

THE STATUTES OF THE REPUBLIC OF SINGAPORE

LEGAL PROFESSION ACT

(CHAPTER 161)

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CHAPTER 161

Legal Profession Act

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section

1. Short title.
2. Interpretation.

PART II

ADMISSION OF ADVOCATES AND SOLICITORS

Board of Legal Education

3. Establishment of Board of Legal Education.
4. Purposes of Board.
5. General powers of Board.
6. Senate of Academy may give directions to Board.
7. Power of Minister and Board as to recognition of foreign qualifications.
8. Constitution of Board.
9. Chairman, Deputy Chairman and Secretary.
10. Meetings of Board.

Qualified persons

11. Admission of advocates and solicitors.
12. Qualifications for admission.
13. Periods of pupillage.
14. Service of pupillage.
15. Admission of Malayan practitioners.
16. Admission of Hong Kong practitioners.
17. Petitions for admission under sections 11 (1) and 15 (1).
18. Petitions for admission under section 15 (2).
19. Service of documents and objections.
20. Caveats and misrepresentations.
21. Ad hoc admissions.

Reviews

Section

22. Review of Board's decisions.

Hearing of petitions and the roll

23. Hearing.
24. Declaration, duty and the roll.

PART III

PRACTISING CERTIFICATES

25. Practising certificates.
26. Disqualification for practising certificate.
27. Register of practitioners.
28. Cancellation of practising certificates.

PART IV

PRIVILEGES OF ADVOCATES AND SOLICITORS

29. Privileges of advocates and solicitors.
30. Appointment of Senior Counsel.
31. Order of precedence in court.
32. Qualifications to practise.
33. Unauthorised person acting as advocate or solicitor.
34. Qualifications to section 35.
35. No costs recoverable by unauthorised person.

PART V

THE LAW SOCIETY OF SINGAPORE

36. Establishment of Society.
37. Purposes and powers of Society.
38. Visitors.

Members of the Society and subscriptions

39. Membership.
40. Practising solicitors to be members.
41. Non-practitioner members.
42. Honorary members.
43. Privileges of membership.
44. Expulsion and suspension of rights and privileges.
45. Termination of qualification.
46. Annual subscription to Society.

The Council

Section

47. Council.
48. Statutory members.
49. Elected members.

Election of members of Council

50. Compulsory voting.
51. Elections.
52. Nominations.
53. Insufficient nominations.
54. Council's term of office.
55. Casual vacancies.

Officers

56. President and Vice-President.
57. When members of Council to vacate office.

Powers of Council

58. General powers of Council.
59. Specific powers of Council.
60. Appointment of committees of Council.
61. Power of Council to inspect files of proceedings in bankruptcy of solicitor.
62. Power of Council to accept gifts.
63. Representation in court.

Proceedings of Council

64. Meetings of Council.
65. Expenses of members.
66. Proceedings of Council and its Inquiry Committees to be confidential.

General meetings of the Society

67. Annual general meeting.
68. Extraordinary general meetings.
69. Voting.
70. Convening and procedure.

PART VI

PROFESSIONAL PRACTICE, CONDUCT AND
DISCIPLINE OF SOLICITORS AND CLERKS

71. Rules as to professional practice, etiquette, conduct and discipline.

Section

- 72. Rules as to keeping of accounts by solicitors.
- 73. Accountant's report.
- 74. Intervention in solicitor's practice.
- 75. Compensation fund.
- 76. Solicitors who are commissioners for oaths or notaries public.
- 77. Solicitor not to act as agent for any unauthorised person.
- 78. Solicitor's clerks.
- 79. Acting for housing developer and purchaser prohibited.
- 80. Account by solicitor.
- 81. Interim certificate.

PART VII

DISCIPLINARY PROCEEDINGS

- 82. Jurisdiction of Supreme Court over solicitors.
- 83. Power to strike off the roll or suspend or censure.
- 84. Appointment of Inquiry Panel.
- 85. Complaints against advocates and solicitors.
- 86. Inquiry.
- 87. Council's consideration of report.
- 88. Council's power to order penalty.
- 89. Application to appoint a Disciplinary Committee.

Disciplinary Committee

- 90. Appointment of Disciplinary Committee.
- 91. Proceedings and powers of Disciplinary Committee.
- 92. Person who made the complaint, etc.
- 93. Findings of Disciplinary Committee.
- 94. Society to apply to court.
- 95. Provisions as to penalties.
- 96. Procedure for complainants dissatisfied with Council's decision.
- 97. Procedure for complainants dissatisfied with a Disciplinary Committee's decision.
- 98. Order to show cause.
- 99. Drawing up of order.
- 100. Solicitor's application to remove own name.
- 101. Adverse orders to be noted on roll.
- 102. Replacement on roll of solicitor who has been struck off.
- 103. Costs.
- 104. Absence of person concerned.
- 105. Provisions as to evidence.
- 106. No action in absence of bad faith.

PART VIII

REMUNERATION OF SOLICITORS

Section

107. Prohibition of certain stipulations.
108. Orders as to remuneration of solicitors for non-contentious business.
109. Agreements with respect to remuneration for non-contentious business.
110. Remuneration of a solicitor who is a mortgagee.

Contentious business

111. Agreement as to costs for contentious business.
112. Effect of agreements with respect to contentious business.
113. Enforcement of agreements.
114. Death or incapability of solicitor after agreement.
115. Change of solicitor after agreement.

PART IX

RECOVERY AND TAXATION OF COSTS

116. Definition of "solicitor" in this Part.
117. Charging orders.
118. Solicitor not to commence action for fees until one month after delivery of bills.
119. Court may authorise action for recovery of fees before expiration of one month after delivery of bills.
120. Order for taxation of delivered bill of costs.
121. Costs of order for taxation fixed at \$25.
122. Time limit for taxation of bills of costs.
123. Petitions for taxation to contain a submission to pay.
124. Order for delivery of bill of costs to be obtained as of course.
125. Solicitor to deliver copy of bill of costs.
126. Preparation of bills of costs as between solicitor and client.
127. Interest in respect of disbursements and advances.
128. Costs of taxation how to be borne.
129. Interest on client's money.
130. Costs of Government.

PART X

MISCELLANEOUS

131. General provision as to rules.
132. Offices of Board and Society.
133. Service of documents.
134. Recovery of moneys by Society.
135. Rules Committee to prescribe fees.

Section

- 136. Relief to banks.
- 137. Income tax exemption.
- 138. Transfer of names to roll.
- 139. Saving.

The Schedule — Part I — Intervention in solicitor's practice.
 Part II — Powers exercisable on intervention.

An Act to establish the Board of Legal Education, to constitute the Law Society of Singapore and to amend and consolidate the law relating to the legal profession.

[11th February 1967]

PART I

PRELIMINARY

Short title.

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

Interpre-
tation.

17/84
30/86
15/89.
Cap. 294A.

2. In this Act, unless the context otherwise requires —
 “Academy” means the Singapore Academy of Law established under the Singapore Academy of Law Act;

“advocate and solicitor”, “advocate” and “solicitor” mean an advocate and solicitor of the Supreme Court;

“Board” means the Board of Legal Education established under section 3;

“client” includes —

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

(b) in relation to non-contentious business, any person who, as a principal or on behalf of another, or as a trustee, executor or administrator, or in any other capacity, has power, express or implied, to retain

or employ, and retains or employs or is about to retain or employ, a solicitor, and any person for the time being liable to pay a solicitor for his services any costs;

“contentious business” means business done, whether as solicitor or as advocate, in or for the purposes of proceedings begun before a court of justice or before an arbitrator;

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

“Council” means the Council of the Society established under section 47;

“court” means the High Court or a judge when sitting in open court, and “judge” means a judge of the Supreme Court sitting in chambers;

“Disciplinary Committee” means a committee appointed by the Chief Justice under section 90;

“Faculty” means the Faculty of Law of the National University of Singapore;

“Inquiry Committee” means an Inquiry Committee constituted under section 85;

“lay person”, in relation to an Inquiry Committee or Disciplinary Committee, means an architect, accountant, banker, company director, insurer, professional engineer, medical practitioner or a person who possesses such other qualifications as may be approved by the Chief Justice and the Attorney-General;

“legal officer” means a qualified person in the judicial or legal service of Singapore;

“Malayan practitioner” means any qualified person entitled to practise before a High Court in any part of Western Malaysia;

“practising certificate” means a certificate issued by the Registrar under section 25;

“qualified person” means any person who —

- (a) has passed the final examination for the degree of Bachelor of Laws in the University of Malaya in Singapore, the University of Singapore or the National University of Singapore;

- (b) is a barrister-at-law of England or of Northern Ireland or a member of the Faculty of Advocates in Scotland;
 - (c) is a solicitor in England or Northern Ireland or a writer to the Signet, law agent or solicitor in Scotland; or
 - (d) is in possession of such other degree or qualification as may be declared by the Minister under section 7 and has obtained a certificate from the Board under that section;
- “register of practitioners” means the annual register kept by the Registrar under section 27;
- “Registrar” means the Registrar of the Supreme Court and includes the Deputy Registrar and an Assistant Registrar;
- “roll” means the roll of advocates and solicitors of the Supreme Court kept under section 24;
- “Rules Committee” means the Rules Committee constituted under any written law for the time being in force with the power to make rules regulating procedure in the Supreme Court;
- “Society” means the Law Society of Singapore established under section 36;
- “trust” and “trustee” extend to implied and constructive trusts and to cases where the trustee has a beneficial interest in the trust property and to the duties incident to the office of a personal representative, and “trustee”, where the context admits, includes a personal representative.

PART II

ADMISSION OF ADVOCATES AND SOLICITORS

Board of Legal Education

3.—(1) There shall be established a body to be called the Board of Legal Education.

(2) The Board shall be a body corporate with perpetual succession and a common seal, with power subject to the provisions of this Act to sue and be sued in its corporate name and to acquire and dispose of property, both movable

and immovable, and to do and perform such other acts as bodies corporate may by law perform.

4. The purposes of the Board shall be —

Purposes of Board.

- (a) to register qualified persons seeking admission as advocates and solicitors;
- (b) to provide for the training, education and examination, by the Board or by any other body, of qualified persons intending to practise the profession of law in Singapore;
- (c) to exercise supervision over qualified persons during their period of pupillage and to assist masters and principals with regard to the instruction given to pupils;
- (d) to consider and from time to time make recommendations to the appropriate authorities on the syllabus, the contents of courses of instruction and examinations leading to the qualification of persons as qualified persons; and
- (e) to grant prizes and scholarships and to establish and subsidise lectureships in educational institutions in subjects of study relating to law.

5.—(1) In addition to the powers given by the other provisions of this Act, the Board may —

General powers of Board.

- (a) purchase or lease any land or building required for any of the purposes of this Act;
- (b) sell, surrender, lease, exchange or mortgage any land or building as may be found most convenient or advantageous;
- (c) receive grants from the Government or from public funds or the Society or from any other person;
- (d) borrow money whether by way of bank overdraft or otherwise for such of the purposes of the Board as the Board may from time to time consider desirable; and
- (e) do all things for which it has power to make rules under subsections (2) and (3) and all things that are necessary to carry into effect the objects of this Part and the purposes of the Board.

(2) Subject to the provisions of this Part, the Board shall have power to make rules to carry into effect the objects of this Part.

(3) In particular and without prejudice to the generality of subsection (2), the Board may make rules —

- (a) for regulating the meetings and proceedings of the Board;
- (b) with respect to the taking and retaining of pupils by masters and the conduct, duties and responsibilities of the parties;
- (c) for regulating the manner in which pupils serve their period of pupillage;
- (d) for specifying the subjects in which pupils shall attend courses of instruction;
- (e) for the examination from time to time of pupils;
- (f) for the exemption of pupils from courses of instruction or examination;
- (g) for the appointment of lecturers and examiners and for the payment of fees to them;
- (h) for regulating the procedure whereby qualified persons who have satisfied the provisions of this Act are admitted as advocates and solicitors by the Supreme Court; and
- (i) for prescribing the forms to be used and the fees to be paid for the purposes of this Part.

Senate of Academy may give directions to Board. 15/89.

6. The Senate of the Academy may, after consultation with the Board, give such directions, not inconsistent with the provisions of this Act, to the Board as to the exercise and performance by the Board of its functions and powers, and the Board shall give effect to any such direction. [5A

Power of Minister and Board as to recognition of foreign qualifications. 17/84.

7.—(1) The Minister may, on the advice of the Board, by notification in the *Gazette* declare any degree or qualification to be sufficient to qualify the holder thereof for admission as an advocate and solicitor subject to his obtaining a certificate under this section.

(2) No holder of any degree or qualification declared under subsection (1) shall be deemed to be a qualified person unless he satisfies the Board that he has attained a sufficient standard to be a qualified person and has obtained a certificate to that effect from the Board.

(3) The Board may, before granting any certificate under subsection (2), impose such conditions or requirements as it thinks fit to be complied with by an applicant who is the holder of a declared degree or qualification. [6

8.—(1) The Board shall consist of —

- (a) the Attorney-General;
- (b) the Dean of the Faculty;
- (c) 5 advocates and solicitors nominated by the Senate of the Academy after consultation with the Council of the Society; and
- (d) 3 other members nominated by the Senate of the Academy.

Constitution of Board. 15/89.

(2) The members of the Board, other than the Attorney-General and the Dean of the Faculty, shall be nominated to hold office for a term of 3 years.

(3) If for any reason the Attorney-General or the Dean of the Faculty is unable to attend a particular meeting of the Board, he may nominate some other legal officer or some other member of the Faculty, as the case may be, to attend the meeting and when so attending that alternate member shall be deemed for all purposes to be a member of the Board.

(4) The persons nominated under subsection (1) shall be eligible for re-nomination.

(5) When any vacancy in the Board occurs by death, resignation, insanity, bankruptcy or otherwise, the Board shall as soon as practicable take the necessary action to have the vacancy filled by the appropriate authority.

(6) Any casual vacancy arising among the nominated members shall be filled by nomination by the appropriate authority and any such new member shall hold office for so long as the member in whose place he is appointed would have held office.

(7) The validity of any proceedings of the Board is not affected by any vacancy among its members or by any defect in their appointment. [7

9.—(1) The Board shall every year elect a Chairman and a Deputy Chairman who shall so long as they continue to be members of the Board be eligible for re-election.

Chairman, Deputy Chairman and Secretary.

(2) The Chairman and in his absence the Deputy Chairman shall preside at meetings of the Board and in the absence of the Chairman and the Deputy Chairman the members of the Board shall elect an acting Chairman who shall have and exercise all the powers of the Chairman.

(3) The Board shall appoint a Secretary and such other officer or officers as it considers necessary. [8

Meetings
of Board.

10.—(1) The Board shall meet at such times and such places as the Chairman or the Deputy Chairman may appoint.

(2) The Board shall have power to fix a quorum for its meetings and shall have the power to fix a different quorum for different purposes:

Provided that the quorum at any meeting to make, revoke, alter, add to or amend any rules made under this Part shall be 7. [9

Qualified persons

Admission of
advocates
and
solicitors.
17/84.

11.—(1) The court may, in its discretion and subject to the provisions of this Act, admit as an advocate and solicitor of the Supreme Court —

(a) any qualified person under the provisions of this Part;

(b) any Malayan practitioner under section 15 or Hong Kong practitioner under section 16:

Provided that no person who is a qualified person by reason of his having passed the final examination for the degree of Bachelor of Laws in the National University of Singapore shall be admitted as an advocate and solicitor before the degree of Bachelor of Laws is conferred upon him.

(2) A person shall not be disqualified by sex from being admitted and enrolled as an advocate and solicitor. [10

Qualifica-
tions for
admission.

12.—(1) Subject to section 15, no qualified person shall be admitted as an advocate and solicitor unless he —

(a) has attained the age of 21 years;

(b) is of good character;

(c) has satisfactorily served the prescribed period of pupillage for qualified persons;

- (d) has attended such courses of instruction as may be prescribed by the Board; and
- (e) has passed such examinations as may be prescribed by the Board.

(2) Notwithstanding subsection (1) (d) and (e), the Board may, in its discretion, exempt a qualified person from attending such courses of instruction and passing such examinations as may be prescribed by it if the Board is of the opinion that that qualified person is, by reason of his experience or for other cause, a fit and proper person to be so exempted. [11

13.—(1) For the purposes of this Part, a qualified person shall during his period of pupillage be known as a pupil and a person with whom a pupil serves his period of pupillage or any part thereof shall be known as a master. Periods of pupillage.

(2) Subject to this section and section 14, the prescribed period of pupillage shall be —

- (a) 6 months where the master satisfies the requirements of section 14 (1) (a); and
- (b) 3 years where the master satisfies the requirements of section 14 (1) (b).

(3) A pupil shall before his petition is heard attend and satisfactorily complete a course of instruction organised or recognised by the Board for the purposes of this section unless exempted therefrom under section 12 (2).

(4) No person shall without the special leave in writing of the Board hold any office or engage in any employment of whatsoever kind and whether full-time or part-time during his period of pupillage:

Provided that this subsection shall not —

- (a) apply to a legal officer; and
- (b) preclude a pupil receiving remuneration from his master.

(5) Where a pupil attends the course of instruction referred to in subsection (3) concurrently with his period of pupillage, the period spent in attendance at such course of instruction shall not be counted for the purpose of subsection (2). [12

Service of
pupillage.

14.—(1) A pupil shall subject to the approval of the Board serve his prescribed period of pupillage —

- (a) with an advocate and solicitor who is and has been in active practice in Singapore for a total of not less than 5 out of the 7 years immediately preceding the relevant date;
- (b) with any legal officer in Singapore who is an advocate and solicitor of not less than 7 years' standing; or
- (c) partly with an advocate and solicitor under paragraph (a) and partly with a legal officer under paragraph (b).

(2) In any case where subsection (1) (c) applies, 6 months' pupillage with a legal officer shall count as one month's period of pupillage with an advocate and solicitor.

(3) The Board may approve a request that a qualified person serve different parts of his period of pupillage with different masters.

15/89.

(4) The Board may in its discretion exempt a qualified person from a maximum of 3 months' pupillage upon application made supported by satisfactory evidence that the applicant —

- (a) has been a pupil or read in the chambers of a practising barrister of the United Kingdom or of a member of the Faculty of Advocates in Scotland of more than 7 years' standing;
- (b) is a solicitor in England or Northern Ireland or a writer to the Signet, law agent or solicitor in Scotland;
- (c) has been engaged in active practice as a legal practitioner by whatever name called in any part of the Commonwealth; or
- (d) has attended such course of instruction and successfully passed such examination as may be approved by the Board for the purposes of this section.

[13

Admission of
Malayan
practitioners.

15.—(1) A Malayan practitioner who does not qualify under subsection (2) may be admitted as an advocate and solicitor without being required to serve any period of pupillage or to attend any courses of instruction but he shall

not be admitted unless he has satisfied the Board in such examinations as may be prescribed by the Board.

(2) A Malayan practitioner who has been in active practice in any part of Malaysia for a continuous period of not less than 3 years in the 4 years immediately preceding his petition for admission may be admitted as an advocate and solicitor without being required to serve any period of pupillage or to attend any course of instruction or to pass any examination. [14

16.—(1) Subject to this section, a Hong Kong practitioner who, for a continuous period of not less than 3 years immediately preceding his petition for admission, has been in active practice in Hong Kong as a barrister or solicitor may be admitted as an advocate and solicitor without being required to serve any period of pupillage or to attend any course of instruction or to pass any examination. Admission of Hong Kong practitioners. 17/84.

(2) A Hong Kong practitioner shall not be admitted as an advocate and solicitor under subsection (1) unless either the Board or the Attorney-General certifies that by reason of his qualifications and experience he is a fit and proper person to be admitted as an advocate and solicitor.

(3) Section 18 shall apply with the necessary modifications to any petition for admission under this section as it applies to a petition for admission under section 15 (2).

(4) The following provisions shall apply to a Hong Kong practitioner who is admitted as an advocate and solicitor under this section:

- (a) he shall not practise as an advocate and solicitor unless he is a partner or associate of or is employed by an advocate and solicitor of at least 12 years' standing;
- (b) if he has practised as an advocate and solicitor in accordance with the restriction under paragraph (a) for a period of at least two years and has during that period resided in Singapore for at least 12 months in the aggregate, he shall be entitled to practise as an advocate and solicitor without being subject to that restriction.

(5) The Minister may exempt any Hong Kong practitioner from subsection (4) (a) where he is of the opinion that the Hong Kong practitioner is of sufficient standing and experience to be so exempted.

(6) In this section —

“associate”, in relation to an advocate and solicitor, means a person who is neither a partner nor employee of that advocate and solicitor but carries on practice in the same office and maintains separate accounts;

“Hong Kong practitioner” means any person who is entitled to practise as a barrister or solicitor in Hong Kong. [15

Petitions for admission under sections 11 (1) and 15 (1).

17.—(1) This section shall apply to every person who proposes to apply to be admitted as an advocate and solicitor by virtue of section 11 (1) (a) or 15 (1).

(2) An application for admission by such person shall be by a petition to the court and the petition shall be verified by affidavit.

(3) The petitioner shall file his petition in the Registrar’s office accompanied by a notice intimating that he has so applied, which notice shall be posted and continue to be posted at the Supreme Court for 6 months before the petitioner is admitted as an advocate and solicitor.

(4) Every petitioner shall, not less than 12 days before his petition is to be heard, file an affidavit exhibiting to that affidavit —

(a) true copies of any documentary evidence showing that he is a qualified person or a Malayan practitioner, as the case may be;

(b) two recent certificates as to his good character;

(c) a certificate of diligence from each master with whom the petitioner served his pupillage in cases where the petitioner is required to serve a period of pupillage or in the absence thereof such other evidence as the court may require that he has served the pupillage with diligence; and

- (d) a certificate signed by the Secretary of the Board that the petitioner has satisfactorily served the period of pupillage or articles, has attended the courses of instruction (or has been exempted therefrom under section 12 (2)) and has passed any examinations that may be required in his case under the provisions of this Act.

(5) The petition, notice, affidavit and certificates referred to in this section shall be in the form prescribed by the Board. [16

18.—(1) This section shall apply to every person who applies to be admitted as an advocate and solicitor by virtue of section 15 (2). Petitions for admission under section 15 (2).

(2) An application for admission by such a person shall be by a petition to the court and the petition shall be verified by affidavit.

(3) The petitioner shall file his petition in the Registrar's office not less than one month before it is to be heard.

(4) The petition shall have exhibited to it —

- (a) a true copy of the order of court admitting and enrolling the petitioner as a Malayan practitioner;
- (b) a certificate issued by another Malayan practitioner who shall be of not less than 7 years' standing that to his personal knowledge the petitioner has been in active practice in Malaysia for a continuous period of not less than 3 years in the 4 years immediately preceding the petition; and
- (c) a recent certificate issued by the Secretary or other officer of the body charged with responsibility for investigating allegations of professional misconduct or breaches of professional discipline in those parts of Malaysia where the petitioner has practised that at the date of the certificate no disciplinary proceedings are pending or contemplated against the petitioner and that his professional conduct is not under investigation.

(5) The petition and certificates referred to in this section shall be in the form prescribed by the Board. [17

Service of
documents
and
objections.

19.—(1) A copy each of every petition and affidavit required to be filed under section 17 or 18 together with true copies of each document exhibited thereto shall within 5 days of the document being filed in the Registrar's office be served on the Attorney-General, the Board and the Society.

(2) If the Attorney-General, the Board or the Society intends to object to any petition, there shall be served on the petitioner not less than 3 clear days or such shorter period as the court may allow a notice of objection in which shall be set out in brief terms the grounds of objection.

(3) Any such notice of objection shall be filed in the Registrar's office at any time before the day fixed for the hearing of the petition.

(4) It shall not be necessary for the Attorney-General, the Board or the Society to be represented at the hearing of any petition unless the Attorney-General, the Board or the Society, as the case may be, intends to object to that petition. [18

Caveats and
misrepresentations.

20.—(1) Any person may enter a caveat against the admission of any petitioner and upon such a caveat being entered no application for the admission of the petitioner shall be heard except after not less than 3 clear days' notice has been given to the person entering the caveat.

(2) Every caveat under this section shall be entered in the Registrar's office and shall contain the full name, occupation and address of the caveator, a brief statement of the grounds of his objection and an address for service.

(3) If at any time after the admission of any petitioner as an advocate and solicitor it is shown to the satisfaction of the court that any petition, affidavit, certificate or other document filed by a petitioner contains any substantially false statement or a suppression of any material fact, the name of the petitioner shall be struck off the roll. [19

Ad hoc
admissions.

21.—(1) Notwithstanding anything to the contrary in this Act, the court may for the purpose of any one case admit to practise as an advocate and solicitor any person —

(a) who holds Her Majesty's Patent as Queen's Counsel;

- (b) who does not ordinarily reside in Singapore or Malaysia but who has come or intends to come to Singapore for the purpose of appearing in the case; and
- (c) who has special qualifications or experience for the purpose of the case.

(2) Any person applying to be admitted under this section shall do so by originating motion verified by an affidavit of the applicant or of the advocate and solicitor instructing him stating the names of the parties and brief particulars of the case in which the applicant intends to appear and the originating motion and affidavit or affidavits shall be served on the Attorney-General, the Society and the other party or parties to the case and at the time of the service the applicant shall pay a fee of \$100 to the Society for its costs incurred in the application.

(3) Before admitting a person under this section, the court shall have regard to the views of each of the persons served with the application.

(4) The Registrar shall on payment of the prescribed fee issue to every person admitted under this section a certificate to practise specifying in it the case in which the person is permitted to appear and any person to whom a certificate to practise has been issued under this subsection shall for the purpose of his employment in that case be deemed to be a person to whom a certificate to practise has been issued under section 25.

(5) The Registrar shall not enter the names of persons admitted under this section upon the roll but shall keep a separate roll for persons admitted under this section.

(6) In this section, "case" includes any interlocutory or appeal proceedings connected with a case. [20

Reviews

22.—(1) Any person dissatisfied with any decision of the Board may apply to a judge for a review of the decision. Review of Board's decisions.

(2) If the Board fails to determine any request within 3 months after it has been first submitted to it, the applicant may apply under this section as if the request had been determined adversely to him.

(3) Every application under this section shall be made by summons in chambers in the petition of the appellant if he has filed a petition and otherwise by originating summons and the judge hearing the application may in his discretion adjourn the application into open court.

(4) Every such summons in chambers or originating summons, as the case may be, shall be supported by evidence on affidavit and shall be served together with the affidavit on the Board and shall not be heard until after the expiry of 12 days after service on the Board.

(5) At or before the hearing of the application, the Board may submit to the judge a confidential report which shall not be filed in court but a copy shall be furnished to the applicant.

(6) A confidential report under this section shall be absolutely privileged.

(7) At the hearing the judge may dismiss the application or may make such order in accordance with the provisions of this Act as he thinks fit.

(8) A judge who is a member of the Board shall not hear any application under this section. [21

Hearing of petitions and the roll

Hearing.

23.—(1) Petitions for admission as an advocate and solicitor shall except during a court vacation be heard on the second Wednesday of every month unless the Chief Justice otherwise orders for any particular month.

(2) No petition for admission shall be heard by a judge who is a member of the Board. [22

Declaration,
duty and
the roll.

24.—(1) Every person admitted as an advocate and solicitor of the Supreme Court shall make the declaration set out in subsection (2).

(2) Subject to any necessary modification to conform to the religious beliefs of the petitioner, the declaration shall be in the following form:

“I, A.B., do solemnly and sincerely declare (and swear) that I will truly and honestly conduct myself in the practice of an advocate and solicitor according to

the best of my knowledge and ability and according to law.

(So help me God.)”.

(3) The Registrar shall keep a roll of advocates and solicitors with the dates of their respective admissions.

(4) The name, with the date of admission, of every person admitted shall be entered upon the roll in order of admission.

(5) Every person admitted as an advocate and solicitor shall pay the prescribed fee and the Registrar shall deliver to him an instrument of admission signed by the Chief Justice or the judge who admitted the petitioner.

(6) This section shall not apply to persons admitted under section 21. [23

PART III

PRACTISING CERTIFICATES

25.—(1) Every solicitor shall in every year before he does any act in the capacity of an advocate and solicitor deliver or cause to be delivered to the Registrar an application for a practising certificate in such form or forms as may be prescribed by and in accordance with rules made under this section, the application to be accompanied by —

(a) a declaration in writing stating —

(i) his full name;

(ii) the name under which he practises if different from his own name, or the name of the solicitor or firm of solicitors employing him; and

(iii) the principal and any other address or addresses at which he practises in Singapore;

(b) a certificate from the Council or such other evidence as the Registrar may require that he is not in arrears in respect of any contribution to the Compensation Fund, subscription or levy lawfully due to the Society under the provisions of this Act and that he has paid all the contributions and subscriptions payable prior to the issue

Practising
certificates.

of a practising certificate pursuant to sections 46 and 75;

- (c) an accountant's report pursuant to section 73 or a certificate from the Council that owing to the circumstances of his case such a report is unnecessary; and

- (d) the prescribed fee,

and the Registrar shall thereupon issue to the solicitor a practising certificate authorising him to practise as an advocate and solicitor in Singapore.

(2) Every practising certificate shall be signed by the Registrar and shall be in force from the date of issue to the end of the year:

Provided that where the name of a solicitor is removed from or struck off the roll the practising certificate, if any, of that solicitor for the time being in force shall expire forthwith and the date of the expiry shall be entered by the Registrar on the register of practitioners.

(3) Every practising certificate issued in the month of April shall be deemed to have been in force from the first day of that month.

(4) In this section, "year" means the period from 1st April in any calendar year to 31st March in the next ensuing calendar year.

(5) Subject to the provisions of this Act, the Council may make rules regulating the issue of practising certificates.

(6) Rules made by the Council under this section shall be signed by the President of the Society and submitted to the Chief Justice and shall come into operation upon the Chief Justice signifying his approval. [24

Disqualifica-
tion for
practising
certificate.

26.—(1) No solicitor shall apply for a practising certificate —

- (a) unless he is practising or intends to practise either on his own account or in partnership;
- (b) unless he is or is about to be employed in his or their practice by a solicitor or firm of solicitors in practice in Singapore;
- (c) if he has, for a period of 3 years or more, held office as a judge of the Supreme Court or of the

Federal Court of Malaysia or of any High Court in any part of Malaysia;

- (d) if he is an undischarged bankrupt or a receiving order in bankruptcy is in force against him;
- (e) if he has entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors; or
- (f) if he has one or more outstanding judgments against him amounting in the aggregate to \$100,000 or more which he has been unable to satisfy within 6 months from the date of the earliest judgment.

(2) Subsection (1) shall not apply to a solicitor employed by any statutory board or authority or a member of the legal service if the Attorney-General issues a certificate under his hand certifying that the solicitor is so employed and specifying therein the matters in which the solicitor so employed may appear and plead in courts of law, and upon the solicitor otherwise complying with the provisions of this Act the Registrar shall issue to him a practising certificate specifying therein the matters in which he may appear and plead as contained in the Attorney-General's certificate.

(3) A practising certificate issued to a solicitor shall cease to have effect when he ceases to practise or he ceases to be employed as provided in this section. [25

27.—(1) Upon the issue of every practising certificate, the Registrar shall cause to be entered in an annual register kept for that purpose (referred to in this Act as the register of practitioners) the particulars as contained in the declaration delivered under section 25 (1) (a) and any person may inspect the register of practitioners during office hours without payment. Register of practitioners.

(2) If there is any change with respect to any solicitor in the particulars referred to in subsection (1), that solicitor shall within one week thereafter notify the Registrar and the Council and the Registrar shall thereupon cause the entry in respect of that solicitor in the register of practitioners to be amended. [26

28.—(1) The Council may, if it appears to it that a practising certificate has been issued to any solicitor Cancellation of practising certificates.

contrary to the provisions of this Act or that the accountant's report submitted by any solicitor does not comply with section 73, apply to a judge by originating summons for an order directing the Registrar to cancel the certificate.

(2) Such an application shall be served on the advocate and solicitor concerned and upon the hearing thereof the judge may make such order as he may think fit and may also make such order for the payment of costs as may be just.

(3) Disciplinary proceedings may be taken against any solicitor if in, or in relation to, an application for a practising certificate he makes a false statement material to the application. [27

PART IV

PRIVILEGES OF ADVOCATES AND SOLICITORS

Privileges of
advocates
and
solicitors.
15/89.

29.—(1) Advocates and solicitors shall, subject to the provisions of any written law, have the exclusive right to appear and plead in all courts of justice in Singapore according to the law in force in those courts; and as between themselves shall subject to section 31 have the same rights and privileges without differentiation.

(2) Nothing herein shall affect the right which is hereby declared of —

- (a) the Attorney-General, the Solicitor-General, State Counsel, Deputy Public Prosecutors and qualified persons appointed temporarily to perform the duties of those persons to appear and plead on behalf of the Government in those courts;
- (b) the Public Trustee, the Official Assignee, Assistant Public Trustees and Assistant Official Assignees to appear and plead in those courts under any of the provisions of any law relating to those offices; and
- (c) the Director of Legal Aid and Assistant Directors of Legal Aid to appear and plead in those courts under the provisions of the Legal Aid and Advice Act.

Cap. 160.

(3) The Attorney-General and the Solicitor-General appearing personally shall have such priority as is

customarily accorded to the holders of those offices in England. [28

30.—(1) The Senate of the Academy may appoint an advocate and solicitor or a legal officer as Senior Counsel if they are of the opinion that by virtue of that person's ability, standing at the Bar or special knowledge or experience in law he is deserving of such distinction. Appointment of Senior Counsel. 15/89.

(2) No person shall be appointed as a Senior Counsel unless he has for an aggregate period of not less than 10 years been an advocate and solicitor or a legal officer or both.

(3) On 21st April 1989, those persons who on the date immediately preceding that date are holding office as the Attorney-General and the Solicitor-General shall be deemed to have been appointed as Senior Counsel under this section. [28A

31. Senior Counsel shall rank in precedence after the Attorney General and the Solicitor-General according to their seniority of appointment as Senior Counsel but if two or more are appointed on the same day they shall take precedence according to the date on which they were admitted as advocates and solicitors. Order of precedence in court. 15/89. [28B

32.—(1) Subject to this Part, no person shall practise as an advocate and solicitor or do any act as an advocate or a solicitor unless his name is on the roll and he has in force a practising certificate and a person who is not so qualified is referred to in this Act as an unauthorised person. Qualifications to practise.

(2) A judge may, if he thinks fit, on the application of a solicitor who is a master under Part II allow his pupil who has completed not less than 4 months of his pupillage to appear on behalf of the master or the firm in which the master is a partner before —

- (a) a judge or the Registrar in chambers;
- (b) a District Judge or the Registrar of a District Court in chambers; and
- (c) a District Judge or a Magistrate to mention a case or to apply for bail. [29

Unauthorised
person acting
as advocate
or solicitor.

33.—(1) Any unauthorised person who —

- (a) acts as an advocate or a solicitor or agent for any party to proceedings or as such advocate, solicitor or agent sues out any writ, summons or process, or commences, carries on, solicits or defends any action, suit or other proceeding in the name of any other person or in his own name in any of the courts in Singapore or draws or prepares any document or instrument relating to any proceeding in the courts in Singapore; or
- (b) wilfully or falsely pretends to be, or takes or uses any name, title, addition or description implying that he is duly qualified or authorised to act as an advocate or a solicitor, or that he is recognised by law as so qualified or authorised,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 6 months or to both.

(2) Without prejudice to the generality of subsection (1), any unauthorised person who either directly or indirectly —

- (a) draws or prepares any document or instrument relating to any movable or immovable property or to any legal proceeding;
- (b) takes instructions for or draws or prepares any papers on which to found or oppose a grant of probate or letters of administration;
- (c) draws or prepares any document or instrument relating to the incorporation or formation of a limited company;
- (d) on behalf of a claimant or person alleging himself to have a claim to a legal right writes, publishes or sends a letter or notice threatening legal proceedings other than a letter or notice that the matter will be handed to a solicitor for legal proceedings; or
- (e) solicits the right to negotiate, or negotiates in any way for the settlement of, or settles, any claim arising out of personal injury or death founded upon a legal right or otherwise,

shall unless he proves that the act was not done for or in expectation of any fee, gain or reward be guilty of an offence under this subsection.

(3) Any unauthorised person who offers or agrees to place at the disposal of any other person the services of an advocate and solicitor shall be guilty of an offence under this subsection:

Provided that this subsection shall not apply to any person who offers or agrees to place at the disposal of any other person the services of an advocate and solicitor pursuant to a lawful contract of indemnity or insurance.

(4) Every person who is convicted of an offence under subsection (2) or (3) shall be liable for a first offence to a fine not exceeding \$500 or in default of payment to imprisonment for a term not exceeding 3 months and for a second or subsequent offence to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 6 months or to both.

(5) Any act done by a body corporate which in the case of a person would be an offence under subsection (1), (2) or (3) or is of such a nature or is done in such a manner as to be calculated to imply that the body corporate is qualified or recognised by law as qualified to act as a solicitor shall be an offence under this section and the body corporate shall be liable on conviction for a first offence to a fine not exceeding \$1,000 and for a second or subsequent offence to a fine not exceeding \$3,000, and where that act is done by a director, officer or employee of the body corporate the director, officer or employee shall, without prejudice to the liability of the body corporate, be liable to the punishments provided in subsection (4).

(6) Where any firm does an act which in the case of a person would be an offence under subsection (1), (2) or (3), every member of the firm shall be deemed to have committed that offence unless he proves that he was unaware of the commission of the act.

(7) Any person who does any act in relation to a contemplated or instituted proceeding in the Supreme Court which is an offence under this section shall also be guilty of a contempt of the court in which the proceeding is contemplated or instituted and may be punished accordingly irrespective of whether he is prosecuted for the offence or not.

(8) In this section, “document” and “instrument” do not include —

- (a) a will or other testamentary document; or
- (b) a transfer of stock containing no limitation thereof.

[30

Qualifica-
tions to
section 35.

34. Section 33 does not extend to —

- (a) the Attorney-General or the Solicitor-General or any other person acting under the authority of either of them;
- (b) the Public Trustee, the Official Assignee, Assistant Public Trustees and Assistant Official Assignees acting in the course of their duties under any law relating to those offices;
- (c) the Director of Legal Aid and Assistant Directors of Legal Aid acting in the course of their duties under the provisions of the Legal Aid and Advice Act;
- (d) any other public officer drawing or preparing instruments in the course of his duty;
- (e) any person acting personally for himself only in any matter or proceeding to which he is a party;
- (f) any bona fide and full-time employee of an insurance company negotiating for the settlement of or settling a claim made or contemplated against any person or body corporate in cases where the claim, arising out of personal injury or death, relates to a risk insured by that insurance company;
- (g) any arbitrator or umpire lawfully acting under any written law relating to arbitration, settling or attempting to settle the dispute between the parties to the arbitration;
- (h) any full-time member of the academic staff of the Faculty of Law of the National University of Singapore who is a qualified person rendering any opinion or acting in an advisory capacity on any matter in which he has been instructed;
- (i) any accountant drawing or preparing documents in the exercise of his profession;

Cap. 160.

- (j) any proceeding before the Industrial Arbitration Court or the Syariah Court;
- (k) any person merely employed to engross any instrument or proceeding;
- (l) any approved company auditor drawing or preparing any instrument which he is empowered to do under any law for the time being in force relating to companies; or
- (m) any agent duly authorised to the satisfaction of the Registrar of Trade Marks drawing or preparing documents in any matter relating to trade marks. [31]

35.—(1) No costs in respect of anything done by an unauthorised person as an advocate or a solicitor or in respect of any act which is an offence under section 33 shall be recoverable in any action, suit or matter by any person whomsoever. No costs recoverable by unauthorised person.

(2) Any payment to an unauthorised person for anything done by that unauthorised person which is an offence under section 33 may be recovered by the person who paid the money in a court of competent jurisdiction. [32]

PART V

THE LAW SOCIETY OF SINGAPORE

36.—(1) There is hereby established a body to be called the Law Society of Singapore. Establishment of Society.

(2) The Society shall be a body corporate with perpetual succession and a common seal, and with power subject to the provisions of this Act to sue and be sued in its corporate name and to acquire and dispose of property, both movable and immovable, and to do and to perform such other acts as bodies corporate may by law perform. [33]

37.—(1) The purposes of the Society shall be — Purposes and powers of Society. 30/86.

- (a) to maintain and improve the standards of conduct and learning of the legal profession in Singapore;
- (b) to facilitate the acquisition of legal knowledge by members of the legal profession and others;

- (c) to assist the Government and the courts in all matters affecting legislation submitted to it, and the administration and practice of the law in Singapore;
- (d) to represent, protect and assist members of the legal profession in Singapore and to promote in any manner the Society thinks fit the interests of the legal profession in Singapore;
- (e) to establish a library and to acquire or rent premises to house the library, offices of the Society or amenities for the use of members;
- (f) to protect and assist the public in Singapore in all matters touching or ancillary or incidental to the law;
- (g) to make provision for or assist in the promotion of a scheme whereby impecunious persons on non-capital charges are represented by advocates;
- (h) to grant prizes and scholarships and to establish and subsidise lectureships in educational institutions in subjects of study relating to law;
- (i) to grant pecuniary or other assistance to any association, institute, board or society in Singapore in the interests of the profession of law or of students for that profession;
- (j) to afford pecuniary and other assistance to members or former members and to the wives, widows, children and other dependants, whether of members, former members or deceased members who are in need of any such assistance;
- (k) to promote good relations and social intercourse among members and between members and other persons concerned in the administration of law and justice in Singapore; and
- (l) to establish and maintain good relations with professional bodies of the legal profession in other countries and to participate in the activities of any international association and become a member thereof.

(2) In addition to the powers given by the other provisions of this Act, the Society may —

- (a) purchase or lease any land or building required for any of the purposes of the Society;
- (b) sell, surrender, lease, exchange or mortgage any land or building as may be found most convenient or advantageous;
- (c) borrow money whether by way of bank overdraft or otherwise for such of the purposes of the Society as the Society may from time to time consider desirable; and
- (d) do all such other things as are incidental or conducive to the achievement or betterment of the purposes of the Society.

(3) In addition to rules that may be made by the Society under the other provisions of this Act, the Society may subject to the provisions of this Act make rules for giving effect to this Part. [34]

38. The Chief Justice and such other judges of the Supreme Court as are elected by the Society shall be visitors of the Society. [35]

Members of the Society and subscriptions

39. The membership of the Society shall consist of the following: [35]

- (a) all advocates and solicitors who are members of the Society by reason of section 40;
- (b) all persons admitted to membership of the Society under section 41; and
- (c) all persons elected as honorary members under section 42. [36]

40.—(1) Every advocate and solicitor who has in force a practising certificate shall without election, admission or appointment become a member of the Society and remain a member under this section so long and only so long as he has in force a practising certificate. [36]

(2) Every advocate and solicitor who has in force a practising certificate on the last day of March in any year shall be deemed to continue to be a member until the last day of April in that year.

(3) Every advocate and solicitor who is a member of the Society under subsection (1) shall be referred to in this Act as a practitioner member. [37]

Non-practitioner members.

41.—(1) Any of the following persons who applies for membership of the Society in the prescribed manner shall be admitted as a member of the Society:

- (a) any advocate and solicitor who does not have in force a practising certificate; and
- (b) any qualified person ordinarily resident in Singapore.

(2) Every person who is a member of the Society under subsection (1) shall be referred to in this Act as a non-practitioner member. [38]

Honorary members.

42. 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 consider appropriate. [39]

Privileges of membership.

43.—(1) Subject to this section and section 44, all members shall have the same rights and privileges.

(2) Only practitioner members shall be eligible to attend and vote at any general meeting but only those practitioner members who are citizens of Singapore shall be elected to the Council.

(3) Practitioner members may by a resolution exclude from a general meeting of the Society or any part thereof all other members. [40]

Expulsion and suspension of rights and privileges.

44. Any member of the Society, other than an honorary member, may in the prescribed manner, and upon such grounds, after being given a reasonable opportunity to answer all allegations made against him —

- (a) be expelled from membership; or
- (b) be deprived of any one or more rights and privileges of membership:

Provided that a practitioner member shall not be expelled from membership so long as he has in force a practising certificate. [41]

45. Any member of the Society, other than an honorary member, who ceases to be qualified for membership shall thereupon cease to be a member. Termination of qualification. [42]

46.—(1) The amount of the annual subscription payable by members of the Society shall subject to subsection (4) be fixed from time to time by the Council and shall be payable to the Society by every solicitor in each year prior to his application for a practising certificate. Annual subscription to Society.

(2) In fixing the amount of the subscription, the Council shall be at liberty to divide members into classes, and to provide that different amounts shall be paid by different classes and for different periods and generally to regulate, and to vary from time to time, the subscriptions payable by members or by different classes of members, as the Council may think fit:

Provided that the subscriptions payable by members admitted to membership under section 41 shall at no time exceed the lowest subscription payable by practitioner members for the corresponding period.

(3) The Council may from time to time fix levies payable by practitioner members for any of the purposes of the Society.

(4) The total of the subscriptions payable under subsection (1), the levies payable under subsection (3) and the annual contribution payable under section 75 shall not in any calendar year exceed \$500 per practitioner member without the approval of a general meeting of the Society. 17/84.

(5) Within one week of the end of each month, the Society shall, out of each annual subscription received by the Society during that month, pay to the Board — 17/84.

(a) in the case of a subscription paid by a practitioner member of not less than 5 years' standing, a sum of \$120; and

(b) in the case of a subscription paid by a practitioner member of less than 5 years' standing, a sum of \$60. [43]

The Council

47.—(1) For the proper management of the affairs of the Society and for the proper performance of its functions under this Act, there shall be a Council. Council.

(2) The Council shall consist of statutory members and elected members as provided in sections 48 and 49. [44

Statutory
members.

48.—(1) The following persons shall be statutory members of the Council each time it is constituted:

- (a) not more than 3 advocates and solicitors nominated by the Minister to sit on the Council; and
- (b) the immediate past President of the Society.

(2) Every member of the Council nominated by the Minister under subsection (1) (a) shall hold office for a term of two years but may, from time to time, be renominated.

[45

Elected
members.
30/86.

49.—(1) There shall be 15 elected members of the Council consisting of —

- (a) 6 practitioner members, each of whom shall be an advocate and solicitor of not less than 12 years' standing on the day of his nomination for election to the Council;
- (b) 5 practitioner members, each of whom shall be an advocate and solicitor of under 12 years' but not less than 7 years' standing on the day of his nomination for election to the Council; and
- (c) 4 practitioner members, each of whom shall be an advocate and solicitor of under 7 years' standing on the day of his nomination for election to the Council.

(2) Subject to the provisions of this Act, every elected member of the Council shall hold office as a member of the Council for two years.

(3) Subject to subsection (4), a practitioner member who has been struck off the roll or suspended from practising as an advocate and solicitor for a period of 6 months or more or has been convicted of an offence involving fraud or dishonesty shall not be eligible for election or appointment as a member of the Council.

(4) A practitioner member may, after a period of 5 years following the date of his conviction or the date he was reinstated to the roll or the date of the expiry of his suspension, whichever is the later, with the leave of a court of 3 judges one of whom shall be the Chief Justice, be

eligible for election or appointment as a member of the Council.

(5) Where an application for leave under subsection (4) has been refused, the applicant shall not be entitled to make another application under that subsection within a period of 5 years from the date the first-mentioned application was dismissed.

(6) An application for leave under subsection (4) shall be made by motion.

(7) The court of 3 judges shall not give leave under subsection (4) unless —

- (a) notice of intention to apply therefor and all documents in support thereof have been served at least 14 clear days before the date of the hearing on the Attorney-General and on the Society, either or both of whom may be represented at the hearing of, and may oppose the application;
- (b) the applicant satisfies the court that his conduct since his conviction, striking-out or suspension did not make him unfit to be a member of the Council; and
- (c) the applicant exhibits affidavits of at least two practitioner members who are and have been in active practice in Singapore for a total of not less than 5 out of the 7 years immediately preceding the date of the application attesting to the applicant's good behaviour from the date of his conviction, striking-out or suspension and stating whether in their opinion he is a fit and proper person to be a member of the Council.

(8) A practitioner member shall before his appointment or election as a member of the Council file a declaration with the Society stating that he is not disqualified from holding office as a member of the Council by virtue of subsection (3) or, if he is so disqualified, stating that he has obtained the leave of the court under subsection (4) for election or appointment as a member of the Council.

(9) Any person who fails to comply with subsection (8) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000.

(10) Whenever it is necessary for any reason whatsoever to elect all the elected members of the Council at an annual election —

- (a) three members specified in subsection (1) (a);
- (b) two members specified in subsection (1) (b); and
- (c) two members specified in subsection (1) (c),

chosen by lot at the first meeting of the Council after such election shall hold office for only one year.

(11) Every elected member of the Council shall be eligible for re-election if he is qualified to be a candidate. [46

Election of members of Council

Compulsory
voting.

50.—(1) Every advocate and solicitor who has in force a practising certificate on the date of nomination as provided in section 51 shall vote for the election of the members of the Council as follows:

- (a) if he is an advocate and solicitor of not less than 12 years' standing, he shall vote for the election of the members of the Council under section 49 (1) (a);
- (b) if he is an advocate and solicitor of under 12 years' but not less than 7 years' standing, he shall vote for the election of the members of the Council under section 49 (1) (b); and
- (c) if he is an advocate and solicitor of under 7 years' standing, he shall vote for the election of the members of the Council under section 49 (1) (c).

(2) Every advocate and solicitor who is required to vote for the election of the members of the Council in accordance with subsection (1) and who fails to do so shall not be entitled to apply for a practising certificate unless he satisfies the Registrar that he had a good and sufficient reason for not voting at the last election to the Council or unless he pays a penalty of \$500 which shall be credited to the Compensation Fund established under section 75. [47

Elections.
17/84.

51.—(1) The Council shall, in the month of September every year, fix and publish before the end of that month —

- (a) the date of nomination which shall be in the second week of the month of October that year;

- (b) the date of election which shall be in the last week of the month of October that year;
- (c) a convenient place in the Supreme Court building or elsewhere where the ballot shall take place; and
- (d) the names of 3 scrutineers.

(2) The annual election of the members of the Council shall take place within 21 days after the annual general meeting and shall subject to section 53 be by secret ballot on the date and place fixed by the Council in accordance with subsection (1).

(3) If for any reason whatsoever it is necessary to elect all the elected members of the Council, the Council shall fix and publish —

- (a) the date of nomination which shall be not less than 7 days or more than 15 days from the date of the notice notifying members of the election;
- (b) the date of the election which shall be not less than 10 days or more than 15 days from the date of nomination;
- (c) a convenient place in the Supreme Court building or elsewhere where the ballot shall take place; and
- (d) the names of 3 scrutineers,

and the election shall subject to section 53 take place by secret ballot on the date and place fixed by the Council in accordance with this section.

(4) Any accidental failure on the part of the Council to comply with this section or any rules made with respect to elections to the Council shall not invalidate an election.

[48

52. Every nomination of a candidate for election — Nominations.

- (a) shall be of a person qualified to be a candidate under section 49;
- (b) shall be in writing signed by not less than two persons qualified in a like manner under section 49 as the candidate nominated; and
- (c) shall name only one candidate and his consent shall be endorsed thereon.

[49

Insufficient
nominations.

53.—(1) If only so many candidates are nominated for election to the Council as are required to be elected, those candidates shall be deemed to be elected; if fewer, the candidates nominated shall be deemed to have been elected and they together with the statutory members of the Council and the continuing elected members of the Council, if any, shall appoint further members to complete the required number to satisfy the requirements of section 49 (1).

(2) If at any election to be held under section 51 (3) no nominations are made for the election of members of the Council, the Chief Justice shall, after consulting the statutory members of the Council, if any, appoint to be members of the Council a sufficient number of persons who satisfy the requirements as to standing set out in section 49 (1).

(3) Members of the Council appointed under subsections (1) and (2) shall for all purposes of this Act be deemed to be elected members. [50

Council's
term of
office.

54.—(1) Every Council of the Society constituted after an annual election shall take office on 1st January after that election and shall hold office until 31st December in that year or, if such is the case, until a Council takes office under subsection (2).

(2) Every Council constituted after an election under section 51 (3) or after appointments made under section 53 (2) shall take office from the day on which the members of that Council were elected or appointed, as the case may be, and shall hold office until 31st December next following. [51

Casual
vacancies.

55.—(1) Any casual vacancy arising among the elected members of the Council shall be filled with all convenient speed by the Council by the appointment of a person qualified under section 49 as may be necessary, and any such new member shall hold office for so long as the member in whose place he is appointed would have held office.

(2) The continuing members of the Council may act provided there is a quorum notwithstanding any vacancy in the Council and no act done by or by the authority of the Council shall be invalid in consequence of any defect that is

afterwards discovered in the election or qualification of the members or any of them. [52]

Officers

56.—(1) There shall be a President and a Vice-President of the Society who shall be elected by the Council from amongst its members and in the event of any casual vacancy arising in respect of the office of the President or the Vice-President of the Society, the Council shall at its next meeting or as soon as possible thereafter elect one of its members to fill the vacancy. President and Vice-President.

(2) The President of the Society or in his absence the Vice-President of the Society shall be the chairman of the Council and shall preside at all meetings of the Council and of the Society.

(3) In the absence of both the President and the Vice-President of the Society, the Council or the Society, as the case may be, shall elect a chairman from among the respective members. [53]

57.—(1) A statutory member of the Council shall vacate his office if — When members of Council to vacate office. 30/86.

- (a) he has been struck off the roll or suspended from practising as an advocate and solicitor or has been convicted of an offence involving fraud or dishonesty;
- (b) he becomes of unsound mind;
- (c) he is an undischarged bankrupt or a receiving order in bankruptcy is in force against him;
- (d) he has entered into a composition with his creditors or a deed of arrangement for the benefit of his creditors; or
- (e) he has one or more outstanding judgments against him amounting in the aggregate to \$100,000 or more which he has been unable to satisfy within 6 months from the date of the earliest judgment.

(2) An elected member shall vacate his office in any of the circumstances specified in subsection (1) and shall also vacate his office if —

- (a) being elected under section 49 (1), he ceases for any reason to have in force a practising certificate;

- (b) he resigns his seat on the Council; or
- (c) he is absent from 3 consecutive meetings of the Council without its consent.

(3) For the purposes of subsection (2), a person appointed under section 53 (1) and (2) or under section 55 (1) shall be deemed to have been elected under section 49 (1).

(4) Subsections (1) and (2) shall not apply to a member of the Council who has obtained the leave of the court under section 49 (4) prior to his election or appointment as a member of the Council. [54

Powers of Council

General
powers of
Council.

58. The management of the Society and of its funds shall be vested in the Council and all such powers, acts or things as are not by this Act expressly authorised, directed or required to be exercised or done by the Society in general meeting may, subject to the provisions of this Act or any rules made thereunder or any resolution passed from time to time by the Society in general meeting, be exercised or done by the Council:

Provided that no such resolution of the Society shall invalidate the previous exercise of any power or the previous doing of any act or thing by the Council which would have been valid if the resolution had not been passed.

[55

Specific
powers of
Council.
30/86.

59.—(1) Without prejudice to the general powers conferred by section 58 or the specific powers to make rules conferred by any other provision of this Act, the Council shall have power —

- (a) to make rules to provide for all matters not expressly reserved to the Society in general meeting whether they are expressed among its powers or not;
- (b) to answer questions affecting the practice and etiquette of the profession and the conduct of members thereof;
- (c) to take cognizance of anything affecting the Society or the professional conduct of its members and to bring before any general meeting of the

Society any matter which it considers material to the Society or to the interests of the profession and make any recommendations and take such action as it thinks fit in relation thereto;

- (d) to examine and if it thinks fit to report upon current or proposed legislation submitted to it and any other legal matters;
- (e) to represent members of the Society or any section thereof in any matter which may be necessary or expedient;
- (f) to found prizes and scholarships for students of law and to lay down the conditions for their award as it thinks fit;
- (g) to appoint in its discretion such officers, clerks, agents and servants for permanent, temporary or special services as it may from time to time think fit and to determine their duties and terms of service;
- (h) to purchase, rent or otherwise acquire and furnish suitable premises for the use of the Society;
- (i) to communicate from time to time with other similar bodies and with members of the profession in other places for the purpose of obtaining and communicating information on all matters likely to prove beneficial or of interest to members;
- (j) to institute, conduct, defend, compound or abandon any legal proceedings by and against the Society or its officers or otherwise concerning the affairs of the Society and to compound and allow time for payment or satisfaction of any debts due or of any claims or demands made by or against the Society;
- (k) to refer any claims or demands by or against the Society to arbitration and to observe and perform every award made as a result of the arbitration and to nominate arbitrators if so requested;
- (l) to make and give receipts, releases and other discharges for moneys payable to and for claims and demands of the Society;

- (m) to invest and deal with any moneys of the Society from time to time in securities authorised for the investment of trust funds by any written law for the time being in force;
- (n) from time to time to borrow or raise money by bank overdraft or otherwise by the issue of debentures or any other securities founded or based upon all or any of the property and rights of the Society or without any such security and upon such terms as to priority or otherwise as the Council thinks fit; and
- (o) to exercise all such powers, privileges and discretions as are not by this Act expressly and exclusively required to be exercised by the members of the Society in general meeting.

(2) Rules made by the Council under this section shall not come into operation until they have been approved by the Chief Justice. [56]

Appointment of committees of Council.

60.—(1) The Council may appoint one or more committees for any such general or special purpose as in the opinion of the Council may be better regulated or managed by means of a committee and the Council may delegate to any committee so appointed, with or without restrictions or conditions, as it thinks fit, the exercise of any functions exercisable by the Council.

(2) The number and term of office of the members of a committee appointed under this section, and the number of those members necessary to form a quorum, shall be fixed by the Council.

(3) A committee appointed under this section may include persons who are not members of the Council.

(4) If the Council delegates to a committee appointed under this section any of the functions exercisable by the Council, at least half the members of that committee (including the chairman thereof) shall be members of the Council. [57]

Power of Council to inspect files of proceedings in bankruptcy of solicitor.

61. The Council shall be entitled, without payment of any fee, to inspect the file of proceedings in bankruptcy relating to any solicitor against whom proceedings in bankruptcy have been taken and to be supplied with office or certified copies of the proceedings on payment of the usual charge for those copies. [58]

62.—(1) The Council may on behalf of the Society accept by way of grant, gift, testamentary disposition or otherwise property or moneys in aid of the finances or purposes of the Society on such conditions as it may determine. Power of Council to accept gifts.

(2) Registers shall be kept of all donations to the Society including the names of donors and any special conditions on which any donation may have been given.

(3) All property, moneys or funds donated to the Society for any specific purposes shall, subject to the law relating to charities, be applied and administered in accordance with the purposes for which they may have been donated and shall be separately accounted for. [59]

63. The Society may be represented or appear in any court by any advocate and solicitor whether he is a member of the Council or not. Representation in court. [60]

Proceedings of Council

64.—(1) The Council may meet at such time and place and as often as may be necessary. Meetings of Council.

(2) Five members personally present at any meeting of the Council shall constitute a quorum for the transaction of any business.

(3) A decision of the majority of the members of the Council present and voting at any meeting of the Council shall be deemed to be a decision of the Council.

(4) The chairman or the person lawfully acting as chairman at any meeting of the Council shall have an original as well as a casting vote.

(5) Subject to any rules of the Society, the Council may regulate its own procedure and in particular the holding of meetings, the notice to be given of meetings, the proceedings thereat, the keeping of minutes and the custody, production and inspection of those minutes. [61]

65. No fees shall be paid to any member of the Council but a member may be reimbursed from the funds of the Society for out-of-pocket and travelling expenses incurred by him in relation to the affairs of the Society. Expenses of members. [62]

Proceedings
of Council
and its
Inquiry
Committees
to be
confidential.
15/89.

66. Except insofar as may be necessary for the purpose of giving effect to any resolutions or decisions of the Council and its Inquiry Committees, confidentiality shall be maintained in all proceedings conducted by the Council, its staff and Inquiry Committees. [63]

General meetings of the Society

Annual
general
meeting.

67.—(1) (a) The Council shall each year convene an annual general meeting which shall be held in the month of November of that year.

(b) At least 10 days' prior notice of the annual general meeting shall be given to all members of the Society.

(2) Notwithstanding section 54, every Council that ceases to hold office on 31st December in each year shall cause to be prepared and presented to the annual general meeting —

(a) a report on the activities of the Society; and

(b) proper accounts, duly audited, of all funds, property and assets of the Society,

for the year terminating on 31st December immediately preceding that general meeting. [64]

Extra-
ordinary
general
meetings.

68.—(1) The Council may convene a general meeting of the Society other than the annual general meeting at such time or times as the Council thinks expedient or necessary.

(2) Any 25 members of the Society may at any time requisition a general meeting by written notice in that behalf signed by them and deposited with the President or the Vice-President of the Society and the Council shall convene a general meeting to be held within 30 days of the deposit.

(3) Such written notice shall specify the object or objects of the proposed meeting.

(4) If the Council fails for 14 days after such deposit to convene a general meeting in accordance with the requisition, to be held within 30 days after the deposit, the requisitioning members may convene that general meeting within two months after the deposit. [65]

Voting.

69. At every general meeting, every practitioner member present shall have one vote and the chairman of that meeting shall also have a casting vote. [66]

70. The manner of convening general meetings of the Society and the procedure thereat shall, subject to the provisions of this Act, be regulated by bye-laws made by the Society:

Convening and procedure.

Provided that the bye-laws made under this section shall not provide for a quorum at a general meeting other than the annual general meeting of less than 50 practitioner members personally present. [67

PART VI

PROFESSIONAL PRACTICE, CONDUCT AND DISCIPLINE OF SOLICITORS AND CLERKS

71.—(1) Without prejudice to any other power to make rules, the Council may make rules for regulating the professional practice, etiquette, conduct and discipline of advocates and solicitors.

Rules as to professional practice, etiquette, conduct and discipline.

(2) Such rules shall not come into operation until they have been approved by the Chief Justice who may if he thinks fit consult any of the other judges before giving his approval.

(3) Disciplinary proceedings may be taken against any advocate and solicitor who fails to comply with any rules made under this section. [68

72.—(1) The Council shall make rules —

- (a) as to the opening and keeping by solicitors of accounts at banks for clients' money;
- (b) as to the keeping by solicitors of accounts containing particulars and information as to moneys received, held or paid by them for or on account of their clients; and
- (c) empowering the Council to take such action as may be necessary to enable them to ascertain whether or not the rules are being complied with.

Rules as to keeping of accounts by solicitors.

(2) The Council shall also make rules —

- (a) as to the opening and keeping by every solicitor who is a sole trustee, or who is co-trustee only with one or more of his partners, clerks or servants, of an account at a bank for moneys of

any trust of which he is such a sole trustee or co-trustee;

- (b) as to the keeping by every such solicitor of accounts containing particulars and information as to moneys received, held or paid by him for or on account of any such trust; and
- (c) empowering the Council to take such action as may be necessary to enable them to ascertain whether or not the rules are being complied with.

(3) Such rules shall not come into operation until they have been approved by the Chief Justice who may if he thinks fit consult any of the other judges before giving his approval.

(4) Disciplinary proceedings may be taken against any solicitor who fails to comply with any rules made under this section. [69

Accountant's
report.

73.—(1) Every solicitor shall with every application made by him for a practising certificate, unless he satisfies the Council that owing to the circumstances of his case it is unnecessary to do so, deliver to the Registrar a report signed by an accountant (referred to in this section as an accountant's report) and shall deliver a copy of the accountant's report to the Society.

(2) The accountant's report shall —

- (a) state that in compliance with this section and rules made thereunder the accountant has examined the books, accounts and documents of the solicitor or his firm for such accounting period as may be specified in the report;
- (b) state whether or not the accountant is satisfied, from his examination of the books, accounts and documents produced to him and from the information and explanations given to him, that during the said accounting period the solicitor or his firm has complied with any rules made under section 72 (1);
- (c) state, if the accountant is not satisfied as aforesaid, the matters in respect of which he is not so satisfied;

- (d) contain such information as may be prescribed by rules made by the Council under this section; and
- (e) be delivered to the Society not more than 6 months (or such other period as any rules made under this section may prescribe) after the end of the accounting period specified in the report.

(3) Subject to any rules made under this section, the accounting period for the purposes of an accountant's report shall —

- (a) begin at the expiry of the last preceding accounting period for which an accountant's report has been delivered;
- (b) cover not less than 12 months;
- (c) terminate not more than 12 months, or such less period as the said rules may prescribe, before the date of the delivery of the report to the Society; and
- (d) where possible, consistently with paragraphs (a), (b) and (c), correspond to a period or consecutive periods for which the accounts of the solicitor or his firm are ordinarily made up.

(4) The Council shall make rules to give effect to this section, and such rules shall prescribe —

- (a) what qualification shall be held by an accountant by whom an accountant's report may be given; and
- (b) the nature and extent of the examination to be made by the accountant of the books and accounts of a solicitor or his firm and of any other relevant documents with a view to the signing of a report to be delivered by the solicitor under this section.

(5) Such rules may include provision for —

- (a) permitting in such special circumstances as may be defined in the rules a different accounting period from that specified in subsection (3); and
- (b) regulating any matters of procedure or matters incidental, ancillary or supplemental to this section.

(6) Rules made under this section shall not come into operation until they have been approved by the Chief Justice who shall consult the Attorney-General and may if he thinks fit consult any of the other judges before giving his approval.

(7) Disciplinary proceedings may be taken against any solicitor who fails to comply with this section or any rules made thereunder. [70]

Intervention
in solicitor's
practice.

74. The powers conferred by Part II of the Schedule shall be exercisable in the circumstances specified in Part I of the Schedule. [71]

Compensa-
tion fund.

75.—(1) The Society shall maintain and administer in accordance with this section a fund to be known as the Compensation Fund (referred to in this section as the Fund).

(2) Every solicitor shall in each year prior to his application for a practising certificate pay to the Society a contribution of such sum not exceeding \$200 as the Council may from time to time determine and the Society shall pay that contribution to the Fund:

Provided that a solicitor who applies for a practising certificate between 1st October in any year and 31st March in the next year shall be required to pay only half the contribution so determined if the practising certificate for which he proposes to make application will remain in force for less than 6 months.

(3) The Society may invest any moneys which form part of the Fund and are not immediately required for any other purposes and for the purposes of this section the Society shall have all the powers vested in trustees under the law for the time being in force in Singapore.

(4) The Society may borrow for the purposes of the Fund from any lender and may charge any investments of the Fund by way of security for such a loan.

(5) The Society may insure with any person authorised by law to carry on insurance business within Singapore for such purpose and on such terms as the Society may consider expedient in relation to the Fund.

- (6) There shall be carried to the credit of the Fund —
- (a) all annual contributions paid to the Society in pursuance of subsection (2);
 - (b) all interest, dividends and other income or accretions of capital arising from the investments of the Fund;
 - (c) the proceeds of any realisation of any investments of the Fund;
 - (d) all moneys borrowed for the purposes of the Fund;
 - (e) all sums received by the Society under any insurance effected by the Society under subsection (5); and
 - (f) any other moneys which may belong or accrue to the Fund or be received by the Council in respect thereof.

- (7) All moneys from time to time forming part of the Fund and all investments of the Fund shall be applicable —
- (a) for payment of any costs, charges and expenses of establishing, maintaining, administering and applying the Fund;
 - (b) for payment of any costs, charges and expenses of the Council in ascertaining whether the rules made under section 72 have been complied with, pursuant to the powers given by those rules;
 - (c) for payment of any premiums on insurances effected by the Society under subsection (5);
 - (d) for repayment of any moneys borrowed by the Society and for payment of interest on any moneys so borrowed;
 - (e) for payment of any grants which the Society may make under subsection (9); and
 - (f) for payment of any other sums properly payable out of the Fund by virtue of this section.

(8) If in any year there has been neither an application for a grant from the Fund nor a grant made from the Fund, the Council may in its discretion transfer from the Fund all interest, dividends and other accretions of capital arising from the Fund or any part thereof to a fund of the Society established for the purposes of purchasing or maintaining a library for the use of the members of the Society.

(9) Where it is proved to the satisfaction of the Council that any person has sustained loss in consequence of dishonesty on the part of any solicitor or any clerk or servant of a solicitor in connection with that solicitor's practice in Singapore as a solicitor or in connection with any trust in Singapore of which that solicitor is a trustee, then subject to this section, the Society may, if the Council thinks fit, make a grant to that person out of the Fund for the purpose of relieving or mitigating that loss.

(10) A grant may be made under this section whether or not the solicitor had in force a practising certificate when the act of dishonesty was committed and notwithstanding that subsequent to the commission of that act the solicitor has died or had his name removed from or struck off the roll or has ceased to practise or been suspended from practice:

Provided that no grant shall be made under this section in respect of any loss due to any act of dishonesty where the loss came to the knowledge of the person sustaining the loss or the applicant for a grant before 31st December 1962.

(11) On the making by the Society of any grant under this section to any person in respect of any loss —

- (a) the Society shall to the amount of the grant be subrogated to any rights and remedies in respect of the loss of the person to whom the grant is made or of the solicitor, clerk or servant;
- (b) the person to whom the grant is made shall have no right under bankruptcy or other legal proceedings or otherwise to receive any sum out of the assets of the solicitor, clerk or servant in respect of the loss until the Society has been reimbursed the full amount of its grant.

(12) References in subsection (11) (a) and (b) to the person to whom the grant is made or to the solicitor, clerk or servant shall include, in the event of his death, insolvency or other disability, references to his personal representative or any other person having authority to administer the estate.

(13) The Council may make rules with respect to the procedure to be followed in giving effect to this section and with respect to any matters incidental, ancillary or supplemental to these provisions or concerning the administration

or protection of the Fund and no grant shall be made under this section in respect of any loss unless notice of the loss is received by the Society in such manner and within such time after the loss first came to the knowledge of the person sustaining the loss as may be prescribed by the rules.[72

76. No solicitor who is a commissioner for oaths or a notary public shall do any act as such commissioner or notary, as the case may be, unless he has in force a practising certificate. [73

Solicitors who are commissioners for oaths or notaries public.

77.—(1) No solicitor shall wilfully and knowingly act as agent in any legal proceeding of whatsoever kind or in any matter which under this Act can be done only by a solicitor who has in force a practising certificate for any unauthorised person, or permit his name to be made use of in any such proceeding or matter upon the account or for the profit of any unauthorised person, or send any process to any unauthorised person, or do any other act enabling any unauthorised person to appear, act or practise or purport to practise in any respect as a solicitor in any such proceeding or matter.

Solicitor not to act as agent for any unauthorised person.

(2) No solicitor shall authorise any unauthorised person to operate any bank account in the name of the solicitor or his firm and maintained by the solicitor or his firm in connection with his practice as a solicitor.

(3) Disciplinary proceedings may be taken against any solicitor who has acted in contravention of subsection (1) or (2).

(4) Any unauthorised person who was enabled by a solicitor to act or practise or purport to practise as a solicitor shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$2,000 or to imprisonment for a term not exceeding one year.

(5) In this section, “unauthorised person” has the meaning assigned to it in section 32. [74

78.—(1) No solicitor shall in connection with his practice as such, without the consent of the court obtained on an application by originating summons served upon the Attorney-General and upon the Society, employ or

Solicitors' clerks.

remunerate any person who to his knowledge is an undischarged bankrupt or has been —

- (a) struck off a roll of legal practitioners by whatever name called otherwise than at his own request in Singapore or in any part of Malaysia or elsewhere and remains struck off;
- (b) suspended from practising as an advocate and solicitor in Singapore or in any part of Malaysia or elsewhere and remains suspended;
- (c) convicted of an offence involving dishonesty;
- Cap. 184. (d) convicted of an offence under section 33 of the Miscellaneous Offences (Public Order and Nuisance) Act or under any provision of this Act;
- Cap. 322. (e) listed as a tout under section 73 of the Supreme Court of Judicature Act or section 62 of the Subordinate Courts Act;
- Cap. 321. (f) a person in respect of whom an order under subsection (3) has been made; or
- (g) employed as a public officer.

(2) Subsection (1) (g) shall not apply to any public officer who is an advocate and solicitor or a qualified person.

(3) On application made by or on behalf of the Attorney-General or the Society, the court may make an order directing that, as from a date to be specified in the order, no solicitor shall in connection with his practice as such employ or remunerate any person, the subject of the application, who —

- (a) has been a party to any act or default of a solicitor in respect of which a complaint has been or might properly have been made against that solicitor under the provisions of this Act; or
- (b) has so conducted himself while employed by a solicitor that, had he himself been a solicitor, his conduct might have formed the subject of a complaint under the provisions of this Act against him.

(4) Every application under subsection (3) shall be served upon the person in respect of whom it is made and upon his employer or previous employer if his employer or

previous employer is a solicitor not less than 10 days before the application is to be heard.

(5) Every order made under subsection (3) shall be filed in a file to be kept for this purpose by the Registrar and the file may be inspected by any solicitor without fee.

(6) Before a solicitor employs or remunerates any person (other than an advocate and solicitor or a qualified person) in connection with his practice as such, he shall —

(a) require the person to make a statutory declaration to show that he is not an undischarged bankrupt and that he does not come within the class of persons enumerated in subsection (1) (a) to (g) and that he is not a person in respect of whom an order has been made under subsection (3); and

(b) within 14 days of commencing to employ the person deliver to the Society a certified copy of the statutory declaration so made.

(7) Disciplinary proceedings may be taken against any solicitor who acts in contravention of this section. [75

79.—(1) Where a solicitor acts for a housing developer in a sale of immovable property developed under a housing development, neither he nor a member nor an assistant of the firm of which he is a member either as partner or employee shall in the same transaction act for the purchaser of that property unless a certificate of fitness for occupation in respect thereof has been issued by the Chief Building Surveyor or other relevant authority.

Acting for housing developer and purchaser prohibited.

(2) In subsection (1) —

“develop”, “housing developer” and “housing development” have the meanings assigned to them respectively in the Housing Developers (Control and Licensing) Act;

Cap. 130

“sale of immovable property” includes the grant of a lease for a term exceeding 3 years.

(3) Subsection (1) is without prejudice to any law affecting solicitors who act for parties where there is a conflict of interest or where a conflict of interest may arise.

(4) Disciplinary proceedings may be taken against a solicitor who acts in contravention of subsection (1).

(5) Subsection (1) shall not apply to any transaction where the contract for sale was entered into before 11th February 1967. [76]

Account by
solicitor.

80.—(1) Where the relationship of solicitor and client exists, or has existed, a summons may be issued by the client or his representatives for the delivery of a cash account, or the payment of moneys, or the delivery of securities.

(2) The court or a judge may order the respondent to deliver to the applicant a list of the moneys or securities which he has in his custody or control on behalf of the applicant, or to bring into court the whole or any part of the same, within such time as the court or a judge orders.

(3) In the event of the respondent alleging that he has a claim for costs, the court or a judge may make such provision for the payment or security thereof or the protection of the respondent's lien, if any, as the court or a judge thinks fit. [77]

Interim
certificate.

81.—(1) If, during the taxation of any bill of costs or the taking of any account between solicitor and client, it appears to the Registrar that there must in any event be moneys due from the solicitor to the client, the Registrar may make an interim certificate as to the amount so payable by the solicitor.

(2) Upon the filing of such certificate, the court or a judge may order the moneys so certified to be forthwith paid to the client or brought into court. [78]

PART VII

DISCIPLINARY PROCEEDINGS

Jurisdiction
of Supreme
Court over
solicitors.

82.—(1) Any person duly admitted as an advocate and solicitor shall be an officer of the Supreme Court:

Provided that the provisions of any written law which imposes on officers of the Supreme Court any restrictions as to practice as advocates or solicitors shall not apply to any advocate and solicitor by virtue only of this subsection.

(2) Nothing in this Part shall affect the jurisdiction referred to in subsection (3) which is exercisable by the Supreme Court or any judge thereof over any advocate or solicitor practising before it.

(3) The Supreme Court or any judge thereof may exercise the same jurisdiction in respect of advocates and solicitors as can be exercised by a superior court in England over barristers or solicitors practising before any such court.

[79

83.—(1) All advocates and solicitors shall be subject to the control of the Supreme Court and shall be liable on due cause shown to be struck off the roll or suspended from practice for any period not exceeding two years or censured.

Power to strike off the roll or suspend or censure.

(2) Such due cause may be shown by proof that an advocate and solicitor —

- (a) has been convicted of a criminal offence, implying a defect of character which makes him unfit for his profession;
- (b) has been guilty of fraudulent or grossly improper conduct in the discharge of his professional duty or guilty of such a breach of any usage or rule of conduct made by the Council under the provisions of this Act as in the opinion of the court amounts to improper conduct or practice as an advocate and solicitor;
- (c) has been adjudicated bankrupt and has been guilty of any of the acts or omissions mentioned in section 33 (6) (a), (b), (c), (d), (e), (f), (h) or (i) of the Bankruptcy Act;
- (d) has tendered or given or consented to retention, out of any fee payable to him for his services, of any gratification for having procured the employment in any legal business of himself or any other advocate and solicitor;
- (e) has, directly or indirectly, procured or attempted to procure the employment of himself or any advocate and solicitor through or by the instruction of any person to whom any remuneration for obtaining such employment has been given by him or agreed or promised to be so given;
- (f) has accepted employment in any legal business through a person who has been proclaimed a tout under any written law relating thereto;

Cap. 20.

- (g) allows any clerk or other unauthorised person to undertake or carry on legal business in his name, that other person not being under such direct and immediate control of his principal as to ensure that he does not act without proper supervision;
- (h) has done some other act which would render him liable to be disbarred or struck off the roll of the court or suspended from practice or censured if a barrister or solicitor in England due regard being had to the fact that the two professions are fused in Singapore;
- (i) carries on by himself or any person in his employment any trade, business or calling that detracts from the profession of law or is in any way incompatible with it, or is employed in any such trade, business or calling;
- (j) has contravened or failed to comply with any of the provisions of this Act or of any rules made thereunder in relation thereto if in the opinion of the court such contravention or failure warrants disciplinary action; or
- (k) has been disbarred, struck off, suspended or censured in his capacity as a legal practitioner by whatever name called in any other country.

(3) Pupils shall, *mutatis mutandis*, be subject to the same jurisdiction as can be exercised over advocates and solicitors under this Part but in lieu of an order striking him off the roll or suspending him an order may be made prohibiting the pupil from petitioning the court for admission until after a date to be specified in the order:

Provided that the jurisdiction given by this subsection shall be exercised by a single judge.

(4) In any proceedings under this Part, the court may in addition to the facts of the case take into account the past conduct of the person concerned in order to determine what order should be made.

15/89.

(5) In any proceedings instituted under this Part against an advocate and solicitor consequent upon his conviction for a criminal offence, an Inquiry Committee, a Disciplinary Committee appointed under section 90 and a court of

3 judges referred to in section 98 shall accept his conviction as final and conclusive. [80]

84.—(1) For the purpose of enabling Inquiry Committees to be constituted in accordance with this Part, the Chief Justice shall appoint a panel (hereinafter referred to as the Inquiry Panel) consisting of not more than 40 advocates and solicitors (whether in practice or not) and not more than 40 lay persons.

Appointment
of Inquiry
Panel.
30/86
15/89.

(2) An advocate and solicitor shall be eligible to be appointed as a member of the Inquiry Panel if he has not less than 12 years' standing.

(3) A member of the Inquiry Panel shall be appointed for a term of two years and shall be eligible for reappointment.

15/89.

(4) The Chief Justice may at any time remove from office any member of the Inquiry Panel or fill any vacancy in its membership.

(5) The Chief Justice shall appoint a member of the Inquiry Panel to be the Chairman. [81]

85.—(1) An application by any person that an advocate and solicitor be dealt with under this Part and any complaint of the conduct of an advocate and solicitor in his professional capacity shall in the first place be made to the Society and the Council shall refer the application or complaint to the Chairman of the Inquiry Panel.

Complaints
against
advocates
and
solicitors.
15/89.

(2) The Council may on its own motion refer any information touching upon the conduct of an advocate and solicitor in his professional capacity to the Chairman of the Inquiry Panel.

(3) The Supreme Court or any judge thereof or the Attorney-General may at any time refer to the Society any information touching upon the conduct of an advocate and solicitor in his professional capacity and the Council shall —

(a) refer the matter to the Chairman of the Inquiry Panel; or

(b) where the Supreme Court or a judge thereof or the Attorney-General requests that the matter be referred to a Disciplinary Committee, apply to the Chief Justice to appoint a Disciplinary Committee.

(4) Where an application under subsection (1) or any complaint or information touching upon the conduct of an advocate and solicitor in his professional capacity is referred to the Chairman of the Inquiry Panel, the Council shall inform the advocate and solicitor concerned that it has done so.

(5) Where an application or any complaint or information touching upon the conduct of an advocate and solicitor in his professional capacity is referred to the Chairman of the Inquiry Panel pursuant to subsection (1), (2) or (3), he shall forthwith constitute an Inquiry Committee consisting of —

- (a) a chairman, being a member of the Inquiry Panel who is an advocate and solicitor;
- (b) a member of the Inquiry Panel who is an advocate and solicitor;
- (c) a member of the Inquiry Panel who is a lay person; and
- (d) a legal officer who has not less than 10 years' experience,

to inquire into the application, complaint or information.

(6) An Inquiry Committee may meet for the purposes of its inquiry, adjourn and otherwise regulate the conduct of its inquiry as the members may think fit.

(7) The Chairman of an Inquiry Committee may at any time summon a meeting of the Inquiry Committee.

(8) Any questions arising at any meeting of an Inquiry Committee shall be determined by a majority of votes of the members of the Committee, and in the case of an equality of votes, the Chairman shall have a second or casting vote.

(9) All the members of an Inquiry Committee shall be present to constitute a quorum for a meeting of the Inquiry Committee and any resolution or decision in writing signed by all the members of an Inquiry Committee shall be as valid and effectual as if it had been made or reached at a meeting of the Inquiry Committee where all its members were present.

(10) Every written application or complaint received by the Society shall be supported by such statutory declarations or affidavits as the Chairman of the Inquiry Panel or of an Inquiry Committee may require.

(11) An Inquiry Committee may require any person making a written application or complaint to the Society under this Part to deposit with the Society a reasonable sum not exceeding \$500 to cover necessary costs and expenses and in case the application or complaint is found to be frivolous or vexatious, the sum so deposited or such part thereof as the Inquiry Committee may determine shall be applied for the payment of those costs and expenses; otherwise the sum so deposited shall be returned to the person making the same.

(12) A member of an Inquiry Committee shall, notwithstanding that he has ceased to be a member of the Inquiry Panel on the expiry of his term of office, be deemed to be a member of the Inquiry Panel until such time as the Council has decided that the Inquiry Committee of which he is a member has completed its work. [82

86.—(1) Subject to subsections (2), (3) and (4), an Inquiry Committee shall, within two weeks of its appointment, commence its inquiry into an application under section 85 (1) or any complaint or information touching upon the conduct of an advocate and solicitor in his professional capacity and report its findings to the Council — Inquiry.
15/89.

(a) in any case where the members of the Inquiry Committee have decided not to call upon the advocate and solicitor concerned to offer any explanation or to answer the allegations made against him, not later than two months after the date of its appointment; and

(b) in any other case, not later than two weeks after the last meeting of the Inquiry Committee or 3 months after the date of its appointment, whichever is earlier.

(2) Where an Inquiry Committee is of the opinion that it will not be able to report its findings to the Council within the period specified in subsection (1) (b) due to the complexity of the matter or serious difficulties encountered by the Inquiry Committee in conducting its inquiry, the Inquiry Committee may apply in writing to the Chairman of the Inquiry Panel for an extension of the time to report its findings to the Council.

(3) The Chairman of the Inquiry Panel may grant an extension of time to an Inquiry Committee to report its findings to the Council if he is satisfied that the circumstances of the case justify the grant of an extension of time except that any extension of time granted shall not extend beyond the period of 6 months from the date of the appointment of that Inquiry Committee.

(4) No application for an extension of time may be made to the Chairman of the Inquiry Panel under subsection (2) on the expiry of two months after the date of the appointment of the Inquiry Committee.

(5) Where an Inquiry Committee is satisfied that there are no grounds for disciplinary action under this Part, it shall report to the Council accordingly and state the reasons for its decision.

(6) Where an Inquiry Committee is of the opinion that an advocate and solicitor should be called upon to answer any allegation made against him, the Inquiry Committee shall post or deliver to the advocate and solicitor concerned —

(a) copies of any written application, complaint or information touching upon his conduct in a professional capacity and of any statutory declarations or affidavits that have been made in support of the application, complaint or information; and

(b) a notice inviting the advocate and solicitor concerned to give within such period (not being less than 14 days) as may be specified in the notice to the Inquiry Committee any written explanation he may wish to offer and to advise the Inquiry Committee if he wishes to be heard by the Committee,

and allow the time specified in the notice to elapse and shall give the advocate and solicitor concerned reasonable opportunity to be heard if he so desires and shall also give due consideration to any explanation (if any) given by him.

(7) The report of the Inquiry Committee shall, *inter alia*, deal with the question of the necessity or otherwise of a formal investigation by a Disciplinary Committee and, if in the view of the Inquiry Committee no formal investigation

by a Disciplinary Committee is required, the Inquiry Committee shall recommend to the Council —

- (a) a penalty sufficient and appropriate to the misconduct committed; or
- (b) that the complaint be dismissed.

(8) Where in the course of its inquiry an Inquiry Committee receives information touching on or evidence of the conduct of the advocate and solicitor concerned which may give rise to proceedings under this Part, the Inquiry Committee may decide on its own motion to inquire into that matter and report its findings to the Council.

(9) For the purposes of conducting an inquiry, an Inquiry Committee may —

- (a) appoint any person to make or assist in the making of whatever preliminary inquiries it thinks necessary;
- (b) require the production for inspection by the Inquiry Committee or any person appointed by the Committee of any books, documents or papers which may relate to or be connected with the subject-matter of the inquiry and may require any person to give information in relation to such books, documents or papers; and
- (c) require the advocate and solicitor concerned to give all information in relation to any such books, documents or papers which may be reasonably required by the Inquiry Committee or by the person so employed.

(10) Any advocate and solicitor and any other person who without lawful excuse refuses or fails to produce to the Inquiry Committee or to any person whom the Committee may appoint for the purposes of an inquiry any books, documents or papers required of him as aforesaid or fails to give any such information relating thereto shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000. [83

87.—(1) The Council shall consider the report of the Inquiry Committee and according to the circumstances of the case shall, within one month of the receipt of the report, determine —

- (a) that a formal investigation is not necessary;

Council's
consideration
of report.

- (b) that no cause of sufficient gravity exists for a formal investigation but that the advocate and solicitor should be ordered to pay a penalty under section 88;
 - (c) that there should be a formal investigation by a Disciplinary Committee; or
 - (d) that the matter be referred back to the Inquiry Committee, or adjourned for consideration.
- (2) If the Inquiry Committee in its report recommends —
- (a) that there should be a formal investigation, then the Council shall determine accordingly under subsection (1); or
 - (b) that a formal investigation by a Disciplinary Committee is not necessary, the Council may, if it disagrees with the recommendation, request the Chief Justice to appoint a Disciplinary Committee.

(3) The Council shall inform the advocate and solicitor and the person who made the application or complaint of the manner in which it has determined the application or complaint and in the event of the determination being that a formal investigation is unnecessary the Council shall on the request of the person furnish him with its reasons in writing.

[84

Council's
power to
order
penalty.

88.—(1) If the Council determines under section 87 that no cause of sufficient gravity exists for a formal investigation but that the advocate and solicitor should be ordered to pay a penalty, it may order the advocate and solicitor to pay a penalty of not more than \$5,000.

(2) Section 95 shall apply to any penalty ordered to be paid under subsection (1).

(3) Before the Council makes an order for the payment of a penalty under this section, it shall notify the advocate and solicitor concerned of its intention to do so and give him a reasonable opportunity to be heard by the Council. [85

Application
to appoint a
Disciplinary
Committee.
30/86.

89. Where —

- (a) the Council determines under section 87 that there should be a formal investigation; or

- (b) an advocate and solicitor has been convicted of an offence of criminal breach of trust under section 409 of the Penal Code or any other offence involving fraud or dishonesty, Cap. 224.

the Council shall forthwith apply to the Chief Justice to appoint a Disciplinary Committee which shall hear and investigate the matter. [86

Disciplinary Committee

90.—(1) The Chief Justice may from time to time appoint one or more committees comprising — Appointment
of
Disciplinary
Committee.
30/86.

- (a) a person from a panel of not more than 5 persons appointed by the Chief Justice being retired judges or persons who have had not less than 12 years' experience as advocates and solicitors;
- (b) an advocate and solicitor who has in force a practising certificate;
- (c) a legal officer who has at least 10 years' experience; and

(d) a member of the Inquiry Panel who is a lay person, to be known for the purposes of this Act as Disciplinary Committees.

(2) A Disciplinary Committee shall be appointed in connection with one or more matters or for a fixed period of time or as the Chief Justice may think fit.

(3) The Chief Justice may at any time revoke the appointment of any Disciplinary Committee or may remove any member of a Disciplinary Committee or fill any vacancy in a Disciplinary Committee.

(4) Every Disciplinary Committee shall appoint a solicitor to be the secretary of that Disciplinary Committee.

(5) The production of any written instrument purporting to be signed by the Chief Justice and making an appointment, revocation or removal referred to in this section shall be evidence that such appointment, revocation or removal has been duly made.

(6) The lay person who is a member of a Disciplinary Committee shall not vote on any question or matter to be decided by the Disciplinary Committee and need not be present at every meeting of the Disciplinary Committee.

(7) Except as provided in subsection (6), all members of a Disciplinary Committee shall be personally present to constitute a quorum for the transaction of any business.

(8) A member of a Disciplinary Committee appointed under subsection (1) (a) who is not a practising advocate and solicitor shall be paid for each case such remuneration as the Chief Justice may determine. [87

Proceedings
and powers
of
Disciplinary
Committee.
30/86
15/89.

91.—(1) The Rules Committee may from time to time make rules for regulating the hearing and investigation of matters before or by a Disciplinary Committee.

(2) For the purpose of any application, complaint or matter heard and investigated by it under this Act the Disciplinary Committee may administer oaths and the Society or the applicant or person making the complaint and the solicitor to whom the application or complaint relates and (if so instructed by the Disciplinary Committee) the secretary of the Disciplinary Committee may sue out writs of subpoena ad testificandum and of duces tecum but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce at the trial of an action.

(3) The writs referred to in subsection (2) shall be served and may be enforced as if they were writs issued in connection with a civil action in the High Court.

(4) Any person giving evidence before a Disciplinary Committee shall be legally bound to tell the truth.

(5) No fees or other charges shall be payable for any writ sued out by the secretary of the Disciplinary Committee under subsection (2).

Cap. 224.

(6) In sections 172, 173, 174, 175, 177, 179, 182 and 228 of the Penal Code, “public servant” shall be deemed to include a member of a Disciplinary Committee taking part in any investigation under this section, and in sections 193 and 228 of the Penal Code, “judicial proceeding” shall be deemed to include any such investigation as aforesaid.

[88

Person who
made the
complaint
etc.
30/86.

92. Where the Supreme Court or a judge thereof or the Attorney-General has referred to the Society any information touching upon the conduct of an advocate and solicitor in his professional capacity, all references in this Part to a

person who made the written application or complaint shall be construed to include a reference to the Attorney-General. [89

93.—(1) After hearing and investigating any matter referred to it, a Disciplinary Committee shall record its findings in relation to the facts of the case and according to those facts shall determine — Findings of Disciplinary Committee. 30/86.

- (a) that no cause of sufficient gravity for disciplinary action exists under section 83;
- (b) that while no cause of sufficient gravity for disciplinary action exists under that section the advocate and solicitor should be reprimanded; or
- (c) that cause of sufficient gravity for disciplinary action exists under that section.

(2) In the event of the Disciplinary Committee making a determination under subsection (1) (b) or (c), the Committee may make an order for payment by any party of costs or of such sum as the Committee may consider a reasonable contribution towards costs.

(3) A Disciplinary Committee shall carry out its work expeditiously and the Society may apply to the Chief Justice for directions to be given to the Disciplinary Committee if the Disciplinary Committee fails to make any finding and determination within 6 months from the date of its appointment.

(4) The findings and determination of the Disciplinary Committee under this section shall be drawn up in the form of a report of which —

- (a) a copy shall be submitted to the Chief Justice and the Society; and
- (b) a copy shall on request be supplied to the advocate and solicitor concerned.

(5) The findings and determination of the Disciplinary Committee shall be published.

(6) A copy of the entire record of the proceedings of the Disciplinary Committee including its findings and determination shall be made public and copies thereof shall be made available to the members of the public upon payment of the prescribed fee. [90

Society to
apply to
court.

94.—(1) If the determination of the Disciplinary Committee under section 93 is that cause of sufficient gravity for disciplinary action exists under section 83 the Society shall without further direction or directions proceed to make an application in accordance with section 98.

(2) If the determination of the Disciplinary Committee under section 93 is that no cause of sufficient gravity for disciplinary action exists under section 83, it shall not be necessary for the Society to take any further action in the matter unless so directed by the court. [91

Provisions as
to penalties.

95.—(1) Within 21 days of being ordered to pay a penalty by the Council, the advocate and solicitor concerned may apply to a judge to set aside the order.

(2) Such an application shall be made by way of originating summons and shall be served on the Society and shall be heard in chambers unless the judge of his own motion or on the application of any party sees fit to order a hearing in open court.

(3) Upon the hearing of the application, the judge may —

(a) affirm or vary the penalty; or

(b) set aside the order for a penalty,

and may make an order for payment of costs by or to either the Society or the applicant as may be just.

(4) If no such application is made or if the order for a penalty is affirmed or varied by the court, the advocate and solicitor shall pay the penalty to the Society and the Society shall pay the penalty into the Consolidated Fund.

(5) Any penalty not paid may be recoverable by the Society as a judgment debt. [92

Procedure for
complainants
dissatisfied
with
Council's
decision.

96.—(1) Where a person has made a written application or complaint to the Society and the Council has determined —

(a) that a formal investigation is not necessary; or

(b) that no sufficient cause for a formal investigation exists but that the advocate and solicitor concerned should be ordered to pay a penalty,

that person, if he is dissatisfied with the decision, may within 14 days of being notified of the Council's determination apply to a judge under this section.

(2) Such an application shall be made by originating summons and shall be accompanied by an affidavit or affidavits of the facts constituting the basis of the application or complaint and by a copy of the application or complaint originally made to the Society together with a copy of the Council's reasons in writing supplied to the applicant under section 87 (3).

(3) The application accompanied by a copy of each of the documents referred to in subsection (2) shall be served on the Society.

(4) At the hearing of the application, the judge may make an order —

- (a) affirming the determination of the Council; or
- (b) directing the Society to apply to the Chief Justice for the appointment of a Disciplinary Committee,

and such order for the payment of costs as may be just.

(5) If the judge makes an order directing the Society to apply to the Chief Justice for the appointment of a Disciplinary Committee, the applicant shall have the conduct of proceedings before the Disciplinary Committee and any subsequent proceedings before the court under section 98, and any such proceedings shall be brought in the name of the applicant. [93]

97.—(1) Where a Disciplinary Committee has determined —

- (a) that no cause of sufficient gravity for disciplinary action exists under section 83; or
- (b) that while no cause of sufficient gravity for disciplinary action exists under that section the advocate and solicitor should be reprimanded,

and the person who made the written application or complaint or the Council is dissatisfied with the determination, that person or the Council may within 14 days of being notified of the Disciplinary Committee's decision apply to a judge under this section.

(2) Such an application shall be made by originating summons and shall be served on the Society and the secretary of the Disciplinary Committee who shall

Procedure for complainants dissatisfied with a Disciplinary Committee's decision. 30/86.

thereupon file in court the record and report of the hearing and investigation by the Disciplinary Committee.

(3) Upon the hearing of the application, the judge, after hearing the applicant and the Disciplinary Committee and, if it desires to be heard, the Society, may make an order —

(a) confirming the report of the Disciplinary Committee;

(b) directing the applicant or the Council to make an application under section 98; or

(c) directing the advocate and solicitor concerned under section 98 (1) to show cause,

and such order for the payment of costs as may be just.

(4) If the judge makes an order under subsection (3) (b) or (c) on the application of a person other than the Council, the applicant shall have the conduct of proceedings under section 98 and any such proceedings shall be brought in the name of the applicant. [94

Order to
show cause.
30/86.

98.—(1) An application that a solicitor be struck off the roll or suspended from practice or censured or that he be required to answer allegations contained in an affidavit shall be made by originating summons *ex parte* for an order calling upon the solicitor to show cause.

(2) An application under subsection (1) may be made to a judge and shall include an application for directions as to service if the solicitor is believed to be outside Singapore.

(3) If the solicitor named in the order is or is believed to be within Singapore, the provisions of the Rules of the Supreme Court* for service of writs of summons shall apply to the service of the order.

(4) If an order to show cause is made, a copy of the affidavit or affidavits upon which the order was made shall be served with the order upon the solicitor named in the order.

(5) Any order absolute, made in cases where personal service of the order to show cause has not been effected, may be set aside on the application of the solicitor on good cause being shown.

*See G.N. No. S 274/70.

(6) The application to make absolute and the showing of cause consequent upon any order to show cause made under subsections (1) and (2) shall be heard by a court of 3 judges and from the decision of that court there shall be no appeal. 15/89.

(7) The judge who made the order to show cause shall not thereby be disqualified from sitting as a member of the court of 3 judges under subsection (6).

(8) The Chief Justice or any other Judge of the Supreme Court shall not be a member of the court of 3 judges when the application under subsection (6) is in respect of a complaint made or information referred to the Society by him.

(9) Subject to this section, the Rules Committee may make rules for regulating and prescribing the procedure and practice to be followed in connection with proceedings under this section and under sections 100 and 102 and in the absence of any rule or rules dealing with any point of procedure or practice the Rules of the Supreme Court may be followed as nearly as the circumstances permit. [95

99. Where an order (whether to show cause or absolute) has been made by the court upon an application under section 98 and the order has not been drawn up by the applicant within one week after it was made, the Society may cause the order to be drawn up, and all future proceedings thereon shall be taken as if the application had been made by the Society. Drawing up of order. [96

100.—(1) Any solicitor may subject to this section and to any rules made in that behalf apply to the court to have his name removed from the roll. Solicitor's application to remove own name.

(2) Every such application shall be made by way of originating motion and shall be supported by an affidavit in the prescribed form which shall be served on the Society not less than two months before the application is heard.

(3) The Society may for good cause require the applicant to advertise his intention to make the application in such manner as the Society shall direct.

(4) An application under this section shall be heard by a single judge sitting in open court.

(5) No order shall be made on an application under this section if the judge is satisfied that —

(a) disciplinary action is pending against the applicant; or

(b) the conduct of the applicant is the subject of inquiry or investigation under the provisions of this Part.

(6) At the hearing of any such application, the judge may make an order —

(a) directing the Registrar to remove the applicant's name from the roll; or

(b) adjourning the application sine die or to such date as to the judge seems fit,

and such order for the payment of costs as may be just.

[97

Adverse orders to be noted on roll.

101. The Society shall give the Registrar notice of every order made under this Part that is adverse to an advocate and solicitor and the Registrar shall cause a note of the effect of that order to be entered on the roll against the name of the advocate and solicitor concerned:

Provided that an order as to costs only need not be so entered on the roll.

[98

Replacement on roll of solicitor who has been struck off.

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

(2) Any application that the name of a solicitor be replaced on the roll shall be by originating motion, supported by affidavit, before a court of 3 judges of whom the Chief Justice shall be one.

(3) Notice of the motion shall be served on the Society which shall appear at the hearing of the motion and shall place before the court a report which shall include copies of the record of any proceedings as the result of which the name of the solicitor was removed from or struck off the roll and a statement of any facts which have occurred since the name of the solicitor was removed from or struck off the roll and which in the opinion of the Council or any member of it are relevant to be considered or to be investigated in connection with the application.

[99

103.—(1) Where under section 93 a Disciplinary Committee determines that no cause of sufficient gravity for disciplinary action exists and further records the opinion that the application or complaint was frivolous or vexatious the Disciplinary Committee may by summons to be heard before a judge ask that the court order that the costs of the application or complaint shall be paid by the person who made the application or complaint and thereupon and after hearing that person the court may order that those costs or any part of them shall be paid by that person and any such order shall thereupon be enforceable in the same manner as any other order for costs made in proceedings in the court.

(2) The costs of and incidental to all proceedings under section 98, 100 or 102 shall be in the discretion of the judge or of the court before whom the hearing has taken place and such costs may include the costs of the Society or Disciplinary Committee and may be ordered to be paid by the solicitor by or against whom or by the person by whom any application or complaint was made or was intended to be made or partly by the solicitor and partly by the other person. [100]

104. If the person whose conduct is the subject of inquiry fails to attend before the court, a Disciplinary Committee, the Council or the Inquiry Committee, as the case may be, the inquiry or proceedings may be proceeded with without further notice to that person upon proof of service by affidavit or statutory declaration. [101]

105.—(1) In any proceedings under this Part, any publication purporting to be printed under the authority of the General Council of the Bar in England or the Law Society in England setting out any rules or decisions made under the authority of those bodies relevant to the subject-matter of the proceedings shall, until the contrary is proved, be the evidence thereof.

(2) Where the person whose conduct is the subject of inquiry does not appear before a Disciplinary Committee and the Committee determines under section 104 to proceed in his absence, and in any other case with the consent in writing of that person, the Disciplinary Committee may, either as to the whole case or as to any particular fact or facts, proceed and act on evidence by affidavit or statutory declaration. [102]

No action in
absence of
bad faith.

106. No action or proceeding shall lie against a Disciplinary Committee, the Society, the Council or the Inquiry Committee or any member thereof for any act or thing done under this Act unless it is proved to the court that the act or thing was done in bad faith or with malice.

[103

PART VIII

REMUNERATION OF SOLICITORS

Prohibition
of certain
stipulations.

107.—(1) No solicitor shall —

- (a) purchase or agree to purchase the interest or any part of the interest of his client or of any party in any suit, action or other contentious proceeding brought or to be brought or maintained; or
- (b) enter into any agreement by which he is retained or employed to prosecute any suit or action or other contentious proceeding which stipulates for or contemplates payment only in the event of success in that suit, action or proceeding.

(2) Nothing in this Act shall be construed to give validity to any purchase or agreement prohibited by subsection (1) or to any disposition, contract, settlement, conveyance, delivery, dealing or transfer which is void or invalid against —

- (a) the Official Assignee under the law relating to bankruptcy;
- (b) a liquidator or receiver under the law relating to the winding up of companies; or
- (c) a creditor in any composition.

(3) A solicitor shall, notwithstanding any provision of this Act, be subject to the law of maintenance and champerty like any other person.

[104

Orders as to
remuneration
of solicitors
for non-
contentious
business.

108.—(1) For the purposes of this section, there shall be a committee consisting of the following persons:

- (a) the Chief Justice;
- (b) the Attorney-General;
- (c) the President of the Society; and
- (d) two solicitors nominated by the Council.

(2) The committee or any 4 of the members thereof (the Chief Justice being one) may make general orders prescribing and regulating in such manner as they think fit the remuneration of solicitors in respect of non-contentious business and any order made under this section may revoke or alter any previous order so made.

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

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

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

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

(5) So long as an order made under this section is in operation, taxation of bills of costs of solicitors in respect of non-contentious business shall, subject to section 109, be regulated by that order.

(6) Section 131 shall apply to any order made under this section.

Agreements with respect to remuneration for non-contentious business.

109.—(1) Whether or not any order is in force under section 108, a solicitor and his client may, either before or after or in the course of the transaction of any non-contentious business by the solicitor, make an agreement as to the remuneration of the solicitor in respect thereof:

Provided that such an agreement shall not provide for costs at a scale lower than that provided by any order made under section 108.

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

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

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

Provided that if on any taxation of costs the agreement is relied on by the solicitor and objected to by the client as unfair or unreasonable, the taxing officer may enquire into the facts and certify them to the court, and if on that certificate it appears just to the court that the agreement should be cancelled, or the amount payable thereunder reduced, the court may order the agreement to be cancelled, or the amount payable thereunder to be reduced, and may give such consequential directions as the court thinks fit. [106

Remuneration of a solicitor who is a mortgagee.

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

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

(3) In this section, “mortgage” includes any charge on any property for securing money or money’s worth. [107]

Contentious business

111.—(1) Subject to the provisions of any other written law, a solicitor may make an agreement in writing with his client respecting the amount and manner of payment for the whole or any part of his costs in respect of contentious business done or to be done by the solicitor, either by a gross sum, or otherwise, and at either the same rate as or a greater or a less rate than that at which he would otherwise be entitled to be remunerated.

Agreement as to costs for contentious business.

(2) Every such agreement shall be signed by the client and shall be subject to the provisions and conditions contained in this Part. [108]

112.—(1) Such an agreement as is mentioned in section 111 shall not affect the amount of, or any rights or remedies for the recovery of, any costs recoverable from the client by, or payable to the client by, any other person, and that person may, unless he has otherwise agreed, require any costs payable or recoverable by him to or from the client to be taxed according to the rules for the time being in force for the taxation of those costs:

Effect of agreements with respect to contentious business.

Provided that the client shall not be entitled to recover from any other person, under any order for the payment of any costs which are the subject of the agreement, more than the amount payable by the client to his own solicitor under the agreement.

(2) Such an agreement shall be deemed to exclude any further claim of the solicitor beyond the terms of agreement 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 services, fees, charges or disbursements (if any) as are expressly excepted by the agreement.

(3) Subject to the provisions of this Part, the costs of a solicitor, in any case where there is such an agreement as is referred to in section 111, shall not be subject to taxation nor to the provisions of section 118.

(4) A provision in any such agreement that the solicitor shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as a solicitor, shall be wholly void. [109

Enforcement
of
agreements.

113.—(1) No action or suit shall be brought or instituted upon any such agreement as is referred to in section 111, but every question respecting the validity or effect of the agreement may be examined and determined, and the agreement may be enforced or set aside without suit or action on the summons, motion or petition of any person or the representatives of any person, party to the agreement, or being or alleged to be liable to pay, or being or claiming to be entitled to be paid the costs, fees, charges or disbursements in respect of which the agreement is made, by the court in which the business or any part thereof was done or a judge thereof, or, if the business was not done in any court, then by the High Court or a judge.

(2) Upon any such summons, motion or petition, if it appears to the court or judge that the agreement is in all respects fair and reasonable between the parties, it may be enforced by the court or judge by rule or order, in such manner and subject to such conditions (if any) as to the costs of the summons, motion or petition as the court or judge thinks fit.

(3) If the terms of the agreement are deemed by the court or judge to be unfair or unreasonable, the agreement may be declared void, and the court or judge may thereupon order the agreement to be given up to be cancelled, and may direct the costs, fees, charges and disbursements incurred or chargeable in respect of the matters included therein to be

taxed, in the same manner and according to the same rules as if the agreement had not been made.

(4) The court or judge may also make such order as to the costs of and relating to the summons, motion or petition and the proceedings thereon as the court or judge thinks fit.

(5) When the amount agreed for under any such agreement has been paid by or on behalf of the client or by any person chargeable with or entitled to pay it, any court or judge having jurisdiction to examine and enforce the agreement may, on application by the person who has paid the amount within 12 months after payment, if it appears to the court or judge that the special circumstances of the case require the agreement to be reopened, reopen it, and order the costs, fees, charges and disbursements to be taxed, and the whole or any portion of the amount received by the solicitor to be repaid by him, on such terms and conditions as to the court or judge seems just.

(6) Where any such agreement is made by the client in the capacity of guardian or of trustee under a deed or will, or of committee of any person or persons whose estate or property will be chargeable with the amount payable under the agreement or with any part of that amount, the agreement shall before payment be laid before the Registrar, who shall examine it and disallow any part thereof, or may require the direction of the court or a judge to be taken thereon by summons, motion or petition.

(7) If in any such case the client pays the whole or any part of the amount payable under the agreement without the previous allowance of the Registrar or court or judge as aforesaid, he shall be liable at any time to account to the person whose estate or property is charged with the amount paid, or with any part thereof, for the amount so charged, and the solicitor who accepts the payment may be ordered by any court which would have had jurisdiction to enforce the agreement, if it thinks fit, to refund the amount received by him. [110]

114.—(1) Where a solicitor has made an agreement with his client, in pursuance of section 111 and anything has been done by the solicitor under the agreement, and, before the agreement has been completely performed by him, the solicitor dies or becomes incapable to act, an application

Death or incapability of solicitor after agreement.

may be made to the court by any party thereto or by the representatives of that party, and the court shall thereupon have the same power to enforce or set aside the agreement, so far as it may have been acted upon, as if the death or incapacity had not happened.

(2) The court, even if it thinks the agreement to be in all respects fair and reasonable, may order the amount due in respect of the business done thereunder to be ascertained by taxation.

(3) The Registrar in ascertaining that amount shall have regard, so far as may be, to the terms of the agreement.

(4) Payment of the amount found to be due may be enforced in the same manner as if the agreement had been completely performed by the solicitor. [111]

Change of
solicitor after
agreement.

115.—(1) If, after an agreement in pursuance of section 111 has been made, the client changes his solicitor before the conclusion of the business to which the agreement relates (which he may do notwithstanding the agreement) the solicitor, party to the agreement, shall be deemed to have become incapable to act under it within the meaning of section 114.

(2) Upon any order being made for taxation of the amount due to that solicitor in respect of business done under the agreement, the court shall direct the Registrar to have regard to the circumstances under which the change of solicitor has taken place.

(3) Upon such taxation the solicitor shall not be deemed to be entitled to the full amount of the remuneration agreed to be paid to him unless it appears that there has been no default, negligence, improper delay or other conduct on his part affording reasonable ground to the client for his change of solicitor. [112]

PART IX

RECOVERY AND TAXATION OF COSTS

Definition of
“solicitor” in
this Part.

116. In this Part, “solicitor” includes the executors, administrators and assignees of the solicitor in question. [113]

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

Charging orders.

Provided that no order shall be made if the right to recover the costs is barred by the Limitation Act. [114

Cap. 163.

118.—(1) Subject to the provisions of this Act, no solicitor, except by leave of the court, shall commence or maintain any action for the recovery of any costs due for any business done by him until the expiration of one month after he has delivered to the party to be charged therewith, or sent by post to, or left with him at his office or place of business, dwelling-house or last known place of abode, a bill of those costs, which bill shall be signed by the solicitor or, in the case of a partnership, by one of the partners, either with his own name or with the name or style of the partnership, or by a solicitor employed by that solicitor or partnership, or be enclosed in or accompanied by a letter, signed in the like manner, referring to the bill.

Solicitor not to commence action for fees until one month after delivery of bills.

(2) Where a bill is proved to have been delivered in compliance with subsection (1), it shall not be necessary in the first instance for the solicitor to prove the contents of the bill and it shall be presumed until the contrary is shown to be a bill bona fide complying with this Act. [115

119. The court may authorise a solicitor to commence an action for the recovery of his costs and also refer his bill of costs for taxation by the Registrar, although one month has not expired from the delivery of the bill, upon proof to its satisfaction that any party chargeable therewith is about to quit Singapore, or to have a receiving order made against him, or to compound with his creditors or to take any other steps or do any other act which in its opinion would tend to defeat or delay the solicitor in obtaining payment. [116

Court may authorise action for recovery of fees before expiration of one month after delivery of bills.

Order for
taxation of
delivered bill
of costs.

120.—(1) An order for the taxation of a bill of costs delivered by any solicitor may be obtained on a petition of course by the party chargeable therewith, or by any person liable to pay the bill either to the party chargeable or to the solicitor, at any time within one year from the delivery of the bill, or, by the solicitor, after the expiry of one calendar month and within one year from the delivery of the bill.

(2) The order shall contain such directions and conditions as the court thinks proper, and any party aggrieved by any such order of course may apply by summons in chambers that the order may be amended or varied.

(3) In any case where a solicitor and his client consent to taxation of a solicitor's bill, the Registrar may proceed to tax the bill notwithstanding that there is no order therefor.

[117

Costs of
order for
taxation fixed
at \$25.

121. The costs of obtaining an order for taxation of costs, including the petition of course, order and service of order, but not including any court fees payable thereon or disbursements, if the order is obtained by the solicitor of the applicant, or by the solicitor, shall be the sum of \$25:

Provided that if one of the parties holds out and does not agree to taxation the costs of obtaining an order of court shall be the sum of \$150.

[118

Time limit
for taxation
of bills of
costs.

122.—(1) After the expiration of one year from the delivery of a bill of costs, or after payment of the bill, no order shall be made for taxation of a solicitor's bill of costs, except upon notice to the solicitor and under special circumstances to be proved to the satisfaction of the court.

(2) No such order for taxation shall in any event be made after the expiry of one year from the payment of the bill of costs.

[119

Petitions for
taxation to
contain a
submission
to pay.

123. All petitions by a party chargeable with or liable for a bill of costs shall, unless the bill has been already paid, contain a submission by that party to pay the amount thereof to the solicitor when taxed.

[120

Order for
delivery of
bill of costs to
be obtained
as of course.

124.—(1) An order for the delivery of a solicitor's bill of costs, and for delivery up of any deeds, documents or other papers in the possession of the solicitor, subject to any lien

which the solicitor may have, and for the taxation of the bill when delivered, may be obtained on a petition of course.

(2) Upon such petition being filed, the Registrar shall mark the order thereon forthwith, and draw up the order if necessary.

(3) Subject to this section, the court shall have the like jurisdiction as the High Court in England to make an order under subsection (1). [121]

125. When application is made by a party other than the party chargeable, the court may order the solicitor to deliver to the party making the application a copy of the bill of costs, upon payment of the costs of making the copy. [122]

Solicitor to deliver copy of bill of costs.

126. Bills of costs for taxation as between solicitor and client shall be drawn in the manner provided by the Rules of the Supreme Court*, and the taxation shall be governed by those Rules. [123]

Preparation of bills of costs as between solicitor and client.

127. The Registrar may allow interest, at such rate and from such time as he thinks just, on moneys disbursed by a solicitor for his client, and on moneys of the client in the hands of the solicitor and improperly retained by him. [124]

Interest in respect of disbursements and advances.

128.—(1) In case any order for taxation is made upon the application of the party chargeable or liable, or of the solicitor, the costs of the order and taxation, except when the order has been made after the expiration of one year, shall be paid according to the event of the taxation —

Costs of taxation how to be borne.

(a) if the bill when taxed is less by a sixth part than the bill delivered, then the solicitor shall pay the costs;

(b) if the bill when taxed is not less by a sixth part, then the party chargeable or liable, if the application is made by him, or if he attends the taxation, shall pay the costs.

(2) Every order for such a reference shall direct the Registrar to tax the costs of the reference, and to certify

*See G.N. No. S 274/70.

what, upon the reference, is found to be due to or from the solicitor in respect of the bill, and of the costs of the reference, if payable.

(3) The Registrar may certify specially any circumstances relating to the bill or taxation.

(4) The court may thereupon make any such order as it thinks right, respecting the payment of the costs of the taxation.

(5) Where such a reference is made, when it is not authorised except under special circumstances, the court may give any special directions relative to the costs of the reference. [125

Interest on
client's
money.

129.—(1) Rules made under section 72 shall make provision for requiring a solicitor, in such cases as may be prescribed by the said rules, either —

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

(2) The cases in which a solicitor may be required to act in accordance with any rules made pursuant to this section may be defined, among other things, by reference to the amount of any sum received or the period for which it is or is likely to be retained or both; and those rules may include provision for enabling a client (without prejudice to any other remedy) to require that any question arising under those rules in relation to the client's money be referred to and determined by the Society.

(3) Subject to any rules made pursuant to this section, a solicitor shall not be liable by virtue of the relation between solicitor and client to account to any client for interest received by the solicitor on moneys deposited at a bank being moneys received or held for or on account of his clients generally.

(4) Nothing in this section, or in any rules made pursuant to this section, shall —

- (a) affect any arrangement in writing, whenever made, between a solicitor and his client as to the application of the client's money or interest thereon; or
- (b) apply to money received by a solicitor being money subject to a trust of which the solicitor is a trustee. [126]

130. Nothing in this Act shall affect the right, which is hereby declared, of the Government when represented by any of such persons as are mentioned in section 29 (2) (a) to recover costs awarded to it in or respecting any cause or matter, and in any such cause or matter the costs of the Government shall be taxed in accordance with any rules for the time being in force for the taxation of the fees and costs of advocates and solicitors as if an advocate and solicitor of the Supreme Court who is not in the service of the Government had appeared on behalf of the Government. [127]

Costs of Government.

PART X

MISCELLANEOUS

131. All rules made under the provisions of this Act shall be presented to Parliament as soon as possible after publication in the *Gazette*. [128]

General provision as to rules.

132.—(1) The Board and the Society shall each at all times keep and maintain an office and the address of the office and any change thereof shall be published respectively by the Board and the Council in the *Gazette*.

Offices of Board and Society.

(2) All writs, complaints, notices, pleadings, orders, summonses, warrants or other written communications required or authorised or ordered to be served on or delivered or sent to the Board, the Society or the Council shall be deemed to be duly served, delivered or sent if left at the office of the Board or the Society, as the case may be. [129]

133.—(1) Any document other than process of court that is required to be served or delivered under this Act may be sent by post.

Service of documents.

(2) A certificate in writing signed by an officer of the Society or the Board or a member of the Council or the Board that that document was properly addressed and posted and setting out the date of its posting shall be prima facie evidence of service thereof.

(3) Any document addressed to an advocate and solicitor at his only or principal address last appearing in the register of practitioners shall be deemed to be properly addressed.

[130]

Recovery of
moneys by
Society.

134. In addition to any other method of recovery and to any other right, remedy or power vested in the Society or in the Council, any sum of money whatsoever payable under this Act or any rules or bye-laws made thereunder may be recoverable by the Society or the Board as a debt in any court of competent jurisdiction.

[131]

Rules
Committee to
prescribe
fees.

135. The fees payable under sections 21 (4), 24 (5) and 25 (1) shall be prescribed from time to time by the Rules Committee and the payment thereof shall be denoted by an impressed stamp on the relevant document.

[132]

Relief to
banks.

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

(2) Nothing in subsection (1) shall relieve a bank from any liability or obligation under which it would be apart from section 73 or this section.

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

[133]

137. The Board and the Society shall each be deemed to be — Income tax exemption.

- (a) an institution specified in the First Schedule to, and under section 13 (1) (e) of, the Income Tax Act; Cap. 134.
and
- (b) an institution of a public character approved by the Minister for the purposes of section 37 (2) (c) of the Income Tax Act. [134

138.—(1) The Registrar shall transfer to the roll the names of all advocates and solicitors on the former roll with the dates of their respective admissions in order. Transfer of names to roll.

(2) In so transferring names, the Registrar may omit the names of any person known to the Registrar to be deceased or not ordinarily resident in Singapore or Malaysia.

(3) Any person whose name is so omitted may apply to the Registrar and on such application the Registrar shall forthwith enter the applicant's name upon the roll.

(4) Every person whose name has been entered on the roll under this section shall be deemed to have been duly admitted under the provisions of this Act.

(5) Section 102 shall apply to any person whose name was removed from or struck off the former roll.

(6) In this section, "former roll" means the roll of advocates and solicitors kept under section 3 of the Advocates and Solicitors Ordinance. Cap. 188,
1955 Ed. [135

139.—(1)* Notwithstanding the repeal of former sections 19 to 25 of this Act, those sections shall continue to apply to any person who is an articulated clerk immediately before 17th August 1984 as if those sections had not been repealed. Saving.
17/84.

- †(2) (a) All persons appointed before 31st October 1986 as members of an Inquiry Committee or a Disciplinary Committee shall continue to act until their appointments have been revoked; and 30/86.
- (b) all investigations, inquiries and proceedings commenced or instituted before that date may be carried on or continued in accordance with the provisions of this Act with such modifications as are necessary or proper in order to bring them into conformity with those provisions. [136

*Section 9 of the Legal Profession (Amendment) Act 1984 (No. 17/84).

†Section 17 of the Legal Profession (Amendment) Act 1986 (No. 30/86).

THE SCHEDULE

Section 74

INTERVENTION IN SOLICITOR'S PRACTICE

PART I

CIRCUMSTANCES IN WHICH SOCIETY MAY INTERVENE

1.—(1) Subject to sub-paragraph (2), the powers conferred by Part II shall be exercisable where —

- (a) the Council has reason to suspect dishonesty on the part of —
 - (i) a solicitor;
 - (ii) an employee of a solicitor; or
 - (iii) the personal representatives of a deceased solicitor, in connection with that solicitor's practice or in connection with any trust of which that solicitor is or formerly was a trustee;
- (b) the Council considers that there has been undue delay on the part of the personal representatives of a deceased solicitor who immediately before his death was practising as a sole solicitor in connection with that solicitor's practice or in connection with any trust of which that solicitor was the sole trustee or was co-trustee only with one or more of his partners or employees;
- (c) the Council is satisfied that a solicitor has failed to comply with the rules made under section 72 of the Act;
- (d) a solicitor has been adjudicated bankrupt, or a receiving order in bankruptcy is in force against him or he has made a composition or arrangement with his creditors;
- (e) a solicitor has one or more outstanding judgments against him amounting in the aggregate to \$100,000 which he has been unable to satisfy within 6 months from the date of the earliest judgment;
- (f) a solicitor has been committed to prison in any civil or criminal proceedings;
- (g) a solicitor has been found under section 7 of the Mental Disorders and Treatment Act to be of unsound mind and incapable of managing himself and his affairs; or
- (h) the name of a solicitor has been removed from or struck off the roll or a solicitor has been suspended from practice.

Cap. 178.

(2) The powers conferred by Part II shall only be exercisable under sub-paragraph (1) (c) if the Society has given the solicitor notice in writing that the Council is satisfied that he has failed to comply with the rules specified in the notice and also (at the same or any later time)

THE SCHEDULE — *continued*

notice that the powers conferred by Part II are accordingly exercisable in his case.

2. On the death of a sole solicitor, paragraphs 6, 7 and 8 shall apply to the client accounts of his practice.

3. The powers conferred by Part II shall also be exercisable, subject to paragraph 5 (4), where —

- (a) a complaint is made to the Society that there has been undue delay on the part of a solicitor in connection with any matter in which the solicitor or his firm was instructed on behalf of a client or with any controlled trust;
- (b) the Society by notice in writing invites the solicitor to give an explanation within a period of not less than 8 days specified in the notice;
- (c) the solicitor fails within that period to give an explanation which the Council regards as satisfactory; and
- (d) the Society gives notice of the failure to the solicitor and (at the same or any later time) notice that the powers conferred by Part II are accordingly exercisable.

4.—(1) Where the powers conferred by Part II are exercisable in relation to a solicitor, they shall continue to be exercisable after his death or after his name has been removed from or struck off the roll.

(2) The references to the solicitor or his firm in paragraphs 5 (1), 6 (2), 6 (3), 8, 9 (1) and 9 (5) include, in any case where the solicitor has died, references to his personal representatives.

PART II

POWERS EXERCISABLE ON INTERVENTION

Money

5.—(1) The High Court, on the application of the Society, may order that no payment shall be made without the leave of the Court by any person (whether or not named in the order) of any money held by him (in whatever manner and whether it was received before or after the making of the order) on behalf of the solicitor or his firm.

(2) No order under this paragraph shall take effect in relation to any person to whom it applies unless the Society has served a copy of the order on him (whether or not he is named in it) and, in the case of a bank, has indicated at which of its branches the Society believes that the money to which the order relates is held.

THE SCHEDULE — *continued*

(3) A person shall not be treated as having disobeyed an order under this paragraph by making a payment of money if he satisfies the Court that he exercised due diligence to ascertain whether it was money to which the order related but nevertheless failed to ascertain that the order related to it.

(4) This paragraph shall not apply where the powers conferred by this Part are exercisable by virtue of paragraph 3.

6.—(1) Without prejudice to paragraph 5, if the Council passes a resolution to the effect that any sums of money to which this paragraph applies, and the right to recover or receive them, shall vest in the Society, all such sums shall vest accordingly (whether they were received by the person holding them before or after the Council's resolution) and shall be held by the Society on trust to exercise in relation to them the powers conferred by this Part and subject thereto upon trust for the persons beneficially entitled to them.

(2) This paragraph shall apply —

- (a) where the powers conferred by this paragraph are exercisable by virtue of paragraph 1, to all sums of money held by or on behalf of the solicitor or his firm in connection with his practice or with any trust of which he is or formerly was a trustee;
- (b) where they are exercisable by virtue of paragraph 2, to all sums of money in any client account; and
- (c) where they are exercisable by virtue of paragraph 3, to all sums of money held by or on behalf of the solicitor or his firm in connection with the trust or other matter to which the complaint relates.

(3) The Society shall serve on the solicitor or his firm and on any other person having possession of sums of money to which this paragraph applies a certified copy of the Council's resolution and a notice prohibiting the payment out of any such sums of money.

(4) Within 14 days of the service of a notice under sub-paragraph (3), the person on whom it was served, on giving not less than 48 hours' notice in writing to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to withdraw the notice.

(5) If the Court makes such an order, it shall have power also to make such other order with respect to the matter as it may think fit.

(6) If any person on whom a notice has been served under sub-paragraph (3) pays out sums of money at a time when the payment is

THE SCHEDULE — *continued*

prohibited by the notice, he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

7.—(1) If the Society takes possession of any sum of money to which paragraph 6 applies, the Society shall pay it into a special account in the name of the Society or of a person nominated on behalf of the Society, and that person shall hold that sum on trust to permit the Society to exercise in relation to it the powers conferred by this Part and subject thereto on trust for the persons beneficially entitled to it.

(2) A bank at which a special account is kept shall be under no obligation to ascertain whether it is being dealt with properly.

8. Without prejudice to paragraphs 5, 6 and 7, if the High Court is satisfied, on an application by the Society, that there is reason to suspect that any person holds money on behalf of the solicitor or his firm, the Court may require that person to give the Society information as to that money and the accounts in which it is held.

Documents

9.—(1) The Society may give notice to the solicitor or his firm requiring the production or delivery to any person appointed by the Society at a time and place to be fixed by the Society —

- (a) where the powers conferred by this Part are exercisable by virtue of paragraph 1, of all documents in the possession of the solicitor or his firm in connection with his practice or with any controlled trust; and
- (b) where they are exercisable by virtue of paragraph 3, of all documents in the possession of the solicitor or his firm in connection with the trust or other matters to which the complaint relates (whether or not they relate also to other matters).

(2) The person appointed by the Society may take possession of any such documents on behalf of the Society.

(3) Except in a case where an application has been made to the High Court under sub-paragraph (4), if any person having possession of any such documents refuses, neglects or otherwise fails to comply with a requirement under sub-paragraph (1), he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

(4) The High Court may, on the application of the Society, order a person required to produce or deliver documents under sub-paragraph (1) to produce or deliver them to any person appointed by the Society at such time and place as may be specified in the order, and authorise him to take possession of them on behalf of the Society.

THE SCHEDULE — *continued*

(5) If, on an application by the Society, the High Court is satisfied that there is reason to suspect that documents in relation to which the powers conferred by sub-paragraph (1) are exercisable have come into the possession of some person other than the solicitor or his firm, the Court may order that person to produce or deliver the documents to any person appointed by the Society at such time and place as may be specified in the order and authorise him to take possession of them on behalf of the Society.

(6) On making an order under this paragraph, or at any later time, the Court, on the application of the Society, may authorise a person appointed by the Society to enter any premises (using such force as is reasonably necessary) to search for and take possession of any documents to which the order relates.

(7) The Society, on taking possession of any documents under this paragraph, shall serve upon the solicitor or the personal representatives and upon any other person from whom they were received on the Society's behalf or from whose premises they were taken a notice that possession has been taken on the date specified in the notice.

(8) Subject to sub-paragraph (9) a person upon whom a notice under sub-paragraph (7) is served, on giving not less than 48 hours' notice to the Society and (if the notice gives the name of the solicitor instructed by the Society) to that solicitor, may apply to the High Court for an order directing the Society to deliver the documents to such person as the applicant may require.

(9) A notice under sub-paragraph (8) shall be given within 8 days of the service of the Society's notice under sub-paragraph (7).

(10) Without prejudice to the foregoing provisions, the Society may apply to the High Court for an order as to the disposal or destruction of any documents in its possession by virtue of this paragraph.

(11) On an application under sub-paragraph (8) or (10), the Court may make such order as it thinks fit.

(12) Except so far as its right to do so may be restricted by an order on an application under sub-paragraph (8) or (10), the Society may take copies of or extracts from any documents in its possession by virtue of this paragraph and require any person to whom it is proposed that those documents shall be delivered, as a condition precedent to delivery, to give a reasonable undertaking to supply copies or extracts to the Society.

THE SCHEDULE — *continued**Trusts*

10.—(1) If the solicitor or his personal representative is a trustee of a controlled trust, the Society may apply to the High Court for an order for the appointment of a new trustee in substitution for him.

(2) The Trustees Act shall have effect in relation to an appointment of a new trustee under this paragraph as it has effect in relation to an appointment under section 40 of that Act. Cap. 337.

General

11. The powers in relation to sums of money and documents conferred by this Part shall be exercisable notwithstanding any lien on them or right to their possession.

12. Subject to any order for the payment of costs that may be made on an application to the Court under this Schedule, any costs incurred by the Society for the purposes of this Schedule, including, without prejudice to the generality of this paragraph, the costs of any person exercising powers under this Part on behalf of the Society shall be paid by the solicitor or his personal representatives and shall be recoverable from him or them as a debt owing to the Society.

13. Where an offence under this Schedule committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

14. Any application to the High Court under this Schedule may be disposed of in chambers.

15. The Society may do all things which are reasonably necessary for the purpose of facilitating the exercise of its powers under this Schedule.

16. In this Schedule, “controlled trust”, in relation to a solicitor, means a trust of which he is a sole trustee or co-trustee only with one or more of his partners or employees.