

The Laws of Zambia

REPUBLIC OF ZAMBIA

THE LEGAL PRACTITIONERS ACT

CHAPTER 30 OF THE LAWS OF ZAMBIA

CHAPTER 30 THE LEGAL PRACTITIONERS ACT

THE LEGAL PRACTITIONERS ACT

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CHAPTER 30

LEGAL PRACTITIONERS

22 of 1973
21 of 1981
13 of 1994

An Act to amend and consolidate the law relating to legal practitioners

[23rd March, 1973]

PART I

PRELIMINARY

1. This Act may be cited as the Legal Practitioners Act. Short title
2. In this Act, unless the context otherwise requires- Interpretation

"Association" means the Law Association of Zambia established by the Law Association of Zambia Act; Cap. 31

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"client" includes any person who, as a principal or on behalf of another, or as a trustee or personal representative, or in any other capacity, has power, expressed or implied, to retain or employ, and retains or employs a practitioner and any person who is or may be liable to pay to a practitioner any costs;

"the Compensation Fund" means the Compensation Fund to be established under the provisions of section *forty*;

"contentious business" includes any business done by a practitioner in any court;

"costs" includes fees, charges, disbursements, expenses and remuneration;

"the Council" means the Council of the Association;

"the Court" means the High Court;

"the Disciplinary Committee" means the Disciplinary Committee to be established under the provisions of section *four*;

"the Legal Practitioners Qualifying Examination" means the examination set by the Council of Legal Education, whereby qualification for admission as a practitioner may be granted pursuant to section *eleven* or *twelve*;

"non-contentious business" means any business in which a practitioner is employed other than contentious business;

"practice" means the practice of the profession of an advocate, and "practise" and "practising" shall be construed accordingly;

"practising certificate" means a certificate issued by the Association under the provisions of section *thirty-five*;

"practitioner" means a person who has been admitted to practice as an advocate under the provisions of this Act and whose name is duly entered on the Roll;

"a practitioner of the prescribed standing" means a practitioner of not less than five years' standing in Zambia or such lesser period as the Council of Legal Education may, in any particular case, prescribe;

"the Registrar" means the Registrar of the High Court;

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"the Remuneration Committee" means the committee to be established to deal with the remuneration of practitioners in accordance with the provisions of Part IX;

"the Roll" means the list of practitioners kept in accordance with the provisions of this Act;

"State Counsel for Zambia" means-

- (a) a person who attained the rank of Queen's Counsel for the former Protectorate of Northern Rhodesia; and
- (b) a person admitted to the Inner Bar of Zambia;

"unqualified person" means a person who is not a practitioner and includes a practitioner who has not in force a practising certificate.

3. (1) Every officer to whom this section applies shall, in connection with the duties of his office, be entitled to practise, and shall not, except as in this Act expressly provided, be subject to the provisions of this Act.

Certain officers
exempt from
provisions of this Act

(2) The officers to whom this section applies are-

- (a) the Attorney-General, the Solicitor-General, the Parliamentary Draftsmen, the Director of Public Prosecutions, the International Law Adviser and any Assistant International Law Adviser, the Assistant Parliamentary Draftsmen and all Senior State Advocates and State Advocates for the time being employed in the Attorney-General's Chambers;
- (b) the Administrator-General and any qualified person for the time being employed in the Administrator-General's Department;
- (c) the Local Courts Adviser, if a qualified person;
- (d) any officer of a municipal council, if a qualified person;
- (e) the Director of Legal Aid and legal aid counsel appointed under the Legal Aid Act, if qualified persons.

Cap. 34

(3) Nothing in this Act contained shall be construed or deemed to prevent-

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- (a) an unqualified person from appearing for and representing in a court any party to any civil cause or matter, if duly authorised thereto by any rule of the Court or of subordinate courts;
 - (b) a District Secretary, an Assistant District Secretary or a Labour Officer, by leave of the Court or a subordinate court, as the case may be, from appearing for and representing in that court an African in any cause or matter;
 - (c) a Government officer, for good cause shown to the satisfaction of a court, from appearing for and representing the People, the Government, the President or the head of any Government department in any proceedings, cause or matter to which the People, the Government, the President or the head of any Government department, as the case may be, may be a party.
- (4) For the purposes of this section, "qualified person" means-
- (a) any person admitted as a practitioner under the provisions of this Act;
 - (b) any person admitted as a qualified lawyer (by whatever name called) and thereby having a right of audience before courts exercising original civil or criminal jurisdiction in a self-governing State being, in the opinion of the Council of Legal Education established pursuant to section seven, a State which is, or was at any time, a member State, or was part of a member State, of the Commonwealth of Nations and which applies as its predominant basic system of law the Common Law or a legal system founded upon the Common Law.

PART II

DISCIPLINARY COMMITTEE

ESTABLISHMENT OF A DISCIPLINARY COMMITTEE

- 4.** (1) There shall be established for the purposes of this Act a committee to be called the Disciplinary Committee consisting of-
- (a) the Attorney-General and the Solicitor-General; and
 - (b) five practitioners (hereinafter referred to as nominated members) being members of and nominated by the Association, and appointed by the Minister.

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(2) Every nominated member shall hold office for twelve months from the date of his nomination and shall be eligible for renomination.

(3) During the temporary absence from Zambia of any nominated member, the Disciplinary Committee may nominate any practitioner to act as a temporary nominated member in the place of such absentee until his return or until the expiration of his period of office, whichever first occurs.

(4) The Attorney-General shall be chairman of the Disciplinary Committee and shall preside at all meetings at which he is present. In the absence of the Attorney-General, the Solicitor-General, if present, shall preside. In the absence of both the Attorney-General and the Solicitor-General at any meeting of the Disciplinary Committee, the members present shall elect a member to preside at such meeting.

(5) Three members of the Disciplinary Committee shall form a quorum:

Provided that the Committee shall not sit unless it is made up of an unequal number of members.

(6) Any question before the Disciplinary Committee shall be decided by a majority of votes of the members present and every member so present shall record a vote.

(7) Members of the Disciplinary Committee, other than the Attorney-General and the Solicitor-General, shall be paid, in respect of expenses incurred by them in travelling and subsistence when discharging their duties, such sums as may be prescribed by the Minister.

PART III

ADMISSION AND ENROLMENT

5. (1) The Registrar shall keep, in accordance with the provisions of this Act and of any regulations made thereunder, a list of all the practitioners to be known as the Roll. Roll of practitioners

(2) Any name of any practitioner which immediately prior to the commencement of this Act was entered upon the Roll shall remain thereafter so entered unless removed from, or struck off the Roll pursuant to Part IV, and, subject to the provisions of section *twenty*, the order of precedence of such practitioners shall be according to the priority shown on the Roll existing at that date.

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6. No person shall be admitted as a practitioner unless he is duly qualified in accordance with the provisions of section *eleven* or *twelve*. Qualification for admission as a legal practitioner
7. Repealed by Act No. 10 of 1996.
8. Repealed by Act No. 10 of 1996.
9. Repealed by Act No. 10 of 1996.
10. Repealed by Act No. 10 of 1996.
11. Subject to the provisions of subsection (1) of section *thirteen*, a person shall be entitled to be admitted as a practitioner if- Professional and academic qualifications
- A. (a) he has, in consequence of an examination, obtained a degree in law from the University of Zambia or from a university outside the Republic approved by the Council of Legal Education and whose degree in law is recognized by the University of Zambia as academically equivalent to a University of Zambia degree in that subject; and
- (b) (i) he has for one year attended a course of post-graduate study required by the Council of Legal Education and provided by the Zambia Institute of Advanced Legal Education and has been duly certified as having fulfilled the requirements of such course by the Director of the said Institute; or
- (ii) he has, alternatively, in lieu of (i) above, after having obtained his degree, completed two years' service in the Republic as an articled clerk under articles of clerkship to a practitioner; and
- (c) he has passed the Legal Practitioners Qualifying Examination; or
- B. (a) he is a qualified lawyer (by whatever name called) and thereby has a right of audience before courts exercising original civil or criminal jurisdiction in a self-governing State being, in the opinion of the Council of Legal Education, a State which is, or was at any time, a member State, or was part of a member State, of the Commonwealth of Nations and which applies as its predominant basic system of law the Common Law or a legal system founded upon the Common Law; and

- (b) (i) (I) as such, he has been a practising lawyer of not less than three years' standing in the State in which he is so entitled to practise; and
- (II) he has been actively employed for not less than six months in the Republic in the office of a practitioner of the prescribed standing, or in a judicial or legal capacity in a department of Government prescribed by the Minister, or in the department of a Town Clerk who is admitted as a practitioner under this Act, and his said employer, or the public officer in charge of the said department of Government in which he has so served, or under whom he has so worked, as the case may be, has certified his work as being satisfactory; *or alternatively*, he has for one year attended a course of post-graduate study required by the Council of Legal Education and provided by the Zambia Institute of Advanced Legal Education, and has been duly certified as having fulfilled the requirements of such course by the Director of the said Institute; and
- (III) he has passed such parts of the Legal Practitioners Qualifying Examination set by the Council of Legal Education as may be specified by the said Council; or
- (ii) (I) as such, he has been a practising lawyer of not less than three years' standing in the State in which he is so entitled to practise; and the Council of Legal Education, after consultation with the Minister and the Chief Justice, deems his qualifications to be sufficient for the purposes of this section; and
- (II) he has been actively employed for not less than one year in the Republic in the office of a practitioner of the prescribed standing, or in a judicial or legal capacity in a department of Government prescribed by the Minister, or in the department of a Town Clerk who is admitted as a practitioner under this Act, and his said employer, or the public officer in charge of the department of Government in which he has so served, or the Town Clerk under whom he has so worked, as the case may be, has certified his work as being satisfactory; *or alternatively*, he has for one year attended a course of post-graduate study required by the Council of Legal Education and provided by the Zambia Institute of Advanced Legal Education, and has been duly certified as having fulfilled the requirements of such course by the Director of the said Institute; and
- (III) he has passed the Legal Practitioners Qualifying Examination set by the Council of Legal Education.

12. (1) Notwithstanding the provisions of section *eleven* and subject to the provisions of subsection (1) of section *thirteen*, a person shall be admitted as a practitioner if-

Apprenticeship
qualifications

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- (a) he has completed the prescribed period of service in the Republic as an articulated clerk under articles of clerkship to a practitioner of the prescribed standing; and
- (b) he has, in consequence of an examination conducted by the University of Zambia, obtained a degree in law from that University, *or alternatively*, he has passed the prescribed examination; and
- (c) he has passed the Legal Practitioners Qualifying Examination set by the Council of Legal Education.

(2) For the purposes of this section-

- (a) the term "prescribed period of service" means such period of service as is prescribed by the Council of Legal Education, and in this regard the Council of Legal Education may prescribe different periods for different persons or different classes of persons having regard to the actual experience of such persons in the office of a practitioner of the prescribed standing and to such other matters as the said Council may deem relevant;
- (b) the term "prescribed examination" means such examination as the Council of Legal Education may require to be undergone by any person or class of persons in lieu of the obtaining of a degree in law from the University of Zambia.

13. (1) Any person who-

Admission by the
Chief Justice

- (a) produces to the Chief Justice a certificate issued by the Council of Legal Education certifying him as having complied with the applicable provisions of section *eleven* or *twelve*; and
- (b) satisfies the Chief Justice that he is of good character;

may apply to the Chief Justice to be admitted as a practitioner.

(2) Every application made under the provisions of subsection (1) shall be by petition to the Chief Justice and shall include an undertaking in writing as to requisite practical experience in such form and manner as the Chief Justice may prescribe.

(3) Upon application being made pursuant to this section and upon production of such testimonials as to character as he may require, the Chief Justice may, in his discretion, after the applicant has taken the oath or oaths set forth in the First Schedule, by writing under his hand grant to the applicant a certificate of admission as a practitioner.

(As amended by Act No. 21 of 1981)

13A. (1) An applicant to whom section *thirteen* applies shall be deemed, in his undertaking as to requisite practical experience, to have undertaken-

Undertaking as to
requisite practical
experience

- (a) that he shall not, until he has satisfied the Association that he has gained the requisite practical experience-
 - (i) set up a legal practice, open a law office or in any way practice law on his own account;
 - (ii) establish or become a partner in, any firm of lawyers; or
 - (iii) appear before the Supreme Court; and
- (b) that if he violates any of the terms of the undertaking, he shall, in addition to being in contempt of court, be deemed to be guilty of professional misconduct.

(2) In this part, "requisite practical experience" means such active employment for a continuous period of, or for periods amounting in all to, three years as shall have been certified as being satisfactory by the relevant practitioner of the prescribed standing or head of the relevant department, as the case may be, in-

- (a) the office of a practitioner of the prescribed standing;
- (b) a firm of practitioners where at least one supervising partner was, throughout the period of such employment, a practitioner of the prescribed standing;
- (c) a judicial or legal capacity in the Judicial Department, the Attorney General's Chambers, the Directorate of Legal Aid, the Lands Department, the Chambers of the Director of Public Prosecutions, the Administrator-General's Department, or any other department of the Government which may be approved for the purpose by the Chief Justice in consultation with the Attorney-General;
- (d) the legal department of a district council, a statutory corporation, a company or organisation, where at least one supervising officer was, throughout the period of such employment, a practitioner of the prescribed standing; or
- (e) such other capacity or office as the Chief Justice may, in consultation with the Association, approve for the purpose.

(As amended by Act No. 21 of 1981)

14. Every person admitted as a practitioner under the provisions of section *thirteen* shall pay to the Association the sum of four hundred fee units.

Admission fee

(As amended by Act No. 13 of 1994)

- 15.** The Registrar upon production of- Entry of name on Roll
- (a) a certificate of admission signed by the Chief Justice pursuant to subsection (3) of section *thirteen*; and
 - (b) a receipt from the Association acknowledging the payment of the fee prescribed by section *fourteen*;
- shall enter upon the Roll the name of the person admitted.
- 16.** Upon the appointment of any person to the office of the Attorney-General, the rank and dignity of a State Counsel for Zambia may be conferred upon him by the President. Attorney-General to be appointed State Counsel for Zambia
- 17.** (1) Any practitioner wishing the rank and dignity of a State Counsel for Zambia to be conferred upon him shall submit his application, accompanied by the recommendation of two State Counsel, in that behalf to the Attorney-General. Power of the President to appoint a State Counsel for Zambia and procedure for appointment
- (2) On receiving such an application, the Attorney-General shall, after consultation with the Chief Justice, make such recommendation thereon to the President as he thinks fit, and the President may, after taking such recommendation into consideration, in his discretion, either reject the application or, subject to the other provisions of this Act, appoint, by Letters Patent under the Seal of the Republic, the applicant a State Counsel for Zambia.
- 18.** (1) Subject to the provisions of subsections (2) and (3), not more than three State Counsel for Zambia shall be appointed in any one calendar year. Limitation on appointments of State Counsel for Zambia
- (2) The quota for a calendar year fixed under subsection (1) may be increased up to the aggregate number by which the number of State Counsel for Zambia appointed in any preceding year or years falls short of the number arrived at by counting three for each year from the 31st March, 1972.
- (3) The appointment of a State Counsel for Zambia by virtue of his appointment to the office of Attorney-General shall not be considered as an appointment for the purpose of subsection (1) or (2).
- (4) Subject to the provisions of this section, appointments of State Counsel for Zambia may be made at one time or partly at one time and partly at another time or times during a calendar year.

Qualification for appointment as a State Counsel for Zambia

19. (1) Subject to subsection (2), a person shall not be appointed as a State Counsel for Zambia unless he is qualified for appointment as a puisne Judge of the High Court.

(2) The provisions of subsection (1) shall not apply to an appointment of the Attorney-General as a State Counsel.

20. Practitioners shall take precedence in the following order:

Precedence of
practitioners

- (a) the Attorney-General;
- (b) the practitioners who had filled the office of Attorney-General, in the order of the dates of their appointment as Attorney-General;
- (c) the Solicitor-General of Zambia;
- (d) the practitioners who had filled the office of Solicitor-General of Zambia, in the order of the dates of their appointment as Solicitor-General of Zambia;
- (e) all State Counsel for Zambia, in the order of the dates on which the dignity of State Counsel for Zambia was conferred upon them; and
- (f) all other practitioners according to the order of entry of their respective names on the Roll.

21. (*Spent*)

PART IV

REMOVAL FROM AND RESTORATION TO THE ROLL

22. (1) Any application-

Removal from Roll and
procedure of
Disciplinary
Committee

- (a) by a practitioner to procure his name to be removed from the Roll; or
- (b) by any person to strike the name of a practitioner off the Roll, or to require a practitioner to answer allegations made in an affidavit;

shall be made to and heard by the Disciplinary Committee in accordance with the rules made under the provisions of section *twenty-three*:

Provided that where, in the opinion of the Disciplinary Committee, an application under paragraph (b) does not disclose any *prima facie* case, the Disciplinary Committee may refuse such application without requiring the practitioner to whom the application relates to answer the allegations and without hearing the applicant.

(2) On the hearing of an application under paragraph (a) of subsection (1), the Disciplinary Committee may recommend to the Chief Justice that the name of such practitioner be removed from the Roll, and, upon such recommendation, the Chief Justice may order that the name be removed or make such other order in relation to the case as he may think fit.

(3) On the hearing of an application under paragraph (b) of subsection (1)-

- (a) the Disciplinary Committee shall give the practitioner whose conduct is the subject-matter of the application an opportunity to appear before it, and shall furnish him with a copy of any affidavit made in support of the application, and shall give him an opportunity of inspecting any other relevant document not less than seven days before the date fixed for the hearing;
- (b) the Disciplinary Committee, on the termination of the hearing, shall embody its findings in the form of a report to the Court which shall be signed and filed with the Registrar, and shall be open to inspection by the practitioner to whom the application relates and his counsel, if any, and also by the applicant, but shall not be open to public inspection;
 - (c)
 - (i) if the Disciplinary Committee, at the close of the hearing of the application, is satisfied that a case for the application or a case of any other misconduct on the part of the practitioner to whom the application relates has been made out it shall, unless it considers that the case may properly be dealt with under the provisions of sub-paragraph (ii), lay a signed copy of the report before the Court together with the evidence taken and the documents put in evidence at the hearing and serve copies thereof on the practitioner;
 - (ii) if the Disciplinary Committee, at the close of the hearing, is satisfied that a case of misconduct has been made out on the part of the practitioner to whom the application relates and that such misconduct may adequately be dealt with by the Disciplinary Committee, it may admonish such practitioner or may admonish and impose a penalty not exceeding two thousand penalty units upon such practitioner, which penalty may be recovered by the Republic as a civil debt;
- (d) the Disciplinary Committee shall have power to make any such order as to payment by any party of any costs or witnesses' expenses as it may think fit, and such costs shall be recoverable as a civil debt.

(4) The practitioner to whom the application relates may, within thirty days of the notification to him of the decision, appeal to the Court against any decision of the Disciplinary Committee under sub-paragraph (ii) of paragraph (c) of subsection (3).

(As amended by Act No. 13 of 1994)

23. (1) The Disciplinary Committee, with the concurrence of the Chief Justice, may from time to time make rules, by statutory instrument, for regulating the making, hearing and determining of applications to such Disciplinary Committee under this Part.

Rules governing
Disciplinary
Committee

(2) For the purposes of any application made to it under this Part, the Disciplinary Committee may administer oaths and the applicant and the practitioner to whom the application relates or the Disciplinary Committee may apply to the Court for the issue of a summons to give evidence or to produce documents, but no person shall be compelled under any such summons to produce any document which he could not be compelled to produce on the trial of an action.

(3) The hearing of an application under section *twenty-two* shall, for the purposes of Chapter XI of the Penal Code, be deemed to be a judicial proceeding. Cap. 87

24. (1) The powers conferred upon the Court by sections *twenty-two*, *twenty-five*, *twenty-seven* and *twenty-eight* shall be exercised by not less than two of the Judges of the Court. Powers of Court under sections 22, 25, 27 and 28 to be exercised by two Judges

(2) If such powers are exercised by two Judges and the Court is equally divided, the matter shall be reheard by three Judges.

(3) If such powers are exercised by three Judges and they do not agree in their opinion, the decision of the majority shall be taken to be the decision of the Court.

25. (1) Where a report is laid before the Court under the provisions of paragraph (c) of subsection (3) of section *twenty-two*, the Court may set down such report for consideration. Consideration of report by Court

(2) Not less than fourteen days' notice of the date for such consideration shall be given by the Registrar to the Disciplinary Committee and to the practitioner to whom the application relates.

(3) The notice mentioned in subsection (2) shall be in such form as may be prescribed and shall be accompanied by a copy of the report as laid before the Court.

26. Both the Disciplinary Committee and the practitioner to whom the application relates may be legally represented before the Court. Representation by counsel

27. The Court may, upon the consideration of any report, refer it back to the Disciplinary Committee for the elucidation of any particular point. Reference of report back to Disciplinary Committee

28. (1) The Court, after considering the evidence taken by the Disciplinary Committee and the report and having heard counsel, if any, for such committee and the practitioner to whom the application relates or his counsel, and after taking any further evidence, if it thinks fit to do so, may admonish the practitioner to whom the application relates or may make any such order as to removing or striking his name from the Roll, as to suspending him from practice, as to payment by him of a fine not exceeding ten thousand penalty units, as to the payment of costs, and as to restitution or otherwise in relation to the case, as it may think fit, or may exonerate the practitioner.

Power of Court to deal with practitioner

(2) Where the Court imposes a fine under the provisions of subsection (1), it may order the whole or any part of such fine recovered to be applied in the payment to any person of compensation for any loss or injury caused by the matters to which the application relates.

(As amended by Act No. 13 of 1994)

29. Nothing in this Act contained shall supersede, lessen or interfere with the powers vested in the Chief Justice or any of the Judges of the Court to deal with misconduct or offences by practitioners.

Disciplinary powers of Court or Judge apart from inquiry by Disciplinary Committee

30. Where an order has been made by the Court upon an application to remove from, or strike off, the Roll the name of a practitioner, or to require a practitioner to answer allegations contained in an affidavit, and has not been drawn up by the applicant within one week after it was made, the Registrar may cause the order to be drawn up, and all future proceedings thereon shall be taken as if the application had been made by the Registrar.

Power of Registrar to draw up orders

31. Where, in proceedings under or by virtue of this Act, any practitioner is admonished, or an order is made as to removing or striking his name from the Roll, as to suspending him from practice, or as to payment by him of a fine or costs, the Registrar shall cause a note of the effect of such admonition or order to be entered against the name of the practitioner on the Roll, and, where the order so directs, shall remove, or strike off, the name.

Orders of Court to be noted on Roll

32. Subject as hereinafter provided, no practitioner shall be liable to have his name struck off the Roll on account of any defect in his admission and enrolment, unless the application so to strike his name off the Roll is made within twelve months after the date of his enrolment:

Limitation of time for certain applications to strike names off Roll

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

33. The Chief Justice may, if he thinks fit, either on his own initiative or on the recommendation of the Disciplinary Committee, at any time order the Registrar to replace on the Roll the name of a practitioner whose name has been removed from or struck off the Roll.

Restoration to Roll

34. (1) Where-

Disciplinary powers as
to clerks

- (a) a person who is or was a clerk to a practitioner, but is not himself a practitioner, has been convicted of larceny, embezzlement, fraudulent conversion or any other criminal offence in respect of any money or property belonging to or held or controlled by the practitioner by whom he is or was employed or any clerk of such practitioner; or
- (b) it appears to the Association-
 - (i) in the course of or as a result of any proceedings before the Disciplinary Committee under this Act; or
 - (ii) in the exercise of its powers under rules made under this Act;

that a person who is or was a clerk to a practitioner, but is not himself a practitioner, has been a party to any act or default of such practitioner, in respect of which an application or complaint has been or might be made against such a practitioner to the Disciplinary Committee;

an application may be made by or on behalf of the Association to the Disciplinary Committee that an order be made directing that, as from a date to be specified in such order, no practitioner shall, in connection with his practice as such, take or retain the said person into or in his employment or remunerate the said person without the written permission of the Association, which may be given for such period and subject to such conditions as the Association may think fit.

(2) An application under this section shall be made to and be heard by the Disciplinary Committee in accordance with rules made under this section, and, on the hearing of any such application, the Disciplinary Committee shall have power to make such order as is referred to in this section and an order as to payment by any party of costs.

(3) Every order made by the Disciplinary Committee under this section shall be prefaced by a statement of its findings in relation to the facts of the case and shall be signed by the chairman of the said committee, or by a member of the said committee authorised by the said committee to sign the same, and any document purporting to be an order so signed shall be received in evidence in any criminal proceedings or in any proceedings under this Act and shall be deemed to be such an order without further proof unless the contrary is shown.

(4) Every order made by the Disciplinary Committee under this section shall be filed with the secretary to the said committee, and the file kept by him for that purpose may be inspected by any practitioner during office hours without payment, but shall not be open to the inspection of any person other than a practitioner.

(5) For the purposes of any application made to it under this section, the Disciplinary Committee may administer oaths, and the applicant and any person with respect to whom the application is made may take out a summons requiring any person to give evidence or to produce documents, but no person shall be compelled under any such summons to produce any document which he could not be compelled to produce on the trial of an action.

(6) The Disciplinary Committee, with the concurrence of the Chief Justice, may from time to time make rules, by statutory instrument, for regulating the making, hearing and determining of applications under this section, including rules as to who shall be parties to any such application, as to the service of any notice or order upon any party, and as to whether any such application shall be heard prior to, in the course of, concurrently with or subsequent to the hearing of any application against a practitioner under section *twenty-two*.

(7) Any person with respect to whom an order has been made by the Disciplinary Committee under this section may, within two months of such order, appeal therefrom to the Court, whose decision shall be final.

(8) Any person who, whilst there is in force in respect of him an order under this section, seeks or accepts employment by or remuneration from a practitioner in connection with his practice as such without previously informing him of such order, shall be guilty of an offence and shall be liable to a fine not exceeding two thousand penalty units.

(9) Proceedings under subsection (8) may be commenced at any time before the expiration of six months after the first discovery of the offence by the prosecutor, but no such proceedings shall be commenced by any person, other than the Association or a person acting on behalf of the Association, except with the consent of the Attorney-General.

(10) If any practitioner knowingly acts in contravention of the provisions of an order of the Disciplinary Committee under this section as made and not appealed against or as confirmed upon appeal, as the case may be, or in contravention of any condition subject to which any such permission as aforesaid has been given by the Association, a complaint in respect of that contravention may be made by or on behalf of the Association to the Disciplinary Committee, and any such complaint shall be dealt with in the same manner as an application under paragraph (b) of subsection (1) of section *twenty-two*.

(As amended by Act No. 13 of 1994)

PART V

PRACTISING CERTIFICATES

35. It shall be the duty of the Association to issue, in accordance with the provisions of this Part, certificates in the prescribed form authorising the practitioners named therein to practise as advocates. Association to issue practising certificates

36. (1) (a) Every practitioner applying for a practising certificate shall- Application for practising certificates

- (i) obtain from the Association a certificate showing that he is a member in good standing of the Association;
- (ii) deliver to the Association a written declaration in the prescribed form stating the name and place of business of the applicant and the date of his admission and signed by the applicant; and
- (iii) at the same time produce to the Association a duly signed duplicate of the declaration:

Provided that the Association may, at its discretion in any particular case, on the ground of illness or absence abroad of the applicant or on any other ground deemed by the Association sufficient, either unconditionally or subject to such conditions as it may think fit, dispense with the necessity for signature of the declaration by the applicant personally and accept a declaration in a form to the like effect which has been duly completed and has been signed by a partner of the applicant or by some other competent person approved by the Association.

(b) If in a declaration under this subsection any person makes any false statement, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

(2) The Association shall cause all the particulars contained in the declaration to be entered in a register kept for that purpose, and any person may inspect such register during office hours without payment.

(3) Application for a practising certificate shall be made in person to the Association either by the applicant or his agent and, subject to the provisions of section *thirty-seven* and to the payment of the contribution to the Compensation Fund required by the provisions of section *forty* and the fee required by this section, if the Association is satisfied that the name of the applicant is on the Roll and that he is not for the time being suspended from practice and that the provisions of subsection (1) have been complied with, it shall thereupon deliver a practising certificate in such form as may be prescribed.

(4) If in any case, not being a case to which the next succeeding section applies, the Association, on application duly made to it, refuses or neglects to issue a practising certificate, the applicant may apply to the Court or any Judge thereof who may make such order in the matter, including an order for payment of costs by or to either the Association or the applicant, as shall be just.

(5) There shall be paid to the Association in respect of each practising certificate issued by it the prescribed fee or, where no fee has been prescribed for the purpose of this subsection, a fee not less than seventy five fee units:

Provided that the fee payable by a practitioner whose main office is more than thirty-two kilometres from the line of rail shall be one-half of the above fee.

*(As amended by Acts No. 21 of 1981
and No. 13 of 1994)*

37. (1) In any of the following cases, that is to say, where a practitioner applies for a practising certificate:

Discretion of
Association to refuse
certificate in special
cases

- (a) when for twelve months or more he has ceased to hold a current practising certificate; or
- (b) whilst he is an undischarged bankrupt or a receiving order in bankruptcy is in force against him; or
- (c) when, having been suspended from practice or having had his name struck off the Roll, the period of his suspension has expired, or his name has been restored to the Roll, as the case may be; or
- (d) not having held a practising certificate within the twelve months next following the date of his admission to the Roll; or
- (e) whilst he is a person in respect of whom an adjudication order under the Mental Disorders Act is in force; or
- (f) without having paid a penalty or costs ordered by the Disciplinary Committee under this Act to be paid by him; or
- (g) after he has been invited by the Council to give an explanation in respect of any matter affecting his conduct and has failed to give to the Council an explanation in respect of that matter which the Council regard as sufficient and satisfactory, and has been notified in writing by the Council that he has so failed; or

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

he must, unless the Association or the Chief Justice otherwise orders, give to the Association, at least six weeks before the application is made, notice of his intention to make the application, and the Association may in its discretion grant or refuse the application, or decide to issue a certificate to the applicant, subject to such terms and conditions as the Association may in its discretion think fit and in the last-mentioned case may, if it thinks fit, postpone the issue of the certificate pending the hearing and determination of an appeal under this section:

Provided that-

- (i) in the event of an appeal having been made to the appropriate court in case (b) against the receiving order or in case (h) against the order for the issue of a writ of attachment or in case (j) against the judgment, the Association shall not refuse the application during the pendency of such appeal unless in its opinion the proceedings on such appeal have been unduly protracted by the appellant or are unlikely to be successful; and
- (ii) where, having regard to certain facts, a discretion becomes exercisable by the Association in any of the cases (a), (c), (d), (g), (h), (i) and (j), as soon thereafter as a practising certificate has been issued in the exercise of such discretion to the applicant free of conditions, those facts shall cease to operate so as to require such applicant to give the notice mentioned in this section or to vest any discretion in the Association.

(2) Within one month after being notified of the decision of the Association, the applicant may appeal against such decision to the Chief Justice who may affirm the decision of the Association or may direct it to issue a certificate to the applicant on such terms and conditions as the Chief Justice may think fit or free from terms and conditions or not to issue a certificate or, if a certificate has been issued, may by order suspend such certificate until such certificate expires or the suspension is terminated by order of the Association or the Chief Justice or may make such other order as he may think fit.

38. (1) Every practising certificate shall, subject as hereinafter provided, take effect on the day on which it is issued by the Association:

Date and period of validity of practising certificate

Provided that every practising certificate issued between the 1st January and the 1st February in any year shall have effect for all purposes from the 1st January in that year.

(2) Every certificate shall continue in force from the day from or on which it has taken or takes effect in accordance with this section until the 31st December next following (both days inclusive) and shall then expire.

(3) It shall be the duty of the Association to enter upon the register kept under the provisions of subsection (2) of section *thirty-six* a note of the date of issue to any practitioner of a practising certificate.

39. (1) Any list purporting to be published by authority of the Association and to contain the names of practitioners who have obtained practising certificates for the current year before the 1st February in that year shall, until the contrary is proved, be evidence that the persons named therein as practitioners holding such certificates as aforesaid for the current year are practitioners holding such certificates.

List published by Association to be prima facie evidence of practitioner holding certificate

(2) The absence from such list of the name of any person shall, until the contrary is proved, be evidence that the person is not qualified to practise as a practitioner under a certificate for the current year, but in the case of any such person an extract from the register kept under the provisions of subsection (2) of section *thirty-six* certified as correct by the Association shall be evidence of the facts appearing in the extract.

PART VI

COMPENSATION FUND

40. (1) A fund to be called "the Compensation Fund" shall be established, maintained and administered by the Association for enabling the Association to make grants thereout in any cases which the Council think suitable for such treatment and in their absolute discretion decide so to treat, for the purpose of relieving or mitigating losses sustained by any person in consequence of dishonesty on the part of any practitioner or any clerk or servant of any practitioner in connection with any such practitioner's practice as a practitioner, or any trust of which such practitioner was a trustee, and whether or not he had a practising certificate in force when the act of dishonesty was committed and notwithstanding that subsequent to the commission of that act he may have died or had his name removed from or struck off the Roll or may have ceased to practise or been suspended from practice:

Compensation Fund

The Laws of Zambia

Provided that-

- (i) no grant shall be made under this section in respect of loss due to any act of dishonesty where such loss first came to the knowledge of the loser before the ^{**}(1)*coming into operation of section *thirty-seven* of the Legal Practitioners Act, Chapter 144 of the 1965 Edition of the Laws; and

* 18th April 1957.

- (ii) no grant shall be made under this section in respect of any loss, unless notice of such loss is received by the Association in such manner and within such time after the same first came to the knowledge of the loser as is prescribed by rules made under this section, and it is proved to the satisfaction of the Council that such loss is one in respect of which a grant may properly be made under this section.

(2) The Compensation Fund shall be held by the Association in trust for the purposes provided for in this section and the Second Schedule and any rules made under this section.

(3) Subject as hereinafter provided, on the issue of a practising certificate to a practitioner, there shall be paid by such practitioner to the Association and paid by the Association into the Compensation Fund a contribution of such sum as may be prescribed or if no sum is prescribed, of not less than one hundred and twenty-five fee units (which contribution is in this section referred to as "the annual contribution"). The Association may withhold the issue of such certificate until the annual contribution is paid.

(4) The Association may invest in securities in which trustees are authorised by law to invest trust funds in their hands any moneys which form part of the Compensation Fund and are not immediately required for any other purpose provided for in this section and the Second Schedule and any rules made under this section.

(5) The Association may insure with any person, body of persons or corporation authorised by law to carry on insurance business within Zambia for such purposes and on such terms as the Council may deem expedient in relation to the Compensation Fund.

(6) The provisions set out in the Second Schedule shall have effect with regard to the formation, administration and application of the Compensation Fund and matters connected therewith.

* 18th April, 1957.

(7) On the making by the Association of any grant out of the Compensation Fund under the provisions of this section and the Second Schedule and any rules made under this section to any person in respect of loss sustained in consequence of any such dishonesty as is mentioned in subsection (1)-

- (a) the Association shall, to the amount of such grant, be subrogated-
- (i) to any rights or remedies to which such person was entitled on account of such loss against the practitioner or any other person, or, in the event of the death or insolvency or other disability of such practitioner or other person, against his personal representatives or any other persons having authority to administer his estate;
 - (ii) to any rights or remedies to which such practitioner, his clerk or servant, was entitled on account of such loss against any other person, or, in the event of the death or insolvency or other disability of such other person, against his personal representatives or any other persons having authority to administer his estate; and
 - (iii) to all other rights and remedies (if any) of the person to whom the payment is made or such practitioner, his clerk or servant, in respect of such loss; and
- (b) the person to whom the grant is made, or, in the event of his death or insolvency or other disability, his personal representatives or any other persons having authority to administer his estate shall have no right under bankruptcy or other legal proceedings or otherwise to receive any sum out of the assets of such practitioner or other person in respect of the loss until the Association has been reimbursed the full amount of its grant.

(8) The Council may, by statutory instrument, make rules with respect to the procedure to be followed in giving effect to the provisions of this section and the provisions of the Second Schedule, other than paragraph 5 and sub-paragraphs (2) and (5) of paragraph 4 thereof, and with respect to any matters incidental, ancillary or supplemental to those provisions or concerning the administration or protection of the Compensation Fund.

(As amended by Act No. 21 of 1981 and Act No. 13 of 1994)

PART VII

PRIVILEGES, RESTRICTIONS AND OFFENCES IN CONNECTION WITH PRACTICE

41. (1) Subject as hereinafter provided, no person shall be qualified to act as an advocate within Zambia unless his name is on the Roll and he has in force a practising certificate.

Qualifications for practising

(2) Every person whose name is on the Roll and who has in force a practising certificate or who is admitted to practice under subsection (1) shall be entitled to practise as an advocate in any court in Zambia other than a local court and shall be deemed to be an officer of the Court.

42. (1) No unqualified person shall act or practise, directly or indirectly, as an advocate or as such sue out any summons or other process, or commence, carry on or defend any action, suit or other proceeding in the name of any other person in any court of civil or criminal jurisdiction, or act as an advocate in any cause or matter, civil or criminal, or act as a Notary Public.

Unqualified person not to act as an advocate

(2) If any person contravenes the provisions of this section, he shall be guilty of an offence against this Act and of contempt of the court in which the action, suit, cause, matter or proceeding in relation to which he so acts is brought or taken and may be punished accordingly, and shall be incapable of maintaining any action for any costs in respect of anything done by him in the course of so acting, and shall, in addition to any other penalty or forfeiture and any disability to which he may be subject, be liable to a fine not exceeding two thousand penalty units or a period of imprisonment not exceeding six months.

(As amended by Act No. 13 of 1994)

43. Any unqualified person who wilfully pretends to be, or takes or uses any name, title, addition or description implying that he is qualified or recognised by law as qualified to act as an advocate, or a Notary Public, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

Penalty for pretending to be an advocate

(As amended by Act No. 13 of 1994)

44. Every unqualified person who, unless he proves that the act was not done for or in expectation of any fee, gain or reward-

Offences by unqualified persons

- (a) directly or indirectly draws or prepares any written document relating to real or personal estate, or to any proceeding in law or equity; or
- (b) writes any letter, on behalf of any other person, demanding payment of money, or the performance of or abstention from performance of any act, and threatening legal proceedings in default of compliance; or
- (c) delivers or causes to be delivered to any person any document which, not having been issued under the authority of one of the courts of Zambia, has, by reason of its form or contents, or both, the appearance of having been issued under such authority;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand penalty units:

Provided that-

- (i) the term "written document" used in this section shall not include-
 - A. an agreement under hand only, other than an agreement relating to the sale of land; or
 - B. a memorandum or articles of association of a limited company; or

C. a letter of attorney or power of attorney; or

D. a transfer of stock containing no trust or limitation thereof;

(ii) this section shall not extend to any public officer drawing or preparing any document in the course of his public duty.

(As amended by Act No. 13 of 1994)

45. Every person who draws or prepares any written document referred to in the last preceding section shall endorse or cause to be endorsed thereon his name and address; and any such person omitting so to do or falsely endorsing or causing to be endorsed any of the said requirements shall be liable to a fine not exceeding two hundred penalty units; and it shall not be lawful for the Registrar, the Registrar of Lands and Deeds or any other registering authority to accept or recognise any such instrument unless it purports to bear the name of the person who prepared it endorsed thereon:

Instrument to be endorsed with name and address of drawer

Provided that this section shall not apply to any public officer drawing or preparing any written document in the course of his public duty.

(As amended by Act No. 13 of 1994)

46. Any unqualified person who, unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or indirectly, or as an agent of any person other than a practitioner, takes instructions for or draws or prepares any papers on which to found or oppose a grant of probate or of letters of administration shall, without prejudice to any liability or disability to which he may be subject under any other section of this Act, or any other Act, be guilty of an offence and shall be liable on conviction to a fine not exceeding three thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

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

(As amended by Act No. 13 of 1994)

47. No costs in respect of anything done by any unqualified person who acts as an advocate shall be recoverable in any action, suit or matter by any person whomsoever.

No costs recoverable where unqualified person acts as advocate

48. (1) No practitioner shall wilfully and knowingly act as agent in any action or in any matter in bankruptcy for any unqualified person resident in Zambia, or permit his name to be made use of in any such action, or matter upon the account, or for the profit of any unqualified person, or send any process to any unqualified person, or do any other act enabling any unqualified person to appear, act or practise in any respect as an advocate in any such action or matter.

Practitioner not to act as agent for unqualified person

(2) Where it appears to the Court that a practitioner has acted in contravention of this section, the Court may, in the absence of a satisfactory explanation from such practitioner, impose any such punishment or make any such order as is mentioned in section *twenty-eight*.

(3) Where the Court imposes any punishment on a practitioner in respect of an offence under this section, it may further order that the unqualified person who was enabled by the conduct of the offender to act or practise as an advocate shall pay a fine or in default of payment undergo imprisonment for a term not exceeding one year.

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

Employment by practitioner of persons struck off Roll or suspended

(2) A practitioner aggrieved by the refusal of the Disciplinary Committee to grant any such permission as aforesaid, or by any conditions attached by the Disciplinary Committee to the grant thereof, may appeal to the Chief Justice who may confirm the refusal or the conditions, as the case may be, or may, in lieu of the Disciplinary Committee, grant such permission for such period and subject to such conditions as he thinks fit.

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

50. (1) Any person who, whilst he is disqualified from practising by reason of the fact that he has been struck off the Roll, otherwise than at his own request, or is suspended from practising, seeks or accepts employment by a practitioner in connection with the latter's practice without previously informing him that he is so disqualified as aforesaid, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three thousand penalty units or to term of imprisonment not exceeding two years, or to both.

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

(2) Proceedings under this section may be commenced at any time before the expiration of six months after the first discovery of the offence by the prosecutor, but no such proceedings shall be commenced except by, or with the consent of, the Attorney-General.

(As amended by Act No. 13 of 1994)

51. (1) If any act is done by a body corporate or by any director, officer or servant thereof, of such a nature or in such a manner as to be calculated to imply that the body corporate is qualified, or recognised by law as qualified, to act as an advocate, the body corporate shall be liable to a fine not exceeding one thousand penalty units and, in the case of an act done by any director, officer or servant of the corporation, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three thousand penalty units or to a term of imprisonment not exceeding two years, or to both.

Offences by bodies corporate

(2) In this Part, wherever the context so admits, reference to unqualified persons and reference to persons include references to bodies corporate.

(As amended by Act No. 13 of 1994)

52. No practitioner shall-

Offences by
practitioners

- (a) take instructions in any case except from the party on whose behalf he is retained or some person who is the recognised agent of such party, or some servant, relation or friend authorised by the party to give such instructions; or
- (b) mislead or allow any court to be misled, so that such court makes an order which such practitioner knows to be wrong or improper; or
- (c) tender, or give or consent to the retention out of any fee paid or payable to him for his services of any gratuity for procuring or having procured the employment in any legal business of himself or any other practitioner; or
- (d) directly or indirectly procure or attempt to procure the employment of himself or his partner or assistant as a practitioner, through or by the intervention of any person to whom remuneration for obtaining such employment has been given by him, or agreed or promised to be so given; or
- (e) advertise himself in any wise in relation to his profession or business as a practitioner, except so far as may be necessary to mark his office or to give his address to persons having business communications or dealings with him; or
- (f) directly or indirectly hold himself out or permit himself to be held out, whether by name or otherwise, as being prepared to undertake professional business for any fee or consideration which shall be less than the scale of charges (if any) for the time being prescribed or approved by the Remuneration Committee; or
- (g) agree with his client either before, during or after the conduct of any non-contentious professional business to undertake such business for any fee or consideration whatsoever that shall be less than that set out in the scale of charges (if any) for the time being prescribed or approved by the Remuneration Committee; or
- (h) commit any breach of any of the provisions of Part VIII; or
- (i) deceive or mislead any client or allow him to be deceived or misled in any respect material to such client; or
- (j) commit any contempt of court; or
- (k) contravene the provisions of section *fifty-five*

53. Any practitioner who contravenes any of the provisions of section *fifty-two* shall be deemed to be guilty of professional misconduct, and the Court may, in its discretion, either admonish such practitioner, or suspend him from practice, or cause his name to be struck off the Roll pursuant to section *twenty-eight*:

Offences deemed
professional
misconduct

Provided that-

- (i) nothing in this section or in section *fifty-two* contained shall supersede, lessen or interfere with the powers vested in the Court, under or by virtue of section *twenty-eight* or otherwise, to deal with misconduct or offences by practitioners of whatsoever nature or kind, whether mentioned in section *fifty-two* or otherwise;
- (ii) nothing in section *fifty-two* shall restrict the powers of the Disciplinary Committee under section *twenty-two* to inquire into or deal with misconduct by practitioners of whatsoever nature or kind, whether mentioned in section *fifty-two* or otherwise.

54. Subject to the provisions of section *forty-nine*, nothing in this Act shall be deemed to prevent any practitioner from employing an unqualified person to do any work on his behalf, such as is ordinarily done by clerks or employees, subject to the following conditions:

Saving as to employment of unqualified persons by qualified persons

- (a) such work shall be done in the name of the practitioner, and all fees or other reward to be paid or received in respect of such work shall be paid to and received directly by the practitioner;
- (b) on all occasions when the unqualified person signs any written document or letter in the name of any practitioner by whom he is employed, he shall, in addition, sign his own name after the name of the practitioner;
- (c) the practitioner shall send to the Court and to the magistrate of the District wherein he practises the names of all unqualified persons who are authorised to do any such work on his behalf as is mentioned in this section.

55. No practitioner shall at any one time employ in his office in the capacity of an advocate more than two qualified persons who are not practitioners:

Restriction upon right to employ qualified persons who are not practitioners

Provided that a firm of practitioners, of which not less than two of the principals are practitioners of not less than five years' standing, may so employ not more than four qualified persons who are not practitioners.

PART VIII

KEEPING OF ACCOUNTS BY PRACTITIONERS

56. In this Part, unless the context otherwise requires-

Interpretation

"client" means any person or body of persons, corporate or unincorporate, on whose behalf a practitioner in connection with his practice receives money;

"practitioner" includes a practitioner acting as an agent, bailee, stakeholder, or in any capacity in connection with his practice.

57. Every practitioner shall keep such books and accounts as may be necessary to show and distinguish in connection with his practice-

Practitioner's accounts

- (a) the moneys received from or on account of and the moneys paid to or on account of each of his clients; and
- (b) the moneys received and the moneys paid on his own account.

58. Every practitioner who holds or receives money on account of a client (save money hereinafter expressly exempted from the application of this section), shall without undue delay pay such money into a current or deposit account at a bank or into a deposit account at a building society, to be kept in the name of the practitioner in the title of which the word "client" shall appear (hereinafter referred to as "a client account"). Any practitioner may keep one client account or as many such accounts as he thinks fit:

Client's money to be paid into bank or building society

Provided that, when a practitioner receives a cheque or draft representing in part money belonging to the client and in part money due to the practitioner, he may, where practicable, divide the amount of the cheque or draft and pay to the client account that part only which represents money belonging to the client. In any other case he shall pay the whole of such cheque or draft into the client account.

59. No money shall be paid into a client account other than-

What money to be paid into client account

- (a) money held or received on account of a client;
- (b) such money belonging to the practitioner as may be necessary for the purpose of opening or maintaining the account;
- (c) money for replacement of any sum which may by mistake or accident have been drawn from the account in contravention of section *sixty*;
- (d) a cheque or draft received by the practitioner representing in part money belonging to the client and in part money due to the practitioner where such cheque or draft has not been divided as provided for in section *fifty-eight*.

60. No money shall be drawn from a client account other than-

Withdrawing of money from client account

- (a) money properly required for payment to or on behalf of a client or for or towards payment of a debt due to the practitioner from a client or money drawn on the client's authority, or money in respect of which there is a liability of the client to the practitioner provided that the money so drawn shall not in any case exceed the total of the money so held for the time being for such client;
- (b) such money belonging to the practitioner as may have been paid into the account under paragraph (b) or (d) of section *fifty-nine*;
- (c) money which may by mistake or accident have been paid into such account in contravention of section *fifty-nine*.

61. Sections *fifty-eight*, *fifty-nine* and *sixty* shall not apply to money which-

- (a) the client, for his own convenience, requests a practitioner to withhold from a client account;
- (b) a practitioner pays into a separate account or an account to be opened in the name of a client or some person named by that client or the duly authorised agent of that client;
- (c) in the ordinary course of business upon receipt is paid on behalf of the client to a third party;
- (d) is upon receipt paid to the client;
- (e) is paid to a practitioner expressly on account of costs;
- (f) the Disciplinary Committee upon an application made to it in writing by a practitioner specifically authorises to be withheld or withdrawn from a client account.

What money need not be paid into client account

62. (1) If a practitioner fails to comply with any of the provisions of the preceding sections of this Part, any person aggrieved thereby may make a complaint in writing in respect of that failure to the Disciplinary Committee.

Complaint in respect of practitioner's failure to comply with provisions

(2) In order to consider, pursuant to section *twenty-two*, whether the provisions of this Part have been complied with, the Disciplinary Committee, acting either on its own motion or on the written complaint lodged with it as provided for in subsection (1), may require any practitioner to produce, at some convenient time and place, his books of account, bank pass books, statements of account, vouchers and any other necessary documents for the inspection of any person appointed by the Disciplinary Committee, and any such person shall prepare for the information of the Disciplinary Committee a report on the result of such inspection. Such report may be used as a basis for any report by the Disciplinary Committee pursuant to subsection (3) of section *twenty-two*.

(3) Before making any such appointment, the Disciplinary Committee shall consider any objection made by any such practitioner to the appointment of a particular person on personal or other proper grounds.

63. Before instituting an inspection on a complaint made by a third person, the Disciplinary Committee shall require *prima facie* evidence that a ground of complaint exists, and may require the payment by such person to the Disciplinary Committee of a reasonable sum to be fixed by it to cover the costs of inspection and the costs of the practitioner against whom the complaint is made. The Disciplinary Committee may deal with any sum so paid in such manner as it thinks fit.

Evidence and deposit of costs before instituting inspection of accounts

64. Every requirement, authorisation and notification to be made or given by the Disciplinary Committee to a practitioner under this Part shall be made in writing under the hand of such person as may be appointed by the Disciplinary Committee for the purpose and left at or sent by registered post to the last address of the practitioner appearing in the Roll and, when so made and sent, shall be deemed to have been received by the practitioner within forty-eight hours of the time of posting.

Notice to practitioner: how made

65. In addition to the powers conferred by section *twenty-eight*, the Court shall have the power to impose on a practitioner a fine not exceeding ten thousand penalty units in respect of any breach of the provisions of this Part.

Penalty for breach of Part VIII

(As amended by Act No. 13 of 1994)

66. Nothing in this Part shall deprive a practitioner of any recourse or right, whether by way of lien, set-off, counter-claim, charge or otherwise, against moneys standing to the credit of a client account.

Saving

67. (1) Subject to the provisions of this section, no bank shall, in connection with any transaction on any account of any practitioner kept with it or with any other bank (other than an account kept by a practitioner as trustee for a specified beneficiary), incur any liability or be under any obligation to make an inquiry or be deemed to have any knowledge of any right of any person to any money paid or credited to any such account which it would not incur or be under or be deemed to have in the case of an account kept by a person entitled absolutely to all the money paid or credited to it:

Relief to banks

Provided that nothing in this subsection contained shall relieve a bank from any liability or obligation to which it would be subject apart from this Act.

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

Provided that nothing in this subsection contained shall deprive a bank of any right existing at the commencement of this Act.

68. (1) In order to ascertain whether the provisions of this Part have been complied with, the Association, acting either on its own motion or on written complaint lodged with it, may require any practitioner to produce at a time and place fixed by the Association and place his books of account, bank pass books, statements of account, vouchers and any other necessary documents for the inspection of any person appointed by the Association.

Association may require production of practitioner's books

(2) Before making any such appointment, the Association shall consider any objection made by any such practitioner to the appointment of a particular person on personal or other proper grounds.

(3) Where a complaint is received by the Association that a practitioner has not complied with the provisions of this Part or that a practitioner or a clerk or servant of a practitioner has been guilty of dishonesty in connection with that practitioner's practice as a practitioner or in connection with any trust of which that practitioner is a trustee, then, without prejudice to the other provisions of this Act, the Association shall appoint a person publicly carrying on the profession of accountant in Zambia to be the accountant, to inquire into and report on the allegations made in such complaint, and the accountant shall have the power-

- (a) to require the practitioner to produce, at a time and place fixed by the accountant, books of account, bank pass-books, statements of account, vouchers and any other necessary documents for inspection;
- (b) to require the practitioner or any clerk or servant of the practitioner to explain in writing any matter arising out of the books and documents produced or not produced before the accountant, including any entries or absence of entries in the books and documents produced.

(4) On completion of the inquiry the accountant shall submit to the Association a report together with the explanations, if any, received by him, and the Association, unless it is satisfied that no *prima facie* case has been disclosed against the practitioner, shall make an application to the Disciplinary Committee under section *twenty-two*, to strike the name of the practitioner off the Roll or to require the practitioner to answer allegations made in an affidavit, and shall submit the report and the explanations, if any, along with the application.

(5) The report of the accountant shall be admissible in and treated as evidence in the proceedings before the Disciplinary Committee against the legal practitioner.

(6) If at any stage of the inquiry the accountant has reasonable cause to believe that a practitioner or a clerk or servant of a practitioner has been guilty of dishonesty in connection with the practitioner's practice as practitioner or in connection with any trust of which that practitioner is a trustee, the accountant shall forthwith inform the Association in writing and on the receipt of such information by the Association the provisions of the Third Schedule shall apply in relation to the practitioner, as they apply where the Association has reasonable cause to believe that a practitioner has been guilty of such dishonesty as aforesaid.

69. (1) If the Association has reasonable cause to believe that a practitioner, or a clerk or servant of a practitioner, has been guilty of dishonesty in connection with that practitioner's practice as a practitioner or in connection with any trust of which that practitioner is a trustee, the provisions of the Third Schedule, except paragraph 7 thereof, and, if the Association is satisfied that the practitioner, clerk or servant has been guilty as aforesaid, the said paragraph 7, shall apply in relation to that practitioner.

Power of Association
to deal with property of
certain practitioners

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(2) Where the name of a practitioner is removed from or struck off the Roll or a practitioner is suspended from practice, that practitioner shall, within twenty-one days from the material date, satisfy the Association that he has made suitable arrangements for making available to his clients or to some other practitioner or practitioners instructed by his clients or by himself-

- (a) all deeds, wills, documents constituting or evidencing title to any property, papers, books of account, records, vouchers and other documents in his or his firm's possession or control, or relating to any trust of which he is the sole trustee or co-trustee only with one or more of his partners, clerks or servants; and
- (b) all sums of money due from him or his firm to, or held by him or his firm on behalf of, his clients or subject to any such trust as aforesaid;

and if he fails so to satisfy the Association the Third Schedule shall apply in relation to him.

(3) The provisions of subsections (4) and (5) and of the Third Schedule shall apply in relation to any practitioner who-

- (a) dies;
- (b) abandons his practice;
- (c) is adjudged bankrupt or makes a composition or arrangement with his creditors; or
- (d) is prevented, for any other reason, from performing his functions as a practitioner;

and in relation to whom the Association is satisfied that his clients are likely to suffer due to his failure to make such suitable arrangements as are referred to in subsection (2).

(4) On an application of the Association in relation to a practitioner to whom subsection (3) applies, the High Court or a Judge thereof may in addition to any other order made under the provisions of the Third Schedule, order that all sums of money held by or on behalf of such practitioner or his firm which are or are deemed to be client money in accordance with the provisions of Part VIII, or which are so held in connection with any trust of which he is or formerly was a sole trustee, and the right to recover or receive such sums, shall vest in the Association.

(5) Where any sums of money vest in the Association by virtue of the provisions of subsection (4), the Association shall-

- (a) maintain a separate account for such sums;

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- (b) hold such sums on trust for the persons beneficially entitled thereto; and
- (c) deal with such sums in accordance with any rules which may be prescribed.

(6) Where the Association refuses to issue a practising certificate to a practitioner on the ground that the practitioner has not delivered to the Association an accountant's certificate in accordance with the regulations made or continued in force under this Act, and such certificate is not delivered to the Association within three months of the date of such refusal, the Association shall proceed as if a complaint such as is referred to in subsection (3) of section *sixty-eight* has been received by the Association.

(7) In subsection (2) "the material date" means whichever is the latest of the following dates, that is to say:

- (a) the date when the order of the Disciplinary Committee or of the Court by or in pursuance of which the practitioner's name is removed from or struck off the Roll, or the practitioner is suspended from practice, is to take effect;
- (b) the last date on which an appeal against that order may be lodged;
- (c) the date on which any such appeal is dismissed or abandoned.

(8) In this section and in the Third Schedule "trust" and "trustee" extend to implied and constructive trusts and to cases where the trustee has a beneficial interest in the trust property and to the duties incident to the office of a personal representative, and "trustee", where the context admits, includes a personal representative.

(As amended by Act No. 21 of 1981)

PART IX

REMUNERATION OF PRACTITIONERS

70. (1) For the purposes of this Part there shall be a committee to be known as the Remuneration Committee which shall consist of five practitioners to be nominated by the Association, of whom three shall form a quorum.

Power to make general orders as to remuneration of practitioners

(2) On the recommendation of the Remuneration Committee-

- (a) the Chief Justice in regard to non-contentious business; and

- (b) the High Court Rules Committee established under the High Court Act in regard to contentious business; Cap. 27

may, by statutory instrument, make general orders prescribing and regulating in such manner as they think fit the remuneration of practitioners, and may revoke or alter any such order, or any order made before the commencement of this Act, which provides for the remuneration of practitioners.

71. Any order made under section *seventy* in respect of non-contentious business may, as regards the mode of remuneration, prescribe that it shall be according to a scale of rates of commission or percentage, varying or not in different classes of business, or by a gross sum, or by a fixed sum for each document prepared or perused, without regard to length, or in any other mode, or partly in one mode and partly in another, and may regulate the amount of remuneration with reference to all or any of the following, among other considerations, that is to say: Scale of rates of commission and percentage

- (a) the position of the party for whom the practitioner is concerned in the business, that is, whether as vendor or purchaser, lessor or lessee, mortgagor or mortgagee, chargor or chargee, and the like;
- (b) the place where, and the circumstances in which, the business or any part thereof is transacted;
- (c) the skill, labour and responsibility involved therein on the part of the practitioner;
- (d) the number and importance of the documents prepared or perused, without regard to length.

72. An order made in respect of non-contentious business may authorise and regulate- Security for payment of remuneration, and regulating interest

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

73. As long as any order made as aforesaid is in operation, the taxation of bills of costs of practitioners shall, subject to the provisions of the next succeeding section with respect to agreements as to remuneration, be regulated by that order. Taxation of bills of costs

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

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

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

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

Provided that if on any taxation of costs the agreement is relied on by the practitioner and objected to by the client as unfair or unreasonable, the taxing officer may inquire into the facts and certify them to the Court and if on that certificate it appears just to the Court that the agreement should be cancelled, or the amount payable thereunder reduced, the Court may order the agreement to be cancelled, or the amount payable thereunder to be reduced, and may give such consequential directions as it thinks fit.

(5) This section shall be read subject to the provisions of section *fifty-two*.

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

Remuneration of practitioner who is a mortgagee

(2) If, whether before or after the commencement of this Act, a mortgage has been made to, or has become vested by transfer or transmission in a practitioner, either alone or jointly with any other person, and if after the commencement of this Act any business is transacted or acts are done by that practitioner, or by the firm of which he is a member, in relation to that mortgage, or the security thereby created or the property comprised thereunder, then he or they shall be entitled to recover from the person on whose behalf the business was transacted or the acts were done, and to charge against the security, such usual costs as he or they would have been entitled to receive if the mortgage had been made to and had remained vested in a person who was not a practitioner and that person had retained and employed him or them to transact the said business and do the said acts.

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

76. Notwithstanding anything to the contrary in section *seventy*, a practitioner may make an agreement in writing with his client as to his remuneration in respect of any contentious business done or to be done by him, providing that he shall be remunerated either by a gross sum, or by salary, or otherwise.

Power to make agreements as to remuneration for contentious business

77. (1) Any agreement mentioned in section *seventy-six*-

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

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

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

- (b) shall be deemed to exclude any claim by the practitioner in respect of the business to which it relates other than-
 - (i) a claim for the agreed costs; or
 - (ii) a claim for such costs as are expressly excepted therefrom.

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

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

(4) On any such application, the Court-

- (a) if it is of opinion that the agreement is in all respects fair and reasonable, may enforce it;
- (b) if it is of opinion that the agreement is in any respect unfair or unreasonable, may declare it void and may order it to be given up to be cancelled and may order the costs covered thereby to be taxed as if the agreement had never been made;
- (c) in any case, may make such orders as to the costs of the application as it thinks fit.

78. (1) If the business covered by any such agreement is business done, or to be done, in any action, the amount payable under the agreement shall not be received by the practitioner until the agreement has been examined and allowed by a taxing officer of the Court, and if the taxing officer is of opinion that the agreement is unfair or unreasonable, he may require the opinion of the Remuneration Committee to be taken thereon and may, on receipt of such opinion, reduce the amount payable thereunder, or order the agreement to be cancelled and the costs recovered thereby to be taxed as if the agreement had never been made.

In certain circumstances taxing officer may reduce amount payable under agreement

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

(3) Where any such agreement is made by the client as the guardian or committee of, or as a trustee under a deed or will for, any person whose property will be chargeable with the whole or any part of the amount payable under the agreement, the agreement shall, before payment, be laid before the taxing officer of the Court, and that officer shall examine the agreement and may disallow any part thereof, or may require the opinion of the Court to be taken thereon.

(4) Any such client as is mentioned in subsection (3) who pays the whole or any part of the amount payable under the agreement without the agreement having been allowed by the officer or by the Court, shall be liable at any time to account to the person whose property is charged with the whole or any part of the amount so paid for the sum so charged, and the practitioner who accepts the payment may be ordered by the Court to refund the amount received by him.

79. (1) If, after some business has been done under an agreement made in pursuance of the provisions of section *seventy-six* but before the practitioner has wholly performed it, the practitioner dies or becomes incapable of acting, then any party to, or the representative of any party to, the agreement, may apply to the Court and the Court shall have the same jurisdiction as to enforcing the agreement so far as it has been performed, or setting it aside, as it would have had if the practitioner had not died or become incapable of acting:

Death, incapability or change of practitioner, etc.

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

- (a) the taxing officer, in ascertaining that amount, shall have regard so far as may be to the terms of the agreement; and
- (b) payment of the amount found by him to be due may be enforced in the same manner as if the agreement had been completely performed.

(2) The provisions of subsection (1) shall apply in the event of the client changing his practitioner (as, notwithstanding the agreement, he shall be entitled to do) before the conclusion of the business to which the agreement relates in the same manner as they apply when the practitioner dies or is incapacitated, with this modification, that if an order is made for the taxation of the amount due to the practitioner in respect of the business done under the agreement, the Court shall direct the taxing officer to have regard to the circumstances under which the change of practitioner has taken place, and the taxing officer, unless he is of opinion that there has been no default, negligence, improper delay or other conduct on the part of the practitioner affording to the client reasonable ground for changing his practitioner, shall not allow to the practitioner the full amount of the remuneration agreed to be paid to him.

80. Subject to the provisions of sections *seventy-eight* and *seventy-nine*, the costs of a practitioner in any case where an agreement has been made in pursuance of the provisions of section *seventy-six* shall not be subject to taxation, nor to the subsequent provisions of this Part with respect to the signing and delivery of a practitioner's bill.

Agreement excludes taxation

81. (1) Nothing in section *seventy-six*, *seventy-seven*, *seventy-eight*, *seventy-nine* or *eighty* shall give validity to-

Miscellaneous provisions as to remuneration for contentious business

- (a) any purchase by a practitioner of the interest, or any part of the interest, of his client in any action, suit or other contentious proceedings; or
- (b) any agreement by which a practitioner retained or employed to prosecute any action, suit or other contentious proceeding stipulates for payment only in the event of success of that action, suit or proceeding; or
- (c) any disposition, contract, settlement, conveyance, delivery, dealing or transfer which is under the law relating to bankruptcy invalid against a trustee or creditor in any bankruptcy or composition.

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

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

- (a) allow interest at such rate and from such time as he thinks just on moneys disbursed by the practitioner for the client, and on moneys of the client in the hands of, and improperly retained by, the practitioner;
- (b) in determining the remuneration of the practitioner, have regard to the skill, labour and responsibility involved in the business done by him.

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

Power of Court to order practitioner to deliver his bill and to deliver up deeds

83. (1) Every advocate may, subject to the provisions of this Act and to any rules of court, sue for and recover his fees in respect of services rendered, but shall be subject to all such liabilities as attach by this Act or any other law, to an advocate, in whatever capacity his services may have been rendered.

Action to recover practitioner's costs

(2) Subject to the provisions of this Act, no action shall be brought to recover any costs due to a practitioner until one month after a bill thereof has been delivered in accordance with the requirements of any rules of court:

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

84. Any court in which a practitioner has been employed to prosecute or defend any suit, matter or proceeding may at any time declare the practitioner entitled to a charge on the property recovered or preserved through his instrumentality for his taxed costs in reference to that suit, matter or proceeding, and may make such orders for the taxation of the said costs and for raising money to pay, or for paying, the said costs out of the said property as it thinks fit, and all conveyances and acts done to defeat, or operating to defeat, that charge shall, except in the case of a conveyance to a *bona fide* purchaser for value without notice, be void as against the practitioner:

Charging orders

Provided that no order shall be made if the right to recover the costs is barred by limitation.

PART X

MISCELLANEOUS

85. Any person duly admitted as a practitioner shall be an officer of the Court and shall be subject to the jurisdiction thereof.

Practitioners to be officers of the Court

86. In any proceedings under the provisions of this Act, the onus of proving that an accused person is a practitioner or has been admitted to practice as a Notary Public shall lie with the defence.

Onus of proof

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87. (1) The Court may, on the application of the Disciplinary Committee, order that any expenses incurred by that committee in carrying out any provisions of this Act, or in supporting any report before the Court, shall be paid by the practitioner concerned or by any party on whose application such expenses have been incurred.

Payment of expenses
of Disciplinary
Committee

(2) When any such expenses have been ordered to be paid and are not paid within twelve months from the date of the order, they shall, provided the Attorney-General certifies that such expenses are not likely to be recovered, be paid out of the general revenues of the Republic on the warrant of the President.

88. All regulations, certificates, notices and other documents made or issued by any committee established under the provisions of this Act for any purpose whatsoever may be signed on behalf of such committee by such member or other person as the committee may for that purpose appoint.

Authentication of
regulations and other
documents

89. The Chief Justice may, by statutory instrument, make rules of court for the better carrying into effect of the provisions of this Act and in particular prescribing anything which by any of the said provisions is to be prescribed.

Rules of court

90. The Disciplinary Committee, with the concurrence of the Chief Justice, may for the purposes of this Act, by statutory instrument, make general regulations with respect to the following matters or any of them:

General regulations

- (a) the keeping of accounts by practitioners;
- (b) practice and etiquette;

and all such further or other general regulations as may be deemed necessary or proper for giving full force and effect to the provisions of this Act.

91. Nothing in this Act shall prejudice or affect the provisions of any Act or rules made thereunder, empowering any person, not being a practitioner, to conduct, defend or otherwise act in relation to any proceedings.

Saving of other written
laws

92. (1) The Legal Practitioners Act, Chapter 48 of the Revised Edition (hereinafter referred to as the former Act) is hereby repealed.

Repeal and savings

(2) Notwithstanding the repeal of the former Act-

- (a) all rules, regulations, orders and statutory instruments made under or continued by the provisions of the former Act and operative immediately before the commencement of this Act shall, in so far as they are not inconsistent with the provisions of this Act, continue to be in force, until altered or revoked by the competent authority;

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- (b) the Disciplinary Committee, the Remuneration Committee, the Council of Legal Education, the Zambia Institute for Advanced Legal Education and any other committee or body established or formed under the former Act and existing immediately before the commencement of this Act shall continue to operate under the provisions of this Act, and shall be deemed to have been established and formed under this Act, as if this Act were in force when any such Committee, Council, Institute or body was established or formed;
- (c) all nominations and appointments made, certificates issued, notices given, oaths taken and other things done under the former Act which were effective immediately before the commencement of this Act shall continue to be effective, as if they were made, issued, given, taken or done under this Act;
- (d) all applications made, appeals lodged, proceedings instituted or other action or matter commenced under the provisions of the former Act and pending before any court or authority immediately before the commencement of this Act, shall be proceeded with and determined in accordance with the provisions of this Act, as if they had been made, lodged, instituted or commenced under this Act;
- (e) the Roll of practitioners kept in accordance with the provisions of the former Act, as it subsisted immediately before the commencement of this Act, shall be deemed to be the Roll kept in accordance with the provisions of this Act;
- (f) the Compensation Fund established under the former Act shall be deemed to be the Compensation Fund established under this Act and shall be maintained and administered in accordance with the provisions of this Act.

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FIRST SCHEDULE

(Section 13)

OATH OF ALLEGIANCE

I, _____, do swear that I will be faithful and bear true allegiance to the President of the Republic of Zambia, and that I will preserve, protect and defend the Constitution of Zambia as by law established.

SO HELP ME GOD

Sworn in open court this _____ day of _____, 19 ____.

Before me

Chief Justice

OATH OF OFFICE

I, _____, do swear that I will truly and honestly demean myself in the practice of an advocate according to the best of my knowledge and ability.

SO HELP ME GOD

Sworn in open court this _____ day of _____, 19 ____.

Before me

Chief Justice

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SECOND SCHEDULE

(Section 40)

PROVISIONS WITH REGARD TO THE FORMATION, ADMINISTRATION AND APPLICATION OF THE
COMPENSATION FUND AND MATTERS CONNECTED THEREWITH

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1. There shall be carried to the credit of the Compensation Fund-
 - (a) all contributions paid to the Association in pursuance of the provisions of section 40;
 - (b) all interest, dividends and other income and accretions of capital arising from investments of the Compensation Fund or any part thereof;
 - (c) the proceeds of the realisation of any investments of the Compensation Fund;
 - (d) all sums received by the Association under any insurance effected by the Association under section 40;
 - (e) all sums received by the Association under the provisions of section 40 (7); and
 - (f) any other moneys which may belong or accrue to the Compensation Fund or be received by the Association in respect thereof.
2. All moneys from time to time forming part of the Compensation Fund and all investments of the Compensation Fund shall be applicable as follows:
 - (a) for payment of all costs, charges and expenses of establishing, maintaining, administering and applying the Compensation Fund;
 - (b) for payment of any premiums on insurances effected by the Association under section 40;
 - (c) for payment of any grants which the Association may make in pursuance of the provisions of section 40 for any of the purposes mentioned in that section;
 - (d) for payment of all costs, charges and expenses incurred by the Association under or in the exercise of the powers conferred by this Schedule; and
 - (e) for payment of any other sums properly payable out of the Compensation Fund in pursuance of the provisions of section 40, this Schedule or any rules made under section 40.
3. The Council or any committee appointed by the Council and authorised by them to exercise any of their functions under section 40 or to assist them in the exercise of such functions may, for the purposes of inquiry into any matters which may affect the making or refusal of a grant under section 40, administer oaths.
4. (1) If the Council have reasonable cause to believe that a practitioner or his clerk or servant has been guilty of any dishonesty as is mentioned in section 40, they may require the production or delivery to any person appointed by the Council at a time and place to be fixed by the Council, and may take possession of all deeds, wills, securities, papers, books of account, records, vouchers and other documents in the possession or control of such practitioner or his firm, or relating to any trust of which he is a sole trustee or is co-trustee only with a partner, clerk or servant of his or with more than one of such persons.
 - (2) If any person having possession or control of any such deeds, wills, securities, papers, books of account, records, vouchers or documents, refuses or fails forthwith after being required by the Council so to do to produce or deliver the same, or cause the same to be produced or delivered in manner aforesaid, such person shall be liable to a fine not exceeding one thousand penalty units, and the Council may apply to the Court or a Judge therefore for an order and the Court or a Judge thereof may on such application make an order upon such person to produce or deliver the same or cause the same to be produced or delivered in manner aforesaid within such time as the Court or a Judge thereof may order.
 - (3) Upon taking possession of any such deeds, wills, securities, papers, books of account, records, vouchers or documents which shall have been delivered to the Council, the Council shall serve upon such practitioner and every person from whom they shall have been received, a notice giving particulars and the date of taking possession thereof.
 - (4) Every requirement and notice to be made or given under this paragraph shall be made in writing under the hand of such person as may be appointed by the Council for the purpose. The Council may serve any such requirement or notice on any practitioner or other person as aforesaid personally or by forwarding it by registered letter addressed to his last known place of business or residence.
 - (5) Within fourteen days after a notice under sub-paragraph (3) has been served in accordance with sub-paragraph (4), the practitioner or other person upon whom such notice has been served as aforesaid may apply to a Judge of the Court in Chambers for an order directing the Council to return such deeds, wills, securities, papers, books of account, records, vouchers or documents to the person or persons from whom the same were received by the Council or to such other person or persons as the applicant may require. On the hearing of such application of the Judge may make the order applied for or such other order with respect to the matter as he may think fit.
 - (6) If no application shall be made to a Judge of the Court in accordance with sub-paragraph (5), or if the Judge to whom such an application is made shall direct that the deeds, wills, securities, papers, books of account, records, vouchers or documents shall remain in the custody or control of the Council, the Council may make inquiries to ascertain the person or persons to whom the same belong and may deal with the same in accordance with the directions of such person or persons.
 - (7) In this paragraph "securities" means documents constituting or evidencing the title to any property.
5. If the Council are satisfied that a practitioner or his clerk or servant has been guilty of any such dishonesty as is mentioned in section 40, they may apply to the Court or a Judge thereof for an order, and the Court or a Judge thereof may on such application make an order that no payment shall be made without the leave of the Court or a Judge thereof by any banker named in the order out of any banking account in the name of such practitioner or his firm.

The Laws of Zambia

THIRD SCHEDULE

(Section 69)

CONTROL OF PROPERTY OF A PRACTITIONER IN CERTAIN CASES

1. The Association may require the production or delivery to any person appointed by the Association at a time and place to be fixed by the Association and may take possession of all deeds, wills, documents constituting or evidencing the title to any property, papers, books of account, records, vouchers and other documents in the possession or control of the practitioner or his firm, or relating to any trust of which he is sole trustee or is co-trustee only with one or more of his partners, clerks or servants.

2. If any person having possession or control of any such document fails to comply forthwith with any such requirement-

(a) he shall be guilty of an offence and be liable on summary conviction to a fine not exceeding one thousand penalty units; and

(b) the High Court or a Judge thereof may on the application of the Association order that person to comply with the requirement within such time as may be specified in the order.

3. Upon taking possession of any such documents, the Association shall serve upon the practitioner and every person from whom those documents were received a notice giving particulars and the date of taking possession thereof.

4. Any requirement or notice under this Schedule shall be made in writing under the hand of such person as may be appointed by the Association for the purpose and may be served on any person either personally or by forwarding it by registered letter addressed to his last known place of business or residence.

5. Within fourteen days after the service of a notice under paragraph 3, the practitioner or other person upon whom the notice was served may apply to a Judge of the High Court in Chambers for an order directing the Association to return those documents to the person from whom they were received by the Association or to such other person as the applicant may require and on the hearing of any such application the Judge may make such order with respect to the matter as he may think fit.

6. If no application is made under paragraph 5, or if the Judge to whom any such application is made directs that the documents shall remain in the custody or control of the Association, the Association may make inquiries to ascertain the person to whom those documents belong and may deal with those documents in accordance with the directions of that person.

7. The High Court or a Judge thereof may, on the application of the Association, order that no payment shall be made without the leave of the High Court or a Judge thereof by any banker named in the order out of any banking account in the name of the practitioner or his firm.

8. Any application to a Judge of the High Court in Chambers under paragraph 5 or to the High Court or a Judge thereof under paragraph 2 or 7 shall be made in such form and heard in such manner as may be prescribed by rules of court.

9. The Association may make rules with respect to the procedure to be followed in giving effect to the provisions of paragraphs 1, 3, 4 and 6 and with respect to any matters incidental, ancillary or supplemental to those provisions.

(As amended by Act No. 13 of 1994)

SUBSIDIARY LEGISLATION

LEGAL PRACTITIONERS

CAP. 30

**ORDERS, REGULATIONS AND RULES MADE UNDER THE
LEGAL PRACTITIONERS ACT-CHAPTER 30 OF THE
REVISED EDITION**

(Section 15 of the Interpretation and General Provisions Act)

**THE COUNCIL OF LEGAL EDUCATION
(EXPENSES) ORDER**

*Statutory Instrument
445 of 1968
13 of 1994*

Order by the Minister

1. This Order may be cited as the Council of Legal Education (Expenses) Order.

Title

2. The members of the Council of Legal Education appointed pursuant to paragraphs (e), (f) and (g) of subsection (2) of section seven of the Act shall, when discharging their duties as such members, be paid travelling and subsistence expenses in amounts calculated at the rates shown in the Schedule.

Calculation of
travelling and
subsistence expenses

SCHEDULE

(Paragraph 2)

A. Travelling Expenses:

- (1) *Air or Rail:* Cost of return ticket for air flight or first class rail journey will be refunded.
- (2) *Motor Vehicle:* Where journey exceeds eight kilometres, the rate of 2 fee units per kilometre will be paid.

B. Subsistence Expenses:

135 fee units per day subsistence will be paid.

(As amended by Act No. 13 of 1994)

**THE LAW PRACTICE INSTITUTE
(ESTABLISHMENT) ORDER**

*Statutory Instrument
269 of 1968*

The Laws of Zambia
Order by the Minister

- | | |
|--|---|
| 1. This Order may be cited as the Law Practice Institute (Establishment) Order. | Title |
| 2. There is hereby established, for the purposes of Part III of the Act, a Law Practice Institute. | Establishment of Law Practice Institute |

THE LEGAL PRACTITIONERS (QUALIFICATIONS)
(PRESCRIBED DEPARTMENTS) ORDER

Statutory Instruments
248 of 1968
287 of 1968

Order by the Minister

- | | |
|--|------------------------|
| 1. This Order may be cited as the Legal Practitioners (Qualifications) (Prescribed Departments) Orders. | Title |
| 2. The departments of Government set out in the Schedule shall be prescribed departments of Government for the purposes of section <i>eleven</i> of the Act. | Prescribed departments |

SCHEDULE

(Paragraph 2)

1. Attorney-General's Department.
2. Judicial Department.
3. Administrator-General's Department.
4. Registry of Deeds.
5. Department of Legal Aid.
6. Lands Department.

THE LEGAL PRACTITIONERS (DISCIPLINARY PROCEEDINGS) RULES

ARRANGEMENT OF RULES

PART I

PRELIMINARY

Rule

1. Title
2. Interpretation

PART II

APPLICATIONS AGAINST PRACTITIONERS

3. Application against practitioner and affidavit by applicant
4. Committee may require further information
5. Dismissal of application
6. Notice of hearing
7. List of documents
8. Inspection of documents
9. Failure to appear
10. Evidence by affidavit
11. Report of findings

PART III

APPLICATIONS AT THE INSTANCE OF A PRACTITIONER HIMSELF

12. Application for removal from the Roll
13. Affidavit
14. Notice of hearing
15. Grounds of objection
16. Adjournment of hearing
17. Application of Parts II and IV
18. Recommendation of Committee

PART IV

GENERAL

Rule

19. Quorum
20. Hearing in private
21. Reference to the Council
22. Withdrawal of application
23. Adjournment of hearing
24. Amendment, etc., of affidavit
25. Costs
26. Notes of proceedings and inspection thereof
27. Service of documents
28. Power of Committee to dispense with documents, etc.
29. Extension of time
30. Application of Evidence Act
31. Admission of authenticity of documents
32. Summons to give evidence and produce documents

SCHEDULE-Prescribed forms

THE LEGAL PRACTITIONERS (DISCIPLINARY PROCEEDINGS) RULES
Rules made by the Disciplinary Committee, with the concurrence of the Chief Justice

Government Notices
259 of 1957
497 of 1964
Statutory Instrument
72 of 1964

PART I

PRELIMINARY

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

2. (1) In these Rules, unless the context otherwise requires- Interpretation
"the Committee" means the Disciplinary Committee;
"the Secretary" means the Secretary to the Committee or any deputy or person appointed by the Committee temporarily to perform the duties of that office.

- (2) Other expressions in these Rules have the meanings assigned to them in the Act.

(3) The Interpretation and General Provisions Act applies to these Rules in the same manner as it applies to an Act. Cap. 2

PART II

APPLICATIONS AGAINST PRACTITIONERS

3. An application to the Committee to strike the name of a practitioner off the Roll of Solicitors and to require a practitioner to answer allegations contained in an affidavit shall be in writing under the hand of the applicant in the form set out in the Schedule and numbered 1, as shall be appropriate, and shall be sent to the Secretary together with an affidavit by the applicant in the form set out in the Schedule and numbered 2, or as near thereto as the circumstances may permit, stating the matters of fact on which he relies in support of his application: Application against practitioner and affidavit by applicant

Provided that where the application is made by the Society, the application may be signed and the affidavit sworn on behalf of the Society by such officer as may from time to time be prescribed by the Council.

4. Before fixing a day for the hearing, the Committee may require the applicant to supply such further information and documents relating to the application as it thinks fit. Committee may require further information

5. In the case of an application against a solicitor where, in the opinion of the Committee, no *prima facie* case is shown in favour of the application, the Committee may dismiss the application without requiring the practitioner to answer the allegations, and without hearing the applicant. If required so to do, either by the applicant or the practitioner, the Committee shall make a formal order dismissing such application. Dismissal of application

6. In the case of an application against a practitioner in which, in the opinion of the Committee, a *prima facie* case is shown in favour of the application, the Committee shall fix a day for the hearing, and the Secretary shall serve notice thereof on each party to the proceedings and shall serve on each party, other than the applicant, a copy of the application and affidavit. There shall be at least twenty-one days between the service of any such notice and the day fixed therein for the hearing. Notice of hearing

7. The notice shall be in such one of the forms set out in the Schedule and numbered 3, 4, 6 and 7, as shall be appropriate, and shall require the party to whom it is addressed to furnish to the Secretary and to every other party at least fourteen days before the day fixed for the hearing, unless the Committee directs otherwise, a list of all documents on which he intends to rely. List of documents

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8. Any party may inspect the documents included in the list furnished by any other party. A copy of any document mentioned in the list furnished by any party shall, on application and on payment of the proper charges therefor, by the party requiring it, be furnished to that party by the other within three days after the receipt of such application. All inspections within this rule shall be completed not less than seven days before the date fixed for the hearing.

Inspection of documents

9. If any party fails to appear at the hearing, the Committee may, upon proof of service on such party of the notice of hearing, proceed to hear and determine the application in his absence.

Failure to appear

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

Evidence by affidavit

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

11. The Committee on the termination of the hearing shall embody its findings in the form of a report to the Court which shall be signed and filed with the Registrar, and shall be open to inspection by the practitioner to whom the application relates and his counsel (if any) and also by the applicant, but shall not be open to public inspection. The evidence taken and the documents put in evidence at the hearing shall be filed with the Registrar at the same time as the findings and the report.

Report of findings

PART III

APPLICATIONS AT THE INSTANCE OF A PRACTITIONER HIMSELF

12. An application by a practitioner to procure his name to be removed from the Roll shall be made by way of affidavit in the form set out in the Schedule and numbered 5.

Application for removal from the Roll

13. The affidavit shall be sent to the Secretary and a copy thereof to the Society, and unless the Committee directs otherwise, shall be supported by letters from two practising practitioners to whom the applicant is known.

Affidavit

14. The Committee may decide upon the application without requiring the attendance of the applicant. In any other case the Committee shall fix a day for the hearing and the Secretary shall serve notice thereof on the applicant and the Registrar at least twenty-one days before the day fixed for the hearing. The Committee may, if it thinks fit, require the applicant to give notice of his application and of the day fixed for the hearing by advertisement or otherwise, as it may direct.

Notice of hearing

The Laws of Zambia

15. If any person desires to object to the application, he shall give notice in writing to the applicant, the Society and the Secretary at least seven days before the day fixed for the hearing, specifying the grounds of his objection.

Grounds of objection

16. If the objector appears on the day fixed for the hearing, and if the Committee is of opinion, after hearing the parties or either of them (if it thinks fit so to do), that the notice discloses a *prima facie* case for inquiry, it shall adjourn the hearing and shall give directions relating to the adjourned hearing, including directions as to the party on whom the burden of proof shall lie.

Adjournment of hearing

17. The Rules contained in Parts II and IV shall apply *mutatis mutandis* to the hearing of any application under this Part.

Application of Parts II and IV

18. In respect of any application by a practitioner to procure his name to be removed from the Roll, the Committee may recommend to the Chief Justice that the name of the practitioner be removed from the Roll, or that the application be refused, and on such refusal may make such order as to the costs as it thinks fit.

Recommendation of Committee

PART IV

GENERAL

19. Where the Committee sits, five members shall constitute a quorum.

Quorum

20. The Committee shall hear all applications in private.

Hearing in private

21. The Committee may, at any stage of the proceedings against a solicitor, refer the case to the Council and may adjourn the application pending the consideration thereof by the Council in case the Council should see fit either to lodge a further application against the practitioner or to undertake on behalf of the original applicant the prosecution of his application.

Reference to the Council

22. Unless the Committee directs otherwise, no application shall be withdrawn after it has been sent to the Secretary. Where a party has applied for leave to withdraw his application, the Committee may, upon such terms as to costs or otherwise as it shall think fit, grant such leave, or of its own motion or upon the application of any party, adjourn the hearing.

Withdrawal of application

The Laws of Zambia

23. The Committee may, of its own motion or upon the application of any party, adjourn the hearing upon such terms as to costs, or otherwise, as the Committee shall think fit.

Adjournment of hearing

24. If upon the hearing it shall appear to the Committee that the allegations in the affidavit require to be amended, or added to, the Committee may permit such amendment, or addition, or if in the opinion of the Committee such amendment or addition is not within the scope of the affidavit, may require the same to be embodied in a further affidavit:

Amendment, etc., of affidavit

Provided that if such amendment, or addition, shall be such as to take any party by surprise, or prejudice the conduct of his case, the Committee shall grant an adjournment of the hearing, upon such terms as to costs, or otherwise, as the Committee shall think fit.

25. Upon the hearing, or determination, of any application, the Committee may, in the case of an application against a practitioner, without finding any misconduct proved against the practitioner, nevertheless order any party to pay the costs of the proceedings if, having regard to his conduct and to all the circumstances of the case, the Committee shall think fit.

Costs

26. Shorthand notes of proceedings may be taken by a person appointed by the Committee; and any party who appeared at the proceedings shall be entitled to inspect the transcript thereof. The shorthand writer shall, if required, supply to the Committee and to any person entitled to be heard upon an appeal against an order of the Committee, and to the Society, but to no other person, a copy of the transcript of such notes on payment of his charges. If no shorthand notes be taken, the Chairman of the Committee shall take a note of the proceedings, and the provisions of this rule as to inspection and taking of copies shall apply to such note accordingly.

Notes of proceedings and inspection thereof

27. Service of any notice or document may be effected under these Rules by registered "A.R." letter addressed, in the case of a practitioner, to his place of business appearing in the register compiled under section *thirty-three* (2) of the Act and, in every other case, to the last known place of business or abode of the person to be served, and such service shall be deemed to be effected at the time when the letter would be delivered in the ordinary course of post.

Service of documents

28. The Committee may dispense with any requirements of these Rules respecting notices, affidavits, documents, service, or time, in any case where it appears to the Committee to be just so to do.

Power of Committee to dispense with documents, etc.

29. The Committee may extend the time for doing anything under these Rules.

Extension of time

30. The Evidence Act shall apply in relation to proceedings before the Committee in the same manner as it applies in relation to civil and criminal proceedings.

Application of Evidence Act. Cap. 43

The Laws of Zambia

31. (1) Any party may, by notice in writing at any time not later than nine days before the day fixed for the hearing, call upon any other to admit any document, saving all just exceptions, and if such other party desires to challenge the authenticity of the document, he shall, within six days after service of such notice, give notice that he does not admit the document and requires it to be proved at the hearing.

Admission of
authenticity of
documents

(2) If such other party refuses or neglects to give notice of non-admission within the time prescribed in sub-rule (1), he shall be deemed to have admitted the documents unless otherwise ordered by the Committee.

(3) Where a party gives notice of non-admission within the time prescribed by sub-rule (1) and the document is proved at the hearing, the costs of proving the document shall be paid by the party who has challenged the document whatever the decision of the Committee may be, unless in its findings the Committee shall find that there were reasonable grounds for not admitting the authenticity of the document.

(4) Where a party proves a document without having given notice to admit under sub-rule (1), no costs of proving the document shall be allowed on taxation, unless otherwise directed by the Committee, except where the omission to give notice to admit is in the opinion of the Taxing Master a saving of expense.

32. A subpoena issued under section *nineteen* (2) or *thirty* (5) of the Act shall be in such one of the forms set out in the Schedule and numbered 6 and 7, as shall be appropriate.

Summons to give
evidence and produce
documents

SCHEDULE

PRESCRIBED FORMS

FORM 1
(Rule 3)

FORM OF APPLICATION AGAINST A PRACTITIONER

To: The Secretary to the Disciplinary Committee constituted under the Legal Practitioners Act.
In the matter of C.D.,* a Practitioner,

The Laws of Zambia

and

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In the matter of the Legal Practitioners Act.

I, the undersigned, A.B. hereby make application-

- ‡(a) that C.D.* of † Practitioner, may be required to answer the allegations contained in the affidavit which accompanies this application; and
- ‡(b) that the name of C.D.* of † Solicitor, may be struck off the Roll of Practitioners; or
- (c) that such other order may be made as the Committee shall think right.

In witness whereof I have hereunto set my hand this day of
 , 19..... .
 Signature.
 Address.
 Profession, business, or occupation.

* The full name must be stated. Initials are not sufficient. The names may be obtained by an inspection of the Register of Practitioners at the Law Association of Zambia during usual office hours.
 † Last known place or places of business of the Practitioner.
 ‡ The applicant may, but need not, strike out either (a) or (b).

FORM OF AFFIDAVIT BY APPLICANT

In the matter of C.D., a Practitioner,

and

In the matter of the Legal Practitioners Act.

I, * A.B., of
make oath and say as follows:

- (1) † C.D., of , Solicitor, practising at in the firm of has been employed by me in a professional capacity for the last years (or as the case may be).
- (2) (Here state the facts concisely in numbered paragraphs, and show deponent's means of knowledge.)

Sworn by the said
 at on the day
 of 19.....
 Before me

}

* Insert full name, address and description.
 † Insert full name and last known place of business.

FORM OF NOTICE TO APPLICANT BY THE SECRETARY TO THE
DISCIPLINARY COMMITTEE

In the matter of C.D., a Practitioner,

and

In the matter of the Legal Practitioners Act.

To: A.B., of.....

The day of is the day fixed by the Disciplinary Committee constituted under the Legal Practitioners Act for the hearing of your application in the matter of C.D., practitioner.

The Committee will sit at the Lusaka, at o'clock in the noon.

You are required by the Legal Practitioners (Disciplinary Proceedings) Rules to furnish to every other party to the application and to the Secretary to the Disciplinary Committee at Farmers' House, Cairo Road, Lusaka, at least fourteen days before the said day of a list of all the documents on which you propose to rely.

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

If any party shall fail to appear and the Committee decides to proceed in his absence, any party appearing must be prepared to prove service, in accordance with the Legal Practitioners (Disciplinary Proceedings) Rules, of the list of documents and any other notice or correspondence since the lodging of the application.

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

Dated this day of, 19.....

.....
Secretary to the Committee

(N.B.-A print of the Legal Practitioners (Disciplinary Proceedings) Rules is sent herewith for your information and guidance.)

FORM OF NOTICE TO PRACTITIONERS BY THE SECRETARY TO THE
DISCIPLINARY COMMITTEE

In the matter of C.D., a Practitioner,

and

In the matter of the Legal Practitioners Act.

To: C.D., of , Practitioner.

Application has been made by A.B., of
to the Disciplinary Committee constituted under the Legal Practitioners Act, that you may be required to answer the
allegations contained in the affidavit, whereof a copy accompanies this notice, and that your name may be struck off the
Roll of Practitioners, or that such order may be made as the Committee shall think right.

The day of..... , is the day fixed by the Committee for
the hearing of the application. The Committee will sit at the
..... Lusaka ato'clock in the noon.
If you fail to appear, the Committee may, in accordance with the Legal Practitioners (Disciplinary Proceedings) Rules,
proceed in your absence.

You are required by the said Rules to furnish to every other party to the application and to the Secretary to the
Disciplinary Committee at Farmers' House, Cairo Road, Lusaka, at least fourteen days before the said day of
..... , a list of all the documents on which you propose to rely.

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

You are required to acknowledge the receipt of this notice without delay.

Dated thisday of, 19..... .

.....
Secretary to the Committee

(N.B.-A print of the Legal Practitioners (Disciplinary Proceedings) Rules is sent herewith for your information and
guidance.)

FORM OF AFFIDAVIT BY APPLICANT, BEING A LEGAL PRACTITIONER

In the matter of C.D., a Practitioner.

and

In the matter of the Legal Practitioners Act.

I, C.D., of make oath and say as follows:

- (1) I was admitted a practitioner on theday of.....
- (2) I desire that my name may be removed from the Roll of Practitioners for the following reasons:

(Here state the reasons.)

- (3) I am not aware of, and do not know of any cause for, any application to the Court or to the Disciplinary Committee constituted under the Legal Practitioners Act, that my name may be struck off the Roll of Practitioners, or that I should answer the allegations contained in an affidavit. I do not make this application for the purpose of evading any adverse application, or of defeating or delaying any claim upon me as a practitioner.

Sworn by the said
 at on the day
 of19.....
 Before me

}
 }

.....

FORM OF SUBPOENA AD TESTIFICANDUM

In the matter of C.D., a Practitioner,

and

In the matter of the Legal Practitioners Act.

To:

You are commanded to attend before the Disciplinary Committee constituted under the Legal Practitioners Act at on day, the day of at the hour of in the noon, and so from day to day until the application in the above matter is heard, to give evidence on behalf of

WITNESS

Chief Justice of Zambia, the day of in the year of Our Lord one thousand nine hundred and.....

(S.I. No. 72 of 1964)

FORM OF SUBPOENA DUCES TECUM

In the matter of C.D., a Practitioner,

and

In the matter of the Legal Practitioners Act.

To:

You are commanded to attend before the Disciplinary Committee constituted under the Legal Practitioners Act at on day, the day of at the hour of in the noon, and so from day to day until the application in the above matter is heard, to give evidence on behalf of and also to bring with you and produce at the time and place aforesaid (specify documents to be produced).

WITNESS

Chief Justice of Zambia, theday of in the year of Our Lord one thousand nine hundred and.....

(S.I. No. 72 of 1964)

The Laws of Zambia

THE DISCIPLINARY PROCEEDINGS (CONSIDERATION OF REPORTS) RULES OF COURT

Government Notices
211 of 1958
497 of 1964

Rules by the Chief Justice

1. These Rules may be cited as the Disciplinary Proceedings (Consideration of Reports) Rules of Court. Title

2. Any notice required to be given under the provisions of section *twenty-one* (2) of the Act shall be substantially in the form prescribed in the Schedule with such modifications as the circumstances may require. Notice of consideration
by Court of report of
Disciplinary
Committee

3. Upon the laying before the Court of a copy of a report as provided by section *eighteen* (3) (c) (i) of the Act, the Secretary to the Disciplinary Committee shall furnish the Court with an address at which notices may be served upon him and a further address at which the practitioner may be served and any notices to be given under section *twenty-one* of the Act shall be served if left at or sent by registered post to the person to whom it is directed at such respective addresses. Addresses for service

SCHEDULE

(Rule 2)

In the High Court for Zambia.

In the matter of the Legal Practitioners Act,

and

In the matter of _____, a Practitioner.

NOTICE OF CONSIDERATION BY COURT OF REPORT OF DISCIPLINARY COMMITTEE

The Laws of Zambia

WHEREAS in pursuance of section 18 of the Legal Practitioners Act (hereinafter referred to as "the Act"), the Disciplinary Committee, established under section 4 of the Act, has prepared a report duly signed pursuant to section 18 (3) (b) of the Act embodying certain findings in the matter of an application made to and heard by the said Committee concerning the above-mentioned practitioner under section 18 (1) of the Act, a copy of which report accompanies this notice;

AND WHEREAS the said report has been filed with the Registrar of this Court and a further signed copy thereof, together with the evidence taken and the documents put in evidence at the hearing, has been laid before the Court:

NOW THEREFORE TAKE NOTICE that the Court has set down such report for consideration

at
at _____ o'clock in the _____ noon on _____ the _____ day of _____ 19 _____ .

Dated the _____ day of _____ 19 _____ .

Registrar

To: The Secretary to the Disciplinary Committee constituted under the Legal Practitioners Act.

And to: _____, Esq., the above-mentioned practitioner.

SECTION 90-THE LEGAL PRACTITIONERS (ACCOUNTANT'S CERTIFICATE) REGULATIONS *Statutory Instrument 9 of 1975*

Regulations made by the Disciplinary Committee, with the concurrence of the Chief Justice

1. These Regulations may be cited as the Legal Practitioners (Accountant's Certificate) Regulations. Title

2. In these Regulations, unless the context otherwise requires- Interpretation

"accountant" means a person qualified in accordance with the provisions of regulation 7;

"practice year" means each period of twelve months ending with the 31st December;

"public officer" means an officer holding one of the offices to which subsection (2) of section *three* of the Act applies;

"Secretary" means the Secretary for the time being of the Association.

3. (1) Except in the circumstances in which regulation 10 applies, every practitioner shall once in each practice year deliver to the Association a certificate signed by an accountant and complying with the provisions of this regulation (which certificate is in these Regulations referred to as "an accountant's certificate"). Certificate

The Laws of Zambia

(2) Subject to the provisions of regulations 11 and 12, the accounting period for the purposes of an accountant's certificate shall- Accounting period

- (a) begin at the expiry of the last preceding accounting period for which an accountant's certificate shall have been delivered;
- (b) cover not less than twelve months;
- (c) terminate not more than six months before the date of the delivery of the certificate to the Association;
- (d) where possible, consistently with paragraphs (a), (b) and (c), correspond to a period or consecutive periods for which the accounts of the practitioner or his firm are ordinarily made up.

4. If any practitioner fails to comply with the provisions of these Regulations, a complaint in respect of that failure may be made by or on behalf of the Association to the Disciplinary Committee under the provisions of the Legal Practitioners (Disciplinary Proceedings) Rules. Non-compliance

5. A certificate under the hand of the Secretary shall, until the contrary is proved, be evidence that a practitioner has or has not, as the case may be, delivered to the Association an accountant's certificate or supplied any evidence required under these Regulations. Evidence of delivery of certificate

6. Where a practitioner is employed as a public officer- Exemption of certain officers

- (a) nothing in these Regulations shall apply to him unless he takes out a practising certificate;
- (b) an accountant's certificate shall in no case deal with books, accounts or documents kept by him in the course of his employment as a public officer;
- (c) no examination shall be made of those books, accounts and documents under these Regulations.

7. (1) An accountant shall be qualified to give an accountant's certificate on behalf of a practitioner if- Qualification of accountant

The Laws of Zambia

- (a) he is a member of-
 - (i) The Zambia Association of Accountants and is in practice as an accountant as a principal on his own account or in partnership; or
 - (ii) The Institute of Chartered Accountants in England and Wales; or
 - (iii) The Institute of Chartered Accountants in Ireland; or
 - (iv) The Institute of Chartered Accountants of Scotland; or
 - (v) The Association of Certified Accountants of England and Wales; and
- (b) he has neither been at any time during the accounting period, nor subsequently, before giving the certificate, become a partner, clerk or servant of such practitioner or of any partner of his; and
- (c) he is not subject to notice of disqualification under sub-regulation (2).

(2) In either of the following cases, that is to say where-

- (a) the accountant has been found guilty by the Disciplinary Tribunal of his professional body of professional misconduct or discreditable conduct; or
- (b) the Council are satisfied that a practitioner has not complied with the provisions of Part VIII of the Act in respect of matters not specified in an accountant's certificate and that the accountant was negligent in giving such certificate, whether or not an application be made for a grant out of the Compensation Fund;

the Council may, at their discretion, at any time notify the accountant concerned that he is not qualified to give an accountant's certificate, and they may give notice of such fact to any practitioner on whose behalf he may have given an accountant's certificate, and after such accountant shall have been so notified, unless and until such notice of disqualification shall have been withdrawn by the Council, shall not be qualified to give an accountant's certificate. In coming to their decision, the Council shall take into consideration any observations or explanations made or given by such accountant or on his behalf by the professional body of which he is a member.

8. (1) With a view to the signing of an accountant's certificate, an accountant shall not be required to do more than-

Details of work to be done by accountant

- (a) make a general test examination of the books of account of the practitioner;
- (b) ascertain whether a client account is kept;
- (c) make a general test examination of the bank passbooks and statements kept in relation to the practitioner's practice;

The Laws of Zambia

- (d) make a comparison as at not fewer than two dates selected by the accountant between-
 - (i) the liabilities of the practitioner to his clients as shown by his books of account; and
 - (ii) the balances standing to the credit of the client account; and
- (e) ask for such information and explanations as he may require arising out of (a) to (d) above.

(2) If, after making the investigation prescribed by sub-regulation (1), it appears to the accountant that there is evidence that Part VIII of the Act has not been complied with, he shall make such further investigation as may be necessary to enable him to sign the accountant's certificate.

9. An accountant's certificate delivered by a practitioner under these Regulations shall be in the form set out in the Schedule. Form of certificate

10. The Council will in each practice year be satisfied that the delivery of an accountant's certificate is unnecessary, and shall not require evidence of that fact, in the case of any practitioner who- Delivery of certificate unnecessary

- (a) holds his first current practising certificate; or
- (b) after having for twelve months or more ceased to hold a current practising certificate, holds his next current practising certificate; or
- (c) holds a current practising certificate after having, in the declaration lodged by him with the Secretary to lead to the issue of that practising certificate, declared that either-
 - (i) Part VIII of the Act did not apply to him because he had not, during the period to which such declaration referred, practised on his own account either alone or in partnership or held or received client's money; or
 - (ii) he was exempt from complying with Part VIII of the Act by virtue of the provisions of subsections (1) and (2) of section *three* of the Act, and had not, during the period to which such declaration referred, engaged in private practice; or
- (d) has ceased to hold a current practising certificate and, if he has at any time after the 31st December, 1959, held or received client's money, has delivered an accountant's certificate covering an accounting period ending on the date upon which he ceased to hold or receive client's money; or
- (e) has at no time since the 31st December, 1959, held a current practising certificate; or
- (f) has at no time since the 31st December, 1959, held or received client's money.

11. The accounting period specified in an accountant's certificate delivered during the practice year beginning on the 1st January, 1961, shall begin on-

Transitional provisions

- (a) the date to which the practitioner's books were last made up before the 1st January, 1961; or
- (b) if the books were not made up during the practice year beginning on the 1st January, 1960, either the 1st January, 1960, or the day upon which the practitioner first began or began again to hold or receive client's money, whichever be the later;

and shall cover not less than six months, or, in the case of a practitioner retiring from practice who has ceased to hold or receive client's money after the 31st December, 1959, the period up to the date upon which he so ceased.

12. (1) In any practice year beginning on or after the 1st January, 1962-

Special accounting periods

- (a) in the case of a practitioner who-
 - (i) becomes under an obligation to deliver his first accountant's certificate; or
 - (ii) having been exempt under regulation 10 from delivering an accountant's certificate in the preceding practice year, becomes under an obligation to deliver an accountant's certificate;

the accounting period shall begin on the date upon which he first held or received client's money, or, after such exemption, began again to hold or receive client's money and may cover less than twelve months, and shall in all other respects comply with the requirements of sub-regulation (2) of regulation 3; and

- (b) in the case of a practitioner retiring from practice who, having ceased to hold or receive client's money, is under an obligation to deliver his final accountant's certificate, the accounting period shall end on the date upon which he ceased to hold or receive client's money and may cover less than twelve months, and shall in all other respects comply with the requirements of sub-regulation (2) of regulation 3.

(2) In any practice year beginning on or after the 1st January, 1962, in the case of a practitioner who-

- (a) was not exempt under regulation 10 from delivering an accountant's certificate in the preceding practice year; and
- (b) since the expiry of the accounting period covered by such accountant's certificate has become, or ceased to be a member of a firm of practitioners;

the accounting period may cover less than twelve months and shall in all other respects comply with the requirements of sub-regulation (2) of regulation 3.

(3) In the case of a practitioner who has two or more places of business-

Branch or other offices

The Laws of Zambia

- (a) separate accounting periods covered by separate accountant's certificates may be adopted in respect of each such place of business, provided that the accounting periods comply with the requirements of these Regulations; and
- (b) the accountant's certificate or accountants' certificates delivered by him to the Secretary in each practice year shall cover all client's moneys held or received by him.

13. Every notice to be given by the Council under these Regulations to a practitioner shall be in writing under the hand of the Secretary and sent by registered post to the place of business or one or other of the places of business, as the case may be, set out in the last written declaration made by the practitioner to the Association in accordance with the provisions of section *thirty-three* of the Act, and, when so given and sent, shall be deemed to have been received by the practitioner within seven days of the time of posting. Notices to practitioners

14. Every notice to be given by the Council under these Regulations to an accountant shall be in writing under the hand of the Secretary and sent by registered post to the address of the accountant shown on an accountant's certificate or appearing in the records of the accountancy body of which the accountant is a member, and, when so given and sent, shall be deemed to have been received by the accountant within seven days of the time of posting. Notices to accountants

15. The Council shall have power to waive in writing any of the provisions of these Regulations other than those of sub-regulation (2) of regulation 7, in any particular case. Waiver

SCHEDULE

FORM OF ACCOUNTANT'S CERTIFICATE

The Laws of Zambia

(Regulation 9)

NOTE.-In the case of a firm with a number of partners, carbon copies of the certificate may be delivered provided section 1 below is completed on each certificate with the name of the individual practitioner.

1. Practitioner's full name
2. Firm(s) name(s) and address(es)

NOTE.-All addresses at which the practitioner(s) practise(s) must be covered by an accountant's certificate or certificates.

3. State whether practising alone or in partnership
4. Accounting period(s)

NOTE.-The period(s) must comply with the Legal Practitioners (Accountant's Certificate) Regulations.

In compliance with the Legal Practitioners (Accountant's Certificate) Regulations,
I,,
have examined the books, accounts and documents of the above-named practitioner or relating to the above practice(s) produced to me and I hereby certify that from my examination pursuant to regulation 8 of the said Regulations, and from the explanations and information given to me, I am satisfied that-

* (1) during the above-mentioned period(s) he has complied with the provisions of Part VIII of the Legal Practitioners Act except so far as concerns-

- (a) certain trivial breaches due to clerical errors or mistake(s) in book-keeping, all of which were rectified on discovery; I am satisfied that none of such breaches resulted in any loss to any client;
- (b) the matters set out on the back hereof;

* (2) having retired from active practice as a practitioner the said ceased to hold client's money on the

Particulars of the Accountant:

- Full name
- Qualifications
- Firm name
- Address
- Signature
- Date

To the Secretary
The Law Association of Zambia
P.O. Box 34271
Lusaka

*Delete clause not applicable

SECTION 13-THE LEGAL PRACTITIONERS (APPLICATION FOR ADMISSION) RULES

Statutory Instrument
145 of 1981

Rules by the Court Justice

1. These Rules may be cited as the Legal Practitioners (Application for Admission) Rules, and shall come into force simultaneously with the Legal Practitioners (Amendment) Act. Title and commencement

The Laws of Zambia

2. Every application for admission as a practitioner made under section *thirteen* of the Act shall be- Form of application for admission

- (a) by petition in the form set out in the First Schedule hereto; and
- (b) supported by affidavit in the form set out in the Second Schedule hereto.

FIRST SCHEDULE

(Paragraph 2)

19 HP/LP

IN THE HIGH COURT FOR ZAMBIA AT THE PRINCIPAL REGISTRY, LUSAKA

IN THE MATTER OF: THE LEGAL PRACTITIONERS ACT, 1973

AND

IN THE MATTER OF: A PETITION BY
FOR ADMISSION AS A PRACTITIONER

TO: THE HONOURABLE CHIEF JUSTICE

PETITION

The humble Petition of
of
in the Republic of Zambia, showeth:

1. That your Petitioner prays to be admitted as Practitioner in accordance with the provisions of section 13 of the Legal Practitioners Act, 1973.
2. That your Petitioner was, upon satisfying the Council of Legal Education in that behalf, issued by the said Council of Legal Education with a certificate certifying him as having complied with the relevant provisions of section 11/section 12* of the Legal Practitioners Act, 1973.
3. That two persons have certified that your Petitioner is of good character.
4. That your Petitioner hereby undertakes as to requisite practical experience as required by the provisions of section 13, as read with section 13A, of the Legal Practitioners Act, 1973.

WHEREFORE your Petitioner humbly prays that he may be admitted as a Practitioner.

AND your Petitioner will, as in duty bound, ever pray.

DATED the day of 19

.....
Signature of Petitioner

*Delete as appropriate.

SECOND SCHEDULE

IN THE HIGH COURT FOR ZAMBIA AT THE PRINCIPAL REGISTRY, LUSAKA

IN THE MATTER OF: THE LEGAL PRACTITIONERS ACT, 1973

AND

IN THE MATTER OF: A PETITION BY
FOR ADMISSION AS A PRACTITIONER

AFFIDAVIT

I,

MAKE OATH AND SAY as follows:

1. That my full names are as stated above.
2. That I am employed as
3. That I reside at
4. That my nationality is
5. That on the day of..... I filed a Petition in the High Court for Zambia addressed to the Honourable the Chief Justice seeking admission as a Practitioner.
6. That the facts as set out in the said Petition are true and correct.
7. That there is now produced and marked and exhibited hereto a copy of a certificate under the hand of the Secretary of the Council of Legal Education dated the day of certifying me as having complied with the provisions of section 11/section 12* of the Legal Practitioners Act, 1973.
8. That there is now produced and marked a document under the hand of certifying as to my good character.
9. That there is now produced and marked a document under the hand of certifying as to my good character.

SWORN by the said

.....
at Lusaka this
day of



BEFORE ME:

.....
Commissioner for Oaths

*Delete as appropriate.

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SECTION 70-THE PRACTITIONERS (CONVEYANCING AND NON-CONTENTIOUS MATTERS)
(COSTS) ORDER

Statutory Instrument
169 of 1990
187 of 1990
Act
13 of 1994

Order by the Chief Justice

1. (1) This Order may be cited as the Practitioners (Conveyancing and Non-Contentious Matters) (Costs) Order. Title and application

(2) This Order shall apply in respect of any business done in any conveyancing or non-contentious matter after the publications of this Order. Scale of costs

2. Where in any conveyancing or non-contentious matter, costs are to be charged or allowed, such costs shall be in accordance with the scale of costs set out in the Schedule to this Order.

SCHEDULE
(Order 2)

PART I

The Laws of Zambia

SCALE OF PRACTITIONERS' COSTS APPLICABLE TO NON-CONTENTIOUS MATTERS
AND CONVEYANCING NOT COVERED BY ANY OTHER SCALE

	Fee units
1. Attendance:	
(a) Formal	30
(b) Including instructions for preparation of any formal document- such fee as may be reasonable taking into account the time, labour and responsibility involved minimum	150
(c) Others according to time at the rate per half hour or part thereof- minimum	79
(d) On receipt of letter, telegram or telex	15
(e) On despatch of telegram, telex or telefax	15
2. Copies: per page or part thereof	23
3. Drawing: per page or part thereof	23
4. Engrossing	23
5. Journeys:	
<i>At the rate of K3,000 per diem while travelling plus transport expenses. The amount to vary according to the importance of the subject matter requiring the journey e.g. a conveyancing matter involving property to the value of K1,000,000 would justify the fee of K10,000.</i>	
6. Letters:	
(a) Per page or part thereof	23
(b) General Fee for letters, messengers, etc., allowable at the rate of K75 for each K750,00 of total bill excluding disbursement minimum	375
7. Opinion:	
(a) Oral-minimum	120
(b) Written-minimum	240
(c) In other cases whether oral or written, such fee as may be reasonable taking into account the time and labour involved and the intricacy or otherwise of the questions advised upon-minimum	375
(d) Perusals: Persuals of any documents per page or part thereof	23

PART II

The Laws of Zambia

SCALE OF COSTS CHARGEABLE IN RESPECT OF CONVEYANCING MATTERS,
BUILDING SOCIETY MORTGAGES, DEEDS OF GIFT, DEBENTURES, SUPPLEMENTAL
DEBENTURES, FURTHER CHARGES, FLOATING CHARGES AND LOAN
AGREEMENTS

		<i>Scale</i>	
1.	Where the consideration money or in the case of a gift, value	Scale for vendor Purchaser, mortgages donor and donee	
	Does not exceed K100,000	10% of the amount with a minimum of K2,500	
	Exceeds K100,000 up to K1,000,000 ..	10% of K100,000 plus 7.5% Excess over K100,000 up to K1,000,000	
	Excess over K1,000,000	5%	
			Fee units
2.	Application for State Consent (non-agricultural) including attendances		.375
3.	Application for State Consent (agricultural) including attendances		.375
4.	Renewal of State Consent225
5.	For DR 5363
6.	Presentation Fee63
7.	Discharging Property Transfer Tax (including completing all necessary forms)		.375
8.	Obtaining Tax Clearance Certificate375
9.	Letters, messengers etc. (excluding disbursements) 10% of the total bill-minimum375
10.	For guarantee of Building Society or other mortgage including presentation fee375
11.	Discharge of mortgage per property375

NOTE:

Where a practitioner represents both the parties to a mortgage the profit costs chargeable to the mortgage shall be halved.

PART IIA

Scale of Costs chargeable on upstamping of unlimited debenture.

One half of difference between costs of original advance and costs on maximum sum on upstamping.

PART III

The Laws of Zambia

SCALE OF COSTS CHARGEABLE ON LEASES AND UNDERLEASES AT A RACK RENT

	<i>Scale</i>
When the amount of annual rent- Does not exceed K40,000.00	Lessor's scale 10% of the annual rent with a minimum of K2,500
Exceeds K40,000.00	10% of K40,000 plus 7.5% Excess over K40,000 up to K250,000
Excess K250,000.00	5%

NOTES:

1. Where a practitioner represents only the lessee, the lessee pays half the scale prescribed for the lessor.
2. Where a practitioner represents both the lessor and the lessee, the lessee pays a quarter of the scale prescribed for the lessor, excluding disbursements.

PART IV

SCALE OF COSTS CHARGEABLE ON THE ADMINISTRATION OF ESTATES OF DECEASED PERSONS

When deceased dies ordinarily resident in Zambia: on the gross world estate: others: on gross Zambian estate.

	<i>Scale</i>
Up to K40,000	10% of the estate with a minimum of K7,500
Exceeds K40,000 up to K250,000	10% of K40,000 plus 7.5% on exceeds of K40,000 up to K250,000
Exceeds K250,000	5%

PART V

SCALE OF COSTS CHARGEABLE ON THE FORMATION OF COMPANY INCLUDING PREPARATION OF ALL STATUTORY BOOKS, STATUTORY MEETING AND INCREASE OF SHARE CAPITAL

Where the Scale Capital:	<i>Scale</i>
Does not exceed K40,000	10% of K40,000 plus 7.5% on excess of K40,000.00
Letters, messengers, printing etc. 10% of Share Capital (minimum (K2,500))	

PART VA

Scale of Costs chargeable on increase of capital.

One half of the difference between the costs of original formation and the costs chargeable for formation of company on increased capital.

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PART VI

COMMISSION CHARGEABLE ON RECOVERY OF DEBTS AND NEGOTIATED

Scale

Where the debt recovered or consideration of contract does not exceed K100,000	10% of the debt of consideration with a minimum of K2,500
Exceeds K100,000 up to K1,000,000	10% of K100,000 plus 7.5% on excess of 1,000,000 to K1,00,0000
Excess of K1,000,000	5%

(As amended by S.I. No. 169 of 1990, No. 187 of 1990 and Act No. 13 of 1994)

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SECTION 87-THE LEGAL PRACTITIONERS (BRANCH OFFICES) REGULATIONS

Government Notes
91 of 1960

Regulations made by the Disciplinary Committee, with the concurrence of the Chief Justice

1. These Regulations may be cited as the Legal Practitioners (Branch Offices) Regulations. Title

2. No practitioner or firm of practitioners shall have or maintain any branch office for the purpose of carrying on the business and profession of practitioner save and only when such branch office shall at all times when open be under the direct and personal supervision of at least one practitioner who has in force a practising certificate. Control of branch offices

SECTION 86-THE LEGAL PRACTITIONERS (PRACTISING CERTIFICATE) RULES

Government Notices
106 of 1957
497 of 1964
Act 13 of 1994

Rules by the Chief Justice

1. These Rules may be cited as the Legal Practitioners (Practising Certificate) Rules. Title

2. The form set out in the Schedule and therein referred to as Form L.P.1, is hereby prescribed as the form of written declaration to be made by every practitioner when applying for a practising certificate. This form shall be used for this purpose with such modifications as the circumstances may require. Written declaration

3. The form set out in the Schedule and therein referred to as Form L.P.2, shall be the form of practising certificate to be issued, with such modifications as may be necessary under the terms of the Act and any amendment thereof. Practising certificate

SCHEDULE

PRESCRIBED FORMS

DECLARATION FOR OBTAINING PRACTISING CERTIFICATE

I,
hereby declare as follows, that is to say:

Name :
appear
Roll.

1. (a) I was admitted a Solicitor of the Supreme Court in the month
of in the year and my place(s) of business
is/are as follows(i)
.....
.....

Please
block c

(b) I was called to the Bar by the Honourable Society of
at in the month of in the year and
my place(s) of business is/are as follows(i)
.....
.....

See Nc

(c) I was admitted to practise as a Barrister and Solicitor in Zambia on the day of 19

2. I practise in (ii):

See Nc

Private practice:

- (a) on my own account;
- (b) as an Assistant Solicitor.

Commerce, Industry or a Nationalised Undertaking.

Whole-time Local Government Service:

- (a) Clerk;
- (b) Deputy Clerk;
- (c) Assistant Solicitor.

Whole-time Government Service.

Other whole-time employment as

3. (iii) The provisions of section *34 of the Legal Practitioners Act do not apply to me.

See Nc

or

(iii) The provisions of section *34 of the Legal Practitioners Act apply to me and I have duly given the notice
required by that section.

See ov

Dated this day of , 19

.....(Signature)

To the Law Society of Zambia.

NOTES: (i) All places of business, if more than one, must be stated. If any changes have taken place since last
practising certificate particulars should be given.

(ii) Indicate as appropriate or insert any additional description which may be necessary.

(iii) Strike out whichever of the two alternative paragraphs does not apply.

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SECTION 34, LEGAL PRACTITIONERS ACT

- (1) In any of the following cases, that is to say, where a practitioner applies for a practising certificate:
- (a) when for twelve months or more he has ceased to hold a current practising certificate; or
 - (b) whilst he is an undischarged bankrupt or a receiving order in bankruptcy is in force against him; or
 - (c) when, having been suspended from practice or having had his name struck off the Roll, the period of his suspension has expired, or his name has been restored to the Roll, as the case may be; or
 - (d) not having held a practising certificate within the twelve months next following the date of his admission to the Roll; or
 - (e) whilst he is a person in respect of whom an adjudication order under the Mental Disorders Act is in force; or
 - (f) without having paid a penalty or costs ordered by the Disciplinary Committee under this Act to be paid by him; or
 - (g) after he has been invited by the Council to give an explanation in respect of any matter affecting his conduct and has failed to give to the Council an explanation in respect of that matter which the Council regard as sufficient and satisfactory, and has been notified in writing by the Council that he has so failed; or
 - (h) after having had an order made against him for the issue of a writ of attachment;
or
 - (i) after having been adjudicated a bankrupt and obtained his discharge or after having entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors; or
 - (j) after having had given against him any judgment which involves the payment of moneys, other than costs, and is not a judgment as to the whole effect of which upon him he is entitled to indemnity or relief from any other person and without having produced to the Society evidence of the satisfaction of such judgment;

he must, unless the Society or the Chief Justice otherwise orders, give to the Society at least six weeks before the application is made, notice of his intention to make the application, and the Society may in its discretion grant or refuse the application, or decide to issue a certificate to the applicant, subject to such terms and conditions as the Society may in its discretion think fit and in the last-mentioned case may, if it thinks fit, postpone the issue of the certificate pending the hearing and determination of an appeal under this section:

Provided that-

- (i) in the event of an appeal having been made to the appropriate court in case (b) against the receiving order or in case (h) against the order for the issue of a writ of attachment or in case (j) against the judgment, the Society shall not refuse the application during the pendency of such appeal unless in its opinion the proceedings on such appeal have been unduly protracted by the appellant or are unlikely to be successful; and
- (ii) where, having regard to certain facts, a discretion becomes exercisable by the Society in any of the cases (a), (c), (d), (g), (h), (i) and (j), as soon thereafter as a practising certificate has been issued in the exercise of such discretion to the applicant free of conditions, those facts shall cease to operate so as to require such solicitor to give the notice mentioned in this section or to vest any discretion in the Society.

(2) Within one month after being notified of the decision of the Society the applicant may appeal against such decision to the Chief Justice who may affirm the decision of the Society or may direct it to issue a certificate to the applicant on such terms and conditions as the Chief Justice may think fit or free from terms and conditions or not to issue a certificate or, if a certificate has been issued, may by order suspend such certificate until such certificate expires or the suspension is terminated by order of the Society or the Chief Justice or may make such other order as he may think fit.

PRACTISING CERTIFICATE

No.

PURSUANT to the Legal Practitioners Act, THE LAW SOCIETY, as the Registrar of Solicitors, HEREBY CERTIFIES THAT
a Practitioner as defined by the Legal Practitioners Act, whose Place(s) of business is/are at

.....
has left with the said Society a Declaration in Writing pursuant to the said Act, and hereby further certifies that the said Practitioner is duly enrolled a Practitioner, and is entitled to practise as a Barrister and Solicitor.

GIVEN under the hand of the Secretary of THE LAW SOCIETY this
day of, 19

.....
Hon. Secretary

REGISTRAR'S FEE.	Fee units 200
Compensation Fund Contribution.	200
	400

(As amended by Act No. 13 of 1994)

SECTION 19-THE LEGAL PRACTITIONERS (DISCIPLINARY PROCEEDINGS)
(PRACTITIONERS' CLERKS) RULES

Government Notices
1 of 1959
497 of 1964

Rules made by the Disciplinary Committee, with the concurrence of the Chief Justice

1. These Rules may be cited as the Legal Practitioners (Disciplinary Proceedings) (Practitioners' Clerks) Rules. Title
2. (1) In these Rules, unless the context otherwise requires- Interpretation
- "practitioner's clerk" means a person who is or has been a clerk to a practitioner.
- (2) Wherever, in these Rules, reference is made to a case where a practitioner's clerk is employed by a practitioner, such reference shall be deemed to extend to a case where a practitioner's clerk is employed by a firm of practitioners of which the practitioner is a member.
- (3) Any expression not herein defined shall have the meaning assigned to it in the Legal Practitioners (Disciplinary Proceedings) Rules and in the Act.
3. (1) An application to the Disciplinary Committee made under section thirty (1) of the Act shall be in writing by or on behalf of the Society in Form 1 of the Schedule and shall be sent to the Secretary to the Disciplinary Committee, together with an affidavit in Form 2 of the Schedule, stating the matters of fact on which the Society relies, in support of the application. Application to
Disciplinary
Committee
- (2) The application may be signed and the affidavit sworn by the Secretary of the Society, or by such other person as may, from time to time, be authorised by the Council.
4. The parties to the proceedings under section thirty of the Act shall be- Parties to proceedings
- (a) the Society;
 - (b) the practitioner's clerk; and
 - (c) if the Disciplinary Committee so direct, any practitioner by whom the practitioner's clerk was employed either-
 - (i) at the time of the commission of any such offence as is mentioned in section thirty (1) (a) of the Act, of which it is alleged by the applicant that the practitioner's clerk has been convicted; or
 - (ii) at the time of any such act or default as is mentioned in section thirty (1) (b) of the Act, to which it is alleged that the practitioner's clerk has been a party.

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5. The Disciplinary Committee may, on the application of any party to proceedings under section thirty of the Act or on its own motion, order that any application made under section thirty of the Act shall be heard prior to, in the course of, concurrently with, or subsequent to the hearing of an application made under section eighteen (1) (b) of the Act relating to a practitioner by whom the practitioner's clerk is or was employed. Priority of hearings

6. Rules 4 to 11 inclusive, and 19 to 32 inclusive of the Legal Practitioners (Disciplinary Proceedings) Rules shall apply, mutatis mutandis, to all applications made under section thirty of the Act. Application of rules

SCHEDULE
PRESCRIBED FORMS

FORM OF APPLICATION IN RESPECT OF A PRACTITIONER'S CLERK

To: The Secretary to the Disciplinary Committee constituted under the Legal Practitioners Act.

In the matter of E.F., a Practitioner's Clerk,

and

In the matter of the Legal Practitioners Act.

I, the undersigned A.B., of hereby make application on behalf of the Law Society of Zambia that an order be made by the Disciplinary Committee directing that as from a date to be specified in such order no practitioner shall in connection with his practice as a practitioner take or retain E.F. of a person who is or was a clerk to a practitioner into or in his employment or remunerate the said E.F. without the written permission of the Law Society of Zambia or that such order may be made as the Disciplinary Committee shall think right.

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

Signature.....

SECTION 70-THE LEGAL PRACTITIONERS (HIGH COURT) (FIXED COSTS) ORDER

Order by the Rules Committee

Statutory Instrument
171 of 1990
Act No.
13 of 1994

1. (1) This Order may be cited as the Legal Practitioners (High Court) (Fixed Costs) Order. Title and application

(2) This Order shall apply in respect of proceedings pending on the date of this Order or commenced after the publication of this Order.

2. In proceedings in the High Court, where costs are allowed, such costs shall be taxed at the fixed rates set out in the Schedule to this Order. High Court fixed costs

LEGAL PRACTITIONERS ACT

PART I

THE AMOUNT OF COSTS ENDORSED ON A WRIT OF SUMMONS UNDER ORDER

VI RULE 10

The Laws of Zambia

Note:

- (i) Court fees and other disbursements are not included in these fees.
- (ii) Every reference to a page means a page of A4 size.

	Fee Units
1. When the amount claimed is less than 75 fee units-no costs unless allowed by the Registrar and if allowed then in accordance with items 2 and 3.	
2. When the amount does not exceed 150 fee units	33
3. For each additional defendant	5
4. When the amount claimed is over 150 fee units	60
5. For each additional defendant	8

(As amended by Act No. 13 of 1994)

THE STUDENTS RULES

ARRANGEMENT OF RULES

PART I

PRELIMINARY

Rule

1. Title
2. Interpretation
3. Condition precedent to qualification for admission as a practitioner

PART II

ENROLMENT

4. Enrolment of students
5. Educational qualification for enrolment
6. Prerequisite to enrolment
7. Re-enrolment
8. Particulars on Roll of Students

PART III

ARTICLES OF CLERKSHIP

The Laws of Zambia

9. Practitioners may take two persons into articles
10. Term of articles
11. Articled clerk to be employed continuously by employer
12. Irregular service under articles
13. Student not to take other employment except with consent
14. Council may disregard irregularities of service under articles
15. New or further articles necessary in certain cases
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PART IV

A. Examinations: General

17. Prescribed fees
18. Notice
19. Conduct of examinations
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Rule

21. Exemption
22. Syllabus

B. The Legal Practitioners Qualifying Examination

23. Heads of examination

C. The Prescribed Examination

24. Parts and Heads of examination

PART V

GENERAL

The Laws of Zambia

25. Universities approved under section 11 A(a)
 26. Complaints as to conduct of students and former students
 27. (Spent)
 28. Cases not specifically provided for
 29. Variation from prescribed forms
 30. Papers to be lodged with secretary
 31. Abridgement of time
- FIRST SCHEDULE-Prescribed forms
SECOND SCHEDULE-Term of articles
THIRD SCHEDULE-Prescribed fees
FOURTH SCHEDULE-Approved universities

SECTION 8-THE STUDENTS RULES

Rules made by the Council of Legal Education, with the approval of the Minister

Statutory Instruments
205 of 1973
88 of 1974
185 of 1974
182 of 1976
49 of 1977
148 of 1977
102 of 1978
233 of 1979
149 of 1980
138 of 1981
90 of 1985
Act No.
13 of 1994

PART I

PRELIMINARY

1. These Rules may be cited as the Students Rules. Title
2. In these Rules, unless the context otherwise requires- Interpretation

The Laws of Zambia

- (a) "the Council" means the Council of Legal Education established under section seven;
- "prescribed examination" has the meaning assigned to it in section twelve (2) (b);
- "principal" means a person qualified to take a student into articles under the Act;
- "secretary" means the secretary to the Council of Legal Education appointed under section seven (7);
- "section" means section of the Act;
- "student" means any person enrolled with the Council of Zambia Institute of Advanced Legal Education under these Rules;
- (b) "a form referred to by number" means the form so numbered in the First Schedule.

3. Subject to the provisions of the Act, any person wishing to qualify to be admitted as a practitioner under the Act shall comply with the provisions of these Rules.

Condition precedent to qualification for admission as a practitioner

PART II

ENROLMENT

4. (1) There shall be established a Roll of Students upon which shall be entered the names of all persons enrolled as students by the Council under these Rules. Upon enrolment the Council shall issue to a student a certificate of enrolment on Form 1.

Enrolment of students

(2) No enrolment shall be considered to be effective for the purposes of these Rules unless-

- (a) in the case of a student who is intending to attend a course at the Zambia Institute of Advanced Legal Education under section eleven A (b) (i), the date of such enrolment is prior to or within six months from the commencement of his attendance thereat; or
- (b) in the case of a student who is required to serve in the Republic as an articled clerk under articles of clerkship to a practitioner under section eleven A (b) (ii) or section twelve, the date of such enrolment is prior to or within six months from the commencement of such articles; or
- (c) in the case of a student to whom section eleven B (b) (i) (II) or section eleven B (b) (ii) (II) applies, the date of such enrolment is prior to or within six months from the commencement of his period of active employment thereunder;

Provided that where before the commencement of these Rules a person had already commenced any of the activities as are mentioned in this sub-rule, his subsequent enrolment shall be considered to be effective for the purposes of these Rules.

(As amended by No. 88 of 1974)

The Laws of Zambia

5. Before the issue to him of a certificate of enrolment as a student, a person shall satisfy the Council that he-
- Educational qualification for enrolment
- (a) is a qualified lawyer (by whatever name called) in any State;
 - (b) has obtained or is in a position to supplicate for a degree from a university recognised by the Council;
 - (c) is qualified for entry into the School of Law of the University of Zambia;
 - (a) possesses educational qualifications which in any particular case the Council considers to be at least equivalent to the qualification referred to in paragraph (c).

Provided that the Council may exercise its discretion in considering applications for enrolment as students for the purpose of writing the prescribed examination for the Legal Practitioners Qualifying Examination not withstanding that the applicant possesses the requisite qualifications under these Rules.

(As amended by S.I. No. 185 of 1974 and No. 149 of 1980)

6. (1) Before being enrolled as a student a person shall in the manner provided by this rule satisfy the Council as to his character, fitness and suitability to be a student.
- Prerequisite to enrolment

(2) Not less than six weeks before he may be enrolled as a student he shall give notice to the Council of his desire to do so and shall lodge with the Council notice on Form 2.

(3) Before a certificate of enrolment as a student is issued the Council may, if it thinks fit, require him to attend personally before the Council for an interview and to furnish such additional evidence as to his character, fitness and suitability to be a student as the Council may consider necessary.

(4) If the qualifications laid down in these Rules have been satisfied the Council shall notify the applicant in writing of its consent to his enrolment and, upon payment by him to the Council of the sum of one hundred fee units, the Council shall issue to him a certificate of enrolment on Form 1.

(5) Any applicant who is dissatisfied by a decision of the Council under this rule may, within four weeks from the communication of such decision to him, appeal therefrom to the High Court and thereafter to the Supreme Court of Zambia.

(As amended by S.I. No. 90 of 1985 and Act No. 13 of 1994)

7. A person who having obtained a certificate of enrolment under these Rules does not-
- Re-enrolment

The Laws of Zambia

- (a) commence his period of service under articles within two years of the date of such certificate of enrolment; or
- (b) commence his attendance at a course at the Zambia Institute of Advanced Legal Education within two years of the date of such certificate of enrolment; or
- (c) commence his period of active employment with a practitioner within two years of the date of such certificate of enrolment;

as the case may be, shall, if he then seeks to commence any such activities, be required to re-enrol as a student with the Council under these Rules.

8. Upon enrolment of a student the Council shall record the name, date of birth, nationality, place of permanent residence and postal address of the student together with a reference to the relevant provisions of the Act under which he is enrolled and the name of principal, if any, with whom he is to serve his articles or his period of active employment, as the case may be.

Particulars on Roll of Students

PART III

ARTICLES OF CLERKSHIP

This Part shall apply to all students entering into articles under section eleven A (b) (ii) or section twelve.

9. A practitioner of the prescribed standing who has in force a current practising certificate, may take into articles not more than two persons at any one time.

Practitioners may take two persons into articles

10. (1) For the purposes of section twelve (2) (a) the prescribed periods of service under articles shall be those set out in the Second Schedule.

Term of articles

(2) All articles shall contain, inter alia, the names and addresses of the student and the principal with whom he has entered into articles and any other parties thereto, the term thereof and the date upon which the articles commenced, and such articles shall be produced to the Council, which shall, on being satisfied that the articles comply with the provisions of the Act and of these Rules, file the duplicate submitted under sub-rule (5) or rule 15 (5) in a register kept for the purpose and enter thereon the date of such filing.

(3) The term of service under articles shall begin upon the date of the execution of the articles or upon such later date as may be specified by the articles:

Provided that if any articles are not produced to the Council for registration within three months from the date thereof service thereunder shall, unless the Council otherwise directs, be deemed to have commenced upon the date of the production of such articles.

(4) Service under articles of which registration has been refused under this rule shall not be deemed to be good service.

(5) When a student produces his articles for registration he shall lodge with the Council-

- (a) the articles, together with a duplicate thereof which shall be retained by the Council;
- (b) his certificate of enrolment as a student in accordance with the provisions of these Rules;
- (c) in the event of the articles being for a term of less than five years, evidence acceptable to the Council showing why the term should be less than five years.

11. (1) Subject to the provisions of these Rules, every student shall, during the whole term of his articles, be actually employed in the proper business, practice and employment of a legal practitioner by the principal to whom he is articled.

Articled clerk to be employed continuously by employer

(2) For the purposes of this rule, the following periods shall be reckoned as if they were periods of employment with the principal to whom the student is articled and as good service under articles, that is to say:

- (a) where the term of articles is three years or more, with the permission of his principal, a period not exceeding one year of employment in the proper business, practice and employment with another principal;
- (b) where the term of articles is three years or more, a period not exceeding six months during the last nine months of the term of articles during which period the student may be absent from that principal's office to prepare for Part II of the prescribed examination or the Legal Practitioners Qualifying Examination;
- (c) where the term of articles is five years-
 - (i) a period of attendance at any course of instruction in Law approved by the Council;
 - (ii) during the first three years of such term, with the permission of the principal, periods of absence from that principal's office to enable the student to study for an external degree, and a period not exceeding four months during which periods the student may be absent from that principal's office to prepare for any examination required under the Act;
- (d) such period or periods as the Council may in its discretion permit to be so reckoned.

12. Where a student has entered into articles for a term of five years and more than one-half of the term of articles has expired before he has passed Part I of the prescribed examination, or has been granted total exemption therefrom, then, unless the Council otherwise directs, no further service under articles may be reckoned as good service under articles until such time as he shall have passed Part I of the prescribed examination or have been granted total exemption therefrom.

Irregular service under articles

13. (1) Subject to the provisions of these Rules, no student shall during the term of his articles hold any office or engage in any employment other than the employment of the principal with whom he has entered into articles, or of a partner of that principal or of another principal pursuant to rule 11 (2) (a), in the proper practice and employment of a legal practitioner, and no period during which he has held any such other office or engaged in any such other employment may, unless the Council otherwise directs, be reckoned as good service under articles.

Student not to take other employment except with consent

(2) This rule shall not apply to any student who, before he enters upon or engages in any office or employment, has obtained the written consent of the principal with whom he has entered into articles and of the Council.

(3) Any direction made by the Council under sub-rule (1) or any consent given by the Council under sub-rule (2) may be made or given subject to such terms and conditions as the Council may think fit, and any such consent may be withdrawn or the conditions thereof varied at any time.

(4) A student seeking the direction or consent of the Council under this rule shall give written notice to the Council and shall lodge therewith-

- (a) an application on Form 3 duly completed by the applicant personally; and
- (b) the written consent of the principal under sub-rule (2).

14. (1) Where a student has not served under his articles in accordance with the provisions of these Rules but has, after the execution of his articles, bona fide served, whether continuously or not, one or more principals for periods equal in the aggregate to the full term for which he was originally articulated, the Council may, if it is satisfied that the irregularity of the service was occasioned by accident, mistake or other sufficient cause whatsoever and that the service though irregular was substantially equivalent to service in accordance with the provisions of these Rules, allow the student to reckon the service as if it had been good service.

Council may disregard irregularities of service under articles

(2) An applicant seeking to be allowed to reckon service as good service in accordance with this rule shall submit to the Council an application on Form 4 duly completed by the applicant personally.

15. (1) Where before the expiration of the term for which a student is articulated the principal to whom he is articulated ceases to practise as a legal practitioner, or dies, or the articles are cancelled by mutual consent or are otherwise terminated before the expiry of the period for which they were limited to endure, the student may enter into new articles with another principal for the residue of the said term and service under such articles in accordance with the provisions of these Rules shall be good service:

New or further articles necessary in certain cases

Provided that where articles have been discharged, service by the student under any new or further articles may only be reckoned as good service when he has registered his new articles with the Council in accordance with the procedure set out in rule 10.

(2) (a) Where the principal to whom a student is articled dies before the expiration of the term for which a student is articled and the student enters into new articles, the Council may, if it is satisfied that there has been no undue delay before the student has entered into new articles and that during the period between the date of the death of the principal and the date of the entry by the student into new articles the student has bona fide served a principal in such a way as could, had the student entered into articles with such principal, have been reckoned as good service under articles, allow the student to reckon such period of service as good service under articles.

(b) A student who applies to be allowed to reckon such service as good service under articles shall lodge with the secretary an application on Form 4.

(3) Where on the expiration of the term for which a student is articled he cannot satisfy the Council that he has duly served under articles for the whole of the term of his articles, he may enter into further articles with the same or another principal for such period as will enable him to complete the requisite term of service under articles.

(4) If a student does not enter into new articles within two years of the cancellation or discharge of his articles, or if he does not enter into further articles within two years of the expiration of his original or any new articles, his certificate of enrolment shall be of no effect and he shall be required to re-enrol as a student with the Council before entering into new or further articles, and such new or further articles shall be for such term, not exceeding the term of his original articles, as the Council may think fit.

(5) When a student produces new or further articles for registration he shall lodge with the secretary-

- (a) his new or further articles, together with a duplicate copy thereof which shall be retained by the Council;
- (b) a valid certificate of enrolment as a student with the Council.

16. A student who applies to the Council that his name may be changed on the Roll established under rule 4 (1) or the register referred to in rule 10 (2) shall lodge with the secretary such evidence of the change as the Council may require.

Change of name by student

PART IV

A. Examinations: General

17. Any student applying to be examined or re-examined at any examination referred to in the Act shall pay to the Council in respect of such examination the fees prescribed in the Third Schedule.

Prescribed fees

- 18.** Any student wishing to sit for an examination referred to in section B or C of this Part shall, at least four weeks prior to the date of the examination notified by the Council under rule 23 (5) or 24 (7), give notice thereof to the Council on Form 5 and shall forward the prescribed fees with such notice. Notice
- 19.** The prescribed examination and the Legal Practitioners Qualifying Examination shall be conducted in accordance with sections B and C of this Part and any instruction which the Council may from time to time issue in that behalf. Conduct of examinations
- 20.** The decision of the Council as to whether a student has or has not passed any examination held under these Rules and as to the standard which he has attained shall be final. Any script written by a student for the purpose of any such examination shall be the property of the Council, and a student shall not be entitled subsequently to see such script or to have it returned to him. Results of examinations
- 21.** Any application for exemption from any Head of the Legal Practitioners Qualifying Examination or the prescribed examination shall be made on Form 6 and shall be made not later than the latest date for entry for such examination. Exemption
- 22.** The Council shall from time to time issue detailed syllabi of the Legal Practitioners Qualifying Examination and the prescribed examination. Syllabus

B. The Legal Practitioners Qualifying Examination

- 23.** (1) The Legal Practitioners Qualifying Examination shall comprise the following Heads of examination:
- Professional Conduct and Ethics
 - Bookkeeping and Accounts
 - Conveyancing and Legal Drafting
 - Probate and Succession
 - Commercial Transactions
 - Company Law
 - Civil Procedure
 - Domestic Relations
 - Criminal Law and Procedure
 - Evidence

(2) The examination shall consist of written papers in each of the Heads of the examination and students shall be permitted access to such books and legislation as the Council may from time to time direct.

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(3) Each candidate shall be required to pass in each Head of the examination except in so far as he may have been granted exemption from any Head thereof under the Act.

(4) Subject to the provisions of these Rules, a student who has already passed in any four Heads of the examination at one sitting may complete the examination by passing in not less than two of the remaining Heads or the last remaining Head, at any subsequent sitting:

Provided that, except with the permission of the Council granted as a result of his petition, a student who has thrice taken or retaken the examination or any part thereof, and failed to complete it, shall not be allowed, within five years of his last attempt, to retake the examination or any Head thereof.

(5) The examination shall be held twice in each calendar year on such dates and at such time and place as the Council may from time to time direct.

(6) No person may enter for the Legal Practitioners Qualifying Examination or any Head or Heads thereof unless he is enrolled as a student under these Rules:

Provided that-

- (i) where a person enrolled as a student under these Rules and is required under the provisions of section twelve of the Act to pass the prescribed examination, he shall not be eligible to write any part of the Legal Practitioners Qualifying Examination until after he has successfully completed the prescribed examination;
- (ii) nothing in this rule shall disqualify a practitioner, who has, before being admitted to be a practitioner, given to the Chief Justice an undertaking in writing that he will not, before he has passed the prescribed accounts examination, perform within Zambia any of the functions which in England are performed by a solicitor and are not performed by a barrister, from entering for the Legal Practitioners Qualifying Examination in Bookkeeping and Accounts.

(As amended by No. 88 of 1974, No. 182 of 1976, No. 148 of 1977, No. 102 of 1978, No. 149 of 1980 and No. 138 of 1984)

C. The Prescribed Examination

24. (1) The prescribed examination shall consist of two Parts divided into the Heads set out in sub-rules (2) and (3): Parts and Heads of examination

Provided always that, subject to the provisions of the Act, the Council may in any particular case, direct that the prescribed examination shall consist of any lesser number of Parts or Heads.

(2) Part I of the Examination shall comprise the following Heads:

Contract

Tort

Criminal Law and Evidence

Constitutional Law

(3) Part II of the Examination shall comprise the following Heads:

Commercial Law

Land Law

Administrative Law

Jurisprudence

(4) No person may sit for the prescribed examination unless he is enrolled as a student and has entered into articles under these Rules.

(5) No student may present himself for Part II of the prescribed examination until he shall have sat in all Heads of Part I of the examination, and shall have passed in at least three Heads thereof:

Provided that, except with the permission of the Council granted as a result of his petition, a student who has thrice sat for any Head of the prescribed examination and not passed in it, shall not be allowed, within five years of his last attempt, to resit for that Head.

(6) The examination shall consist of written papers in each of the Heads of the examination and students shall be permitted access to such books and legislation as the Council may from time to time direct.

(7) The examination shall be held twice in each calendar year on such dates and at such time and place as the Council may from time to time direct.

(As amended by S.I. No. 233 of 1979 and No. 138 of 1981)

PART V

GENERAL

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25. The Universities contained in the Fourth Schedule have been approved by the Council for the purposes of section eleven A (a). Universities approved under section 11 A (a)

26. (1) If any complaint is made to the Council as to the conduct of any student or of any person who, having been enrolled as a student but whose certificate of enrolment is considered under these Rules to be of no effect and who applies to be re-enrolled (in this rule referred to as a "former student") the Council may, after giving to the student or former student an opportunity to be heard upon such complaint, and if it finds the complaint to have been established-

- (a) admonish the student or former student and cause an entry of such admonishment to be made against his name upon the Roll;
- (b) refuse to register the articles or further articles of the student or former student, as the case may be;
- (c) postpone the date upon which the student or former student may sit for any examination or any Head or Part thereof provided for in these Rules;
- (d) refuse to re-enrol the former student;
- (e) revoke the certificate of enrolment of the student.

(2) Any complaint to the Council shall be made to the secretary who shall refer such complaint to the Council unless he considers it to be frivolous.

27. (Spent)

28. In any case not specifically provided for by these Rules, an applicant to the Council shall make application on Form 4 setting out the nature of his application and the facts upon which he relies in support thereof. He may be required to verify these facts by affidavit or statutory declaration and to adduce such further evidence as may be deemed necessary. Cases not specifically provided for

29. The forms prescribed by these Rules shall be adhered to as closely as possible, but may be adapted to deal with special circumstances affecting any case. Variation from prescribed forms

30. All papers to be lodged with the Council shall be so lodged with the secretary. Papers to be lodged with secretary

31. Subject to the provisions of the Act, the Chairman of the Council may, at his discretion, in any particular case, extend or abridge any times laid down by these Rules. Abridgement of time

FIRST SCHEDULE

PRESCRIBED FORMS

(Rule 2 (b))

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CERTIFICATE OF ENROLMENT

No.
Name
Nationality
Country of Residence
Date of Birth
Postal Address

.....
has this day been enrolled as a Student pursuant to the provisions of sectionof the
Legal Practitioners Act.

....., 19..... .
.....(signed)

*Secretary to the
Council of Legal Education*

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FORM 2
(Rule 6 (2))

NOTICE OF INTENTION TO ENROL AS A STUDENT

The Laws of Zambia

To: The Secretary
The Council of Legal Education
P.O. Box 50067
Lusaka

I, (a)(BLOCK CAPITALS)
of (b)
being a by Nationality
and my country of permanent residence being
hereby give notice that after six weeks from the date hereof I desire to enrol with the Council as a student.

I was born on the day of 19....., and send herewith a duly
certified copy of my birth certificate, or an affidavit of birth.

I was educated at (c)
.....during the years

(d) and
of of
(d) of
will vouch as to my character and as to my fitness and suitability to be enrolled as a student.

I produce the following evidence of having attained the requisite standard of education, namely:

.....
.....

Present Employment

- (e) (i) Name of employer
- (ii) Address
- (iii) Post held
- (iv) Nature of work
- (v) Date of employment started

- (f) (i) Have you ever been convicted of a criminal offence?.....
- (ii) Is any criminal charge pending against you?.....
- (iii) Have you ever had a civil judgment entered against you?.....
- (iv) Is any civil case pending against you now?.....
(If the answer to any question is "Yes" give details.):
.....
.....
.....
.....

I declare that I have answered the above questions truthfully and exactly and that I am not aware of any circumstances not disclosed in these answers which, if known, might raise doubts as to my fitness for enrolment as a student. I understand that if I am enrolled as a student and this declaration or any of the particulars furnished by me are subsequently found to be false within my own knowledge, my enrolment may be cancelled.

I accordingly apply for the issue to me of a certificate of enrolment as a student.

Dated this day of, 19

(Signed)

Key:

- (a) Full name of applicant.
- (b) Postal address.
- (c) Name(s) and address(es) of school(s), and university (if any) and other educational establishment(s) (if any) attended.
- (d) Names, addresses and occupation of referees should preferably be:
 - (i) if the applicant has within three years immediately preceding his application attended an educational establishment, a responsible official of the establishment; or
 - (ii) a clergyman, legal practitioner, medical practitioner or other person of known standing.

(As amended by S.I. No. 149 of 1980)

APPLICATION TO HOLD OFFICE WHILST UNDER ARTICLES

To: The Secretary
The Council of Legal Education
P.O. Box 50067
Lusaka

I, (BLOCK CAPITALS)
of
whose certificate of enrolment number is hereby apply that the permission
of Council may be given to my engaging in an office or employment other than the employment of the practitioner to whom
I was articulated.

2. I was articulated on the day of, 19.....
to Mr of for a
term of years from the day of,
19....., and I desire to engage in the office or employment of
by
in respect of the following periods, that is to say:
.....

3. My salary in respect of such office or employment will be K per annum.

4. The work will be of the following nature, that is to say
and the average time to be spent by me thereon in each week will be approximately hours.
(Signed)
(Date)

GENERAL FORM OF APPLICATION

To: The Secretary
The Council of Legal Education
P.O. Box 50067
Lusaka

I, (a)(BLOCK CAPITALS)
of (b)
whose certificate of enrolment number is hereby apply to the Council
under rule (c) of the Students Rules. I make the following
application (d)
(e)

I solemnly and sincerely declare that the facts set out herein are true.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory
Declarations Act, 1835, of the United Kingdom.

Declared, etc.,

- (a) Full name of applicant.
- (b) Address.
- (c) Refer to the rules or rule under which the application is made.
- (d) State briefly the nature of the application.
- (e) State concisely in numbered paragraphs the facts on which reliance is placed in support of the application.

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FORM 5
(Rule 18)

NOTICE OF INTENTION TO SIT FOR AN EXAMINATION

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To: The Secretary
The Council of Legal Education
P.O. Box 50067
Lusaka

PART 1

I, (BLOCK CAPITALS)
of
hereby give notice of my desire to sit for the following Parts and Heads of the
..... Examination to be held in, 19.....
Part Heads I enclose herewith fee units
in payment of the prescribed fees. My certificate of enrolment number is
dated, 19.....

I am enrolled under the provisions of section of the Legal Practitioners Act.

I desire that notices in relation to the examination be sent to me at
..... (signed), 19.....

PART 2-[To be completed by students enrolled under sections 11 A (b) (iii) and 12 of the Legal Practitioners Act]

I commenced service under articles on

I have been absent from my principal's office during the period of my articles for the following periods with/without consent of my principal for the reasons given:
.....
.....

(An absence due to ill-health for more than one month must be supported by a medical certificate.)

I have/have not engaged in other employment (if you have, give details and any consents obtained)
(Signed).....
Student

The above-named student has worked satisfactorily as an Articled Clerk and has shown himself to be a fit and proper person to be admitted as a practitioner.

(Signed)..... Date

Principal

PART 3-[To be completed by students enrolled under section 11 B of the Legal Practitioners Act in active employment in the office of practitioner]

I commenced my period of active employment with Mr
on.....

I have not been absent from my principal's office during my period of active employment except for the periods stated

(An absence due to ill-health for more than one month must be supported by a medical certificate.)

I have not been engaged in other employment
(Signed).....
Student

The above-named student has worked satisfactorily during his period of active employment with me and is a fit and proper person to be admitted as a practitioner.

(Signed)..... Date

Principal

PART 4-[To be completed by students who have attended at the Law Practice Institute under section 11 A (b) (i) or 11 B (b) of the Legal Practitioners Act]

I commenced my attendance at the Law Practice Institute on
and completed the course on
(Signed).....

Student

I certify that the above-mentioned student has duly fulfilled the requirements of the course which he has attended during the year 19.....

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APPLICATION FOR EXEMPTION FROM AN EXAMINATION
OR PART OF AN EXAMINATION

To: The Secretary
The Council of Legal Education
P.O. Box 50067
Lusaka

I, (a)(BLOCK CAPITALS)
of (b) whose certificate of enrolment number is
dated, 19....., hereby apply for exemption from the following
Heads or Part of the (c) Examination,
namely:

.....
by virtue of (d)
.....
.....

Dated this day of, 19.....

(Signed).....

- (a) Full name of student
- (b) Address.
- (c) Description of examination.
- (d) Grounds for claim for exemption stating section of Act under which application is made.

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SECOND SCHEDULE
TERM OF ARTICLES
(Rule 10 (1))

1. In the case of a person who, before entering into articles, has taken a degree, not being an honorary degree, at the University of Zambia or at any University specified in the Fourth Schedule, or such other University as the Council may from time to time recognise, or is in a position to supplicate for such degree, the term shall be three years.

2. In the case of a person who before entering into articles has acquired practical experience over such period and of such nature as may be approved by the Council the term shall be fixed by the Council but shall not in any case be less than three years.

3. In any other case the term shall be five years.

THIRD SCHEDULE
PRESCRIBED FEES
(Rule 17)

1. *Legal Practitioners Qualifying Examination:*

The fees which shall be payable by a student upon entry shall be as follows:
for each Head of the Examination for which notice of entry has been given the fee shall be 10 fee units for the first sitting and 25 fee units for each subsequent sitting.

2. *Prescribed Examination:*

The fees which shall be payable by a student upon entry shall be as follows:
for each Head of any Part of the Examination for which notice of entry has been given the fee shall be 13 fee units for the first sitting and 25 fee units for each subsequent sitting.

(As amended by S.I. No. 49 of 1977, No. 138 of 1981 and Act No. 13 of 1994)

FOURTH SCHEDULE
APPROVED UNIVERSITIES
(Rule 25)

1. Any University of a self-governing State which is, or was at any time, a member State or was part of a member State of the Commonwealth of Nations and which applies as its predominant basic system of law the Common Law.

2. Any University of the United Kingdom or the Republic of Ireland.

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Endnotes

1 (Popup - Popup)

18th April 1957.