

PARLIAMENT OFFICE,
Public Buildings,
Georgetown,
Guyana,

7th February, 1980.

The following Bill which will be introduced in the National Assembly is published for general information.

F. A. Narain
Clerk of the National Assembly.



GUYANA

BILL No. 3 of 1980

LEGAL PRACTITIONERS (AMENDMENT) BILL 1980

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and commencement.
2. Amendment of the Legal Practitioners Act.
3. Construction and modification of existing laws.
4. Transitional provisions relating to discipline.

SCHEDULE

A BILL

Intituled

AN ACT to amend the Legal Practitioners Act to provide for the fusion of the branches of the legal profession and for connected purposes.

A.D. 1980. Enacted by the Parliament of Guyana:—

Short title
and com-
mencement.

Cap. 4:01

1. This Act, which amends the Legal Practitioners Act, may be cited as the Legal Practitioners (Amendment) Act 1980 and shall come into operation on such day as the Minister may appoint by order.

Amendment
of the
Principal
Act.
Schedule.

2. The provisions of the Principal Act specified in the first column of the Schedule are hereby amended in the manner specified in the second column of the Schedule.

Construc-
tion and
modification
of existing
laws.

3.(1) Subject to the provisions of this Act, all existing laws shall be construed and have effect with such modifications as may be necessary to bring them into conformity with this Act.

(2) The Minister may by order, which shall be subject to affirmative resolution of the National Assembly, make such modifications to any existing law as may appear to him to be necessary or expedient in consequence of the establishment of the status of attorney-at-law under the Principal Act as amended by this Act.

(3) Anything done under any existing law before its modification by or under this Act which would, but for this subsection, cease by virtue of that modification to have effect, shall continue to have effect as if done under that law as so modified.

(4) The provisions of this section shall be without prejudice to any powers conferred by any law upon any person or authority to make provision for any matter including the making of modifications to any existing law.

(5) Where immediately before the coming into operation of this Act any person was undergoing a course of legal training for the purposes of Article 6(1)(b) of the Council of Legal Education Act and such training is continued by him with a view to qualifying for admission to practice law under section 4(1)(d)(ii) of the Principal Act, as amended by this Act, the provisions of

Cap. 4:04

the Fourth Schedule to the Principal Act shall, for the purpose of regulating such training, continue to apply but with such modifications as may be necessary in consequence of this Act.

(6) In this section and in section 4 —

- (a) “modification” includes amendment, adaptation, qualification, exception or other alteration; and
- (b) “existing law” means any written law in force immediately before the coming into operation of this Act but does not include the constitutional instruments.

4.(1) Any person who immediately before the coming into operation of this Act held office as an appointed member of the Legal Practitioners Committee established under section 23 of the Principal Act shall continue to hold such office for any unexpired portion of his term of office as if he had been appointed under that section as amended by this Act.

Transitional provisions relating to discipline.

(2) Any disciplinary proceedings pending before the Legal Practitioners Committee or the High Court or the Court of Appeal immediately before the coming into operation of this Act against any person who by virtue of section 3 of the Principal Act, as amended by this Act, becomes an attorney-at-law may thereafter be continued and disposed of by the Committee or the High Court or the Court of Appeal, as the case may be, against him as an attorney-at-law.

(3) Where any person becomes an attorney-at-law by virtue of section 3 of the Principal Act, as amended by this Act, disciplinary proceedings may be instituted against him as an attorney-at-law after the coming into operation of this Act in respect of anything done or omitted to be done by him prior thereto if similar proceedings could prior thereto have been instituted in respect thereof against him as a solicitor or a barrister.

(4) The Minister may by order, which shall be subject to affirmative resolution of the National Assembly, make provision for disciplinary matters relating to attorneys-at-law and may include in the order such modifications to this Act, the Principal Act as amended by this Act, and any existing law as may appear to him to be necessary or expedient for the purpose of providing for such matters.

SCHEDULE

Section 2

Provision	How amended
The long title	Substitute “attorneys-at-law” for “barristers or as solicitors”.
Section 2	<p>(a) Renumber the section as section 2(1).</p> <p>(b) Delete the definitions of “articled clerk”, “articles of clerkship” or “articles”, and “qualifying examination”.</p> <p>(c) Insert the following definitions in their correct alphabetical order —</p> <p>“Agreement” means the Agreement referred to in section 2 of the Council of Legal Education Act;</p> <p>“attorney-at-law” means any person whose name is enrolled on the Court Roll in accordance with this Act;</p> <p>“Court Roll” means the Court Roll referred to and kept under section 3 before its amendment by the Legal Practitioners (Amendment) Act 1980;</p> <p>“Legal Education Certificate” means the Legal Education Certificate referred to in Article 4 of the Agreement;</p> <p>“practise law” means practice as a barrister or a solicitor lawfully could before the coming into operation of the Legal Practitioners (Amendment) Act 1980 and includes practising at one and the same time both as such barrister and as such solicitor.</p> <p>(d) Substitute “an attorney-at-law” for “a barrister or solicitor” in the definition of “legal practitioner”.</p>

Provision	How amended
	<p>(e) Insert the following subsections as subsections (2) and (3) respectively —</p> <p>“(2) Any reference (however expressed) in any written law or any document having legal effect to a barrister or a solicitor as respects the conferring of any right or privilege, the exercise of any function or in relation to the qualification for appointment to any office shall, after the coming into operation of this subsection, be deemed to include a reference to an attorney-at-law.</p> <p>(3) For the purposes of any written law whereby the qualification of any person for holding any office depends upon his having held any legal professional qualifications for a specified period, any period during which he was previously a barrister or solicitor shall be treated as part of the period during which he was qualified as an attorney-at-law.”</p>
Section 3	Substitute the following — 3. All persons enrolled on the Court Roll immediately before the coming into operation of this section shall be deemed for all purposes to be Attorneys-at-law and to have been duly admitted to practise law and enrolled on the Court Roll in accordance with section 8.”
Section 4	Substitute the following — 4(1) The Courts may at any time admit any person to practise law if — (a) he is a national; (b) he has attained the age of twenty-one years; (c) he is of good character; and

“Existing practitioners to be attorneys-at-law.

“Admission of attorneys-at-law.

Provision

How amended

- (d) (i) he holds a Legal Education Certificate; or
- (ii) he is entitled to be recognised as professionally qualified for admission to practise law in Guyana by virtue of the operation of Article 6 of the Agreement or of subsection (4).
- (2) In subsection (1) "national" has the same meaning as in Article 6(2) of the Agreement.
- (3) (a) Any person holding office as a Law Officer shall, so long as he continue to hold such office, have and enjoy all the rights and privileges of an attorney-at-law entitled to practise in the Courts of Guyana.
- (b) In this subsection, the expression "Law Officer" means any person holding office as the Attorney General or as the Director of Public Prosecutions or on the staff of their Chambers.
- (4) The Minister may by Order, which shall be subject to negative resolution of the National Assembly, provide for persons or any class of persons who, by reason only of any date or dates specified in Article 6 of the Agreement, are not entitled thereunder to be recognised as professionally qualified for admission to practise law in Guyana, to be entitled to be so recognised subject to any conditions specified in the order."

Provision	How amended
<p>Section 4A</p> <p>“Reciprocal admission to practise law.</p>	<p>Substitute the following —</p> <p>4A. (1) The Minister may by order provide that subject to such exceptions, conditions, qualifications and modifications as may be prescribed in the order any legal practitioner of any country (not being a participating country within the meaning of Article 6 of the Agreement) shall as from a date specified in the order be eligible to be admitted by the Court to practise law if the Minister, after consultation with the Chancellor, is satisfied —</p> <ul style="list-style-type: none"> (a) that the law of that country relating to the admission of persons to practise law in the superior courts of that country are such as to ensure that they possess suitable qualifications and competence; and (b) that by the law of that country attorneys-at-law of Guyana are entitled or would, if an order were made under subsection (1), be or become entitled to admission as legal practitioners of the superior courts of that country; and (c) that such entitlement to admission would be on terms as favourable as those on which legal practitioners of that country would, if an order were made under this subsection, be or become entitled to admission to practice law in Guyana. <p>(2) The Court may at any time admit any person to practise law under this section if he has attained the age of twenty-one years and satisfies the Court of his qualifications and good character.”</p>

Provision	How amended
<p>The Principal Act</p>	<p>Insert the following sections after section 4A —</p> <p>“Eligibility of person who is not a citizen of Guyana to be admitted to practise law if that person possesses qualifications recognised in Guyana.</p> <p>4B.(1) The Minister may by order provide that, subject to such exceptions, conditions, qualifications and modifications as may be prescribed therein, a citizen or national of any country (not being a participating country within the meaning of Article 5 of the Agreement) who holds the Legal Education Certificate shall be eligible to be admitted by the court to practise law if the Minister, after consultation with the Chancellor is satisfied —</p> <p>(a) that the law of the country relating to the admission of legal practitioners to practise law in the superior courts of the country is such as to ensure that a citizen of Guyana, who has obtained the qualifications and satisfied the conditions which would entitle a citizen or a national of that country to be admitted to practise as a legal practitioner in that country, is entitled or would, if an order were made under subsection (1), be or become entitled to admission as a legal practitioner of the superior courts of that country; and</p> <p>(b) that such entitlement by a citizen of Guyana to admission would be on terms as favourable as those on which citizens or nationals of that country would, if an order were made under subsection (1), be or become entitled to admission to practise law in Guyana.</p>

Provision	How amended
	<p>(2) The Court may at any time admit any person to practise law under this section if he has attained the age of twenty-one years and satisfied the Court of his qualifications and good character.</p> <p>(3) For the purpose of this section the expression "national" means, in the case of a country where there is no law in force conferring citizenship of that country, a person who is regarded as belonging to that country under any law in force in that country.</p>
<p>Appeal against refusal of admission to practise law.</p>	<p>4C.(1) An appeal shall lie to the Court of Appeal from an order of the Court refusing to admit any person to practise law under section 4, 4A or 4B.</p> <p>(2) Rules of court may prescribe the practice and procedure to be followed in relation to appeals under this section.</p>
<p>Savings of enactments placing restrictions on persons other than citizens of Guyana.</p>	<p>4D. Nothing in sections 4 to 4C (both inclusive) affects any law relating to the placing of restrictions on any person, not being a citizen of Guyana, entering, residing or working in Guyana."</p>
<p>Section 5</p>	<p>(a) Substitute the following for all the words occurring before the proviso —</p> <p>5. A person who desires to be admitted to practise law in Guyana shall apply by petition to the Court for admission as an attorney-at-law and shall file with the petition such certificate or other document as proof of his qualification for admission under this Act, together with a statutory declaration of identity and such other information in support thereof, as the Court may require for the purpose."</p>

"Deposit of documents for the purposes of admission to practise law.

Provision	How amended
Section 6	<p>(b) Substitute "such person" for "of those persons" in paragraph (a) of the proviso.</p> <p>(a) Substitute "law" for "as a barrister before the Court";</p> <p>(b) Delete "———So help me God".</p> <p>(c) For the marginal note substitute "Oath of attorney-at-law on admission".</p>
Section 7	Delete.
Section 8	<p>Substitute the following —</p> <p><small>"Enrolment of attorneys-at-law.</small></p> <p>8. Every person admitted to practise law shall be enrolled by the Registrar on the Court Roll and shall be entitled to a certificate of enrolment under the seal of the Court, and, subject to section 4, no person whose name is not enrolled as aforesaid shall be entitled to practise law in any of the courts of Guyana."</p>
Section 9	<p>Substitute the following —</p> <p><small>"Status of attorneys-at-law.</small></p> <p>9. Every person whose name is enrolled on the Court Roll shall be known as an attorney-at-law and —</p> <p><small>Cap. 80:01</small></p> <p>(a) subject to this Act and to section 39 of the Tax Act, shall be entitled to practise law before any court in Guyana and to sue for and recover his fees for services rendered in that respect;</p> <p>(b) shall be subject to all such liabilities as attached by law to a barrister and a solicitor prior to the coming into operation of the legal Practitioners (Amendment) Act 1980, and, without prejudice to the generality of the foregoing, be liable for any negligence committed by him when practising law save in respect of the conduct of any case in court</p>

Provision	How amended
	and in respect of any preliminary decision affecting the way the case is to be conducted when it comes to hearing.”.
Section 10	Substitute the following — <div style="display: flex; align-items: flex-start;"> <div style="margin-right: 10px;">“Officers of the Court.</div> <div>10. A person practising law under this Act shall be deemed to be an officer of the Supreme Court of Judicature.”.</div> </div>
Section 11	Substitute “an attorney-at-law” for a “barrister or solicitor”.
Section 15	Substitute “attorneys-at-law” for “barristers and solicitors” and for “barristers or solicitors”.
Section 17	Substitute “an attorney-at-law” for a “barrister or solicitor”.
Section 18	Substitute “An attorney-at-law” for “A solicitor”.
Section 19	<p>(a) In subsection (1), substitute “An attorney-at-law” for “A barrister or solicitor”, and “an attorney-at-law” for “a barrister”.</p> <p>(b) In subsection (2), substitute “an attorney-at-law” for “counsel or solicitor” and “attorney-at-law” for “barrister or solicitor”.</p>
Section 20	<p>(a) Substitute “attorney-at-law” for “barrister or solicitor” where these words first occur in subsection (1) and where they occur in subsection (4).</p> <p>(b) Substitute “an attorney-at-law” for “a barrister or solicitor” in the proviso to subsection (1) and in subsection (3).</p> <p>(c) Substitute “the attorney-at-law” for “the barrister or solicitor” in subsection (3).</p>
Section 21	Substitute “an attorney-at-law” for “a barrister or solicitor”, and “the attorney-at-law” for “the barrister or solicitor”.
Section 22	Delete.
Section 23	(a) Substitute the following subsection for subsection (3) —

Provision	How amended
	<p>“(3) The Chancellor shall appoint not more than twelve attorneys-at-law to be members of the Committee.”</p> <p>(b) Substitute “an attorney-at-law” for “anyone qualified under subsection (3)” in subsection (5).</p>
Section 26	Delete.
Section 29(1)	Substitute “and four legal practitioners” for “two practising barristers and two practising solicitors”.
Section 33	Substitute “attorneys-at-law” for “barristers or solicitors”.
Part III Sections 37 to 44 (inclusive)	Delete.
First Schedule	<p>(a) Substitute “an attorney-at-law” for “a barrister or solicitor” in rules 8 and 14 and in Forms 2 and 3.</p> <p>(b) Substitute “attorney-at-law” for “counsel” in rule 17;</p> <p>(c) For the marginal note to rule 17 substitute “Appearance of attorney-at-law”.</p>
Second Schedule	Substitute “attorney-at-law” for “Solicitor or Counsel”, and “Attorney-at-law for Appellant” for “Solicitor for Appellant”.
Third Schedule	Substitute “ATTORNEY-AT-LAW” for “COUNSEL OR SOLICITOR”.
Fourth Schedule	Delete.

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Legal Practitioners Act, Chapter 4:01, for the purpose of effecting a fusion of the branches of the legal profession. All existing barristers and solicitors will become attorneys-at-law with the right to practise law before any Court in Guyana. The principal qualification for admission to practise law will be the Legal Education Certificate of the Council of Legal Education of the Commonwealth Caribbean, but provision is also made for the recognition of other qualifications either on a transitional or on a reciprocal basis.

M. Shahabuddeen.

Attorney General and Minister of Justice.

(Bill No. 3/1980)

(L: 94/45)