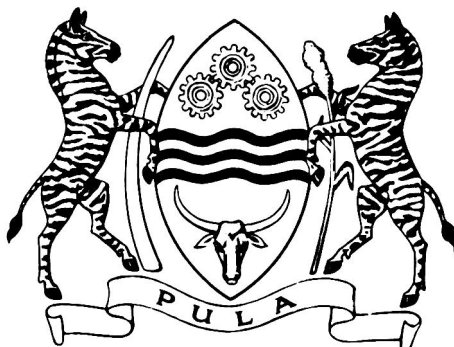


# REPUBLIC OF BOTSWANA



## GOVERNMENT GAZETTE

### EXTRAORDINARY

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18th June, 1996

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*Bill No. 13 of 1996*

**LEGAL PRACTITIONERS BILL, 1996**  
(Published on 18th June, 1996)

**MEMORANDUM**

A draft of the above Bill, which it is proposed to present to the National Assembly, is set out below.

2. There is at present no professional body or organisation which represents the interests of, or controls, legal practitioners in the country. For some time now the need for establishing such a body has been felt by the members of the legal profession and some members of the general public. It is considered not only desirable but essential to have a self-regulating body which will be responsible for overseeing the activities of legal practitioners and to ensure the maintenance of high professional standards. One of the main objects of the Bill is, therefore, to establish a Law Society for Botswana.

3. The opportunity has also been taken in this exercise to effect some other needed amendments to the existing law.

4. Part II deals with the qualifications for admission of any person as legal practitioner. It proposes to amend the existing law by providing that a person seeking to be admitted and enrolled as a legal practitioner must either be a citizen or a permanent resident. An exception is made in respect of certain foreign advocates. It further provides that a foreign national can only be admitted to practise in Botswana if there is a reciprocal provision in the law of his country which will permit a citizen of Botswana to practise in that country.

5. Part III provides that a newly qualified lawyer should work in the offices of an experienced lawyer for a period of 12 months before embarking to practise on his own. This is to enable him to gain practical experience in the practice of the law.

6. Part IV reproduces substantially the existing law relating to practising certificates.

7. Part V, the provisions of which are new, deals with the establishment of a Fidelity Guarantee Fund. The purpose of establishing the Fund is to use it in compensating clients of legal practitioners who have sustained loss as a result of dishonesty on a part of the legal practitioner.

8. Part VI makes provision for the opening of a trust account at a bank, the operation and management of the account.

9. Parts VII and VIII provide for the appointment of a Disciplinary Committee to investigate complaints made against legal practitioners. The committee will consist of five members to be appointed from the members of the Law Society.

10. Part IX prohibits a legal practitioner from doing certain things and a contravention of any such prohibition constitutes an offence.

11. Part X empowers the Chief Justice to make rules, in consultation with the Minister and the Council of the Law Society, to prescribe anything required to be prescribed by rules in terms of Parts I to IX.

12. Part XI contains the provisions establishing the Law Society, its composition and functions.

**P.H.K. KEDIKILWE,**  
*Minister of Presidential Affairs  
and Public Administration.*

## **ARRANGEMENT OF SECTIONS**

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**A B I L L**  
—entitled—

**AN ACT to re-enact with amendments the law relating to the admission, enrolment and practice of legal practitioners in Botswana and matters ancillary thereto.**

*Date of Assent:*

*Date of commencement:*

ENACTED by the Parliament of Botswana.

**PART I — Preliminary**

1. This Act may be cited as the Legal Practitioners Act, 1996, and shall come into operation on such day as the Minister may, by statutory instrument, appoint:

Short title  
and Com-  
mencement

Provided that the Minister may, by the same or different instruments, appoint dates for different provisions of the Act to come into operation.

2. In this Act unless the context otherwise requires —

“advocate” means any legal practitioner duly admitted to practise as an advocate in Botswana;

“the annual contribution” has the meaning assigned to it under section 38;

“attorney” means any legal practitioner duly admitted to practise as an attorney-at-law in Botswana;

“certificate of pupillage” has the meaning assigned to it under section 24;

“conveyancer” means any legal practitioner duly admitted to practise as a conveyancer in Botswana;

“the Council” means the Council of the Society established under section 60;

“court” means the Chief Justice or any judge of the High Court;

“courts of Botswana” means the Court of Appeal, the High Court and magistrates’ courts and all tribunals to which legal practitioners have a right of audience, but subject to the provisions of any other written law and the Constitution, does not include any customary court or any customary court of appeal established under the Customary Courts Act;

“the Disciplinary Committee” means the Disciplinary Committee established under section 47

“enrolment” means the entry of a name in the roll of legal practitioners;

“foreign advocate” has the meaning assigned to it under section 7;

“the Fund” has the meaning assigned to it under section 33;

“legal practitioner” means any person entitled to practise under this Act as an advocate, attorney, notary or conveyancer;

“Master” means the Master of the High Court;

“notary” means any legal practitioner duly admitted as a notary public in Botswana;

“practising certificate” means a certificate issued under section 30;

Interpretation

Cap. 04:05

“pupil master” has the meaning assigned to it under section 18(2);  
 “the Registrar” means the Registrar of the High Court;  
 “the roll” means the list of legal practitioners kept by the Registrar under section 13;  
 “the Society” means the Law Society of Botswana established under section 55.

## PART II — *Admission and Enrolment of Legal Practitioners*

### *Qualifications and Admission*

Qualifications  
for practising  
as legal  
practitioner

3. (1) No person shall be qualified to practise as a legal practitioner unless —

- (a) he has been admitted as a legal practitioner;
- (b) his name is on the roll; and
- (c) subject to subsection (2), he has in force a practising certificate issued by the Registrar under section 30.

(2) The persons specified in the First Schedule shall be exempted from applying for a practising certificate:

Provided that the exemption shall not apply to any person specified in the Schedule who engages in private practice on his own account.

Qualifications  
for admission  
of citizen

4. (1) A person who is a citizen of Botswana shall be qualified to be admitted as a legal practitioner if he satisfies the court that —

- (a) he is a fit and proper person;
- (b) he has obtained by examination —
  - (i) the degree of LL.B. from the University of Botswana, University of Lesotho, University of Swaziland or the former University of Botswana, Lesotho and Swaziland or Botswana and Swaziland referred to in section 8 of the University of Botswana Act, or
  - (ii) a bachelor's degree in law from any of the universities specified in the Second Schedule or such other prescribed university together with such additional qualifications, if any, as may be prescribed; and
- (c) he has passed such practical examinations as may be prescribed.

Cap. 57:01

(2) A person referred to in subsection (1) may be exempted from the provisions of paragraphs (b) and (c) of subsection (1) if he satisfies the court that he is qualified to practise in any prescribed country having a sufficiently analogous system of law and that his qualifications are such as to render him suitable for admission and fulfils such conditions whether as to status or proficiency, as may be prescribed.

Qualifications  
for admission  
of Common-  
wealth citizen

5. (1) A person who is a citizen of a Commonwealth country (including a citizen of Botswana) shall be qualified to be admitted as a legal practitioner if he satisfies the court that —

- (a) he is a fit and proper person;
- (b) he has been admitted, has done his pupillage and is entitled to practise as a barrister in England, Northern Ireland, the Republic of Ireland or as an advocate in the Court of Session in Scotland; or

- (c) he has been admitted, has done his pupillage and is entitled to practise as an advocate in any Division of the Supreme Court of the Republic of South Africa or in the High Court of Zimbabwe; or
- (d) he has been admitted, has done his pupillage and is entitled to practise as an attorney or solicitor of any of the courts of Record in London, Belfast or Dublin, or being a Writer to the Signet or a solicitor or law agent admitted to practise in the Court of Session of Scotland; or
- (e) he has been admitted, has done his pupillage and is entitled to practise as an attorney or solicitor in any Division of the Supreme Court of the Republic of South Africa or in the High Court of Zimbabwe; and
- (f) he is ordinarily resident in Botswana or intends to reside permanently in Botswana; and
- (g) there is a reciprocal provision in the law of the Commonwealth country of which he is a citizen to permit a citizen of Botswana qualified in terms of the laws of that country to be admitted to practise in that country.

6. (1) A person who is not a citizen of Botswana shall be qualified to be admitted as a legal practitioner if he satisfies the court that —

- (a) he is a fit and proper person;
- (b) he has complied with the educational requirements specified in paragraphs (b) and (c) of section 4(1);
- (c) he is ordinarily resident in Botswana or intends to reside permanently in Botswana; and
- (d) there is a reciprocal provision in the law of the country of which he is a citizen to permit a citizen of Botswana qualified in terms of the laws of that country to be admitted to practise in that country.

(2) A person referred to in subsection (1) may be exempted from complying with the provisions of paragraphs (b) and (c) of subsection (1) of section 4 if he satisfies the court that he is qualified to practise in a prescribed country having a sufficiently analogous system of law and that his qualifications are such as to render him suitable for admission and fulfils such conditions, whether as to status or proficiency, as may be prescribed.

7. (1) An advocate who is not a citizen of Botswana and is not permanently or ordinarily resident in Botswana but is qualified to practise as an advocate in a superior court in a Commonwealth country or a country prescribed by Parliament in accordance with the provisions of section 96(3) or 100(3) of the Constitution (in this section referred to as “a foreign advocate”) may, on an application to the Chief Justice with notice of the application to the Society, be admitted to practise as an advocate for the purpose of any specific cause or matter of importance and complexity in or regard to which he has been instructed either by the

Qualifications  
for admission  
of  
non-citizen

Admission of  
foreign  
advocates

Attorney-General or an attorney in Botswana for the duration of the hearing of that cause or matter.

(2) The foreign advocate shall, on completion of the hearing of the cause or matter, or on the hearing of the final appeal therefrom, cease to be entitled to practise in Botswana.

(3) No foreign advocate shall be entitled to practise in Botswana until he has paid, such fees as may be prescribed under section 73, to the Registrar.

(4) The Registrar shall pay half of the fee paid under subsection (3) to the Society.

Qualifications  
for practising  
as notaries and  
conveyancers

8. No person shall be admitted to practise as a notary or as a conveyancer unless he is admitted and enrolled as an attorney.

Qualifications  
for admission  
as notaries and  
conveyancers

9. Subject to section 8, a person shall be admitted as a notary or as a conveyancer, as the case may be, if he satisfies the court that —

- (a) he is a fit and proper person;
- (b) there is no order of court removing his name from the roll;
- (c) there are no pending proceedings to remove his name from the roll; and
- (d) he has passed such examinations as may be prescribed —
  - (i) in the case of a notary, in the practices, functions and duties of a notary public,
  - (ii) in the case of a conveyancer, in the practices, functions and duties of a conveyancer.

Application for  
admission and  
enrolment

10. (1) Any person who holds the requisite qualifications in terms of section 4, 5, 6 or 9 may apply to the court by petition in writing to be admitted and enrolled as a legal practitioner in the capacity mentioned in the application.

(2) Every application shall be accompanied by a documentary proof of the possession by the applicant of the qualifications prescribed in section 4, 5, 6 or 9, as the case may be.

(3) A copy of every application, together with copies of supporting affidavits and certificates shall be served upon the Attorney-General and the Society not less than 28 days before the hearing of the application, and such service may be effected personally or by registered post:

Provided that the Attorney-General or the Society may, after consulting each other, accept service for a lesser period and, if they agree to do so, then, the Attorney-General shall notify the Registrar in writing thereof.

(4) The Attorney-General, the Society or any legal practitioner may request the leave of the court to appear as *amicus curiae* to oppose the granting of such application.

Admission and  
enrolment

11. The court may, if it is satisfied that a person who has applied under section 10 possesses the prescribed qualifications to be admitted and enrolled as a legal practitioner, admit and, subject to section 12, enrol him as an advocate, attorney, notary or conveyancer, as the case may be:

Provided that a person who has previously acted as an advocate shall not be admitted and enrolled as an attorney unless he satisfies the court that he has not practised as an advocate for a period of three months immediately preceding his application for admission and enrolment as an attorney under this Act.

12. No person shall be enrolled as a legal practitioner unless he has taken before the Registrar the oath or affirmation of office as set out in Form A in the Third Schedule.

Oath to be  
taken before  
enrolment

### *The Roll*

13. (1) The Registrar shall continue to keep a list of all legal practitioners in Botswana, called "the roll".

Keeping the  
roll

(2) The roll shall be in the form of separate alphabetical lists recording the names of advocates, attorneys, notaries and conveyancers respectively, entitled to practise by reason of having been admitted to practise under this Act with the dates of such admission and the names and addresses.

14. (1) On production —

Entry of name  
and restoration  
of name

(a) of an admission of any person as a legal practitioner signed by the court under section 11; or

(b) of an order for the restoration to the roll of the name of a person whose name has been removed from it, and on payment to the Registrar of the fee prescribed in the Fourth Schedule, the Registrar shall enter the name of that person on the roll.

(2) The Registrar shall issue a certificate of admission and enrolment in Form B in the Third Schedule to any person admitted and enrolled as an advocate, attorney, notary, or a conveyancer, as the case may be.

15. (1) The Registrar may, on the application of a legal practitioner, remove his name at his own request from the roll.

Removal or  
restoration of  
name of  
practitioner

(2) The Registrar may, on the application of the Society, remove the name of a legal practitioner from the roll, if he is no longer resident in Botswana or has not resided in Botswana after admission.

(3) The Registrar may, on the application of a former legal practitioner whose name has been removed from the roll at his own request, enter his name on the roll on payment of the fee prescribed in the Fourth Schedule.

16. Subject to section 17, advocates and attorneys shall —

Rights of  
advocates  
and attorneys

(a) have a right of audience in the courts of Botswana; and

(b) be officers of such courts.

17. (1) No advocate shall have a right of audience in the courts of Botswana unless he is acting on the instructions of a person entitled to practise as an attorney or on the instructions of the Attorney-General or of the courts.

Restriction on  
practice of  
advocates

(2) No advocate shall be entitled to practise as an attorney, notary or conveyancer.

PART III — *Pupillage*

Contract of  
pupillage

18. (1) Any person who, on admission under section 11, intends to practise as a legal practitioner shall enter into a contract of pupillage to read as a pupil for an aggregate period of not less than 12 months under a pupil master, or, attend such vocational courses in the practice and procedure in the courts as may be provided by the Council.

(2) For the purposes of this Part, a "pupil master" means a legal practitioner who has held a practising certificate continuously for the previous seven years; and is for the time being on the register of approved pupil master kept by the Society, and includes the Attorney-General.

(3) Any legal practitioner, other than the Attorney-General, who wishes to be a pupil master may submit an application in the prescribed form to the Society.

(4) If the Society approves the application, it shall notify the applicant and it shall cause the applicant to be registered as an approved pupil master.

(5) The Society shall keep a register of approved pupil masters and pupils.

Service of  
pupillage

19. (1) A contract of pupillage shall be served only under —

- (a) the Attorney-General; or
- (b) a pupil master practising as legal practitioner —
  - (i) on his own account, or
  - (ii) as partner in a firm of legal practitioners.

(2) A pupil master, other than the Attorney-General, shall at no time have more than three pupils serving their pupillage under him.

(3) A letter of employment in the public service issued to a pupil serving his pupillage under the Attorney-General shall, for the purposes of this Part, be treated as a contract of pupillage entered into between a pupil master and his pupil, but the provisions of sections 20, 21 and 22 relating to the contents of, registration and termination of a contract of pupillage shall not apply to such contract.

Contents of  
contract of  
pupillage

20. (1) Before a pupil master enters into a contract of pupillage with a pupil, he shall set out in a letter to the pupil such information as to the terms and conditions to be included in the contract as may be prescribed.

Registration  
of contract

21. (1) Every contract of pupillage shall be submitted to the Society for registration within one month from the date of its execution.

(2) Every application for registration shall be accompanied by —

- (a) a certificate of enrolment; and
- (b) the prescribed fee for registration.

Termination  
of contract

22. (1) A contract of pupillage may be terminated by the mutual consent of both parties, or on the death of either party.

(2) Where a contract is terminated by mutual consent or the death of the pupil master, the pupil, in such case, may enter into a new contract for the residue of the term.

(3) The new contract shall be submitted to the Society for registration.

**23. (1)** The Registrar may, on the recommendation of a pupil master, issue to a pupil serving a contract of pupillage under the pupil master, other than the Attorney-General, a provisional practising certificate.

Provisional  
practising  
certificate

(2) A pupil serving his pupillage under the Attorney-General or a pupil issued with a provisional practising certificate under subsection (1), shall, under the supervision of his pupil master, have a right of audience in the courts of Botswana during the period of his contract of pupillage.

**24. (1)** On satisfactory completion of the period of the contract of pupillage, the pupil may obtain from his pupil master a certificate (in this Part referred to as a "certificate of pupillage") for submission to both the Registrar and the Society.

Award of  
certificate  
of pupillage

(2) Where at the end of the period of a pupillage the pupil master is not satisfied that the pupil has satisfactorily completed the terms of his pupillage, the pupil may enter into a further contract of pupillage with the same pupil master or another pupil master for such period as will enable him to complete the requisite term of pupillage.

**25.** Regulations made under section 54 may provide for the exemption of such legal practitioners as may be prescribed from pupillage.

Exemption  
from contract  
of pupillage

**26.** No legal practitioner shall be issued with a practising certificate under section 30 unless he has obtained a certificate of pupillage or he has been exempted under section 25 from pupillage.

Prohibition of  
issue of  
practising  
certificate

**27.** The provisions of this Part shall not apply to any person who has been admitted and enrolled immediately before the commencement of this Act.

Application  
of Part III

**28.** Every pupil master shall pay to his pupil a reasonable remuneration befitting the status of the pupil during the period of pupillage.

Remuneration  
of pupil

#### PART IV — *Practising Certificate*

**29. (1)** Any legal practitioner who intends to practise shall apply to the Registrar for a practising certificate.

Application for  
practising  
certificate

(2) On receipt of an application for a practising certificate, the Registrar shall cause to be entered in a register kept for that purpose the applicant's full name, his place or places of business and the date of his admission.

**30. (1)** Subject to section 31 the Registrar shall, within seven days of receipt of an application, issue a practising certificate in the appropriate form specified in Form C in the Third Schedule to a legal practitioner who applies for one to practise in the capacity named in the form, if he is satisfied that —

Issue of  
practising  
certificate

- (a) his name is on the roll;
- (b) in the case of an application for the first time, he has obtained a certificate of pupillage or he has been exempted from pupillage;
- (c) he is not suspended from practice;
- (d) he has obtained a fidelity fund certificate under section 37 from the Society for the payment of the prescribed fee to the Fund;



- (e) he has furnished a certified copy of the audited accounts of his trust account, certified as having been properly kept, to the Society:

Provided that the provisions of this paragraph shall not apply to a legal practitioner applying for a practising certificate for the first time;

- (f) he has paid the annual subscription fees prescribed under section 57;
- (g) he has paid, if any, all fines imposed on him under section 53(7) or refunded moneys required to be refunded by him under section 53(8).

(2) The provisions of subsections (1) (d) and (e) shall not apply to advocates.

Fees payable on  
issue of  
practising  
certificate

31. (1) Subject to subsection (2), there shall be paid to the Registrar in respect of each practising certificate to be issued by him, before the certificate is issued, the fee prescribed in the Fifth Schedule in relation to each certificate.

(2) A reduced fee of one half of the fee referred to in subsection (1) in relation to advocates and attorneys shall be payable in respect of the first two practising certificates to be issued to an advocate or attorney after his admission:

Provided that the provisions of this subsection shall not apply to advocates or attorneys who, prior to admission under this Act, have been admitted and practised in another country.

(3) All fees received by the Registrar under this section shall be paid to the Society and shall be applied in such manner as the Society may think fit for the purposes of the Society.

(4) The Society shall submit annually to the Attorney-General an account of all such fees and of their application and shall cause a copy of the account to be deposited at a convenient place at the Society's office for inspection by any legal practitioner.

Date and expiry  
of practising  
certificate

32. (1) Every practising certificate shall have effect from the beginning of the day of which it bears the date, and that date shall be entered by the Registrar in the register kept under section 29(2).

(2) Subject to subsection (3), every practising certificate shall expire at the end of 31st December next after it is issued.

(3) Where the name of any legal practitioner is removed from the roll, any practising certificate of that legal practitioner for the time being in force shall expire forthwith and the date of such expiration shall be entered in the register kept under section 29(2).

(4) If any legal practitioner fails to apply for a practising certificate for any year after the expiration of his certificate the Registrar shall notify the legal practitioner of the expiration of his practising certificate by means of a registered letter posted to him at his last known address, and if after 30 days of the posting of such letter the practitioner has not applied for such certificate, the Registrar shall remove the name of the legal practitioner from the roll.

(5) A name removed from the roll in terms of subsection (4) may be restored to the roll on an application for a practising certificate made by the legal practitioner concerned and on payment of the prescribed fees.

#### PART V — *Fidelity Guarantee Fund*

33. (1) There shall be established and maintained by the Society a fund to be known as the Fidelity Guarantee Fund (in this Part referred to as "the Fund") to be administered in accordance with the provisions of this Part.

Establishment  
of Fund

(2) Every practising legal practitioner, other than an advocate and the persons specified in the First Schedule, shall be a member of the Fund.

34. The Fund shall vest in and be administered by a Board of Trustees (in this Part referred to as "the Board") who shall hold the Fund on trust for the purpose of reimbursing any person who has sustained loss or hardship in consequence of dishonesty on the part of a legal practitioner, or of any employee of a legal practitioner, in connexion with that legal practitioner's practice.

Fund to vest  
in Board of  
trustees

35. (1) The Board shall consist of three persons appointed by the Council, namely —

Appointment  
of Board of  
trustees

(a) two members of the Society who are at least of 10 years standing as legal practitioners; and

(b) a chartered accountant practising in Botswana who is a member of the Institute of Accountants established by the Accountants Act, 1988.

Act No. 16  
of 1988

(2) The Council may, in respect of each member appointed by it under subsection (1), appoint an alternate member with the same qualifications as the member appointed under subsection (1).

(3) The members of the Board shall hold office for a period of three years from the date of appointment.

(4) The Secretary of the Society shall be Secretary of the Board.

(5) The Board shall annually elect a chairman.

(6) If the chairman is absent from any meeting, the Board shall elect a chairman from among its number for that meeting.

(7) The Board shall meet at such times and places as it or its chairman may determine from time to time.

(8) The Board shall regulate its own proceedings.

36. Any person intending to apply for a practising certificate shall, prior to doing so, apply to the Secretary for a fidelity fund certificate.

Application for  
fidelity fund  
certificate

37. The Secretary shall issue a fidelity fund certificate to a person who applies for one if he is satisfied that the applicant's name is on the roll and he is not suspended from practice.

Issue of fidelity  
fund certificate

38. (1) There shall be paid to the Secretary in respect of each fidelity fund certificate issued by him, before the certificate is issued, a fee (in this Part referred to as "the annual contribution") to be prescribed under section 54.

Contribution to  
Fund

Investment of  
Fund  
Act No. 13 of  
1995  
Cap. 42:03

Accounts to be  
kept

Professional  
indemnity

Moneys to the  
credit of Fund

Application of  
Fund

(2) All annual contributions received by the Secretary under this section shall be paid into the Fund.

39. The Board may invest in any interest bearing account with any bank licensed under the Banking Act, or in any building society registered under the Building Societies Act or in any government securities any moneys which form part of the Fund and are not immediately required for any other purpose provided for by this Part.

40. (1) The Board shall cause proper accounts of the Fund to be kept and audited by a chartered accountant appointed by the Board, who is a member of the Institute of Accountants established by the Accountants Act, 1988, who is not a member of the Board or partner or employee or spouse of any member of the Board.

(2) The accountant appointed under subsection (1) shall, within three months of the end of the year, present to the Board the audited accounts as on 31st December in every year.

41. (1) The Board may enter into a contract with any person or company carrying on fidelity insurance business in Botswana whereby the Fund will be indemnified to the extent and in the manner provided in such contract against liability to pay claims under this Part.

(2) A contract referred to under subsection (1) shall be entered into in respect of legal practitioners generally.

(3) A person claiming against the Board shall not have —

(a) any right of action against any person or company with whom a contract of indemnity has been entered in terms of this section in respect of such contract; or

(b) any right to any money paid by the insurer in accordance with such contract.

(4) Money paid by an insurer in accordance with a contract referred to under subsection (1) shall be paid into the Fund for appropriation by the Board.

42. There shall be carried to the credit of the Fund —

(a) all annual contributions paid to the Secretary in pursuance of section 38;

(b) all interest, dividends and other income and accretions of capital arising from the investment of the Fund or any part thereof;

(c) the proceeds of any realisation of any investment of the Fund;

(d) all sums received by the Board under any contract of indemnity effected by the Board under section 41;

(e) all sums received by the Board as a result of its subrogation under section 44(2) and by way of interest payments under section 45(3); and

(f) any other moneys which may belong or accrue to the Fund or be received by the Society for the Fund.

43. All moneys from time to time forming part of the Fund and all investments of the Fund shall be applied —

(a) to payment of any costs, charges and expenses of establishing, maintaining, administering and operating the Fund;

- (b) to payment of any premiums on assurances effected by the Board under section 41;
- (c) to payment of any grant which the Board may make under section 44; and
- (d) to payment of any other sums properly payable out of the Fund by virtue of the provisions of this Part.

44. (1) Where it is proved to the satisfaction of the Board that any person has sustained loss or hardship in consequence of dishonesty referred to in section 34, the Board may make a grant to that person out of the Fund for the purpose of relieving or mitigating that loss or hardship.

Payment of  
compensation  
for loss due to  
dishonesty

(2) On the making by the Board of any grant under this section to any person in respect of any loss —

- (a) the Board shall, to the amount of that grant, be subrogated to any rights and remedies in respect of that loss of the person to whom the grant is made; and
- (b) the person to whom the grant is made shall have no right under insolvency or other legal proceedings or otherwise to receive any sum out of the assets of the legal practitioner or his employee in respect of the loss until the Board has been reimbursed the full amount of its grant.

(3) For the purposes of paragraphs (a) and (b) of subsection (2), reference to the person to whom the grant is made includes, in the event of his death, insolvency or other disability, his personal representative or any other person having authority to administer his estate.

#### PART VI — *Trust Accounts and Notaries Protocols*

45. (1) Every legal practitioner practising on his own or in partnership, other than an advocate or any person specified in the First Schedule, shall open and keep a separate trust account with a bank licensed under the Banking Act, in which he shall deposit all moneys held or received by him in connexion with his practice in Botswana on account of any person.

Trust accounts

(2) A legal practitioner may invest in a separate savings or other interest-bearing account opened by him with any bank licensed under the Banking Act or a building society registered under the Building Societies Act any money deposited in his trust account which is not immediately required for any particular purpose.

(3) The interest, if any, on money deposited in terms of subsection (1) and the interest on money invested in terms of subsection (2) shall, after the deduction of actual costs incurred in the performance of any duty imposed upon the legal practitioner under this section, be paid over to the Fund by the legal practitioner concerned at the prescribed time and in the manner prescribed.

(4) Notwithstanding the provisions of subsections (2) and (3), regulations may prescribe the mode of investing any money deposited in a trust account which is not immediately required for any particular purpose and the manner of dealing with any interest accruing on such money.

(5) A legal practitioner shall, at the end of every three months furnish the Society with a certified copy of the bank statement of his trust account.

(6) A legal practitioner operating a trust account in accordance with the provisions of subsection (1) shall keep proper books of account containing particulars and information as to moneys received, held or paid by him for or on account of any person.

(7) The legal practitioner shall cause the trust account to be audited once in every year by a chartered accountant who is a member of the Botswana Institute of Accountants established by the Accountants Act, 1988, and the accountant shall submit to the Council a report containing such information as may be prescribed.

(8) The Council or a person nominated by it may inspect the accounting records of the trust account of any legal practitioner in order to satisfy itself that the provisions of subsections (1) and (6) are being complied with, and if it is found upon such inspection that the records of the trust account have not been properly kept, the Council shall cause the records of the account of the legal practitioner to be written up and recover the costs of the inspection or of such writing up, as the case may be, from that legal practitioner.

(9) No amount standing to the credit of such trust account in the bank shall form part of the assets of the legal practitioner concerned and no such amount and the interest accruing thereon shall be liable to attachment at the instance of any creditor of the legal practitioner:

Provided that any excess remaining after payment of the claims of all persons whose moneys have, or should have, been deposited in the trust account shall be deemed to form part of the assets of that legal practitioner.

(10) Upon an application made by the Council to the court and upon good cause shown, the court may prohibit any legal practitioner from operating in any way his trust account or any other account opened or operated by the legal practitioner and, if there is reason to believe that trust moneys have been improperly deposited in any other account, the court may appoint a *curator bonis* to control and administer such account.

(11) Upon the death or insolvency of, or the assignment of his estate by a legal practitioner or in the event of a legal practitioner being removed from the roll or being suspended from practice or being declared by a court of competent jurisdiction to be incapable of managing his own affairs, or abandoning his practice, the Master may, upon an application made by the Council or by any person having an interest in the trust account of the legal practitioner, appoint a *curator bonis* to control and administer the trust account.

(12) Any person aggrieved by a decision of the Master under subsection (11) may, within 30 days after the decision became known to him, appeal to the court which may confirm or vary the decision of the Master or give such other decision as in its opinion the Master ought to have given.

(13) Nothing in subsection (11) or (12) shall be construed as preventing any legal practitioner practising in partnership with a legal practitioner referred to in subsection (11) from continuing to operate the trust account of that partnership.

(14) Any bank at which a legal practitioner keeps such trust account shall not, by reason only of the name or style by which the account is distinguished, be deemed to have knowledge that the legal practitioner is not entitled absolutely to all moneys paid or credited to the account:

Provided that nothing in this subsection shall relieve a bank from any liability or obligation under which it would be apart from this Act.

(15) A bank at which a legal practitioner keeps a trust account shall not, in respect of any liability of the legal practitioner, not being a liability arising out of or in connexion with the account, have or obtain any recourse or right, whether by way of set-off, counterclaim, charge or otherwise against moneys standing to the credit of the account.

46. (1) Every notary practising in Botswana shall keep a book to be called the protocol register, in which he shall register all deeds notarised by him in the order in which they are notarised.

Examination  
of protocol and  
registers of  
notaries

(2) The protocol register shall contain in columns the following—

- (a) distinguishing number;
- (b) date of execution;
- (c) nature and designation of the deed;
- (d) full names and the appearers;
- (e) date of registration; and
- (f) amount of duty affixed to each deed.

(3) Notaries shall cause all instruments to be neatly and securely bound together when they amount in number to 100.

(4) After receiving 48 hours' written notice, a notary shall produce his protocols and registers to a commissioner who shall be appointed for that purpose by the Council for inspection at such time and place as it may direct.

(5) The commissioner appointed under subsection (4) shall make his examination as soon as possible after the first day of January and the first day of July in each year and report the results of his investigations to the Council.

(6) If any notary public ceases to practise as such, he, or if he is dead, his executor, shall within a reasonable time deliver the notary's protocol and register to the Registrar who shall file them on record.

**PART VII *Disciplinary Committee***

Appointment of  
Disciplinary  
Committee

47. (1) There shall be a Disciplinary Committee of the Council which shall consist of five members appointed by the Council from among its members or from members of the Society.

(2) The Council may remove any member from the Disciplinary Committee, but not while he is hearing a disciplinary case, and fill any vacancy therein.

(3) The Minister may by statutory instrument increase the number of members of the Disciplinary Committee.

Secretary of  
Disciplinary  
Committee

48. The Secretary of the Society shall be the Secretary of the Disciplinary Committee.

**PART VIII *Misconduct***

Complaint  
against legal  
practitioner

49. (1) A complaint of professional misconduct, against a legal practitioner which expression includes disgraceful or dishonourable conduct incompatible with the status of a legal practitioner, may be made to the Council by any person.

(2) Upon receipt of a complaint, the Secretary shall refer the complaint to the Disciplinary Committee, and a copy of the complaint shall be given to the Attorney-General by the Secretary.

Investigation  
of complaint  
by  
Disciplinary  
Committee

50. (1) Where a complaint is referred to the Disciplinary Committee, the Disciplinary Committee shall investigate such complaint by making such inquiries as it may think fit.

(2) Where the Disciplinary Committee is of the opinion that the complaint discloses a prima facie case of unprofessional conduct on the part of the legal practitioner, it shall furnish the legal practitioner with particulars of the complaint and call on him to furnish it with his explanation regarding the complaint within a specified time.

(3) If the Disciplinary Committee, after considering the complaint, is of the opinion that professional misconduct has been established, it may —

(a) warn or reprimand the practitioner; or

(b) impose a fine not exceeding P10,000 on the legal practitioner.

(4) If the Disciplinary Committee considers that the professional misconduct established under subsection (3) is so serious as to warrant the suspension of the legal practitioner or the removal of his name from the roll, it shall recommend to the Council to apply to the court —

(a) to suspend him from practising for a specified period; or

(b) to have his name removed from the roll.

(5) A copy of the recommendation shall be served on the Attorney-General by the Secretary.

(6) A fine imposed on a legal practitioner under subsection (3)(b) shall be deemed to be an exercise of the civil jurisdiction of a court of competent jurisdiction in an action between the Society as plaintiff and the legal practitioner as defendant and such fine shall be enforceable in the same manner and be subject to the like appeal as are orders or judgments of a court of competent jurisdiction.



(7) Without prejudice to any other remedy, where a fine imposed on a legal practitioner under this section is not paid within 14 days after the making of the order imposing the fine, the Disciplinary Committee may issue a writ of execution directed to the Secretary of the Society to attach such movable or immovable property of the legal practitioner, as may be specified in the writ, and to sell such property by public auction to satisfy the order made against the legal practitioner.

51. (1) When a recommendation is made in terms of section 50(4) to the Council, the Council shall, if it thinks that there are sufficient grounds to support a charge of professional misconduct on the part of the legal practitioner, apply to the court for the suspension of the practitioner from practising or the removal of his name from the roll.

Suspension or  
removal of  
name from roll

(2) An application to the court to suspend a legal practitioner from practising or to remove his name from the roll may be made by the Council by way of motion to the court, supported by an affidavit of the facts on which the application is based.

(3) Without prejudice to the provisions of subsection (2), the court may order that any question of fact shall be tried by pleadings or otherwise as the court shall deem fit.

(4) On the hearing of any application made under subsection (1), the court may make an order that the legal practitioner concerned be suspended from practising or his name be removed from the roll, as the case may be, and may make such other order in relation to the application as it may think fit.

(5) A copy of the decision of the court and the proceedings thereof shall be given to the Attorney-General.

(6) Where the Disciplinary Committee fails to take any action in respect of a complaint referred to it under section 49 or the Council fails to carry out any recommendation made to it under section 50(4), the Attorney-General may, if he has reasonable cause to believe that the complaint or recommendation, as case may be, relates to serious professional misconduct committed by the legal practitioner, apply to the court for the suspension of the legal practitioner from practising or the removal of his name from the roll, and the provisions of subsection (2) shall apply as if the application had been made by the Council.

(7) Without prejudice to the preceding provisions of this section, the Registrar shall remove from the roll the name of any legal practitioner who is convicted of an offence involving dishonesty, or moral turpitude, and he has not appealed against the conviction within the time specified for noting an appeal or if he has appealed, his appeal has been dismissed on the final hearing thereof.

(8) A legal practitioner who has appealed against his conviction for an offence involving dishonesty or moral turpitude shall not practise as legal practitioner until his appeal has been allowed on the final hearing thereof.

(9) The Attorney-General, the members of the Council, and the Disciplinary Committee shall not be subject or liable to any action or proceedings for damages in the bona fide execution of their duties and the



Definition of  
misconduct

taking of any steps or the institution of any proceedings under or purporting to be under the provisions of this Act.

52. (1) Without prejudice to the provisions of section 49(1), misconduct on the part of a legal practitioner includes, *inter alia*, the commission of any of the following acts —

- (a) touting;
- (b) advertising;
- (c) tendering or offering in response to advertisements, circulars or similar invitations either directly or indirectly for the performance of any work or business proper to the calling of a legal practitioner or commonly associated therewith;
- (d) allowing his name with all or any of his qualifications of advocate, attorney, notary or conveyancer to appear by way of advertisement or notification or by way of information upon any business letter heads, accounts or other documents whatsoever in conjunction with the name of a person not being an attorney;
- (e) entering into or continuing to be a party to any contract or arrangement with an unqualified person the effect whereof is to place him under such control on the part of such unqualified person as may interfere with his independence as an officer of the court; or
- (f) committing any act which may be prescribed as misconduct.

(2) Misconduct on the part of an attorney, notary or conveyancer shall include, *inter alia*, the commission of any of the following acts —

- (a) giving or taking allowances in contravention of the provisions of this Act or of any other law;
- (b) withholding the payment of trust moneys without lawful cause;
- (c) in any way assisting, allowing or enabling an unqualified person to charge, recover or receive any fee or derive any remuneration in respect of or in connexion with the preparation or execution of any document or the performance of any professional work which only an attorney, notary or conveyancer, as the case may be, is qualified by law to prepare, sign, execute, attest or perform, or in any way conniving at any arrangement, agreement or understanding whatsoever whereby any such fee or remuneration is or shall be charged, recovered or received, by any such unqualified person;
- (d) opening or maintaining any office or branch which is not under the continuous personal supervision of an attorney;
- (e) keeping the accounts of his business as an attorney, notary or conveyancer in the books of accounts utilized in connexion with any other business in which he may be interested jointly with an unqualified person;
- (f) remunerating an employee who is an unqualified person by way of a share in the profits of his business as an attorney, notary or conveyancer;

- (g) referring to or mentioning his professional qualifications of attorney, notary or conveyancer or any one or more of them, on his sale advertisements by a legal practitioner who also carries on the business of an auctioneer;
- (h) assisting any unqualified person to recover charges for services rendered by including the same in any bill of costs or memorandum of charges rendered by him as a legal practitioner, without disclosing the facts in such bill or memorandum;
- (i) entering into or continuing to be a party to any contract of partnership with or of employment by a person not being an attorney in estate and general agency the direct or indirect result whereof is to enable the unqualified person to enjoy or participate in fees reserved to a legal practitioner only or to secure for the legal practitioner the benefit of professional business solicited by the unqualified person;
- (j) committing any act which may be prescribed as misconduct.

#### PART IX — *Offences*

53. (1) No person, other than a legal practitioner, admitted and enrolled, shall practise as such within Botswana or in any manner hold himself out as or pretend to be, make use of any words or any name, title or addition or description implying or tending to the belief that he is a legal practitioner or is recognised by law as such.

Offences

(2) No person shall orally or by means of any written or printed matter or in any manner whatsoever, directly or indirectly, either for himself or for any other person, canvass, advertise or tout for, or make known his preparedness or that of such other person to undertake any work, whether for or without remuneration, in connexion with the administration or liquidation or distribution of the estate of any deceased or insolvent person, lunatic, or person under other disability.

(3) No legal practitioner whose name has been removed from the roll or who has been suspended from practice shall, while his name is removed from the roll or he is suspended, continue to practise as a legal practitioner directly or indirectly by himself or in partnership or association with any other person.

(4) No legal practitioner shall employ in any capacity whatsoever any person whose name has been removed from the roll or suspended from practice while the name of such person is removed from or he is suspended.

(5) No legal practitioner shall make over, share or divide with any person other than a legal practitioner in Botswana or a legal practitioner outside Botswana, either by way of partnership, commission or allowance or in any other manner, any portion whatsoever of his professional fees.

(6) Any person contravening the provisions of subsections (1) to (5) shall be guilty of an offence and on conviction shall be liable to a fine not exceeding P2,000 for each offence:

Provided that it shall not be deemed to be a contravention of subsection (2) if —

- (a) any board of executors or trust company (not being a private company within the meaning of the law relating to companies) —
    - (i) has in its name or title words indicating that its objects or functions include work in connexion with the administration, liquidation or distribution of any estate mentioned in subsection (2), or
    - (ii) on signboards, nameplates, or notices exhibited on the premises in which it carries on business, on its stationery, or on its usual annual almanacs or in any advertisement in the public press, or in its annual reports of the proceedings at an annual general meeting makes known by a simple statement to that effect that its objects or functions include any such work;
  - (b) any person in reply to a direct inquiry voluntarily made of him by someone else makes known the preparedness of himself or some other person to perform any such work;
  - (c) any shareholder or employee of a board of executors or trust company described in paragraph (a) canvasses another shareholder or employee of the same board of executors or trust company on behalf of such board or company; or
  - (d) any attorney, notary or conveyancer or any commercial banking institution or any such board of executors or trust company indicates in any public notice required by law in connexion with the liquidation or administration of any estate, that he does such work.
- (7) Any attorney, notary or conveyancer who contravenes the provisions of section 45(1) shall be guilty of an offence and on conviction shall be liable to a fine not exceeding P5,000 or to imprisonment for a term not exceeding six months, or to both.
- (8) Any court convicting a legal practitioner under subsection (7) shall, in addition to the penalty prescribed therein, order the legal practitioner to refund any money which he failed to deposit in his trust account and to pay to the Fund the interest which would have accrued if the money had been so kept in deposit.
- (9) Any legal practitioner contravening the provisions of subsection (2), (4), (5) or section 45(1) shall be guilty of professional misconduct and shall, in addition to the liability imposed by subsection (6), (7), or (8) be liable to have his name removed from the roll or be suspended from practice on the application by the Council under section 51(2) or by the Attorney-General under section 51(6) to the court.
- (10) Except as provided in subsection (11) any person, not being a practising legal practitioner, who for or in expectation of any fee, gain or reward, direct or indirect, to himself or to any other person, draws or prepares or causes to be drawn or prepared any of the following documents —

- (a) any contract, deed or instrument relating to land or immovable property, other than conditions of sale or brokers' notes;
- (b) any will or other testamentary instrument;
- (c) any memorandum or articles of association or prospectus of any company;
- (d) any contract, deed or instrument relating to the creation or dissolution of any partnership or any variation of the terms thereof; or
- (e) any instrument or document relating to or required for use in any action, suit or other proceeding in a court of civil jurisdiction within Botswana,

shall be guilty of an offence and on conviction shall be liable in respect of each offence to a fine not exceeding P500 and, in default of payment thereof, to imprisonment for a term not exceeding three months:

Provided that the words "fee, gain or reward direct or indirect" shall not include or apply to —

- (i) the salary or emoluments of an employee if no fee, gain or reward is sought or obtained by his employer from the person on whose behalf the document was drawn or prepared, or
  - (ii) any commission or other remuneration to which any person is or may be entitled either by law or otherwise for service in his capacity as executor, administrator, trustee, curator, tutor or guardian by virtue of his appointment as such by any court or under the provisions of any will or other testamentary instrument, or as agent for any person holding such appointment.
- (11) The provisions of subsection (10) shall not apply to —
- (a) any person in the employ of a practising attorney, notary or conveyancer, drawing or preparing or causing to be drawn or prepared any such documents in the course of his employment and on behalf of his employer;
  - (b) any person in the service of the Government drawing or preparing or causing to be prepared any of the documents in the course of his duty;
  - (c) any trustee under the written laws relating to insolvency or any executor, administrator or curator or any liquidator of a company drawing or preparing any such document in the course of his statutory duties and receiving such fees as may be allowed by law; or
  - (d) any practising advocate in so far as he would be entitled to draw or prepare any of the documents referred to in paragraphs (a) to (c) in the ordinary course of his profession.

#### *PART X Power to make Regulations*

54. The Chief Justice may, in consultation with the Minister and the Council, make regulations —

Regulations

- (a) prescribing, other than the fees to be prescribed under section 7(3), anything which in terms of Parts I to IX is to be made by regulations or, is to be prescribed;
- (b) to prescribe the fees or charges which may be made by the Registrar in the performance of his functions under this Act; and
- (c) prescribing the fees or allowances payable to members of the Disciplinary Committee.

## PART XI — *The Law Society of Botswana*

### *Establishment of Society*

Establishment  
of Society

**55.** (1) There shall be established a body to be called the Law Society of Botswana (in this Act referred to as "the Society").

(2) The Society shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The Society shall not, as a body corporate, be subject to any disability as regards the holding of land to which an individual would not be subject.

### *Membership*

Membership

**56.** The membership of the Society shall consist of —

- (a) any person who holds a practising certificate issued under this Act and has paid any prescribed subscription and undertakes to *do pro deo or pro bono* work;
- (b) any member of the Attorney-General's Chambers who has been admitted and enrolled as a legal practitioner;
- (c) any legal practitioner employed by the Government or a statutory corporation.

Annual  
subscription

**57.** Every member of the Society, other than the persons mentioned in the First Schedule, shall pay to the Society such annual subscription as may be prescribed.

Cessation of  
membership

**58.** Any member of the Society whose name is removed from the roll shall cease to be member of the Society.

Functions  
of Society

**59.** The functions for which the Society is established are —

- (a) to promote legal education for the legal profession;
- (b) to uphold standards of professional conduct;
- (c) to assist the Government and the courts in all matters affecting the administration and practice of the law;
- (d) to acquire, hold, develop and dispose of property, whether movable or immovable, and to derive capital or income therefrom, for all or any of the matters mentioned in this section;
- (e) to raise or borrow money for all or any of the matters mentioned herein in such manner and upon such security as may be determined by the Society; and
- (f) to invest and deal with moneys of the Society not immediately required in such manner as may be determined by the Society.

### *Council*

**60.** (1) For the proper management of the affairs of the Society there shall be a Council consisting of seven members, three of whom shall be legal practitioners of at least seven years' standing and at least one of whom shall be a legal practitioner of up to three years' standing; and at least five of the members shall be citizens of Botswana.

Council of  
Society

(2) A quorum of the Council shall be four of the members thereof.

(3) The members of the Council shall be elected at an annual general meeting and shall hold office for a period of two years.

(4) The Council shall, from among its members, elect a chairman and vice-chairman.

(5) The chairman, or in his absence the vice-chairman shall preside at all meetings of the Council, and in the absence of both the chairman and vice-chairman the members present shall elect one of their members to preside at the meeting.

(6) In the event of the death, resignation, removal or disqualification of any member of the Council during his term of office, the vacancy so created may be filled by the Council by co-opting any member of the Society to become a member of the Council until the next election at an annual general meeting.

**61.** Except as otherwise expressly provided by this Act or by any regulations made under this Part, the Council may exercise all the powers of the Society.

Powers of  
Council

**62.** (1) The Council may appoint committees in addition to the Disciplinary Committee, and delegate to them any of the Council's functions.

Appointment  
of committees  
and delegation  
of powers

(2) Any committee appointed under subsection (1) may, with the prior approval of the Council, co-opt additional members, and any such additional member may, but need not be a member of the Society.

**63.** The procedure of the Disciplinary Committee, and of every committee appointed under section 62, shall be prescribed.

Procedure

### *Other Officers*

**64.** (1) The Council shall appoint a Secretary, a treasurer and other officers of the Society.

Officers of  
Society

(2) The Secretary of the Society shall be the Secretary of the Council.

### *General Meetings*

**65.** The Council shall in each year convene an ordinary general meeting of the Society.

Ordinary  
general  
meeting

**66.** (1) The Council may at any time convene a special general meeting of the Society.

Special  
general  
meeting

(2) At least, 25 per cent of the members of the Society may at any time requisition a special meeting of the Society by written notice signed by all of them, specifying the object of the proposed meeting and sent by

Convening  
and  
procedure of  
meetings

post, or delivered to the Secretary of the Society; and the Council shall thereupon convene a special general meeting of the Society.

67. The manner of convening general meetings of the Society and the procedure and voting at such meetings shall, subject to any express provisions of this Part, be prescribed.

#### *Common Seal*

Common Seal

68. The common seal of the Society shall be kept in the custody of the Secretary and used in such manner as may be prescribed.

#### *Minutes, Accounts and Reports*

Minutes

69. The Council shall cause proper minutes of all general meetings of the Society and of all meetings of the Council to be taken and recorded.

Accounts to  
be kept

70. (1) The Council shall cause proper accounts of all funds, property, assets and liabilities of the Society to be kept, and to be audited in every year.

(2) The audited accounts shall be presented by the Council to the ordinary general meeting.

Annual report

71. The Council shall present to the ordinary general meeting a full report of the activities of the Society.

#### *Regulations*

Regulations

72. (1) The Council may, subject to approval by a special resolution, make regulations, providing for any matter which under this Part is to be provided for by regulations or is to be prescribed, which shall be binding on all members of the Society, and in addition prescribing all or any of the following matters —

- (a) regulation of powers exercisable by the Council and any committees thereof, and delegation of powers;
- (b) manner of convening general meetings of the Society, and quorums and procedure thereof;
- (c) manner of election, removal and replacement of the chairman, the vice-chairman and the other members of the Council, and of representatives of the Society on the Disciplinary Committee;
- (d) such other matters as may be deemed by the Council to be necessary for the promotion of the functions and the regulation of the affairs of the Society.

(2) For the purposes of this section, "special resolution" means a resolution passed by not less than two-thirds of members of the Society as may be present and vote thereon at a general meeting of the Society duly convened with notice of the intention to propose such resolution.

#### *PART XII — Miscellaneous Provisions*

Regulations to  
be made by  
Minister

73. The Minister may, by statutory instrument, make regulations —

- (a) prescribing the fees to be paid by foreign advocates under section 7; and
- (b) amending the fees prescribed in the Fourth and Fifth Schedules.

74. The Legal Practitioners Act is hereby repealed.

Repeal of  
Cap. 61:01

75. Notwithstanding the repeal effected under section 74, any person admitted and enrolled to practise as a legal practitioner immediately before the commencement of this Act shall be deemed to have been so admitted and enrolled under this Act.

Savings

76. The name of any person who is neither a citizen nor ordinarily resident in Botswana and who has been admitted and enrolled to practise as a legal practitioner immediately before the commencement of this Act shall, on the 31st December of the second year after the commencement of this Act, be removed from the roll unless he satisfies the Registrar that he intends to reside permanently in Botswana.

Transitional  
provision

77. Any complaint of professional misconduct made against any legal practitioner which was pending before the Legal Practitioners Committee immediately before the commencement of this Act shall be deemed to have been made under the corresponding provision of this Act:

Pending  
proceedings

Provided that where any disciplinary proceedings is part-heard, the Committee shall continue with the proceedings until it is finally disposed of.

78. Rules and regulations made under any provision of the Legal Practitioners Act, and in force immediately before the commencement of this Act shall continue in force and shall be deemed to have been made under the corresponding provision of this Act.

Continuance  
of rules and  
regulations  
Cap. 61:01

#### FIRST SCHEDULE

(sections 3(2), 33(2) and 45)

(1) The Attorney-General or any legal practitioner in the Attorney-General's Chambers.

(2) Any person admitted and enrolled who is employed either by the Government or by a statutory corporation.

(3) Any person delegated by the Attorney-General to appear on behalf of the State in criminal matters.

#### SECOND SCHEDULE

(section 4(1)(b)(ii))

Universities in the United Kingdom of Great Britain and Northern Ireland

Universities in the Republic of Ireland

Universities in the Republic of South Africa

American University, Washington D.C., U.S.A.

Syracuse University, Syracuse, New York, U.S.A.

University of Zambia

University of Ghana

Universities in Australia



THIRD SCHEDULE

Form A

(section 12)

OATH OR AFFIRMATION OF OFFICE

(In the courts of Botswana)

I, .....  
do swear (or do solemnly affirm) that I will truly and honestly demean myself in the practice  
of.....  
according to the best of my knowledge and ability.

(In the case of an Oath here add)

**So help me God**

.....

Sworn (or affirmed) before me.....

at ..... this ..... day of ..... 19.....

.....  
**REGISTRAR**

**Form B**

(section 14(2))

**CERTIFICATE OF ADMISSION AND ENROLMENT**

(In the courts of Botswana)

No.....

This is to certify that.....

.....

of.....has been admitted and enrolled as legal practitioner [notary  
public/conveyancer] of the courts of Botswana

.....

**REGISTRAR**

Lobatse, Botswana

Date.....

**B.134**

**Form C**

(section 30)

**PRACTISING CERTIFICATE**

PURSUANT to the Legal Practitioners Act, it is hereby certified that.....

.....

whose name is enrolled in the roll of legal practitioners is entitled to practise as.....

.....

(insert capacity or capacities in which the holder is entitled to practise)

in the year ending on 31st December, 19.....

Dated this.....day of.....19.....

.....  
**REGISTRAR**

**FOURTH SCHEDULE**

(sections 14(1) and 15(3))

**FEES PAYABLE ON ADMISSION AND ENROLMENT**

Any person entitled to be admitted and enrolled as an advocate, attorney, notary public or conveyancer listed below in the first column of this form shall pay the fee specified in relation to such calling in the second column.

*First Column*

*Second Column*  
*Fees*

Advocate or attorney  
Conveyancer  
Notary Public

P100  
P100  
P 50

## FIFTH SCHEDULE

(section 31)

## ANNUAL FEES FOR PRACTISING CERTIFICATES

Any person applying for a practising certificate to practise in any of the capacities of a legal practitioner listed below in the first column of this form shall pay the fee specified in the second column in relation to such capacity.

<i>Legal Practitioner</i>	<i>fees</i>
Advocate or Attorney	P1 500
Conveyancer	P 300
Notary	P 100

L2/4/58 II