



REPUBLIC OF NAURU

Legal Practitioners Act 1973

As in force from 9 June 2014

This consolidation comprises Act No. 13 of 1973 as amended and in force from 9 June 2014 (being, at the time the consolidation was prepared on 26 September 2014, the date of commencement of the most recent amendment).

The notes section at the end of the consolidation includes a reference to the law by which each amendment was made. The Table of Amendments in the notes section sets out the legislative history of individual provisions.

The operation of amendments that have been incorporated in the text of the consolidation may be affected by application provisions that are set out in the notes section at the end of the consolidation

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Legal Practitioners Act 1973

Act No. 13 of 1973

An Act to make provision relating to legal practitioners

PART I — PRELIMINARY

1 Short title and commencement

This Act may be cited as the *Legal Practitioners Act 1973* and shall come into force on a date to be notified by the Minister in the Gazette.

2 Interpretation

In this Act, unless the context otherwise requires:

'practitioner' includes a barrister and solicitor and a pleader;

'practising certificate' means a certificate issued under section 23 of this Act;

'Registrar' means the Registrar of the Supreme Court;

'Roll' means the Roll of the Court to be kept under section 14 of this Act.

PART II — ADMISSION OF BARRISTERS AND SOLICITORS AND OF PLEADERS

3 Chief Justice may admit barristers and solicitors

- (1) The Chief Justice shall have power to admit to practice as a barrister and solicitor any person duly qualified for admission in accordance with the provisions of this Act:

Provided that the Chief Justice may, upon cause shown, refuse to admit any person as a barrister and solicitor notwithstanding that he may have the qualifications aforesaid.

- (2) Every person shall, before admission as a barrister and solicitor, subscribe the oath of allegiance in the form prescribed by law and also the oath following:

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

- (3) The oaths required by the last preceding subsection to be subscribed:
- (a) shall where the person admitted to practice as a barrister and solicitor ordinarily resides in Nauru, and may in any other case, be administered by the Chief Justice or, in his absence, the Minister; and
 - (b) may, where the person admitted to practice as a barrister and solicitor ordinarily resides outside Nauru, be administered in an office of the Republic, by a diplomatic or consular officer of the Republic or by any person employed in that office by the Republic and authorised in that behalf by the Minister.

3A Temporary admission by Registrar

- (1) In the absence of the Chief Justice or vacancy of that position, and with the written consent of the Minister, the Registrar may admit to practice temporarily as barrister and solicitor any person duly qualified for admission in accordance with the provisions of this Act.
- (2) A person admitted under subsection (1) shall be admitted to practice in respect of only such causes or matters as the Registrar shall direct.

4 Types of admission of barristers and solicitors

- (1) Where a person applying to be admitted to practice as a barrister and solicitor:
 - (a) ordinarily resides in Nauru; or
 - (b) has signed an undertaking to establish an office or chambers in Nauru where he will attend and practise for not less than one month in every three months;

he shall, if admitted, be admitted to practise generally:

Provided that, where he does not ordinarily reside in Nauru, his admission shall be conditional upon his establishing an office or chambers in Nauru and commencing to practice thereat within three months of the date of his admission and shall cease to have effect if he fails to fulfil that condition;

And provided further that if, having ordinarily resided in Nauru at the time of his admission, he ceases thereafter ordinarily to reside in Nauru or if, having established an office or chambers in Nauru and commenced practice thereat, he at any time thereafter ceases to maintain an office or chambers in Nauru or to practise thereat as stated in his undertaking, the Chief Justice

may direct that he shall cease to be entitled to practise as a barrister and solicitor.

- (2) Where a person applying to be admitted to practice as a barrister and solicitor does not ordinarily reside in Nauru and does not sign the undertaking specified in the last preceding subsection, he shall, if admitted, be admitted to practice in respect of only such causes or matters as the Chief Justice shall direct.

5 Qualifications of barristers and solicitors

Every person shall be qualified for admission as a barrister and solicitor who has attained the age of twenty-one years, has such legal experience required under the provisions of the next following section as is applicable in his case and either:

- (a) has been admitted as a barrister or solicitor in England, Northern Ireland or the Republic of Ireland, as an advocate, law agent or writer to the Signet in Scotland, as a barrister or solicitor, or as a barrister and solicitor, in Australia or New Zealand or as a barrister, solicitor, barrister and solicitor, advocate, attorney, proctor, counsel or other legal practitioner in any other country which may from time to time after consultation with the Chief Justice be notified by the Minister in the Gazette to practise in the Courts of that country;

Provided that, where the Minister notifies any country in pursuance of this paragraph, he may, by the same notice or any subsequent notice in the Gazette, direct that, notwithstanding the other provisions of this section, admission in that country as a legal practitioner of any class specified in that notice is not to be qualification for admission as a barrister and solicitor in Nauru;

- (b) has obtained a degree in law of any university approved by the Minister after consultation with the Chief Justice.

6 Legal experience

- (1) The legal experience required of a person applying for admission as a barrister and solicitor shall be that he has:
- (a) practised on his own account for a period of not less than one year in any one or more of the countries specified in section 5 or in any other country which may from time to time after consultation with the Chief Justice be notified by the Minister in the Gazette;
- (b) completed a period of at least one year's pupillage in any such country or in Nauru in the chambers or offices of a barrister, advocate, solicitor, barrister and solicitor or law agent of at least five years' standing or in the offices of a firm of barristers and solicitors, solicitors or law agents at least one member of which is a barrister and solicitor,

solicitor or law agent of at least five years' standing;

- (c) been engaged for a period of at least one year on legal work in the chambers or offices of a practising barrister, advocate, solicitor, barrister and solicitor or law agent or in the legal department of a Government or of a local authority in any such country or in Nauru; or
 - (d) completed in any such country a course of practical legal instruction approved by the Chief Justice.
- (2) The practice referred to in paragraph (a) of the preceding subsection shall have been carried on in any one or more of the countries after admission as a barrister, advocate, solicitor, barrister and solicitor or law agent in such country or countries. The pupillage, legal work or course of practical legal instruction specified in paragraphs (b), (c) and (d) of the preceding subsection may have been completed or carried out either before or after admission as a barrister, advocate, solicitor, barrister and solicitor or law agent in any such country.

7 Chief Justice may grant exemption

Notwithstanding the other provisions of this Act the Chief Justice may admit as a barrister and solicitor any person of the classes of persons mentioned in section 5 of this Act in spite of the fact that he has not had the pupillage or other legal experience required by section 6 of this Act if, in the opinion of the Chief Justice, such person has had sufficient other practical legal experience.

7A Exemption of Government Lawyers

The provisions of admission in this Act shall not apply to the Secretary for Justice and Border Control, the Solicitor General, the Director of Public Prosecutions, the Public Defender, or any appointment or office in the service of the Department of Justice and Border Control. The holding of such office shall in itself constitute admission of such person to practise as a legal practitioner in Nauru.

8 Existing barristers and solicitors

Any person who has been admitted to practice as a barrister and solicitor before the date upon which this Act comes into force shall be entitled to continue to practise as a barrister and solicitor for three months from that date but forthwith thereafter shall cease to be entitled to practise as a barrister and solicitor unless he has been admitted to practice as such under the provisions of this Act and has paid the prescribed fees.

9 Application for admission to practice as a barrister and solicitor

- (1) Every application for admission to practice as a barrister and

solicitor shall be by petition to the Chief Justice in such form and manner as may be prescribed by rules and forthwith upon the filing thereof the Registrar shall deliver a copy to the Minister. The Registrar shall, after making or causing to be made such inquiries into the character, qualification and experience of the applicant as he shall deem necessary, submit to the Chief Justice a confidential report regarding the suitability or otherwise of such applicant for admission as a barrister and solicitor.

- (2) Where the applicant does not ordinarily reside in Nauru and does not annexe to his petition the undertaking referred to in paragraph (b) of subsection (1) of section 4 of this Act, the petition shall contain details of the causes or matters in respect of which he wishes to be admitted to practice.
- (3) Upon application for admission being made under the provisions of subsection (1) of this section and after considering the confidential report of the Registrar and any written communication received from the Minister and upon proof to his satisfaction of the qualification and suitability of the applicant and upon production of such testimonials as to character as he may require, the Chief Justice may by writing under his hand and in such manner and form as he may from time to time think fit, admit the applicant to practice as a barrister and solicitor.
- (4) All reports and communications under this section shall be absolutely privileged.
- (5) The Chief Justice may, with the written consent of the Minister, on special grounds and upon such terms as he may think reasonable exempt any person from complying with the formalities prescribed by this section either absolutely or for any specified period.

10 Chief Justice may admit pleaders

- (1) The Chief Justice shall have power to admit to practice as a pleader any person duly qualified for admission in accordance with the provisions of this Act:

Provided that the Chief Justice may, upon cause shown, refuse to admit any person to practice as a pleader notwithstanding that he may have the qualifications aforesaid;

And provided further that during the two years next following the commencement of this Act, the Chief Justice may admit any person to practice as a pleader notwithstanding that he is not duly qualified for admission in accordance with the provisions of section 11 of this Act.

- (2) Every person shall, before admission as a pleader subscribe before the Chief Justice the oath of allegiance in the form prescribed by law and also the oath following:

I, A. B., do swear (or do solemnly, sincerely and truly declare and affirm) that I will truly and honestly demean myself in the

practice of a pleader according to the best of my knowledge and ability (and in the case of an oath) so help me God.

11 Qualifications of pleaders

Every person shall be qualified for admission as a pleader who fulfils all the qualifications provided for in this section, that is to say:

- (a) he is ordinarily resident in Nauru;
- (b) he has undergone such training as the Chief Justice may from time to time by rules prescribe; and
- (c) he has passed such examinations as the Chief Justice may from time to time by rules prescribe.

12 Application for admission to practice as pleader

- (1) Every application for admission to practice as a pleader shall be by petition to the Chief Justice in such form and manner as may be prescribed by rules and forthwith upon the filing thereof the Registrar shall deliver a copy to the Minister. The Registrar shall, after making or causing to be made such inquiries into the character and qualification of the applicant as he shall deem necessary, submit to the Chief Justice a confidential report regarding the suitability or otherwise of such applicant for admission as a pleader.
- (2) Upon application for admission to practice as a pleader being made under the provisions of the last preceding section and after considering the confidential report the of Registrar and any written communication from the Minister and upon proof to his satisfaction of the qualification and suitability of the application and upon production of such testimonials as to character as he may require, the Chief Justice may by writing under his hand and in such manner and form as he may from time to time think fit, admit the applicant to practice as a pleader.
- (3) All reports and communications under this section shall be absolutely privileged.

13 Period of admission to practice as a pleader

- (1) Admission to practice as a pleader shall be initially for a period of one year from the date of admission but that period may be extended from time to time by the Chief Justice upon application by summons in such form and manner as may be prescribed by rules.
- (2) Upon application for extension of the period of admission, the Chief Justice shall have a discretion whether or not to extend it and, in particular, may take into consideration:
 - (a) the number of persons admitted to practise generally as barristers and solicitors;

- (b) the number of persons admitted to practise as pleaders;
and
- (c) the competence of the applicant in the performance of his
duties as a pleader:

Provided that after the expiration of two years from the commencement of this Act, the period of pleader's admission to practise shall not be extended unless he is qualified for admission in accordance with the provisions of section 11 of this Act.

- (3) For the purpose of enabling him to exercise his discretion in respect of any application for extension of the period of admission, the Chief Justice may require the Registrar or any magistrate to report on the competence of the applicant in the performance of his duties as a pleader; all such reports shall be absolutely privileged.

14 Roll of the court

- (1) The Registrar shall keep three books, together to be called the Roll of the Court, in which shall be enrolled the names of all persons admitted to practice as barristers and solicitors or as pleaders; in one book shall be enrolled the names of those persons who have been admitted to practice generally as barristers and solicitors; in another shall be enrolled the names of all persons admitted to practice as barristers and solicitors only in respect of specified causes and matters; and in the third shall be enrolled the names of all persons admitted to practice as pleaders.
- (2) Upon being satisfied that any person has been admitted to practice as a barrister and solicitor or as a pleader and that he has subscribed the oaths required by section 3 or section 10, as the case may be, of this Act, the Registrar shall enrol his name in the appropriate book of the Roll of the Court.
- (3) Upon being satisfied that any person whose name is enrolled on the Roll of the Court has ceased to be entitled to practise as a barrister and solicitor or as a pleader, or upon application by any person for the removal of his own name from the Roll, the Registrar shall strike such name from the Roll:

Provided that any such removal shall be without prejudice to the provisions of Part VI of this Act in respect of any antecedent action, neglect or default on the part of such barrister and solicitor or pleader.

15 Certificate of enrolment

- (1) The Registrar shall, on application, issue a certificate of enrolment under the seal of the Supreme Court to any person who has been enrolled under the last preceding section provided that application is made while the name of the

applicant is on the Roll and provided further that the Registrar shall not be required to issue more than one certificate in respect of one enrolment.

- (2) In the certificate of enrolment it shall be stated whether the person to whom it relates is entitled to practise generally or only in respect of specified causes or matters.

PART III — RIGHTS AND LIABILITIES OF BARRISTERS AND SOLICITORS AND OF PLEADERS

16 Rights of barristers and solicitors to appear in the Courts and perform the functions of barristers and of solicitors

- (1) Subject to the succeeding provisions of this section and to the provisions of Part IV of this Act and of any rules made under this Act relating to practising certificates it shall be lawful for all persons enrolled as barristers and solicitors to practise as such in all the Courts of Nauru and to perform all the functions which may be performed by a barrister or by a solicitor in England.
- (2) Except with the leave of the Chief Justice, no person who has been admitted to practice as a barrister and solicitor in Nauru shall commence practice on his own account, other than in partnership with a barrister and solicitor of at least three years' standing in Nauru, unless during the five years immediately preceding the date of his so commencing practice he has had at least three years' legal experience of a nature considered by the Chief Justice to be adequate, either in Nauru or in any other country, either in the office of a barrister, solicitor, advocate, barrister and solicitor or law agent of a firm of barristers and solicitors, solicitors or law agents in active practice or in a legal department of a Government or of a local authority.
- (3) Any barrister and solicitor failing to comply with the provisions of the last preceding subsection shall be deemed to be an unqualified person to the extent to which such restriction shall apply.
- (4) The restriction contained in subsection (2) of this section shall not apply to any individual barrister and solicitor wholly or partially exempted in writing by the Chief Justice from such restrictions on the grounds of his previous legal experience, to the extent of such exemption.

17 Rights of pleaders to appear in the Courts and perform other work

- (1) Subject to the provisions of Part IV of this Act and of any rules made under this Act relating to practising certificates it shall be lawful for all persons enrolled as pleaders:
 - (a) to prepare writs, pleadings, applications, notices, summonses and petitions in, or for the purpose of originating, any cause, matter or appeal in any Court on behalf of any party thereto;

- (b) to attend at the office of any Court to file or issue documents in any cause, matter or appeal therein on behalf of any party to that cause, matter or appeal;
 - (c) to attend upon any party to any cause, matter or appeal and upon any witnesses therein for the purpose of taking instructions and proofs of evidence;
 - (d) to attend in any Court, or in the chambers thereof, upon the hearing of any cause, matter or appeal, or of any interlocutory application therein, to represent any party thereto at the hearing and to argue before that Court, or before the judge or magistrate in Chambers, the case of that party;
 - (e) to undertake any other work of a like nature authorised by rules made under this Act; and
 - (f) to undertake any other work properly and necessarily incidental to any work which they may lawfully undertake.
- (2) Save as provided in the last preceding subsection, no person who is enrolled as a pleader may perform any of the functions of a barrister and solicitor.

18 Right to sue for and recover taxed costs

- (1) Every barrister and solicitor and every pleader shall be entitled to sue for and recover his taxed costs or, in the case of an agreement as to costs being made under the provisions of section 19, the amount of such agreed costs, in respect of his services.
- (2) The rights of a barrister and solicitor under the last preceding subsection extend not only to costs in respect of those of his services which in England might be performed by a solicitor but also to costs in respect of those of his services which in England might be performed by a barrister and the rights of a pleader similarly include costs in respect of his services in attending in court and arguing his client's case therein.

19 Agreements as to costs

- (1) A practitioner may make a written agreement with his client respecting the amount and manner of payment for the whole or any part or parts of fees, charges or disbursements in respect of past or future services lawfully performed or to be performed by such practitioner, either by a gross sum or otherwise howsoever.
- (2) An agreement made under the preceding subsection shall exclude any future claim of the practitioner in respect of any fees, charges or disbursements in relation to the performance of the services in reference to which the agreement is made, except such as are excepted by the agreement:

Provided that the client who has entered into such an agreement shall not be entitled to recover from any other person, under any order, judgment or agreement for the payment of costs, any costs which are the subject of that written agreement beyond the amount payable by the client to the practitioner under that agreement.

- (3) Any agreement made under this section may be reviewed by the Supreme Court or a judge thereof upon application by petition or summons and if in the opinion of the Court or the judge such agreement is unreasonable, whether or not it was unreasonable when entered into, the amount payable may be reduced or increased or the agreement cancelled and the costs taxed in the ordinary way, and the Court or the judge may also make such order as to the costs of and relating to such review and the proceedings thereon, as to the Court or the judge may seem fit.
- (4) If, after any such agreement has been made under this section and before the full performance thereof, the practitioner shall die, become incapable of acting, unless such incapacity is caused by the practitioner being struck off the Roll or suspended from practice, or cease to practise in Nauru, or if the client shall die or change to another practitioner, the agreement shall cease and be void and the practitioner, or his executors, administrators or assigns, shall be entitled to charge that client or his executors or administrators, fees for all services then performed, and also all charges and disbursements then paid or incurred, and such costs may be taxed and shall be dealt with as if such agreement had never been made.
- (5) Notwithstanding the provisions of this section, a practitioner may take security from his client or any other person for the fees, charges or disbursements in respect of his future services.
- (6) Nothing in his Act shall be construed to give validity to any purchase by a practitioner of the interest or any part of the interest of his client in any suit, action or other contentious proceedings to be brought or maintained, or to any agreement by a practitioner for payment only in the event of success in any suit, action or other contentious proceeding.

20 Barrister and solicitor and pleader deemed officers of the Courts

Every person practising as a barrister and solicitor or pleader and whose name is enrolled as provided for in this Act shall be deemed to be an officer of every Court of Nauru.

21 Agreements exempting practitioners from negligence to be void

- (1) Any provision in any agreement between a practitioner and a client 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 such practitioner, shall be wholly void.

- (2) The law in force in England on the 31st day of January, 1968, insofar as it exempted barristers and solicitors from liability to their clients for negligence in their performance of certain of their professional services shall apply in Nauru and for that purpose barristers and solicitors and pleaders shall be deemed to be performing the functions of barristers when they are actually presenting, or arguing, a client's case in court or are attending before a judge, the Registrar or a magistrate in chambers but otherwise shall be deemed to be performing the functions of solicitors.

22 Order for practitioner to render bill and to deliver deeds, etc.

- (1) Where a barrister and solicitor or a pleader has lawfully performed any services for any person, whether in any Court or not, or has or may have a claim for costs against any person, the Supreme Court may make an order for the delivery by the practitioner of a bill of costs and for the delivery of, or otherwise in relation to, any deeds, documents or papers in his possession, custody or power.
- (2) An order for the delivery of a copy of a bill to any person may, if the Supreme Court thinks fit, be conditional upon the payment of the costs of the copy by that person, if that person is not the party primarily chargeable with the bill.

PART IV — PRACTISING CERTIFICATES

23 Application for and issue of practising certificates

- (1) Every person admitted to practice as a barrister and solicitor or pleader shall, before commencing practice and thereafter during the month of January in each and every year, apply for and obtain a certificate in the prescribed form enabling him, subject to the provisions of Part III of this Act, to practise as such.
- (2) Every barrister and solicitor and every pleader applying for a practising certificate shall deliver to the Registrar a written statement specifying the name, place of residence, place of practice and date of admission of the applicant; such statement shall be signed by the applicant.
- (3) The Registrar shall cause all the particulars contained in the statement to be entered in a register kept for that purpose and any person may inspect such register during office hours upon payment of a fee of ten cents.
- (4) On the issue of a practising certificate to a barrister and solicitor or pleader such barrister and solicitor or pleader shall pay to the Registrar such fee as the Minister may by regulation prescribe in respect of such certificate; different fees may be prescribed in

respect of barristers and solicitors and of pleaders.

- (5) Nothing in this section contained relating to the issue of practising certificates shall apply to or affect a public officer practising as a barrister and solicitor or pleader in the course of his duties.

24 Date of practising certificate

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

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

- (2) Every certificate shall continue in force from the day from or on which it is issued or takes effect in accordance with this section until the thirty-first day of December next following, both days inclusive, and shall then expire.
- (3) It shall be the duty of the Registrar to keep a record of the date of issue of a practising certificate to any barrister and solicitor or pleader.

25 Barrister and solicitor neglecting to renew his practising certificate

If a barrister and solicitor after having at any time taken out a practising certificate fails for a period of five years after the expiration thereof to renew the same, the Registrar shall not afterwards grant a certificate to such barrister and solicitor except upon an order from the Chief Justice and it shall be lawful for the Chief Justice to direct the issue of a certificate to such person on such terms and conditions as he may think fit.

26 Cancellation or suspension of practising certificate

- (1) Whenever the name of a barrister and solicitor or pleader is removed from or struck off the Roll for any cause, his practising certificate shall forthwith be deemed to be cancelled and he shall return it to the Registrar.
- (2) Whenever the right of a barrister and solicitor or pleader to practise as such is suspended, his practising certificate shall likewise be suspended and he shall return it to the Registrar who shall retain it for so long as the suspension is in force.
- (3) Whenever a barrister and solicitor is adjudicated bankrupt or insolvent in Nauru or elsewhere, such adjudication shall operate immediately to suspend his practising certificate and he shall return it to the Registrar; such suspension shall continue and such barrister and solicitor shall not be entitled to the return or renewal of his practising certificate until the adjudication of

bankruptcy or insolvency, if made in Nauru, is annulled or, if it is made elsewhere, it is annulled or the Chief Justice orders that the practising certificate shall no longer be suspended.

- (4) Any barrister and solicitor or pleader who fails without sufficient cause to return a practising certificate to the Registrar in contravention of the provisions of this section is guilty of an offence and is liable to a fine not exceeding two dollars for every day during which such failure continues or has continued.

PART V — NOTARIES PUBLIC

27 Chief Justice may appoint notaries public

The Chief Justice, from time to time, may appoint any person whom he shall consider a fit and proper person to be a notary public for Nauru to discharge the duties for the time being assigned to such office by the laws of the United Kingdom and of Nauru or by the practice of commerce, and every person so appointed shall on his appointment pay to the Republic the sum of fifty dollars.

28 Notaries to be sworn

Every person so appointed shall before entering upon the duties of his office be sworn before the Chief Justice well and faithfully to discharge the duties of his office.

29 Roll of notaries public

Every person appointed to the office of a notary public shall cause his name to be enrolled in a book to be kept for that purpose in the office of the Registrar and to be called the Roll of Notaries Public and shall be entitled to a certificate of enrolment under the seal of the Supreme Court and no person whose name has not been enrolled as aforesaid shall be entitled to perform the duties of a notary public within Nauru.

30 Notaries to be officers of the Supreme Court

Every person discharging the duties of a notary public shall be deemed to be an officer of the Supreme Court and any notary public guilty of misconduct in the execution of the duties of his office may forthwith be discharged by the Chief Justice from the said office.

31 In suspicious cases notary to refuse to act

In any case where the circumstances shall appear to a notary public suspicious and not warranting the protest or other notarial act demanded, he shall refuse to act:

Provided always that any person who considers himself aggrieved by the refusal of a notary public to note the protest or to do any other notarial act demanded may apply to the

Supreme Court for an order calling upon such notary public to act in the execution of his office and written notice of the application shall be given to the notary public refusing to act and to such persons, if any, in Nauru as have any interest in the subject-matter of the protest or other notarial act.

32 Notary to mark refusal on document

Where any notary public refuses to note any protest or to do any other notarial act, the notary public so refusing shall mark in or on the log book, bill of exchange or other document his refusal and the date of refusal and shall sign the refusal.

33 Penalty for false certificates, etc.

Any notary public or other person who wilfully certifies or propounds any false statement or document or who fraudulently with intent to deceive conceals, withholds or perverts any fact or document pertinent to the subject of the protest or other notarial act is guilty of an offence and is liable to imprisonment for two years.

34 Fees

The fees chargeable by a notary public for discharging his duties under the provisions of this Act shall be as prescribed by the Chief Justice.

PART VI — DISCIPLINE

35 Complaints about conduct of practitioners

Any complaint about the conduct of a barrister and solicitor or a pleader in his professional capacity shall be made to the Chief Justice who shall examine the complaint and consider whether it is necessary that there should be a formal investigation of such complaint or not. He shall inform the person making the complaint whether or not he considers it necessary that there should be a formal investigation and, in the event of his decision being that such investigation is unnecessary, shall, on the request of such person, furnish him with his reasons in writing:

Provided that nothing in this connection shall affect the jurisdiction which, apart from the provisions of this section, is exercisable by the Supreme Court, or any judge thereof, or by the District Court or the Family Court over barristers and solicitors and pleaders.

36 Referral by Court, judge, etc.

The Supreme Court or a judge, the District Court or a magistrate, the Family Court or a member thereof, the Minister or the Director of Public Prosecutions may at any time refer to the Chief Justice any information relating to the conduct of a

barrister and solicitor or a pleader in his professional capacity and thereupon the Chief Justice shall proceed as if a complaint against that barrister and solicitor or pleader had been made to him under the provisions of section 35.

37 Powers of Chief Justice

- (1) If after inquiring into any complaint or information the Chief Justice is of opinion that the practitioner has been guilty of professional misconduct or of conduct unbecoming a barrister and solicitor or a pleader, he may, if he thinks fit, but subject to the provisions of this Part of this Act, do one or more of the following things:
 - (a) order that his name be struck off the Roll;
 - (b) order that he be suspended from practice as a barrister and solicitor or pleader for such period not exceeding three years, as he thinks fit;
 - (c) order him to pay into the Treasury Fund by way of penalty such sum not exceeding two hundred dollars, as he thinks fit;
 - (d) censure him;
 - (e) order him to pay into the Treasury Fund such sums as he may think fit in respect of the costs and expenses of and incidental to the inquiry, including all or any part of the costs and expenses of and incidental to any investigation of his conduct or of his accounts carried out by or for the Chief Justice.
- (2) For the purpose of this section the expression '**professional misconduct**' includes any matter mentioned in paragraphs (a) and (b) of subsection (1) of section 38.

38 Orders for striking off roll or suspension from practice

- (1) No order shall be made by the Chief Justice under the provisions of section 37 either striking the name of a practitioner off the Roll or suspending a practitioner from practice except upon any one or more of the following grounds:
 - (a) that he has been convicted in Nauru or elsewhere of an offence involving dishonesty punishable with imprisonment for three years or more;
 - (b) that in the opinion of the Chief Justice he has been guilty in Nauru or elsewhere of misconduct in his professional capacity or of conduct unbecoming a barrister and solicitor or pleader, as the case may be, and by reason thereof is not a fit and proper person to practise as a barrister and solicitor or pleader, as the case may be.
- (2) For the purpose of this section the term '**offence involving**

'dishonesty' includes any offence described in Chapters XXXVI, XXXVII, XXXVIII, XXXIX, XL, XLI and XLII of the *Criminal Code 1899*.

- (3) For the purpose of this section a certificate containing the substance of a conviction of an offence involving dishonesty purporting to be signed by the Registrar or the Clerk having the custody of the records of the Court by which the offender was convicted shall be *prima facie* evidence of that conviction without proof of the signature or official character of the person appearing to have signed the certificate.

39 Right of practitioner to be heard

Except when making an interim suspension order under section 40, the Chief Justice shall not exercise with respect to any practitioner any of the disciplinary functions conferred on him by this Part of this Act without giving that practitioner a reasonable opportunity of being heard in his own defence, either in person or by a barrister and solicitor or pleader.

40 Interim suspension from practice

- (1) At any time after a complaint of professional misconduct has been made against any practitioner under section 35 of this Act or information has been referred under section 36 the Chief Justice may, of his own motion and without the necessity of giving any notice to the practitioner, make an order that he be suspended from practice as a barrister and solicitor or pleader until the charge has been heard and disposed of.
- (2) The practitioner in respect of whom any interim suspension order is made under this section may at any time apply to the Chief Justice for the revocation of the order and the Chief Justice may grant or refuse any such application as he thinks fit.

41 Restoration to roll and termination of suspension

- (1) Where the name of any practitioner has been struck from the Roll or he has been suspended from practice under section 37 of this Act, the Chief Justice may, on the petition of the practitioner, in his absolute discretion by order restore the name of that practitioner to the Roll or terminate any suspension either unconditionally or subject to such terms and conditions as he may think fit; whereupon, subject to such order, the striking-off or suspension shall be cancelled or cease, and the practitioner shall, subject to the provisions of section 13 and Part IV of this Act be entitled to the return or renewal of his practising certificate, as the case may be.
- (2) The Chief Justice may make rules or give directions as to the manner in which petitions made under the preceding subsection shall be heard and may by rule limit the frequency with which such petitions may be made.

42 Chief Justice may order payment of costs

After the hearing of any complaint or information under this Part of this Act the Chief Justice may make such order as to the payment of costs and expenses as he thinks fit and, in particular:

- (a) may order that costs and expenses be awarded to any practitioner in relation to whom a complaint has been made and that those costs be paid by the complainant; or
- (b) without finding a practitioner guilty of professional misconduct or of conduct unbecoming a barrister and solicitor or pleader may nevertheless, if he considers that the complaint or referral of information was justified and that it is just to do so, order him to pay into the Treasury Fund such sums as he may at any time think fit in respect of costs and expenses of and incidental to the proceedings, including all or any part of the costs and expenses of and incidental to any investigation of the practitioner's conduct or of his accounts carried out by or for the Chief Justice.

43 Recovery of penalties and costs

Any sum ordered by the Chief Justice to be paid by way of penalty or costs or expenses under this Part of this Act shall be deemed to be a debt due by the person ordered to pay it to the Republic or the person to whom it is ordered to be paid, as the case may be, and shall be recoverable accordingly in any Court of competent jurisdiction.

44 Witnesses may be required to attend and give evidence

- (1) The Chief Justice may, by notice in writing signed by himself or by the Registrar, require any person to attend and give evidence before him at the hearing of a complaint or information under this Part of this Act, and to produce all books and documents in that person's custody or under his control relating to the subject-matter of any such complaint or information.
- (2) The Chief Justice may require evidence to be given on oath, and either orally or in writing, and for that purpose he may administer an oath.
- (3) Every person who without lawful justification refuses or fails to attend and give evidence when required to do so by the Chief Justice, or to answer fully any question put to him, or to produce to the Chief Justice any book or document required of him, is guilty of an offence against this section and is liable to a fine not exceeding two hundred dollars.

45 Immunity of witnesses and counsel

- (1) Witnesses and counsel shall have the same privileges and immunities in relation to complaints, informations and inquiries

under the provisions of this Part of this Act as if they were proceedings in a Court.

- (2) The hearing of a complaint or information under the provisions of this Part of this Act shall for the purpose of Chapter XVI of the *Criminal Code 1899* be deemed to be a judicial proceeding.

46 Witnesses' expenses

- (1) Every witness giving evidence or attending to give evidence at the hearing of any complaint or information under this Part of this Act shall be entitled in the discretion of the Chief Justice to such sum of his expenses and loss of time as the Chief Justice may determine.
- (2) Subject to any order made by the Chief Justice as to the payment of costs and expenses, such witnesses' expenses shall be paid from, and be a charge upon, the Treasury Fund.

47 Rules of procedure

The Chief Justice may from time to time make rules in respect of the making, investigation and determining of complaints and informations under this Part of this Act.

48 Orders for striking off, removal, suspension or restoration to be filed in Court

- (1) Any order of the Chief Justice under this Part of this Act shall be filed as part of the records of the Supreme Court and shall thereupon take effect as if it were an order of the Supreme Court to the like effect made within the jurisdiction of that Court.
- (2) Any order filed under this section may be inspected by any person during office hours without payment of any fee.

49 Notice of order for striking off, removal, suspension or restoration to be published in Gazette

Where any order has been filed by the Registrar under the provisions of section 48 he shall forthwith cause a notice stating the date and effect of the order to be published in the Gazette.

50 Procedure where matter is referred by Chief Justice

- (1) Where under section 36 of this Act information is referred by the Supreme Court presided over by the Chief Justice, or by the Chief Justice as a judge, he shall forthwith notify the Minister of that fact and the Minister shall thereupon by writing under his hand appoint another person who has been, or is qualified to be, admitted to practice as a barrister and solicitor to perform the duties and functions imposed on the Chief Justice by sections 35, 36, 37 and 40 of this Act.
- (2) Any person appointed under the provisions of the preceding

subsection shall, by virtue of the appointment, in his investigation and determination of the information referred by the Chief Justice have all the powers and jurisdiction of the Chief Justice under this Part of this Act, except section 41, and any reference in this Part to an order made by the Chief Justice shall be deemed to refer also to any order made by that person.

- (3) In respect of any information referred by him under section 36 of this Act, the Chief Justice shall not exercise any of the powers conferred upon him by this Part of this Act, except section 41.

PART VII — OFFENCES

51 Penalty for unqualified person practising

Every person who, not being enrolled, or being suspended from practice, as a barrister and solicitor, a pleader or a notary public, practises as such, or wilfully pretends to be or takes or uses any name, title or description implying that he is qualified to practise as such, or who, unless he proves that the act was not done for or in expectation of any fee, gain or reward, draws or prepares any instrument relating to any real or personal estate or property or any legal proceeding, is guilty of an offence and is liable to a fine not exceeding five hundred dollars and for a second or subsequent offence to such fine and to imprisonment for six months:

Provided that:

- (a) this section shall not extend to:
- (i) any public officer drawing or preparing instruments in the course of his duty or exercising or performing any powers, functions and duties which he is empowered to exercise or perform under the provisions of any written law; or
 - (ii) any person employed merely to type or engross any instrument or process;
- (b) the expression '*instrument*' in this subsection does not include:
- (i) an agreement under hand only; or
 - (ii) a transfer of stock containing no trust or limitation thereof.

52 Penalty for unqualified person acting in preparation of papers for probate

Any person, not being enrolled as a barrister and solicitor or as a pleader, 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 person qualified as abovementioned, takes instructions for or draws or

prepares any papers on which to found or oppose a grant of probate or of letters of administration is, without prejudice to any liability or disability to which he may be subject under or any other section of this Act or any other written law, guilty of an offence and is liable to a fine not exceeding five hundred dollars and for a second or subsequent offence to such fine and to imprisonment for six months.

53 Penalty for practising without a practising certificate

Any person who directly or indirectly acts or practises as a barrister and solicitor or as a pleader without having in force at the time a valid practising certificate according to the provisions contained in this Act is guilty of an offence and is liable to the same penalties as are provided in the case of persons practising as barristers and solicitors or pleaders without possessing any qualification so to do and shall be incapable of recovering any fee, reward or disbursement on account of or in relation to any act or proceeding done or taken by him in any such capacity.

54 Practitioners not to act as agents for unqualified persons, or to employ a person struck off the Roll or suspended

- (1) No barrister and solicitor shall knowingly act as an agent for any other person, other than a barrister and solicitor, in the performance of any act which under the provisions of this Act or any other law may be performed only by a barrister and solicitor, nor shall he allow his name to be made use of by any person, other than a barrister and solicitor, in respect of the performance of such an act.
- (2) No barrister and solicitor or pleader shall knowingly act as an agent for any other person, other than a barrister and solicitor or a pleader, in the performance of any act which under the provisions of this Act or any other law may be performed by a barrister and solicitor or a pleader but no other person, nor shall he allow his name to be made use of by any person, other than a barrister and solicitor or pleader, in respect of the performance of such an act.
- (3) Except with the consent of the Chief Justice, no barrister and solicitor or pleader, in connection with his practice, shall employ or remunerate any person who to his knowledge is disqualified from practising as a barrister and solicitor or pleader by reason of the fact that his name has been removed from the Roll as a result of disciplinary proceedings or by reason of the fact that he has been suspended from practising for a like cause; nor shall any barrister and solicitor or pleader in connection with his practice employ or remunerate any person who to his knowledge is prevented for any disciplinary reason from practising in any part of the Commonwealth or the Republic of Ireland.
- (4) Any barrister and solicitor who acts in contravention of the provisions of any of the preceding three subsections, and a

pleader who acts in contravention of either of the last preceding two subsections, is guilty of professional misconduct.

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

- (1) Any person who, whilst he is disqualified from practising as a barrister and solicitor by reason of the fact that he has been struck off the Roll otherwise than at his own request or is suspended from practising as a barrister and solicitor or is prevented for disciplinary reasons from practising in any part of the Commonwealth or the Republic of Ireland, seeks or accepts employment by a barrister and solicitor or pleader in connection with that barrister and solicitor's or pleader's practice without previously informing him in writing that he is so disqualified as aforesaid, is guilty of an offence and is liable to a fine not exceeding five hundred dollars and to imprisonment for six months.
- (2) Notwithstanding anything in the *Criminal Procedure Act 1972*, 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 Director of Public Prosecutions.

PART VIII — PROTECTION OF THE CHIEF JUSTICE, THE MINISTER, ETC.

56 Protection of the Chief Justice, the Minister, etc.

No criminal or civil proceedings whatsoever shall be taken against the Chief Justice, the Minister or any person appointed under the provisions of section 50 of this Act to perform the duties and functions of the Chief Justice, in respect of anything done in accordance with the provisions of this Act.

PART IX — RULES

57 Power to make rules

It shall be lawful for the Chief Justice to make rules for carrying this Act into effect and, without prejudice to the generality of the foregoing power, to make rules for all or any of the following matters:

- (a) for regulating the admission of barristers and solicitors and pleaders to practice and their professional practice, conduct, etiquette and discipline;
- (b) for regulating the fees chargeable by barristers and solicitors and pleaders;
- (c) for regulating the conduct of clerks, employees and agents

- of barristers and solicitors and of pleaders in connection with the practice of the law;
- (d) prescribing the procedure in respect of complaints and disciplinary proceedings against barristers and solicitors and pleaders;
 - (e) as to the opening and keeping by barristers and solicitors of accounts at banks for clients' moneys;
 - (f) as to the keeping by barristers and solicitors of accounts containing particulars and information as to moneys received, held or paid by them for or on account of their clients;
 - (g) providing for the auditing at regular intervals or otherwise of the foregoing accounts by approved auditors upon the application of the Minister or of a client, and for a report or certificate of the result of every such audit;
 - (h) requiring the production to such auditors of books, papers and accounts;
 - (i) prescribing a scale of fees to be paid to auditors, and by whom such fees shall be paid;
 - (j) prescribing the procedure for removal of the name of a barrister and solicitor or a pleader from the Roll on the application of such barrister and solicitor or pleader;
 - (k) prescribing the form of practising certificates;
 - (l) prescribing anything which is required or permitted to be prescribed by rules under this Act.

Notes for Legal Practitioners Act 1973

Table of Constituent Legislation

Acts

Short title	Number	Certification	Commencement
<i>Legal Practitioners Act 1973</i>	1973/13	01.11.1973	16.01.1974 (GN 286/1973)
<i>Legal Practitioners (Amendment) Act 1973</i>	1974/01	20.02.1974	20.02.1974
<i>Statute Law Revision Act 2011</i>	2011/08	15.04.2011	15.04.2011
<i>Legal Practitioners (Amendment) Act 2014</i>	2014/09	09.06.2014	09.06.2014

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision Affected	How Affected
Section 3A	Ad. by Act 2014/09
Section 5	Am. by Act 1974/01.
Section 7A	Ad. by Act 2014/09
Section 19	Subs. (4) Am. by Act 2011/08
Section 38	Subs. (2) Am. by Act 2011/08
Section 45	Subs. (2) Am. by Act 2011/08