

Bill No. 15 of 1964 (L.A.)

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LEGISLATURE,
Public Buildings,
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The following Bill which will be introduced in the Legislative Assembly is published for general information.

E. V. VIAPREE.
Acting Clerk of the Legislature

BILL No. 15 of 1964 (L.A.)

LEGAL PRACTITIONERS (AMENDMENT) BILL, 1964.

Arrangement of Sections.

Section

1. Short title and commencement.
2. Amendment of section 2 of Chapter 30.
3. Repeal and re-enactment of section 6 of Chapter 30.
4. Repeal and re-enactment of section 7 of Chapter 30.
5. Amendment of section 8 of Chapter 30.
6. Repeal and re-enactment of section 9 of Chapter 30.
7. Repeal and re-enactment of section 10 of Chapter 30.
8. Repeal and re-enactment of section 14 of Chapter 30.
9. Amendment of section 27 of Chapter 30.
10. Amendment of section 33 of Chapter 30.
11. Insertion of sections 40A, 40B, and 40C in Chapter 30.
12. Minor amendments.

A BILL

Intituled

An Ordinance to amend the Legal Practitioners Ordinance.

Enacted by the Legislature of British Guiana:—

A.D. 1964.

1. (1) This Ordinance may be cited as the Legal Practitioners (Amendment) Ordinance, 1964, and shall be construed and read with the Legal Practitioners Ordinance, hereinafter referred to as the Principal Ordinance, and any Ordinance amending the same.

Short title and commencement.

Cap. 30

(2) Sections 3, 4, 5, 6, 7 and 8 of this Ordinance shall be deemed to have come into operation on the 1st January, 1963.

2. Section 2 of the Principal Ordinance is hereby amended—

(a) by the substitution for the word “final” of the word “qualifying” in the definition of the expression “qualifying examination”, and by the deletion of the words “and includes the subjects trust accounts and book-keeping” appearing therein;

(b) by the insertion after the definition of the expression “articled clerk” of the following definition—
““tout” means a person who procures in consideration of any remuneration moving from any legal practitioner or from any person on his behalf, the employment of such legal practitioner in any legal business, or who proposes to any legal practitioner to procure, in con-

Amendment of section 2 of Chapter 30.

sideration of any remuneration moving from such legal practitioner or from any person on his behalf, the employment of the legal practitioner in such business, or who for purposes of such procurement frequents the precincts of the Court or any court subordinate thereto and includes a person declared by the Registrar to be a tout in pursuance of the provisions of section 40B of this Ordinance.

Repeal and reenactment of section 6 of Chapter 30.

3. Section 6 of the Principal Ordinance is hereby repealed and the following section substituted therefor—

“Ordinary period of service of non-graduates five years.

Certain non-graduates

Law graduates.

Non-Law graduates

6. (1) The Court shall have power to admit as a solicitor of the Court any fit person—

- (a) who has served as an articled clerk for a term of five years continuously in the chambers or office of one or more legal practitioner or practitioners residing in British Guiana and has passed Part I of the qualifying examination; or
- (b) who having passed Part I of the qualifying examination enters into and serves under articles of clerkship for a term of four years continuously in the chambers or office of one or more legal practitioner or practitioners residing in British Guiana; or
- (c) who having obtained the degree of Bachelor of Laws or Bachelor of Civil Law or Bachelor of Arts (Law) at any University in the United Kingdom, Australia, New Zealand or Canada, or at such other University as the Attorney General may by order designate, or having taken Honours in the Final Honour School of Jurisprudence at the University of Oxford or Honours in either part of the Law Tripos at the University of Cambridge, enters into and serves under articles of clerkship for a term of two and one half years continuously in the chambers or office of one or more legal practitioner or practitioners residing in British Guiana:

Provided that the term shall be two years if a graduate in law of any of the aforesaid Universities or of any University designated by order of the Attorney General passes Part II of the qualifying examination before entering into articles of clerkship; or

- (d) who having obtained a degree in a subject other than Law at any of the Universities mentioned in the preceding paragraph or at the University of Guyana or any University designated by order of the Attorney General and passed Part I of the qualifying examination enters into and serves under articles of clerkship for a term of two and one half years continuously in the chambers or office of one or more legal practitioner or practitioners residing in British Guiana, and who, in each of the cases referred to in the respective paragraphs of this subsection has passed Part II of the qualifying examination and furnishes a certificate of good conduct and character to the satisfaction of the Court, signed by the legal practitioner or practitioners under whom he has served his articles of clerkship.

- (2) (a) An articled clerk shall be allowed a maximum of one month's holiday in each year in addition to the statutory holidays and a total maximum of three months' absence for illness, and any such period shall count as service under articles.

- (b) An articulated clerk shall during the last nine months of his term of clerkship be allowed a maximum of six months' absence in preparation for Part II of the qualifying examination, and any period so allowed shall count as service under articles."

4. Section 7 of the Principal Ordinance is hereby repealed and the following section substituted therefor—

Repeal and re-enactment of section 7 of Chapter 30.

"Preliminary and other examinations

7. All articles of clerkship shall be executed before a notary public and shall be duly recorded in the registry and no articles shall be received, or, if received, be of any force or effect, until the person to become bound has produced to the Registrar satisfactory proof that he—

- (a) has taken a degree, not being an honorary degree, at any University mentioned in, or designated by the Attorney General under, section 6 of this Ordinance, or is in a position to supplicate for such degree; or
- (b) has become a solicitor in England, Scotland or Northern Ireland; or
- (c) has been called to the Bar in England or Northern Ireland or admitted a member of the Faculty of Advocates in Scotland; or
- (d) has passed an examination for the General Certificate of Education of the University of London having either—
- (i) obtained passes in five subjects, including at least two passes at the Advanced level; or
- (ii) obtained passes in four subjects including at least three passes at the Advanced level;

provided that in either case he shall have passed either at the Advanced level or at Ordinary level in English, English Language or English Literature and that the other passes shall have been in subjects selected from the following—

English subjects; Religious Knowledge; Economics; History; Geography; Languages other than English; Natural Sciences; Mathematics; or

- (e) has attained an educational standard as evidenced by performance at an examination other than or in addition to the examination for the General Certificate of Education of the University of London, which in the opinion of the Attorney General is equal to that mentioned in paragraph (d) of this section; or
- (f) has passed the Preliminary Examination of the Law Society of England:

Provided that the foregoing provisions of this section shall not apply to a person who before the 1st January, 1963, attained the minimum standard of general education then required for entry into articles and who enters into articles before the 1st January, 1965."

5. Subsection (1) of section 8 of the Principal Ordinance is hereby amended—

Amendment of section 8 of Chapter 30.

- (a) by the deletion of the word "three" in paragraph (b) thereof and the substitution therefor of the words "two and one half";
- (b) by the insertion between the words "passed" and "the" in paragraph (c) thereof, of the words and figures "Part I and Part II of".

Repeal and re-enactment of section 9 of Chapter 30.

6. Section 9 of the Principal Ordinance is hereby repealed and the following section substituted therefor—

“Existing articulated clerks entitled to certain benefits.

9. (1) Any articulated clerk who at the commencement of this Ordinance is reading for a degree at any University mentioned in or designated by the Attorney General under section 6 of this Ordinance while serving under articles will be required to serve not less than two and one half years, or, in the case of those articulated for four and one half years, not less than two years and three months, under articles after either graduating or taking Part I of the qualifying examination, whichever he does first.
- (2) Any articulated clerk who at the commencement of this Ordinance has already completed not less than one year's service under articles before entering a University mentioned in or designated by the Attorney General under section 6 of this Ordinance and who subsequently graduates shall, after graduating, be required to serve under fresh articles for a term of two years.”

Repeal and re-enactment of section 10 of Chapter 30.

7. Section 10 of the Principal Ordinance is hereby repealed and the following section substituted therefor—

“Portion of term may be served abroad.

10. (1) An articulated clerk may, with the permission of the Court, spend periods of his term of articles of clerkship not exceeding in the aggregate two years in the office of a solicitor or solicitors in the United Kingdom, or under the tutorship of some recognised teacher of law therein, for the purpose of completing his studies, and upon his producing a certificate from the solicitor or solicitors, or teacher of law, that during such periods he regularly attended the office of the solicitor or solicitors, or has diligently applied himself to the course of study prescribed for him by the teacher of law, as the case may be, such periods shall be deemed to have been duly served under his articles of clerkship.
- (2) Any period not exceeding one month in any year granted as a holiday and any period not exceeding three months in any year granted as leave of absence for illness by the solicitor or solicitors, or teacher of law, as the case may be, may be counted by an articulated clerk for the purpose of computing his period of service under articles under the preceding subsection.
- (3) In calculating his term of articulated service, an articulated clerk may with the permission of the Court take into account any period not exceeding two years which he served continuously in articles in an overseas country before his entry into articles in British Guiana.
- (4) For the purposes of this section “overseas country” means the United Kingdom and such other Commonwealth country as the Attorney General may by order designate.”

Repeal and re-enactment of section 14 of Chapter 30.

8. Section 14 of the Principal Ordinance is hereby repealed and the following section substituted therefor—

“Time to take qualifying examination.

14. (1) Articled clerks shall be entitled to apply and present themselves for Part II of the qualifying examination at any time within the last six months then remaining for the completion of any of the full terms for which they are required by this Ordinance to serve under articles, or at any time thereafter.
- (2) Graduates in law of any of the Universities mentioned in or designated by the Attorney General under section 6 of this Ordinance may present themselves for Part II of the qualifying examination before entry into articles of clerkship.”

9. Section 27 of the Principal Ordinance is hereby amended—
- (a) by the substitution for the word “ten” in subsection (1) of the word “fifteen”; and
- (b) by the substitution for subsection (3) of the following subsection—
- “(3) The Chief Justice shall appoint not more than twelve persons, of whom seven may be practising barristers and five practising solicitors, to be members of the Committee.”
10. Section 33 of the Principal Ordinance is hereby amended—
- (a) by the substitution of the expression “Council of Ministers” for the expression “Governor in Council” appearing in subsection (3) thereof; and
- (b) by the insertion of the word “first” immediately before the word “schedule” appearing in subsection (4) thereof.
11. The Principal Ordinance is hereby amended by the insertion therein after section 40 of the following sections—
- “Touting 40A. (1) A legal practitioner who accepts an engagement in any legal business through a tout shall be deemed guilty of professional misconduct.
- (2) Any person who acts as a tout shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding two hundred and fifty dollars or to imprisonment for six months or to both such fine and imprisonment.
- Publication of names of touts and their removal from the precincts of Courts. 40B. (1) The Registrar shall publish in the Gazette the name of any such person proved to his satisfaction, by evidence of general repute or otherwise to act as a tout.
- (2) No person shall be declared a tout by the Registrar unless he has been given an opportunity to show cause against such declaration and may appeal to a judge of the Court sitting in chambers against a decision of the Registrar to publish his name as a tout.
- (3) The Chief Justice shall, by order, exclude from the precincts of the Court or any court subordinate thereto a person whose name is published by the Registrar for being a tout in pursuance of the provisions of this section.
- (4) A person who contravenes the provisions of any order made by the Chief Justice under the provisions of the last preceding subsection shall be guilty of an offence and shall be liable on summary conviction thereof to a fine not exceeding two hundred and fifty dollars or to imprisonment for six months or to both such fine and imprisonment.
- Appeal from decision of Registrar to judge in chambers. 40C. (1) Any person whose name is published by the Registrar under the provisions of the last preceding section as a person who acts as a tout may, within one month after his name is published as a tout to a judge in chambers by filing in the registry in the form set out in the second schedule to this Ordinance a notice of appeal in which the grounds of appeal shall be briefly set out.
- (2) Any clerk of the registry who receives a notice of appeal shall immediately make an entry of the fact and the time of the receipt in a record book to be kept for that purpose and shall inform the Registrar of the fact.
- Second schedule

Amendment
of section 27
of Chapter 30.

Amendment
of section 33
of Chapter 30.

Insertion of
sections 40A,
40B and 40C
in Chapter 30.

- (3) The Registrar shall, forthwith after the filing of a notice of appeal under subsection (1) of this section prepare a statement of his reasons for the decision appealed against.
- (4) A judge in chambers may, if the circumstances so warrant, direct that a copy of the notice of appeal be served on any person he thinks fit and may give directions as to the time and manner of such service.
- (5) Any person upon whom a copy of a notice of appeal has been served shall be entitled to appear and to be heard at the hearing of the appeal, and any such person who so appears shall be a respondent on the appeal.
- (6) At the hearing of the appeal the judge in chambers shall have the power to examine on oath the parties or any of them and their witnesses and to order the production of documents and may affirm or rescind the decision of the Registrar, or may refer the matter back to the Registrar with such directions as the judge may think fit.
- (7) The fees and costs set out in the third schedule to this Ordinance shall be the fees to be charged and taken in the registry and recovered by the Registrar and shall govern the taxation of costs for and in respect of the various matters specified therein.
- (8) All costs of and incidental to an appeal under this section to a judge in chambers shall be in the discretion of the judge.
- (9) Where costs are awarded against an appellant by a judge in chambers the recovery of such costs shall be governed, as far as practicable, by the provisions of any Rules of Court for the time being in force relating to the recovery of costs in civil actions in the Court."

Third schedule.

Minor amendments.

- 12. (1) The schedule to the Principal Ordinance is hereby amended by the insertion of the word "FIRST" before the word "SCHEDULE".
- (2) The Principal Ordinance is hereby amended by the insertion of the first and second schedules to this Ordinance as the second and third schedules respectively to the Principal Ordinance.

FIRST SCHEDULE

S. 12(2)

Form

In the Supreme Court of British Guiana.

Notice of and grounds of appeal.

In the matter of section 40C of the Legal Practitioners Ordinance. And in the matter of the decision of the Registrar of the Supreme Court. Between :—

A.B.

Appellant

and

C.D. (The Registrar of the Supreme Court)

Respondent

Take notice that the abovenamed Appellant intends to appeal against the decision of the Registrar of the Supreme Court who published the name of the Appellant in the Official Gazette of _____ day the _____ day of _____, 19____, as that of a person who acts as a tout.

2. And that the following are the Grounds of Appeal:

(Here set out briefly the grounds of appeal)

3. And further take notice that you are required to attend before a Judge in Chambers at _____ on _____ day, the _____ day of _____, 19____, at 9.00 o'clock in the forenoon on the hearing of the said appeal, and that if you do not attend in person or by Solicitor or Counsel at the time and place mentioned, such order will be made and proceedings taken as the Judge may think just and expedient.

Dated this _____ day of _____, 19____.
(Signed) A. B.
Appellant,
or
Solicitor for Appellant.

SECOND SCHEDULE S. 12(2)

Table of fees and costs

Payable to the Registrar

1. Filing notice and grounds of appeal50
2. Filing affidavit of service or other document50
3. Attendance at Hearing including Certificate of Costs	3.00
Payable to Counsel or Solicitor	
4. Drawing notice and grounds of appeal	1.00 to 5.00
5. Drawing affidavit of service	1.00
6. Drawing any necessary application	1.00 to 3.00
7. Appearance at Hearing —	
(1) of any application	5.00
(2) of an appeal	10.00 to 25.00
8. Copies for any document required for the use of the Court per folio of 120 words12

OBJECTS AND REASONS

The provisions of this Bill deal with the admission of articulated clerks to be solicitors of the Supreme Court of British Guiana, the re-organisation of the Legal Practitioners' Committee which is responsible for the discipline of legal practitioners and with touting.

2. With effect from the 1st January, 1963, the provisions relating to the admission of articulated clerks to membership of the legal profession in England have undergone changes and the purpose of the relevant provisions of this Bill is to make the position in British Guiana correspond as near as practicable to the position which now obtains in England. Opportunity is taken to recognise graduate qualifications of universities other than those in the United Kingdom, including particularly those of Australia, Canada and New Zealand, and such other universities as the Attorney General may designate, with the object of reducing the terms of articles of graduates who have taken their law degrees at such other universities.

3. Provision is also made for graduates in subjects other than law and clerks who have been serving with legal practitioners for a term of at least ten years to serve under articles for a term of two and one half years. The ordinary period of service for non-graduates is to be five years, but a non-graduate who passed Part I of the qualifying examination before entering into articles will be required to serve a term of four years. For the purposes of this paragraph, graduates referred to are to be those of a university recognised under the new provisions relating to the admission of law graduates.

4. There is provision that a period served under articles of clerkship in an overseas country may be taken into account in computing a clerk's term of service where permission is given by a court to include such period.

5. The work of the Legal Practitioners' Committee which is responsible for the discipline of legal practitioners has increased tremendously since the establishment of the Committee and provision is made to

enlarge the membership of the Committee to enable its members to sit in more than one division for the purpose of expediting the hearing of several matters now pending in relation to the discipline of members of the profession.

6. For many years the members of the legal profession have condemned the existence of touting which is contrary to the dignity and honour of the profession and which leads to serious abuse, with the result that members of the profession and members of the public experience serious embarrassment. The engagement of professional legal services upon introduction by a tout is undesirable and is attendant with abuses which render unrealistic the principle that a litigant is entitled to counsel of his choice. Also as a result of abuses the cost of litigation to a litigant is in many cases rendered excessive by his having to pay to a legal practitioner additional costs to meet reimbursement for the services of a tout, and to meet an additional cost to himself for the services of the tout. In the light of representations made by members of the legal profession and the general attitude of the legal profession in the past declaring their abhorrence of the system of touting prevailing in the profession, provision is now being made to enable the discipline of a member of the profession for procuring engagement through a tout and for the Chief Justice to make orders excluding from the precincts of courts persons whom the Registrar of the Supreme Court has found to be acting as touts. Provision is made for a person declared by the Registrar to be acting as a tout to lodge an appeal with a judge sitting in chambers.

7. In view of the necessity for co-ordinating the professional practice in England and British Guiana with respect to the admission of articled clerks to membership of the legal profession, provision is being made for the relevant amendments introduced in this Bill to take effect from the 1st January, 1963, the date on which changes took effect in England in respect of articled clerks.

F. H. W. RAMSAHOYE,
Attorney General.

(Bill No. 15/1964 (L.A.)).
(M.P. L. 44/7).
(L. 82/1).