



ANALYSIS

Title	
1.	Short Title
2.	Interpretation
<u>PART I - ADMISSION TO THE PROFESSION</u>	
3.	Enrolment
4.	Admission of Practitioners
5.	Admission Fees
6.	The Legal Profession
<u>PART II - PROFESSIONAL MISCONDUCT</u>	
7.	Complaints of Professional Misconduct
8.	Inquiry
9.	Additional Powers of Judge
11.	Interim Suspension
11.	Costs and Expenses
12.	Evidence
13.	Appeals
<u>PART III - PROFESSIONAL CHARGES</u>	
14.	Solicitors Bills of Costs
15.	Agreements for Costs
16.	Costs Chargeable
17.	Scale of Fees
18.	Recovery of Costs
19.	Taxation of Costs
<u>PART IV - TRUST ACCOUNTS</u>	
20.	Trust Accounts
21.	Trust Receipts
22.	Audit of Trust Account
23.	Auditors
24.	Irregularities
25.	Suspension of Trust Accounts
<u>PART V - SOLICITORS FIDELITY GUARANTEE FUND</u>	
26.	Solicitors Fidelity Guarantee Fund
27.	Basic Income of Fund
28.	Levies
29.	Investments
30.	Expenditure
31.	Claims Against the Fund
32.	Investigation of Solicitors
<u>PART VI - THE COOK ISLANDS LAW SOCIETY</u>	
33.	Cook Islands Law Society
<u>PART VII - STATUTORY AGENTS</u>	
34.	Appointment of Agents
<u>PART VIII - PROFESSIONAL ETHICS</u>	
35.	Conduct of Practitioners
<u>PART IX - MISCELLANEOUS PROVISIONS</u>	
36.	Penalties
37.	Regulations
	Schedule

1978, No. 4

An Act to make provision for Regulating the Practice of Law

(15 June 1978)

Price 20c

BE IT ENACTED by the Legislative Assembly of the Cook Islands in session assembled and by the authority of the same as follows:-

1. Short Title - This Act may be cited as the Law Practitioners Act, 1978.

2. Interpretation - In this Act unless the context otherwise requires:-

"Barrister" means a person enrolled as a Barrister of the Court and includes any Barrister entitled to practice as such in New Zealand.

"Court" means the High Court of Rarotonga and includes a Judge thereof.

"Judge" means the Chief Justice of the High Court or any Judge appointed by the Chief Justice to act in his stead.

"Practising Certificate" means a Certificate issued under this Act or under the Law Practitioners Act 1955 of New Zealand.

"Practitioner" means a person enrolled as a Barrister or Solicitor as the case may be pursuant to this Act.

"Registrar" means a Registrar of the High Court of Rarotonga.

"Roll" means the Roll of Barristers or the Roll of Solicitors as the case may be kept by the Registrar under this Act.

"Solicitor" means a person enrolled as a Solicitor of the Court pursuant to this Act or any Solicitor entitled to practice under the laws of New Zealand.

PART I - ADMISSION TO THE PROFESSION

3. Enrolment - (1) The Registrar shall keep in his office a Roll of Barristers of the Court and a Roll of Solicitors of the Court.

(2) Upon the making by the Court of an Order admitting any person as a Barrister or as a Solicitor and upon payment of the prescribed fee, the Registrar shall place the name of that person on the appropriate Roll.

(3) The Court may at any time make an Order that the name of any Practitioner be struck off or removed from the Roll, and in such event the Registrar shall forthwith strike the name of the Practitioner off the Roll or remove it from the Roll and make entry of the date and effect of the Order.

(4) Upon an Order made by the Court that the name of any Practitioner be restored to the Roll, and upon payment of the prescribed restoration fee, the Registrar shall restore the name of the Practitioner to the Roll and make an entry of the date and effect of the Order accordingly.

4. Admission of Practitioners - (1) Every person shall be qualified for admission as a Barrister or Solicitor as the case may be who:-

- (a) Has been admitted as a Barrister or Solicitor as the case may be pursuant to the laws of New Zealand; or

(b) In the opinion of the Court has passed any suitable examination in law and who has been a Practitioner in law for a period not less than three (3) years and who is a fit and proper person to practice law as a Barrister or Solicitor as the case may be.

(2) Upon application being made by any candidate for admission in accordance with this Section, the Court if satisfied that the candidate is duly qualified and is of good character and is a fit and proper person to be admitted shall after the candidate has taken the oath as prescribed by this Act make an Order admitting the candidate as a Barrister or as a Solicitor of the Court or both as the case may be.

(3) Every person before he is admitted as a Barrister or Solicitor shall take the oath of allegiance and the following oath:-

"Iswear that I will truly and honestly conduct myself in the practice of a Barrister or Solicitor according to the best of my knowledge and ability".

5. Admission Fees - The High Commissioner by Order in Executive Council may from time to time prescribe the fees to be paid for admission as a Barrister and as a Solicitor, providing however that such fees may differentiate between Practitioners practising in the Cook Islands on a permanent basis and those practising on a casual or temporary basis.

6. The Legal Profession - (1) No person shall act as a Barrister or as a solicitor in any Court who is not at the time of his so acting duly enrolled as a Barrister or as a Solicitor under this Act.

(2) Every person commits an offence against this Section who not being duly enrolled as a Barrister or as a Solicitor under this Act acts as a Barrister or as a Solicitor or holds himself out as being qualified to act as a Barrister or as a Solicitor or takes or uses any name, title, addition or description implying or likely to lead any person to believe that he is qualified to so act.

(3) Every person shall be deemed to be guilty of professional misconduct who acts as an agent in any action or matter or in Court for or on behalf of any person who to his knowledge is not duly qualified and entitled to act as a Barrister or Solicitor.

PART II - PROFESSIONAL MISCONDUCT

7. Complaints of Professional Misconduct - (1) Any person may make application to the Registrar or the Court by way of a complaint against the conduct of any Practitioner or any matter relating to any practitioner authorised to practice in the Cook Islands.

(2) Upon receipt of such complaint the Registrar will refer same to the Judge who will cause an investigation to be made of the complaint or matter.

8. Inquiry - (1) For the purpose of such investigation of any complaint the Judge shall have all powers to obtain all documents and information relevant to the complaint and shall have the right of access to the office of the Solicitor and the books, documents, records of the Practitioner.

(2) For the purpose of conducting this investigation the Judge shall in addition to the foregoing have all the powers of a Commission of Inquiry and may if he thinks fit hold a public hearing for the purpose of considering same and shall allow the complainant and the Barrister or Solicitor against whom the complaint has been made to be represented by Counsel at such inquiry.

(3) At or after such inquiry the Judge may make such Order as in the circumstances seems to him proper but without limiting the foregoing may:-

- (a) Order the Practitioner's name to be struck from the Roll.
- (b) Reprimand the Practitioner.
- (c) Order the Practitioner to rectify the matter which is the subject of the complaint.
- (d) Order the Practitioner to pay costs in connection with the complaint.
- (e) Order the Complainant to pay costs of the Practitioner in connection with the complaint.

9. Additional Powers of Judge - (1) In addition to the foregoing powers the Judge may make an order striking the name of the Practitioner off the Roll upon the grounds:-

- (a) That he has been convicted of a crime involving dishonesty.
- (b) That in the opinion of the Judge the Practitioner has been guilty of misconduct in his professional capacity or of conduct unbecoming a Barrister or Solicitor and by reason thereof is not a fit and proper person to practise as such.
- (c) That in the opinion of the Judge the Practitioner has been guilty of grave impropriety and by reason thereof is not a fit and proper person to practise as a Barrister or as a Solicitor as the case may be.

(2) In any such proceedings the Practitioner in question shall have full opportunity of being heard in his own defence and of employing Counsel to act on his behalf.

10. Interim Suspension - (1) At any time after professional misconduct has been shown to the Judge against any Practitioner under this Act the Judge may without giving any notice to the Practitioner make an order that he be suspended from practice as a Barrister or as a Solicitor or both until the charge has been heard and disposed of.

(2) The Practitioner in respect of whom any interim suspension order is made under this Section may at any time apply to the Judge for revocation of the Order and the Judge may grant or refuse any such application as he thinks fit.

11. Costs and Expenses - (1) After the hearing of any application or enquiry under this Act the Judge may make such Order as to the payment of costs as he thinks fit.

(2) After the hearing of any application or enquiry under this Act the Judge may order the Practitioner to make reinstatement to any person who has suffered loss by the action or inaction of any Practitioner and such shall be a debt due by the Practitioner to the person to whom it is ordered to be paid and shall be recoverable in any Court or competent jurisdiction.

12. Evidence - (1) The Judge may by notice in writing require any person to attend and give evidence before him at the hearing of any application or enquiry under this part of the Act and to produce all books or documents in that person's custody or under his control relating to the subject matter of any such application or enquiry.

(2) Witnesses and Counsel shall have the same privileges and amenity in relation to applications and enquiries under this Act as they would if they were proceedings in a Court of Law.

(3) The Judge may from time to time make rules in respect of hearing and determination of application and enquiries under this part of the Act and insofar as rules are not herein provided.

13. Appeals - (1) An appeal against any Order or Decision of the Judge shall subject to Subsection (2) hereof lie to the Supreme Court of New Zealand at the instance of the Practitioner the person to whom the order or decision relates.

(2) Such appeal shall not be by way of re-hearing but shall lie on questions of law only.

PART III - PROFESSIONAL CHARGES

14. Solicitor's Bills of Costs - Where a Solicitor has transacted any business for any person whether in any Court or not or has or may have a claim for costs against any person the Judge may make an order for the delivery by the Solicitor of a full itemised Bill of Costs and for the delivery of or otherwise in relation to any Deeds, documents or papers in his possession, custody or power.

15. Agreements for Costs - A Solicitor may not in writing agree with any client as to the amount or manner of payment of costs for the whole or any part of any future services either by gross sum or by commission percentage salary or otherwise provided that if the Judge considers the Agreement to be fair and reasonable then he may sanction the making of such Agreement.

16. Costs Chargeable - Any costs charged by any Solicitor or Barrister shall in the opinion of the Court be fair and reasonable having regard to overheads of the Practitioner, the work done for the client and to all relevant matters based upon circumstances pertaining in the Cook Islands.

17. Scale of Fees - The Judge may from time to time or the Assembly may by regulation set down a scale of fees to be applicable in the Cook Islands relating to any transaction or any class of transaction and if such order is made then it shall be an offence for a Solicitor or Barrister to charge in excess of the amount so laid down.

18. Recovery of Costs - (1) No action shall be brought to recover any costs due to a Solicitor or Barrister until one (1) month after the date on which a Bill has been delivered to the person against whom judgement is sought such Bill to be signed by the Solicitor or one of the partners in the case of a firm of Solicitors.

(2) Notwithstanding anything to the contrary in this Act, the Judge may on the application of any Solicitor authorise him to commence or proceed with an action for the recovery of any costs upon proof that there is reasonable cause for believing the person chargeable for the costs is about to leave the Cook Islands or has done or is about to do any other act which would tend to prevent or delay the Solicitor from obtaining payment.

(3) In any proceedings to recover costs by a Solicitor it shall be a defence that the provisions of sections 17 and 18 of the Act have not been complied with in which case the Judge

may award a reasonable sum in lieu of the costs claimed and may award costs to the defendant.

19. Taxation of Costs - where an application for taxation of any Bill of Costs is made then if more than one-tenth (1/10) of the Bill is taxed off the Solicitor shall pay the costs of taxation. Otherwise the party chargeable shall pay the costs of the taxation.

PART IV - TRUST ACCOUNTS

20. Trust Accounts - (1) All money received by a Solicitor for or on behalf of any person shall be held by him exclusively for that person to be paid to that person or as he directs and until it is so paid all such money shall be paid into a Bank to a general or separate Trust Account of that Solicitor.

(2) No such money shall be available for the payment of the debts of any other creditor of the Solicitor nor shall such money be liable to be attached or taken in execution under the order or process of any Court at the instance of any such creditor nor shall such money be available for any other purpose save for the purpose which the Solicitor has received the money.

21. Trust Receipts - Upon receiving any Trust monies the Solicitor shall forthwith issue a Trust Account receipt setting out clearly the purpose for which the funds are lodged with him such receipt to be issued within two (2) days of receipt of the money.

22. Audit of Trust Account - (1) Within ten (10) days of the last day of each month the Solicitor or firm practising shall forward to an Accountant authorised to audit Trust Accounts a list of balances held by him on trust for clients together with a reconciliation of such amount with his Bank Account.

(2) Every Solicitor shall be required to have his books papers and accounts audited not less than four (2) times each year by an Auditor approved under this Act for such purpose.

(3) The Judge may at any time without giving any reason for so doing order any approved Auditor to audit the books, papers and accounts of any Solicitor and on completion of such audit the Auditor shall report in writing to the Judge.

23. Auditors - (1) The Judge may from time to time approve Auditors for the purpose of auditing Solicitors Trust Accounts.

(2) The Auditor shall within one (1) month of the end of each financial year (i.e. 31st March), report to the Judge as to his audit provided however that if the Auditor finds any irregularity in the Trust Account he shall immediately advise the Judge thereof.

(3) Every Solicitor practising shall be obliged to pay the Auditor of his Trust Account his reasonable fees for so doing and in the event of any dispute as to the fee payable to the Auditor it shall be settled by the Judge.

(4) The Auditor shall be subject to the obligation not to divulge otherwise than as prescribed by this Act any matter of which he shall be informed in the course of audit.

24. Irregularities - (1) when the Auditor has reason to believe there is any irregularity in a Solicitor's Trust Account he shall immediately cause an investigation to be made and for this purpose shall have access to all papers, documents, books of the Solicitor and any Bank Account and the records of the Bank.

(2) The results of any such investigation where irregularities are shown to exist shall immediately be reported to the Judge.

25. Suspension of Trust Accounts - (1) Where the Judge is satisfied there is reasonable cause to think that the Solicitor has been guilty of theft or money entrusted to a Solicitor has been stolen by his servant or agent or there is any irregularity or defalcation in the Trust Account the Judge may order the Banker holding the Trust Account to pay all monies held in the Trust Account to the Court and such cash payment shall be a complete discharge of the liability of the Bank and in respect of that money.

(2) Where the Judge is satisfied that any Solicitor is unable to administer a Trust Account owing to physical or mental disability, death, adjudication as a bankrupt, having his name struck from the roll or been suspended from practice or has ceased to practice and has neglected to deal with or wind up his Trust Account after reasonable notice has been given to him may order that any money entrusted to that Solicitor be paid to the Court and any such payment shall be discharged if the Bank has liability for same.

PART V - SOLICITORS FIDELITY GUARANTEE FUND

26. Solicitors Fidelity Guarantee Fund - (1) A fund to be known as the Solicitors Fidelity Guarantee Fund which fund shall be the property of the Court and shall be held in Trust for the purposes hereinafter appearing is hereby established.

(2) The Fund shall be administered by a Trustee who shall be appointed by the Chief Justice.

27. Basic Income of the Fund - Interest shall be payable on all Trust Accounts in the Cook Islands established in the name of or by any Barrister or Solicitor practising in the Cook Islands and the interest payable shall be paid calendar monthly to the Solicitors Fidelity Guarantee Fund.

28. Levies - Levies may be made on all Barristers and Solicitors practising in the Cook Islands of a sum to be paid annually into the Solicitors Fidelity Guarantee Fund and the amount of such levy (if any) is to be set annually by the Judge.

29. Investments - (1) Money in the Solicitors Fidelity Guarantee Fund may be invested at the discretion of the Trustee and all expenses in relation to investment advise thereon be charged against the fund.

(2) The Trustee of the Fund may enter into Contracts of insurance with any person carrying on fidelity insurance business in the Cook Islands, New Zealand or elsewhere and may enter into any such contracts of insurance in relation to Solicitors generally or in relation to any Solicitor or Solicitors named therein. No claimant against the fund shall have any right of action against an insurance company so employed.

30. Expenditure - (1) From the Fund there shall from time to time be paid out as required:-

- (a) The amount of all claims including costs allowed or established against the Fund as hereinafter provided.
- (b) All legal expenses incurred in defending claims made against the Fund or otherwise incurred in relation to the Fund.
- (c) All premiums payable in respect of contracts of insurance entered into by the Trustee for the Fund.
- (d) All refunds made to Solicitors.

- (e) The expenses involved in the administration of the Fund.
- (f) Any other money payable in respect of the Fund which is in the opinion of the Judge just and proper to be so paid.

(2) Authority for payment from the Fund shall be given by the Trustee or by the Judge provided that where any person is interested in payments so made he shall be entitled to be represented and to make submissions in relation thereto.

(3) The accounts of the Fund shall be audited annually by Registered Accountant appointed for the purpose by the Legislative Assembly of the Cook Islands.

31. Claims Against the Fund - (1) The Judge may receive or settle any claim against the Fund at any time after the commission of the theft or defalcation in respect of which the claim arose but no action shall commence in relation to the Fund unless and until the claimant has exhausted all relevant rights of action and other legal remedies against the defaulting Solicitor or any other person in respect of the loss suffered by him.

(2) In any proceedings or claims against the Fund the Trustee shall be represented by Counsel and shall be entitled to claim all the defences that the defaulting Solicitor would have had. Nothing in this procedure shall prevent the Judge from sitting to determine the claims upon the Fund.

(3) On payment out of the Fund the Trustee shall be subrogated to the extent that payment of all the rights and remedies of the claimant against the Solicitor in relation to whom the claim arose or in the event of the death or insolvency or other disability of the Solicitor against his personal representative.

(4) In the event that there is insufficient money in the Fund to meet any claim, the Judge may at his discretion levy all Barristers and Solicitors in practice to make up the shortfall or do whatever in his opinion is necessary to make up the shortfall including if necessary a Petition to the Legislative Assembly.

32. Investigation of Solicitors - (1) On receipt of any complaint where there is reasonable cause to believe that any barrister or Solicitor has been guilty of theft or any improper conduct or where there is reasonable cause to believe that money entrusted to a Solicitor has been stolen by his servant or agent or where the Solicitor is unable owing to any physical or mental disability to properly administer his Trust Account or where the Barrister or Solicitor has died or has been adjudicated bankrupt or been struck off the roll or suspended from practice then the Judge may if in his opinion it is expedient to do so take possession of any ledgers, books of accounts, records, deeds and any other documents belonging to the Solicitor or in his possession or under his control in the course of his practice.

(2) Every person having possession or control of any such ledgers, books of account, records, deeds or other documents who refuses or fails without lawful justification to yield them up commits an offence against this Act.

(3) The Judge may at any time issue a warrant empowering any ledgers, books of account, records, Deeds or other documents required by this Section to be obtained from any premises. Upon receipt of any ledgers, books of accounts, records, deeds or any other documents under this Section the Judge shall forthwith serve on the Solicitor a Notice giving particulars of documents received and the date of receipt.

(4) The reasonable expenses in carrying out the powers of investigation under this Section shall be recoverable from the Solicitor but also claimable from the Fund in the absence of recovery from the Solicitor in question.

(5) The Judge may at any time appoint any person to examine the accounts and records of any Solicitor to furnish him a confidential report as to any irregularity in such accounts or as to any other matter relating to the conduct of the Solicitors practice. Every such appointment made under this Section shall be in writing signed by the Judge. For the purpose of conducting this enquiry the person so appointed shall have the powers of a Commission of Inquiry.

PART VI - THE COOK ISLANDS LAW SOCIETY

33. Cook Islands Law Society - (1) The Cook Islands Law Society which may consist of any Practitioner practising in the Cook Islands on a regular or casual basis is hereby established.

(2) The members of the Society shall regulate and conduct their own affairs as they may think fit and may exercise the powers conferred on it by this Act.

(3) The Society shall have the functions and powers of providing for the welfare of the profession in the Cook Islands. without limiting the generality of the foregoing the function of the Society shall be to promote and encourage proper conduct amongst the members of the legal profession, to suppress illegal dishonourable improper practices, to preserve and maintain the dignity and status of the legal profession, to provide opportunities of the acquisition and diffusion of legal knowledge to consider, to suggest amendments of law and to provide means for the amicable settlement of professional differences and generally to protect the interests of the legal profession and the interest of the public in relation to legal matters and to do all things that appear to the Society to be necessary or beneficial to the profession or its members or to the Cook Islands generally including if necessary the establishment of a benevolent fund for employees, maintenance of law libraries, the furtherance of legal education, the representation of practitioners at overseas conferences and the assistance of universities or other lawful authorities teaching law.

(4) To this end the Society may elect officers and a committee from time to time.

PART VII - APPOINTMENT OF AGENTS

34. Appointment of Agents - (1) it shall be compulsory for every person permanently practising as a Solicitor on his own account to appoint a Statutory agent.

(2) The purpose of this Statutory agent, who shall be appointed under a Power of Attorney acceptable to the Judge, shall be to act in relation to the practice of any Solicitor who shall be unable for any reason to conduct his practice whether through absence from the Cook Islands or otherwise.

(3) The Solicitor giving the Power of Attorney in question may at any time with the approval of the Judge by the execution of a fresh Power of Attorney acceptable to the Judge change his Attorney.

(4) The Attorney so appointed may act in lieu of the Practitioner giving the Power of Attorney provided that before any act is done pursuant to the Power of Attorney an order of the Judge be obtained.

(5) After such order is obtained the donee under the Power of Attorney may do all things including operate the Practitioner's Trust Account as if he were the Practitioner giving the power.

PART VIII - PROFESSIONAL ETHICS

35. Conduct of Practitioners - (1) Every Barrister and Solicitor practising in the Cook Islands shall at all times adopt the International Code of Ethics which Code is scheduled to this Act.

(2) All Practitioners practising in the Cook Islands shall abide by and be bound by the Code of Ethics published from time to time by the New Zealand Law Society insofar as they are applicable to the Cook Islands and with the necessary consequential amendments.

(3) If at any time there should be any dispute as to the manner in which the Code of Ethics published by the New Zealand Law Society applies to the Cook Islands it shall be the responsibility of the Barrister or Solicitor affected to apply to the Judge for a ruling on this question.

(4) The Judge shall keep a Register of all his rulings on this question and such rulings shall be deemed to be part of the Code of Ethics published by the New Zealand Law Society for the purposes of the conduct of practice in the Cook Islands.

(5) It shall be competent for the Judge at any time on the application of any Solicitor to direct that having regard to the special circumstances of the Cook Islands any of the ethical rules, the International Law Society or the New Zealand Law Society shall be waived either in relation to any particular event or circumstances or generally.

PART IX - MISCELLANEOUS

36. Penalties - For any offence committed against this Act the penalty shall be a fine not exceeding two thousand dollars (\$2,000.00).

37. Regulations - (1) The High Commissioner, by Order in Executive Council, may from time to time make all such regulations as are deemed necessary or expedient for the purpose of giving full effect to this Act and for the due administration thereof.

(2) All regulations made under this section shall be laid before the Legislative Assembly by the Minister of Justice within twenty-eight days of the date of the making thereof if the Assembly is then in session, and, if not, shall be laid before the Assembly within twenty-eight days after the date of the commencement of the next ensuing session.

SCHEDULEInternational Code of Ethics

Adopted at Oslo on 25th July, 1956 and amended by the General Meeting of the International Bar Association at Mexico City, 29th July, 1964.

1. This Code of International Ethics in no way is intended to supersede existing national or local rules of legal ethics or those which may from time to time be adopted.

A lawyer shall not only discharge the duties imposed upon him by his own national or local rules, but he shall also endeavour when handling a case of an international character to adhere to the rules of this Code subject necessarily to the rules existing in those other countries in which he is active.

2. A lawyer shall at all times maintain the honour and dignity of his profession. He shall, in his practice as well as in his private life, abstain from any behaviour which may tend to discredit the profession of which he is a member.

3. A lawyer shall preserve independence in the discharge of his professional duty. A lawyer, practising on his own account or in partnership where permissible, shall not engage in any other business or occupation if by doing so he may cease to be independent.

4. A lawyer shall treat his professional colleagues with the utmost courtesy and fairness.

A lawyer who undertakes to render assistance to a foreign colleague shall always keep in mind that his foreign colleague has to depend on him to a much larger extent than in the case of another lawyer of the same country. Therefore his responsibility is much greater, both when giving advice and when handling a case. For this reason it is improper for a lawyer to accept a case unless he can handle it promptly and with due competence, without undue interference by the pressure of other work. To the fees in these cases Rule 19 applies.

5. Except where the law or custom of the country concerned otherwise requires, any oral or written communication between lawyers shall in principle be accorded a confidential character as far as the Court is concerned, unless certain promises or acknowledgements are made therein on behalf of a client.

6. A lawyer shall always maintain due respect towards the Court. A lawyer shall without fear defend the interests of his client and without regard to any unpleasant consequences to himself or to any other person.

A lawyer shall never knowingly give to the Court incorrect information or advice which is to his knowledge contrary to the law.

7. It shall be considered improper for a lawyer to communicate about a particular case directly with any person whom he knows to be represented in that case by another lawyer without the latter's consent.

8. It is contrary to the dignity of a lawyer to resort to advertisement.

9. A lawyer should never solicit business and he should never consent to handle a case unless at the direct request of the

party concerned. However, it is proper for a lawyer to handle a case which is assigned to him by a competent body, or which is forwarded to him by another lawyer or for which he is engaged in any other manner permissible under his local rules or regulations.

10. A lawyer shall at all times give his client a candid opinion on any case. He shall render his assistance with scrupulous care and diligence. This applies also if he is assigned as counsel for an indigent person.

A lawyer shall at any time be free to refuse to handle a case, unless it is assigned to him by a competent body. (See 21) A lawyer should only withdraw from a case during its course for good cause, and if possible in such a manner that the client's interests are not adversely affected.

The loyal defence of a client's case may never cause an advocate to be other than perfectly candid, subject to any right or privilege to the contrary which his clients choose him to exercise, or knowingly to go against the law.

11. A lawyer shall when in the client's interest endeavour to reach a solution by settlement out of Court rather than start legal proceedings. A lawyer should never stir up litigation.

12. A lawyer should not acquire financial interest in the subject matter of a case which he is conducting. Neither should he, directly or indirectly, acquire property about which litigation is pending before the Court in which he practises.

13. A lawyer should not represent conflicting interests in litigation and should only do so in other matters where he considers to do so is in the best interests of both clients and they do not object. This also applies to all members of a firm or partnership of lawyers.

14. A lawyer should never disclose, unless lawfully ordered to do so by the Court or as required by statute, what has been communicated to him in his capacity as lawyer, even after he has ceased to be the client's counsel. This duty extends to his partners, to junior lawyers assisting him and to his employees.

15. In pecuniary matters a lawyer shall be most punctual and diligent. He should never mingle funds of others with his own and he should at all times be able to refund money he holds for others.

He shall not retain money he received for his client for longer than is absolutely necessary.

16. A lawyer may require that a deposit is made to cover his expenses, but the deposit should be in accordance with the estimated amount of his charges and the probable expenses and labour required.

17. A lawyer shall never forget that he should put first not his right to compensation for his services, but the interest of his client and the exigencies of the administration of justice. His right to ask for a deposit or to demand payment for his services failing which he may withdraw from a case or refuse to handle it, should never be exercised at a moment on which the client or prospective client may be unable to find other assistance in time to prevent irreparable damage being done.

The lawyer's fee should, in the absence of non-applicability of official scales, be fixed on a consideration of the amount involved in the controversy and the interest of it to the client, the time and labour involved and all other personal and factual circumstances of the case.

18. A contract for a contingent fee, where sanctioned by the law or by professional rules and practice, should be reasonable under all circumstances of the case, including the risk and uncertainty of the compensation and subject to supervision of a Court as to its reasonableness. (See 21)

19. A lawyer who engages a foreign colleague to advise on a case or to co-operate in handling it, is responsible for the payment of the latter's charges except express agreement to the contrary. When a lawyer directs a client to a foreign colleague he is not responsible for the payment of the latter's charges, but neither is he entitled to a share of the fee of this foreign colleague.

20. No lawyer should permit his professional services or his name to be used in any way which would make it possible for persons to practise law who are not legally authorised to do so. No lawyer shall delegate to a legally unqualified person not in his employ and control any functions which are by the law of custom of the country in which he practises only to be performed by a qualified lawyer.

21. NOTE: The Ethics Committee of the New Zealand Law Society has drawn attention to qualifications in regard to the following paragraphs of the above code:-

10. - In New Zealand a practitioner may not without good cause refuse to accept any instructions in his field of practice subject however to payment of a proper fee and his commitments.

18. - Contracts for contingency fees are not sanctioned in New Zealand.

This Act is administered in the Justice Department.