



THE  
**JAMAICA GAZETTE**  
**SUPPLEMENT**

**PROCLAMATIONS, RULES AND REGULATIONS**

344A

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No. 76A

**THE LEGAL PROFESSION ACT**

THE LEGAL PROFESSION (DISCIPLINARY PROCEEDINGS)  
(AMENDMENT) RULES, 2014

In exercise of the power conferred upon the Disciplinary Committee by section 14 of the Legal Profession Act, and every other power hereunto enabling, the following Rules are hereby made:—

1. These Rules may be cited as the Legal Profession (Disciplinary Proceedings) (Amendment) Rules, 2014, and shall be read and construed as one with the Legal Profession (Disciplinary Proceedings) Rules (hereinafter referred to as the principal Rules) set out in the Fourth Schedule of the Legal Profession Act, and all amendments thereto.

2. The principal Rules are amended by deleting rule 2 and substituting therefor the following—

“Interpreta-  
tion.

2. In these Rules—

“Committee” or “Disciplinary Committee” means the Disciplinary Committee appointed under section 11;

“secretary” means the person appointed by the Committee to be the secretary of the Committee or any person who, with the authority of the Committee, for the time being performs all or any of the duties of the secretary.”.

3. The principal Rules are amended by deleting rule 4 substituting therefor the following—

“Procedure  
prior to  
hearing.

4.—(1) Before fixing a day for the hearing of any application under rule 3, the Committee—

- (a) may require the applicant to supply such further documents or information relating to the allegations as the Committee thinks fit; and
- (b) shall serve on the attorney against whom the application is made a copy of the application and the affidavit in support thereof, together with all other relevant documents and information.

(2) An attorney who is served under paragraph (1)(b) shall, within forty-two days of such service, respond, in the form of an affidavit, to the application.

(3) Upon the expiration of the period mentioned in paragraph (2), the Committee shall consider the application and the response thereto (if any), and if the Committee is of the opinion that—

- (a) a *prima facie* case is shown, the Committee shall proceed in accordance with rule 5;
- (b) no *prima facie* case is shown, the Committee may dismiss the application without requiring the attorney to answer the allegation.

(4) Where the Committee dismisses an application pursuant to paragraph (3)(b), the Committee shall make a formal order to that effect if required to do so by the applicant or the attorney against whom the application is made.”.

4. Rule 5 of the principal Rules is amended by deleting the words “and shall also serve on the attorney a copy of the application and affidavit. The notice shall not be less than twenty-one days’ notice” and substituting therefor the words “in accordance with Form 3 or Form 4 of the Schedule (as the case may require), at least twenty-one days before the day fixed for the hearing”.

5. The principal Rules are amended by deleting rules 6 through 10 and substituting therefor the following—

“Lists of  
documents  
for hearing.

6.—(1) within the time specified in paragraph (2), the party to whom a notice under rule 5 is given shall furnish to the secretary and to the

other party a list of all documents [in that party's possession or control] and relevant to the application.

(2) The time specified in this paragraph is twenty-eight days after the receipt of the notice, unless otherwise ordered by the Committee in writing.

Inspection  
reliances, and  
objections.

7.—(1) Each party—

(a) may inspect the documents included in the list furnished by the other party, and a copy of any document mentioned in the list, shall, on the written request of the inspecting party, be furnished to the inspecting party by the other party within fourteen days after the receipt of the request; and

(b) shall furnish to the secretary copies of all the documents on which that party wishes to rely.

(2) Where a party intends to make a preliminary objection, notice of the objection shall be given to the secretary, and to the other party, not less than seven days before the date fixed for the hearing.

(3) A notice under paragraph (2) shall include a brief statement of the nature of the objection and the grounds thereof.

Proceedings  
in absence of  
party.

8. Where either or both of the parties fail to appear at the hearing, the Committee may, upon proof of service of the notice of the hearing, proceed to hear and determine the application, notwithstanding such failure, and shall in writing inform the parties of its findings, directions and orders arising therefrom.

Application  
for rehearing.

9.—(1) Where, pursuant to rule 8, the Committee determines an application in the absence of either or both of the parties, any such party may within one calendar month after receiving the information referred to in rule 8, apply to the Committee for a re-hearing upon giving notice to the secretary and the other party.

(2) The Committee may grant an application for a re-hearing under paragraph (1), upon such terms as to costs or otherwise as the Committee thinks fit, if the Committee is satisfied that it is just that the case should be re-heard.

(3) On a re-hearing under this rule, the Committee may amend, vary, add to or reverse any of its findings, directions or orders made upon the previous hearing.

Procedure on  
evidence  
given by  
affidavit.

10.—(1) Subject to the provisions of this rule, the Committee may, in its discretion, either as to the whole case or as to any particular fact or facts, proceed and act upon evidence given by affidavit.

(2) Any party to the proceedings may require the attendance upon subpoena of any deponent to any such affidavit for the purpose of giving oral evidence, unless the Committee is satisfied that the affidavit is purely formal and that the requirement of the attendance of the deponent is made with the sole object of causing delay.

(3) In any case where under paragraph (2) the attendance upon subpoena of any deponent to an affidavit is required for the purpose of giving evidence, the Disciplinary Committee may direct that the oral evidence be given by means of a video link or any other electronic visual means.”.

6. Rule 13 of the principal Rules is amended by deleting all the words starting at the words “on the day of” and ending at the words “of the date thereof” and substituting therefor the words “promptly file the finding, direction or order (as the case may be) of the Committee with the Registrar and, within fourteen days after the date of such finding, direction or order (as the case may be),”.

7. Rule 20 of the principal Rules is amended by deleting the words—

- (a) “the original or a copy” and substituting therefor the words “the transcript”;
- (b) “such notes” and substituting therefor the words “such transcript”.

8. The Schedule to the principal Rules is amended—

- (a) by deleting Form 3 and substituting therefor the following—

“ FORM 3 (Rule 6)

*Form of Notice by Committee to Applicant*

Complaint Number \_\_\_\_\_ of 20\_\_\_\_.

In the matter of \_\_\_\_\_,  
attorney-at-law  
and \_\_\_\_\_, applicant

In the matter of the Legal Profession Act.

To: *(insert the name of the applicant)*

Of: *(insert the address of the applicant)*

The \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

is the day fixed for the hearing of your application in the matter of \_\_\_\_\_, attorney-at-law, by the Disciplinary Committee appointed under the Legal Profession Act.

The Committee will sit at \_\_\_\_\_ o'clock in the morning and

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FORM 3, *contd.*

will hear your application as soon thereafter as it can be heard.

You are required to attend for the hearing of this application.

However, if you fail to attend the Committee may, in accordance with the rule made under the Legal Profession Act, proceed in your absence.

PLEASE NOTE THE FOLLOWING VERY CAREFULLY—

1. You are hereby required pursuant to rule 6(a) of the Legal Profession (Disciplinary Proceedings) Rules to furnish to the secretary of the Committee at 78 Harbour Street in the city and parish of Kingston, Jamaica, (email:—) and to the attorney against whom the application is made, a list of all documents on which you propose to rely in the application.
2. The list is to be furnished by you within twenty-eight days after the date of service of this notice.
3. You are at liberty to inspect at the offices of the General Legal Council, the documents included in the list of documents furnished by the attorney, within fourteen days after the expiration of the period referred to in paragraph 2.
4. Should you require a copy of any document that is contained in the attorney's list of documents, you may in writing to the attorney request that a copy be delivered to you within fourteen days after the date of your request.
5. You are requested to acknowledge the receipt of this notice, in writing, within fourteen days after the date of service thereof.

Dated the            day of            , 20   .

Secretary,  
Disciplinary Committee";

(b) by deleting Form 4 and substituting therefor the following—

“ FORM 4 (Rule 6)

Complaint Number of 20\_\_.

In the matter of \_\_\_\_\_, attorney-at-law  
and \_\_\_\_\_, applicant

In the matter of the Legal Profession Act.

To: *(insert the name of the attorney)*

Of: *(insert the address of the attorney)*

Application has been made by *(insert name of the applicant)* of *(insert address of the applicant)* to the Disciplinary Committee constituted under the Legal Profession Act, that you are required to answer the allegations contained in the affidavit.

The \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
is the day fixed for the hearing of the application by the Committee.

The Committee will sit at \_\_\_\_\_ o'clock in the morning, and will hear your application as soon thereafter as it can be heard.

You are required to attend for the hearing of the application. However, if you fail to attend, the Committee may, in accordance with the rules made under the Legal Profession Act, proceed in your absence.

PLEASE NOTE THE FOLLOWING DIRECTION VERY CAREFULLY—

1. You are required pursuant by rule 6(a) of the Legal Profession (Disciplinary Proceedings) Rules to furnish to the Secretary of the Committee at 78 Harbour Street in the city and parish of Kingston, Jamaica, (email:—) and to the applicant, a list of all documents on which you intend to rely in the application.
2. The list is to be furnished by you within twenty-eight days after the date of service of this notice.
3. You are at liberty to inspect, at the offices of the General Legal Council, the documents included in the list of documents furnished by the applicant, within fourteen days after the expiration of the period referred to in paragraph 2.

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FORM 4, *contd.*

4. Should you require a copy of any document that is contained in the applicant's list of documents, you may in writing to the applicant request that a copy be delivered to you within fourteen days after the date of your request.
5. You are requested to acknowledge the receipt of this notice, in writing, within fourteen days after the date of service thereof.

Dated the 29th day of July, 2014.

DAHLIA DAVIS  
Secretary,  
Disciplinary Committee".

PAMELA E. BENKA-COKER, Q.C.  
Chairman,  
Disciplinary Committee.