
CHAPTER 254**LEGAL PRACTITIONERS**

ARRANGEMENT OF SECTIONS

PART I—PRELIMINARY**SECTION**

1. Short title.
2. Interpretation.

PART II—ADMISSION OF BARRISTERS AND SOLICITORS

3. Chief Justice to enrol barristers and solicitors.
4. Qualifications of barristers and solicitors.
5. Legal experience.
6. Saving for existing barristers and solicitors.
7. Chief Justice may grant exemption.
8. Temporary admission.
9. Application for admission.
10. Barristers and solicitors to enrol names in Roll of Court.
11. Certificates of enrolment to be granted.
12. Removal from Roll on own application.

PART III—RIGHTS AND LIABILITIES OF BARRISTERS AND SOLICITORS

13. Rights of barristers and solicitors to appear in courts and perform functions of barristers and solicitors.
14. Barrister and solicitor may sue for and recover taxed costs.
15. Agreements as to costs.
16. Barrister and solicitor deemed an officer of court.
17. Agreements exempting barristers and solicitors from negligence to be void.
18. Order for barrister and solicitor to render bill, and to deliver deeds, etc.

PART IV—PRACTISING CERTIFICATES

19. Application for issue of practising certificate.
20. Date of issue of practising certificate.
21. Barrister and solicitor neglecting to renew certificate.
22. Cancellation or suspension of practising certificate.

PART V—NOTARIES PUBLIC

23. Chief Justice may appoint notaries public.
24. Notaries to be sworn.
25. Roll of Notaries Public.
26. Notaries to be officers of the Court.
27. In suspicious cases notary to refuse to act.
28. Notary to mark refusal on document.
29. Penalty for false certificates, etc.
30. Fees.

PART VI—COMMISSIONERS FOR OATHS

31. Appointment of Commissioners for Oaths.

PART VII—INCORPORATION OF THE FIJI LAW SOCIETY

32. Establishment of Fiji Law Society.
33. Objects of the Society.
34. Dissolution and vesting of assets of former Society.

Membership of the Fiji Law Society

35. Qualifications for membership.
36. Other members.
37. Honorary members.
38. Fees and subscriptions.
39. Resignation.
40. Expulsion.
41. Members ceasing to be qualified for membership.

Council of the Fiji Law Society

42. Constitution of the Council.
43. Powers of the Council.
44. Committees and delegation.
45. Procedure.

Other Officers of the Society

46. Other officers.
47. Committees.

General Meetings of the Society

48. General meetings.
49. Requisition.
50. Voting.
51. General meeting to act by simple majority.
52. Alteration of resolution.
53. Convening and procedure.

Common Seal

54. Custody and use of common seal.

Minutes, Accounts and Reports

- 55. Minutes.
- 56. Accounts to be kept.
- 57. Reports and accounts.

PART VIII—DISCIPLINE

- 58. Appointment of Disciplinary Committee.
- 59. Complaints.
- 60. Court or Solicitor-General may refer information to Council.
- 61. Functions of a Disciplinary Committee.
- 62. Orders for striking off Roll or suspension from practice.
- 63. Right of practitioner to be heard.
- 64. Interim suspension from practice.
- 65. Termination of suspension.
- 66. Disciplinary Committee may order payment of costs.
- 67. Recovery of penalties and costs.
- 68. Witnesses may be required to attend and give evidence.
- 69. Immunity of witnesses and counsel.
- 70. Witnesses's expenses.
- 71. Rules of procedure.
- 72. Order of Disciplinary Committee.
- 73. Orders for striking off, removal, restoration or suspension, to be filed in Court.
- 74. Appeals from decisions of Disciplinary Committee.
- 75. Notices of orders for striking off, removal, restoration or suspension to be published in Gazette.

PART IX—BENEVOLENT FUND

- 76. Benevolent fund.

PART X—OFFENCES

- 77. Penalty for unqualified persons practising.
- 78. Penalty on unqualified person acting in preparation of papers for probate.
- 79. Penalty for practising without a practising certificate.
- 80. Barristers and solicitors not to act as agents for unqualified persons or to employ a person struck off the Roll or suspended.
- 81. Penalty on failure to disclose fact of having been struck off, etc.

PART XI—PROTECTION OF COUNCIL OF SOCIETY

- 82. Protection of Council.

PART XII—RULES AND REGULATIONS

- 83. Power to make rules.
- 84. Regulations.

LEGAL PRACTITIONERS

*Ordinance Nos. 23 of 1965, 44 of 1968,
Legal Notices Nos. 112 of 1970, 118 of 1970,
Act Nos. 14 of 1975, 24 of 1976, 23 of 1982.*

AN ACT TO CONSOLIDATE AND AMEND THE LAW RELATING TO
LEGAL PRACTITIONERS, COMMISSIONERS FOR OATHS AND NOTARIES
PUBLIC, AND TO INCORPORATE THE FIJI LAW SOCIETY

[3 December, 1965.]

PART I—PRELIMINARY

Short title

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

Interpretation

- 2.—(1) In this Act, unless the context otherwise requires—

“Council” means the Council of the Fiji Law Society established under the provisions of section 42;

“Court” means the Supreme Court of Fiji;

“Court of Appeal” means the Fiji Court of Appeal;

“Disciplinary Committee” means a Disciplinary Committee established under the provisions of section 58;

“former society” means the Fiji Law Society existing immediately prior to 3 December 1965;

“practising certificate” means a certificate issued under the provisions of section 19;

“practitioner” means a person enrolled as a barrister and solicitor of the Court excluding the persons mentioned in section 36;

“prescribed” means prescribed by rules or regulations made under the provisions of this Act;

“public officer” includes an officer in the employment of any city or town council or of a board or authority established by or under the provisions of any Act; (*Amended by 14 of 1975, s. 61.*)

“Registrar” means the Chief Registrar of the Supreme Court;

“Roll” means the Roll of the Court;

“Society” means the Fiji Law Society established by the provisions of section 32;

“special resolution” means a resolution passed by not less than two-thirds of such members of the Society as may be present and vote thereon at a general meeting of the Society duly convened with full notice of the intention to propose such resolution as a special resolution;

“Territories” means the countries specified in paragraph (c) of section 4 or such other British Dominion, country or Colony which may be named by order under the provisions of such paragraph.

- (2) Wherever in this Act, there is a requirement of legal experience or pupillage gained or completed or practice had it may be fulfilled by legal experience gained or, as the case may be, pupillage or practice had partly in one and partly in another of the places or manners specified.

PART II—ADMISSION OF BARRISTERS AND SOLICITORS

Chief Justice to enrol barristers and solicitors

3.—(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 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 my self 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.

Qualifications of barristers and solicitors

4. Every person shall be qualified for admission as a barrister and solicitor who fulfils all the qualifications provided for in this section and in addition has such legal experience required under the provisions of section 5 as is applicable in his case—

- (a) he is a Citizen of a Commonwealth Country;
- (b) he has attained the age of 21 years;
- (c) he has been admitted as a barrister or solicitor in England, Northern Ireland or the Republic of Ireland, as an advocate or law agent in Scotland or as a barrister or solicitor in Australia, New Zealand or in any other British Dominion, country of the Commonwealth or Colony which may from time to time be named by order of the Minister after consultation with the Chief Justice;
- (d) before making his application for admission as a barrister and solicitor in Fiji he has resided in Fiji for a period of at least three months immediately prior to making his application for admission unless the Chief Justice for good reason shall dispense with such residential requirement. (*Amended by 14 of 1975, s. 61.*)

Legal experience

5.—(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 in any of the Territories for a period of not less than one year; or
- (b) completed a period of at least one year's pupillage in any of the Territories or in Fiji in the chambers or offices of a barrister, advocate, solicitor, or law agent of at least five years' standing; or in the offices of a firm of solicitors or law agents at least one member of which is a solicitor or law agent of at least five years' standing; or
- (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 or law agent in any of the Territories or in Fiji or in the legal department of a Government or of a local authority; or

- (d) completed, in any of the Territories or in Fiji, a course of practical legal instruction approved by the Chief Justice.
- (2) (a) The practice referred to in paragraph (a) of subsection (1) may have been carried on in any of the Territories after admission as a barrister, advocate, solicitor or law agent in such Territory.
- (b) The pupillage, legal work or course of practical legal instruction specified in paragraphs (b), (c) and (d) of subsection (1) may be completed or carried out either before or after admission as a barrister, advocate, solicitor or law agent in such country.

Saving for existing barristers and solicitors

6. The provisions of section 5 shall not apply to any person admitted as a barrister and solicitor in Fiji prior to the commencement of this Act.

Chief Justice may grant exemption

7. 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 paragraph (c) of section 4 or included in any order made thereunder in spite of the fact that he has not had the pupillage or other legal experience required by section 5, if, in the opinion of the Chief Justice, such person has had sufficient other practical legal experience.

Temporary admission

8. Notwithstanding the other provisions of this Act, the Chief Justice may, after consulting the Council, admit to practise, subject to such conditions as the Chief Justice may see fit to impose and to the payment of such fee as may be prescribed by rules, as a barrister and solicitor, for the purpose of any specific cause or matter, any person of the classes of persons mentioned in paragraph (c) of section 4 or included in any order made thereunder, who has come or intends to come to Fiji for the purpose of appearing in such cause or matter:

Provided that—

- (a) any such person shall only be entitled to appear or act—
- (i) in the cause or matter for the purpose of which he is admitted; and
 - (ii) if he is instructed by, and if when appearing in any court in the conduct of the cause or matter he appears together with, a barrister and solicitor admitted to practise in Fiji;
- (b) any such person shall be subject to the provisions of Part VIII.

Application for admission

9.—(1) Every application for admission 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 Council which may require the applicant to appear before it for the purpose of an interview. The Council shall, after making or causing to be made such inquiries into the character, qualification and experience of the applicant as it shall deem necessary, forward to the Chief Justice a confidential report regarding the suitability or otherwise of such applicant for admission as a barrister and solicitor, and, if such confidential report is adverse to the applicant, communicate the substance thereof to him.

(2) Upon application for admission being made under the provisions of subsection (1) and after considering the confidential report of the Council 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 shall, unless cause to the contrary is shown to his satisfaction by the said confidential report or otherwise, by writing under his hand and in such manner and form as he may from time to time think fit, admit the applicant to be a barrister and solicitor.

(3) All reports and communications under this section shall be absolutely privileged.

(4) The Chief Justice may, on special grounds and upon such terms as he may think reasonable, exempt any such person from complying with the formalities prescribed by this section either absolutely or for any specified period.

Barristers and solicitors to enrol names in Roll of Court

10. Every person admitted to practice as a barrister and solicitor shall cause his name to be enrolled in a book to be kept for the purpose in the office of the Registrar and to be called the Roll of the Court, and no person whose name is not for the time being enrolled as aforesaid shall be entitled to practise as such in Fiji.

Certificate of enrolment

11. The Registrar shall, on application, grant a certificate of enrolment under the seal of the Court to any person who has been enrolled under section 10 provided that application is made while the name of the applicant is on the Roll and provided that the Registrar shall not be required to grant more than one certificate in respect of one enrolment.

Removal from Roll on own application

12. The Registrar may remove from the Roll the name of any barrister and solicitor who applies for such removal, in accordance with any rules:

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

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

Rights of barristers and solicitors to appear in courts and perform functions of barristers and solicitors

13.—(1) Subject to the succeeding provisions of this section and to the provisions of Part IV and of any rule or regulation made thereunder 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 Fiji and to perform all the functions which may be performed by a barrister and by a solicitor, in England.

(2) A barrister and solicitor shall not be entitled to argue any cause or matter before the Fiji Court of Appeal or the Supreme Court (other than in chambers or before the Registrar except on an originating summons), unless with another barrister and solicitor of at least three years' standing in Fiji until he has practised for a period of at least three years, including any period of pupillage under the provisions of section 5, either as a barrister or solicitor in any one or more of the Territories or in Fiji.

(3) Except with the leave of the Chief Justice no person who has become qualified for admission as a barrister and solicitor in Fiji shall commence practice on his own account, other than in partnership with a barrister and solicitor of at least three years' standing in Fiji, 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 Fiji or in any of the Territories, either in the office of a barrister or solicitor or advocate or law agent of firm of solicitors or law agents in active practice or in the legal branch of a Government department.

(4) Any barrister and solicitor failing to comply with the provisions of subsections (2) or (3) shall be deemed to be an unqualified person to the extent to which such restrictions shall apply.

(5) The restrictions contained in subsections (2) and (3) shall not apply—

(a) 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 practical legal experience, to the extent of such exemption;

(b) to any person admitted to practise in Fiji prior to the commencement of this Act.

Barrister and solicitor may sue for and recover taxed costs

14. Every barrister and solicitor 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 15, the amount of such agreed costs, in respect of services rendered whether as a barrister or solicitor.

Agreements as to costs

15.—(1) A barrister and solicitor, other than a barrister and solicitor who is a public officer, may make a written agreement with his client respecting the amount and manner of payment for the whole or any part or parts of any past or future services, fees, charges, or disbursements in respect of business done or to be done by such barrister and solicitor, either by a gross sum or otherwise howsoever.

(2) Such an agreement shall exclude any future claim of the barrister and solicitor in respect of any services, fees, charges or disbursements in relation to the conduct and completion of the business 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 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 such written agreement beyond the amount payable by the client to the said barrister and solicitor under such agreement.

(3) Any such agreement 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 judge such agreement is unreasonable, the amount payable may be reduced or the agreement cancelled and the costs taxed in the ordinary way, and the Court or judge may also make such order as to the costs of and relating to such review, and the proceedings thereon, as the Court or judge may seem fit.

(4) If after any such agreement as aforesaid and before the full performance thereof, the barrister and solicitor shall die, become incapable of acting (unless such incapacity is caused by the barrister and solicitor being struck of the Roll, or

suspended from practice), or cease to practise in Fiji, or the client shall die or change to another barrister and solicitor, the agreement shall cease and be void, and the former barrister and solicitor, or his executors, administrators or assigns, shall be entitled to charge such client, or his executors or administrators, for all services, fees, charges or disbursements then performed, 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 barrister and solicitor may take security from his client or any other person for his future services, fees, charges or disbursements.

(6) Nothing in this Act shall be construed to give validity to any purchase by a barrister and solicitor of the interest or any part of the interest of his client in any suit, action or other contentious proceeding to be brought or maintained, or to any agreement by a barrister and solicitor for payment only in the event of success in any suit, action or other contentious proceeding.

Barrister and solicitor deemed an officer of court

16. Every person practising as a barrister and solicitor and whose name is enrolled as aforesaid shall be deemed to be an officer of the Court.

Agreements exempting barristers and solicitors from negligence to be void

17. Any provision in any agreement between a barrister and solicitor and a client that the barrister and solicitor shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as such barrister and solicitor, shall be wholly void.

Order for barrister and solicitor to render bill, and to deliver deeds, etc.

18.—(1) Where a barrister and solicitor has transacted any business for any person, whether in any court or not, or has or may have a claim for costs against any person, the Court may make an order for the delivery by the barrister and solicitor 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 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

Application for and issue of practising certificates

19.—(1) Every person admitted to practise as a barrister and solicitor 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) to practice as such.

(Amended by 44 of 1968, s. 2.)

(2) Every barrister and solicitor on first applying for a practising certificate and thereafter within one month of any change taking place in any of the particulars required to be delivered under the provisions of this subsection, shall deliver to the Registrar a written statement specifying the name and place of residence of such barrister and solicitor and the date of his admission and each such statement shall be signed by such barrister and solicitor. *(Substituted by 44 of 1968, s. 2.)*

(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 such barrister and solicitor shall pay to the Registrar a fee of fifty dollars* or such other fee as Parliament may, by resolution, decide in respect of such certificate and he shall thereupon become by virtue of this Act, and without election, admission or appointment, a member of the Society and be subject to any provision of law for the time being affecting such member:

Provided that every barrister and solicitor to whom a practising certificate is issued before the 1st day of February in any year, shall, if he was a barrister and solicitor on the 1st day of January of that year, be deemed to have become a member of the Society on the said 1st day of January.

(Substituted by 44 of 1968, s. 2.)

(5) The Registrar shall withhold the issue of a practising certificate to a barrister and solicitor until the fee therefor has been paid and the barrister and solicitor has produced a receipt for his annual subscription to the Society.

(6) Every barrister and solicitor who becomes a member of the Society by virtue of subsection (4) shall, subject to the provisions of subsection (7) and of sections 39, 40 and 41, remain a member until the end of the current year.

(7) A barrister and solicitor who is a member of the Society by virtue of subsection (4) and who is suspended from practice, shall not be entitled during the period of such suspension to any of the rights or privileges of such membership.

(8) If, in any case not being a case to which subsection (5) of section 22 applies, the Registrar on application duly made to him refuses or neglects to issue a practising certificate, the applicant may apply to the Chief Justice who may make such order in the matter including an order for payment of costs as shall be just.

(9) Subject to the foregoing provisions of this section and to the provisions of section 22, the Registrar, if satisfied that the name of an applicant is on the Roll, shall after the expiration of six days from the delivery to him of the statement referred to in subsection (2), deliver to the applicant or his agent on demand, a practising certificate in such form as may be prescribed.

(10) 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 in the course of his duties.

Date of issue of practising certificate

20.—(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 1st day of January and the 1st day of February in any year shall have effect for all purposes from the 1st 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 31st day of December following (both days inclusive) and shall then expire.

(Amended by 14 of 1975, s. 61.)

(3) It shall be the duty of the Registrar to keep a record of the date of issue to any barrister and solicitor of a practising certificate.

(Section amended by 44 of 1968, s. 3.)

* Resolution of House of Representatives 19th August 1974.

Barrister and solicitor neglecting to renew certificate

21. 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 Registrar to issue a certificate to such person on such terms and conditions as he may think fit.

Cancellation or suspension of practising certificate

22.—(1) Whenever the name of a barrister and solicitor 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 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 such adjudication shall operate immediately to suspend his practising certificate, and he shall return the same 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 in bankruptcy is annulled.

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

PART V—NOTARIES PUBLIC*Chief Justice may appoint notaries public*

23. 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 Fiji to discharge the duties assigned to such office by the laws of the United Kingdom and of Fiji or by the practice of commerce, and every person so appointed shall, on his appointment, pay as stamp duty to the Commissioner of Stamp Duties the sum of fifty dollars.

Notaries to be sworn

24. 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.

Roll of Notaries Public

25. 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 he shall be entitled to a certificate of enrolment under the seal of the Court and no person whose name has not been enrolled as aforesaid shall be entitled to perform the duties of a notary public within Fiji.

Notaries to be officers of the court

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

In suspicious cases notary to refuse to act

27. 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 before applying for such order, written notice of the application shall be given to the notary public refusing to act, and to such persons (if any) in Fiji as have any interest in the subject matter of the protest or other notarial act.

Notary to mark refusal on document

28. When any notary public refuses to note or to do any protest or other notarial act the notary public so refusing shall mark in or on the log book, bill of exchange or other document, his refusal with his signature and the date of refusal subscribed thereon.

Penalty for false certificates, etc.

29. 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 shall be guilty of a misdemeanor and shall be liable to imprisonment for a term not exceeding two years.

Fees

30. 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—COMMISSIONERS FOR OATHS*Appointment of Commissioners for Oaths*

31.—(1) The Chief Justice may appoint, under his signature and the seal of the Supreme Court from time to time, such and so many barristers and solicitors and other persons as may be requisite to be Commissioners for taking affidavits and declarations and receiving production of documents or for taking the examination of witnesses on interrogatories or otherwise which may be necessary to be taken in respect of any proceedings in any court, and any order of a court for the attendance and examination of witnesses or production of documents before any such Commissioner within the jurisdiction of the Court shall be enforced in the same manner as an order to attend or be examined or produce documents before the Court.

(2) No action shall be brought against any Commissioner in respect of any act or order performed or made by him in good faith in the execution or supposed

execution of the powers or jurisdiction vested in him, but every such act or order, if in excess of such powers and jurisdiction, shall be liable to be revised, altered, amended or set aside upon application to the Court.

(3) A barrister and solicitor, not being the holder of an appointment under subsection (1), who is the holder of a practising certificate that is in force shall, notwithstanding the absence of such an appointment, be deemed, for the purposes of this Act and any other written law, to be a Commissioner appointed under subsection (1). (*Inserted by Act 23 of 1982, s. 2.*)

(4) The signature of a person, when placed on a document in the exercise by that person of the powers of a Commissioner under this section, shall be followed by the description "Commissioner for Oaths". (*Inserted by Act 23 of 1982, s. 2.*)

PART VII—INCORPORATION OF THE FIJI LAW SOCIETY

Establishment of Fiji Law Society

32. There is hereby established a society under the name of the Fiji Law Society and, by that name, the Society shall have perpetual succession and a common seal. The Society shall have power to hold real and personal property and may sue and be sued in matters whether relating to contract or tort or otherwise in connection with the exercise of its powers or the carrying out of its functions under this Act.

Objects of the Society

33. The objects for which the Society is established are—

- (a) to maintain and improve the standards of conduct and learning of the legal profession in Fiji;
- (b) to promote the welfare and to preserve and maintain the integrity and status of the legal profession;
- (c) to assist the Government and the courts in all matters affecting legislation and law reform and the administration and practice of the law in Fiji;
- (d) to aid and give countenance to law reform and to represent the views, interests and wishes of the legal profession;
- (e) to represent, protect and assist members of the legal profession in Fiji as regards conditions of practice and otherwise;
- (f) to settle points of practice and to provide means for the amicable settlement of professional differences;
- (g) to protect and assist the public and the legal profession in all matters touching, ancillary or incidental to the practice of the law;
- (h) to aid in the preparation, circulation and publication of legal decisions given in or affecting Fiji;
- (i) to assist needy members and former members of the Society or their relatives and the relatives of deceased members;
- (j) to investigate charges of professional misconduct against any practitioner and to take such action thereon as may seem proper;
- (k) to intervene in any application made for the admission or re-admission as a barrister and solicitor, or any other application made under this Act;
- (l) to acquire, hold, develop or dispose of property of all kinds, whether real or personal, and to derive capital or income therefrom, for all or any of the foregoing objects;
- (m) to raise or borrow money for all or any of the foregoing objects in such manner and upon such security as may from time to time be

- determined by the Society;
- (n) to invest and deal with moneys of the Society not immediately required in such manner as may from time to time be determined by the Society;
 - (o) to appoint any practitioner to appear before any court or tribunal in any of the foregoing matters or in any other matter in which the Society is concerned or interested, and any practitioner so appearing shall have audience accordingly on behalf of the Society;
 - (p) to pay the whole or any part of the expenses incurred by members in attending meetings of the Council or meetings of any committee appointed by the Council;
 - (q) to pay all costs, witnesses' expenses, and other payments incidental to or connected with the discharge of any function of the Society;
 - (r) to tender advice to the Chief Justice as respects any of his powers and duties under the provisions of this Act;
 - (s) to do all such other things as are incidental or conducive to the attainment of the foregoing objects or any of them.

Dissolution and vesting of assets of former society

34. All property and assets of the former society shall be and are hereby as at 3 December 1965, vested in the Society and, so soon as all formalities connected with the transfer of all such property and assets as aforesaid to the Society shall be declared by the secretary of the former society to have been completed, the former society shall automatically be dissolved and any levy or other such moneys due and owing to the former society shall be paid to and be recoverable by the Society.

Membership of the Fiji Law Society

Qualifications for membership

35. The membership of the Society shall consist of the following:—
- (a) every person who for the time being is engaged in practice as a barrister and solicitor on his own account, whether in partnership or otherwise, while he continues to hold a practising certificate, whether or not he applies for membership of the Society;
 - (b) every person employed or engaged in the office of such person aforesaid or his firm who has been admitted to practice and who continues to hold a practising certificate as a barrister and solicitor in Fiji;
 - (c) all persons admitted to membership of the Society under section 36;
 - (d) all persons elected as honorary members of the Society under section 37.

Other members

36. Any of the following persons who applies for membership of the Society in the manner prescribed by regulation shall be admitted as a member of the Society, that is to say:—

- (a) the Attorney-General and any person holding an appointment in the public service for which qualifications as a barrister and solicitor are required; (*Substituted by Act 24 of 1976, s. 11.*)
- (b) such other legally qualified persons for the time being resident in Fiji as may from time to time be determined by special resolution:

Provided that no person who has been expelled from membership of the Society shall thereafter be admitted again as a member thereof without the authority of a special resolution.

Honorary membership

37. The Council may elect as honorary members of the Society such persons as it may think fit, either for life or for such period as the Council may in any case deem appropriate.

Fees and subscriptions

38.—(1) No entrance fee shall be payable by any person upon becoming a member of the Society.

(2) Members of the Society shall pay into the funds of the Society such annual subscription as may from time to time be prescribed by regulation:

Provided that no honorary member shall be liable to pay such subscription.

Resignation

39. While a member of the Society continues to hold a practising certificate as a barrister and solicitor he shall not be permitted to resign from membership.

Expulsion

40. Any member of the Society, other than an honorary member, may be expelled therefrom in such manner, and upon such grounds as may from time to time be prescribed, after being given a reasonable opportunity to answer all allegations made against him:

Provided that no member of the Society who is entitled to practise as a barrister and solicitor shall be expelled from the Society at any time while entitled so to practise.

Members ceasing to be qualified for membership

41. Any member of the Society, other than an honorary member, who ceases to be qualified for membership shall thereupon automatically cease to be a member but without prejudice to any antecedent liabilities and obligations on the part of such member to the Society.

*Council of the Fiji Law Society**Constitution of the Council*

42. For the proper management of the affairs of the Society, there shall be a Council consisting of a President, a Vice-President and six other persons, all of whom shall be members of the society and elected annually by the Society in general meeting.

Powers of the Council

43. Except as otherwise expressly provided by this Act or by any regulations made thereunder, the Council may exercise all the powers of the Society, and no regulations made under this Act shall invalidate any prior act of the Council which would have been valid if such regulations had not been made.

Committees and delegation

44. The Council may from time to time appoint committees consisting of members of the Society including committees for any particular area or district of Fiji, and may, except as otherwise expressly provided by this Act or by any regulations made thereunder delegate to any such committee all or any of the powers of the Council.

Procedure

45. The procedure of the Council, and of every committee appointed as aforesaid, shall be as may be prescribed from time to time by regulations.

*Other Officers of the Society**Other officers*

46. There shall be such Secretary, Treasurer and other officers of the Society, paid or unpaid, as the Council may appoint from time to time.

Committees

47. All representatives of the Society on any body or committee to be established under any enactment shall be nominated by the Council.

*General Meetings of the Society**General meetings*

48. The Council shall during the month of September in every year, and may at any other time or times at the discretion of the Council, convene a general meeting of the Society. (*Amended by 44 of 1968, s. 4.*)

Requisition

49. Any fifteen members of the Society may at any time requisition a general meeting by written notice in that behalf signed by them, specifying the object of the proposed meeting, and deposited with the Secretary of the Society, and thereupon the Council shall convene a general meeting of the Society accordingly. If the Council fails for fourteen days after such deposit to convene a general meeting in accordance with the requisition, to be held within thirty days after such deposit, the requisitioning members may themselves convene that general meeting to be held at any time within two months after such deposit.

Voting

50. At every general meeting of the Society, every member present shall have one vote and the chairman of that meeting shall also have a casting vote, but there shall be no voting by proxy.

General meeting to act by simple majority

51. Except for any purpose for which a special resolution is expressly required by this Act or by any regulation made thereunder, all resolutions of the Society in general meeting shall be by simple majority vote of those present and voting.

Alteration of resolution

52. No resolution of the Society in general meeting shall be altered or rescinded within nine months after the passing thereof otherwise than by a special resolution of the Society.

Convening and procedure

53. The manner of convening general meetings of the Society, and the procedure thereat shall, subject as hereinbefore expressly provided, be as may be prescribed by regulation from time to time.

*Common Seal**Custody and use of seal*

54. The common seal of the Society shall be kept in such custody and used in such manner as may be prescribed by regulation from time to time.

*Minutes, Accounts and Reports**Minutes*

55. The Council shall cause proper minutes of all general meetings of the Society and of all meetings of the Council and of committees appointed by the Council, to be taken and recorded, and shall make all such minutes available for inspection by any member of the Society at any reasonable time, on demand.

Accounts to be kept

56. The Council shall also cause proper accounts of all funds, property and assets of the Society to be kept, and to be audited as on the 30th day of June in every year. The audited accounts shall be presented by the Council to the general meeting convened, in accordance with the provisions of section 48, during the month of September. (Amended by 14 of 1975, s. 61.)

Report and accounts

57. During the month of September, the Council shall present to the Society in general meeting a full report of the activities of the Society, together with accounts duly audited as hereinbefore provided in respect of the twelve months preceding that date. (Amended by 14 of 1975, s. 61.)

PART VIII—DISCIPLINE

Appointment of Disciplinary Committee

58.—(1) The Chief Justice may from time to time appoint from among the members of a panel of practitioners selected by the Society a committee to be known for the purposes of this Act as a Disciplinary Committee.

(2) A Disciplinary Committee shall consist of such number of members not being less than three nor more than five as the Chief Justice may from time to time think fit, and shall be appointed in connexion with one or more application or complaint, or for a fixed period of time or as the Chief Justice may think fit.

(3) The chairman and the secretary of a Disciplinary Committee shall be chosen by the Chief Justice.

Complaints

59. Any complaint of the conduct of a barrister and solicitor in his professional capacity shall be made to the Council who shall examine the application or complaint and, if it considers it necessary that there should be a formal investigation of such application or complaint, shall apply in writing to the Chief Justice to appoint a Disciplinary Committee to hear and investigate such application or complaint. The Council shall inform the person making any application or complaint whether or not the Council has considered it necessary that there should be a formal investigation, and in the event of its decision being that such investigation is unnecessary shall, on the request of such person, furnish him with its reasons in writing:

Provided that nothing in this connexion shall affect the jurisdiction which, apart from the provisions of this section, is exercisable by the Court of Appeal, the Supreme Court, or any judge thereof, or by any magistrates' court, over barristers and solicitors.

Court or Solicitor-General may refer information to Council

60. The Court of Appeal, the Supreme Court or any judge or the Solicitor-General may at any time refer to the Council any information attaching to the conduct of a barrister and solicitor in his professional capacity and thereupon the Council shall proceed as if an application or complaint against the said barrister and solicitor had been made to it under the provisions of section 59.

Functions of a Disciplinary Committee

61.—(1) If after inquiring into any application or complaint a Disciplinary Committee is of opinion that the practitioner has been guilty of professional misconduct or of conduct unbecoming a barrister or solicitor, it may, if it thinks fit, but subject to the provisions of this Part, 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 for such period, not exceeding three years, as the Committee thinks fit;
- (c) order him to pay to the Society such sum by way of penalty, not exceeding two hundred dollars as the Disciplinary Committee thinks fit;
- (d) censure him;
- (e) order him to pay to the Society such sums as the Disciplinary Committee may at any time think fit in respect of 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 Society.

(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 62.

Orders for striking off Roll or suspension from practice

62.—(1) No order shall be made by a Disciplinary Committee under the provisions of section 61 either striking the name of a practitioner off the Roll or suspending a practitioner from practice except upon the following grounds:—

- (a) that he has been convicted of a crime involving dishonesty; or
- (b) that in the opinion of the Disciplinary Committee he has been guilty of misconduct in his professional capacity or of conduct unbecoming a barrister or a solicitor and by reason thereof is not a fit and proper person to practise as a barrister and solicitor.

(2) For the purpose of this section the term "crime involving dishonesty" includes any crime described in Division V (except the crimes described in sections 280 to 283) and in Division VII of the Penal Code. (Cap. 17.)

(3) For the purpose of this section a certificate containing the substance of the conviction of a crime involving dishonesty purporting to be signed by the Registrar or other officer 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.

(4) Except by consent, no order shall be made by a Disciplinary Committee under the provisions of section 61 either striking the name of a practitioner off the Roll or suspending a practitioner from practice unless at least three members of the Disciplinary Committee are present and vote in favour of the order.

Right of practitioner to be heard

63. Except when making an interim suspension order under section 64, the Disciplinary Committee shall not exercise with respect to any practitioner any of the disciplinary functions conferred on it by this Part without giving such practitioner a reasonable opportunity of being heard in his own defence, either in person or by a barrister and solicitor.

Interim suspension from practice

64.—(1) At any time after a charge of professional misconduct has been made against any practitioner under section 61, the Council or a Disciplinary Committee may, of its 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 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 Disciplinary Committee for the revocation of the order and the Disciplinary Committee may grant or refuse any such application as it thinks fit.

Termination of suspension

65.—(1) The Chief Justice may, on the petition of the barrister and solicitor, and after hearing the Solicitor-General, in his absolute discretion by order restore the name of such barrister and solicitor 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 barrister and solicitor shall 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 subsection (1) shall be heard and may by rule limit the frequency with which such petitions may be made.

Disciplinary Committee may order payment of costs

66. After the hearing of any application or inquiry under this Part, a Disciplinary Committee may make such order as to the payment of costs and expenses as it thinks fit, and, in particular—

- (a) may order that costs and expenses be awarded to any practitioner in relation to whom an application or inquiry has been made, and that those costs be paid by the Society;
- (b) without finding a practitioner guilty of professional misconduct or of conduct unbecoming a barrister and solicitor, may nevertheless if the Committee considers that the application or inquiry was justified and that it is just to do so, order him to pay to the Society such sums as the Committee 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 his conduct or of his accounts carried out by or for the Society.

Recovery of penalties and costs

67. Any sum ordered by a Disciplinary Committee to be paid by way of penalty or costs or expenses under this Part shall be deemed to be a debt due by the person ordered to pay it to the person to whom it is ordered to be paid, and shall be recoverable accordingly in any court of competent jurisdiction.

Witnesses may be required to attend and give evidence

68.—(1) A Disciplinary Committee, by notice in writing signed by its chairman or secretary, may require any person to attend and give evidence before it at the hearing of any application or inquiry under this Part, and to produce all books and documents in that person's custody or under his control relating to the subject matter of any such application or inquiry.

(2) A Disciplinary Committee may require evidence to be given on oath, and either orally or in writing, and for that purpose the chairman of the Committee 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 a Disciplinary Committee, or to answer truly and fully any question put to him, or to produce to a Disciplinary Committee any book or document required of him, commits an offence against this section, and shall be liable on conviction to a fine not exceeding two hundred dollars.

Immunity of witnesses and counsel

69.—(1) Witnesses and counsel shall have the same privileges and immunities in relation to applications and inquiries under the provisions of this Part as if they were proceedings in a court of law.

(2) The hearing of an application or inquiry under the provisions of this Part shall for the purpose of Chapter XII of the Penal Code be deemed to be a judicial proceeding. (Cap. 17.)

Witnesses' expenses

70.—(1) Every witness giving evidence or attending to give evidence at the hearing of any application or inquiry under this Part shall be entitled in the discretion of the Disciplinary Committee to such sum for his expenses and loss of time as the Disciplinary Committee may determine.

(2) Subject to any order made by the Disciplinary Committee as to the payment of costs and expenses, all such witnesses' expenses shall be paid by the Society.

Rules of procedure

71. The Chief Justice may from time to time make rules in respect of the making, hearing and determination of applications and inquiries under this Part.

Order of Disciplinary Committee

72.—(1) Every order made by a Disciplinary Committee under this Part shall be signed by the person acting as chairman of the Disciplinary Committee at the meeting when the order was made or, if he is not available, by some other member of the Disciplinary Committee present at the meeting when the order was made.

(2) Every such order, other than an interim suspension order made under section 64, shall contain a record of the proceedings including the evidence given

thereat and the statement of the findings of the Disciplinary Committee in relation to the case.

(3) Every document purporting to be an order of a Disciplinary Committee and to be signed by the chairman or any other member of the Disciplinary Committee shall, in the absence of proof to the contrary, be deemed to be an order of the Disciplinary Committee duly made, without proof of the making thereof, or proof of signature, or proof that the person signing the order was in fact the chairman or a member of the Disciplinary Committee entitled to sign the order.

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

73.—(1) Where by any order of a Disciplinary Committee it is ordered that the name of any practitioner be struck off or removed from or restored to the Roll, or that any practitioner be suspended from practice, the order shall be filed in the Court and, subject to subsection (2), 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) Where by any such order it is ordered that the name of any practitioner be struck off the Roll the order shall, until the expiry of the time allowed for appeal under section 74, or if an appeal is commenced, until the determination of the appeal, take effect only as an order that the practitioner be suspended from practice as a barrister and solicitor.

(3) Any order filed in the Court under this section may be inspected by any person during office hours without payment of any fee.

Appeals from decisions of Disciplinary Committee

74.—(1) An appeal against any order or decision of a Disciplinary Committee made under this Part shall lie to the Chief Justice at the instance of the practitioner or person to whom the order or decision refers, and, in any case where the proceedings before a Disciplinary Committee have been taken on the application of any person other than the barrister and solicitor or person concerned, shall also lie at the instance of the applicant:

Provided that the Chief Justice may, if he thinks fit, authorise another judge or acting judge to perform all or any of the powers exercisable by him under the provisions of this section.

(2) Every such appeal shall be by way of rehearing on the record and statement of findings of the Disciplinary Committee and shall be made within such time and in such form and shall be heard in such manner as may be prescribed by rules of court.

(3) An appeal shall lie at the instance of the practitioner to the Court of Appeal from any order of the Chief Justice or other judge or acting judge made in accordance with the provisions of subsection (1) and shall be made within such time and in such form and shall be heard in such manner as may be prescribed by rules of court made under the provisions of the Court of Appeal Act. (Cap. 12.)

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

75.—(1) Where any order has been filed in the Court under the provisions of section 73, and no appeal against the order is commenced within the time allowed in that behalf, the Registrar shall forthwith after the expiry of the time allowed for appeal, cause a notice stating the date and effect of the order to be published in the Gazette.

(2) Where by any order of the Court it is ordered that the name of any practitioner be struck off, removed from or restored to the Roll or that any practitioner be suspended from practice, the Registrar shall forthwith cause a notice stating the date and effect of the order to be published in the Gazette.

PART IX—BENEVOLENT FUND

Benevolent fund

76.—(1) The Society may establish a fund for the purpose of affording pecuniary and other assistance to persons in need of such assistance who are or have at any time been members of the Society, or to the wife or children of any such person, or to the widow or children or parent or parents of any such person who is deceased.

(2) The fund shall consist of—

- (a) such part of its income as the Society decides to set aside for the purpose;
- (b) any donations, gifts or bequests made to the Society for the purposes of the fund;
- (c) the interest from time to time accruing from the investments of the fund;
- (d) any other money that may lawfully be paid into the fund.

(3) The fund shall be administered by the Council on behalf of the Society.

(4) All money in the fund may be invested in any manner in which trustees are, for the time being, authorised to invest trust funds.

PART X—OFFENCES

Penalty for unqualified persons practising

77. Every person who, not being enrolled, or being suspended from practice, as a barrister and solicitor of Fiji or as 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 practice 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, shall be guilty of an offence and shall be liable to a fine not exceeding one hundred dollars and for a second or subsequent offence to imprisonment for any period not exceeding six months in addition to or in substitution for such fine:

Provided that—

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

Penalty on unqualified person acting in preparation of papers for probate

78. Any person, not being a barrister and solicitor with a valid practising certificate, 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 above-mentioned, 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 one hundred dollars and for a second or subsequent offence to imprisonment for any period not exceeding six months in addition to or in substitution for such fine.

Penalty for practising without a practising certificate

79. Any person who directly or indirectly acts or practices as a barrister and solicitor without having in force at the time a valid practising certificate according to the provisions contained in this Act shall be liable to the same penalties as are provided in the case of persons practising as barristers and solicitors or notaries public 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.

Barristers and solicitors not to act as agents for unqualified persons, or to employ a person struck off the Roll or suspended

80.—(1) Except with the consent of the Council, 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 of any other law, may only be performed 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) Except with the consent of the Council, no barrister and solicitor, in connexion with his practice, shall employ or remunerate any person who to his knowledge is disqualified from practising as a barrister and solicitor 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, without the consent of the Council, shall any barrister and solicitor in connexion with his practice employ or remunerate any person who to his knowledge is prevented for disciplinary reasons from practising in any part of the Commonwealth or the Republic of Ireland.

(3) Any barrister and solicitor who acts in contravention of the provisions of either of subsections (1) or (2) shall be guilty of professional misconduct.

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

81.—(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 in connexion with that barrister and solicitor's practice without previously informing him that he is so disqualified as aforesaid, shall be guilty of an offence and shall be liable to a fine not exceeding twenty dollars.

(2) Notwithstanding anything in the Criminal Procedure Code, 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. (Cap. 21.)

PART XI—PROTECTION OF COUNCIL OF SOCIETY

Protection of Council

82. No criminal or civil proceedings whatsoever shall be taken against the Council, a Disciplinary Committee or any committee appointed by the Council, or any member or servant of the Council or of any such committee, in respect of anything done in accordance with the provisions of this Act.

PART XII—RULES AND REGULATIONS

Power to make rules

83.—(1) 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 to practice, their professional practice, conduct, etiquette and discipline;
- (b) for regulating the remuneration of barristers and solicitors;
- (c) for regulating the conduct of clerks, employees and agents of barristers and solicitors in connexion with the practice of the law;
- (d) for regulating the powers of Commissioners for Oaths and the fees chargeable by them;
- (e) prescribing the procedure in respect of complaints and disciplinary proceedings against barristers and solicitors;
- (f) as to the opening and keeping by barristers and solicitors of accounts at banks for clients' moneys;
- (g) 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;
- (h) providing for the auditing at regular intervals or otherwise of the foregoing accounts by approved auditors upon the application of the Solicitor-General or by a client, and for a report or certificate of the result of every such audit;
- (i) requiring the production to such auditors of books, papers and accounts;
- (j) prescribing a scale of fees to be paid to auditors, and by whom such fees shall be paid;
- (k) prescribing the procedure for removal of the name of a barrister and solicitor from the Roll on the application of such barrister and solicitor;
- (l) prescribing the form of practising certificates;
- (m) prescribing anything which is required or permitted to be prescribed by rules under this Act.

(2) The Chief Justice in making rules under subsection (1) may provide that any breach or non-compliance of any of such rules shall be an offence under the

provisions of this Act punishable with a fine not exceeding four hundred dollars, and that such breach or non-compliance shall constitute professional misconduct.

(3) The Chief Justice may by notice in the Gazette specify lists of approved auditors for the purpose of auditing barristers' and solicitors' accounts.

(4) Rules made under the powers contained in paragraphs (f), (g), (h), (i) and (j) of subsection (1) shall not come into force at any date earlier than six months after their publication in the Gazette.

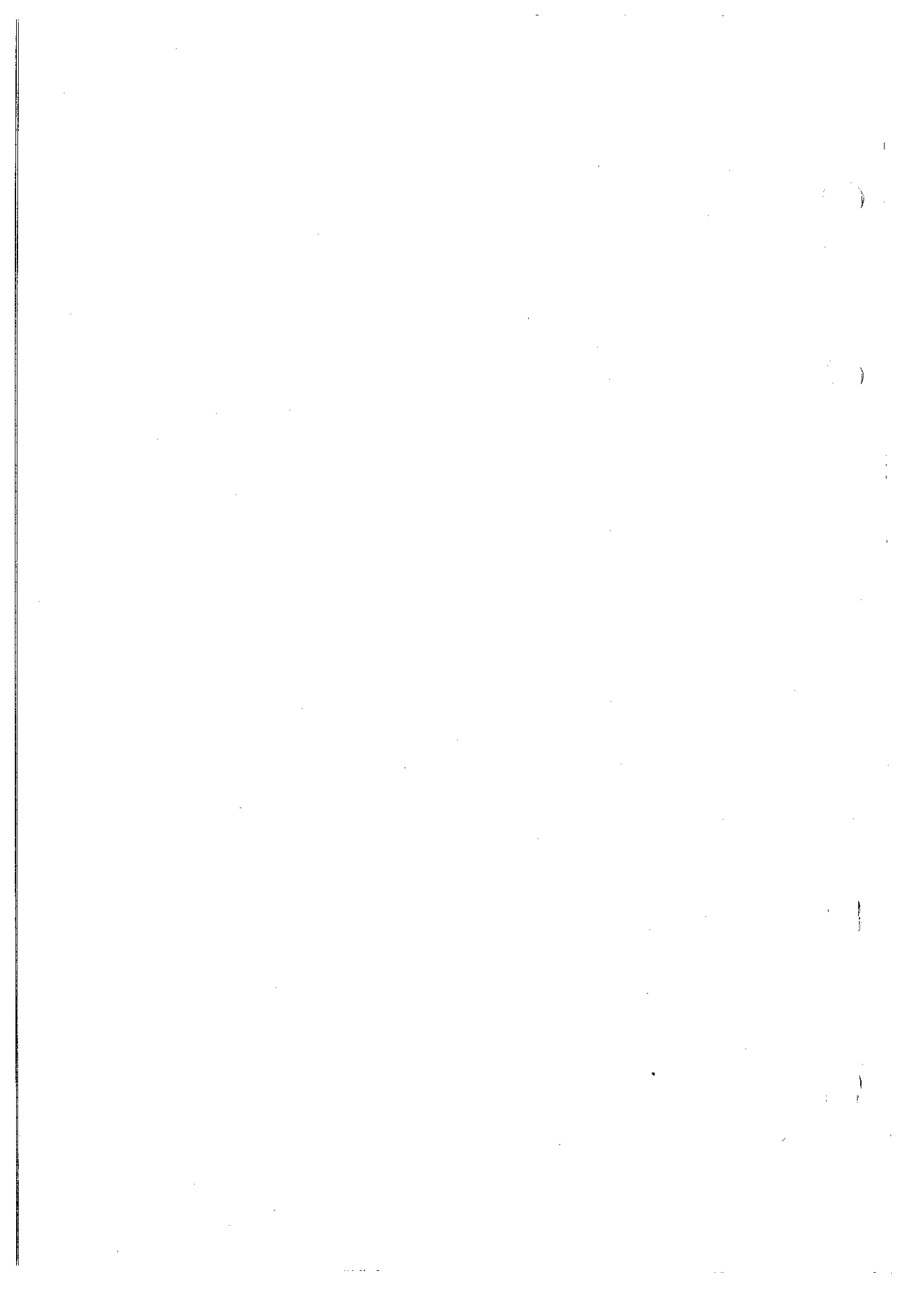
Regulations

84.—(1) The Council may, subject to the provisions of this Act and to approval by a special resolution, make regulations binding on members of the Society, prescribing all or any of the following matters:—

- (a) annual subscriptions;
- (b) manner of application for membership of the Society by the persons specified in section 36;
- (c) resignation of members;
- (d) powers exercisable by the Council and committees, and delegation of powers;
- (e) manner of convening meetings of the Council and committees and the quorum and procedure thereat;
- (f) manner of convening general meetings of the Society and the quorum and procedure thereat;
- (g) manner of election, removal and replacement of the President, Vice-President and other members of the Council, and of representatives of the Society on committees;
- (h) custody and use of the common seal;
- (i) arbitration in disputes;
- (j) such other matters as may be deemed by the Council to be necessary for the proper conduct and regulation of the affairs of the Society;
- (k) prescribing anything which is required or permitted to be prescribed by regulations under this Act.

(2) A copy of any regulation made under the provisions of subsection (1) shall be despatched to each member of the Society within fourteen days of approval by special resolution and shall not be published in the Gazette.

Controlled by the Ministry of the Attorney-General



CHAPTER 254

LEGAL PRACTITIONERS

PARTS II AND III.—BARRISTERS AND SOLICITORS
(ADMISSION) RULES

Rules 3rd Dec., 1965 [in force 10th Dec., 1965].
11th Sep. 1975.

Made by the Chief Justice

Short title and interpretation

1.—(1) These Rules may be cited as the Barristers and Solicitors (Admission) Rules.

(2) In these Rules, unless the context otherwise requires, "petition" includes a petition for temporary admission under section 8 of the Act.

Petitions for admission

2.—(1) Every petition for admission shall be lodged with the Chief Registrar at least 6 weeks before the day on which the petitioner desires to be admitted, unless the Chief Registrar, for special reason, directs an abridgement of that period.

(2) Every petition for admission shall be in the form numbered 1 in the First Schedule, or in a form to the like effect approved by the Chief Registrar.

(3) The contents of the petition shall be verified by affidavit or statutory declaration.

(4) There shall be lodged with the petition a copy thereof and copies of the documents accompanying the same or referred to therein.

Service on Society

3. Within 2 days of the lodgment of the petition, the Chief Registrar shall forward the copy petition and copy documents accompanying the same or referred to therein, to the Secretary of the Society.

Temporary admission

4. A petition for temporary admission under section 8 of the Act shall specify, with sufficient particularity, the cause or matter with respect to which admission is sought.

Application for abridgment of time

5. Where abridgment of the said period of 6 weeks is sought, application therefor shall be made in the petition, and the petition shall set forth the circumstances in which the application is made and the grounds therefor.

Notice of petition

6. As soon as may be after lodgment of a petition, other than a petition for temporary admission under section 8 of the Act, the Chief Registrar shall cause notice thereof to be made public by—

- (a) affixing the notice in a conspicuous position at the Court-house and the Registry of the Supreme Court at Suva; and
- (b) insertion of a notice, in the form numbered 2 in the First Schedule or in a form to the like effect, in a newspaper in the English language circulated in Fiji.

Objections (other than by the Chief Registrar or the Society)

7.—(1) Any person shall be entitled to show cause why a petition should not be granted and, on complying with paragraph (2), to appear on the hearing of the petition.

(2) A person, other than the Chief Registrar or the Society, who desires to show cause why a petition should not be granted shall lodge with the Chief Registrar, within 14 days of the date of the notice given under rule 6 (or such further period as the Chief Registrar shall allow)—

- (a) a written statement of the grounds of his objection; and
- (b) an affidavit or a statutory declaration verifying the facts contained therein.

(3) Upon any such lodgment, the Chief Registrar shall forward copies of the statement and of the affidavit or statutory declaration to the Secretary of the Society, and to the petitioner at the address given by the petitioner in his petition as his address for service.

Objections by the Chief Registrar or the Society

8.—(1) In any case where the Chief Registrar desires to show cause why a petition should not be granted, he shall file, in the matter of the petition, a notice of objection setting forth the grounds thereof, and shall at the same time forward a copy thereof to the Secretary of the Society and to the petitioner.

(2) Any objection by the Society to the admission of a petitioner shall be made by way of confidential report under the provisions of subsection (1) of section 9 of the Act.

Hearing of petitions

9. No petition shall be heard unless the supporting documents shall have been lodged with the Chief Registrar not less than 21 days before the hearing.

Enlargement of time

10. The Chief Registrar may, for special reasons, enlarge any period of time specified in these Rules.

Exemptions

11. Every application for exemption under paragraph (d) of section 4, section 7 or subsection (4) of section 9 of the Act shall be contained in the petition, and the grounds therefor shall be verified in accordance with paragraph (3) of rule 2.

Fees

12. The fees specified in the Second Schedule shall be payable to the Chief Registrar in respect of the proceedings therein referred to.

Registrar's powers, etc.

13. The powers and duties of the Chief Registrar under these Rules shall be exercisable subject to the directions of the Chief Justice, given generally or with respect to any particular case.

FIRST SCHEDULE
(Amended by Rules 11th September 1975)
Form No. 1
(Rules 2 and 4)

PETITION FOR ADMISSION (OR TEMPORARY ADMISSION)

IN THE SUPREME COURT OF FIJI

Miscellaneous Proceedings No. of 19 .

IN THE MATTER of the Legal Practitioners Act,
AND IN THE MATTER of the Barristers and Solicitors (Admission) Rules
AND IN THE MATTER of an application for admission (temporary admission) as a Barrister and Solicitor by
(Petitioner).

TO THE CHIEF JUSTICE OF THE
SUPREME COURT OF FIJI

The Petition of _____ of
sheweth—

1. That your petitioner—
 - (a) is over 21 years of age and a citizen of a Commonwealth country, having been born on the _____ day of _____, 19____, at _____ (or as the case may be);
 - (b) was on the _____ day of _____, 19____, duly admitted as _____ (as the case may be; see section 4 (c) of the Act);
 - (c) has resided in Fiji for a period of at least three months immediately prior to the date hereof, having been resident therein at _____ from the _____ day of _____, 19____, to the date hereof (or)
 - (c) hereby applies for exemption under section 4 (d) of the Act on the following grounds:

- (d) to the best of his knowledge and belief—
- (i) remains a (a member of the Bar of
(a Solicitor of the Supreme Court of
etc. (as the case may be);
 - (ii) has not done or omitted to be done any act or thing (which
might cause him to be disbarred as such a barrister as
aforesaid) (which might cause his name to be struck off the
Roll of Solicitors of the Supreme Court of
(as the case may be).

2. That the (Certificate of Admission) lodged herewith is an original and genuine document issued on the _____ day of _____, 19____, by _____ at _____

3. That your petitioner—
- (a) is the person named in such (Certificate);
 - (b) has legal experience (complying with section 5 of the Act) as follows:—
or
 - (b) (i) has legal experience as follows:—
and
 - (ii) hereby applies for exemption under section 7 of the Act on the following grounds:—
 - (c) has since his arrival in Fiji been engaged as follows:—

4. That your petitioner seeks admission as a barrister and solicitor under the Act—

- (a) in order to practise generally; (or)
- (b) temporarily, for the purpose only of appearing in the following cause or matter, namely _____ in which he is instructed by _____ of _____ and in which he will appear together with _____ a barrister and solicitor admitted to practise generally in Fiji;

Your Petitioner being aware of the provisions of section 8 and Part VIII of the Act with respect to temporary admissions.

5. That your petitioner seeks an abridgement of the period of 6 weeks provided for by paragraph (1) of rule 2, on the following grounds:

6. That reference may be made to _____ of _____ and _____ of _____ (being persons resident in Fiji) as to the character of your petitioner.

7. That your petitioner's address for service is _____

Dated this _____ day of _____, 19____.

Form No. 2
(Rule 6)

NOTICE OF PETITION

LEGAL PRACTITIONERS ACT

NOTICE OF APPLICATION FOR ADMISSION

Notice is hereby given that _____ of _____ has lodged a petition seeking admission as a barrister and solicitor of Fiji and that the petition will be heard at the Supreme Court at Suva on the _____ day of _____, 19____, at _____ a.m./p.m.

Any person wishing to show cause why the petition should not be granted may lodge with the Chief Registrar of the Supreme Court at Suva a written statement of the grounds of his objection. If such a statement is lodged and verified by affidavit or statutory declaration within 14 days of the date of this Notice, the objector will be entitled to appear and be heard on the hearing of the petition.

Dated this _____ day of _____, 19____,

Chief Registrar of the Supreme Court

SECOND SCHEDULE
(Rule 12)

(Substituted by Legal Notice No. 55 of 1984.)

FEEES

	\$
1. On a petition for admission, other than a temporary admission under section 8.....	25.00
2. On a petition for temporary admission, for each cause or matter in which the petitioner intends to appear	20.00

(Note:—The above fees are inclusive of the hearing of the petition and all steps and proceedings preliminary and incidental thereto.)

SECTIONS 12, 65, 71 and 83.—BARRISTERS AND SOLICITORS
(DISCIPLINARY PROCEEDINGS) RULES

Rules 3rd Dec., 1965, [in force 17th Dec., 1965],
28th Dec., 1966.

Made by the Chief Justice

1.—(1) These Rules may be cited as the Barristers and Solicitors (Disciplinary Proceedings) Rules.

- (2) In these Rules, unless the context otherwise requires—
“Council” means the Council of the Fiji Law Society established under the provisions of section 42 of the Act;
“Disciplinary Committee” or “Committee” means a disciplinary committee appointed under the provisions of Part VIII of the Act;
“Registrar” means the Chief Registrar of the Supreme Court;
“Society” means the Fiji Law Society.
(Amended by Rules 28th December, 1966.)

PART I.—APPLICATIONS OR COMPLAINTS AGAINST
BARRISTERS AND SOLICITORS

2.—(1) An application or complaint to the Council making any allegation of professional misconduct or unprofessional conduct on the part of a barrister and solicitor shall be in writing under the hand of the applicant in the form numbered 1 in the Schedule or to the like effect, and shall be sent to the Secretary of the Society together with an affidavit in support thereof by the applicant in the form numbered 2 in the Schedule or as near thereto as the circumstances will permit stating the matters of fact on which he relies in support of his application or complaint:

Provided that where the application or complaint is made by or on behalf of the Society the application or complaint may be signed and the affidavit sworn on behalf of the Society by the Secretary, a member of the Council or by such other person as may from time to time be authorised by the Council.

(Amended by Rules 28th December, 1966.)

(2) Every such application or complaint shall contain an address for service.

3. On receiving an application or complaint which, in the opinion of the Council, is not made in accordance with the provisions of rule 2, the Council, if it seems to it desirable, may appoint a barrister and solicitor to represent the applicant. A barrister and solicitor so appointed shall make a report on such application or complaint for the information of the Council, and the Council may, if it is of the opinion that further inquiry is necessary, require the barrister and solicitor so appointed to re-submit the application or complaint in accordance with the provisions of rule 2. The costs and disbursements of such barrister and solicitor, whether or not the same are recoverable from the barrister and solicitor in respect of whom the application or complaint is made, shall be paid out of the funds of the Society.

4.—(1) The Council may in the first instance cause the substance of any application or complaint to be conveyed to the barrister and solicitor to whom the same refers and may take into account any representations he may wish to make in deciding whether or not to order a formal investigation.

(2) All such representations shall be accompanied by an address for service.

5. Where, upon the examination of an application or complaint, and of any representations made with respect thereto, the Council considers that there should be a formal investigation thereof, the Council shall take such steps as shall be required by the Act to be taken for the appointment of a Disciplinary Committee, or, if a Disciplinary Committee be already in existence, for the appointment thereof to undertake a formal investigation.

Application for the appointment of a Disciplinary Committee shall be made to the Chief Justice through the Registrar in writing, and shall be accompanied by the

originals of the application or complaint, the documents accompanying it, and the affidavit in support thereof, together with a copy of any representations made by the barrister and solicitor concerned. The appointment shall be made in writing under the hand of the Chief Justice and shall specify the persons who are to be the chairman and the secretary respectively of the Committee. Upon the appointment being made the Registrar shall forward—

- (a) a signed copy of the written appointment;
- (b) the originals of the application or complaint, the documents accompanying it, and the affidavit in support thereof; and
- (c) five copies of each of such papers, to the secretary of the Committee, who shall supply one set of such copies to each member of the committee.

Thereafter the secretary of the Disciplinary Committee shall fix a day for the hearing of the application or complaint and shall serve notice thereof upon the parties to the proceedings, and shall serve on each party other than the applicant a copy of the application or complaint and the affidavit in support thereof, and shall likewise serve a copy of any representations made by the barrister and solicitor concerned on each party except him. There shall be at least twenty-one days between the service of such notice and the day fixed therein for the hearing.

(Amended by Rules 28th December, 1966.)

6. A notice under rule 5 shall be in such one of the forms set out in the Schedule and numbered 3 and 4 as shall be appropriate, or as near thereto as the circumstances will permit and shall require the party to whom it is addressed to furnish to the secretary of the Disciplinary Committee and to every other party at last fourteen days before the date fixed for hearing, unless the Disciplinary Committee shall direct otherwise, a list (including a full description, sufficient for identification) of all documents, affidavits, books, papers and other written material on which he intends to rely. *(Amended by Rules 28th December, 1966.)*

7. Subject to any directions of the Disciplinary Committee, any party may inspect the written material included in the list furnished by any other party and require such other party to furnish him with a copy of any such written material on payment therefor at the rate of five cents per folio of 72 words or part thereof.

(Amended by Rules 28th December, 1966.)

8. If any party fails to appear at the hearing, the Disciplinary Committee, may, upon proof of service on such party of the notice of hearing, or without such proof if the Committee considers his attendance unnecessary, proceed to hear and determine the application or complaint in his absence.

9. The Disciplinary 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:

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 Disciplinary Committee are satisfied that the affidavit is purely formal or that the content thereof may be disregarded, or that the requirement of the attendance of the deponent is made with the sole object of causing delay.

10.—(1) Without prejudice to the provisions of rule 23, and without in any wise affecting the provisions of section 73 of the Act, the Council or the Disciplinary Committee, as the case shall require, shall cause a copy of any order

made under section 61 or section 64 of the Act to be sent to each party affected thereby or interested therein, and to the Solicitor-General and the Registrar, within four days after it shall have been drawn up and signed in accordance with section 72 of the Act.

For the purposes of this paragraph "order" includes a note of any censure imposed, but it shall not be necessary for any copy order to contain or be accompanied by a copy of the record of the proceedings or the evidence given thereat.

(2) An order made under section 61 of the Act may be in the form numbered 5 in the Schedule.

(3) An order made under section 64 of the Act may be in the form numbered 6 in the Schedule. (*Rule substituted by Rules 28th December, 1966.*)

11. A reference to the Council by the Fiji Court of Appeal, the Supreme Court, or a Judge, or the Solicitor-General under section 60 of the Act need not be made in accordance with these Rules.

PART II.—APPLICATION AT THE INSTANCE OF A BARRISTER AND SOLICITOR HIMSELF

12. An application by a barrister and solicitor under section 12 of the Act for the removal of his name from the Roll shall be made by way of affidavit in the form numbered 7 in the Schedule or to the like effect.

13.—(1) The application shall be sent to the Registrar, and a copy thereof shall be sent by the applicant to the Secretary of the Society.

(2) Unless the Society directs otherwise, the application shall be supported by letters from two practising barristers and solicitors to whom the applicant is known, which letters shall be sent to the Secretary of the Society.

14. The Council may decide upon the application without requiring the attendance of the applicant. In any other case the Council shall fix a day for the hearing and the Secretary shall serve notice thereof on the applicant at least twenty-one days before the day fixed for the hearing. The Council 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.

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

Provided that the Council may in its discretion hear an objector notwithstanding that he has not complied with this provision.

16. If the objector appears on the day fixed for the hearing, and if the Council are of the opinion, after hearing the parties or any of them (if it thinks fit so to do), that the notice discloses a prima facie case for inquiry of which it does not dispose on that day, it shall adjourn the hearing and may give directions relating to the adjourned hearing, including directions as to the party on whom the burden of proof shall lie.

17.—(1) It shall be the duty of the Council to make recommendations to the Registrar with respect to such applications.

(2) The rules contained in Parts I and III shall apply *mutatis mutandis* to the hearing of any application under this Part.

(3) Three members of the Council shall constitute a quorum for the purpose of this Part.

(4) The Registrar shall not remove the name of any applicant from the Roll except upon consideration of any recommendation made by the Council with respect to the application.

PART III—GENERAL

18. The Disciplinary Committee shall hear all applications and complaints in private.

19.—(1) The Disciplinary Committee may, of its own motion or upon the application of any party, at any stage of the investigation of an application or complaint, refer the application or complaint back to the Council and may adjourn the further hearing of the investigation, and of any application connected therewith, pending the consideration of such reference.

(2) Upon any such reference, the Council may if it thinks fit (without hearing the parties or their representatives) make such recommendations to the Committee or take such other steps in connexion with the conduct of the investigation as it shall think fit, including the assigning of counsel to, or requesting the Solicitor-General to take over the conduct of the application or complaint; counsel so assigned, or the Solicitor-General, as the case may be, shall thereupon have conduct of the case.

(3) If the Council shall notify the Committee that it has decided not to make any recommendations or take any other steps, in connexion with the conduct of the investigation, the Committee shall deal with the matter as it thinks fit.

(Rule substituted by Rules 28th December, 1966.)

20.—(1) No application or complaint shall be withdrawn prior to the appointment of a Disciplinary Committee to investigate it except with the leave of the Council.

(2) No application or complaint shall be withdrawn after a Disciplinary Committee has been appointed to investigate it except with the leave of the Committee.

(3) The Council or the Committee, as the case may be, may exercise its powers under this rule upon such terms as to costs or otherwise as it shall think fit.

(4) Where the Disciplinary Committee refuses to grant leave to withdraw, it shall either refer the case to the Council under rule 19 or deal with the case as it thinks fit. *(Rule substituted by Rules 28th December, 1966.)*

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

(Amended by Rules 28th December, 1966.)

22. If, at any stage of the proceedings, the Disciplinary Committee considers that any allegation ought to be amended, or added to, or replaced by some other allegation, the Committee may permit such amendment, addition or replacement, and if in its opinion such amendment, addition or replacement is not within the scope of the affidavit referred to in rule 2 may require the same to be embodied in a further affidavit:

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

(Rule substituted by Rules 28th December, 1966.)

23. A shorthand or other note of proceedings may be taken by a person appointed by the Council or Disciplinary Committee; and any party who appeared at the proceedings shall be entitled to inspect the transcript thereof. The secretary of the Disciplinary Committee shall, if required, supply to any person entitled to be heard upon an appeal against an order of the Disciplinary Committee and to the Council, but (except on the direction of the Council) to no other person, a copy of the transcript of such notes on payment therefor of such charges, not exceeding five cents per folio of 72 words or part thereof, as the Chairman of the Disciplinary Committee may direct. *(Amended by Rules 28th December, 1966.)*

24.—(1) Service of any notice or document may be effected under these Rules by registered letter and such service shall be deemed to be effected at the time when the letter would be delivered in the ordinary course of post.

(2) Service shall be effected at the address for service (if any) furnished by the person to be served. If no address for service has been furnished, service shall be effected—

- (a) in the case of a barrister and solicitor at his principal office as notified to the Registrar, or at his last known postal address or place of abode;
- (b) in any other case at the last known postal address or place of abode of the person to be served:

Provided that every subpoena shall be personally served.

25. Non-compliance with any of these Rules shall not render any proceedings void unless the Council or Disciplinary Committee, as the case may be, shall so direct, but the proceedings may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with, in such manner and on such terms as the Council or Committee thinks fit.

26.—(1) The Council or the Disciplinary Committee may extend the time for doing anything under these Rules, and where no procedure is laid down with respect to any matter may adopt such procedure as it thinks just.

(2) The Council or the Disciplinary Committee may make orders for substituting service of any document, and shall have full power to re-open and re-hear any matter in which it is proved or alleged that service was not effected.

27. All affidavits shall be filed and kept by the secretary of the Disciplinary Committee or the Secretary of the Society, as the case may be. The Council or the Committee, as the case may be, may order that any books, papers, or other exhibits, produced or used at any hearing, shall be retained by the Secretary of the Society for such time as the Council or the Committee may require:

Provided that:

- (a) where an order is filed in the Court pursuant to the provisions of section 73 of the Act, all affidavits and notices, and all books, papers and other exhibits not released by the Council or the Committee to any party or person entitled thereto, relating to the proceedings in which the order is made, shall be filed in the Court together with the order;
- (b) in the case of any proceedings whatsoever under the provisions of Part VIII of the Act, the Registrar may, at the request of the Council or

the Committee, accept custody, on behalf of the Court, of the record of the proceedings and of all affidavits and notices, and all books, papers and other exhibits not so released as aforesaid;

(c) the Registrar may at any time release any such books, papers or other exhibits to any party or person entitled thereto.

(Proviso inserted by Rules 28th December, 1966.)

28.—(1) Any party may by notice in writing served at any time not later than 10 days before the day fixed for any hearing call upon any such other party 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 serve notice that he does not admit the document and requires it to be proved at the hearing.

(2) If such other party refuses or neglects to give notice of non-admission within the time prescribed in paragraph (1), he shall be deemed to have admitted the document unless the Council or the Disciplinary Committee otherwise directs.

(3) Where a party gives notice of non-admission within the time prescribed by paragraph (1), and the document is proved at the hearing, the costs of proving the document shall be paid by the party who challenged the document, unless it is otherwise ordered.

(4) Where a party proves a document without having given notice to admit under paragraph (1), no costs of proving the document shall be allowed, unless it is otherwise ordered.

29. A subpoena issued under section 68 of the Act shall be in such one of the forms numbered 8 and 9 in the Schedule as shall be appropriate.

30.—(1) A petition under section 65 of the Act for termination of suspension or for restoration of the petitioner's name to the Roll shall not be made within six months of the date upon which the order suspending the petitioner or striking the petitioner's name from the Roll was made, or within six months of any previous such application.

(2) The petition shall be filed in the Supreme Court and a copy thereof shall be served on the Solicitor-General at least fourteen days before the date fixed for the hearing of the petition.

SCHEDULE

Form 1
(Rule 2)

(Amended by Rules 28th December, 1966.)

FORM OF APPLICATION OR COMPLAINT AGAINST A BARRISTER AND SOLICITOR

To the Council of the Fiji Law Society

In the matter of *C.D.*, a Barrister and Solicitor
and

In the matter of the Legal Practitioners Act, and
the Barristers and Solicitors (Disciplinary Pro-
ceedings) Rules.

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

1. (a) that C.D., of _____, barrister and solicitor, may be required to answer the allegations contained in the affidavit which accompanies this application;
- (b) that such order may be made as the circumstances may require.
2. My address for service is as follows:—

.....

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

Signature:
 Address:
 Business or
 Profession:

Form 2
 (Rule 2)

FORM OF AFFIDAVIT BY APPLICANT

In the matter of C.D., Barrister and Solicitor
and

In the matter of the Legal Practitioners Act, and
the Barristers and Solicitors (Disciplinary Proceedings) Rules.

I, A.B. (Insert full name, address and description) of _____
make oath and say as follows:—

1. (Here state the facts concisely in numbered paragraphs and show deponent's means of knowledge).

Sworn, etc.

Form 3
 (Rule 6)

(Amended by Rules 28th December, 1966.)

Disciplinary Committee Cause No. _____ of 19

In the matter of C.D., a Barrister and Solicitor
and

In the matter of the Legal Practitioners Act, and
the Barristers and Solicitors (Disciplinary Proceedings) Rules.

To A.B., _____ of _____

1. The _____ day of _____, 19 _____, is the day fixed by the Disciplinary Committee constituted under the Legal Practitioners Act for the formal investigation of your application or complaint in respect of C.D., a barrister and solicitor.
2. The Disciplinary Committee will sit at _____ at _____ o'clock in the _____ noon.

3. You are required to furnish to every other party to the application and to me at least fourteen day before the said day of _____, 19____, a list (including a full description, sufficient for identification) of all documents on which your propose to rely.
4. Subject to any directions of the Disciplinary Committee, any party may inspect the documents included in the list furnished by any other party and require to be supplied with copies thereof on payment of the proper charges.
5. If any party fails to appear, any party appearing and being desirous of the Committee proceeding in the absence of the party not appearing must be prepared to prove service, in accordance with the Rules, of the list of documents and any other notice or correspondence since the lodging of the application or complaint.
6. You are requested to acknowledge the receipt of this notice without delay.

Dated at _____ this _____ day of _____, 19____
Secretary of the Disciplinary Committee

Address:

Note.—“Documents” includes affidavits, books, papers and other written material.

Form 4
(Rule 6)

FORM OF NOTICE TO BARRISTER AND SOLICITOR BY THE
SECRETARY OF THE DISCIPLINARY COMMITTEE

Disciplinary Committee Cause No. _____ of 19____
In the matter of *C.D.*, a Barrister and Solicitor
and
In the matter of the Legal Practitioners Act, and
the Barristers and Solicitors (Disciplinary Pro-
ceedings) Rules.

To *C.D.*, of _____ Barrister and Solicitor.

1. Application or complaint has been made by *A.B.*, of _____ to the Council 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 or that such order may be made as circumstances may require).
2. A Disciplinary Committee has been duly constituted to make formal investigation thereof.
3. The _____ day of _____, 19____, is the day fixed by the Disciplinary Committee for the formal investigation. The Disciplinary Committee will sit at _____ at _____ o'clock in the _____ noon. If you fail to appear the Disciplinary Committee may, in accordance with the Rules, proceed in your absence.

4. You are required by the said Rules to furnish to every other party to the application and to me at least fourteen days before the said day of _____, 19____, a list (including a full description, sufficient for identification) of all documents on which you propose to rely.
5. Subject to any directions of the Disciplinary Committee, any party may inspect the documents included in the list furnished by any other party and require to be supplied with copies thereof on payment of the proper charges.
6. Unless and until you inform me in writing to the contrary, stating an alternative address for service, your address will be taken to be:
.....
.....
.....
being the address of your principal office as registered with the Chief Registrar of the Supreme Court.
7. You are requested to acknowledge the receipt of this notice without delay.

Dated at _____ this _____ day of _____, 19____
Secretary of the Disciplinary Committee

Address: _____

Form 5
(Rule 10)

(Inserted by Rules 28th December, 1966.)

FORM OF DISCIPLINARY ORDER UNDER SECTION 61
Disciplinary Committee Cause No. _____ of 19____
In the matter of C.D., a Barrister and Solicitor
and
In the matter of the Legal Practitioners Act, and
the Barristers and Solicitors (Disciplinary Proceedings) Rules.

- (1) Complaint having been made to the Council of the Law Society of the conduct of C.D., a barrister and solicitor in his professional capacity;
- (2) A Disciplinary Committee, consisting of the following persons:—
.....(Chairman)
.....
.....

having been appointed by the Chief Justice on the _____ day of _____ 19____, upon the application of the Council of the Fiji Law Society, to hear and investigate the complaint; and

- ¹(3) The Disciplinary Committee having heard and investigated the complaint (there being annexed hereto, as part of this Order, a record of the proceedings including the evidence given thereat);

UPON such hearing and investigation the DISCIPLINARY COMMITTEE FINDS ⁽²⁾that the said C. C. was on the day of _____, 19____, convicted of a crime involving dishonesty, namely—

Statement of Offence:

.....
.....

Particulars of Offence:

.....
.....)

(the following facts to be proved or admitted—

.....
.....
.....)

AND being of opinion that the said C.D. has thereby been guilty of (misconduct in his professional capacity) (conduct unbecoming a barrister or a solicitor) ⁽³⁾and by reason thereof is not a fit and proper person to practice as a barrister and solicitor),

HEREBY ORDERS—⁴

- (1) that the name of the said C.D. be struck off the Roll;
- (2) that the said C.D. be suspended from practice as a barrister and solicitor for the period of _____;
- (3) that the said C.D. pay to the Fiji Law Society (forthwith) (within _____ days of the date hereof) the sum of _____ dollars (\$) by way of penalty;
- (4) that the said C.D. be censured;
- (5) that the said C.D. pay to the Fiji Law Society (forthwith) (within _____ day(s) of the date hereof) the sum of _____ dollars (\$) in respect of costs and expenses of and incidental to the inquiry;
- (6) that the said C.D. pay to the applicant (complainant) A.B. (forthwith) (within _____ day(s) of the date hereof) the sum of _____ dollars (\$) in respect of his costs and expenses of and incidental to the inquiry.

Made at Suva this _____ day of _____, 19____

⁵(Signed)

(Chairman)

(Member)

⁵FILED in the Supreme Court of Fiji this _____

day of _____,

19____

(Signed)

Chief Registrar

¹ Vide sec. 72 (2).

² Vide sec. 62 (2).

³ Vide sec. (1) (b).

⁴ Vide secs. 61, 66 and 70.

⁵ Vide sec. 72 (1).

FORM 6
(Rule 10)

(Inserted by Rules 28th December, 1966.)

FORM OF INTERIM SUSPENSION ORDER UNDER SECTION 64

⁶Disciplinary Committee Cause No. _____ of 19 _____

In the matter of C.D., a Barrister and Solicitor
and

In the matter of the Legal Practitioners Act, and the
Barristers and Solicitors (Disciplinary Proceedings)
Rules.

(1) A charge or complaint of professional misconduct having been made
against C.D. a barrister and solicitor, for that he—

⁷.....
.....; and

⁸(2) A Disciplinary Committee, consisting of the following persons—

.....(Chairman)
.....
.....

having been appointed by the Chief Justice on the _____ day
of _____, 19 _____, upon the application of the Council of the
Fiji Law Society, to hear and investigate the same;

⁹(3) The Council having delegated its powers under section 64 of the Act to
a duly constituted committee consisting of the following members of
the Society:—

.....(Chairman)
.....
.....
.....;

(THE COUNCIL) (THE COMMITTEE of the Council) (THE DISCIPLI-
NARY COMMITTEE) hereby orders that the said C.D. be suspended from
practice as a barrister and solicitor until the charge or complaint shall have been
heard and disposed of.

MADE at Suva this _____ day _____, 19 _____

¹⁰(Signed) (Chairman of the Disciplinary Committee)
..... (Member of the Disciplinary Committee)

¹⁰(Signed) (President of the Council)
..... (Member of the Council)

¹⁰(Signed) (Chairman of the Committee of the Council)
..... (Member of the Committee of the Council)

⁶ Omit in order by Council. ⁷ Insert short particulars. ⁸ Omit if this order is made by the
Council. ⁹ Omit if no delegation under section 44. ¹⁰ Vide secs. 64 and 72 (1).

FORM 7
(Rule 12)

REMOVAL FROM ROLL ON OWN APPLICATION

In the matter of C.D. a Barrister and Solicitor
and

In the matter of the Legal Practitioners Act, and the
Barristers and Solicitors (Disciplinary Proceedings)
Rules.

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

1. I was admitted a barrister and solicitor in Fiji on the _____ day of _____, 19____

2. I desire that my name be removed from the Roll for the following reasons:—

(Here state the reasons)

3. (a) I am not aware of, and do not know of any cause for, any application that my name be struck off the Roll; and

(b) I am not aware of any complaint against me of professional misconduct or unprofessional conduct, or of any circumstance which might give rise to such a complaint.

4. I do not make this application for the purpose of evading any adverse application or complaint or of defeating or delaying any claim upon me as a barrister and solicitor.

5. My address for service is—

.....
.....

Sworn, Etc.

FORM 8
(Rule 29)

FORM OF SUBPOENA AD TESTIFICANDUM

Disciplinary Committee Cause No. _____ of 19____

In the matter of C. D., a Barrister and Solicitor
and

In the matter of the Legal Practitioners Act, and the
Barristers and Solicitors (Disciplinary Proceedings)
Rules.

To: _____ of _____

You are hereby required to attend before a Disciplinary Committee constituted under the Legal Practitioners Act at _____ on _____ day the day of _____, 19____, 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 herein fail not.

Given under my hand at _____ this _____ day of _____, 19____

Secretary of the Disciplinary Committee

Address: _____

FORM 9

(Rule 29)

FORM OF SUBPOENA DUCES TECUM

Disciplinary Committee Cause No. _____ of 19 ____
 In the matter of C.D., a Barrister and Solicitor
 and
 In the matter of the Legal Practitioners Act, and the
 Barristers and Solicitors (Disciplinary Proceedings)
 Rules.

To: _____ of _____

You are hereby required to attend before a Disciplinary Committee
 constituted under the Legal Practitioners Act at _____ on _____ day the
 day of _____, 19 ____, 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
 to produce at the time and place aforesaid—

(Specify documents to be produced)

And herein fail not.

Given under my hand at _____ this _____ day of _____, 19 ____

Secretary of the Disciplinary Committee

Address: _____

SECTION 65—BARRISTERS AND SOLICITORS (RESTORATION TO THE
ROLL) RULES*Made by the Chief Justice**Rules 22nd April, 1970.**Short title*

1. These Rules may be cited as the Barristers and Solicitors (Restoration to
the Roll) Rules.

Application for restoration

2.—(1) An application for restoration to the Roll shall be made by petition in
the form set out in the Schedule:

(2) The contents of the petition shall be verified by affidavit.

(3) The petition and the affidavit in support, together with three copies of
each, shall be lodged with the Chief Registrar.

Petition to be heard in Chambers

3. Unless the Chief Justice otherwise directs, the petition shall be heard in
Chambers not less than two months after the lodging of such petition with the Chief
Registrar.

Service of notice

4. The Chief Registrar shall, not less than one month before the date fixed for
the hearing of the petition, serve upon the Solicitor-General, the Secretary of the
Fiji Law Society and the Secretary of the Law Society or Association of the
Territory in which the original qualifications of the applicant were obtained, one
copy of each of the petition and the affidavit in support thereof.

Notice of hearing

5. The applicant shall, not less than one month before the date of hearing, cause notice of hearing in the form set out in the Schedule to be advertised in two consecutive issues of the Gazette and of such daily newspaper published and circulating in Fiji as may be directed by the Chief Justice.

Opposition to application

6. Any person who wishes to oppose the application shall set out in writing the grounds upon which he relies and shall, within fourteen days of the date of last publication of the notice referred to in rule 5, lodge such written grounds with the Chief Registrar and send a copy thereof by registered post to the applicant at the address for service given by him in his petition.

Procedure at hearing

7.—(1) At the hearing of the petition, after the petitioner and the Solicitor-General or his representative has been heard, and, if either of them wishes to be heard, a representative of the Fiji Law Society and a representative of the Law Society or Association of the Territory in which the original qualifications were obtained, any other person who has lodged grounds of objection under the provisions of rule 6 will be entitled to be heard either personally or by barrister and solicitor.

(2) Unless otherwise directed by the Chief Justice evidence may be given on affidavit as provided by rules of Court.

Publication of terms of restoration

8. If the Chief Justice shall order that the name of the applicant be restored to the Roll, the applicant shall cause to be published in one copy of the Gazette and in one copy of such daily newspaper published and circulating in Fiji as may be directed by the Chief Justice, details of the terms upon which order of restoration has been made.

Costs

9. The Chief Justice may make an order for the payment of costs by any party to the proceedings.

Restriction on subsequent petitions

10. No further petition for restoration to the Roll may be made by the applicant within one year after the date of any refusal of a previous petition to restore his name to the Roll.

SCHEDULE

FORM NO. 1
(Rule 2 (1))PETITION FOR RESTORATION TO THE ROLL IN THE SUPREME
COURT OF FIJI

Miscellaneous Proceedings No. _____ of 19 _____

IN THE MATTER of the Legal Practitioners Act, and
IN THE MATTER of the Barristers and Solicitors
(Restoration to the Roll) Rules,
AND IN THE MATTER of an application for
restoration to the Roll of the Court by
(Petitioner).

TO THE CHIEF JUSTICE OF THE
SUPREME COURT OF FIJI

The Petition of _____ of _____ sheweth—

1. That your petitioner was on the _____ day of _____, 19 _____, duly admitted as _____ (as the case may be; see section 4(c) of the Act).
2. That your petitioner was on the _____ day of _____, 19 _____, admitted as a barrister and solicitor in Fiji.
3. That the name of your petitioner—
 - (a) was on the _____ day of _____, 19 _____, struck off the Roll;
 - *(b) was on the _____ day of _____, 19 _____, struck off the Roll of (as applicable) in the (name of Territory).
 * delete if not appropriate.
4. That the name of your petitioner was on the _____ day of _____ restored to the Roll of (as applicable) in (name of Territory) [OR still remains on the Roll of (as applicable) in (name of Territory)] as appears from the original certificate by the Secretary of the (name of Society or Association of the Territory in which the applicant's original qualifications were obtained).
5. That your petitioner seeks to have his name restored to the Roll of the Court.
6. That since the date your petitioner was struck off the Roll he has been engaged in the following activities—
(Here set out dates and particulars of employment and activities in the period.).
7. That references as to character may be made to the following persons—
(Here set out the names of at least three character referees.).
8. That your petitioner's address for service is _____

Dated this _____ day of _____, 19 _____

FORM No. 2

(Rule 5)

LEGAL PRACTITIONERS ACT

NOTICE OF HEARING OF APPLICATION FOR RESTORATION TO THE
ROLL

Notice is hereby given that _____ of _____ has lodged a petition seeking the restoration of his name to the Roll of the Court and that the petition will be heard in Chambers at the Supreme Court at Suva on _____ day the _____ day of _____, 19____, at _____ o'clock in the _____ noon.

Any person wishing to show cause why the petition should not be granted may lodge with the Chief Registrar of the Supreme Court at Suva within fourteen days of the date of last publication of this notice a written statement of the grounds of his objection in which case he shall forward to the petitioner by registered post a copy of such written statement. If such a statement is lodged within fourteen days of the date of last publication of this notice, the objector will be entitled to appear either personally or by barrister and solicitor and be heard on the hearing of the petition.

Dated this _____ day of _____, 19____.

VI/95B.

Chief Registrar of the Supreme Court.

SECTION 74—BARRISTERS AND SOLICITORS (DISCIPLINARY
APPEALS) RULES

Rules 16th June, 1967.

Made by the Chief Justice

1.—(1) These Rules may be cited as the Barristers and Solicitors (Disciplinary Appeals) Rules.

(2) In these Rules, unless the context otherwise requires—

“Chief Justice” includes any judge or acting judge authorized by the Chief Justice under the provisions of subsection (1) of section 74 of the Act to exercise any of the powers exercisable by the Chief Justice under the provisions of that section;

“Chief Registrar” means the Chief Registrar of the Supreme Court;

“Disciplinary Committee” or “Committee” means a disciplinary committee appointed under the provisions of Part VIII of the Act;

“Registry” means the Registry of the Supreme Court;

“Society” means the Fiji Law Society.

2. An appeal against any order or decision of a Disciplinary Committee shall be by notice of motion, which shall state the grounds of appeal and whether the appeal is from all or part only of the order or decision. Unless the Chief Justice otherwise orders, the notice of motion shall be served on every party to the proceedings before the Committee and also on the Secretary of the Committee.

3.—(1) The appellant shall enter the appeal by lodging a copy of the notice of motion at the Registry.

(2) The notice of motion and all other documents relating to the appeal shall be intituled "Re a Barrister and Solicitor" (without naming him) and in the matter of the Act.

4. The notice of motion shall be served and the appeal entered within fourteen days after the date of the order or decision against which the appeal is brought, or, in the case of an order or decision made before the commencement of these Rules, within fourteen days after such commencement.

5.—(1) Except in the case of an order which has already been filed in the Supreme Court under the provisions of section 73 of the Act, the Secretary of the Disciplinary Committee shall, within seven days after the service upon him of the notice of motion, lodge at the Registry the record of the proceedings in which the order or decision appealed against was made, including the evidence given thereat and the statement of the findings of the Committee in relation to the case.

(2) The appellant and every other party affected by, or interested in, the order or decision shall be entitled upon payment of the fees prescribed in rule 14 to obtain from the Chief Registrar a copy of the documents lodged by the Secretary of the Committee under the provisions of paragraph (1), the Chief Justice may in his discretion waive payment of such fees by the appellant or any other party.

6.—(1) The Chief Registrar shall list the appeal for hearing in accordance with such directions as the Chief Justice may give.

(2) The appeal shall be heard in Chambers unless the Chief Justice, upon the application of any party affected by or interested in the order or decision appealed against, shall order that it be heard in open Court.

7. Any person who desires to be heard on the motion and appears to the Chief Justice to be a proper person to be heard shall be heard notwithstanding that he has not been served with the notice of motion and such order as to costs and expenses may be made for or against him as the Chief Justice shall think just.

8. The Chief Justice shall have power to extend the time for appealing, to grant leave to amend the grounds of appeal, to extend the time limited by paragraph (1) of rule 5, and to make any other order relating to the appeal, on such terms as he shall think just.

9.—(1) The Chief Justice may, if he thinks it necessary or expedient in the interests of justice—

- (a) order any person who would have been a compellable witness at the hearing before the Committee to attend and be examined before him;
- or
- (b) order the evidence of any such witness to be taken by affidavit, whether such witness was or was not called at such hearing; or
- (c) direct the Committee to receive the evidence of any person who would have been a compellable witness at the hearing before it but did not give evidence and to furnish a report in writing stating whether if they had received that evidence before making their findings and their

order or decision, their findings or their order or decision would have been in any way different from what they were and, if so, what they would have been.

- (2) (a) The Chief Justice may, with or without application, direct the Committee to furnish a report in writing giving their opinion upon any point or question arising in the case or upon the appeal.
- (b) The Chief Registrar shall forthwith notify the Secretary of the Committee of such direction.
- (c) The report of the Committee shall be lodged by the Secretary of the Committee at the Registry and a copy thereof shall be served by, or under the authority of, the Chief Registrar on every Party to the appeal.

10.—(1) If, in exercise of his powers under paragraph (1)(c) of rule 9, the Chief Justice directs the Committee to receive the evidence of any person, the Committee shall have the like power of compelling the attendance of such person as is exercisable by a Disciplinary Committee in respect of the attendance of witnesses under the provisions of the Barristers and Solicitors (Disciplinary Proceedings) Rules.

(2) The report of the Committee shall be lodged, together with the record of the additional evidence, by the Secretary of the Committee at the Registry, and a copy of such report and record shall be served by, or under the authority of, the Chief Registrar on every party to the appeal.

(3) Paragraph (2) of rule 5 shall apply, *mutatis mutandis*, in respect of every such report and record.

11.—(1) On the hearing of the appeal the Chief Justice shall have power to draw inferences of fact and may—

- (a) allow or dismiss the appeal;
- (b) vary the order or decision in such manner as he shall think just;
- (c) quash the order or decision and remit the matter to the Committee, or to a differently constituted Committee, for the application or complaint to be investigated *de novo*;
- (d) make any order or decision which ought to have been made or given, and make such further or other order as the case may require including an order as to the costs and expenses of and incidental to the investigation and the appeal.

(2) The powers of the Chief Justice under paragraph (1) may be exercised notwithstanding that notice of appeal has not been given in respect of any particular part of the order or decision appealed against.

12. Where the applicant or complainant in the proceedings before the Disciplinary Committee is the appellant or where, in the case of an application by a barrister and solicitor to procure his name to be removed from the Roll an objector is the appellant, the Chief Justice may make such order as he shall think just for the giving by the appellant of security for the costs and expenses of and incidental to the appeal.

13. An appellant may at any time discontinue his appeal by serving notice of discontinuance on the Secretary of the Committee and on every other party to the appeal and, if the appeal has been entered, lodging a copy of the notice in the Registry. The appeal shall thereupon be treated as having been dismissed with an order for payment by the appellant of the costs and expenses of and incidental to

the appeal, including any costs incurred by any Committee concerned therewith or by the Society.

14. The fees to be charged for copies of documents provided to the appellant and the other parties by the Chief Registrar shall be the same as the fees prescribed by the Rules of the Supreme Court for providing copies of documents filed in the Supreme Court.

15. Subject to the foregoing provisions of these Rules, appeals to the Chief Justice against any order or decision of a Disciplinary Committee shall be governed by the practice and procedure for the time being of the Supreme Court in the exercise of its original jurisdiction in civil proceedings.

SECTION 74—BARRISTERS AND SOLICITORS (DISCIPLINARY APPEALS) (COURT OF APPEAL) RULES

Rules 10th July, 1967

Made by the President of the Court of Appeal

1.—(1) These Rules may be cited as the Barristers and Solicitors (Disciplinary Appeals) (Court of Appeal) Rules.

(2) In these Rules, unless the context otherwise requires—

“Chief Justice” includes any judge or acting judge authorized by the Chief Justice under the provisions of subsection (1) of section 74 of the Act to exercise any of the powers exercisable by the Chief Justice under the provisions of that section.

2. These Rules apply to appeals to the Court of Appeal, against any order of the Chief Justice, brought under section 74 of the Act.

3. The appeal shall be by notice of motion, which shall state the grounds of appeal and whether the appeal is from all or part only of the order. Unless it is otherwise ordered the notice of motion shall be served on every party to the proceedings before the Chief Justice.

4.—(1) The appellant shall enter the appeal by lodging a copy of the notice of motion at the Registry of the Court of Appeal.

(2) The notice of motion and all other documents relating to the appeal shall be intitled in the matter of the barrister and solicitor concerned (naming him) and in the matter of the Act.

5. The notice of motion shall be served and the appeal entered within fourteen days after the date of the order against which the appeal is brought, or in the case of an order or decision made before the coming into force of these Rules, within fourteen days after the date on which these Rules come into force.

6. The appeal shall be heard and determined in open Court.

7. The powers of the Court of Appeal—

(a) to grant an extension of time;

(b) to give leave to amend;

(c) to give directions as to service;

(d) generally, to hear any application, make any order, or give any directions incidental to an appeal or intended appeal, not involving the decision of the appeal,

may be exercised by a single Judge of Appeal, subject to resort to the Court of Appeal.

8.—(1) The Court of Appeal shall have the like powers and authorities as are conferred on the Chief Justice by rules 9 and 11 of the Barristers and Solicitors (Disciplinary Appeals) Rules, and the provisions of rule 10 of those Rules shall apply accordingly.

(2) The following provisions of those Rules shall apply, with necessary modifications—

Rule 13—Discontinuance of appeal;

Rule 14—Fees for copy documents.

9. Subject to the foregoing provisions of these Rules, appeals to the Court of Appeal under section 74 of the Act shall be governed by the practice and procedure for the time being of the Court of Appeal in the exercise of its appellate jurisdiction in respect of civil proceedings heard at first instance by the Supreme Court.

SECTION 83.—LEGAL PRACTITIONERS (PRACTISING CERTIFICATES) RULES

Made by the Chief Justice

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

2. Practising certificates issued under the provisions of section 19 of the Act shall be in the form appearing in the Schedule.

SCHEDULE

LEGAL PRACTITIONERS ACT

(CHAPTER 254)

PRACTISING CERTIFICATE

I hereby certify that _____ of _____ is duly enrolled a Barrister and Solicitor of the Supreme Court of Fiji and, subject to the provisions of the Act, is entitled to practise as a Barrister and Solicitor of such Court.

Given under my hand and sealed with the Seal of the Supreme Court this day of _____, 19 _____

Chief Registrar of the Supreme Court

SECTION 83.—BARRISTERS AND SOLICITORS
(PRACTICE) RULES

*Rules 14th Nov., 1938 [in force 9th Dec., 1938]
and 20th May, 1952 [in force 30th May, 1952],
amalgamated 3rd May, 1976.*

Made by the Chief Justice

Short title

1. These Rules may be cited as the Barristers and Solicitors (Practice) Rules.

Definitions

2. In these Rules—

“contentious business” includes any business done by a barrister and solicitor in any court in Fiji whether as a solicitor or as a barrister;
“non-contentious business” includes any business connected with sales, purchases, leases, mortgages, settlements, and other matters of conveyancing;
“costs” includes fees, charges, disbursements, expenses and remuneration.

Touting or advertising prohibited

3. A barrister and solicitor shall not directly or indirectly apply for or seek instructions for professional business, or do or permit in the carrying on of his practice, any act or thing which can reasonably be regarded as touting or advertising or as calculated to attract business unfairly.

Offering to do professional business at less than prescribed scales of charges prohibited

4. A barrister and solicitor shall not hold himself out or allow himself to be held out, directly or indirectly, and whether or not by name, as being prepared to do professional business in contentious matters at less than the scale fixed by the Supreme Court Rules, and in non-contentious matters at less than the scale of charges prescribed by any written law for the time being in force.

(Amended by Rules 3rd May, 1976.) (Cap. 136.) (1955 Edition.)

Sharing of profit costs with unqualified person prohibited

5. A barrister and solicitor shall not share or agree to share with any person not being a barrister and solicitor or other duly qualified legal agent practising in Fiji or in any country or territory of the Commonwealth, his profit costs in respect of any business either contentious or non-contentious:

(Amended by Rule 3rd May, 1976.)

Provided always that—

- (a) a barrister and solicitor carrying on practice on his own account may agree to pay an annuity or other sum out of profits to a retired partner or predecessor or the dependants or personal representative of a deceased partner or predecessor;
- (b) a barrister and solicitor who has agreed in consideration of a salary to do the legal work of an employer who is not a barrister and solicitor may agree with such employer to set off his profit costs received in respect

of contentious business from the opponents of such employer or the costs paid to him as the barrister and solicitor for such employer by third parties in respect of non-contentious business against—

- (i) the salary so paid or payable to him;
- (ii) the reasonable office expenses incurred by such employer in connexion with such barrister and solicitor (to the extent of such salary and expenses).

Members of town council, etc.

6. A barrister and solicitor shall not accept a brief from nor appear in court on behalf of any town council or other local authority of which he is a member.

(Amended by Rules 3rd May, 1976.)

Managing society, etc.

7. A barrister and solicitor who takes an active part in the management or organization of any society or association, whether as a salaried official or otherwise, shall not accept a brief from nor appear in court on behalf of such society or association.

Partner of firm, etc.

8. A barrister and solicitor who is a partner, director or salaried official of a business firm shall not accept a brief from nor appear in court on behalf of such firm.

Waiver

9. The Chief Justice may by writing under his hand waive any of the provisions of these Rules in any particular case or class of cases.

SECTION 83.—BARRISTERS AND SOLICITORS (REGISTERED AND BRANCH OFFICES) RULES

*Rules 7th Nov., 1950, 5th Dec., 1950
[in force 1st Jan., 1951].*

Made by the Chief Justice

Short title

1. These Rules may be cited as the Barristers and Solicitors (Registered and Branch Offices) Rules.

Registration of principal office and agent

2. No barrister and solicitor shall practise as such unless he has caused to be registered with the Chief Registrar of the Supreme Court the address for the time being of his principal office, and if he does not practise within three miles of the Registry of the Supreme Court the name of his Suva agent who shall be a barrister and solicitor practising within that radius.

Branch office

3. A barrister and solicitor may, in addition to his principal office, have a branch office or offices, but he shall not cause or allow any business with the public to be transacted at any such office unless—

- (a) the office is under the supervision and control of a barrister and solicitor entitled to practise in Fiji, who resides in the place where the office is situated and is not employed by any other barrister and solicitor or practising as a barrister and solicitor on his own account; or
- (b) he or some other barrister and solicitor entitled to practise in Fiji is personally in attendance at the office at all times when such business is transacted:

Provided that a barrister and solicitor may, whilst visiting the place where his branch office is situated, allow business to be transacted there during his attendance at court so long as such business is confined to the taking of instructions.

(Amended by Rules 5th December, 1950.)

Place of principal office

4. If a barrister and solicitor has more than one office, his principal office shall be that nearest the place where he ordinarily resides; in the case of a firm of barristers and solicitors having more than one office, the firm may register as its principal office any one such office which is under the supervision and control of a resident partner of the firm.

Compliance with rule 2

5. A barrister and solicitor may comply with rule 2 by including in his application for his certificate of enrolment the particulars of his office address and where necessary the name of his Suva agent, or if he is already on the Roll of the Court, by notifying the Chief Registrar of the Supreme Court of such particulars within one month of the coming into force of these Rules, and by notifying the Chief Registrar of any change in such particulars within one month of such change.

**SECTION 83.—BARRISTERS AND SOLICITORS (REMUNERATION:
NON-CONTENTIOUS BUSINESS) RULES**

Rules 17th. Nov., 1976.

Made by the Chief Justice

Short title

1. These Rules may be cited as the Barristers and Solicitors (Remuneration: Non-Contentious Business) Rules.

Regulation of remuneration

2. The remuneration of a barrister and solicitor for all professional work done by him in respect of non-contentious business shall be regulated by these Rules.

Gross sum special provisions

3. In respect of business regulated by these Rules a barrister and solicitor may, at his option, charge a gross sum in lieu of the detailed charges set out in the Schedules:

Provided that within three months after the delivery of a charge made under this paragraph or within one month after payment, whichever shall be the later date, the client may require that a detailed bill of charges shall be delivered, and the barrister and solicitor shall thereupon comply with the requisition and any bill so delivered shall be subject to taxation as if the provisions of this paragraph with respect to the regulation of remuneration by gross sum had not been made.

Exemption of powers of court and certain written agreements

4. Nothing in these Rules shall affect—

(a) the power of the court to order delivery of a bill of costs or direct the taxation thereof; or

(b) the right of a barrister and solicitor to enter into a written agreement with his client as to his remuneration as provided by section 15 of the Act.

Probate and administration

5.—(1) Barristers and solicitors shall be entitled to charge and shall be allowed the fees set out in the First Schedule for work done in connexion with the granting of probate or letters of administration.

(2) The fees set out in the First Schedule include all work usual and necessary to obtain the grant from the court and to transmit the assets into the names of the personal representatives, and include the usual affidavits such as affidavits of justification of surety, and in addition include answering requisitions raised by the Commissioner of Stamp Duties on the statement of assets and liabilities.

(3) The scale of fees set out in the First Schedule is for use in ordinary cases; in extraordinary cases the taxing officer may increase or diminish the charges if for any special reasons he thinks fit.

Bills of Sale and Mortgages of chattels

6. Barristers and Solicitors shall be entitled to charge and shall be allowed the fees set out in the Second Schedule for work done in connection with Bills of Sale and Mortgages of Chattels.

Crop Liens

7. Barristers and Solicitors shall be entitled to charge and shall be allowed the fees set out in the Third Schedule for work done in connection with Crop Liens.

Conveyancing

8. Barristers and Solicitors shall be entitled to charge and shall be allowed the fees set out in the Fourth Schedule for work done in connection with Conveyancing matters.

Companies

9. Barristers and Solicitors shall be entitled to charge and shall be allowed the fees set out in the Fifth Schedule for work done in connection with matters pertaining to Companies.

General remuneration

10.—(1) In respect of non-contentious business for which remuneration is not otherwise specifically prescribed barristers and solicitors shall be entitled to charge and be allowed the fees set out in the Sixth Schedule.

(2) The scale of fees set out in the Sixth Schedule does not include stamps or disbursements reasonably and properly paid on behalf of the client but it includes law stationers' charges and allowances for time of the barrister and solicitor and his clerks and for copying, stationery and other similar disbursements.

(3) A barrister and solicitor may be allowed according to the circumstances a proper additional remuneration for his special exertion when any business to which this rule applies is required to be and is carried through in an exceptionally short space of time.

FIRST SCHEDULE

PROBATE AND LETTERS OF ADMINISTRATION

Comprising all work usual and necessary to obtain the grant from the court and to transmit the assets into the names of the personal representatives, and including the usual affidavits such as affidavits of justification of surety, and in addition including answering requisitions raised by the Commissioner of Stamp Duties on the statement of assets and liabilities. In extraordinary cases the taxing officer may increase or diminish the charges if for any special reasons he thinks fit.

Gross value of Estate not exceeding	Fee	Gross value of Estate not exceeding	Fee
\$	\$	\$	\$
1,000	35	45,000	557
2,000	50	50,000	595
3,000	65	60,000	670
4,000	80	70,000	720
6,000	110	80,000	770
8,000	140	90,000	820
10,000	170	100,000	870
12,000	200	120,000	970
14,000	230	140,000	1,070
16,000	260	160,000	1,170
18,000	290	180,000	1,270
20,000	320	200,000	1,370
25,000	370	250,000	1,620
30,000	420	300,000	1,870
35,000	470	400,000	2,370
40,000	520	500,000	2,870

Exceeding \$500,000 then \$2,870 plus \$5.00 per \$1,000 of such excess.

SECOND SCHEDULE

BILLS OF SALE AND MORTGAGES OF CHATTELS

(1) PRIMARY SECURITY

(a) *Mortgagee's Solicitor's Costs:*

Comprising all instructions, attendances, preparation and perusal of documents, searches, attending to stamping and registration, correspondence and all other matters usual and necessary to complete the transaction on behalf of the mortgagee:

Principal sum not exceeding	Fee	Principal sum not exceeding	Fee
\$	\$	\$	\$
200.....	40	3,600.....	67
400.....	41	3,800.....	68
600.....	42	4,000.....	70
800.....	43	4,500.....	75
1,000.....	44	5,000.....	80
1,200.....	45	5,500.....	85
1,400.....	46	6,000.....	90
1,600.....	47	6,500.....	95
1,800.....	48	7,000.....	100
2,000.....	49	8,000.....	105
2,200.....	50	9,000.....	115
2,400.....	52	10,000.....	120
2,600.....	54	11,000.....	135
2,800.....	55	12,000.....	140
3,000.....	57	13,000.....	145
3,200.....	60	14,000.....	150
3,400.....	65	15,000.....	155

Exceeding \$15,000 then \$155 plus \$2.00 per \$1,000 for such excess.

(b) *Mortgagor's Solicitor's Costs:*

One-half of the appropriate scale for Mortgagee's Solicitor.

(c) *Solicitor for both Mortgagor and Mortgagee:*

The appropriate scale for Mortgagee's Solicitor only.

(2) COLLATERAL SECURITY

One-half of the appropriate scales.

(3) AFFIDAVIT RENEWING REGISTRATION

Comprising all instructions necessary..... \$20

(4) MEMORANDUM OF SATISFACTION

Comprising all instructions necessary

(a) Solicitor for Mortgagee	\$15
(b) Solicitor for Mortgagor	\$20
(c) Solicitor for both Mortgagor and Mortgagee	\$25

THIRD SCHEDULE

CROP LIENS

(1) PRIMARY SECURITY

(a) *Lienee's Solicitor's Costs:*

Comprising all instructions, attendances, preparation and perusal of documents, searches, attending to stamping and registration, correspondence and all other matters usual and necessary to complete the transaction on behalf of the lienee:

Principal sum not exceeding	Fee	Principal sum not exceeding	Fee
\$	\$	\$	\$
200	30	3,600	47
400	31	3,800	48
600	32	4,000	49
800	33	4,500	50
1,000	34	5,000	52
1,200	35	5,500	54
1,400	36	6,000	56
1,600	37	6,500	58
1,800	38	7,000	60
2,000	39	8,000	62
2,200	40	9,000	64
2,400	41	10,000	66
2,600	42	11,000	68
2,800	43	12,000	70
3,000	44	13,000	72
3,200	45	14,000	74
3,400	46	15,000	75

Exceeding \$15,000 then \$75 plus \$1.00 per \$1,000 for such excess.

(b) *Lienor's Solicitor's Costs:*

One-half of the appropriate scale for Lienee's Solicitor.

(c) *Solicitor for both Lienor and Lienee:*

The appropriate scale for Lienee's Solicitor only.

(2) COLLATERAL SECURITY

One half of the appropriate scales.

(3) MEMORANDUM OF SATISFACTION

Comprising all instructions and necessary matters:

(a) Solicitor for Lienee	\$10
(b) Solicitor for Lienor	\$15
(c) Solicitor for both	\$20

FOURTH SCHEDULE

CONVEYANCING

A. CONTRACTS OF SALE

These scales shall only apply to a contract of sale where a Transfer is not executed within three months of the date of such contract. In all other cases the work involved is included in the scales relating to Transfers.

(1) *Vendor's Solicitor's Costs:*

For drawing and settling contract of sale of freehold or leasehold land, comprising instructions for, and drawing and/or settling draft contract of sale with purchaser, his solicitor or agent, engrossing (in duplicate) contract of sale, obtaining signature, exchanging parts and attending to preliminary settlement:

Price not exceeding	Fee	Price not exceeding	Fee
\$	\$	\$	\$
500	50	30,000	150
1,000	51	40,000	175
2,000	52	50,000	200
3,000	53	60,000	230
4,000	54	70,000	260
5,000	55	80,000	290
6,000	59	90,000	320
7,000	63	100,000	350
8,000	67	125,000	400
9,000	71	150,000	450
10,000	75	200,000	550
15,000	100	300,000	750
20,000	125	500,000	1,000
25,000	138		

Exceeding \$500,000 then \$1,000 plus \$2 per \$1,000 of such excess.

(2) *Purchaser's Solicitor's Costs:*

For perusing and settling contract of sale of freehold or leasehold land comprising instructions, obtaining signature and exchanging parts and preparing and filing Caveat:

One half of the appropriate scale for the Vendor's Solicitor.

(3) *Solicitor Acting for both Vendor and Purchaser:*

The remuneration of a Solicitor acting for both the Vendor and Purchaser shall be the total of the appropriate fee of paragraphs (1) and (2).

B. TRANSFERS

(1) *Transferee's Solicitor's Costs:*

Comprising all instructions, investigation of title, searches, attendances, preparations and perusal of documents, registration and attention to rates and all other matters usual and necessary to complete the transaction on behalf of the transferee but does not include any work carried out in order to obtain any necessary Government, Statutory or other consent to purchase:

Price not exceeding	Fee	Price not exceeding	Fee
\$	\$	\$	\$
500.....	50	30,000.....	250
1,000.....	75	40,000.....	260
2,000.....	80	50,000.....	270
3,000.....	85	60,000.....	310
4,000.....	90	70,000.....	350
5,000.....	95	80,000.....	390
6,000.....	100	90,000.....	430
7,000.....	105	100,000.....	470
8,000.....	110	125,000.....	545
9,000.....	115	150,000.....	620
10,000.....	125	200,000.....	770
15,000.....	165	300,000.....	970
20,000.....	205	500,000.....	1,270
25,000.....	245		

Exceeding \$500,000 then \$1,270 plus \$2 per \$1,000 of such excess.

(2) *Transferor's Solicitor's Costs:*

Comprising all instructions, attendances, preparation and perusal of documents, correspondence and attention to all matters usual and necessary to complete the transaction on behalf of the transferor but not including work carried out in order to obtain any necessary Government, Statutory or other consent to sell:

Price not exceeding	Fee	Price not exceeding	Fee
\$	\$	\$	\$
500.....	50	30,000.....	140
1,000.....	55	40,000.....	165
2,000.....	60	50,000.....	190
3,000.....	65	60,000.....	215
4,000.....	70	70,000.....	240
5,000.....	75	80,000.....	265
6,000.....	80	90,000.....	290
7,000.....	85	100,000.....	315
8,000.....	90	125,000.....	360
9,000.....	95	150,000.....	405
10,000.....	100	200,000.....	495
15,000.....	110	300,000.....	630
20,000.....	120	500,000.....	900
25,000.....	130		

Exceeding \$500,000 then \$900 plus \$1.40 per \$1,000 of such excess.

(3) *Solicitor Acting for both Transferor and Transferee:*

The remuneration of a Solicitor acting for both the Transferor and the Transferee shall be the total of the appropriate fee of paragraphs (1) and (2).

C. MORTGAGES

(1) *Mortgagee's Solicitor's Costs:*

Comprising all instructions, investigation of title, searches, attendances, preparation and perusal of documents, correspondence, accounts, stamping and registration and all other matters usual and necessary to complete the transaction on behalf of the mortgagee but not including any work carried out in order to obtain any necessary Government, Statutory or other consent to such mortgage:

Sum secured not exceeding	Fee	Sum secured not exceeding	Fee
\$	\$	\$	\$
500	50	30,000	177
1,000	55	40,000	211
2,000	61	50,000	245
3,000	67	60,000	270
4,000	73	70,000	295
5,000	79	80,000	320
6,000	85	90,000	345
7,000	91	100,000	370
8,000	97	125,000	435
9,000	103	150,000	490
10,000	109	200,000	600
15,000	126	300,000	735
20,000	143	500,000	1,005
25,000	160		

Exceeding \$500,000 then \$1,005 plus \$1.05 per \$1,000 of such excess.

(2) *Mortgagor's Solicitor's Costs:*

Comprising all instructions, attendances, preparation and perusal of documents, correspondence and all other matters usual and necessary to complete the transaction on behalf of the mortgagor but not including any work carried out in order to obtain any necessary Government, Statutory or other consent to such mortgage:

One half of the scale allowed for Mortgagee's costs.

(3) *Solicitor acting for both Mortgagor and Mortgagee:*

The scale allowed for Mortgagee's costs only.

(4) *Mortgage as Collateral Security:*

(a) For the first of such collateral mortgages the costs shall be one-half of the relevant scale.

(b) For the second and ensuing collateral mortgages the costs shall be one-fifth of the relevant scale.

(5) *Variation of Mortgage:*

Including all instructions, investigation of title, searches, attendances, preparation and perusal of documents, attendance to insurance policies, correspondence and all other matters usual and necessary to complete the transaction on behalf of the mortgagor or mortgagee but not including any work carried out in order to obtain any necessary Government, Statutory or other consents:

- (a) Where the amount of the loan is varied then half of the appropriate scale relating to the quantum of such variation as if such variation were an assumed new mortgage.
- (b) Where the amount of the loan is not varied then in accordance with the Sixth Schedule.

(6) *Discharge of Mortgage*

Comprising all instructions, attendances, preparation and perusal of documents, correspondence and attendance to insurance policies, accounts, registration and all other matters necessary to complete the transaction.

(a) *Solicitor for the Mortgagee:*

Amount discharged not exceeding	Fee	Amount discharged not exceeding	Fee
\$	\$	\$	\$
1,000.....	25	8,000.....	32
2,000.....	26	9,000.....	33
3,000.....	27	10,000.....	34
4,000.....	28	15,000.....	35
5,000.....	29	20,000.....	36
6,000.....	30	25,000.....	37
7,000.....	31	30,000.....	38

Exceeding \$30,000 then \$40.

(b) *Solicitor for the Mortgagor:*

Amount discharged not exceeding	Fee	Amount discharged not exceeding	Fee
\$	\$	\$	\$
1,000.....	20	8,000.....	27
2,000.....	21	9,000.....	28
3,000.....	22	10,000.....	29
4,000.....	23	15,000.....	30
5,000.....	24	20,000.....	31
6,000.....	25	25,000.....	32
7,000.....	26	30,000.....	33

Exceeding \$30,000 then \$35

(c) Solicitor for both the Mortgagee and the Mortgagor:

Amount discharged not exceeding	Fee	Amount discharged not exceeding	Fee
\$	\$	\$	\$
1,000	35	8,000	42
2,000	36	9,000	43
3,000	37	10,000	44
4,000	38	15,000	45
5,000	39	20,000	46
6,000	40	25,000	47
7,000	41	30,000	48

Exceeding \$30,000 then \$50.

D. LEASES

(1) *Lessor's Solicitor's Costs:*

Comprising all instructions, attendances, preparation and perusal of documents, correspondence and attendance to all matters usual and necessary to complete the transaction on behalf of the lessor but not including any work carried out in order to obtain any necessary Government, Statutory or other consents to such lease—calculated on the total rent (including any premium) payable for the term of the lease but not to exceed a maximum term of five years with any premium added thereto:

Rent and premium not exceeding	Fee	Rent and premium not exceeding	Fee
\$	\$	\$	\$
200	20	8,000	130
400	20	8,500	135
600	20	9,000	140
1,000	20	10,000	150
1,000	24	11,000	155
1,400	28	12,000	160
1,600	32	13,000	165
1,800	36	14,000	170
2,000	40	15,000	175
2,200	44	16,000	180
2,400	48	17,000	185
2,600	52	18,000	190
2,800	56	19,000	195
3,000	60	20,000	200
3,200	64	25,000	225
3,400	68	30,000	250
3,600	72	35,000	275
3,800	76	40,000	300
4,000	80	50,000	350
4,500	90	60,000	400
5,000	100	70,000	440
5,500	105	80,000	480
6,000	110	90,000	520
6,500	115	100,000	560
7,000	120	125,000	660
7,500	125	150,000	750

Exceeding \$150,000 then \$750 plus \$30 per \$10,000 of such excess.

(2) *Lessee's Solicitor's Costs:*

Comprising all instructions, attendances, preparation and perusal of documents, correspondence and attention to all matters usual and necessary to complete the transaction on behalf of the lessee: One-half of the scale of costs allowed to the lessor's solicitor.

(3) *Solicitor for both Lessor and Lessee:*

The scale allowed for Lessor's Solicitor's costs only.

(4) *Variation or extension of Lease:*

(a) Where the rental is increased by increase of rent or extension of the term of the lease then on the appropriate scale for Lessor's and Lessee's Solicitor.

(b) Where the conditions of the lease are varied then in accordance with the scale set forth in the Sixth Schedule.

FIFTH SCHEDULE

COMPANY MATTERS

A. COMPANY FORMATION

Comprising all instructions, attendances, preparation and completion of Memorandum and Articles of Association and all other documents incidental to the incorporation of a company, filing particulars of situation of registered office, but not including any consents required by Government, Statutory or other bodies:

Authorised capital not exceeding	Fee	Authorised capital not exceeding	Fee
\$	\$	\$	\$
5,000	245	90,000	320
10,000	260	95,000	325
15,000	265	100,000	330
20,000	270	125,000	345
25,000	275	150,000	360
30,000	280	175,000	380
40,000	290	200,000	390
45,000	292	250,000	425
50,000	295	300,000	450
55,000	300	350,000	485
60,000	302	400,000	515
65,000	304	450,000	550
70,000	308	500,000	575
75,000	310	750,000	735
80,000	312	1,000,000	900
85,000	315		

Exceeding \$1,000,000 then \$900 plus \$65 per \$100,000.

B. INCREASE IN AUTHORISED CAPITAL OF A COMPANY

For all increases of capital then one-fourth of the appropriate scale for an assumed incorporation of the company calculated on the amount of the increase with a minimum fee of \$75-00.

C. DEBENTURES

(a) Comprising all instructions on behalf of charge-holder, attendances, preparation and perusal of documents, correspondence and attendance to all matters usual and necessary to complete the transaction including registration of particulars of charge:

Sum secured not exceeding	Fee	Sum secured not exceeding	Fee
\$	\$	\$	\$
200.....	20	25,000.....	170
400.....	20	30,000.....	190
600.....	20	40,000.....	230
1,000.....	25	50,000.....	270
2,000.....	38	60,000.....	306
3,000.....	51	70,000.....	342
4,000.....	64	80,000.....	378
5,000.....	77	90,000.....	414
6,000.....	84	100,000.....	450
7,000.....	91	125,000.....	525
8,000.....	98	150,000.....	600
9,000.....	106	200,000.....	800
10,000.....	110	300,000.....	1,200
15,000.....	130	500,000.....	2,000
20,000.....	150		

Exceeding \$500,000 then \$2,000 plus \$2 per \$1,000 of such excess.

(b) *Perusal fee by Solicitor acting for the company:*

One-half of the appropriate scale for Solicitor preparing the Debenture.

(c) *Solicitor Acting for both the Lender and the Company:*

The costs of the appropriate scale for the Solicitor preparing the Debenture only.

(d) *Debenture as Collateral Security:*

(i) For the first of such collateral debentures the costs shall be one-half of the relevant scale.

(ii) For the second and ensuing collateral debentures the cost shall be one-fifth of the relevant scale.

RELEASE AND NOTICE OF SATISFACTION OF CHARGE

(i) *Solicitor for Charge-Holder:*

Amount discharged not exceeding	Fee	Amount discharged not exceeding	Fee
\$	\$	\$	\$
1,000	25	8,000	32
2,000	26	9,000	33
3,000	27	10,000	34
4,000	28	15,000	35
5,000	29	20,000	36
6,000	30	25,000	37
7,000	31	30,000	38

Exceeding \$30,000 then \$40.

(ii) *Solicitor for Company:*

Amount discharged not exceeding	Fee	Amount discharged not exceeding	Fee
\$	\$	\$	\$
1,000	20	8,000	27
2,000	21	9,000	28
3,000	22	10,000	29
4,000	23	15,000	30
5,000	24	20,000	31
6,000	25	25,000	32
7,000	26	30,000	33

Exceeding \$30,000 then \$35.

(iii) *Solicitor for both Charge-holder and Company:*

Amount discharged not exceeding	Fee	Amount discharged not exceeding	Fee
\$	\$	\$	\$
1,000	35	8,000	42
2,000	36	9,000	43
3,000	37	10,000	44
4,000	38	15,000	45
5,000	39	20,000	46
6,000	40	25,000	47
7,000	41	30,000	48

Exceeding \$30,000 then \$50.

SIXTH SCHEDULE

GENERAL REMUNERATION

<i>Item</i>	<i>Fee</i>
Instructions	Such fees as, having regard to the care and labour required, the number and length of the papers to be perused, and other circumstances of the case as are fair and reasonable.
Drawing—per foolscap page (single spacing)—	\$
In common form	13.50
Not in common form	16.50
Engrossing—per foolscap page (single spacing)	4.20
Each copy (necessary copies only)	2.10
Perusing—per foolscap page (single spacing)	4.75
Attendances in ordinary cases—per half hour	12.50
Attendances in extraordinary cases	Such sums as the taxing master may allow.
Correspondence—	
(a) Formal letter of acknowledgement	2.50
(b) Circular letter	2.00
(c) Ordinary letter	4.00
(d) Special or extraordinary letter	Such sum as the taxing master may allow
Journeys (In addition to other charges)—	
per day	175.00
per hour	20.00
For negotiating a sale or purchase of any property where the Barrister and Solicitor arranges the sale or purchase, the price and terms and conditions thereof, and no commission is paid by the client to an auctioneer or estate or other agent;	
Per cent of the purchase	2.00
Price up to \$100,000 of any excess	1.00
Alternatively: costs of negotiating a sale or purchase at the option of the Barrister and Solicitor be charged in accordance with the preceding items of the scale according to the work actually done.	
For negotiating for or procuring an agreement for a loan when the money is in fact lent and the solicitor is neither the lender nor one of the lenders:	
Provided that the above charge shall be reduced by one-third if the mortgagor or borrower has agreed to	One per cent of the amount lent

pay any other person for negotiating for or procuring an agreement for such loan.

For negotiating for or procuring an agreement for a loan when the money is in fact lent and the solicitor is either the lender or one of the lenders—

(1) When the solicitor is either the lender or one of the lenders, no remuneration shall be charged for negotiating or procuring the loan, except in the following cases:—

(a) when the solicitor arranges and obtains the loan from a person for whom he acts and subsequently by arrangement with his client lends money and executes or signs the security in his own name, he being in fact trustee or agent for the person aforesaid;

(b) when the solicitor contributes a portion of the money in fact lent and arranges and obtains the remaining portion from another person not being his partner as a solicitor nor being a co-trustee with him in relation to the money lent.

(2) In either of the foregoing cases for negotiating or procuring an agreement for a loan in respect of the amount so obtained from such other person

One per cent of the amount so obtained.

SECTION 83.—BARRISTERS AND SOLICITORS (ACCOUNTS) RULES

*Rules 19th Oct., 1961 [in force 1st July, 1962],
26th May, 1977.*

Made by the Chief Justice

1. These Rules may be cited as the Barristers and Solicitors (Accounts) Rules.

2.—(1) In these Rules, unless the context otherwise requires—

“client” means any person on whose account a solicitor holds or receives client’s money;

“client bank account” means a current or deposit account at a bank in Fiji in the name of the solicitor in the title of which the word “Client” or “Trust” appears;

“client’s money” means money held or received by a solicitor on account of a person for whom he is acting in relation to the holding or receipt of such money either as a solicitor or, in connexion with his practice as a solicitor, as agent, bailee, stakeholder or in any other capacity and shall

include money held or received on account of a trust of which the solicitor is the sole trustee or is co-trustee only with a partner, clerk or servant of his or with more than one of such persons;

“solicitor” means a barrister and solicitor of the Supreme Court engaged in the practice of his profession either solely on his own account or in partnership with any other person or persons and who or the firm of which he is a partner in the course of such practice receives any money upon trust or upon terms requiring him to account to any person therefor and shall include a firm of solicitors.

(2) In these Rules any reference to moneys received by a solicitor shall be deemed to include a reference to moneys received in the course of or in connexion with his practice as a solicitor by any of his clerks or servants.

3. Subject to the provisions of rule 4, every solicitor who holds or receives client's money shall without delay pay such money into a client bank account. Any solicitor may keep one client bank account or as many such accounts as he thinks fit.

4.—(1) Notwithstanding the provisions of rule 3, a solicitor shall not be under obligation to pay into a client bank account client's money held or received by him—

- (a) which is received by him in the form of cash and is without delay paid in cash to the client or a third party due to receive the same; or
- (b) which is received by him in the form of a cheque or draft and is endorsed in the ordinary course of business over to the client or a third party due to receive the same; or
- (c) which he pays into a separate bank account opened or to be opened with the client's written authority (whether given generally or in any particular case) in the name of the client or of some person named by the client; or
- (d) which the client for his own convenience requests in writing the solicitor to withhold from such account; or
- (e) which is received by him for or towards payment of a debt due to the solicitor from the client or in reimbursement of money expended by the solicitor on behalf of the client; or
- (f) which is paid to him expressly on account of costs incurred, in respect of which a bill of costs or other written intimation of the amount of the costs has been delivered, or as an agreed fee, or on account of an agreed fee, for business undertaken or to be undertaken.

(2) Notwithstanding the provisions of these Rules, a judge of the Supreme Court may upon an application made by a solicitor specifically authorise him in writing to withhold any client's money from a client bank account.

5. There may be drawn from a client bank account—

- (a) in the case of client's money—
 - (i) money properly required for a payment to or on behalf of the client;
 - (ii) money drawn on the client's authority (whether given generally or in a particular case);
 - (iii) money properly required for or towards payment of a debt due to the solicitor from the client or in reimbursement of money expended by the solicitor on behalf of the client;

- (iv) in the case of money which is subject to a trust of which the solicitor is a trustee, money properly required for payment in the execution of the particular trust, and money to be transferred to a separate bank account kept solely for the money of the particular trust; and
 - (v) money properly required for or towards payment of the solicitor's costs where a bill of costs or other written intimation of the amount of the costs incurred is delivered to the client prior to or without unreasonable delay after the drawing of such money;
- (b) any money to which the only person entitled is the solicitor himself, or, in the case of a firm of solicitors, one or more of the partners of the firm:

Provided that in any case under paragraph (a) the money so drawn shall not exceed the total of the money held for the time being in such client bank account on account of such client unless there shall be held in such client bank account a sum of money to which the only person entitled is the solicitor himself and which shall not at any time be less than the amount of all debit balances in the accounts of all clients included in such client bank account.

6. No money, other than money permitted by rule 5 to be drawn from a client bank account, shall be so drawn unless a judge of the Supreme Court upon an application made by the solicitor specifically authorises in writing its withdrawal.

7.—(1) Every solicitor shall, for each sum of client's money received by him, forthwith give to the person paying the same a receipt taken from a book of printed forms of receipt prepared for the solicitor.

(2) A record of each such receipt shall be made on a legible carbon duplicate of the receipt or by entry, on a butt originally attached to the receipt, of the amount received, the names of the payer and the client and brief particulars of the subject matter or purpose in respect of which the money is received and such duplicate or butt shall be kept in the book of forms into which it is bound.

(3) A solicitor shall not be bound to comply with the requirements of paragraphs (1) or (2) when any of the following payments is received:—

- (a) moneys which have been paid direct to a client bank account by any person other than the solicitor or his clerk or servant and which have not been received by the solicitor in cash or by cheque or warrant;
- (b) moneys paid out of any savings bank;
- (c) moneys received in any case where a special form of receipt is required by the payee or is required to be endorsed or is endorsed on the cheque or warrant given for such moneys.

(4) In any case where a receipt is not given to the person paying moneys by reason of the provisions of sub-paragraph (b) and (c) of paragraph (3) a *pro forma* receipt for such moneys shall be made out in the solicitor's book of receipts before such moneys are deposited to the client bank account.

8.—(1) Every solicitor shall at all times keep properly written up such books and accounts as may be necessary—

- (a) to show all his dealings with—
 - (i) client's money held, received or paid by him, and
 - (ii) any other money dealt with by him through a client bank account, and

(b) to distinguish such money held, received or paid by him on account of each separate client and to distinguish such money from other money held, received or paid by him on any other account.

(2) All dealings referred to in sub-paragraph (a) of paragraph (1) shall be recorded in—

- (i) a client's cash book which may consist of separate cash books for receipts and payments or of a book for both receipts and payments or of a clients' column on the credit side or debit side (as may be appropriate) of a cash book; and
- (ii) a transfer journal unless the solicitor uses his clients' cash book for entries of transfers between accounts; and
- (iii) a clients' ledger, or a clients' column on the credit side or debit side (as may be appropriate) of a ledger.

(3) Every solicitor shall keep a record of all bills of costs (distinguishing between profit costs and disbursements) and of all written intimations under rules 4 and 5 delivered by the solicitor to his clients, which record shall be contained in books or files of copies of such bills and intimations.

(4) In this rule each of the expressions "book", "ledger" and "record" shall be deemed to include a looseleaf book and such cards or other permanent documents as are necessary for the operation of a mechanical system of book-keeping.

9. Every solicitor shall—

- (a) following the end of every month cause the balance of any client bank account kept by him to be agreed with the balance of his cash book relating thereto and shall keep in the cash book or other appropriate book reconciliation statements showing such agreement; and
- (b) following the end of the months of March, June, September and December in each year cause to be prepared a trial balance statement listing the balances in the various accounts (which shall be referred to by the names of the clients concerned) contained in the ledger relating to any client bank account kept by him and cause the result of the trial balance to be compared and agreed with the balance in the cash book relating to the client bank account. Such trial balance statements may be kept in books or files of such statements or be recorded in trial balance books kept for the purpose and shall be retained by the solicitor.

10. Every solicitor shall preserve for at least six years from the date of the last entry therein all books, accounts and records kept by him under rules 7, 8 and 9.

11.—(1) In order to ascertain whether these Rules have been complied with, the Chief Justice acting either—

- (a) on an application of the Solicitor-General, or
- (b) on an application made by a client, may require any solicitor to produce, at a time and place to be fixed, his books of account, bank pass books, looseleaf bank statements, statements of account, vouchers and any other necessary documents relating to clients' money held, received or paid by him for audit by any person approved by the Chief Justice and such person shall be directed to prepare for the information of the Chief Justice a report on the result of such audit.

(2) Upon being required so to do a solicitor shall produce such books of account, bank pass books, looseleaf bank statements, statements of accounts, vouchers and documents at the time and place fixed.

(3) In any case in which the Solicitor-General is of the opinion that an audit should be made under this rule of the books of account, bank pass books, looseleaf bank statements, statements of account, vouchers and any other necessary documents of a solicitor, it shall be his duty to transmit to the Chief Justice a statement containing all relevant information in his possession and a request that such an audit be made.

(4) Before directing that an audit shall be made on an application made by a client, the Chief Justice may require prima facie evidence that a ground of complaint exists, and may require the payment by such party to the Chief Registrar of the Supreme Court of a reasonable sum to be fixed by him to cover the costs of the audit and the costs of the solicitor against whom the complaint is made. The Chief Justice may deal with any sum so paid in such manner as he shall think fit.

(5) The Chief Justice may make such order for the payment of the costs of the application and of the audit as he shall think fit.

(6) Every person approved by the Chief Justice to carry out an audit under this rule shall, before commencing the audit, give in writing under his hand an undertaking to the Chief Justice that, save in any report to the Chief Justice or in or for the purpose of any proceedings which may arise out of such report or otherwise in relation to clients' money held, received or paid by the solicitor concerned or with the previous consent of the Chief Justice, he will not disclose to any person any information which he obtains in the course of his audit.

(Rule amended by Rules 26th May, 1977.)

12. For the purposes of rules 4 and 5, a bill of costs or a written intimation of the amount of costs incurred may be delivered to a client personally or by posting the same by ordinary post in an envelope addressed to the client at his last address known to the solicitor.

13. Every requirement to be made by the Chief Justice of a solicitor under these Rules shall be made in writing under the hand of the Chief Registrar of the Supreme Court and sent by registered post to the last known address of the solicitor and, when so made and sent, shall be deemed to have been received by the solicitor within forty-eight hours of the time of posting.

14. Nothing in these Rules shall deprive a solicitor of any recourse or right, whether by way of lien, set-off, counterclaim, charge or otherwise, against moneys standing to the credit of a client bank account.

Controlled by Ministry of the Attorney General