

Disciplinary Rules of the New Zealand Law Society under the Law Practitioners Amendment Act, 1935.

Department of Justice,
Wellington, 6th April, 1936.

THE following rules made by the Disciplinary Committee of the New Zealand Law Society under section 14 of the Law Practitioners Amendment Act, 1935, are published for general information.

H. G. R. MASON, Minister of Justice.

The New Zealand Law Society.

THE LAW PRACTITIONERS ACT (DISCIPLINARY) RULES, 1936.

(Made by the Disciplinary Committee of the New Zealand Law Society under section 14 of the Law Practitioners Amendment Act, 1935.)

PART I.—CHARGES AND APPLICATIONS AGAINST PRACTITIONERS.

1. Any charge of professional misconduct against a practitioner (which for the purposes of these rules shall be deemed to be an "application"), and any application that the name of a practitioner be removed from or struck off the roll of barristers or solicitors, shall be in writing and shall be forwarded to the Clerk to the Committee.

2. Before fixing a day for the hearing the Committee may require the applicant to supply such further information and documents relating to the allegations as they think fit, and in any case where, in the opinion of the Committee, no *prima facie* case is shown, the Committee may, without requiring the practitioner to answer the allegations, dismiss the application. If required so to do, either by the applicant or the practitioner, the Committee shall make a formal order dismissing such application.

3. In any case in which, in the opinion of the Committee, a *prima facie* case is shown, the Committee shall fix a day and place for hearing, and the Clerk to the Committee shall serve notice thereof on the applicant and on the practitioner, and shall serve on the practitioner a copy of the application. The notice shall not be less than a twenty-one days' notice.

4. The notice may be in the forms in that behalf set out in the Schedule, and shall require the applicant and the practitioner respectively to furnish to the Clerk to the Committee and to each other a list of all documents on which they respectively propose to rely. Such list shall, unless otherwise ordered by the Committee, be furnished by the applicant and by the practitioner respectively at least fourteen days before the day of hearing.

5. Either party may inspect the documents included in the list furnished by the other; and a copy of any document mentioned in the list of either party shall, on the application and at the expense of the party requiring it, be furnished to that party by the other within three days after the receipt of the application.

6. If either party fails to appear at the hearing the Committee may, upon proof of service of the notice of hearing, proceed to hear and determine the application in his absence.

7. Where the Committee have proceeded in the absence of either party, such party may, within one calendar month from the pronouncement of the findings and order, apply to the Committee for a rehearing upon giving notice to the other party and to the Clerk to the Committee. The Committee, if satisfied that it is just that the case should be reheard, may grant the application upon such terms as to costs or otherwise as they think fit. Upon such rehearing the Committee may amend, vary, add to, or reverse their findings or order pronounced upon such previous hearing.

8. The Committee may proceed and act upon evidence given by affidavit.

9. The Clerk to the Committee shall send a copy of the findings and order to the Registrar of the Wellington Registry of the Court within eight days, and to the applicant and to the practitioner within four days, of the date thereof.

10. An application under section 4 (3) of the Law Practitioners Amendment Act, 1935, that a barrister or solicitor be suspended may be dealt with at any time by the Disciplinary Committee on the application of a District Law Society. Rules 1 to 5 hereof shall not apply to such an application.

PART II.—APPLICATIONS AT THE INSTANCE OF PRACTITIONERS.

11. An application at the instance of a practitioner himself shall be in writing supported by affidavit setting out the reasons for the application and shall be sent to the Clerk to the Committee.

12. The Committee may without hearing any evidence order that the name of the practitioner be removed from the roll of barristers or the roll of solicitors, and may make such order as to the costs of the application as they may think fit.

PART III.—APPLICATIONS FOR RESTORATION TO ROLL.

13. An application by a practitioner for an order restoring his name to the roll shall be in writing and shall be verified by affidavit setting out the grounds upon which the application is based.

14. The application and affidavit shall be delivered by the applicant to the Clerk to the Committee.

15. The Committee may, if they think fit, require the applicant to give notice of his application by advertisement or otherwise, as they may direct, and of the date appointed for the hearing.

16. If any person desires to object to the application such person shall give notice in writing to the applicant and to the Clerk to the Committee at least seven days before the day fixed for the hearing, specifying the grounds of his objection.

17. The New Zealand Law Society and the District Law Societies may appear at the hearing of any such application by any duly authorized representatives.

18. The Committee may require the applicant to furnish such evidence and to call such witnesses as the Committee may think fit.

19. The Committee may refuse to consider any application for restoration to the roll until the costs and disbursements owing by the practitioner in respect of any disciplinary proceedings whether before any Court or before the Disciplinary Committee have been paid.

20. After the hearing of the application the Committee shall order either that the name of the practitioner be restored to the roll or that the application be refused, and may make such order as to costs of and incidental to the application as they think fit.

PART IV.—GENERAL.

21. The Committee shall hear all applications in private.

22. At any stage of the proceedings, if the Committee see fit, they may appoint a practitioner to represent the applicant, and the costs of such practitioner may be paid out of the funds of the New Zealand Law Society.

23. No application shall be withdrawn after it has been sent to the Clerk to the Committee except by leave of the Committee. Application for leave to withdraw shall be made on the day fixed for the hearing unless the Committee otherwise direct. The Committee may grant leave subject to such terms as to costs or otherwise as they shall think fit, or they may adjourn the matter under the next succeeding rule.

24. The Committee may of their own motion, or upon the application of either party, adjourn the hearing upon such terms as to costs or otherwise as to the Committee shall appear just.

25. If upon the hearing it shall appear to the Committee that the allegations require to be amended or added to, the Committee may permit such amendment or addition if, in the judgment of the Committee, such amendment or addition is not within the scope of the original allegation; provided always that if such amendment or addition shall be such as to take the practitioner by surprise, or prejudice the conduct of his case, the Committee shall grant an adjournment of the hearing upon such terms as to costs or otherwise as to the Committee shall appear just.

26. Upon the hearing or determination of any application the Committee may, without finding any misconduct proved against the practitioner, nevertheless order him to pay the costs of the proceedings if, having regard to his conduct and all the circumstances of the case, it shall seem just to the Committee so to do.

27. Shorthand notes of proceedings may be taken by a person appointed by the Committee; and any party who appeared at the proceedings shall be entitled to inspect the transcript thereof. The shorthand-writer shall, if required, supply to the Committee and to any person entitled to be heard upon an appeal against an order of the Committee, and to the Society, but to no other person, a copy of the transcript of such notes on payment of his charges. If no shorthand notes be taken the Chairman shall take or cause to be taken a note of the proceedings, and the provisions of this rule as to inspection and taking of copies shall apply to such note accordingly.

28. Service of any notice or documents required by these rules may be effected either personally or by registered letter addressed to the last known place of abode or business of the person to be served, and proof that such letter was so addressed and posted shall be proof of service, and such service shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course of post.

29. Any notice or document required to be given or signed by the Clerk to the Committee may be given or signed by him or by the Secretary of the New Zealand Law Society, or by any other person duly authorized by the New Zealand Law Society in that behalf.