

M O N T S E R R A T

LEGAL PROFESSION (AMENDMENT) ACT 2019

No. 8 of 2019

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title
2. Interpretation
3. Section 12 amended
4. Section 16A inserted
5. Section 39 amended
6. Section 40 amended
7. Section 41 amended
8. Section 42 amended
9. Schedule 4 amended
10. Schedule 5 amended

I ASSENT

Andrew Pearce
Governor

DATE: 13 August 2019

MONTSERRAT

No. 8 of 2019

AN ACT TO AMEND THE LEGAL PROFESSION ACT 2014 (NO. 8 OF 2014) TO IMPROVE MATTERS RELATED TO DISCIPLINARY PROCEEDINGS AND RELATED MATTERS.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Montserrat, and by the Authority of the same as follows:—

1. Short title

This Act may be cited as the Legal Profession (Amendment) Act, 2019.

2. Interpretation

In this Act, “**principal Act**” means the Legal Profession Act (No. 8 of 2014).

3. Section 12 amended

Section 12 of the principal Act is amended—

- (a) in subsection (2), by deleting the words “1 October” and substituting the words “1 January”; and
- (b) in subsection (6), by deleting the words “1 November” and substituting the words “1 February”.

4. Section 16A inserted

The principal Act is amended by inserting immediately after section 16, the following section—

“**16A.** The Registrar must, as soon as possible after the Court receives an application for a person to be admitted to practise under section 15 or 16, provide a copy of the application to the Council and the Attorney General.”.

5. Section 39 amended

Section 39 of the principal Act is amended—

- (a) by deleting subsection (2) and substituting the following subsection—

“(2) In respect of an allegation concerning any professional misconduct, or a criminal offence referred to in subsection (5) by an attorney-at-law, an application to the Committee to require the attorney-at-law to answer the allegation may be made by the—

- (a) Registrar or a member of the Committee, in consultation with the Attorney General; or
- (b) Attorney General.”; and

- (b) by inserting the following subsection immediately after subsection (4)—

“(5) For the purpose of this section “criminal offence” means—

- (a) a criminal offence which is set out in Schedule 1 to the Penal Code, Cap. 4.02 as an offence for which a person may be arrested by a police officer without a warrant;
- (b) a criminal offence for which the penalty is five years of imprisonment or more; or

(c) a financial offence as defined in the Proceeds of Crime Act, Cap. 4.04.”.

6. Section 40 amended

Section 40 of the principal Act is amended by inserting, immediately after subsection (3), the following subsections—

“(4) Despite section 41(3), pending the hearing or determination of an application against an attorney-at-law, the Committee may make an interim order suspending an attorney-at-law from practice if the attorney-at-law is convicted of a criminal offence referred to in section 39(5), and

(5) In circumstances other than under subsection (4), if the Committee determines that pending the hearing or determination of an application against an attorney-at-law, the continued practice of the attorney-at-law is not in the interests of clients, potential clients or other members of the public, the Committee shall apply to a single judge in Chambers for an interim order—

(a) suspending an attorney-at-law from practice; or

(b) imposing conditions or limitations on the practice of the attorney-at-law.”.

7. Section 41 amended

Section 41(1)(b) of the principal Act is amended by deleting the words “of \$1,000” and substituting the words “it determines to be appropriate”.

8. Section 42 amended

Section 42 of the principal Act is amended, in subsection (2)—

(a) by inserting immediately after the words “consist of the following members”, the words “called arbiters”; and

(b) in paragraphs (a) to (d), by deleting the word “arbiter” wherever it occurs and substituting the word “person”.

9. Schedule 4 amended

Schedule 4 of the principal Act is amended—

(a) in paragraph 1 by —

(i) deleting subparagraph (2) and substituting the following—

“(2) The five members of the Committee must be appointed as follows—

(a) one member of the Council;

(b) three persons who—

(i) are members of a Bar Association in an Organisation of Eastern Caribbean State member; and

(ii) have been an attorney-at-law for no less than ten years; and

(c) a Chairperson who has held judicial office or has been an attorney-at-law for no less than fifteen years.”; and

(ii) deleting subparagraphs (3) and (4); and

(b) by deleting paragraph 8(1) and substituting the following—

“(1) The Committee must meet as is necessary to expediently conduct the work of the Committee and a meeting of the Committee—

(a) must be held in private, in the absence of the press and other members of the public who are not parties to the proceedings; and

(b) may be conducted in person or through the use of telecommunication or electronic means.”.

10. Schedule 5 amended

Schedule 5 of the principal Act is amended—

(a) in paragraph 3(1), by deleting the words “within seven days” and substituting the words “within twenty-one days”;

(b) in paragraph 3(2), by deleting the words “within seven days” and substituting the words “within twenty-eight days”;

- (c) in paragraph 4(1), by deleting the words “within seven days” and substituting the words “within thirty days” ;
- (d) in paragraph 12, by inserting immediately after the words “in private”, the words “but must announce their findings and orders in public;
- (e) in paragraph 15, by—
 - (i) inserting immediately after the words “may be effected”, the words “by electronic means or”; and
 - (ii) deleting the words “personally served” and substituting the word “served”; and
- (f) by inserting immediately after paragraph 19 the following paragraph—

“20. Power to extend time

Despite anything to the contrary, the Committee may extend or otherwise vary the time for taking any action under this Schedule.”.

SHIRLEY OSBORNE
Speaker

Passed by the Legislative Assembly this 29th day of July, 2019.

JUDITH BAKER
Clerk of the Legislative Assembly