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CHAPTER 11.
LEGAL PRACTITIONERS.

**An Ordinance to provide for the admission and practice of
Legal Practitioners and other matters connected therewith.**

9 of 1945.
5 of 1952.
23 of 1952.
16 of 1953.

[1ST JANUARY, 1946.]

1. This Ordinance shall be cited as the Legal Practitioners Ordinance, and shall apply to the Colony and Protectorate. Short title.

2. In this Ordinance, unless the context otherwise requires— Interpreta-
tion.

“barrister and solicitor” means a person enrolled as a barrister and solicitor on the roll of the Supreme Court under section 7;

“Chief Justice” means the Chief Justice of Sierra Leone;

“client” includes any person who, as principal or on behalf of another person, retains or employs a barrister and solicitor and any person who is or may be liable to pay the bill of costs of a barrister and solicitor;

“instrument” means any document relating to real or personal estate or any estate or interest therein, or any proceeding in law or equity, but does not include—

(a) a will or other testamentary instrument; or

(b) an agreement under hand only; or

(c) a letter of attorney; or

(d) a transfer of stock containing no trust or limitation thereof;

“Judge” includes the Chief Justice;

“unqualified person” means a person not enrolled under section 7 to practise as a barrister and solicitor.

PART I.—ADMISSION OF BARRISTERS AND SOLICITORS.

Admission of practitioners.

3. The Chief Justice may approve, admit and enrol to practise as a barrister and solicitor of the Court—

(1) any person who is entitled to practise as a barrister in England, Northern Ireland, or the Republic of Ireland, or as an advocate in Scotland, and who—

(a) produces testimonials sufficient to satisfy the Chief Justice that he is a person of good character; and

(b) (i) has read (either prior to or subsequent to his call or admission) in the country in which he has been called to the bar or admitted as advocate, for at least one year in the chambers of a practising barrister or advocate of more than five years standing; or

(ii) has at any time prior to his admission as a student of an Inn of Court or otherwise as a recognised bar student, read in the country in which he has been called to the bar or admitted as an advocate for at least one year in the office of a solicitor or writer to the signet or law agent of more than five years standing; or

(iii) has practised in the courts of the country in which he has been called or admitted for at least two years subsequent to his call or admission; or

(iv) has subsequent to his call or admission read in the Colony for at least two years in the chambers of a practising barrister of more than ten years standing; or

(v) has practised for at least two years as a barrister or solicitor in the courts of a British Colony or Protectorate or of a territory the Government of which is for the time being administered by some part of Her Majesty's Dominions; or

(vi) has obtained a certificate issued by the Council of Legal Education of London that he has attended a Post Final Course provided by the said Council and approved by the Chief Justice for the purposes of this section:

Provided that none of the qualifications mentioned in paragraph (b) of this sub-section shall be required in the case of any barrister or advocate who shall have been admitted as a student of an Inn of Court or otherwise as a recognised bar student before the first day of December, 1927;

(2) Any person who has been admitted as a solicitor, writer to the signet or law agent in any of the Superior Courts in England, Scotland or Ireland and who produces testimonials

sufficient to satisfy the Chief Justice that he is a person of good character.

4. The Chief Justice may, upon good cause shown, refuse to admit any person as a barrister and solicitor, notwithstanding that he may have the qualifications prescribed by this Ordinance.

Power of Chief Justice to refuse to admit.

5. (1) Every person who shall desire to be admitted under section 3 shall deposit in the office of the Master, for custody therein, his certificate of call to the bar or admission as an advocate, solicitor, writer to the signet or law agent, together with a copy thereof, and shall file in the Court an affidavit of identity in such form as may be approved by the Chief Justice:

Proof of call or admission.

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

(2) After any person has been admitted and enrolled as a barrister and solicitor the original of the certificate of call to the bar or admission as an advocate, solicitor, writer to the signet or law agent shall be returned to him on demand.

6. Every such person shall, before admission, take and subscribe the oath, or declaration and affirmation of allegiance, in the form prescribed by law, and also the oath of fidelity in his office in the form and manner following—

Oaths to be taken on admission of practitioners.

I, A. B., do swear (or solemnly, sincerely and truly declare and affirm) that I will truly and honestly demean myself in the office of a barrister and solicitor according to the best of my knowledge and ability.

7. Every person admitted to practise as a barrister and solicitor of the Court shall cause his name to be enrolled in a book to be kept for the purpose in the office of the Master, and to be called the Roll of Court, and no person whose name shall not be enrolled as aforesaid shall be entitled to practise:

Enrolment of practitioners.

Provided that the provisions relating to the admission, swearing and enrolment of barristers and solicitors shall not apply to a person appointed permanently or temporarily to the legal service of the Colonial Government and any such person shall be entitled during the period he is so appointed, subject to the Governor's directions, to practise as a barrister and solicitor of the Court notwithstanding the said provisions.

Certificate of
enrolment.

8. Every person so enrolled as a barrister and solicitor shall be granted a certificate of enrolment under the seal of the Court by the Master.

PART II.—PRIVILEGES, RESTRICTIONS AND OFFENCES
IN CONNECTION WITH PRACTICE.

Practice of
Queen's
counsel.
16 of 1953.

9. (1) No person enrolled under section 7 who has the rank of Queen's Counsel shall perform any of the functions which, in England, are performed by a solicitor and are not performed by a barrister; but a person enrolled under section 7 who has the rank of Queen's Counsel shall not be precluded from continuing or engaging in partnership with another barrister and solicitor by reason only that such last-mentioned barrister and solicitor performs any functions as aforesaid.

(2) This section shall not apply to a Law Officer of the Crown.

Right to
practise and
liability.

10. Every person to whom a certificate of enrolment is granted under the provisions of section 8 shall be entitled to practice—

(i) in the Supreme Court in all matters concerning legal proceedings instituted therein;

(ii) in any Magistrate's Court in the Colony—

(a) in all criminal matters; and

(b) in civil matters where the amount involved exceeds the sum of five pounds;

(iii) in any Magistrate's Court in the Protectorate—

(a) in all criminal matters; and

(b) in civil matters where the amount involved exceeds the sum of twenty-five pounds.

Barristers
and solicitors
to be subject
to same
liabilities for
negligence as
in England.

11. Where any barrister and solicitor renders to any client professional services of the same nature as those rendered to clients by solicitors in England such barrister and solicitor shall be subject in respect of such services to the same liabilities for negligence and otherwise as solicitors in England are subject under the law of England.

Right of
present
practitioners.

12. All persons entitled at the commencement of this Ordinance to practise as barristers and solicitors shall be deemed for the purposes of this Ordinance to be barristers and solicitors.

13. Any unqualified person who shall—

(a) act as a barrister and solicitor; or

(b) wilfully and falsely pretend to be, or take or use any name, title, addition or description implying that he is duly qualified to act as barrister and solicitor, or that he is recognised by law as so qualified;

Unqualified person practising as a barrister and solicitor.

shall be guilty of an offence, and liable on summary conviction to a fine not exceeding twenty pounds, and for a second offence to imprisonment with or without hard labour for a period not exceeding six months in addition to, or in substitution for, a fine not exceeding one hundred pounds.

14. (1) (a) A barrister and solicitor who, in his professional capacity, receives any money or property whatsoever shall give for such money or property a receipt to the person or persons from whom the said money or property is obtained.

Receipt by barristers and solicitors for money or property received in professional capacity.

(b) For the above-mentioned purpose every practising barrister and solicitor shall keep a counterfoil receipt book with folios consecutively numbered and shall specify both on the receipt to be given as aforesaid and on the counterfoil of such receipt the name of the person or persons from whom the said money or property is obtained, the consideration therefor, the amount thereof and the date of receipt.

(c) A barrister and solicitor shall produce such receipt book when called upon so to do by the Court or taxing officer and the Court or taxing officer may examine the counterfoil of any receipt which is relevant to the matter before such Court or taxing officer.

(2) Any barrister and solicitor who commits any breach of any of the provisions of this section shall be liable for a first offence to a fine not exceeding twenty pounds, and for any subsequent offence to a fine not exceeding fifty pounds, without prejudice to the powers of the Court to suspend any barrister and solicitor or strike his name off the roll for professional misconduct.

PART III.—PREPARATION OF INSTRUMENTS.

15. Every person who shall draw or prepare any instrument shall endorse or cause to be endorsed thereon his name and address; any such person omitting to do so shall be guilty of an offence, and on summary conviction thereof shall be liable to a fine not exceeding five pounds.

Name and address of draughtsman to be endorsed on instrument.

Penalty for unqualified person preparing certain instruments. 5 of 1952.

16. (1) Any unqualified person, who, unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or indirectly, draws or prepares any instrument, shall be liable on summary conviction to a fine not exceeding fifty pounds.

(2) Proceedings in respect of any offence under this section may be brought at any time within two years next following the commission of the offence or within six months next after the first discovery thereof by the prosecutor, whichever period is the shorter.

Penalty on unqualified person acting in preparation of papers for probate, etc. 5 of 1952.

17. Any unqualified person who unless he proves that the act was not done for or in expectation of any fee, gain or reward, either directly or as an agent of any other person, whether a barrister and solicitor or not, takes instructions for or draws or prepares any papers on which to found or oppose a grant of probate or of letters of administration shall without prejudice to any liability to which he may be subject under any other section of this Ordinance be liable on summary conviction to a penalty not exceeding ten pounds for each such offence.

Unqualified person drawing instruments not to acknowledge them on behalf of vendor, etc. Cap. 256.

18. Where any instrument is drawn or prepared by an unqualified person he shall not be a competent person to acknowledge such instrument on behalf of the vendor, donor, mortgagor, lessor or other person conveying, transferring, mortgaging, charging or demising the land, in accordance with the provisions of section 14 (1) of the Registration of Instruments Ordinance.

Registration to be denied to instrument not complying with Ordinance.

19. No instrument which does not comply with the provisions of this Ordinance shall be accepted by the Registrar General for registration.

Agreement to pay fee to an unqualified person, void.

20. (1) Any agreement entered into to pay a fee or reward to any person other than a barrister and solicitor, in consideration of such person drawing or preparing any instrument shall be void.

Recovery of fee paid under void agreement.

(2) Any person who shall pay to any person, other than a barrister and solicitor, any fee or reward for having drawn or prepared or agreed to draw or prepare any instrument, may sue for and recover the amount of such fee or reward from the person to whom such amount was paid.

21. Nothing in this part shall apply—

- (a) to the mere engrossing of an instrument by any person;
- (b) to the drawing or preparing of an instrument by a public officer in the course of his duty as such.

Non-application to mere engrossing or to public officer.

PART IV.—REMUNERATION OF BARRISTERS AND SOLICITORS.

(a) *Contentious Business.*

22. A barrister and solicitor may make an agreement in writing with his client as to his remuneration in respect of any contentious business done or to be done by him providing that he shall be remunerated either by a gross sum or by salary or otherwise, and at either a greater or a less rate than that at which he would otherwise have been entitled to be remunerated.

Agreement as to remuneration.

23. (1) Such an agreement—

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

Saving of interests of third parties when agreement made.

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

(ii) shall be deemed to exclude any claim by the barrister and solicitor in respect of the business to which it relates other than—

- (a) a claim for the agreed costs; or
- (b) a claim for such costs as are expressly excepted therefrom.

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

Reservation of responsibility for negligence.

24. No action shall be brought upon any such agreement, but the Court may, on the application by motion or petition of any person who is a party to, or the representative of a party to, the agreement, or who is, or who is alleged to be, liable to pay, or who is or claims to be entitled to be paid, the costs due or

Enforcing agreements.

alleged to be due in respect of the business to which the agreement relates, enforce or set aside the agreement and determine every question as to the validity or effect thereof.

Power to set aside improper agreements.

25. On any such application, the Court—

(a) if of opinion that the agreement is in all respects fair and reasonable, may enforce it;

(b) if of the opinion that the agreement is in any respect unfair and unreasonable, may declare it void and may order it to be given up to be cancelled and may order the costs covered thereby to be taxed as if the agreement had never been made.

Reopening after payment.

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

Agreement by guardian or trustee.

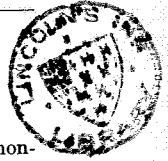
27. Where any such agreement is made by the client as the guardian or trustee under a deed or will for any person whose property will be chargeable with the whole or any part of the amount payable under the agreement, the agreement shall, before payment, be laid before the Master, and the Master shall examine the agreement, and may disallow the agreement or any part thereof. If any party to the agreement is dissatisfied with the decision of the Master, the Master shall, on request by such party, submit the agreement to the Court and the Court shall make such order thereon as it may think just.

Certain stipulations made void.

28. Nothing in this part shall give validity to—

(i) any purchase by a barrister and solicitor of the interest, or any part of the interest of his client in any action, suit or other contentious proceedings; or

(ii) any agreement by which a barrister and solicitor retained or employed to prosecute any action, suit, or other contentious proceedings stipulates for payment only in the event of success in that action.

(b) Non-contentious Business and General.

29. The Supreme Court shall have the power to order a barrister and solicitor to deliver a statement of fees, charges, disbursements, expenses and remuneration for work done by him on behalf of a client in a non-contentious matter, as in a contentious matter and to make all orders for the taxation of costs of a barrister and solicitor in any contentious or non-contentious matter, and for the delivery up of any deed, document or paper in the possession, custody or power of a barrister and solicitor.

Power of Supreme Court in non-contentious business by barrister and solicitor.

30. Subject to the provisions of this part, every barrister and solicitor shall be entitled to sue for and recover his taxed bill of costs.

Right to sue for and recover taxed costs.

31. In every matter in which a barrister and solicitor shall be employed to prosecute or defend any action in any Court it shall be lawful for the Court before which any such action has been tried or shall be depending to declare such barrister and solicitor entitled to a charge upon the property recovered or preserved, and upon such declaration being made, such barrister and solicitor shall have a charge upon and against a right to payment out of the property, of whatsoever nature, tenure or kind the same may be, which shall have been recovered or preserved through the instrumentality of such barrister and solicitor, for the taxed costs, charges and expenses of or in reference to such matter or proceeding; and it shall be lawful for such Court to make such order or orders for taxation of and for raising and payment of such costs, charges and expenses out of the same property as to the Court shall appear just and proper.

Charge on property recovered and preserved.

32. No action shall be brought to recover any costs, fees, charges or disbursements due to a barrister and solicitor for any work done by him until the expiration of one month after he shall have 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 such fees, charges and disbursements, signed by such barrister and solicitor or be enclosed in or accompanied by a letter signed in like manner referring to the bill.

No action of recovery until one month after delivery of bill.

33. (1) On the application made within one month of the delivery of a bill, of the party chargeable therewith, the Court shall order that the bill shall be taxed and that no action shall be commenced thereon until the taxation is completed.

Order for taxation after delivery of bill.

(2) If no such application is made within such period, then on the application either of the barrister and solicitor or of the party chargeable with the bill, the Court may upon such terms, if any, as may be considered fit, order—

(a) that the bill shall be taxed;

(b) that upon such taxation the Master shall certify what shall be found due to or from the barrister and solicitor;

(c) that the Master shall be at liberty to certify specially any circumstances relating to such bill or taxation as to the Master shall seem fit;

(d) that until the taxation is complete, no action shall be commenced on the bill, and any action already commenced shall be stayed:

Provided that if twelve months have expired from the delivery of the bill, or if the bill has been paid, no order shall be made on the application of the party chargeable except on special circumstances to be proved to the satisfaction of the Court.

Person interested in property may apply for taxation.

34. Where a trustee, executor or administrator has become liable to pay the bill of a barrister and solicitor the Court may upon the application of any person interested in any property out of which the trustee, executor or administrator has paid or is entitled to pay, the bill, and upon such terms as may seem fit, order the bill to be taxed, and may order such payments in respect of the amount found due to or by the barrister and solicitor and in respect of the costs of the taxation, to be made to or by the applicant or to or by the barrister and solicitor, or to the executor, administrator or trustee as to the Court may seem fit.