

CHAPTER 341
THE ADVOCATES ACT
[PRINCIPAL LEGISLATION]
ARRANGEMENT OF SECTIONS

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CHAPTER 341

THE ADVOCATES ACT

An Act to provide for the law relating to advocates and for connected matters.

[1st January, 1955]

Ords. Nos.	11 of 1971	3 of 2020	GNs. Nos.
25 of 1954	22 of 1983	5 of 2021	347 of 1961
18 of 1957	12 of 1990	11 of 2023	433 of 1961
36 of 1961	9 of 1996		490 of 1962
Acts Nos.	31 of 1997		395 of 1963
C.A. 2 of 1962	4 of 2005		154 of 1971
16 of 1963	5 of 2007		92 of 1975
39 of 1969	11 of 2019		515 of 1991

PART I

PRELIMINARY PROVISIONS

Short title

1. This Act may be cited as the Advocates Act.

Interpretation

Acts Nos.

16 of 1963 s. 2

39 of 1969 s. 2

11 of 1971 Sch.

22 of 1983 Sch.

12 of 1990 Sch.

9 of 1996 Sch.

5 of 2021 s. 4

2. In this Act, unless the context otherwise requires-

“advocate” means a person whose name is duly entered as an advocate upon the Roll;

“client” includes a person who, as a principal or on behalf of another, or as a trustee or personal representative or in any other capacity, has power, expressed or implied, to retain or employ, and retains or employs or is about to retain or employ, an advocate and a person who is or may be liable to pay to an advocate any costs;

“Committee” means the National Advocates Committee established under section 5;

“costs” includes fees, charges, disbursements, expenses and remuneration;

“Council” means the Council of Legal Education established under section 10;

“East African Country” means the United Republic of Tanzania, Kenya and Uganda;

Cap. 307 “Law Society” means the Tanganyika Law Society established under the Tanganyika Law Society Act;

“Minister” means the Minister responsible for legal affairs;

“parastatal organisation” means-

Cap. 212 (a) a body corporate established by or under any written law other than the Companies Act;

Cap. 366 (b) a trade union registered under the Employment and Labour Relations Act;

Cap. 212 (c) a company registered under the Companies Act not less than fifty per *centum* of the issued share capital of which is owned by the Government, a local government authority or a parastatal organisation or, where the company is limited by guarantee, a company in respect of which the amount that the Government, a local government authority or a parastatal organisation has, as member, undertaken to contribute in the event of the company being wound up, is not less than fifty per *centum* of the aggregate amount which all the members have undertaken to contribute; and references in this paragraph to a parastatal organisation include references to any such company;

“practising certificate” means a certificate issued by the Registrar to an advocate, authorising him to practise as such within Tanzania, pursuant to the provisions of Part VI;

“Registrar” means the Registrar of the High Court;

“Remuneration Committee” means the Committee established under the provisions of Part VIII;

“Roll” means the list of advocates kept in accordance with the provisions of Part IV;

“taxing officer” means the taxing officer of the High Court.

Certain officers exempt from provisions of Act
 Acts Nos.
 16 of 1963 s. 3
 11 of 1966 s. 2
 11 of 1971 Sch.
 4 of 2005 s. 30
 11 of 2019 s. 4
 3 of 2020 s. 4
 GNs. Nos.
 347 and 433 of 1961;
 490 of 1962.
 Cap. 11

Cap. 287

Cap. 288

3.-(1) An officer to whom this section applies shall, in connection with the duties of his office, be entitled to practise as an advocate in the High Court or in any court subordinate thereto constituted under the Magistrates' Courts Act and to perform any of the functions which, in England, may be performed by a member of the Bar as such or by a solicitor of the Supreme Court of Judicature as such, and provided, be subject to the provisions of this Act.

(2) The officers to whom this section applies are-

- (a) the Attorney General, the Director of Public Prosecutions, the Solicitor General, Parliamentary Draftsmen and State Attorneys and any person duly qualified in the Office of the Attorney General, the National Prosecutions Service and the Office of the Solicitor General;
- (b) the legal secretary Income Tax Department;
- (c) a person who is a holder of law degree and who is a solicitor in any District Council or Township Authority established under the Local Government (District Authorities) Act, and in any city or urban authority established under the Local Government (Urban Authorities) Act;
- (d) the Registrar, Administrator-General, Public Trustee, Official Receiver, Commissioner for Lands and any person duly qualified holding office in the office of the Registrar or of the Administrator-General, or of the Official Receiver or the land officer;
- (e) a person duly qualified holding office in such parastatal organisation as the Minister may, by order published in the *Gazette*, designate for the purposes of this section.

(3) For purposes of this section "person duly qualified" means a person who is the holder of one of the professional qualifications set out in section 16(1)(a).

Certain advocates
exempted from
provisions of Act
Act No.
3 of 2020 s. 4

4.–(1) Without prejudice to the provisions of section 3, where an advocate is appointed by the President or any other authority to hold a position in the Government, National Assembly or Judiciary, his practising certificate shall be stayed until when he is relieved from his appointment, either by cessation of the appointment, retirement or authorised to practice by the Attorney General pursuant to the provisions of section 21 of the Office of the Attorney General (Discharge of Duties) Act.

Cap. 268

(2) An advocate referred to under subsection (1) shall be treated as a public servant from the date of his appointment and his status shall be reflected as such in the Roll until when he is relieved from his appointment or otherwise permitted to practice by the appointing authority, in which case he shall be required to comply with the provisions of this Act from the date he is relieved from his appointment or otherwise authorised to practice by the Attorney General pursuant to the provisions of section 21 of the Office of the Attorney General (Discharge of Duties) Act.

Cap. 268

(3) An advocate referred under subsection (1) shall be exempted from the annual processes of renewal of practising certificates, submission of any returns or payment of fees and related costs until when he is relieved from his appointment or otherwise authorised to practice by the Attorney General pursuant to the provisions of section 21 of the Office of the Attorney General (Discharge of Duties) Act.

Cap. 268

[s. 3A]

PART II ADVOCATES COMMITTEES¹

Establishment
of National
Advocates
Committee
Acts Nos.
39 of 1969 s. 2
22 of 1983 Sch.
5 of 2021 s. 6

5.–(1) There shall be established for the purposes of this Act a committee to be called the National Advocates Committee consisting of:

- (a) a Judge of the High Court of the United Republic nominated by the Chief Justice;

¹ Act No. 5 of 2021, s. 5

- (b) the Attorney General, or the Deputy Attorney General or Director of Public Prosecutions; and
- (c) a practising advocate nominated by the Council of the Law Society.

(2) During the temporary incapacity or absence from Tanzania of the member nominated by the Council of the Law Society, such Council may nominate any practising advocate to act as a temporary member in the place of such member until his recovery from incapacity or his return, or until the expiration of his period of office, whichever first occurs.

(3) During the temporary incapacity or absence from Tanzania of the High Court Judge nominated by the Chief Justice, the Chief Justice may nominate another Judge of the High Court to act as a member of the Committee and such Judge may so act.

(4) The High Court Judge shall be the Chairman of the Committee and shall preside at all meetings of the Committee, and in the absence from any meeting of the High Court Judge duly nominated by the Chief Justice either under subsection (1) or (3), the Attorney General, the Deputy Attorney General or the Director of Public Prosecutions, shall be the Chairman of the meeting.

(5) Two members of the Committee, one of whom shall be the Attorney General or the Deputy Attorney General, or the Director of Public Prosecutions shall form a quorum.

(6) Any question before the Committee shall be decided by a majority of votes of the members present and voting, in the event of equality of votes the Chairman of the meeting shall, in addition to his deliberative vote as a member of the Committee, have a casting vote.

(7) Where the conduct of the member nominated by the Council of the Law Society is the subject matter of an application or allegation made under the provisions of section 21, such member shall be disqualified to sit as a member of, or vote at, any meeting during which such application or allegation is considered or determined by the Committee, and

in any such case the Committee may nominate any practising advocate to act as a temporary member in the place of such nominated member for the purposes of such meeting.

(8) The Committee may appoint any public officer to be a Secretary to the Committee.

[s. 4]

Establishment
of Regional
Advocates
committees
Act No.
5 of 2021 s. 7
11 of 2023 s. 4

6.-(1) There is established in each Region, the Regional Advocates Committee which shall be composed of:

- (a) the High Court Registrar of the Zone where the High Court is situated who shall be a Chairman;
- (b) the Regional State Attorney or the Regional Prosecution Officer; and
- (c) a Chapter Convener of Tanganyika Law Society in the region.

(2) The Regional Advocates Committee may appoint a public officer who has requisite knowledge in law to be a Secretary to the Regional Advocates Committee.

(3) Two members of the Regional Advocates Committee, one of whom shall be a Regional State Attorney or Regional Prosecution Officer, shall form a quorum.

(4) A person who complains against an advocate shall file the complaint with the Secretary to the Regional Advocates Committee.

(5) The Secretary to the Regional Advocates Committee shall, upon receipt of a complaint under subsection (4), forward that complaint to the Judge in-charge of the zone in which, that region is situated.

[s. 4A]

Powers of
Regional
Advocates
Committee
Act No.
5 of 2021 s. 7

7.-(1) The Regional Advocates Committee shall have jurisdiction to hear and determine-

- (a) any application by an advocate to procure the removal of his name from the Roll;
- (b) any application by any person to remove the name of any advocate from the Roll; or

(c) any allegation of misconduct made against any advocate by any person.

(2) The procedure for hearing an application or allegation under section 21 shall *mutatis mutandis* apply to the hearing of application or allegation under this section.

(3) Where, upon determination of an application under this section, the Committee is of the opinion that the appropriate measure is removal of the advocate's name from the Roll, it shall forward the findings together with its recommendations to the National Advocates Committee for determination.

[s. 4B]

Rules of
Advocates
Committee
Act No.
5 of 2021 s. 7

8. The Chief Justice may make rules for better implementation of the provisions relating to Advocates Committees.

[s. 4C]

Attorney General
to fix times
and places for
meetings of
Committee

9. Meetings of the Committee shall be held at such times and places as the Attorney General shall fix.

[s. 5]

PART III

COUNCIL OF LEGAL EDUCATION

Establishment
and procedure of
Council
Act No.
16 of 1963 s. 4

10.-(1) There is hereby established a Council of Legal Education which shall consist of:

- (a) the Chief Justice or his representative who shall be a Chairman;
- (b) the Attorney General or his representative;
- (c) the Dean of the Faculty of Law of the University of Dar es Salaam or his representative; and
- (d) two practising advocates elected by the Law Society.

(2) The members of the Council elected by the Law Society shall hold office for such period, not exceeding three years, as the Law Society may determine and be eligible for re-election.

(3) The meetings of the Council shall be held at such times and places as the Chairman may determine.

(4) At a meeting of the Council three members thereof, of whom one shall be either the Chairman or the Attorney General or his representative, shall constitute a quorum.

(5) Questions coming before the Council shall be determined by a majority of votes of the members present and voting but the Chairman shall have no casting vote.

(6) Subject to the provisions of this section, the Council may regulate its own procedure.

[s. 5A]

Functions of
Council
Act No.
16 of 1963 s. 4

11. The functions of the Council shall be to exercise the functions conferred upon it by or under this or any other law and to exercise general supervision and control over legal education in Tanzania for the purposes of this Act and to advise the Government in relation thereto.

[s. 5B]

Establishment
of Permanent
Secretariat
Act No.
5 of 2007 s. 30

12.-(1) There shall be a Permanent Secretariat which shall be responsible for the day to day administration and management of the Council.

(2) During the interim period, the Permanent Secretariat shall be responsible for allocation of law graduates from accredited universities for purposes of undertaking practical legal training.

(3) The "interim period" referred to in subsection (2) means a period commencing from the date of coming into operation of the Law School of Tanzania Act, up to a date on which the conduct of practical legal training shall commence.

[s. 5C]

Cap.425

Functions of
Permanent
Secretariat in
relation to Law
School.
Act No.
5 of 2007 s. 30

13. The functions of the Permanent Secretariat shall be to provide logistical and technical support to the Council in monitoring and control of practical legal training programme in Tanzania.

[s. 5D]

PART IV

ROLL OF ADVOCATES

Registrar to keep
Roll of advocates

14. The Registrar shall, in accordance with the provisions of this Act and of any regulations made thereunder, keep a Roll of all advocates.

[s. 6]

Roll and
precedence of
existing advocates

15. The Registrar shall enter upon the Roll the name of every person who is qualified to practise as an advocate in Tanzania, and the order of entry of such names shall be according to the precedence of such persons as between themselves.

[s. 7]

Admission and
enrolment of
advocates

16.—(1) A person may apply to the Chief Justice to be admitted as an advocate-

Acts Nos.
16 of 1963 s. 5
31 of 1997 Sch.
11 of 2023 s. 5
Sch.
GN. No.
395 of 1963

(a) where he holds one of the following professional qualifications, that is to say-

- (i) if he is a holder of a degree in law granted by an accredited university, or any other higher learning institution and has a post-graduate diploma in legal practice granted by the Law School of Tanzania;
- (ii) if he is a legal practitioner by whatever name called and thereby has a right of audience before any court having unlimited jurisdiction in civil and criminal matters in any Commonwealth country or in any other country designated by the Minister for the purposes of this section;
- (iii) if he is a Solicitor of the Supreme Court in England, Northern Ireland or the Republic of Ireland, a Writer to the Signet, a Solicitor in the Supreme Court of Scotland, or a person admitted or deemed to have been admitted as a solicitor under the Solicitors (Scotland) Act, 1933, of the United Kingdom, or if he is the holder of any

similar qualification which is accepted by the Council as a professional qualification for the purposes of this subparagraph; and

- (b) subject to the provisions of subsection (3), where either-
- (i) he has complied with such requirements whether relating to instruction or examination or otherwise as to the acquisition of professional experience as may be specified in regulations made by the Council; or
 - (ii) he has been in continuous practice as an advocate in Kenya, Uganda or Zanzibar during the five years immediately preceding his application.

(2) The Council may exempt any person from all or any of the requirements specified under subsection (1)(b)(i).

(3) An application made under this section shall be by petition to the Chief Justice in such form and manner and on payment of such fee as may be prescribed.

(4) Upon an application being made under this section and upon proof to his satisfaction of the qualification and suitability of the applicant, the possession by the applicant of an adequate knowledge of the language of the Court, and upon production of such testimonials as to character as he may require, the Chief Justice shall, unless cause to the contrary is shown to his satisfaction, by writing under his hand and in such manner and form as he may, from time to time, think fit, admit the applicant as an advocate.

(5) There shall be endorsed on each certificate of admission issued by the Chief Justice words to the effect that the certificate in itself is not a licence to practise as an advocate.

(6) The Registrar shall, upon production of an admission certificate signed by the Chief Justice, and on payment to the Registrar of the prescribed fee, enter on the Roll the name of the person so admitted.

(7) This section shall not prejudice or affect the qualification or status of any person who immediately before

the commencement of this Act was qualified to practise as an advocate according to the law then in force.

(8) All reports and communications under this section shall be absolutely privileged.

[s. 8]

Precedence of
advocates
C.A.
Act No.
2 of 1962
4th Sch.

17. Advocates shall take precedence among themselves according to the order of entry of their respective names on the Roll:

Provided that, the Attorney General shall take precedence over all other advocates:

And provided further that, a person admitted to the Roll, who was, immediately before his application for admission to the Roll, the holder of an office to which the provisions of section 3 apply, may be accorded by the Chief Justice, with the consent of the Committee, precedence commensurate with the period immediately preceding the date of such application during which he held any such office within Tanzania.

[s. 9]

PART V REMOVAL FROM AND RESTORATION TO THE ROLL

Meetings of
Committee
Act No.
39 of 1969 s. 3

18. The Attorney General may at any time, and shall, when requested to do so by the Chairman of the Committee, convene a meeting of the Committee for the purpose of enquiring into any allegation of misconduct made against any advocate.

[s. 10]

Information upon
which
Attorney General
may act
Act No.
39 of 1969 s. 3

19. In the exercise of his power under section 18, the Attorney General may act upon information which is brought to his notice in any manner whatsoever.

[s. 11]

Authority of
Attorney General
to require
affidavit of
allegations of
misconduct

20. The Attorney General may, instead of or in addition to summoning before the Committee a person who makes allegations of misconduct against any advocate, require that person to support such allegations by an affidavit setting out the facts on which he relies as proof of misconduct.

[s. 12]

Powers of
Committee
Act No.
39 of 1969 s. 4
5 of 2021 s. 8

21.-(1) The Committee shall have jurisdiction to hear and determine-

- (a) any application by an advocate to procure the removal of his name from the Roll;
- (b) any application by any person to remove the name of any advocate from the Roll;
- (c) appeals from the Regional Advocates Committee;
- (d) any other matter referred to it by the Regional Advocates Committee; or
- (e) any allegation of misconduct made against any advocate by any person.

(2) Where an application or allegation of misconduct is made under subsection (1)(b) or (c), the Committee shall have power to require the advocate in respect of whom such application is made, or in respect of whom such allegation is made, to show cause why his name should not be removed from the Roll of advocates or to answer the allegation made:

Provided that, where, in the opinion of the Committee, an application under subsection (1)(b), or an allegation under paragraph (e) of that subsection does not disclose a *prima facie* case, the Committee may refuse such application or may dismiss the allegation without requiring the advocate to whom the application or allegation relates to show cause why his name should not be removed from the Roll or to answer the allegation.

(3) On the hearing of an application under subsection (1)(b) or any allegation under paragraph (e) of that subsection-

- (a) the Committee shall give the advocate to whom the application relates or against whom the allegation is

made an opportunity to appear and be heard by it, and for that purpose shall, not less than seven days before the date fixed for the hearing, inform him of such date and of the particulars of the application or allegation, furnish to him a copy of any affidavit made in respect of the application or allegation, and notify him of the time and place when and where he may inspect and make a copy of any other document in the possession of the Committee which it deems relevant to the application or allegation;

(b) the Committee may in the course of the hearing, hear such witnesses and receive such documentary evidence as in its opinion may assist it in coming to a conclusion as to the truth or otherwise of any allegation made against the advocate.

(4) Upon the conclusion of a hearing under subsection (3), the Committee may, if it is satisfied of the truth of the allegations upon which an application under subsection (1)(b) is founded or of any allegation of misconduct made against the advocate-

(a) direct that the name of the advocate be removed from the Roll;

(b) admonish the advocate; or

(c) suspend the advocate from practising for such period as the Committee may direct.

(5) In any proceedings under this section the Committee shall have power to make any such order as to payment by any party of any costs or witness expenses as it may think fit, and any such order shall be deemed to be an order of the High Court and may be enforced in like manner.

(6) Where in the course of any hearing before the Committee after the whole or any part of the evidence has been heard and recorded, there is for any reason a change of the members of the Committee, the Committee may act on the evidence so recorded before such change, or partly recorded before and partly recorded after such change, or the Committee may re-summon the witnesses and recommence the hearing:

Provided that, the advocate whose misconduct is the subject matter of the proceedings may, when the Committee resumes its proceedings after such change, demand that all the witnesses or any of them be re-summoned and reheard and shall be informed of such right by the Committee when it so resumes its proceedings.

[s. 13]

Rules governing
Committee
Act No.
39 of 1969 s. 5

22.—(1) The Committee may, with the approval of the Chief Justice, make rules for regulating the making, hearing and determination of applications to the Committee under this Part.

(2) For purposes of any application made to it under this Part, the Chairman of the Committee may administer oaths and may issue summonses under his hand directing any person named therein to attend at the time and place therein mentioned to give evidence or to produce documents therein specified, or to do both.

Cap. 16

(3) A proceeding before the Committee under section 21 shall, for the purposes of Chapter XI of the Penal Code, be deemed to be judicial proceeding.

[s. 14]

Disobedience to
summons and
refusal to give
evidence

23. Where a person upon whom a summons issued under the provisions of section 21 has been served refuses or omits without sufficient cause to attend at the time and place mentioned in the summons, or refuses without sufficient cause to answer fully and satisfactorily to the best of his knowledge and belief all questions put to him by or with the concurrence of the Committee, or refuses or omits without sufficient cause to produce any documents in his possession or under his control which are mentioned in the summons commits an offence and on conviction, shall be liable to a fine not exceeding one thousand shillings:

Provided that, a person giving evidence before the Committee shall not be compellable to incriminate himself,

and that every such person shall, in respect of any evidence given by him or any document he is required to produce, be entitled to all the privileges to which a witness in a trial before the High Court is entitled in respect of evidence given by him or a document he is required to produce before such court.

[s. 15]

Repealed

24-29. [Repealed by Act No. 39 of 1969 s. 6.]

[s. 16-21]

Disciplinary powers of Judges and High Court apart from inquiry by Committee
Act No. 12 of 1990 Sch.

30.-(1) This Act shall not supersede, or interfere with the powers vested in the Chief Justice or any of the Judges of the High Court to deal with misconduct or offences by advocates.

(2) Without prejudice to the generality of the foregoing subsection, notwithstanding that no inquiry may have been made by the Committee-

- (a) the Chief Justice or the High Court shall have power, for any reasonable cause to admonish any advocate or to suspend him from practising during any specified period or make an order of removing his name from the Roll;
- (b) any Judge of the High Court shall have power to suspend an advocate in like manner temporarily, pending a reference to, or disallowance of such suspension by, the High Court;

(3) An advocate aggrieved by any decision or order of the Chief Justice or a judge of the High Court made in pursuance to paragraph (a), may, within thirty days of such decision or order appeal-

- (a) in the case of a decision or order by a judge of the High Court, to the Advocates' Committee; and
- (b) in the case of a decision or order of the Chief Justice, to the Court of Appeal:

Provided that, where the decision or order appealed against was made by a judge of the High Court nominated by the Chief Justice to be a member of the Advocates' Committee under

section 5(1)(a) such judge shall not sit at the hearing of the appeal by the Committee, and in such case, the Chief Justice may nominate another judge of the High Court as provided under section 5(3) and save further that in an appeal to the Court of Appeal against a decision or order of the Chief Justice the latter shall not sit to hear the appeal.

[s. 22]

Repealed

31. [Repealed by Act No. 39 of 1969 s. 7.]

[s. 23]

Orders of High Court to be noted on Roll and copy to be sent to other East African countries
Act No.
39 of 1969 s. 8

32.—(1) Where, in proceedings under or by virtue of this Act, any advocate is admonished, or an order is made by the Committee removing his name from the Roll, or suspending him from practice, or as to the payment by him of costs, the Registrar shall cause a note of the effect of such admonition or order to be entered against the name of the advocate on the Roll and, where the order so directs, shall remove his name from the Roll.

(2) The Registrar shall send to the Supreme Court or High Court of each East African country a certified copy of every order, including orders made on appeal made under or by virtue of this Act as to removal of the name of an advocate from the Roll, as to replacing the name of an advocate on the Roll or as to suspending an advocate from practice.

[s. 24]

Appeals
Acts Nos.
39 of 1969 s. 9;
12 of 1990 Sch.

33.—(1) An advocate aggrieved by any decision or order of the Committee under this Act may, within thirty days of such decision or order, appeal to the High Court against such decision or order.

(2) On any appeal under this section the High Court may affirm, reverse or vary the decision or order appealed against, and may in addition thereto exercise all the powers conferred upon the High Court by the Civil Procedure Code, in relation to an appeal from civil suits.

Cap. 33

(3) In any appeal under this section the Committee shall be made a party thereto and have a right to be represented at the hearing and to oppose the appeal.

(4) An appeal under this section shall be heard by a full bench of the High Court composed of not less than three Judges:

Provided that, where the proceedings concern a decision or order made by a judge of the High Court under section 30(a) such judge shall not sit to hear the appeal before the full bench of the High Court.

(5) [Omitted].

[s. 24A]

Reciprocal enforcement of suspensions and striking off in East African countries
Act No. 9 of 1996 Sch.

34.—(1) Where any advocate who is also an advocate or legal practitioner, by whatsoever name or style designated, of, or is entitled to practise as such in, any reciprocating Commonwealth country is suspended from practice in such country by order of a competent court or other competent authority of or in such country, a note of such suspension shall be entered by the Registrar against the name of the advocate on the Roll, and thereupon such advocate shall be suspended from practice as an advocate in Tanzania for the period for which his suspension from practice in such country remains effective, or until the note of such suspension is deleted in accordance with the provisions of subsection (3).

(2) Where the name of any such advocate as aforesaid is, by order of a competent court or other competent authority of or in any reciprocating Commonwealth country made otherwise than on the application or at the request of the advocate himself, removed or struck from or off the Roll or list of advocates or legal practitioners of such country, or if by any such order as aforesaid, made otherwise than on the application or at the request of the advocate himself, such advocate is disbarred, or otherwise disentitled to practise as an advocate or legal practitioner, by whatsoever name or style designated, in such

country, the name of such advocate shall be removed from the Roll by the Registrar.

(3) Notwithstanding anything contained in this Act the Chief Justice may, if he thinks fit, either on his own initiative or on the recommendation of the Committee at any time-

- (a) order that a note of the suspension from practice of any advocate in an reciprocating Commonwealth country shall not be entered by the Registrar against the name of the advocate on the Roll;
- (b) order that the name-
 - (i) of any advocate which by order of a competent court or other competent authority of or in any reciprocating Commonwealth country made otherwise than on the application or at the request of the advocate himself has been removed or struck from or off the roll or list of legal practitioners of such country;
 - (ii) of any advocate who by any such order as in subparagraph (i) is disbarred or otherwise disentitled to practice as an advocate or legal practitioner, by whatsoever name or style designated in such country, shall not be removed from the Roll by the Registrar;
- (c) order the Registrar to replace on the Roll the name of an advocate whose name has been removed from the Roll in accordance with the provisions of this section; or
- (d) order the Registrar to delete from the Roll any note of the suspension from practice of any advocate in any East African country entered against the name of such advocate on the Roll.

(4) Where in any case to which the provisions of this section applies the name of an advocate is restored to the Roll or list of advocates or legal practitioners in any East African country, or if he otherwise becomes entitled again to practise as aforesaid

in such country, his name shall, subject to the provisions of this Act, be replaced on the Roll by the Registrar.

(5) In this section, the expression “reciprocating Commonwealth Country” means any Commonwealth Country in respect of which the Minister declares, by order published in the *Gazette*, that he is satisfied that reciprocal effect will be given under the law of that country to any order made under this Act for the suspension of advocates from practice or the removal of their names from the Roll.

[s. 25]

Effect of disciplinary action

35. Where under the provision of this Act the name of an advocate has been removed from the Roll or an advocate has been suspended from practice, his practising certificate, if any, shall be deemed forthwith to have been cancelled, or, in the case of suspension for a period less than the unexpired period to which his practising certificate relates, to have been suspended for such lesser period.

[s. 26]

Limitation of time for certain applications to remove name from Roll

36. Subject as hereinafter provided, an advocate shall not be liable to have his name removed from the Roll on account of any defect in his admission and enrolment, unless the application to remove his name from the Roll is made within six months after the date of his enrolment:

Provided that, this section shall not apply to any case where fraud is proved to have been committed in connection with the admission or enrolment.

[s. 27]

Persons suspended or disbarred may apply for variation of order Act No. 39 of 1969 s. 10

37.—(1) Subject to the provisions of subsection (2), a person who, in accordance with the provisions of this Act or otherwise by the High Court, has been suspended from practising during a specified time or whose name has been removed from the Roll, may apply to the High Court for an order, in the former case, to set aside the order or to reduce the period of suspension and, in the latter case, to set aside the order or for re-admission.

(2) The right to apply under subsection (1) shall be subject to the following limitations:

- (a) in the case of an order of suspension, no application shall be made until after the expiration of two years from the date of such order or of half the period of suspension, whichever is the less, and when an application has been made and determined no further application shall be made until after the expiration of two years from the date of such determination; and
- (b) in the case of an order removing a name from the Roll, no application shall be made until after the expiration of two years from the date of such order and when an application has been made and determined, no further application shall be made until after the expiration of two years from the date of such determination and, in the case of subsequent applications, until after the expiration of two years from the date of the determination of the last previous application:

Provided that, in the event of any new material fact coming to light since the making of the original order of suspension or removal from the Roll, which fact might have influenced the Court or the Committee in making the order, the person affected may, at any time, apply to a Judge in Chambers for permission to apply for reconsideration of the original order, and if the Judge is of the opinion that such fact should be placed before the Court or the Committee which made the original order, whether or not he considers that such fact would have influenced the original decision, he may grant such application, and where such application is granted-

- (a) if the original order was an order made by the High Court, the High Court shall proceed to reconsider the order;
- (b) if the original order was an order made by the Committee, the Committee shall proceed to reconsider the order.

[s. 28]

Application
by petition
supported by
affidavit and
served on
Attorney General

38.—(1) An application under section 37 shall be by petition and be accompanied by a supported affidavit setting forth the grounds upon which the applicant relies.

(2) A copy of such petition and affidavit shall be served upon the Attorney General not less than seven days before the day of hearing.

[s. 29]

Hearing in open
court

39. The petition shall be heard in open court and the petitioner and the Attorney General may appear or be represented.

[s. 30]

Hearing of
petition and
decision thereon

40. The High Court at the hearing of the petition may require any statement made by or on behalf of the petitioner to be verified on oath or may require further evidence either orally or by affidavit in respect of any specified matters or after hearing the petitioner and the Attorney General in reply may adjourn the determination of the petition for a period not exceeding two years and may require to be supplied at a specified time or times during the adjournment with any such information relating to the petition as the Court may think necessary, or the Court may—

- (a) in the case of an application to set aside the order of suspension or to reduce the period of suspension—
 - (i) set aside the order of suspension;
 - (ii) reduce the period of suspension for a specified time or to a specified date; or
 - (iii) decline to make any order; and
- (b) in the case of an application to set aside an order removing a name from the Roll or for re-admission—
 - (i) set aside the original order;
 - (ii) direct the Registrar to re-admit the petitioner either forthwith or at some future date; or
 - (iii) decline to make any order; and
- (c) make such order relating to the Roll and otherwise as the Court thinks fit.

[s. 31]

Costs where
application
unsuccessful

41. Where the High Court, in the case of an application to have an order of suspension set aside or to have the period of suspension reduced, refuses to make an order setting aside or reducing the period of suspension and, in the case of an application to have an order removing a name from the Roll aside or for re-admission, declines to make any order setting aside or for re-admission, the High Court may direct that the applicant do pay to the Attorney General his taxed costs or such sum *in lieu* of taxed costs as the Court may specify.

[s. 32]

Proceedings
under this Part in
addition to other
remedies

42.—(1) Proceedings, whether civil or criminal, and whether pending or terminated, shall not be a bar to any proceedings under this Part based on the same or substantially the same facts as those to which such civil or criminal proceedings relate and no such proceedings, howsoever determined, shall in any way derogate from the power of the High Court to admonish an advocate, or make an order removing his name from the Roll or suspending him from practice or from the powers of the High Court or a judge under the provisions of section 30.

(2) Proceedings under this Part, whether pending or terminated, shall not be a bar to any civil or criminal proceedings or other remedy based on the same or substantially the same facts as those to which the proceedings under this Part relate.

[s. 33]

PART VI PRACTISING CERTIFICATES

Registrar to
issue practising
certificates
Act No.
11 of 2019 s. 5

43.—(1) It shall be the duty of the Registrar to issue in accordance with the provisions of this Part, certificates authorising the advocates named therein to practise as advocates.

(2) A Law Officer or State Attorney shall not, for the whole period of service as Law Officer or State Attorney, be issued with practising certificate.

(3) Notwithstanding subsection (2), the Attorney General may, upon application by a Law Officer or State Attorney, or where in his opinion he considers it necessary, exempt a Law Officer or State Attorney from the application of subsection (2).

(4) Without prejudice to subsection (2), a Law Officer or State Attorney may, subject to the guidelines prescribed by the Attorney General, administer oaths or attest documents as a commissioner for oaths or as a notary public:

Provided that, such attestation or administration shall not have potential conflict of interest with his employer.

[s. 34]

Application
for practising
certificates
Act No.
31 of 1997 Sch.

44.—(1) An advocate applying for a practising certificate shall-

- (a) deliver or send to the Registrar a written declaration in the prescribed form in duplicate stating the name and place of business of the applicant and the date of his admission and signed by the applicant or his partner;
- (b) pay to the Registrar the prescribed fee for the practising certificate; and
- (c) pay into the funds of the Law Society the annual subscription for the current year prescribed under the Tanganyika Law Society Act.

Cap. 307

(2) The Registrar shall cause all the particulars contained in the declaration to be entered in a Register kept for that purpose, and any person may inspect such Register during office hours without payment.

(3) Subject to the provisions of section 45, the Registrar, if satisfied that-

- (a) the name of the applicant is on the Roll and he is entitled to practice in Mainland Tanzania;
- (b) he has paid his annual subscription for the current year into the funds of the Law Society;
- (c) he has paid the prescribed fees for the practising certificate;
- (d) he has paid for the business licence; and

(e) if he is employed or committed otherwise than as an advocate, he has obtained approval from his employer or such other principal to practise as an advocate, shall, after the expiration of six days from the delivery to him of the declaration, deliver to the applicant or his agent upon demand a practising certificate in such form as may be prescribed.

(4) Where in any case, not being a case to which section 45 applies, the Registrar on application duly made to him refuses or neglects to issue a practising certificate, the applicant may apply to a Judge of the High Court who may make such order in the matter, including an order for payment of costs by or to either the Registrar or the applicant, as shall be just.

Cap. 101

(5) Notwithstanding the provisions of the Business Licensing Act every business licence granted to an advocate under that Act shall expire on the thirty first day of December next following the date of issue.

[s. 35]

Discretion of
Chief Justice to
refuse certificate
in special cases

45.—(1) In any of the following cases, that is to say, where an advocate—

- (a) applies for a practising certificate, having neglected to obtain such a certificate within six months after the expiration of the last certificate issued to him;
- (b) applies for a practising certificate whilst he is an undischarged bankrupt; or
- (c) having been suspended from practice or had his name removed from the Roll, first applies for a practising certificate after the expiration of his suspension or after his re-admission to the Roll,

he shall, unless the Chief Justice otherwise orders, give to the Registrar, at least six weeks before the application is made, notice of his intention to make the application, and the Chief Justice in his discretion may refuse the application.

[s. 36]

Adjudication
in bankruptcy
to suspend
practising
certificates

46.—(1) An adjudication in bankruptcy of an advocate shall operate immediately to suspend the practising certificate, if any, of such advocate for the time being in force, and such suspension shall continue in operation until the certificate expires or the adjudication in bankruptcy is annulled, and an office copy of the order annulling the adjudication has been served upon the Registrar or the suspension is terminated by order of the Registrar or the Chief Justice under subsection (2), (3), (4) or (5), whichever shall first happen.

(2) At any time before the certificate would, apart from any suspension hereunder, have expired, and in the case of adjudication in bankruptcy notwithstanding that the adjudication has not been annulled, such advocate may apply to the Registrar to terminate the suspension, and the Registrar, in his discretion, may decide to terminate by order the suspension unconditionally or subject, to such terms and conditions as he may in his discretion think fit or may refuse the application.

(3) Where the Registrar shall refuse the application to terminate the suspension subject to any terms or conditions, such advocate may appeal against such decision to the Chief Justice who may either affirm the decision of the Registrar or, by order, vary any terms or conditions imposed by the Registrar or terminate the suspension unconditionally or subject to such terms and conditions as he may think fit.

(4) When the practising certificate of an advocate has become suspended by virtue of his adjudication in bankruptcy or by virtue of an order of the Chief Justice, the Registrar shall forthwith cause a notice of such suspension to be entered against the name of such advocate in the Roll.

(5) When the suspension of the practising certificate of an advocate has been terminated by annulment of the adjudication in bankruptcy of the advocate and service upon the Registrar of an office copy of the order annulling the adjudication or by order of the Registrar or Chief Justice under this section the Registrar shall forthwith cause a note of the termination of the

suspension to be entered against the name of such advocate in the Roll.

[s. 37]

Date and period of validity of practicing certificates

47.—(1) A practising certificate shall, subject as hereinafter provided, take effect on the day on which it is issued by the Registrar:

Provided that, a practising certificate issued between the first day of January and the first day of February in any year to an advocate who held a valid practising certificate on the thirty-first day of December of the preceding year shall have effect for all purposes from the first day of January in that year.

(2) A certificate shall continue in force from the day on which it has been taken or takes effect in accordance with this section until the thirty-first day of December next following (both days inclusive) and shall then expire.

(3) The Registrar shall cause to be entered upon the Roll a note of the date of issue to any advocate of a practising certificate.

[s. 38]

PART VII PRIVILEGES, RESTRICTIONS AND OFFENCES IN CONNECTION WITH PRACTICE

Qualifications for practicing as advocate
Act No.
31 of 1997 Sch.

48.—(1) Subject to the provisions of section 3, a person shall not be qualified to act as an advocate unless-

- (a) his name is on the Roll;
- (b) he has in force a practising certificate; and
- (c) he has a valid business licence,

and a person who is not so qualified is in this Part referred to as an “unqualified person”.

(2) Notwithstanding anything to the contrary contained in this Part, the Chief Justice may, upon payment to the High Court of the prescribed fee, admit to practise as an advocate for the purpose of any one case any of the persons mentioned

in section 16(1) who has come or intends to come to Tanzania for the purpose of appearing in such case.

(3) The fee prescribed for the purposes of subsection (2) may relate to the case as a whole or to any day on which such case continues or both.

(4) A person who is admitted to practise as an advocate for the purpose of any one case under the provisions of subsection (2) shall be deemed to be subject to the provisions of this Act as if he were an advocate.

[s. 39]

Rights of
practising
advocate
C.A.
Act No.
2 of 1962
4th Sch.
Cap. 11

49. Every advocate who has in force a practising certificate may practise as an advocate in the High Court or in any court subordinate thereto constituted under the Magistrates' Courts Act and may perform any of the functions which, in England, may be performed by a member of the Bar as such or by solicitor of the Supreme Court of Judicature as such.

[s. 40]

Unqualified
person not to act
as advocate
Act No.
11 of 2023 s. 6

50.—(1) Unqualified person shall not act as an advocate, or agent for suitors or, as such, issue out any summons or other process, or commence, carry on or defend any action, suit or other proceeding in the name of any other person or in his own name, in any court of civil or criminal jurisdiction, or act as an advocate in any cause or matter, civil or criminal.

(2) A person who contravenes the provisions of this section commits an offence under this Act and of contempt of the court in which the action, suit, cause, matter or proceeding in relation to which he so acts is brought or taken and may be punished accordingly, and shall be incapable of maintaining any action for any costs in respect of anything done by him in the course of so acting, and on conviction in addition to any other penalty or forfeiture and any disability to which he may be subject, shall be liable to a fine of not less than five hundred thousand shillings but not exceeding five million shillings.

[s. 41]

Penalty for
pretending to be
advocate
Act No.
31 of 1997 Sch.
Act No.
11 of 2023 s. 7

51. Unqualified person who willfully pretends to be, or takes or uses any name, title, addition or description, or uses any title which corresponds to the title of a legal practitioner in any Commonwealth Country, implying that he is qualified to act as an advocate commits an offence and on conviction shall be liable to a fine of not less than five million shillings but not exceeding twenty million shillings or to imprisonment for a term of not less than one year but not exceeding three years, or to both.

[s. 42]

Penalty for
unqualified
persons
preparing certain
instruments
Act No.
31 of 1997 Sch.

52.—(1) Unqualified person who, unless he proves that the act was not done for, or in expectation of, any fee, gain or reward, either directly or indirectly, draws or prepares any instrument-

- (a) relating to movable or immovable property or any legal proceeding;
- (b) for or in relation to the formation of any limited liability company whether private or public;
- (c) for or in relation to the making of a deed of partnership or the dissolution of a partnership,

on conviction shall be liable to a fine not exceeding one million shillings or twelve months imprisonment, or to both and shall be incapable of maintaining any action for any costs in respect of the drawing or preparation of such instrument or any matter connected therewith.

(2) This section shall not extend to-

- (a) a public officer drawing or preparing instruments in the course of his duty; or
- (b) a person employed merely to engross any instrument, application or proceeding.

(3) For the purposes of this section and section 53, the expression “instrument” does not include-

- (a) a will or other testamentary instrument;
- (b) an agreement under hand only which does not and is not intended to operate as a deed under the Land Act ;
- (c) a letter of power of attorney; or

Cap. 113

(d) a transfer of stock or shares containing no trust or limitation thereof.

[s. 43]

Instruments to be endorsed with name and address of drawer

53.—(1) A person who draws or prepares any instrument in contravention of section 52 shall endorse or cause to be endorsed thereon his name and address; and any such person omitting so to do or falsely endorsing or causing to be endorsed any of the said requirements commits an offence and on conviction shall be liable to a fine not exceeding two hundred shillings.

(2) It shall not be lawful for any registering authority to accept or recognise any instrument unless it purports to bear the name of the person who prepared it endorsed thereon.

[s. 44]

Offences by bodies corporate

54. Where an act is done by a body corporate or by any director, officer or servant thereof, of such a nature or in such a manner as to be calculated to imply that the body corporate is qualified, or recognised by law as qualified, to act as an advocate, such body corporate commits an offence and on conviction shall be liable to a fine not exceeding five hundred shillings, and, in the case of an act done by any director, officer or servant of such body corporate, he, without prejudice to the liability of the corporation, commits an offence and on conviction, shall be liable to a fine not exceeding five hundred shillings.

[s. 45]

Power to exclude touts from precincts of courts

55.—(1) The Chief Justice may, by order under his hand, exclude from the precincts of the High Court or any court subordinate thereto any person declared by him to be a tout for such period as may be specified in such order:

Provided that, such order shall not be made unless the person concerned shall have had opportunity of showing cause against such order.

(2) A person in respect of whom any order has been made under subsection (1) shall not, while such order is in force, enter

or remain within the precincts of the High Court or any court subordinate thereto without leave of a judge for special cause.

[s. 46]

Acting as tout prohibited

56. A person who, on behalf of any advocate, or for his own account, acts as a tout commits an offence and on conviction shall be liable to a fine not exceeding one thousand shillings and to imprisonment for a term not exceeding six months.

[s. 47]

Offence of, and penalty for, inducing clients to abandon their advocates

57. A person who induces or attempts to induce any client or prospective client of any advocate to cease to be the client of such advocate in order to become the client of the advocate whom such person serves as secretary, clerk or messenger or in any other capacity commits an offence and on conviction shall be liable to a fine not exceeding one thousand shillings and to imprisonment for a term not exceeding six months.

[s. 48]

PART VIII

REMUNERATION OF ADVOCATES

Power to make general orders as to remuneration of advocates

58.—(1) For purposes of this Part, there shall be a Committee to be known as the Remuneration Committee which shall consist of five advocates elected by the Law Society of whom three shall form a quorum.

(2) The Chief Justice or the Remuneration Committee may make orders prescribing and regulating in such manners as he or it may think fit for the remuneration of advocates in regard to both contentious and non-contentious business.

(3) An order made under the provisions of this section shall be submitted to the President for approval together with, in the case of an order made by the Chief Justice, the observations, if any, of the Remuneration Committee, and in the case of an order made by the Remuneration Committee, the observations, if any, of the Chief Justice.

(4) Any order made and submitted under the provisions of this section shall, if approved, be published in the *Gazette* and shall come into force on the date of such publication or such later date as may be specified in such order.

[s. 49]

Scales of rates of commission and percentage

59. Any order made under section 58 may, as regards the mode of remuneration, prescribe that it shall be according to a scale of rates of commission or percentage, varying or not in different classes of business, or by a gross sum, or by a fixed sum for each document prepared or perused, without regard to length, or in any other mode, or partly in one mode and partly in another, and may regulate the amount of remuneration with reference to all or any of the following, among others, considerations, that is to say-

- (a) the position of the party for whom the advocate is concerned in the business, that is, whether as vendor or purchaser, lessor or lessee, mortgagor or mortgagee, charger or chargee, and the like;
- (b) the place where, and the circumstances in which, the business or any part thereof is transacted;
- (c) the skill, labour and responsibility involved therein on the part of the advocate;
- (d) the number and importance of the documents prepared or perused, without regard to length.

[s. 50]

Security for payment of remuneration and regulating interest

60. An order made under section 58 may authorise and regulate-

- (a) the taking by an advocate from his client of security for payment of any remuneration, to be ascertained by taxation or otherwise, which may become due to him under any such order; and
- (b) the allowance of interest.

[s. 51]

Taxation of bills
of costs

61. As long as any order made under section 58 is in operation, the taxation of bills of costs of advocates shall, subject to the subsequent provisions of this Part with respect to agreements as to remuneration, be regulated by that order.

[s. 52]

Agreements
with respect to
remuneration for
non contentious
business

62.—(1) Whether or not any order is in force under section 58, an advocate and his client may, either before or after or in the course of the transaction of any non-contentious business by the advocate, make an agreement in writing as to the remuneration of the advocate in respect thereof.

(2) The agreement may provide for the remuneration of the advocate by a gross sum, or by commission, or percentage, or by salary, or otherwise and it may be made on the terms that the amount of the remuneration therein stipulated for shall, or shall not include all or any disbursements made by the advocate in respect of searches, plans, travelling, stamps, fees or other matters.

(3) The agreement shall be signed by the person to be bound thereby or his agent in that behalf.

(4) The agreement may be sued and recovered on or set aside in the like manner and on the like grounds as an agreement not relating to the remuneration of an advocate:

Provided that, if on any taxation of costs the agreement is relied on by the advocate and objected to by the client as unfair or unreasonable, the taxing officer may inquire into the facts and certify them to the High Court and if on that certificate it appears just to the High Court that the agreement should be cancelled, or the amount payable thereunder reduced, the High Court may order the agreement to be cancelled, or the amount payable thereunder to be reduced, and may give such consequential directions as it thinks fit.

[s. 53]

Powers to make agreements as to remuneration for contentious business

63. Whether or not any order is in force under section 58 an advocate may make an agreement in writing with his client as to his remuneration in respect of any contentious business done or to be done by him, provided that he shall be remunerated either by a gross sum or by salary or otherwise.

[s. 54]

Miscellaneous provisions as to agreements with respect to costs of contentious business

64.—(1) An agreement made pursuant to section 63 shall—

(a) not affect the amount of, or any rights or remedies for the recovery of, any costs payable by the client to, or to the client by, any person other than the advocate, and that person may, unless he has otherwise agreed, require any such costs to be taxed according to the rules for the time being in force for the taxation thereof:

Provided that, the client shall not be entitled to recover from any other person under any order for the payment of any costs to which the agreement relates more than the amount payable by him to his advocate in respect thereof under the agreement; and

- (b) be deemed to exclude any claim by the advocate in respect of the business to which it relates other than—
- (i) a claim for the agreed costs; or
 - (ii) a claim for such costs as are expressly excepted therefrom.

(2) A provision in such an agreement that the advocate shall not be liable for negligence, or that he shall be relieved from any responsibility to which he would otherwise be subject as an advocate, shall be void.

(3) An action shall not be brought upon any such agreement, but the High Court, after hearing the Remuneration Committee if it wishes to be heard, may, on the application of a person who is a party to, or the representative of a party to the agreement or who is alleged to be liable to pay, or who is or claims to be entitled to be paid, the costs due or alleged to be due in respect of the business to which the agreement relates, enforce or set

aside the agreement and determine every question as to the validity or effect thereof.

- (4) On any such application, the High Court-
- (a) where it is of opinion that the agreement is in all respects fair and reasonable, may enforce it;
 - (b) where it is of opinion that the agreement is in any respects unfair or unreasonable, may declare it void and may order it to be given up to be cancelled and may order the costs covered thereby to be taxed as if the agreement had never been made;
 - (c) in any case, may make such orders as to the costs of the application as it thinks fit.

[s. 55]

Certain
circumstances
taxing officer may
reduce amount
payable under
agreement

65.-(1) Where the business covered by any agreement made pursuant to section 63 is business done or to be done, in any action, the amount payable under the agreement shall not be received by the advocate until the agreement has been examined and allowed by a taxing officer of the High Court, and where the taxing officer is of the opinion that the agreement is unfair or unreasonable, he may require the opinion of the Remuneration Committee to be taken thereon and may on receipt of such opinion reduce the amount payable thereunder, or order the agreement to be cancelled and the costs recovered thereby to be taxed as if the agreement had not been made.

(2) When the amount agreed upon under any such agreement has been paid by or on behalf of the client or by any person entitled so to do, the person making the payment may at any time within twelve months after payment apply to the High Court and the High Court, if it appears to it that the special circumstances of the case require the agreement to be re-opened, may, on such terms as may be just, re-open the agreement and may order the costs covered thereby to be taxed and the whole or any part of the amount received by the advocate to be repaid by him.

(3) Where any such agreement is made by the client as the guardian or committee of, or as a trustee under a deed or will for any person whose property will be chargeable with the whole or any part of the amount payable under the agreement, the agreement shall, before payment, be laid before the taxing officer of the High Court and that officer shall examine the agreement and may disallow any part of it or may require the opinion of the High Court to be taken thereon.

(4) Any such client as is mentioned in subsection (3) who pays the whole or any part of the amount payable under the agreement without the agreement having been allowed by the taxing officer or by the High Court, shall be liable at any time to account to the person whose property is charged with the whole or any part of the amount so paid for the sum so charged, and the advocate who accepts the payment may be ordered by the High Court to refund the amount received by him.

[s. 56]

Death or
incapacity of
advocate

66.-(1) Where, after some business has been done under an agreement made pursuant to section 63 but before the advocate has wholly performed it, the advocate dies or becomes incapable of acting, then any party to, or the representative of any party to, the agreement, may apply to the High Court and the High Court shall have the same jurisdiction as to enforcing the agreement so far as it has been performed, or setting it aside, as it would have had if the advocate had not died or become incapable of acting:

Provided that, the High Court may, notwithstanding that it is of opinion that the agreement is in all respects fair and reasonable, order the amount due in respect of the business done thereunder to be ascertained by taxation, and in that case-

- (a) the taxing officer, in ascertaining that amount, shall have regard so far as may be to the terms of the agreement; and

(b) payment of the amount found by him to be due may be enforced in the same manner as if the agreement had been completely performed.

(2) The provisions of subsection (1) shall apply in the event of the client changing his advocate before the conclusion of the business to which the agreement relates in the same manner as they apply when the advocate dies or is incapacitated:

Provided that, if an order is made for the taxation of the amount due to the advocate in respect of the business done under the agreement, the High Court shall direct the taxing officer to have regard to the circumstances under which the change of advocate has taken place, and the taxing officer, unless he is of opinion that there has been no default, negligence, improper delay or other conduct on the part of the advocate affording to the client reasonable ground for changing his advocate, shall not allow to the advocate the full amount of the remuneration agreed to be paid to him.

[s. 57]

Agreement
excludes taxation

67. Save as provided in the foregoing provisions, the costs of an advocate in any case where an agreement has been made shall not be subject to taxation or to the subsequent provisions of this Part with respect to the signing and delivery of an advocate's bill.

[s. 58]

Miscellaneous
provisions as to
remuneration
for contentious
business

68. Sections 66, 67, 68, 69 or 70 shall not give validity to-

- (a) any purchase by an advocate of the interest or any part of the interest, of his client in any action, suit or other contentious proceeding;
 - (b) any agreement by which an advocate retained or employed to prosecute any action, suit or other contentious proceeding stipulates for payment only in the event of success of that action, suit or proceeding;
- or

- (c) any disposition, contract, settlement, conveyance, delivery, dealing or transfer which is under the law relating to bankruptcy invalid against a trustee or creditor in any bankruptcy or composition.

[s. 59]

Power of High Court to order advocate to deliver his bill and to deliver up deeds

69.—(1) The jurisdiction of the High Court to make orders for the delivery by an advocate of a bill of costs and for the delivery up of, or otherwise in relation to, any deeds, documents or papers in his possession, custody or power, is hereby declared to extend to cases in which no business has been done by him in the High Court.

(2) In this section and in sections 70, 71 and 72, the expression “advocate” includes the executors, administrators, and assignees of the advocate in question.

[s. 60]

Action to recover advocates' costs

70.—(1) Subject to the provisions of this Act, an action shall not be brought to recover any costs due to an advocate until one month after a bill thereof has been delivered in accordance with the requirements of this section:

Provided that, where there is probable cause for believing that the party chargeable with the costs is about to depart from Tanzania, or to become bankrupt, or to compound with his creditors, or to do any other act which would tend to prevent or delay the advocate obtaining payment, the High Court may, notwithstanding that one month has not expired from the delivery of the bill, order that the advocate be at liberty to commence an action to recover his costs and may order those costs to be taxed.

(2) The following are the requirements referred to in subsection (1):

- (a) the bill shall be signed by the advocate or, if the costs are due to a firm, one partner of that firm, either in his own name or in the name of the firm, or be enclosed

in, or accompanied by a letter which is so signed and refers to the bill; and

- (b) the bill shall be delivered to the party to be charged therewith, either personally or by being sent to him by post to, or left for him at his place of business, dwelling house or last known place of abode, and where a bill is proved to have been delivered in compliance with those requirements, it shall not be necessary in the first instance for the advocate to prove the contents of the bill, which shall be presumed until the contrary is shown, to be a bill *bona fide* complying with this Act.

[s. 61]

Taxation of bills
on application of
party chargeable
or advocate

71.—(1) On the application, made within one month of the delivery of an advocate's bill, of the party chargeable therewith, the High Court shall, without requiring any sum to be paid into Court, order that the bill shall be taxed and that no action shall be commenced thereon until the taxation is completed.

(2) Where no such application is made within the period mentioned in subsection (1), then, on application either of the advocate, or the party chargeable with the bill, the High Court may, upon such terms, if any, as it thinks fit not being terms as to the costs of the taxation, order-

- (a) that the bill shall be taxed;
- (b) that, until the taxation is completed, an action shall not be commenced on the bill, and any action already commenced be stayed:

Provided that-

- (i) where twelve months have expired from the delivery of the bill, or if the bill has been paid, or if a decree, judgment or order has been obtained in a suit for the recovery of the costs covered thereby, no order shall be made on the application of the party chargeable with the bill except in special circumstances and, if an order is made, it may

contain such terms as regards the costs of the taxation as the High Court may think fit;

- (ii) in no event shall any such order be made after the expiration of twelve months from the payment of the bill.

(3) An order for the taxation of a bill shall require the taxing officer to tax not only the bill but also the costs of the taxation and to certify what is due to or from the advocate in respect of the bill and in respect of the costs of the taxation.

(4) Where after due notice of any taxation, either party thereto fails to attend, the taxing officer may proceed with the taxation *ex parte*.

(5) Unless-

- (a) the order for taxation was made on the application of the advocate and the party chargeable does not attend the taxation; or

(b) the order for taxation otherwise provides, the costs of the taxation shall be paid according to the event of the taxation, that is to say, if one-sixth of the amount of the bill is taxed off, the advocate shall pay the costs, but otherwise the party chargeable shall pay the costs:

Provided that, the taxing officer may certify any special circumstances relating to the bill or the taxation thereof to the High Court, and the High Court may make thereon any such order as it thinks fit respecting the payment of the costs of the taxation.

[s. 62]

Taxation on application of third parties and beneficiaries under trust, etc.

72.-(1) Where a person other than the person who is the party chargeable with the bill for purposes of section 71, has paid, or is, or was, liable to pay the bill either to the advocate or to the party chargeable with the bill, that person or his administrators, executors or assignees may apply to the High Court for an order for the taxation of the bill as if he were the party chargeable therewith, and the High Court may make

thereon the same order, if any, as it might have made if the application had been made by that party:

Provided that, in cases where the High Court has no power to make an order except in special circumstances the High Court may, in considering whether there are special circumstances sufficient to justify it in making an order, take into account circumstances affecting the applicant, but which do not affect the party chargeable with the bill.

(2) Where a trustee, executor or administrator has become liable to pay the bill of an advocate, the High Court may, upon the application of any person interested in the property out of which the trustee, executor or administrator has paid, or is entitled to pay the bill, and upon such terms, if any, as it thinks fit, order the bill to be taxed, and may order such payments, in respect of the amount found due to or from the advocate, or to the executor, administrator or trustee, as it thinks fit:

Provided that, in considering any such application, the High Court shall have regard to-

- (a) the provisions of section 71 as to applications by the party chargeable with the taxation of an advocate's bill so far as they are capable of being applied to an application made under this subsection;
- (b) the extent and nature of the interest of the applicant.

(3) Where an applicant under subsection (2) pays any money to the advocate, he shall have the same right to be paid that money by the trustee, executor or administrator chargeable with the bill as the advocate had.

(4) The following provisions shall apply to applications made under this section-

- (a) except in special circumstances an order shall not be made for the taxation of a bill which has already been taxed;
- (b) the High Court may, if it orders taxation of a bill, order the advocate to deliver to the applicant a copy of the bill upon payment of the costs of that copy.

[s. 63]

General provisions as to taxation

73.–(1) An application for an order for the taxation of an advocate's bill or for the delivery of such a bill and the delivering up of any deeds, documents and papers by an advocate shall be made in the matter of that advocate.

(2) The certificate of the taxing officer by whom any bill has been taxed shall, unless it is set aside or altered by the High Court, be final as to the amount of the costs covered thereby, and the High Court may make such order in relation thereto as it thinks fit, including, in a case where the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs.

[s. 64]

Charging orders

74. Any court in which an advocate has been employed to prosecute or defend any suit, matter or proceeding may at any time declare the advocate entitled to a charge on the property recovered or preserved through his instrumentality for his taxed costs in reference to that suit, matter or proceeding, and may make such orders for the taxation of the said costs and for raising money to pay or for paying the said costs out of the said property as it thinks fit, and all conveyances and acts done to defeat, or operating to defeat, that charge shall, except in the case of a conveyance to a *bona fide* purchaser for value without notice, be void as against the advocate:

Provided that, an order shall not be made if the right to recover the costs is barred by limitation.

[s. 65]

PART IX MISCELLANEOUS PROVISIONS

Advocates to be officers of High Court

75. A person duly admitted as an advocate shall be an officer of the High Court and be subject to the jurisdiction thereof.

[s. 66]

Payment of
expenses of
Committee

76.—(1) Any expenses certified to have been incurred by the Committee in carrying out any of the provisions of this Act or in supporting any report before the High Court shall, subject to the provisions of subsection (2), be paid out of the general revenue of the United Republic.

(2) The High Court may, on the application of the Committee, order that any such expenses shall be paid to the Permanent Secretary to the Treasury by the advocate concerned or by any party on whose application such expenses had been incurred.

(3) Where any such expenses have been paid in accordance with an order made under subsection (1), such payments shall form part of the general revenue of the United Republic.

[s. 67]

Authentication of
regulations and
other documents

77. Regulations, orders, certificates, notices and other documents made or issued by the Committee or the Remuneration Committee for any purpose whatsoever may be signed on behalf of the Committee concerned by the Chairman or such member or other person as the Committee may for that purpose appoint.

[s. 68]

Fees for
admission
and practicing
certificates to
be paid to Law
Society
Ord. No.
36 of 1961 s. 2

78.—(1) The Registrar shall retain in a separate account all fees paid under the provisions of sections 16(2), 44(1) and 48(2) and shall pay the balance standing to the credit of that account on the first day of January, the first day of April, the first day of July and the first day of October in each year to the Law Society, and the Law Society may apply the same for any of the purposes for which the funds of the Society may be applied.

(2) The receipt of the Secretary of the Law Society, or of any other officer of the Law Society authorised by the Council thereof in that behalf, shall be a sufficient discharge to the Registrar for any payment made by him under this section.

[s. 68A]

Regulations **79.** The Committee may, with the approval of the Chief Justice, make regulations for the better carrying out of the provisions and purposes of this Act and, in particular but without prejudice to the generality of the foregoing, make regulations with respect to the following matters:

- (a) the keeping of accounts by advocates;
- (b) the acts or omissions which shall constitute misconduct on the part of an advocate;
- (c) practice and etiquette of advocates;
- (d) prescribing anything which under this Act is to be prescribed.

[s. 69]

Saving of other laws **80.** This Act shall not prejudice or affect-

- (a) the provisions of any other law empowering any person, not being an advocate to conduct, defend or otherwise act in relation to any proceedings;
- (b) the provisions of any other law prohibiting any person or class of persons from conducting, defending or otherwise acting in relation to any proceedings; or
- (c) any existing rules touching the remuneration of advocates, except only so far as they conflict or are inconsistent with any of the provisions of this Act or orders made hereunder, and such existing rules shall, except only as aforesaid, be deemed to be an order made pursuant to the provisions of section 58 until amended, revoked or repealed by orders made under the said section.

[s. 70]

Omitted **81.** [Omitted.]

[s. 71]

Repeal **82.** [Repeals F.R.L. Cap. 10 and F.R.L. Cap. 11.]

[s. 72]