

New Zealand.



ANALYSIS.

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1935, No. 20.

AN ACT to amend the Law Practitioners Act, 1931. Title.
[26th October, 1935.]

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

1. This Act may be cited as the Law Practitioners Amendment Act, 1935, and shall be read together with and deemed part of the Law Practitioners Act, 1931 (hereinafter referred to as the principal Act). Short Title.

See Reprint
of Statutes,
Vol. IV, p. 1060

PART I.

CONSTITUTION AND FUNCTIONS OF THE DISCIPLINARY
COMMITTEE OF THE NEW ZEALAND LAW SOCIETY.

2. (1) There shall be a Committee (to be known as the Disciplinary Committee of the New Zealand Law Society) appointed in accordance with this section to exercise the powers and functions hereinafter in this Act conferred on it. The said Committee is hereinafter in this Act referred to as "the Disciplinary Committee". Constitution of
Disciplinary
Committee of
New Zealand
Law Society.

(2) The Disciplinary Committee shall be appointed by the Council of the New Zealand Law Society, and shall consist of not less than five nor more than seven members of the New Zealand Law Society, as the Council of that Society may from time to time determine.

(3) The Council may from time to time, within the limits prescribed by the last preceding subsection, remove from office any member of the Disciplinary Committee, or fill any vacancy in its membership, or appoint any additional member or members thereto.

(4) Except as otherwise provided by this Act, three members of the Disciplinary Committee shall form a quorum.

Functions of
Disciplinary
Committee.

(5) Except as otherwise provided by this Act, the Disciplinary Committee shall regulate its own procedure.

3. (1) The Disciplinary Committee shall have power, where a charge of professional misconduct has been made against any barrister or solicitor by the New Zealand Law Society or by any District Law Society, to inquire into such charge.

(2) If, after such inquiry has been made, the Disciplinary Committee is of opinion that the barrister or solicitor has been guilty of professional misconduct, it may, if it thinks fit, but subject to the following provisions of this Act as to appeals, do one or more of the following things, namely:—

- (a) Recommend to the New Zealand Law Society that an application be made to strike him off the roll of barristers or solicitors, in which case such an application shall forthwith be made:
- (b) Order that he be suspended from practice for such period, not exceeding three years, as it thinks fit:
- (c) Order him to pay a penalty not exceeding one hundred pounds to the New Zealand Law Society:
- (d) Censure him:
- (e) Order him to pay any costs or expenses of and incidental to the inquiry.

4. (1) In addition to the powers conferred on it by the last preceding section, the Disciplinary Committee shall have power to deal with—

- (a) Any application by a barrister or solicitor that his name be removed from the roll of barristers or solicitors, as the case may be:
- (b) Any application by the New Zealand Law Society or by any District Law Society that the name of any barrister or solicitor be struck off the roll of barristers or solicitors, as the case may be.

(2) On the hearing of any such application, the Disciplinary Committee shall have power to make an order directing that the name of the barrister or solicitor to whom the application relates shall be removed from or struck off the roll of barristers or solicitors, as the case may be.

(3) Where application is made that the name of any barrister or solicitor be struck off the roll of barristers or solicitors, the Disciplinary Committee may, if it thinks

Additional
powers of
Disciplinary
Committee.

fit, before hearing the application, make an order that the barrister or solicitor be suspended from practice until the application is disposed of, and after the hearing of any such application may, in lieu of making an order that the name be struck off the roll, make any order that it is authorized to make under the last preceding section.

5. Any penalty or costs ordered to be paid by the Disciplinary Committee pursuant to the foregoing provisions of this Act shall be deemed to be a debt due from the barrister or solicitor concerned to the New Zealand Law Society, and shall be recoverable accordingly in any Court of competent jurisdiction.

Costs and penalties recoverable by New Zealand Law Society.

6. (1) No order shall be made by the Disciplinary Committee either striking the name of any barrister or solicitor off the roll of barristers or solicitors or, except in cases of suspension under subsection three of section four hereof, suspending a barrister or solicitor from practice except upon the following grounds:—

Grounds upon which the name of barrister or solicitor may be struck off roll.

- (a) That he has been convicted of a crime involving dishonesty as defined by section two hundred and thirty-seven of the Crimes Act, 1908; or
- (b) That, in the opinion of the Disciplinary Committee, he has been guilty of misconduct in his professional capacity and by reason thereof is not a fit and proper person to practise as a barrister or solicitor; or
- (c) That, in the opinion of the Disciplinary Committee, he has otherwise been guilty of grave impropriety or infamous conduct and by reason thereof is not a fit and proper person to practise as a barrister or solicitor.

See Reprint of Statutes, Vol. II, p. 250

(2) For the purposes of this section a certificate containing the substance of the conviction of a crime involving dishonesty purporting to be signed by the Registrar of the Court or other officer having the custody of the records of the Court by which the offender was convicted shall be sufficient evidence of such conviction without proof of the signature or official character of the person appearing to have signed the certificate.

(3) Except by consent, no order shall be made by the Disciplinary Committee striking the name of a barrister or solicitor off the roll or suspending him from practice unless at least five members of such Committee are present and vote in favour of such order.

Right of barrister or solicitor to be heard.

Disciplinary Committee may make order for restoration of name of barrister or solicitor to the roll.

Preliminary inquiries may be held by Council of District Law Society.

7. The Disciplinary Committee shall not exercise with respect to any barrister or solicitor any of the disciplinary functions conferred on it by this Part of this Act without giving him a reasonable opportunity of being heard in his own defence.

8. (1) Any barrister or solicitor whose name has been removed from or struck off the roll pursuant to the foregoing provisions of this Act (whether on his own application or on the application of the New Zealand Law Society or of any District Law Society), or whose name has been struck off the roll by the Court, whether before or after the passing of this Act, may, in accordance with rules made for the purposes of this Part of this Act, apply to the Disciplinary Committee to have his name restored to the roll.

(2) On the hearing of any such application, the Disciplinary Committee, if it is satisfied that the applicant is a fit and proper person to practise as a barrister or solicitor, may order that the name of the applicant be restored to the roll.

(3) No application by any barrister or solicitor for the restoration of his name to the roll of barristers or solicitors shall be made except pursuant to the provisions of this section.

(4) Where any order is made restoring the name of any barrister or solicitor, either to the roll of barristers or to the roll of solicitors, there shall be payable to the New Zealand Law Society in respect of such restoration a fee of five pounds five shillings.

9. (1) If the Disciplinary Committee in any case thinks fit it may authorize the Council of any District Law Society to conduct wholly or in part the hearing of any application or inquiry under the foregoing provisions of this Act.

(2) On the completion of the hearing before it, the Council of the District Law Society shall furnish to the Disciplinary Committee a full report of the hearing, and its recommendations thereon, and thereupon the Disciplinary Committee, whether or not the matter is further heard before it or before the Council of any other District Law Society, may make any order in the matter of the application or inquiry that it could have made if the application or inquiry had been wholly heard by it.

10. (1) The Disciplinary Committee, or the Council of any District Law Society, by notice in writing under the hand of its Chairman or Secretary, may require any person to attend and give evidence before it at the hearing of any application or inquiry under this Part of this Act, and to produce all books and documents in that person's custody or under his control relating to the subject-matter of any such application or inquiry.

Disciplinary Committee may require evidence to be given.

(2) The Disciplinary Committee or Council may require such evidence to be given on oath, and either orally or in writing, and for that purpose the Chairman of the Disciplinary Committee or Council may administer an oath.

(3) Every person who without lawful justification refuses or fails to attend and give evidence when required to do so by the Disciplinary Committee or Council, or to answer truly and fully any question put to him by the Disciplinary Committee or Council, or to produce to the Disciplinary Committee or Council any book or document required of him, commits an offence against this section, and shall be liable on summary conviction to a fine of one hundred pounds.

11. Witnesses and counsel shall have the same privileges and immunities in relation to applications and inquiries under the foregoing provisions of this Act as if they were proceedings in a Court of law.

Immunity of witnesses and counsel.

12. (1) Every witness giving evidence or attending to give evidence at the hearing of any application or inquiry under the foregoing provisions of this Act shall be entitled in the discretion of the Disciplinary Committee to such sum for his expenses and loss of time as such Committee may determine.

Witnesses' expenses.

(2) Subject to any order made by the Disciplinary Committee as to the payment of costs or expenses, all such witnesses' expenses shall be paid by the New Zealand Law Society.

13. After the hearing of any application or inquiry under the foregoing provisions of this Act the Disciplinary Committee may make such order as to the payment of costs as it thinks fit, and in particular may order that costs be awarded to any barrister or solicitor in relation to whom an application or inquiry has been made, and that such costs be paid by the New Zealand Law Society or by any District Law Society.

Disciplinary Committee may make order as to payment of costs.

Disciplinary Committee may make rules for purposes of this Act.

Orders of Disciplinary Committee to be filed in Supreme Court.

14. The Disciplinary Committee may from time to time make rules in respect of the making, hearing, and determination of applications or inquiries under the foregoing provisions of this Act.

15. (1) Every order made by the Disciplinary Committee under this Part of this Act shall contain a statement of the findings of the Disciplinary Committee in relation to the case, and shall be signed by the Chairman.

(2) Where by any such order the name of any barrister or solicitor is ordered to be removed from, or struck off, or restored to the roll, or any barrister or solicitor is suspended from practice, the order shall be filed in the office of the Supreme Court at Wellington, and shall thereupon take effect as if it were an order of the Supreme Court to the like effect made within the jurisdiction of that Court.

(3) Forthwith after the filing of an order to which the last preceding subsection relates, the Registrar of the Court at Wellington shall forward a copy of such order to the Registrar of the Court in whose office the name of the barrister or solicitor is or was enrolled.

(4) Any order filed in the Court pursuant to this section may be inspected by any person during office hours without payment of any fee.

16. (1) An appeal against any order or decision of the Disciplinary Committee made under this Part of this Act shall lie to the Supreme Court at the instance of the barrister or solicitor to whom the order relates, or, in cases where the proceedings before the Disciplinary Committee have been taken on the application of any person other than the barrister or solicitor concerned, then at the instance of the applicant.

(2) Every such appeal shall be by way of rehearing, and shall be made within such time and in such form and shall be heard by at least three Judges in such manner as may be prescribed by rules of Court made in accordance with the provisions of the Judicature Amendment Act, 1930.

17. (1) Where any order has been filed in the office of the Supreme Court at Wellington under subsection two of section fifteen hereof, and no appeal against the order is made within the time allowed in that behalf, the Registrar of that Court shall forthwith after the expiry of the time allowed for appeal cause a notice stating the effect of the order to be published in the *Gazette*.

Appeals from decision of Disciplinary Committee.

See Reprint of Statutes, Vol. II, p. 96

As to publication of notices of orders striking off, removing, or restoring to roll, or suspending from practice.

(2) Where an appeal against any order as aforesaid results in the name of any barrister or solicitor being ordered to be removed from, or struck off, or restored to the roll of barristers or solicitors, or in any barrister or solicitor being suspended from practice, the Registrar shall cause a notice stating the effect of the determination to be published in the *Gazette*.

(3) The expenses incurred in publishing any such notice shall be paid out of moneys to be provided in that behalf by the New Zealand Law Society.

18. Neither the New Zealand Law Society nor any District Law Society, nor any member or servant of any such society or of the Disciplinary Committee, shall be under any criminal or civil liability whatsoever in respect of anything done or omitted to be done or of any words spoken or written at or for the purposes of the hearing of any application or inquiry or other proceedings under this Part of this Act unless it is proved to the satisfaction of the Court before which any proceedings are taken that the defendant in such proceedings has acted in bad faith.

19. Except as expressly provided in this Part of this Act, nothing herein shall be construed to limit the jurisdiction of the Court.

Protection of
New Zealand
Law Society and
other bodies and
persons.

Jurisdiction of
Court not
limited.

PART II.

PROVISIONS AFFECTING THE SOLICITORS' FIDELITY GUARANTEE FUND.

20. This Part of this Act shall be deemed to form part of Part III of the principal Act.

21. (1) For the purposes of Part III of the principal Act,—

“Bank” has the same meaning as in the Banking Act, 1908, and includes—

(a) The Post Office Savings-bank established under the Post and Telegraph Act, 1928; and

(b) Any savings-bank established under the Savings-banks Act, 1908:

“Banker” means the manager or other person for the time being in charge of the office of a bank in which any account is kept.

This Part to
form part of
Part III of
principal Act.

Interpretation.
See Reprint
of Statutes,
Vol. I, p. 447,
Vol. VI, p. 883,
Vol. VII, p. 142

(2) Every solicitor who, being in fact employed by any solicitor or firm of solicitors, is held out as a partner of the solicitor or as a partner in the firm, shall for the purposes of Part III of the principal Act be deemed to be practising as a partner of the solicitor or as a partner in the firm, as the case may be.

Section 76 of
principal Act
amended.

22. Section seventy-six of the principal Act is hereby amended by repealing paragraph (f) thereof, and substituting the following paragraph:—

“(f) All other moneys payable in respect of any matter for which payment is required or deemed necessary by the Council for the purposes of this Part of this Act or the rules made thereunder.”

Section 80 of
principal Act
amended.

23. Section eighty of the principal Act is hereby amended by inserting, after subsection two, the following subsection:—

“(2A) Where any solicitor who for any year has paid the fee prescribed in subsection one hereof remains in practice for less than three months of that year the Council may, out of the moneys received by it pursuant to that subsection, refund to the solicitor such portion of the prescribed fee as it thinks fit. If any solicitor commences practice during the last three months of any year for which the prescribed fee is payable the Council may accept in full satisfaction of the fee for that year such portion of the fee as it thinks fit.”

Section 85 of
principal Act
amended.

24. Section eighty-five of the principal Act is hereby amended as follows:—

(a) By adding to subsection two the words “including any benefits received by reason of professional services rendered or disbursements paid by such defaulting solicitor”:

(b) By inserting, after subsection four, the following subsection:—

“(4A) No right of action shall lie in relation to the fund in respect of any loss suffered by the wife of a solicitor by reason of any theft committed by that solicitor or in respect of any loss suffered by any solicitor by reason of any theft committed by any partner of that solicitor, or by reason of any theft committed by a servant of the solicitor or of any firm of solicitors in which he is a partner.”

25. Section eighty-seven of the principal Act is hereby amended by adding the words "and to all other rights and remedies whatsoever of the claimant in respect of the theft to which such claim relates".

Section 87 of principal Act amended.

26. Subsection one of section ninety-three of the principal Act is hereby amended by inserting, after the word "purpose" in paragraph (e), the words "of protecting the fund or".

Section 93 of principal Act amended.

27. (1) If the Council is satisfied that any moneys entrusted to a solicitor have been stolen by him or by his servant or agent, the Council may serve upon any banker of whom the solicitor is a customer a notice signed by two members of the Council stating that the Council is satisfied that moneys have been so stolen and requiring the banker to pay to the Council all moneys held by the banker in any trust account or trust accounts of the solicitor.

Council may require banker to pay over moneys in solicitor's trust account.

(2) The provisions of the last preceding subsection shall apply to any trust account in the name of the defaulting solicitor personally or in the name of a firm of solicitors in which he is a partner.

(3) Upon receipt of the notice, the banker shall forthwith pay to the Council all moneys held by him in any such trust account or trust accounts, and the receipt of the Council shall be a complete discharge to the banker from all liability in respect of such moneys.

(4) Upon receipt of such moneys the Council shall forthwith serve the defaulting solicitor with a notice setting out the amount received and the date of such receipt, and if the defaulting solicitor is a partner in a firm of solicitors a similar notice shall forthwith be served on all his partners in the firm.

(5) Such notice may be served personally on any solicitor or may be forwarded to him by registered letter addressed to his last known place of business or residence.

(6) Within fourteen days after such notice has been served or posted in accordance with the last preceding subsection, the defaulting solicitor or any partner in the firm of solicitors of which he is a member may apply to a Judge in Chambers for an order directing the Council to repay such moneys into the bank account from which the moneys were received or for such other order as the Judge thinks fit. On the hearing of such application the Judge may make such order as he thinks fit.

(7) Subject to any order made under the last preceding subsection, all moneys received by the Council pursuant to the powers conferred by this section shall be paid into the fund.

(8) Where any moneys held by the defaulting solicitor on behalf of any person are paid into the fund pursuant to this section, such moneys shall be held in trust for the person on whose behalf the moneys were held by the solicitor.

Council may take possession of books belonging to defaulting solicitor.

28. (1) If the Council has reasonable cause to believe that any moneys or other property entrusted to a solicitor have been stolen by him, or by his servant or agent, the Council may take possession of all such solicitor's ledgers, books of account, and records relating to any moneys or other property entrusted to such solicitor in the course of his practice.

(2) Every person having possession or control of any such ledgers, books of account, or records who refuses or fails without lawful justification to deliver the same or cause the same to be delivered to the Council forthwith upon demand by the Council commits an offence against this section, and shall be liable on summary conviction to a fine of one hundred pounds.

(3) Upon receipt of any such ledgers, books of account, or records the Council shall forthwith serve the defaulting solicitor with a notice giving particulars of the documents received and the date of such receipt, and if such ledgers, books of account, or records are the property of a firm of solicitors in which the defaulting solicitor is a partner a similar notice shall be served upon each partner in such firm.

(4) Such notice may be served personally on any solicitor, or may be forwarded to him by registered letter addressed to his last known place of business or residence.

(5) Within fourteen days after such notice has been served or posted in accordance with the last preceding subsection the defaulting solicitor or any partner in the firm of solicitors of which he is a member may apply to a Judge in Chambers for an order directing the Council to return such ledgers, books of account, or records to the person or persons from whom the same were received by the Council, or for such other order as the Judge may think fit. On the hearing of such application the Judge may make such order as he thinks fit.

29. (1) If the Council has reasonable cause to believe that any moneys entrusted to a solicitor have been stolen by him, or by his servant or agent, the Council shall be entitled to inspect all ledgers, books of account, pass-books, cheques, or records relating to any moneys received by the defaulting solicitor or his servant or agent, whether such moneys have been paid into a private or trust account at a bank or not.

Council may inspect books relating to moneys received by defaulting solicitor.

(2) Every person having possession or control of any such ledgers, books of account, pass-books, cheques, or records who refuses or fails without lawful justification to permit and enable the Council or any person authorized by the Council to inspect the same, and to make copies of the same and any entries therein, forthwith upon demand by the Council, commits an offence against this section, and shall be liable on summary conviction to a fine of one hundred pounds.

30. (1) For the purpose of safeguarding the fund the Council of the New Zealand Law Society or of any District Law Society may at any time appoint the Secretary or a member of any such Society, or a registered accountant for the time being qualified to conduct the audit of solicitors' trust accounts, to examine the accounts of any specified solicitor or firm of solicitors, and to furnish to it a confidential report as to any irregularity in the accounts of such solicitor or firm of solicitors that may be disclosed by such examination, or as to any other matter that in the opinion of the person so appointed should, in the interests of the fund, be further investigated.

Appointment of authorized person to investigate affairs of solicitor.

(2) Every appointment made under this section shall be in writing, and shall be signed on behalf of the Council of any such Law Society by the President or any two members thereof.

(3) Upon production by the person so appointed of the instrument of his appointment as aforesaid, he may require the solicitor or firm of solicitors in respect of whom the appointment has been made, or any servant, agent, or banker of such solicitor or firm of solicitors, to produce to him all books, papers, accounts, securities, or other documents relating to the business or accounts of such solicitor or firm of solicitors, and to give all information in relation thereto that may be reasonably required by

him, and if the person required to produce such documents or to give such information, without lawful justification or excuse, the proof whereof shall lie on him, refuses or fails to do so, or otherwise hinders, obstructs, or delays the person so appointed in the performance of his duties or the exercise of his powers under this section, he shall be guilty of an offence, and shall be liable on summary conviction to a fine of one hundred pounds.

(4) The person so appointed to make any examination of accounts for the purposes of this section shall not communicate any matter which may come to his knowledge in the course of such examination to any other person except in the course of his report to the Council that appointed him.

(5) The Council receiving such report shall consider the same in committee and not otherwise, and it shall not be lawful for any member of that Council or of any of its officers to publish to any person any information disclosed in such report except in the performance of his duty. The Council shall have power at its discretion to communicate the contents of such report or any part thereof to the Council of the New Zealand Society of Accountants or to any member of the Police Force of New Zealand.

(6) Every person who commits a breach of any of the provisions of this section is liable on summary conviction to a fine of ten pounds.

Repeal.

(7) This section is in substitution for section ninety-two of the principal Act, and that section is hereby accordingly repealed.

Protection of Council.

31. No criminal or civil proceedings whatsoever shall be taken against the Council of the New Zealand Law Society or of any District Law Society, or the committee of management appointed under section seventy-nine of the principal Act, or any member or servant of the Council or of such committee, in respect of anything done in accordance with the provisions of Part III of the principal Act.

Court may prevent payment being made from defaulting solicitors' trust accounts.

32. The Court or a Judge thereof, if satisfied that there is reasonable cause to believe that any solicitor has been guilty of theft or of any improper conduct in relation to the money or property of any other person, may on the *ex parte* or other application of the New Zealand Law

Society or any District Law Society order that no payment shall be made without the leave of the Court by any banker out of any trust account in the name of such solicitor or in the name of any firm in which such solicitor is a partner or is held out to be a partner.

PART III.

MISCELLANEOUS.

33. (1) Except with the authority of the Court given in accordance with the next succeeding subsection, no person who becomes qualified to be admitted and enrolled as a solicitor of the Court after the first day of May, nineteen hundred and thirty-nine, shall commence practice as a solicitor on his own account, whether in partnership or otherwise, unless he has had at least three years' legal experience in the office of a barrister or solicitor or firm of solicitors in active practice, or in the legal branch of a Government Department.

Restriction upon rights of solicitors to commence private practice.

(2) Any solicitor who is debarred by the foregoing provisions of this section from commencing practice as aforesaid may apply in a summary manner to the Court for leave to commence practice on his own account, and the Court may in its discretion, if satisfied that the applicant by reason of his age, qualifications, and experience is a fit and proper person to be permitted to practise as a solicitor, grant such leave subject to such conditions (if any) as in the circumstances it thinks proper.

(3) Every person who commences practice as a solicitor in contravention of the provisions of this section commits an offence, and is liable on summary conviction to a fine of fifty pounds, and to a further fine of ten pounds for every day after such conviction on which he continues to carry on his practice as a solicitor in breach of this section.

34. (1) Every person who for the time being is engaged in practice as a barrister or solicitor of the Court on his own account, whether in partnership or otherwise, shall, while he continues in practice, be and be deemed to be a member of the District Law Society of every district wherein he is in practice, whether or not he applies for membership of such society.

Membership of District Law Societies.

(2) Every member of a District Law Society who ceases to be engaged in practice as a barrister or solicitor of the Court as aforesaid in any district shall thereupon cease to be a member of the District Law Society of that district unless he retains his membership in accordance with the next succeeding subsection.

(3) Any person who, not being in practice as a barrister or solicitor as aforesaid, is for the time being enrolled as a barrister or solicitor of the Court may, in accordance with the rules of any District Law Society, be retained or admitted as a member of that society.

District Law Society may impose annual levy on its members.

35. (1) Any District Law Society, if authorized by its rules so to do, may by resolution impose on members of the society who are engaged in practice on their own account, whether in partnership or otherwise, an annual levy, not exceeding in any year the sum of two pounds two shillings for each such member.

(2) The amount of such levy shall be payable in such manner as the rules of the society may prescribe or authorize, and shall be recoverable on behalf of the District Law Society as a debt due to the society.

Offence for unqualified person to act as solicitor.

36. (1) Every person commits an offence against this section who, not being a solicitor duly enrolled in accordance with the provisions of the principal Act, acts as a solicitor, or holds himself out as being qualified to act 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 act as a solicitor.

(2) Every person commits an offence against this section who, not being a solicitor duly enrolled in accordance with the principal Act, carries on business as a solicitors' agent, or in any way advertises or holds himself out as a solicitors' agent:

Provided that it shall not be an offence under this subsection for a person to carry on business as a Native agent or to advertise or hold himself out as a Native agent.

(3) Every person who commits an offence against this section shall be liable on summary conviction to a fine of fifty pounds, and to a further fine of ten pounds for every day after such conviction on which he continues to commit any such offence.

(4) In this section the term "person" includes a corporation.

37. (1) Notwithstanding anything to the contrary in section twenty-three of the principal Act, any Judge or Magistrate may on the *ex parte* application of any solicitor authorize him to commence an action for the recovery of any fees, charges, or disbursements before the expiration of the period limited by that section on proof that there is reasonable cause for believing that the person chargeable therewith is about to leave New Zealand or has done or is about to do any other act which would tend to prevent or delay the solicitor from obtaining payment.

Section 23 of principal Act modified.

(2) This section is in substitution for section thirty of the principal Act, and that section is hereby accordingly repealed.

Consequential repeal.

38. (1) Section forty-five of the principal Act is hereby amended by omitting from paragraph (b) of subsection two the word "ten", and substituting the word "sixteen", and by omitting from paragraph (c) of the same subsection the word "eleven", and substituting the word "five".

As to annual practising fees payable by barristers and solicitors.

(2) Where any barrister or solicitor has been in practice (whether in one district or in two or more districts) for less than three months in any year for which a certificate under section forty-two of the principal Act has been issued to him, the Council of any District Law Society may, out of moneys received by it pursuant to paragraph (a) of subsection two of section forty-five of the principal Act, refund to such barrister or solicitor such portion of his annual practising fee for that year as the Council thinks fit. If any barrister or solicitor commences practice during the last three months of any year the Council may accept in full satisfaction of his annual practising fee for that year such portion of such fee as it thinks fit.

(3) Nothing in the last preceding subsection shall be deemed to affect the provisions of paragraphs (b) and (c) of subsection two of section forty-five of the principal Act as to the amounts payable to the New Zealand Law Society and the New Zealand Council of Law Reporting respectively.

39. Section fifty-nine of the principal Act is hereby amended by inserting in subsection one, after the words "annual meeting of such Society", the words "or, if the Council so decides, to be elected annually by postal ballot of the members of the Society".

Section 59 of principal Act amended.

Section 63 of
principal Act
amended.

40. Section sixty-three of the principal Act is hereby amended by adding to subsection two the following paragraphs :—

“(g) To pay the whole or any part of the expenses incurred by members in attending meetings of the Council of the Society or meetings of any Committee appointed by the Council :

“(h) To pay all costs, witnesses’ expenses, and other payments incidental to or connected with any application to the Disciplinary Committee.”

Election of
Council of
New Zealand
Law Society.

41. (1) For the good government of the New Zealand Law Society there shall be a Council of the Society to be elected annually in manner following :—

(a) The Auckland District Law Society shall elect from its own members four members of the Council :

(b) The Wellington District Law Society shall elect from its own members three members of the Council :

(c) The Canterbury District Law Society and the Otago District Law Society shall each elect from its own members two members of the Council :

(d) Each of the other District Law Societies shall elect from its own members one member of the Council.

(2) Every member elected by a District Law Society shall be elected at the annual meeting of such Society or, if the Council of that Society so decides, shall be elected annually by postal ballot of the members of the Society, and shall hold office until his successor is elected.

(3) Every retiring member shall be eligible for re-election.

(4) If any such Society at any time fails to elect a member, the Council of such Society may do so in its stead, and the fact that such Council so elects shall be sufficient evidence of its authority to do so.

(5) If any member elected by a District Law Society ceases to be a member of the Council the Council of such District Law Society may, from among its members, appoint a barrister or solicitor in his stead.

(6) Any member of the Council who is unable to attend a meeting of the Council may by writing under his

hand appoint from among the members of the District Law Society which he represents a barrister or solicitor to act in his stead at such meeting.

(7) Nothing in this section shall be construed to disqualify any member of the Council in office on the passing of this Act from continuing to hold such office, but on the vacation of office by any such member, by effluxion of time or otherwise, the vacancy shall be filled by the appointment of a person qualified in accordance with this section.

(8) This section is in substitution for section sixty-four of the principal Act, and that section is hereby accordingly repealed.

Consequential repeal.

42. Notwithstanding anything to the contrary in section fifty of the Justices of the Peace Act, 1927, an information in respect of any offence against the principal Act or this Act may be laid at any time within two years after the date on which the offence was committed.

Information for offence may be laid within two years.

See Reprint of Statutes, Vol. II, p. 351

43. (1) In addition to the powers conferred on it by the principal Act the New Zealand Law Society may establish a fund for the purpose of affording pecuniary and other assistance to members of the Society who are in need of such assistance, or to the wife or children of any member, or to the widow or children of any deceased member, or to the parent or parents of any deceased member.

Law Societies may establish benevolent funds.

(2) The fund shall consist of—

(a) Such part of its income as the Society decides to set aside for the purpose :

(b) Any donations, gifts, or bequests made to the Society for the purposes of the fund :

(c) The interest from time to time accruing from the investment of the fund :

(d) Any other moneys that may be lawfully paid into the fund.

(3) The fund shall be administered by the Council on behalf of the Society.

(4) Any moneys in the fund may be invested in any manner in which trustees are for the time being authorized to invest trust funds.

(5) Every District Law Society shall have the same powers and functions as are conferred on the New Zealand Law Society by this section.

Section 10 of
principal Act
amended.

44. Section ten of the principal Act is hereby amended as from the passing of that Act by omitting the reference to section thirty-nine and substituting a reference to section forty-two.

Section 4 of
principal Act
amended.

45. Section four of the principal Act is hereby amended by repealing paragraph (e) of subsection two, and substituting the following paragraph:—

“(e) Any person who is a solicitor of the Court of not less than five years’ standing, and who, for at least five years continuously next preceding the date of his application, has been in active practice as a solicitor or has been managing clerk to a solicitor of the Court in active practice, or who, being an officer employed in any Department of State, has been engaged therein for at least five years continuously next preceding the date of his application in the performance of legal work of such a character as in the opinion of the Court qualifies him to be admitted as a barrister.”