

LAW PRACTITIONERS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Law Practitioners Act 1955.

Clause 1 relates to the Short Title and commencement of the Bill. The provisions relating to legal education in Part I of the Bill must come into force on the same date as the seven other Bills relating to the new basis for the operation of the Universities and Agricultural Colleges in New Zealand. The first day of January 1962 is therefore the date fixed for the commencement of this Bill.

PART I

LEGAL EDUCATION

Clause 2 reconstitutes the Council of Legal Education, which will in future consist of:

- (a) Two Judges of the Supreme Court;
- (b) Four persons appointed upon the recommendation of the Council of the New Zealand Law Society;
- (c) The Deans of the Faculties of Law in the four Universities.

The Vice-Chancellor of the University of New Zealand disappears from the said Council in consequence of the abolition of that University.

Clause 3 provides that the appointed members of the Council of Legal Education who were in office immediately before the commencement of the Bill are to continue in office for the remainder of the terms for which they were appointed.

Clause 4 provides that appointed members of the Council of Legal Education are to hold office for a term of three years, but may be reappointed, and shall continue in office until their successors are appointed.

Clause 5 provides for the filling of casual vacancies arising from the resignation or death of members of the Council of Legal Education.

Clause 6 provides that proceedings of the Council of Legal Education or any committee thereof are not affected by vacancies or defects in appointment.

Clause 7 provides for filling the office of Chairman of the Council of Legal Education.

Clauses 8 and 9 contain normal provisions governing the holding of meetings and special meetings of the Council of Legal Education.

Clause 10 defines the functions and powers of the Council of Legal Education.

Clause 11 authorises the Council of Legal Education to make regulations with respect to any course of study and the practical training and experience of candidates for admission as barristers and as solicitors and with respect to the legislation relating to legal education.

Clause 12 authorises the Council of Legal Education to appoint standing or special committees, and to delegate any of its functions and powers to any such committee or to any person. Express provision is made also for delegation to the Council of any University in New Zealand.

Clause 13 provides for the University Grants Committee to pay the travelling allowances and expenses of the members of the Council of Legal Education in respect of one meeting of that Council to be held in Wellington in each year. The said travelling allowances and expenses are to be fixed in accordance with the Fees and Travelling Allowances Act 1951.

Clause 14 provides that no University shall, without the prior consent of the Curriculum Committee, fail to provide teaching in any subject in the general courses of study for the time being prescribed for barristers or solicitors. The Curriculum Committee is not to give any such consent without having first received and considered any recommendations that may be made in that behalf by the Council of Legal Education unless that Council, having had reasonable opportunity to make such recommendations, has failed to do so.

Clause 15 provides a definition of the term "course of study".

Clause 16 amends sections 6 and 7 of the principal Act so as to make it clear that candidates for admission as barristers or solicitors must have any qualifications that may be prescribed under clause 10 (1) (a) of the Bill in addition to having passed the prescribed examination in general knowledge and law. The clause also provides that in future the examinations are to be prescribed by the Council of Legal Education instead of by the Senate of the University of New Zealand.

Clause 17 makes provision for proof of the passing of examinations.

Clause 18 repeals the existing legislation relating to the Council of Legal Education and its powers and the powers of the Senate of the University of New Zealand in relation to legal education. Existing statutes, rulings, etc., of the Senate of the University of New Zealand and of committees and officers of that University are saved until they are replaced.

PART II

APPOINTMENT OF AGENT TO CONDUCT SOLICITOR'S PRACTICE

Clause 19 authorises a solicitor who is practising on his own account without partners to give a power of attorney to any other solicitor or solicitors to conduct in the name of the donor of the power of attorney the practice and operate the trust account of that donor while he is under mental or physical disability, or while he is absent from New Zealand, or for a limited period after his death.

Clause 20 enables a similar power of attorney to be given in respect of the practice and trust account of such a solicitor by the Public Trustee as statutory administrator of the solicitor's estate, or by any person as committee or manager or administrator of the solicitor's estate.

Clause 21 specifies conditions that must be complied with before the donee of such a power of attorney can exercise the powers conferred on him thereunder. The clause also defines the operation of the Solicitors Audit Regulations 1938, and clarifies the operation of section 68 of the Estate and Gift Duties Amendment Act 1955, in such cases.

Clause 22 requires notice to be given to the Secretary of the District Law Society of the termination of such an agency and restricts the right of the donee of the power of attorney to terminate it.

Clause 23 provides that, where the Secretary of a District Law Society has notified any bank in which a solicitor's trust account is kept of its approval of any such power of attorney, the bank shall notify that secretary in writing forthwith upon the bank receiving advice that the trust accounts or any trust account of that solicitor is closed or is about to be closed.

Clause 24 provides that such a power of attorney may authorise the donee to appoint a substitute.

Clause 25 makes it clear that practising fees, etc., must be paid in respect of any solicitor whose practice is conducted under a power of attorney given under this Part of the Bill.

Clause 26 makes it clear that sections 74 and 97 of the principal Act are not affected by this Part of the Bill.

PART III

MISCELLANEOUS AMENDMENTS

Clause 27 amends subsection (1) of section 22 of the principal Act so as to impose further restrictions upon the right of a solicitor who has been admitted since 1 May 1939 to commence private practice. The additional requirement is that the solicitor shall have received adequate instruction and examination in the duties of a solicitor under the principal Act and under any regulations or rules for the time being in force relating to the audit of the trust accounts of solicitors or to the receipt by solicitors of money on deposit or by way of loan without security. Subsection (2) of section 22 provides that a solicitor who is debarred under subsection (1) from commencing private practice may apply to the Court for leave to do so. The clause requires that notice of such an application shall be given to the District Law Society, which shall be entitled to be heard on the application.

Clause 28 provides that where the Council of any District Law Society is satisfied that any barrister or solicitor practising within the Society's district is, owing to physical or mental disability, unable to perform his professional duties, and that it is necessary in the public interest to prevent him from attempting to practise his profession, the Council may make an order that he shall not practise as a barrister or as a solicitor until he has satisfied the Council that he is no longer incapacitated, and that he shall deposit his current practising certificate with the Council in the meantime. The practitioner is given a right at his option to appeal against such an order to either the Council of the New Zealand Law Society or the Supreme Court.

Clause 29 gives the New Zealand Law Society power to investigate, and the Disciplinary Committee jurisdiction to deal with, cases where there has been conduct unbecoming a barrister or a solicitor.

Clause 30 enables the Disciplinary Committee to forbid the employment by a practitioner of an unqualified person who has been guilty of professional misconduct. The Disciplinary Committee is authorised to revoke such an order, and an appeal is given to the Supreme Court against such an order.

Clause 31 amends section 49 of the principal Act so as to make it unnecessary to file and *Gazette* an order of the Disciplinary Committee where the order is merely an interim order under section 37 (1) of the principal Act.

Clause 32 makes it clear that a solicitor's trust account must be kept at a bank in New Zealand.

Clause 33 amends section 116 of the principal Act so as to provide for two members of the Council of the New Zealand Law Society to be elected by the Hamilton District Law Society from its own members. At present only one member may be so elected.

Clause 34 authorises the Council of the New Zealand Law Society to borrow money required for the purposes of that Society. Section 111 of the principal Act will operate to give a like power to the Council of every District Law Society.

Hon. Mr Hanan

LAW PRACTITIONERS AMENDMENT

ANALYSIS

Title	
1. Short Title and commencement	
PART I	
LEGAL EDUCATION	
2. Constitution of Council of Legal Education	
3. Transitional provisions	
4. Term of office	
5. Casual vacancies in the Council of Legal Education	
6. Proceedings of Council of Legal Education not affected by vacancies, etc.	
7. Appointment of Chairman	
8. Meetings of the Council of Legal Education	
9. Special meetings	
10. Functions and powers	
11. Power to make regulations	
12. Power to appoint committees	
13. Fees and travelling allowances	
14. Provision of teaching by Universities	
15. Interpretation	
16. Examinations and other qualifications	
17. Evidence of examinations	
18. Repeals and savings	
PART II	
APPOINTMENT OF AGENT TO CONDUCT SOLICITOR'S PRACTICE	
19. Solicitor may appoint agent to conduct practice	
20. Appointment of solicitor to conduct practice of solicitor who is mentally defective or dead	
21. Conditions affecting donee of a power of attorney	
22. Termination of agency	
23. Bank to notify closing of trust account	
24. Agent may be authorised to appoint substitute	
25. Practising certificates	
26. Sections 74 and 97 of principal Act not affected	
PART III	
MISCELLANEOUS AMENDMENTS	
27. Restriction upon right of solicitor to commence private practice	
28. Suspension from practice in cases of disability	
29. Conduct unbecoming a barrister or solicitor	
30. Disqualification for employment by practitioner	
31. Interim suspension order need not be filed in Court	
32. Trust accounts	
33. Council of New Zealand Law Society	
34. Power to borrow money	

A BILL INTITULED

An Act to amend the Law Practitioners Act 1955

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

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1. Short Title and commencement—(1) This Act may be cited as the Law Practitioners Amendment Act 1961, and shall be read together with and deemed part of the Law Practitioners Act 1955 (hereinafter referred to as the principal Act).

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(2) This Act shall come into force on the first day of January, nineteen hundred and sixty-two.

PART I

LEGAL EDUCATION

2. Constitution of Council of Legal Education—(1) There shall be a Council of Legal Education.

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(2) The Council of Legal Education shall consist of:

(a) Two Judges of the Supreme Court (one of whom may be the Chief Justice), to be appointed upon the recommendation of the Chief Justice:

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(b) Four persons to be appointed upon the recommendation of the Council of the New Zealand Law Society:

(c) The Dean of the Faculty of Law in each of the following Universities, namely, the University of Otago, the University of Canterbury, the University of Auckland, and the Victoria University of Wellington.

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(3) In addition to the members specified in subsection (2) of this section the Council of Legal Education may, from time to time, nominate for appointment one other person to be a member of the said Council.

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(4) The members of the Council of Legal Education to be appointed as aforesaid shall be appointed by the Governor-General upon the advice of the Attorney-General.

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Cf. 1930, No. 36, s. 2

3. Transitional provisions—Notwithstanding the reconstitution of the Council of Legal Education by section 2 of this Act, every appointed member of the said Council who was in office immediately before the commencement of this Act

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shall, unless he sooner vacates his office under subsection (2) of section 5 of this Act, continue in office as a member of the said Council until the expiration of the term for which he was appointed; and the provisions of this Act shall apply to
5 those members as if they had been appointed under paragraphs (a) and (b) of subsection (2) of section 2 of this Act.

4. Term of office—(1) Every appointed member of the Council of Legal Education shall hold office for a term of three years, but may from time to time be reappointed.

10 (2) Notwithstanding anything to the contrary in this Act, every appointed member of the Council of Legal Education, other than a member nominated under subsection (3) of section 2 of this Act, unless he sooner vacates his office under section 5 of this Act, shall continue to hold office until his
15 successor comes into office.

5. Casual vacancies in the Council of Legal Education—

(1) Any appointed member of the Council of Legal Education may at any time resign his office by written notice given to the Chairman or Secretary of that Council.

20 (2) If any appointed member of the Council of Legal Education dies or resigns, his office shall become vacant and the vacancy shall be deemed to be a casual vacancy.

(3) Every casual vacancy in the office of an appointed member of the Council of Legal Education (other than a
25 member nominated under subsection (3) of section 2 of this Act) shall, as soon as practicable, be filled by the appointment of a new member in the same manner as in the case of the vacating member. Any member appointed to fill a casual vacancy shall hold office for only the residue of the term of
30 the vacating member.

6. Proceedings of Council of Legal Education not affected by vacancies, etc.—No act or proceeding of the Council of

Legal Education, or of any committee thereof, or of any person acting as a member of the said Council or any such
35 committee, shall be invalidated in consequence of there being a vacancy in the number of the said Council or committee at the time of that act or proceeding, or of the subsequent discovery that there was some defect in the appointment of any person so acting, or that he was incapable of being or had
40 ceased to be such a member.

7. Appointment of Chairman—(1) The Council of Legal Education may from time to time appoint one of its members to be the Chairman of the Council of Legal Education:

Provided that, if the Chief Justice is a member of the said Council, he shall be the Chairman, unless he otherwise determines. 5

(2) If the said Chairman is an appointed member of the Council of Legal Education other than the Chief Justice, he shall hold the office of Chairman while he remains in office as such a member by reason of his last appointment as such a member, unless he sooner resigns the office of Chairman. 10

(3) If the Chief Justice is the Chairman of the Council of Legal Education, he shall vacate that office if he ceases to be a member of that Council or determines that he shall cease to be the Chairman. 15

(4) If the Chairman is not an appointed member of the Council of Legal Education, he shall hold that office for such period as the said Council shall determine or until he sooner ceases to be a member of the said Council or resigns the office of Chairman. 20

8. Meetings of the Council of Legal Education—(1) Meetings of the Council of Legal Education shall be held at least once each year and at such times and places as the Chairman or the said Council determines.

(2) At any meeting of the Council of Legal Education a quorum shall consist of any five members of the said Council, and no business shall be transacted unless a quorum is present. 25

(3) Any member of the Council of Legal Education who is unable to be present at a meeting of the said Council or any committee thereof may appoint some other person to attend in his place. The fact that any person so attends shall be sufficient evidence of his authority to do so; and, while attending, he shall be deemed to be a member of the Council of Legal Education. 30 35

(4) The Chairman shall preside at every meeting of the Council of Legal Education at which he is present. If at any meeting of the said Council the Chairman is not present or there is no Chairman, the said Council may appoint some member present to act as Chairman in respect of that meeting, and the person so appointed shall, in respect of that meeting, have all the powers of the Chairman. 40

(5) At any meeting of the Council of Legal Education the person presiding at the meeting shall have a deliberative vote, and, in the case of an equality of votes, shall also have a casting vote.

5 (6) Every question before the Council of Legal Education shall be decided by a majority of the valid votes recorded thereon.

(7) A resolution signed by all the members of the Council of Legal Education for the time being present in New Zealand and not incapacitated by disability from attending a meeting shall be as valid and effectual as if it had been passed at a duly constituted meeting of the said Council:

10 Provided that the Chairman shall report to the Council of Legal Education every resolution so signed since the previous meeting of the said Council, and lay before the said Council a copy of every such resolution.

15 (8) Save as expressly provided in this Act, the Council of Legal Education may regulate the procedure of its meetings.

9. Special meetings—(1) The Chairman of the Council of Legal Education shall call a special meeting of the Council of Legal Education on the requisition in writing of any three members.

(2) Notice of any such meeting shall be posted to each member at his usual address at least seven days before the date of the meeting.

10. Functions and powers—(1) The functions and powers of the Council of Legal Education shall be:

(a) To define and prescribe from time to time and as it thinks fit the courses of study for the examinations in general knowledge and law and the other qualifications (if any) additional to those prescribed by the principal Act that are required of candidates for admission as barristers and as solicitors of the Court, including qualifications as to practical training and experience:

(b) To arrange the provision of those courses of study:

(c) To grant to any candidate for admission as a barrister or as a solicitor of the Court such credits (whether *ad eundem* or otherwise) or exemptions as it thinks fit, and on such conditions as it thinks fit, for the purposes of any course of study:

(d) To tender advice to the Council of any University on any matter relating to legal education:

(e) Subject to the provisions of this Act and any other Act, to do whatever it considers necessary or expedient in order that it may best accomplish the purposes for which it exists.

(2) Without limiting the provisions of subsection (1) of this section, the Council of Legal Education may, in exercising its powers under paragraph (c) of that subsection, require that a candidate so credited or exempted shall pass an examination in the law of New Zealand or in the practice of law in New Zealand or in both.

Cf. 1930, No. 36, s. 3

11. Power to make regulations—(1) Subject to the provisions of this Act, the Council of Legal Education may from time to time make such regulations as may be necessary or expedient with respect to—

(a) Any course of study and the practical training and experience of candidates for admission as barristers and as solicitors of the Court:

(b) Any matters which by this Act are required or permitted to be prescribed or with respect to which regulations are necessary or expedient for giving effect to this Part of this Act and the provisions of the principal Act relating to legal education.

(2) Without limiting the generality of subsection (1) of this section, it is hereby declared that regulations made under that subsection may make provision for the granting of credits or exemptions in special circumstances or in order to avoid hardship to any student.

(3) All such regulations shall have effect according to their tenor, and shall be published by the Council of Legal Education.

(4) A copy of any such regulation certified by the Chairman of the Council of Legal Education shall be sufficient evidence of the same in all Courts.

(5) For the purposes of this section and of section 18 of this Act, notice shall be taken judicially without further proof of the appointment or right to the office of the said Chairman and of his signature.

Cf. 1930, No. 36, s. 4

12. Power to appoint committees—(1) The Council of Legal Education may from time to time appoint standing or special committees and may refer to any such committee any matters for consideration or inquiry or management.

(2) The Council of Legal Education may from time to time delegate any of its powers and functions (including any powers and functions which it has by delegation from any other body or person, but not including this power of delegation, and not including the power to make regulations) to any such committee or to any person; and the committee to which or the person to whom any such delegation is made, as the case may be, may, without confirmation by the said Council, exercise or perform the delegated powers or functions in like manner and with the same effect as the said Council could itself have exercised or performed them.

(3) It shall not be necessary that any person appointed to be a member of any such committee or to whom any delegation is made shall be a member of the Council of Legal Education.

(4) The Council of Legal Education may, with the consent of the Council of any University in New Zealand, delegate to the Council of that University any of the powers and functions of the Council of Legal Education, other than the power to make regulations, together with power to subdelegate the same.

(5) Every such delegation shall be revocable at will and no such delegation shall prevent the exercise of any power or function by the maker of the delegation.

(6) Unless and until any such delegation is revoked, it shall continue in force according to its tenor.

13. Fees and travelling allowances—(1) The University Grants Committee shall pay to the members of the Council of Legal Education travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951 in respect of one meeting of the said Council to be held in Wellington in each year, and the provisions of that Act shall apply accordingly.

(2) For the purposes of subsection (1) of this section the said Council is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951.

14. Provision of teaching by Universities—(1) No University shall, without the prior consent of the Curriculum Committee constituted under the Universities Act 1961, fail to provide teaching in any subject in either of the following courses of study, namely—

- (a) The course of study for the examination in general knowledge and law for the time being prescribed for barristers of the Court under paragraph (a) of subsection (1) of section 6 of the principal Act: 5
- (b) The course of study for the examination in general knowledge and law for the time being prescribed for solicitors of the Court under paragraph (a) of subsection (1) of section 7 of the principal Act.
- (2) The said Curriculum Committee shall not give any consent as aforesaid without first having received and considered any recommendations that may be made in that behalf by the Council of Legal Education unless that Council, having had reasonable opportunity to make such recommendations, has failed to do so. 10

15. Interpretation—Section 2 of the principal Act is hereby amended by inserting, after the definition of the term “Council”, the following definition: 15

“‘Course of study’ means the course of study for any prescribed examination in general knowledge and law that is a qualification for admission as a barrister or as a solicitor of the Court and the subjects of study in the course; and includes the structure of the course, the prescriptions for each subject, any prerequisites to the course or to any of the subjects of study in the course, and the examinations for the subjects:” 20 25

16. Examinations and other qualifications—(1) Section 6 of the principal Act is hereby amended by repealing paragraph (a) of subsection (1), and substituting the following paragraph: 30

“(a) Any person who has passed or been credited with passing the prescribed examination in general knowledge and law, and who has all the other prescribed qualifications (if any) for such admission:” 35

(2) Section 7 of the principal Act is hereby amended by repealing paragraph (a) of subsection (1), and substituting the following paragraph:

“(a) Any person who has passed or been credited with passing the prescribed examination in general knowledge and law, and who has all the other prescribed qualifications (if any) for such admission:” 40

(3) The principal Act is hereby amended by omitting from paragraph (c) of subsection (1) of section 6, and also from paragraph (c) of subsection (1) of section 7, the words "in so far as it differs from the law of England",
5 and substituting in each case the words "or in the practice of law in New Zealand or in both".

(4) The principal Act is hereby amended by omitting from subsection (2) of section 6, and also from subsection (2) of section 7, the words "Senate of the University of New
10 Zealand", and substituting in each case the words "Council of Legal Education".

17. Evidence of examinations—The principal Act is hereby amended by repealing section 8, and substituting the following section:

15 "8. (1) A certificate signed by the Registrar, Deputy Registrar, or Assistant Registrar of any University in New Zealand, or by the Secretary of the Council of Legal Education, that a candidate has passed or been credited with passing the appropriate prescribed examination shall be sufficient
20 evidence thereof.

"(2) For the purposes of this section notice shall be taken judicially without further proof of the appointment and signature of every such Registrar, Deputy Registrar, Assistant Registrar, and Secretary."

25 **18. Repeals and savings**—(1) The following enactments are hereby repealed:

(a) Sections 2 to 4 of the New Zealand University Amendment Act 1930:

30 (b) Sections 6 and 7 of the New Zealand University Amendment Act 1956.

(2) All statutes, regulations, prescriptions, rulings, decisions, and acts of authority of the Senate of the University of New Zealand or of any committee of the said Senate or University or of the Chancellor, Vice-Chancellor, or any
35 officer of the said University, so far as they relate to the examinations of candidates for admission as barristers or as solicitors of the Court and were in force immediately before the commencement of this Act, shall continue with full force and effect as if they were made by the Council of Legal
40 Education, and, in the case of statutes, as if they were regulations of the said Council, except so far as they are

repealed, replaced, or amended by this Act or any other Act or by regulations, prescriptions, rulings, decisions, or acts of authority of the Council of Legal Education or any committee thereof or of the Council of any University under powers delegated under subsection (4) of section 12 of this Act. 5

(3) All powers, authorities, and discretions vested in the Chancellor or Vice-Chancellor or any officer of the University of New Zealand immediately before the commencement of this Act, so far as they relate to the examinations for admission as barristers or as solicitors of the Court, shall vest for a period of two years after the commencement of this Act in the Chairman of the Council of Legal Education. 10

(4) A copy of any such statute, regulation, or prescription, or a statement in writing concerning any such ruling, decision, or act of authority, certified by the Chairman of the Council of Legal Education, shall be sufficient evidence thereof in all Courts. 15

PART II

APPOINTMENT OF AGENT TO CONDUCT SOLICITOR'S PRACTICE

19. Solicitor may appoint agent to conduct practice— 20

(1) Notwithstanding anything to the contrary in the Property Law Act 1952 or any rule of law, any solicitor practising on his own account without partners may, while of sound mind, at any time and from time to time, with the prior written consent of every donee of the power of attorney hereinafter mentioned, give a power of attorney, in a form approved by the Council of the New Zealand Law Society, to any other solicitor or solicitors entitled to practice on his or their own account jointly or severally to conduct in the name of the donor of the power of attorney the practice and operate the trust account or accounts of that donor during such period or periods as may be specified in the power of attorney, being all or any of the periods mentioned in subsection (2) of this section, and to exercise and perform during the period or periods so specified all or any of the powers and duties connected with the conduct of that practice in accordance with and subject to the provisions of the principal Act and this Act and all regulations made under the principal Act. 25 30 35

(2) The period or periods for which a power of attorney may be given under subsection (1) of this section shall be: 40

(a) Any current or future period or periods during which the donor of the power of attorney is living but is wholly or partially incapacitated and unable by reason of his physical or mental condition to conduct his practice:

(b) Any current or future period during which the donor of the power of attorney is absent from New Zealand:

(c) The period from the date of the death of the donor of the power of attorney until his administrator within the meaning of the Administration Act 1952 either lawfully disposes of the practice or revokes the power of attorney.

(3) The powers of the donee of any power of attorney given under this section shall terminate if the power of attorney is revoked by the donor thereof or is otherwise revoked under this Part of this Act, or if the donee of the power of attorney is released under subsection (2) of section 22 of this Act, but shall not terminate by reason only of the death of the donor of the power of attorney or of his becoming of unsound mind.

(4) While the Public Trustee is entitled under section 88 of the Mental Health Act 1911 to the custody and administration of the estate of the donor of any power of attorney given under this section, or while there is a committee appointed under that Act of that estate, or while there is a manager appointed under the Aged and Infirm Persons Protection Act 1912 of that estate, the powers of the donee of the power of attorney may at any time and from time to time be suspended by the Public Trustee or by the committee or manager, as the case may be, who may at any time revoke any such suspension.

(5) The powers of the donee of any power of attorney given under this section shall not be exercised after the expiration of one year from the date of the grant in New Zealand of administration in the estate of the donor of the power of attorney, except during such further period or periods as may be approved by the Council of the District Law Society for the district in which the practice of that donor is conducted.

(6) Nothing in this Part of this Act shall prevent—

(a) The lawful disposal of the practice of the donor of any power of attorney given under this Part of this Act; or

(b) A solicitor granting any power of attorney otherwise than under this Part of this Act.

20. Appointment of solicitor to conduct practice of solicitor who is mentally defective or dead—(1) In any case where the Public Trustee is entitled under section 88 of the Mental Health Act 1911 to the custody and administration of the estate of a solicitor who is practising on his own account without partners, or where any person is for the time being the committee under that Act or the manager under the Aged and Infirm Persons Protection Act 1912 of the estate of such a solicitor, the Public Trustee or the committee or manager (as the case may be) may, subject to the provisions of this Part of this Act applicable to the solicitor so practising, give to any other solicitor or solicitors entitled to practice on his or their own account a power of attorney for the same purposes and for the same period or periods as the solicitor so practising could have done.

(2) The administrator within the meaning of the Administration Act 1952 of the estate of a deceased solicitor who was practising on his own account without partners immediately before his death may, with the prior consent of the Council of the District Law Society in each district in which that solicitor was practising and subject to the provisions of this Part of this Act applicable to the solicitor so practising, give to any other solicitor or solicitors a power of attorney for the same purposes as the solicitor so practising could have done and for the balance remaining of the period specified in paragraph (c) of subsection (2) of section 19 of this Act.

(3) No power of attorney shall be given under this section in respect of the practice of any solicitor while any other power of attorney in respect of the practice of that solicitor remains in force and has not been suspended.

(4) All the provisions of this Part of this Act shall apply to any power of attorney given under subsection (1) or subsection (2) of this section as if it were given by the solicitor to whose practice the power of attorney relates.

21. Conditions affecting donee of a power of attorney—

(1) No donee of a power of attorney given under any of the foregoing provisions of this Part of this Act in respect of the practice of any solicitor shall commence to act under that power of attorney until—

(a) That donee has produced that power of attorney for the inspection of the Secretary of the District Law Society in every district in which that solicitor was practising:

(b) That donee has given a certified copy of that power of attorney to every such secretary:

(c) Every such Council has resolved to permit that donee to act under the said power of attorney.

5 (2) Forthwith upon any such Council passing any such resolution its secretary shall give notice thereof to—

(a) The auditor of the trust account of the solicitor to whose practice the power of attorney relates; and

10 (b) The bank with which that solicitor's trust account is kept.

(3) All the provisions of any regulations for the time being in force relating to the audit of the trust accounts of solicitors shall apply and be observed, in each case where a power of attorney in respect of a solicitor's practice is given under this
15 Part of this Act, in the name and on behalf of that solicitor as if he were personally conducting his practice.

(4) In every case where the donee of any power of attorney given under this Part of this Act becomes entitled under that power of attorney to operate any trust account of a deceased
20 solicitor, if there is for the time being no administrator to whom a grant of probate or letters of administration has been made in respect of the estate of that solicitor, that donee shall give notice to the Commissioner of Inland Revenue
25 of the Estate and Gift Duties Act 1955 of any payment made by him out of that trust account of any money that belonged to the deceased solicitor on the date of his death in his own right and was not subject to any trust.

22. Termination of agency—(1) Forthwith upon the revoca-
30 tion or suspension of a power of attorney given in respect of the practice of a solicitor under this Part of this Act, or upon the donee of such a power of attorney ceasing for any reason to act thereunder, written notice thereof shall be given, to the Secretary of the District Law Society in each district in
35 which that practice was last conducted, by—

(a) The donor of the power of attorney if he is living and capable of doing so; and

(b) The donee of the power of attorney if he is living and capable of doing so; and

40 (c) Any other person who revokes or suspends the power of attorney.

(2) Where the donee of a power of attorney given in respect of the practice of a solicitor under this Part of this Act ceases to act thereunder while he is living and capable of so acting, that donee shall continue to observe and comply with the requirements of the Council of the District Law Society in each district in which that practice was conducted, and shall be personally responsible for the observance of the provisions of the principal Act and this Act and all regulations made under the principal Act until the power of attorney is revoked or suspended or the donee of the power of attorney is released by resolution passed by every such Council.

(3) No such release shall be given by the Council of any District Law Society until that Council is satisfied by such proof as it requires that it is proper in all the circumstances to do so.

(4) Any power of attorney given under this Part of this Act shall be revoked by operation of law upon the solicitor to whose practice the power of attorney relates commencing to practice in partnership with any other solicitor or solicitors.

23. Bank to notify closing of trust account—Where the Secretary of any District Law Society has given notice under paragraph (b) of subsection (2) of section 21 of this Act to any bank in which a solicitor's trust account is kept that the Council of that Society has resolved to permit the donee of a power of attorney given in respect of the practice of that solicitor to act under that power of attorney, that bank shall notify that secretary in writing forthwith upon the bank receiving advice that the trust accounts or any trust account of that solicitor is closed or is about to be closed.

24. Agent may be authorised to appoint substitute—Any power of attorney given under this Part of this Act may contain provision for the donee of that power of attorney to appoint a substitute; and all the provisions of this Part of this Act shall apply accordingly to a substitute appointed under such a provision as if he had been the donee appointed by the original power of attorney.

25. Practising certificates—Any donee acting under a power of attorney given under this Part of this Act shall pay all practising fees, all contributions and levies to the Solicitors' Fidelity Guarantee Fund, and all other amounts for which the donor would have been liable under this Act if he had

continued to practise as a solicitor, and, while the donor is alive, shall apply for and obtain a renewal of the practising certificate of the solicitor to whose practice the power of attorney relates. The Registrar of the Supreme Court is
5 hereby empowered, subject to the provisions of the principal Act, to issue such a certificate with the approval of the Council of the District Law Society for every district in which the practice of that solicitor is conducted. No such practising certificate shall be issued in respect of a solicitor
10 who has died; but while all such practising fees, contributions, levies, and amounts are being paid in respect of any such solicitor who has died, the provisions of the principal Act and all regulations made thereunder shall apply in respect of that solicitor as if he were living and the holder
15 of a current practising certificate.

26. Sections 74 and 97 of principal Act not affected—
Nothing in this Part of this Act shall in any way affect the operation of sections 74 and 97 of the principal Act.

PART III

20 MISCELLANEOUS AMENDMENTS

27. Restriction upon right of solicitor to commence private practice—(1) Subsection (1) of section 22 of the principal Act is hereby amended by inserting, after the words "Government Department", the words "and unless during the three
25 years immediately preceding the date of his so commencing practice he has received adequate instruction and examination to the satisfaction of the Council of the District Law Society in the duties of a solicitor under this Act and under any regulations or rules for the time being in force relating to
30 the audit of the trust accounts of solicitors or to the receipt by solicitors of money on deposit or by way of loan without security".

(2) Subsection (2) of section 22 of the principal Act is hereby amended by adding the words "A copy of every
35 such application shall be served on the Secretary of the District Law Society for the district in which the application to the Court is made, and that Society shall be entitled to be heard on the application".

28. Suspension from practice in cases of disability—The principal Act is hereby amended by inserting, after section 25, the following section:

“25A. (1) Where the Council of any District Law Society is satisfied that any barrister or solicitor practising within the Society’s district is, owing to physical or mental disability, unable to perform his professional duties, and that it is necessary in the public interest to prevent him from attempting to practise his profession, the said Council may, if it thinks fit, instead of applying to the Court under subsection (1) of section 31 of this Act, itself make an order—

“(a) That he shall not practise as a barrister or as a solicitor until he has satisfied the Council that he is no longer incapacitated; and

“(b) That he shall deposit his current practising certificate with the Council in the meantime.

“(2) When the Council of a District Law Society makes an order under subsection (1) of this section the Secretary of that Council shall notify the Registrar of the Supreme Court responsible for the issue of a fresh certificate, and he shall not thereafter issue a fresh certificate without the consent of the Council.

“(3) Any order that has been made under subsection (1) of this section by the Council of any District Law Society in respect of any barrister or solicitor may be revoked—

“(a) By the Council that made the order at any time; or

“(b) By either the Council of the New Zealand Law Society or the Supreme Court on an appeal by that barrister or solicitor to that Council or Court made within twenty-eight days after the date on which the Council of the District Law Society made the order or last refused to revoke it on an application made to it in that behalf by the barrister or solicitor.

“(4) Any barrister or solicitor against whom an order has been made under subsection (1) of this section shall be guilty of professional misconduct if he acts in contravention of or fails to comply with that order.”

29. Conduct unbecoming a barrister or solicitor—The principal Act is hereby amended—

(a) By inserting in section 34, after the word “misconduct” in each place where it occurs in subsections (1) and (2) of the section, the words “or of conduct unbecoming a barrister or a solicitor”:

(b) By inserting in paragraph (c) of subsection (2) of section 114, after the word "misconduct", the words "or of conduct unbecoming a barrister or a solicitor".

30. Disqualification for employment by practitioner—

5 (1) The principal Act is hereby amended by inserting, after section 36, the following section:

10 "36A. (1) Where a charge has been made by the New Zealand Law Society or by any District Society against any person that he (while employed by a practitioner) has been guilty of conduct that would in the case of a practitioner be professional misconduct in respect of any matter mentioned in paragraph (a) or paragraph (b) of subsection (1) of section 35 of this Act, or that he (while so employed) has been guilty of grave impropriety or infamous conduct and by reason thereof is not a fit and proper person to be employed by a barrister or solicitor, the Disciplinary Committee shall have power to inquire into the charge; and, if after inquiry during which the person charged is given a reasonable opportunity of being heard in his own defence, the Disciplinary Committee is of opinion that he has been guilty of such conduct or impropriety, it may, if it thinks fit, do all or any of the following things:

15 " (a) Order that his present employment by any practitioner be terminated:

25 " (b) Order that no practitioner shall employ him in connection with the practitioner's practice so long as the order remains in force:

30 " (c) Order that no practitioner shall employ him in connection with the practitioner's practice, otherwise than with the written consent of the Disciplinary Committee and subject to such conditions as may be imposed by that Committee, so long as the order remains in force.

35 " (2) Every practitioner who acts in contravention of any order made by the Disciplinary Committee under subsection (1) of this section shall be guilty of professional misconduct.

40 " (3) Any person in respect of whom an order has been made under subsection (1) of this section may apply to the Disciplinary Committee for the revocation of that order; and any rules made for the purposes of this Part of this Act shall apply to that application as if it were an application under section 39 of this Act by a practitioner whose name had been struck off or removed from the roll.

“(4) On the hearing of any such application, the Disciplinary Committee, if it is satisfied that the applicant is a fit and proper person to be employed by a practitioner, may revoke the order.”

(2) Section 50 of the principal Act is hereby amended by inserting in subsection (1), after the word “practitioner” in each place where it appears, the words “or person”. 5

31. Interim suspension order need not be filed in Court— Section 49 of the principal Act is hereby amended by inserting in subsection (1), after the words “suspended from practice”, the words “otherwise than by an interim order made under subsection (1) of section 37 of this Act”. 10

32. Trust accounts—The principal Act is hereby amended by inserting—

(a) In section 70, after the word “bank”, the words “in New Zealand”:

(b) In subsection (1) of section 71, after the word “bank”, the words “in New Zealand”.

33. Council of New Zealand Law Society—Subsection (1) of section 116 of the principal Act is hereby amended by inserting, after paragraph (e), the following paragraph: 20

“(ee) Two members elected by the Hamilton District Law Society from its own members:”.

34. Power to borrow money—The principal Act is hereby amended by inserting, after section 120, the following section: 25

“120A. The Council may borrow money required for the purposes of the Society; and, for the purpose of securing any money so borrowed, may mortgage, charge, or pledge any right, title, estate, or interest in any real or personal property vested in the Society.” 30