
**THE BAR (DISCIPLINARY PROCEEDINGS)
REGULATIONS***S.I. 21/1981***(SECTION 40)***[Commencement 8th April, 1981]*

1. These Regulations may be cited as the Bar (Disciplinary Proceedings) Regulations.

Citation.

PRELIMINARY

2. In these Regulations —

Interpretation.

“complaint” means a complaint under section 28 of the Act of improper conduct against a counsel and attorney or a registered associate;

“hearing” means a hearing by a committee under Part I of these Regulations or, by the Council under Part II thereof, as the case may be;

“party” means a party to proceedings;

“proceedings” means proceedings of a committee.

PART I**COMPLAINTS AGAINST COUNSEL
AND ATTORNEYS AND REGISTERED
ASSOCIATES**

3. (1) Subject to paragraph (2), a complaint shall be in writing under the hand of the complainant in Form 1 and shall be sent to the Secretary of the Council together with an affidavit by the complainant in Form 2 stating the matters of fact on which the complainant relies in support of his complaint.

Form of
complaint and
affidavit in
support.
Form 1.
Form 2.

(2) Where the complaint is by the Registrar and is based on disclosures made in judicial proceedings, the complaint may in lieu of an affidavit by the complainant be accompanied by a certified record of the proceedings.

4. (1) Before determining whether the complaint is one which should be referred to a disciplinary committee under section 28(2) of the Act, the Council may require the complainant to supply to the Council such further information and documents relating to the complaint as the Council considers requisite.

Council may
require
additional
particulars of
complaint.

(2) The Council shall transmit to the disciplinary committee all documents received by the Council pursuant to paragraph (1) and regulation 3.

If no *prima facie* case made out, Council may dismiss complaint.

5. Where, in the opinion of the Council, a *prima facie* case is not made out in favour of the complaint, or the complaint if proved would not call for the exercise by a disciplinary committee of any of the disciplinary powers conferred by section 30 of the Act, the Council shall dismiss the complaint and inform the complainant accordingly.

Parties to proceedings where registered associate complained against.

6. In relation to a complaint against a registered associate, the parties to the proceedings for the purpose of these regulations shall be —

- (a) the complainant;
- (b) the registered associate; and
- (c) if the Committee so direct, the counsel and attorney or firm by whom the registered associate was employed at the time of the conduct complained of.

Committee to fix and serve notice of date of hearing.

7. (1) A committee, as soon as may be after their appointment under the Act, shall fix a day for the hearing of the complaint, and, subject to paragraph (2), shall cause to be served upon each party notice in writing of the day so fixed, which day shall not be less than twenty-one days from the date of such service, together with a copy of the complaint and of the affidavit or other document in support of the complaint.

Forms 3, 4 and 5.

(2) Notice given pursuant to paragraph (1) shall be in such one of Forms 3 to 5 as is appropriate to the circumstances of the case or in such other form as the committee may direct.

Documents to be used at hearing.

8. (1) Every party to whom a notice mentioned in regulation 6(2) is addressed shall serve upon the chairman of the committee and on every other party not less than fourteen days before the day fixed for hearing a list of all the documents on which he intends to rely and a document not in that list shall not be used at the hearing unless the committee otherwise direct.

(2) Any party shall have the right to inspect the documents included in the list furnished under paragraph (1).

(3) Four sets of documents each comprising every document mentioned in a list furnished by a party under paragraph (1), shall be supplied by that party to the chairman of the committee, the pages of each set being numbered, consecutively and uniform in size.

(4) A copy of any document mentioned in any such list shall, on application and on tender of a reasonable charge therefor by the party requiring it, be furnished to that party by the party having possession of the document within three days after the receipt of the application.

9. (1) Any party may by notice in writing at any time not later than nine days before the day fixed for a hearing, call upon any other party (hereinafter in this regulation referred to as “the other party”) to admit any document, saving all just exceptions.

Admission of documents.

(2) If the other party desires to challenge the authenticity of a document of which notice has been given pursuant to paragraph (1), he shall within six days after receipt of the notice himself give notice that he does not admit the document and requires it to be proved at the hearing; and if he refuses or neglects to give such notice, he shall be deemed to have admitted the document unless the committee otherwise order.

(3) Where a party gives notice of non-admission of a document pursuant to paragraph (2) and the document is proved at the hearing, the costs of proving the document shall be paid by the party that challenged the document, whatever the decision of the committee, unless in the opinion of the committee there were reasonable grounds for not admitting the authenticity of the document.

(4) Where a party proves a document without having given notice to admit under paragraph (1), the costs of proving the document shall not be allowed unless the committee so direct.

10. If any party fails to appear at the hearing, the committee may, upon proof of service upon him of the notice of the hearing, proceed to hear and determine the complaint in his absence.

Committee may proceed in absence of parties in certain circumstances.

11. (1) A committee may, in their discretion, either as to the whole case or as to any particular fact or facts, proceed and act upon evidence given by affidavit, but any

Committee may proceed and act upon affidavit evidence.

party to the proceedings may require the attendance upon subpoena of any deponent to any such affidavit for the purpose of giving evidence in person, unless the committee are satisfied that the affidavit is purely formal and that the requirement that the deponent should attend is made with the sole object of causing delay.

(2) If in the opinion of a committee the justice of the case so requires, they may allow an affidavit to be amended or added to, to such extent and on such terms as to costs or otherwise as the committee think fit.

Crown Council
may take part in
certain
circumstances.

12. A committee may at any stage of the proceedings determine that there is need for a legal officer of the Crown or a counsel and attorney either to assist the committee as *amicus curiae*, or to assist any party, to such extent as the committee think fit, then the committee may enlist the aid of a legal officer of the Crown (subject to the approval of the Attorney General) or a counsel and attorney for the purpose of rendering such assistance and where a legal officer of the Crown or a counsel and attorney appears pursuant to the request of the committee, these Regulations shall have effect *mutatis mutandis*.

Hearings to be in
private.

13. Every complaint and every application relating to a complaint shall be heard in private, but the findings and any disciplinary order of a committee shall be pronounced in public.

Record of
proceedings.

14. (1) Notes of the proceedings shall be taken by the chairman of the committee or with his approval by such other person whose services have been made available to the committee; and any party to the proceedings shall be entitled to inspect the notes.

(2) A copy of such notes shall be supplied to the Council and, if requested, to any other party to the proceedings, but to no other person, on payment to the supplier of such fee as may be fixed by the Council.

How service of
documents
effected.

15. Service of any notice or other document may be effected under these Regulations by prepaid registered post addressed —

- (a) in the case of a counsel and attorney, to the address of his Chambers appearing in the records of the Council; and
- (b) in any other case, to the last-known postal address or to the post office box number of the person to be served,

and, unless the contrary is proved, such service shall be deemed to have been effected ninety-six hours after posting.

16. A committee may dispense with any requirements of these Regulations respecting the making of affidavits, the supply of documents, the giving of notices, the effecting of service or the time within which anything shall be done, in any case where it appears to the committee to be just to do so.

Requirements may be dispensed with.

17. The provisions of the Evidence Act shall apply in relation to proceedings of a committee in the same way as those provisions apply in relation to court proceedings.

Evidence Act applies. Ch. 65.

18. A subpoena issued under section 29(2) of the Act shall be in Form 6 or Form 7 as the circumstances require.

Forms of subpoena. Forms 6, 7.

19. If the decision of a committee is not pronounced at a hearing, the committee shall give notice to the parties of the date on which the decision will be pronounced.

Notice of pronouncement of decision.

20. The Chairman of the committee shall, within four days after the date on which the decision of a committee has been pronounced, send to each party a copy of the decision free of charge.

Copies of decision.

21. Subject to the provisions of these Regulations, a committee may regulate their own procedure.

Committee may regulate their own procedure.

22. All affidavits, books, papers or other documents and all exhibits or other things produced or used at or for the purposes of a hearing shall, after the conclusion of the proceedings, be kept in the custody of the Secretary of the Council and, except as may be required for the purposes of any appeal under section 39 of the Act, shall be subject to the disposition of the Council.

Documents to be kept by Secretary of Council.

PART II

RESTORATION TO THE ROLL OF FORMER COUNSEL AND ATTORNEYS

23. An application to the Council by a former counsel and attorney, whose name has been struck off the Roll, to have his name restored to the Roll pursuant to section 33 of the Act shall be by way of affidavit in Form 8 addressed to the Council.

Forms of application for reinstatement.

Form 8.