kn

© Government of Saint Christopher and Nevis
All rights reserved. No part of this publication may be reproduced in any form or by any means
without the written permission of the Government of Saint Christopher and Nevis except as
permitted by the Copyright Act or under the terms of a licence from
the Government of Saint Christopher and Nevis.

CHAPTER 3.28

LEGAL PROFESSION ACT

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY MATTERS

1. Short title
2. Interpretation

PART II

BAR ASSOCIATION

3. The Bar Association
4. Council to manage affairs of Association
5. The purpose of the Association
6. Practising members
7. Non-practitioner member
8. Honorary members
9. Privileges of membership
10. Expulsion and suspension of rights and privileges
6. Practising members
7. Non-practitioner member
8. Honorary members
9. Privileges of membership
10. Expulsion and suspension of rights and privileges
11. Termination of membership
12. Annual subscription to Association

PART III

ENROLMENT, ADMISSION, STATUS

13. Roll of attorneys-at-law
14. Registration of persons appearing on Roll prior to Act
15. Admission to practise and enrolment
16. Eligibility and admission of nationals of Countries not listed in Schedule 2
17. Oath of attorney-at-law
18. Status of attorney-at-law
19. Practising certificate
20. Special cases
21. Suspension of Practising certificate
22. Unlawful practice and similar offences
23. Law officers
24. Voluntary removal from the Roll

25. Suspension and removal from Roll
26. Termination of suspension
27. Application to Court for redress
28. Options of Court upon dismissal of disciplinary matter

PART IV

ACCOUNTS

29. Rules as to accounts and interest
30. Relief to banks
31. Application to Judge where improper conduct alleged
32. Rules to govern professional practice and conduct

PART V

DISCIPLINE

33. Disciplinary Committee
34. Complaints to Committee
35. Disciplinary proceedings
36. Powers of Committee
37. Appeal from Disciplinary Committee
38. Disciplinary proceedings by Supreme Court
39. Saving of jurisdiction of Courts
40. Control of employment of certain clerks

PART VI

LEGAL EDUCATION AND LAW REPORTING

41. Legal education and law reporting

PART VII

REMUNERATION AND COSTS

42. Interpretation of this Part
43. Payments in advance and accountability
44. Rules as to costs for non-contentious business
45. Remuneration agreements for non-contentious business

PART VIII

MISCELLANEOUS

46. Rules
 47. Regulations
 48. Minister may amend Schedules
- FIRST SCHEDULE: Constitution and Procedure of Association
SECOND SCHEDULE: List of Eligible Countries
THIRD SCHEDULE

FOURTH SCHEDULE

FIFTH SCHEDULE: Constitution and Membership of the Disciplinary
Committee

SIXTH SCHEDULE: Disciplinary Proceedings Rules

SEVENTH SCHEDULE: Legal Profession (Practising Certificate Prescribed
Fee) Order

CHAPTER 3.28

LEGAL PROFESSION ACT

AN ACT TO PROVIDE FOR THE REGULATION OF THE LEGAL PROFESSION, FOR THE QUALIFICATION, ENROLMENT AND DISCIPLINE OF ITS MEMBERS AND FOR RELATED MATTERS.

PART I

PRELIMINARY MATTERS

Short title.

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

Interpretation.

2. In this Act—

“attorney-at-law” means a person whose name has been entered on the Roll of Attorneys-at law;

“Bar Association” means the St. Kitts and Nevis Bar Association;

“client” includes—

- (a) in respect of contentious business, any person who—

- (i) as principal or on behalf of another person retains or employs an attorney-at-law; and

- (ii) any person who is or may be liable to pay to an attorney-at-law costs for that 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, expressed or implied, to retain or employ and retains or employs an attorney-at-law and any person for the time being liable to pay to an attorney-at-law costs for that business;

“Committee” means the Disciplinary Committee established by section 33;

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

“Council” means the Law Council of the St. Kitts and Nevis Bar Association;

“Court” means the Supreme Court of Saint Christopher and Nevis;

“Eastern Caribbean Supreme Court (Saint Christopher and Nevis) Act” means the Laws of Saint Christopher and Nevis, Cap. 3.11;

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

“Minister” means the Minister responsible for Legal Affairs;

“practise law” means practising as a barrister, solicitor or both or the undertaking or performing of the functions of a barrister, solicitor or attorney-at-law, as recognised by any law whether before or after the commencement of this Act;

“Practising certificate” means a certificate issued pursuant to section 19;

“practitioner member” means an attorney-at-law who is listed on the Roll and the holder of a Practising certificate;

“Registrar” means the Registrar of the Court;

“Roll” means the register of attorneys-at-law maintained by the Registrar pursuant to section 13;

“Supreme Court Act” means the Eastern Caribbean Supreme Court (Saint Christopher and Nevis) Act, Cap. 3:11.

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

(3) For the purposes of any enactment where the qualification of an attorney-at-law for holding an office depends upon his having been a banister or a solicitor for a specified period, the number of years during which he was previously a barrister or solicitor or registered under any enactment relating to the registration of barristers or solicitors as the case may be, shall be treated as part of the period of his enrolment as an attorney-at-law.

PART II

BAR ASSOCIATION

The Bar Association.

3. The Bar Association is established as a body corporate to be known as the St. Kitts and Nevis Bar Association.

Council to manage affairs of Association.

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

The purpose of the Association.

5. The purposes of the Association are—

- (a) to promote and maintain the highest standards of practice, conduct and proficiency of the legal profession in Saint Christopher and Nevis;
- (b) to represent and protect the interests of the legal profession in Saint Christopher and Nevis;
- (c) to protect and assist the public in Saint Christopher and Nevis in all matters relating to attorneys-at-law;
- (d) to promote good relations within the profession, between the profession and persons concerned in the administration of justice in Saint Christopher and Nevis 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 approved 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) maintain the honour and independence of the Bar in its relations with the judiciary and the executive;
- (h) to promote and report on legislation in Saint Christopher and Nevis and to promote and support desirable measures of law reform;
- (i) to do such other things as are incidental or conducive to the achievement of the purposes set out at (a) to (h).

Practising members.

6. Every attorney-at-law to whom a Practising certificate is issued shall be a member of the Association and shall remain a member for so long as his or her Practising certificate is in effect.

Non-practitioner member.

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

Honorary 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.

Privileges of membership.

9. (1) Subject to section 10, all members of the Association shall enjoy the same rights and privileges.

(2) Notwithstanding subsection (1), and with the exception of attendance and voting at the first meeting of the Association and elections of the first Council elected at that meeting, only practitioner members who pay the annual subscription to the Association shall be 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.

(Amended by Act 14 of 2010)

(3) Notwithstanding subsection (1) practitioner members may, by a resolution, exclude all other non-practitioner members from a general meeting of the Association.

Expulsion and suspension of rights and privileges.

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 reasonable opportunity to answer all allegations made against him—

- (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 of Council.

Termination of membership.

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

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.

(2) The annual subscription referred to in subsection (1) is in respect of a twelve month period commencing on the 1st January in each year after the year in which the Act comes into effect.

(Amended by Act 14 of 2010)

(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 the subscription payable by members or by different classes of members as the Council may think fit.

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

(5) The annual subscription payable under subsection (1) and fees payable under subsection (3) shall not in any year exceed five hundred dollars per practitioner member or such greater sum as may be prescribed by resolution or a general meeting of the Association.

PART III

ENROLMENT, ADMISSION, STATUS

Roll of attorneys-at-law.

13. (1) The Registrar shall maintain in accordance with this Act and any rules of Court made under section 46 a register of all attorneys-at-law to be known as the Roll together with the following particulars in respect of each attorney-at-law—

- (a) full name and address;
- (b) the date of admission to practise law;
- (c) a description and date of the qualifications to practise law.

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

(3) The Registrar shall keep an up-to-date register and in this regard shall from time to time—

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

(4) The Registrar shall, pursuant to subsection (1), issue to every attorney-at-law a certificate of enrolment under the seal of the Court as set out in Form 1 of the Third Schedule.

Registration of persons appearing on Roll prior to Act.

14. (1) The Registrar shall, as soon as practicable after the commencement of this Act, cause to be registered on the Roll the particulars specified in section 13 subsection (1) of every person to whom this section applies without application or the payment of a fee for registration, and such person shall, upon successful registration, be deemed to be an attorney-at-law.

(2) This section shall apply to any person who, immediately before the commencement of this Act—

- (a) was registered under the Eastern Caribbean Supreme Court Act; and
- (b) practised as a barrister or solicitor or held the rank of Queen's Counsel in Saint Christopher and Nevis.

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

(4) Upon payment of any fee that the Minister 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 according to the dates on which the person was admitted to practise law.

Admission to practise and enrolment.

15. (1) A person who makes an application to the Court to be admitted to practise law, and who satisfies the Court that he or she—

- (a) is of good character;
- (b) has attained the age of twenty-one years;
- (c) is a citizen of Saint Christopher and Nevis or of a country listed in the Second Schedule;
- (d) holds the qualifications prescribed for admission to practise under section 71 of the Eastern Caribbean Supreme Court (Saint Christopher and Nevis) Act as an attorney-at-law in Saint Christopher and Nevis;
- (e) has not been disbarred or struck off the Roll of attorneys-at-law of any court of a country listed in the Second Schedule, England, Scotland or Northern Ireland or has not done any act or thing which would render him liable to be disbarred or struck off the Roll of attorneys-at-law of any such court,

shall, on payment to the Registrar of the prescribed fee, be admitted by order of the Court to practise law.

(2) Before any person is admitted as an attorney-at-law, the Registrar shall enquire whether the person has fulfilled all of 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 Court.

(3) The Court may issue directions as to the manner in which the qualifications for admission to practise law may be proved and may be requested to do so for the purpose of this section or section 16.

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

Eligibility and admission of nationals of Countries not listed in Schedule 2.

16. (1) The Minister may, after consultation with the Chief Justice, by Order, provide that a person who has obtained the qualifications to practise law as prescribed by this Act, but who is a national or citizen of a country that is excluded from the Second Schedule, shall notwithstanding the exclusion, be eligible to practise law in Saint Christopher and Nevis subject to such exceptions, conditions and modifications as the Minister may specify in the Order.

(2) An Order referred to in subsection (1) shall not be made unless the Minister, is satisfied that such entitlement to admission would be on terms as favourable as those which citizens or nationals of Saint Christopher and Nevis would, if an order were made under this subsection, be or become entitled to admission as attorneys-at-law in that country.

(3) A person shall not be admitted to practise law under the provisions of subsection (1) unless that person—

- (a) satisfies the Court that he or she has obtained the prescribed qualifications;
- (b) satisfies the Court that he or she is of good character;
- (c) pays the prescribed fees.

Oath of attorney-at-law.

17. Every person on being admitted to practise law shall take the prescribed oath.

Status of attorney-at-law.

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

- (a) subject to subsection (2), is entitled to practise law and to sue 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) 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 shall 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.

Practising certificate.

19. (1) An attorney-at-law who desires to practise law in any year shall apply, in the prescribed form, to the Registrar for a Practising certificate.

(2) Subject to this section, the Registrar shall, upon payment of the prescribed fee and the production of the prescribed document, promptly issue to the attorney-at-law a Practising certificate as is set out in Form 2 of the Third Schedule.

(3) A certificate shall be valid for one year from the date of issue and shall expire on the anniversary of its issue.

(4) A person whose name is registered in the Barrister's Register or the Solicitor's Roll under the Supreme Court Act shall be deemed to hold a valid Practising certificate for the year during which this Act comes into force.

(5) The Registrar shall cause to be published in the *Gazette* and at least one newspaper of general circulation in Saint Christopher and Nevis in the months of June and December in every year, a list of persons who have in that year been issued with a Practising certificate.

(6) A copy of the *Gazette* and the newspaper referred to in subsection (5) shall be *prima facie* evidence in any Court of the fact of the registration on the Roll of the name of the attorney-at-law and that he or she is the holder of a valid Practising certificate.

Special cases.

20. (1) In the cases enumerated in subsection (2), an attorney-at-law applying for a Practising certificate shall, unless the Court otherwise orders, give to the Registrar at least six weeks before the application is made, notice of intention to make the application and the Court may in its discretion order that the Registrar shall—

- (a) issue the certificate;
- (b) refuse to grant the certificate; or
- (c) issue a certificate to the applicant subject to such terms and conditions as the Registrar may think fit.

(2) Subsection (1) applies in 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;
- (b) where he is an undischarged bankrupt or there is in force against him a receiving order in bankruptcy;
- (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;
- (d) not having held a Practising certificate within twelve months next following the date of his registration on the Roll;
- (e) when he has been adjudicated a person of unsound mind;

- (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;
- (g) after having had an order made against him for the issue of a writ of attachment;
- (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 indemnify 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) paragraph (b) or against the order for the issue of a writ of attachment referred to in subsection (2) paragraph (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 Court in any of the cases set out in subsection (2) paragraphs (a), (c), (d), (f), (g) and (h), 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 on the Court.

Suspension of Practising certificate.

21. When and so long as any of the provisions of paragraph (b), (d), (e) or (f) of section 20(2) shall apply to an attorney-at-law, he shall be suspended from practising law.

Unlawful practice and similar offences.

22. (1) 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 the person is entitled to be recognised as or to act as an attorney-at-law,

the person commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or imprisonment for a term not exceeding two years or on conviction on indictment to imprisonment for a term not exceeding three years.

(2) A person who, not being entitled to act as an attorney-at-law, acts in any action or matter or in any court in the name or through the agency of an attorney-at-law who is entitled to act, commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding two years or on conviction on indictment to a term of imprisonment not exceeding five years.

(3) Notwithstanding the provisions of any other law, an information for an offence under this section may be laid at any time within two years after the commission of an offence or within six months after the discovery of the offence by the informant, whichever period is the shorter.

(4) An attorney-at-law shall not, during any period of suspension, without the written permission of the Council, employ a person who to his knowledge has been suspended from practising law or whose name has been removed from the Roll otherwise than at his or her own request in accordance with section 24; such permission may however be given for a period subject to conditions as the Council may determine.

Law officers.

23. (1) For the purposes of this Act, a law officer is an attorney-at-law who holds office in the Public Service and is appointed by the Governor-General.

(2) A law officer shall be deemed to be the holder of a valid Practising certificate.

(3) A certificate in the form set out in Form 3 of the Third Schedule to the effect that a person is a law officer is *prima facie* evidence of that fact.

(4) A law officer is exempt from paying annual subscription to the Bar Association.

Voluntary removal from the Roll.

24. 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 Court which shall make such order thereon as it thinks fit.

Suspension and removal from Roll.

25. (1) The Registrar shall make the appropriate entry or alteration in the Roll and publish the appropriate notice in the *Gazette* whenever the following occurs—

- (a) the Court orders that an attorney-at-law be suspended from practising law; or
- (b) the name of an attorney-at-law be removed from the Roll; or
- (c) 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.

(2) 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.

(3) Where the name of an attorney-at-law is removed from the Roll his Practising certificate shall cease to be valid.

(4) 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.

Termination of suspension.

26. Upon the termination of the suspension of an attorney-at-law from practising law, the Registrar shall forthwith cause a note of 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* and in at least one newspaper of general circulation.

Application to Court for redress.

27. (1) An attorney-at-law who has been suspended from practising law or whose name has been removed from the Roll may, subject to section 27, apply to the Court by petition to have the order of his suspension withdrawn, or his name restored to the Roll, as the case may be.

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

Options of Court upon dismissal of disciplinary matter.

28. (1) On the hearing of an application made under section 26, the 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 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* and in a newspaper of general circulation by the Registrar.

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

PART IV

ACCOUNTS

Rules as to accounts and interest.

29. (1) All money received for or on behalf of a client by an attorney-at-law shall be held on trust for that client to be paid subsequently to the client or as the client may direct.

(2) The Council may, after consultation with the Bar Association, make rules generally for the keeping and operating of bank accounts of clients' money by attorneys-at-law, and without prejudice to the generality of the foregoing, the rules may provide—

- (a) for attorneys-at-law to open and keep accounts at banks for clients' money;
- (b) for attorneys-at-law to keep accounts containing particulars and information as to money received, held or paid by them for or on account of their clients; and
- (c) for the monitoring and verification of compliance by attorneys-at-law with the requirements of the said rules.

(Inserted by Act 14 of 2010)

(3) Rules made under this section may also require an attorney-at-law, in prescribed cases to—

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

(4) Pursuant to subsection (3) an attorney-at-law shall be required to keep a record of any sum of money received and the period for which it is or is likely to be retained or both.

(5) Nothing in subsection (3) and (4), or in rules made pursuant to subsection (3) shall—

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

Relief to banks.

30. (1) Subject to subsections (2) and (3) a bank shall not be liable on any transaction concerning the account of an attorney-at-law other than an account kept by an attorney-at-law as trustee for a specified beneficiary; and a bank shall be under no obligation to make any enquiry or be deemed to have knowledge of any right of any person to money paid or credited to that account.

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

Application to Judge where improper conduct alleged.

31. (1) Where a Judge is satisfied on application made to him in Chambers by a client, attorney-at-law or the Attorney-General that there is reasonable cause to believe that—

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

the Judge shall cause the Registrar forthwith to inform the attorney-at-law of the application and the grounds upon which it is based and summon him to appear in Chambers before a Judge of the Court on a date and at a time stated in the order to be examined concerning the matter and shall cause the Registrar to summon the person who made the application also to appear before the same Judge on that date and at that time.

(2) If on examination it appears to the Judge that the attorney-at-law has committed an offence involving fraud or improper conduct he may order that—

- (a) an account be kept by the attorney-at-law or his firm with a bank or other financial institution for the client;
- (b) an account be kept by a bank or other financial institution for the client by the attorney-at-law or his firm as the Judge thinks proper, and that order shall be served on the bank or financial institution; and
- (c) the Registrar make or cause to be made an application to the Council in respect of the attorney-at-law, and Part B of the Code shall apply insofar as is practicable.

(3) Where on an application made pursuant to subsection (1) the Court of Appeal in any proceedings brought under Part V finds the attorney-at-law guilty of professional misconduct, it may make an order as to the keeping or distribution of the money standing to the credit of the account as it thinks proper in the circumstances of the case.

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

Rules to govern professional practice and conduct.

32. (1) The Code of Ethics Rules set out in the Fourth Schedule shall regulate the professional practice, etiquette, conduct and discipline of attorneys-at-law.

(2) A breach of the rules in Part A of the Code may constitute professional misconduct; but a breach of the Rules in Part B of the Code shall constitute professional misconduct.

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

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

PART V

DISCIPLINE

Disciplinary Committee.

33. (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 deputises, a Deputy Registrar or an Assistant Registrar, shall perform the duties of secretary to the Committee.

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

Complaints to Committee.

34. (1) A person who alleges that an act of professional misconduct has been 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 an affidavit made by that person.

(2) In any matter or hearing before any court, where the court considers that an act referred to in 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.

(3) A complaint against an attorney-at-law for misconduct shall not be brought more than one year after—

- (a) the date of occurrence of the facts giving rise to the complaint; or
- (b) the date of knowledge of the facts giving rise to the complaint of the complainant.

Disciplinary proceedings.

35. (1) The Sixth Schedule shall have effect in relation to disciplinary proceedings against an attorney-at-law other than the Attorney-General or law officers.

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

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

Powers of Committee.

36. (1) On the hearing of an application under this Part, 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; or
- (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) 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 of the Committee.

Appeal from Disciplinary Committee.

37. (1) An attorney-at-law aggrieved by a decision given or penalty imposed by the 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 Committee could have made or imposed or remit the matter to the Committee for a rehearing.

Disciplinary proceedings by Supreme Court.

38. (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 Court has the power to take disciplinary action in accordance with rules of court made for the purpose under the Eastern Caribbean Supreme Court Act with respect to his professional conduct against an attorney-at-law and in particular the 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 Court deems fit;
- (c) such order as to costs, as regards both the proceedings before it and the proceedings before the Committee as the 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 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 Court shall be entitled to a right of appeal to the Court of Appeal from any decision or other determination of the Court in such proceedings.

Saving of jurisdiction of Courts.

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

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

shall continue to be exercisable after the commencement of this Act.

Control of employment of certain clerks.

40. An attorney-at-law shall not knowingly hire a person who is or was a clerk to an attorney-at-law but is not himself or herself an attorney-at-law and has been convicted by a court—

- (a) of larceny, embezzlement or fraudulent conversion; or
- (b) of any other criminal offence in respect of any money or property belonging to or held or controlled by an attorney-at-law by whom he is or was employed, or any client of that attorney-at-law.

PART VI

LEGAL EDUCATION AND LAW REPORTING

Legal education and law reporting.

- 41.** (1) The Council may make arrangements—
- (a) for the provision of a system of legal education and practical legal training and professional development; and
 - (b) for the provision of a system of law reporting.
- (2) The Council may make rules relating to matters connected with its functions under subsection (1) and, in particular, but without prejudice to the generality of the foregoing, concerning—
- (a) courses of instruction for students and generally for affording opportunities for students to read and obtain practical experience in law; and
 - (b) the nature and conditions of examinations and fees payable in respect of these examinations.
- (3) Rules made under subsection (2) shall be subject to a negative resolution of the National Assembly.

PART VII

REMUNERATION AND COSTS

Interpretation of this Part.

- 42.** 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;
- “person 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.

Payments in advance and accountability.

- 43.** (1) An attorney-at-law who receives any money in advance from or on behalf of a client 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 demand, deliver to the client a statement in writing showing—

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

(2) If a client fails to obtain the statement referred to in subsection (1) after demanding it in accordance with the 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 Judge may on the making of that order, give other directions as they may respectively consider to be appropriate.

Rules as to costs for non-contentious business.

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

(2) Rules made under this section may—

- (a) regulate the amount of remuneration which may be charged, having regard to the following—
 - (i) the skill, labour and complexity required by the attorney-at-law in handling the business;
 - (ii) the number and importance of documents prepared or perused by the attorney-at-law;
 - (iii) the place where and the circumstances in which the business or any part of it is transacted; and
 - (iv) the amount of money that is expended or likely to be expended in the business;
- (b) authorise and regulate—
 - (i) the taking by an attorney-at-law from his client of security for payment of remuneration to be ascertained by taxation or otherwise which may become due to him; and
 - (ii) the allowance of interest.

(3) Where rules made under this section are in force, the taxation of a bill of costs of an attorney-at-law in respect of non-contentious business shall be regulated by those rules.

Remuneration agreements for non-contentious business.

45. (1) Notwithstanding section 44, an attorney-at-law and his client may either before, after, or in the course of the transaction of any non-contentious business by the attorney-at-law, enter into an agreement as to the remuneration of the attorney-at-law in respect of the work to be performed.

(2) The agreement made by virtue of subsection (1) may provide for the remuneration of the attorney-at-law by gross sum, by commission, by percentage, by salary, or otherwise, and it may be made on 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) An agreement made by virtue of subsection (1) shall be in writing and signed by the person to be bound or his agent.

(4) An agreement made by virtue of subsection (1) 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 the 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 it may think fit.

PART VIII

MISCELLANEOUS PROVISIONS

Rules.

46. The Council may, after consulting the Chief Justice, make rules to give effect to the provisions of this Act.

Regulations.

47. The Minister may make Regulations to further give effect to the provisions of this Act.

Minister may amend Schedules.

48. The Minister may, by Order, amend the First, Second and Third Schedules to this Act.

(Inserted by Act 14 of 2010)

FIRST SCHEDULE*(Section 4)***CONSTITUTION AND PROCEDURE OF 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.

Type of Members.

2. The Council shall consist of—
- (a) the immediate past president of the Association when he is resident in Saint Christopher and Nevis;
 - (b) elected members comprising—
 - (i) officers of the Association; and
 - (ii) ordinary members.

Officers of the Association.

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 ordinary members.

(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.

Ordinary members.

4. There shall be seven ordinary members of the Council comprising seven practitioner members, each of whom shall be of not less than five years' standing on the day of his or her nomination for election to the Council.

First Meeting of Association.

5. (1) The first meeting of the Association shall be convened by notice given by the Registrar and published in the *Gazette* and in two issues of a newspaper circulated daily or weekly in St. Kitts and Nevis. The meeting shall be convened for a date not less than twenty-one days after the first publication of the notice in the newspaper.

(2) The sole purpose of the first meeting shall be nomination and election of a President, Vice-President and Treasurer and the ordinary members of the Council. The Council so elected shall hold office until the officers of the Association and ordinary members of the Council are elected in the year 2012.

(3) The first meeting shall be chaired by an attorney-at-law appointed for the purpose by the Registrar.

(4) A quorum for the first meeting shall be twenty practitioner members.

(5) Voting at the first meeting shall be conducted by a ballot system approved by the Registrar.

(6) Nominations of candidates for elections at the first meeting shall be made at the meeting.

(7) The Registrar may give directions as to any other procedural matters in respect of the first meeting.

(Inserted by Act 14 of 2010)

Election and Voting.

6. In every year elections shall be held in accordance with the 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.

7. 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 nominations of candidates for election to the Association and the Council.

8. Every nomination of a candidate for election to the Association and to 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.

9. 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.

10. Voting shall be conducted by means of a ballot system.

11. (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.

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

12. 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.

New Council, Vacancies in Office and General Procedure at Meetings.

13. (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.

14. 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 13.

15. 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.
16. (1) The President of the Association or, in his or her absence the Vice-President of the Association shall be the Chairperson 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.
17. Subject to paragraph 16, 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.
18. The statutory member of the Council shall vacate his or her office if—
- (a) he or she is struck off the Roll or is suspended from practising as an attorney-at-law;
 - (b) he or she becomes bankrupt or is insolvent;
 - (c) he or she becomes of unsound mind; or
 - (d) he or she resigns his seat on the Council.
19. An elected member shall vacate his or her office if any of the circumstances specified in paragraph 18 occurs and shall also vacate his or her office if—
- (a) being elected under paragraph 6, he or she ceases for any reason to have in force a practising certificate; or
 - (b) he or she is absent from three consecutive meetings of the Council without its consent.
20. Five members present at a meeting of the Council shall constitute a quorum for the transaction of any business.
21. 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 Association.
22. (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—
- (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.
23. (1) The Council may convene a Special General Meeting of the Association at such time or times as the Council deems expedient.
- (2) Twenty practitioner members may requisition a general meeting.
24. (1) Any twenty practitioner members of the Association may at any time requisition a Special Meeting by written notice signed by them stating the objects of the meeting and served on the President, the Vice-President or Secretary of the Association.

(2) The Council shall convene a General Meeting to be held in 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.

25. 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.

Management of Association to be vested in Council.

26. (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.

(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.

27. (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.

(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 fifteen to constitute a quorum at a General Meeting.

(Amended by Act 14 of 2010)

SECOND SCHEDULE*(Section 16)*

LIST OF ELIGIBLE COUNTRIES

Anguilla
 Antigua and Barbuda
 Bahamas
 Barbados
 Belize
 British Virgin Islands
 Cayman Islands
 Dominica
 Grenada
 Guyana
 Jamaica
 Montserrat
 St. Kitts and Nevis
 St. Lucia
 Saint Vincent and the Grenadines
 Trinidad and Tobago
 Turks and Caicos Islands

THIRD SCHEDULE

FORM 1

(Section 13(4))

CERTIFICATE OF ENROLMENT

It is hereby certified thatis registered on the Roll of Attorneys-at-law under section 14 of the Legal Profession Act, Cap. 3.28

Dated this..... day of..... 20

.....
Registrar of the Court

(Amended by Act 14 of 2010)

FORM 2

(Section 19)

LEGAL PROFESSION ACT, CAP. 3.28

PRACTISING CERTIFICATE

Pursuant to the Legal Profession Act, Cap. 3.28, it is hereby certified that

.....

whose name is registered in the Roll of Attorneys-at-law is entitled to practise as an
Attorney-at-law until the..... day of.....20.....

Dated this..... day of..... 20.....

.....

Registrar of the Court

FORM 3

(Section 23)

THE LEGAL PROFESSION ACT, CAP. 3.28

LAW OFFICERS CERTIFICATE

It is hereby certified that

is a law officer holding the office of..... in the Public Service and
appointed by the Governor-General.

Dated this..... day of..... 20

.....

Attorney-General

FOURTH SCHEDULE*(Section 32)***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 and 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 in the discharge of his professional duties expose without fear or favour before the proper tribunals unprofessional or dishonest conduct by any other attorney-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 which may cause him to cease to be independent.
4. An attorney-at-law shall protect the profession against the admission of any candidate whose moral character or education renders him unfit for admission.
5. 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.
6. An attorney-at-law may speak in public or write for publication on legal topics so long as it is not likely to be regarded as a result of that action, as being concerned with the giving of individual advice.
7.
 - (1) An attorney-at-law shall endeavour to uphold standards of integrity, capability, dedication to work, fidelity, and trust.
 - (2) It is unprofessional for an attorney-at-law to—
 - (a) solicit business by advertisements or interviews not warranted by personal relations; or
 - (b) to seek retainers through agents of any kind.
8. An attorney-at-law shall defend the interest 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. An attorney-at-law has a right to decline employment and is not obliged to act either as adviser or advocate for every person who may wish to become his client.
10. A client is not entitled to receive nor is an attorney-at-law entitled to render any service or advice—
 - (a) exhibiting disrespect for a judicial office;
 - (b) concerning the corruption of any person exercising a public or private trust: or
 - (c) concerning the deception or betrayal of the public.
11. Every attorney-at-law shall bear in mind that the oath of office taken on his admission to practise is not a mere formality but is a solemn undertaking to be strictly observed on his part.

II – IN RELATION TO THE STATE AND THE PUBLIC

12. An attorney-at-law owes a duty to the State to maintain its integrity, constitution and laws and not to aid, abet, counsel or assist anyone to act in a manner contrary to this duty.
13. The primary duty of an attorney-at-law when engaged as a public prosecutor 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 guilt or innocence of the accused.
14. An attorney-at-law shall endeavour by lawful means where the needs of society require, to promote and encourage the modernisation, simplification and reform of legislation.
15. 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 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 settlement of disputes.
16. An attorney-at-law shall not, except for good reason, refuse his services in capital offences.
17. An attorney-at-law shall not be deterred from accepting proffered employment owing to the fear or dislike of incurring the disapproval of officials, other attorneys-at-law or members of the public.
18. Where an attorney-at-law consents to undertake legal aid and he is requested by the Council and consents to undertake the representation of a person who is unable to afford legal representation or to obtain legal aid, the attorney-at-law shall not, except for compelling reasons, seek to be excused from undertaking that representation.
19. An attorney-at-law, in undertaking the defense of a person accused of a crime, shall use all fair and reasonable means to present every defence available at law.

III – IN RELATION TO CLIENT

20. (1) An attorney-at-law shall always act in the best interest 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 defense which is authorised by law, always bearing in mind that his duties and responsibilities should be carried out within and not without the boundaries of the law.
- (2) The first concern of an attorney-at-law should always be the interest of his client and the exigencies of the administration of justice which should rank before his right to compensation for his services.
21. (1) An attorney-at-law should, before advising on the cause of a client, obtain a sound knowledge of the matter and give a candid opinion of its merits or demerits and the probable results of pending or contemplated litigation.
 - (2) An attorney-at-law should be reluctant in proffering bold and confident assurances to his client especially where his employment may depend on these assurances in light of the fact that the law might not always be on the side of his client and that the law allows for the *audi alteram partem* rule to be followed.
 - (3) Where a dispute allows for settlement without litigation, an attorney-at-law should advise his client to avoid or settle the dispute.
 22. (1) An attorney-at-law shall at the time of agreeing on a retainer disclose to his client all the circumstances of his relations to the parties and his interest in or connection with the dispute which may influence the client in his selection of an attorney-at-law.
 - (2) An attorney-at-law shall scrupulously guard and never divulge the secrets and confidence of his client except with his client's consent.
 23. An attorney-at-law shall treat adverse witnesses, litigants and other attorneys-at-law with fairness and courtesy, refraining from offensive personal references and should refrain, in conducting his professional duties, from being influenced by his client's personal feelings and prejudices.
 24. An attorney-at-law has the right to undertake the defence of a person accused of a crime regardless of his own personal opinion as to the guilt of the accused and having undertaken to conduct the defense, 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 unjustly deprived of life or liberty.
 25. (1) An attorney-at-law may represent multiple clients only if he can adequately represent the interests of each and if each consents to his representation after full disclosure of the possible effects of multiple representation.
 - (2) An attorney-at-law shall, in all situations where a possible conflict of interest arises, resolve the conflict by leaning against multiple representation.
 26. (1) An attorney-at-law shall deal with the business of his client with all due expedition and shall whenever reasonably so required by the client, provide him with full information as to the progress of the business.
 - (2) It is improper for an attorney-at-law to accept a case unless he can handle it without undue delay.
 27. 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.

28. (1) A Queen's Counsel may accept instructions, appear or do any work without a junior, except where he would otherwise be unable properly to carry out his instructions or conduct his case if he were to do so.
 - (2) Where more than one attorney-at-law appears as advocate for the same party in the same proceedings, the decision of who shall lead the conduct of the 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.
 - (3) An attorney-at-law, including a Queen's Counsel, who appears with the leader is entitled to an appropriate negotiated fee for his conduct of the case.
29. (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) An attorney-at-law shall not charge in excess of the value of the service rendered because of the ability of a client to pay, however, he may consider the indigence of a client as a factor in charging below the value of the service rendered, or not charging 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 compensation for his services.
30. The right of an attorney-at-law to ask for a retainer or to demand payment of out-of-pocket expenses and commitments and to withdraw his services for non-payment of these fees shall not be exercised where the client may be unable to find other timely assistance to prevent irreparable damage being done to his case.
31. 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 charges involved except if there is an 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 charges, nor is he entitled to a share of the fee of his foreign colleague.
32. Subject to paragraph 12 of Part B, 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 reason 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 paragraph 25 of this Part or paragraph 8 of Part B.

33. (1) An attorney-at-law may not appear as a witness for his own client except in merely formal matters or where the 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 those that are merely formal, he shall 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

34. (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 not support unjust criticisms of Judges and Magistrates.
 - (4) Where there is ground for complaint against a Judge or Magistrate an attorney-at-law may make representation to the proper authorities and where this is done, the attorney-at-law shall be protected.
35. An attorney-at-law shall endeavour always to maintain his status 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.
 36. An attorney-at-law shall never seek privately to influence directly or indirectly the Judges of the Court in his favour or in the favour of his client, nor shall he attempt to influence juries by fawning, flattery or pretended solicitude for their personal comfort.
 37. An attorney-at-law shall be punctual in attendance before the Courts and concise and direct in the trial and disposition of causes.
 38. An attorney-at-law appearing before the Court shall at all times be attired in the manner prescribed or agreed upon by the proper authorities and as befits the dignity of the Court.

V – IN RELATION TO HIS FELLOW ATTORNEYS-AT-LAW

39. (1) The conduct of an attorney-at-law towards his fellow attorneys-at-law shall be characterised by courtesy, fairness and good faith and he shall not permit ill-feelings 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.
40. (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 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.
41. An attorney-at-law shall not give a professional undertaking that he cannot fulfill.

42. (1) An attorney-at-law shall in the course of his professional duties report improper or unprofessional conduct by a colleague to himself or his client to the Council, except where the information relating to the improper or unprofessional conduct is received in professional confidence in which case he shall respect the duty of silence imposed in those circumstances.
- (2) An attorney-at-law shall in the course of his professional duties expose without fear an attorney-at-law who is alleged to have wronged a client and shall not lightly refuse a retainer against another attorney-at-law if called upon to do so.
43. Where an attorney-at-law has been sent money, documents or other things by a colleague in pursuance of a legal matter on condition that the receiving party will use them for a particular purpose, he must comply with that request or forthwith return the money, document or other things.
44. 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 that other attorney-at-law or with his prior consent.
45. (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.
46. An attorney-at-law shall not accept instructions to act in court proceedings in which to his knowledge a client has previously been represented by another attorney-at-law, unless he first notified the other attorney-at-law of the change, and makes reasonable efforts to ensure that the other attorney-at-law has been paid for his services, however he shall be deemed to have notified the other attorney-at-law if he has made reasonable efforts to notify him of the change.
47. 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 to represent him.
48. An attorney-at-law who instructs or employs another attorney-at-law to act on behalf of his client shall, unless otherwise agreed, pay the proper fee of that attorney-at-law whether or not he has received payment from the client.
49. 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, than it would be had he undertaken to assist a colleague in Saint Christopher and Nevis.

VI – GENERAL

50. Nothing contained in this Code 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 and which are not specifically provided for in this Code.

51. 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.
52.
 - (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 Saint Christopher and Nevis for a period of five years commencing on the date of his retirement, resignation or other termination of 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 an attorney-at-law unless he has been issued a practising certificate in accordance with the provisions of this 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 to the matter; however, it is proper for an attorney-at-law to become involved in matters referred by the Bar Association or by another attorney-at-law or for which he is engaged in any other manner not inconsistent with this Code.
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 organisation.
 - (3) An attorney-at-law shall not advertise for business indirectly by furnishing or inspiring newspaper comment concerning cases or causes in which he has been or is connected or concerning the manner of his conduct, the magnitude of the interest involved, the importance of his position and any similar self-laudations.
 - (4) An attorney-at-law or law firm may have a website or publish professional newsletters the contents of which shall be in accordance with good practice of the legal profession, conveying information about the firm, its members and staff and current legal issues. Websites and

professional newsletters shall carry content of a professional nature and not contain anything derogatory of the legal profession, Government, judiciary, or their respective members.

- (5) Notwithstanding subparagraphs (1), (2) and (3)—
- (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 cause 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 attracting potential clients;
 - (iii) in reports and announcements of *bona fide* commercial, civic, professional or political organisations 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 of these publications;
 - (v) in announcements of any public address, lecture, or publication by him on legal topics except that these 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 by this method emphasize his own professional competence and is not likely to be regarded as being concerned 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; however these cards should not be published in the news media and should only be handed out on request and for the purposes of identification or providing an address;
 - (ii) a brief professional announcement card which may be delivered only to attorneys-at-law, clients, former clients, personal friends and relations and government bodies stating new or changed associations, addresses, or firm names or similar professional matters;
 - (iii) a sign of a size and design compatible with the existing practice of the profession displayed on or near the door of the office and in the building director identifying the law office;
 - (iv) a letter 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 a brief biographical or other relevant information and the professional card, office sign, letterhead or listing may also state that the attorney-at-law is a notary public;
 - (vi) a professional website in the attorney's name where the attorney is a sole practitioner, or in the firm's name in the case of a law firm. Such website shall not contain anything derogatory of the legal profession, Government, judiciary or their respective members;
 - (vii) professional newsletters which must carry content of a professional nature and not contain anything derogatory of the legal profession, Government, judiciary or their respective members.
7. Where an attorney-at-law commits a criminal offence which in the opinion of the Council is of a nature likely to bring the profession into disrepute, the commission of the offence shall constitute professional misconduct if—
- (a) he has been convicted by a Court, including a foreign court of competent jurisdiction, for the offence;
 - (b) although he has not been prosecuted the Council is satisfied of the facts constituting the offence; or
 - (c) he has been prosecuted and has been acquitted by reason of a technical defence or he has been convicted but the 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 a non-qualified body or person.
- (2) An attorney-at-law shall not enter into an arrangement for or charge or collect a fee in contravention of this Code or any law.
10. (1) An attorney-at-law shall not charge fees that are unfair or unreasonable and 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 competently perform the legal service;
 - (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 Council.
 - (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 except with the prior agreement of the client for reasonable commissions on the collection of liquidated claims.
- 11.
- (1) An attorney-at-law shall not act in any manner in which his professional duties and personal interests conflict or are likely to conflict except with the specific approval of his client given after full disclosure to the client.
 - (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 paragraph 32 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 adequate notice;
 - (b) allowing time for employing 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 these items;
 - (d) complying with any laws, rules or practice that 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 that part of the fees, if any, already paid by his client as may be fair and reasonable having regard to all the circumstances of the case.
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 presenting 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 a violation of the law;
 - (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 his judgment and advice, or the rules of law or professional ethics; or

- (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 receives for his client for longer than is absolutely necessary.
 15. An attorney-at-law shall never disclose, unless 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 or the attorney-at-law of his client and this duty not to disclose extends to his partners and to any junior attorney-at-law assisting him, however, an attorney-at-law may reveal confidences or secrets necessary to establish or collect his fee or to defend himself 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 that 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 Saint Christopher and Nevis should only to be performed by a qualified attorney-at-law.
 18. An attorney-at-law shall not act with inexcusable or undue delay, negligence or neglect in the performance of his duties.
 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 willfully 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 any thing of value to a Judge, juror or official of a tribunal before which there is pending any matter in which he is engaged.
 24. An attorney-at-law shall not, in any proceedings in a Court, communicate or cause any other person to communicate with a juror information as to the merits of the proceeding, 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 unavailable 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 except as reimbursement for expenses reasonably incurred and as reasonable compensation for loss of time in attending, for preparation and 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 or use of evidence that 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 the client to rectify the act.
 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, tribunal or any of its officials, whether the 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 tribunal that a particular state of facts exists.
 31. In pecuniary matters an attorney-at-law shall be most punctual and diligent and shall never mingle funds of others with his own and shall at all times be able to refund money he holds for others.
 32.
 - (1) An attorney-at-law shall keep accounts as clearly and accurately as is possible to distinguish the financial position between himself and his client as and when required.
 - (2) An attorney-at-law shall comply with the rules that may be made by the Council under the provisions of the Act.
 - (3) Nothing contained in paragraphs 27 and 28 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 an account maintained by that attorney-at-law for a client.
 33. An attorney-at-law shall reply promptly to any letter received from the Council relating to his professional conduct.
 34. Where no provision is made in this Code in respect of any matter, the rules and practice of the legal profession which govern 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 a breach is liable to any of the penalties which the Council 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 standard of conduct expected from an attorney-at-law and may, depending on the circumstances of the particular case, amount to misconduct or form a material ingredient thereof.
-

FIFTH SCHEDULE

(Section 33)

CONSTITUTION AND MEMBERSHIP OF THE DISCIPLINARY COMMITTEE

1. (1) The Disciplinary Committee shall consist of eight persons appointed by the Chief Justice after consultation with the Council.

(2) Subject to subparagraph (3), the persons appointed to serve as members of the Disciplinary Committee shall be attorneys-at-law of not less than two years' standing.

(3) There shall be a Chairman and Vice-Chairman of the Disciplinary Committee who shall be—

(a) appointed by the Chief Justice after consultation with the Council;

(b) members who have held judicial office or who are attorneys-at-law with not less than ten years' standing.

(Substituted by Act 15 of 2017)

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 panels

3. (1) For the purposes of hearing applications made pursuant to section 32 of the Act, the Disciplinary Committee may sit in two panels, each comprising any four members.

(Amended by Act 15 of 2017)

(2) An ad hoc panel may be constituted for the purpose of hearing a particular application.

(Inserted by Act 15 of 2017)

(3) The Chairman of the Committee shall determine the composition of each panel.

(Amended by Act 15 of 2017)

(4) Each panel 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 panel shall be deemed to be a hearing by or determination or order of the Disciplinary Committee.

(Amended by Act 15 of 2017)

Resignation, revocation of appointment, vacancies

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.

5. If the Chief Justice thinks it expedient so to do, he or she may at any time revoke the appointment of any member of the Committee.

(Substituted by Act 15 of 2017)

6. Where a member of the Committee ceases to be a member before the expiration of his term of office, the Chief Justice may, after consultation with the Council, appoint a suitably qualified person to serve for the remainder of the former member's term of office.

(Substituted by Act 15 of 2017)

*7. Where pursuant to paragraph 6, the person who ceases to be a member before the expiration of his or her term of office is either the Chairman or the Vice Chairman of the Committee, the Chief Justice may appoint any suitably qualified member of the Committee to fill the position for the remainder of the former member's term of office.

8. Where the Chief Justice makes an appointment pursuant to paragraph 7, he or she may, after consultation with the Council, appoint a suitably qualified person to fill the vacancy resulting from the appointment of an existing member as the Chairman or Vice-Chairman and that person shall serve for the remainder of the former member's term of office.

9. Where prior to the coming into force of this Act, a person who sits on the Council was appointed as a member of the Committee and such person ceases to be a member of the Council before the expiration of that person's term of appointment as a member of the Committee, that person shall, subject to the provisions of this Schedule, continue to hold office as a member of the Committee for the duration of that person's term of appointment.

(Inserted by Act 15 of 2017)

Publication of membership

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

Liability of Committee

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

Proceedings at meetings

12. (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 the meetings of the Committee.

* Paragraphs 6A, 6B and 6C inserted by Act 15 of 2017 and renumbered as paragraphs 7, 8 and 9, and the following paragraphs renumbered.

(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 the Sixth Schedule, the Committee shall have power to regulate its proceedings.

SIXTH SCHEDULE

(Section 35)

DISCIPLINARY PROCEEDINGS RULES

Citation.

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

Interpretation.

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.

Application and affidavits.

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 facts on which he relies in support of this application.

No case to answer.

4. The Committee, before fixing a date for the hearing of a matter, may require the applicant to supply further information and documents relating to all allegations as it thinks fit, and in any case where in the opinion of the Committee no *prima facie* case is shown, the Committee may, without requiring the attorney-at-law to answer the allegations, dismiss the application and notify the applicant and the attorney-at-law of the dismissal.

Notice of hearing.

5. (1) In any case in which, in the opinion of the Committee, a *prima facie* case is shown, the Committee shall fix a date for hearing and the Secretary shall serve notice of the date on the applicant and the attorney-at-law together with a copy of the application and affidavit.

(2) The notice referred to in subsection (1) shall be served not less than twenty-one days before the date of hearing.

Lists of documents for hearing.

6. The notice to the applicant shall be in Form 3 and the notice to the attorney-at-law shall be in Form 4 as set out in the Appendix 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, the 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 date of hearing.

(Amended by Act 15 of 2017)

Inspection of documents.

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

Absence of parties.

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

Affidavit evidence.

9. The Committee may, either as to the whole case or as to any particular fact, proceed and act upon evidence given by affidavit, but a party to the proceedings may require a deponent to an affidavit to be summoned to appear before the Committee unless the Committee is satisfied that the affidavit is purely formal and that the requirement of the appearance of the deponent is made frivolously.

Subpoena.

10. A subpoena issued by the Committee under section 35 may be in Form 5 as set out in the Appendix with variation as the case may require.

(Amended by Act 15 of 2017)

Privacy of hearings.

11. The Committee shall hear all applications in camera but shall pronounce its findings in public.

Quorum for hearings.

*12. For the purpose of hearing a matter, the quorum of the Committee shall be three members.

(Inserted by Act 15 of 2017)

* Paragraph 11A inserted by Act 15 of 2017 and renumbered as paragraph 12, and the following paragraphs renumbered.

Notes of proceedings.

13. (1) 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.

(2) Every person entitled to be heard on an appeal from the decision of the Committee shall be entitled to a copy of the notes on payment of the charges, if any, prescribed by the Rules of Court.

Power to extend time.

14. Notwithstanding anything to the contrary, the Committee may extend or abridge the time for doing an act under these Rules.

Privileges and immunities.

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

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

Exemption from stamp duty.

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

Dismissal of application after hearing.

17. The Committee may, after hearing an application, dismiss it if it is satisfied that a case of professional misconduct has not been made out.

Penalty for misconduct.

18. The Committee may, where a case of professional misconduct has been established, make an order as it thinks appropriate.

APPENDIX

FORM 1

APPLICATION AGAINST AN ATTORNEY

To the Disciplinary Committee Constituted under the Legal Profession Act, Cap. 3.28

IN THE MATTER OF..... (ATTORNEY)

AND

..... (APPLICANT)

IN THE MATTER OF THE LEGAL PROFESSION ACT, CAP. 3.28

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 accompanying affidavit constitute professional misconduct on the part of the saidin his capacity as attorney-at-law.

In witness whereof I have hereunto set my hand this..... day of 20.....

.....

Signature

.....

Address

.....

Profession, business or occupation

*insert full name and last known place or places of business.
(Amended by Act 15 of 2017)

FORM 2

AFFIDAVIT BY APPLICANT

IN THE MATTER OF..... (a)..... (ATTORNEY)

AND

..... (b)(APPLICANT)

IN THE MATTER OF THE LEGAL PROFESSION ACT, CAP. 3:28

AFFIDAVIT

I, (b)..... **Make Oath** and say as follows —

1. I reside at(c)..... in the country of..... (d).....
2. I am a..... (e)..... and my postal address is..... (f)
3. The above-named attorney-at-law..... (g).....
4. The complaint I make against the attorney-at-law is that he..... (h)..... set out shortly the grounds of complaint.

NOTE:

It is necessary that the Applicant reproduces the Affidavit in the form set out above so as to be able to set out in sufficient detail the information required including the specific facts complained of and the grounds of the complaint. All documents on which the applicant intends to rely should be exhibited to the Affidavit.

Sworn at)

This day of 20)

.....
Signature or mark of applicant

(the same having been first)

read over and explained to)

the deponent and he)

appeared fully to understand)

the same)

Before me:)

)

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

- (a) Name of the attorney-at-law
- (b) Name of applicant
- (c) Place of residence
- (d) Country
- (e) Occupation
- (f) Postal Address
- (g) Set out facts complained of
- (h) Set out shortly the ground of complaint
(Amended by Act 15 of 2017)

FORM 3

NOTICE BY THE DISCIPLINARY COMMITTEE TO APPLICANT

Complaint No..... of 20

IN THE MATTER OF.....(ATTORNEY)

AND

.....(APPLICANT)

IN THE MATTER OF THE LEGAL PROFESSION ACT, CAP. 3.28

To.....

of.....

The..... day of..... 20..... 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, Cap. 3.28.

The Disciplinary Committee will sit atato'clock in the forenoon.

If you fail to appear the Disciplinary Committee may in accordance with the rules made under the Legal Profession Act, Cap. 3.28 proceed in your absence.

You are required by the rules under the Legal Profession Act, Cap. 3.28 to furnish to the said..... and the Secretary of the Disciplinary Committee at..... at least 14 days before the saidday of..... 20..... a list of all documents on which you propose to rely.

A party may inspect the documents included in the list furnished by the other party and a copy of any document mentioned in such list shall on the application of a party

requiring it, be furnished to him by the other party within three days after receipt of the application.

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

Dated the..... day of.....20.....

.....
Secretary, Disciplinary Committee
(Amended by Act 15 of 2017)

FORM 4

NOTICE BY THE DISCIPLINARY COMMITTEE TO ATTORNEY

Complaint Noof 20

IN THE MATTER OF(ATTORNEY)

AND

.....(APPLICANT)

IN THE MATTER OF THE LEGAL PROFESSION ACT, CAP. 3.28

To.....of.....attorney-at-law.

Application has been made byofto the Disciplinary Committee constituted under the Legal Profession Act, Cap. 3.28 that you be required to answer the allegation contained in the affidavit a copy of which accompanies this Notice.

The..... day of..... 20.....is the day fixed for the hearing of the application by the Disciplinary Committee. The Disciplinary Committee will sit at.....at..... o'clock in the forenoon.

If you fail to appear, the Disciplinary Committee may in accordance with the Rules made under the Legal Profession Act, Cap. 3.28 proceed in your absence.

You are required by the Rules made under the Legal Profession Act, Cap. 3.28 to furnish to the applicant and to the Secretary of the Disciplinary Committee atat least 14 days before the day fixed for hearing a list of all the documents on which you propose to rely.

Either party may inspect the documents included in the list furnished by the other party and a copy of any documents mentioned in such list shall on application of the party requiring it, be furnished to him by the other party within 3 days after the receipt of the application.

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

Dated the day of 20.....

.....
Secretary, Disciplinary Committee
(Amended by Act 15 of 2017)

FORM 5

SUMMONS BY THE DISCIPLINARY COMMITTEE TO WITNESS

Complaint Noof 20.....

IN THE MATTER OF..... (ATTORNEY)**AND****.....(APPLICANT)****IN THE MATTER OF THE LEGAL PROFESSION ACT, CAP. 3.28**

To

You are hereby summoned to appear before the Disciplinary Committee constituted under the Legal Profession Act, Cap. 3.28 at.....on the.....day of.....at the hour of..... o'clock in thenoon, and so from day to day until the application in the above matter is heard, to give evidence on behalf of(if the person summoned is to produce books or documents add) and you are required to bring with you.....(specify the books or documents required).

Dated the day of 20.....

.....
Secretary Disciplinary Committee

*(Amended by Act 15 of 2017)***SEVENTH SCHEDULE***(Section 19)***LEGAL PROFESSION (PRACTISING CERTIFICATE PRESCRIBED FEE) ORDER****Citation.**

1. This Order may be cited as the Legal Profession (Practising Certificate Prescribed Fee) Order.

Fee for Practising Certificate.

2. Pursuant to the provisions of section 19 of the Act, the fee for the issuance of a practising certificate shall be Five Hundred Dollars (\$500.00).

(Inserted by S.R.O. 15/2013)