

From: Subject: Agreement establishing the Council of Legal Education Date: Tue, 12 Jan 2010 12:23:15 -0400 MIME-Version: 1.0 Content-Type: text/html; charset="Windows-1252" Content-Transfer-Encoding: quoted-printable Content-Location: http://www.caricomlaw.org/docs/agreement-cle.htm X-MimeOLE: Produced By Microsoft MimeOLE V6.00.2900.5579

AGREEMENT=20 ESTABLISHING THE COUNCIL OF LEGAL = EDUCATION

THE CONTRACTING=20 PARTIES:

SHARING = a common=20 determination to establish without delay a scheme for legal education = and=20 training that is suited to the needs of the Caribbean;

AWARE = that the=20 objectives of such a scheme of education and training should be to = provide=20 teaching in legal skills and techniques as well as to pay due regard to = the=20 impact of law as an instrument of orderly social and economic = change;

CONVINCED that=20 such a scheme of education and training can best be achieved = by:-

Firstly, a University = course of=20 academic training in a Faculty of Law designed to give not only a = background=20 of general legal principles and techniques but an appreciation of = relevant=20 social science subjects including Caribbean history and contemporary = Caribbean=20 affairs;

Secondly, a period of = further=20 institutional training directed towards the study of legal subjects, = having a=20 practical content and emphasis, and the acquisition of the skills and=20 techniques required for the practice of law;

RECOGNISING the=20 need to vest responsibility for providing the institutional training in = a=20 Regional Council of Legal Education which should be established in = advance of=20 students being admitted to the Faculty of Law so as to give assurance = that the=20 whole scheme for legal education will be implemented in its = entirety;

HEREBY AGREE AS=20 FOLLOWS:

ARTICLE=20 1 CONSTITUTION

There shall be a Council = of Legal=20 Education (hereinafter called "the Council") with the following = membership,=20 status, functions and powers:

1. Membership

(a) The Council shall = consist=20 of:

(i) The Dean of the = Faculty of=20 Law of the University of the West Indies and another member of the = Faculty=20 nominated by him;

(ii) The Director of = Legal=20 Education and his Deputy or Deputies;

(iii) The Head of = the=20 Judiciary of each participating territory;

(iv) The Attorney = General of=20 each participating territory;

(v) From each of the = four=20 participating territories in which there are now two branches of the = legal=20 profession, namely Jamaica, Barbados, Trinidad and Tobago and = Guyana, a=20 Barrister and a Solicitor nominated by their appropriate = professional=20 bodies, or in

the event of the two branches of the profession at any = time=20 becoming fused in any such territory two members of the fused = profession=20 nominated by their appropriate professional body;

(vi) From each of = the other=20 participating territories one member of the profession nominated by = the=20 appropriate professional body.

(b) Each member of the = Council=20 appointed under paragraphs (v) and (vi) of Clause (a) above shall hold = office=20 for three years from the date of his appointment and shall be eligible = for=20 re-appointment. The effective date of appointment of member under the = said=20 paragraphs (v) and (vi) shall be the date on which the Council is = notified of=20 the appointment.

(c) Each member of the = Council=20 may be represented by an alternate to be appointed, in the case of (i) = above=20 by the Dean, in the case of (ii), (iii) and (iv) by the members = himself and in=20 the case of (v) and (vi) by the body represented by the = member.

(d) A casual vacancy, = however,=20 occurring in the case of a member appointed under (v) and (vi) may be = filled=20 by the body appointing such member and the person appointed to fill = such=20 casual vacancy shall hold office for the remainder of the period of = the=20 appointment of the member whose place he fills.

(e) Any committee of = the Council=20 shall have the power to co-opt such person or persons as it thinks=20 fit.

2. Legal = Status

The Council shall = possess full=20 juridical personality and, in particular, full capacity -

(a) to = contract;

(b) to acquire, and = dispose of=20 movable and immovable property; and

(c) to institute and = defend=20 legal proceedings.

3. Functions and = Powers

The functions and the = powers of=20 the Council shall be as follows:-

(a) to undertake and = discharge=20 general responsibility for the practical professional training of = persons=20 seeking to become members of the legal profession;

(b) to establish, = equip and=20 maintain Law Schools, one in Jamaica, one in Trinidad and Tobago and = in such=20 other territories as the Council may from time to time determine, for = the=20 purpose of providing postgraduate professional legal = training;

(c) to appoint a = Director of=20 Legal Education, one or more Deputy Directors of Legal Education and = all=20 necessary staff;

(d) to make proper = provision for=20 courses of study and practical instruction, for the award of = scholarships,=20 studentships, bursaries, and prizes, and for holding examinations and = granting=20 diplomas and certificates;

(e) to evaluate = courses of study=20 provided by and to accord appropriate recognition of legal = qualifications=20 obtained at other institutions;

(f) in the exercise of = any of=20 the above functions or powers to enter into any such agreements with =

the=20 University of the West Indies, and the University of Guyana as the = Council=20 shall think fit;

(g) To appoint = Committees of the=20 Council and to delegate to any such Committee such of its powers as = the=20 Council shall think fit provided that the Council shall nevertheless = maintain=20 overall responsibility for co-ordinating training throughout the area = on a=20 planned and integrated basis paying due regard to the needs of the = several=20 participating territories;

(h) to make = regulations for the=20 due discharge of its functions, for the courses and examinations at = the Law=20 Schools, and for prescribing fees to be paid and disciplinary rules to = be=20 observed by persons admitted to the Law Schools and, subject to the = provisions=20 of Articles 7 and 8, to regulate its own procedures;

(i) to do all such = other acts=20 and things whether incidental to the powers aforesaid or not as may be = requisite in order to further the objects of the=20 Council.

ARTICLE 2

DIRECTOR OF = LEGAL=20 EDUCATION

The Director shall be = responsible=20 to the Council for the organisation and administration of the Law = Schools and of=20 the courses of study and practical instruction and shall exercise such = other=20 functions of the Council as the Council may from time to time entrust to = him.=20 The Director may delegate to a Deputy Director any of his functions or=20 powers.

ARTICLE 3

ADMISSION TO = LAW=20 SCHOOLS

Every person who holds a = University of the West Indies LL.B. degree shall be eligible for = admission to=20 the Law Schools and every person who holds a degree of a University or=20 Institution which is recognised by the Council as being equivalent to = the=20 University of the West Indies LL.B. degree shall, subject to the = availability of=20 places and to such conditions (if any) as the Council may require, be = eligible=20 for admission to the Law Schools. Provided that any national who prior = to=20 1st October,1971 was the holder of a University Degree or had = commenced upon a degree programme other than in law and completed that = programme=20 before 1st October,1974, shall be eligible to be admitted to = one of=20 the professional Law Schools without being required to obtain a degree = of LL.B.=20 from the University of the West Indies, or a Law Degree recognised by = the=20 Council of Legal Education as equivalent thereto but subject to such = other terms=20 and conditions as the Council of Legal Education shall after = consultation with=20 the Faculty of Law of the University of the West Indies = determine.

ARTICLE 4

LEGAL = EDUCATION=20 CERTIFICATE

On satisfactory = completion by any=20 person of the course of study and professional training at one of the = Law=20 Schools established by the Council of Legal Education, he shall be = awarded by=20 the Council a certificate herein referred to as a Legal Education=20 Certificate.

ARTICLE 5

ADMISSION TO = PRACTICE

1. The Government of = each of the=20 participating territories undertakes that it will recognise that any = person=20 holding a Legal Education Certificate fulfils the requirements for = practice in=20 its territory so far as institutional training and education are = concerned and=20 that (subject to the transitional provisions hereinafter contained and = to any=20 reciprocal arrangements that any of the said territories may hereafter = make with=20 any other country) no person shall be admitted to practise in that = territory who=20 does not hold such certificate. But nothing herein contained shall = prevent any=20 territory from imposing additional qualifications as a condition of = admission to=20

practise therein.

2. The foregoing = provisions of=20 this article shall be subject to the terms of the Protocol to this = Agreement=20 which shall have effect for the purpose specified therein.

ARTICLE 6

SAVING AND=20 TRANSITIONAL PROVISIONS

1. The Government of = each of the=20 participating territories agrees that the following persons shall be = recognised=20 as professionally qualified for admission to practise in its territory, = namely=20 -

(a) Any national who = is on=20 1st October, 1971 qualified to be admitted to practise as a = solicitor or barrister in that territory;

(b) Any national who = prior to=20 1st October, 1971 was undergoing or had been accepted for a = course=20 of legal training leading to any present qualification to practise and = who=20 satisfied the requirements of such course on or before 31st = December, 1979;

2. In this Article = "national"=20 means a person who -

(a) is a citizen of = any=20 participating territory; or

(b) is regarded as = belonging to=20 any participating territory under any law in force in that=20 territory.

ARTICLE 7

COUNCIL -=20 PROCEDURE

1. The Council shall = meet at such=20 time and place as may from time to time be directed by the = Council.

2. The Director of Legal = Education=20 shall, upon written request of the Chairman or of five or more members = of the=20 Council, specifying the matters to be considered, call a meeting of the=20 Council.

3. Decisions of the = Council and of=20 any Committee of the Council shall be by a majority of members present = and=20 voting and one-third of the Members of the Council or of any Committee = of the=20 Council shall be a quorum.

4. Each member shall = have one=20 vote. The Chairman of a meeting in addition to his original vote shall = have a=20 casting vote in the event of an equal division.

5. The Council and any = Committee=20 of the Council shall be competent to act notwithstanding any vacancy in = its=20 membership or any irregularity subsequently discovered in the = appointment of its=20 members.

ARTICLE 8

COUNCIL -=20 CHAIRMAN

At the first meeting and = as=20 required thereafter the Council shall elect one of its members as = Chairman who=20 shall hold office for three years. The Chairman, if present, shall = preside at=20 all meetings of the Council and in the event of his absence the members = present=20 shall appoint a Chairman.

ARTICLE 9

FINANCIAL=20 PROVISIONS

1. The revenue of the = Council=20 shall be derived from contributions from the Governments of the = participating=20 territories, from grants and donations, and from fees payable by persons = admitted to the Law Schools.

2. The Council shall = have the=20 power to invest any monies belonging to it, including any unapplied = income, in=20 such stocks, funds, fully paid shares or securities as the Council may = from time=20 to time think fit, whether authorised by the general law for the = investment of=20 trust monies or not, with the like power of varying such investments = from time=20 to time by sale or reinvestment or otherwise.
 3. The Council shall = govern,=20 manage and regulate its finances, accounts, investments, property, = business and=20 all its affairs whatsoever and for that purpose shall have the power to = appoint=20 bankers and any officers or agents whom it may deem expedient to=20 appoint.
 4. The interim expenses = of the=20 Council (other than those relating to the establishment and operation of = the Law=20 Schools) shall be borne by the Governments of the participating = territories in=20 the same proportion as the interim expenses of the Faculty of Law of the = University of the West Indies. All other expenses relating to the = establishment=20 and operation of the Law Schools shall be considered by the Governments = of the=20 participating territories and their respective contributions thereto = agreed upon=20 at the earliest practicable date.
 5. (a) The Council shall = cause to=20 be kept proper books of account which shall be audited at least once a = year by=20 an auditor who shall be a qualified and independent Accountant in the = active=20 practice of his profession appointed by the Council, and shall cause to = be=20 prepared not later than three months after the end of each academic year = -
 - (i) a statement = showing in=20 detail the income and expenditure of the Council for the immediately = preceding academic year.
 - (ii) a statement of = the assets=20 and liabilities of the Council as they stood at the end of the = immediately=20 preceding academic year.
 - (b) Such statements = shall be=20 certified by the Auditor appointed by the Council and as soon as may = be=20 thereafter a copy of each such statement as audited shall be = transmitted to=20 each contracting party.
 - (c) The Council shall = in each=20 year, not later than the date specified in paragraph 5 (a) (i) cause = to be=20 prepared and transmitted to each contracting party a report dealing = generally=20 with the activities of the Council.
6. The Council, its = assets,=20 property, income and its operations and transactions, shall be exempt = from all=20 direct taxation and from all custom duties on goods imported for its = official=20 use; this shall not include exemption from taxes which are no more than = charges=20 for public utility services.

ARTICLE 10

DEPOSIT, = RATIFICATION=20 AND ENTRY INTO FORCE

1. This Agreement shall = come into=20 force upon signature or deposit of letters of ratification or acceptance = on=20 behalf of the University of the West Indies and the University of Guyana = and on=20 behalf of Barbados, Guyana, Jamaica and Trinidad and Tobago.
2. This Agreement shall = be subject=20 to ratification or acceptance by the contracting parties. Instruments of = ratification or acceptance shall be deposited by the contracting parties = with=20 the Depository who shall notify the other contracting = parties.
3. This Agreement shall = be=20 deposited with the Secretary-General of the Commonwealth Caribbean = Regional=20 Secretariat (herein called the "Depository").
4. The Depository shall = transmit=20 copies of this Agreement to each contracting party.

ARTICLE = 11

PARTICIPATION OF=20 TERRITORIES OTHER THAN ORIGINAL SIGNATORIES

Any of the territories = named in=20 Annex 'A' hereof (other than the signatories hereto at the date of the = coming=20 into force of this Agreement) may become parties to this Agreement at = such time=20 and in accordance with such terms as may be determined by the=20 Council.

ARTICLE 12 INAUGURAL=20 MEETING

As soon this Agreement = comes into=20 force, the Vice-Chancellor of the University of the West Indies shall = take the=20 necessary steps to secure the nomination of the members of the Council = specified=20 in Clause 1 (a) paragraphs (v) and (vi) of Article 1 and to convene the=20 Inaugural Meeting of the Council.

IN WITNESS WHEREOF the = undersigned=20 representatives, being duly authorised thereto by their respective = Governments=20 or Institutions, have signed the present Agreement.

Done at this day of 1970 = in a=20 single copy, which shall be deposited with the Commonwealth Caribbean = Regional=20 Secretariat by which certified copies shall be transmitted to all = participating=20 Governments.

Signed by

ANNEX = 'A'

Antigua
Bahamas
Barbados
British=20 Honduras
The British Virgin Islands
The Cayman=20 = Islands
Dominica
Grenada
Guyana
Jamaica
Montserrat
St. = Kitts-Nevis-Anguilla
St. Lucia
St. Vincent
Trinidad and=20 Tobago
The University of the West Indies
The University of=20 Guyana

PROTOCOL TO PROVIDE FOR = THE=20 RESERVATION MADE BY THE GOVERNMENT OF THE BAHAMAS TO PARAGRAPH 1 OF = ARTICLE=20 5 OF THE AGREEMENT ESTABLISHING THE COUNCIL OF LEGAL=20 EDUCATION

The contracting parties = to the=20 Agreement establishing the Council of Legal Education hereby agree that=20 notwithstanding the provisions of paragraph 1 of Article 5, the = Government of=20 the Bahamas shall be able to admit to practice in the Bahamas, persons = holding=20 qualifications other than a Legal Education Certificate awarded by the = Council=20 of Legal Education. The Government of the Bahamas undertakes to review = the=20 position within five years of the coming into force of the Agreement = with a view=20 to implementing fully the provisions of paragraph 1 of Article = 5.

SUPPLEMENTAL AGREEMENT IN = RELATION=20 TO THE COUNCIL OF LEGAL EDUCATION

THE CONTRACTING=20 PARTIES:

NOTING = that the=20 Agreement establishing the Council of Legal Education (hereinafter = called "the=20 Principal Agreement") came into force on 17th March, = 1971;

NOTING = FURTHER=20 that the Council of Legal Education at its inaugural meeting in Barbados = on=20 September 20th - 21st, 1971 recommended to = participating=20 Governments that certain amendments be made to the Principal Agreement = and that=20 a further Protocol relating to the adhesion of the Government of the = Cayman=20 Islands be added to that Agreement;

HEREBY AGREE AS=20 FOLLOWS:

ARTICLE = 1

INTERPRETATION AND=20 CONSTRUCTION

The provisions of this = Agreement=20 shall be read and construed as one with the Principal = Agreement.

ARTICLE 2

AMENDMENT TO = ARTICLE 3=20 OF PRINCIPAL AGREEMENT

Article 3 of the = Principal=20 Agreement shall be amended by the deletion of the words "1st = October,=20 1971" and by the substitution therefor of the words "1st = October,=20 1972" and by the deletion of the words "1st October, 1974" = and by the=20 substitution therefor of the words "1st October, 1975" and = the said=20 Article 3 shall in consequence be in the form set out in Annex I to this = Agreement.

ARTICLE 3

AMENDMENT TO = ARTICLE 6=20 OF PRINCIPAL AGREEMENT

Article 6 of the = Principal=20 Agreement shall be amended by the deletion from paragraph 1 thereof of = the words=20 "1st October, 1971" whenever they occur and by the = substitution=20 therefor of the words "1st October, 1972" and by the deletion = from=20 paragraph 1 thereof of the words "31st December, 1979" and by = the=20 substitution therefor of the words "31st December, 1980" and = the said=20 Article 6 shall in consequence be in the form set out in Annex II to = this=20 Agreement.

ARTICLE 4

AMENDMENT TO = ANNEX 'A'=20 OF THE PRINCIPAL AGREEMENT

Annex 'A' of the = Principal=20 Agreement shall be amended by the addition after the words "TRINIDAD AND = TOBAGO"=20 of the words "THE TURKS AND CAICOS ISLANDS".

ARTICLE 5

FURTHER = PROTOCOL=20 RELATING TO ADHESION OF CAYMAN ISLANDS

1. Article 5 of the = Principal=20 Agreement shall be amended by the deletion from paragraph 2 thereof of = the word=20 "Protocol" and the substitution therefor of the word "Protocols" and by = the=20 deletion from the said paragraph of the word "purpose" and the = substitution=20 therefor of the word "purposes" and the said Article 5 shall in = consequence be=20 in the form set out in Annex III to this Agreement.

2. There shall be = attached to the=20 Principal Agreement a further Protocol in the form set out in Annex IV = to this=20 Agreement.

ARTICLE 6

ENTRY INTO=20 FORCE

1. This Agreement shall come into force upon the deposit by each contracting party which at the date hereof has signed and ratified the Principal Agreement, of an instrument of ratification or acceptance with the Depository: Provided that this Agreement shall not come into force with respect to any contracting party which signs and ratifies the Principal Agreement after the date hereof and before the date on which this Agreement comes into force unless or until that contracting party deposits an instrument of ratification or acceptance of this Agreement.
2. The Depository for the purpose of this Article shall be the Commonwealth Caribbean Regional Secretariat.
3. The Depository shall transmit copies of this Agreement to each contracting Party.

ANNEX I

ADMISSION TO LAW SCHOOLS

Every person who holds a University of the West Indies LL.B. degree shall be eligible for admission to the Law Schools and every person who holds a degree of a University or Institution which is recognised by the Council as being equivalent to the University of the West Indies LL.B. degree shall, subject to the availability of places and to such conditions (if any) as the Council may require, be eligible for admission to the Law Schools. Provided that any national who prior to 1st October, 1972 was the holder of a University Degree or had commenced upon a degree programme other than in law and completed that programme before 1st October, 1975, shall be eligible to be admitted to one of the professional Law Schools without being required to obtain a degree of LL.B. from the University of the West Indies, or a Law Degree recognised by the Council of Legal Education as equivalent thereto but subject to such other terms and conditions as the Council of Legal Education shall after consultation with the Faculty of Law of the University of the West Indies determine.

ANNEX II

SAVING AND TRANSITIONAL PROVISIONS

1. The Government of each of the participating territories agrees that the following persons shall be recognised as professionally qualified for admission to practise in its territory, namely -
 - (a) Any national who is on 1st October, 1972 qualified to be admitted to practise as a solicitor or barrister in that territory;
 - (b) Any national who prior to 1st October, 1972 was undergoing or had been accepted for a course of legal training leading to any present qualification to practise and who satisfied the requirements of such courses on or before 31st December, 1980.
2. In this Article "national" means a person who -
 - (a) is a citizen of any participating territory; or
 - (b) is regarded as belonging to any participating territory under any law in force in that territory.

ANNEX III

ADMISSION TO PRACTISE

1. The Government of each of the participating territories undertakes that it will recognise that any person holding a Legal Education Certificate fulfils the requirements for practice in its territory so far as institutional training and education are concerned and that (subject to the transitional provisions hereinafter contained and =

to any reciprocal arrangements that any of the said territories may hereafter make with any other country) no person shall be admitted to practise in that territory who does not hold such certificate. But nothing herein contained shall prevent any territory from imposing additional qualifications as a condition of admission to practise therein.

2. The foregoing provisions of this article shall be subject to the terms of the Protocols to this Agreement which shall have effect for the purposes specified therein.

ANNEX IV

FURTHER PROTOCOL TO PROVIDE FOR THE ADHESION OF THE GOVERNMENT OF THE CAYMAN ISLANDS NOTWITHSTANDING PARAGRAPH 1 OF ARTICLE 5 OF THE AGREEMENT ESTABLISHING THE COUNCIL OF LEGAL EDUCATION

The Contracting parties to the Agreement establishing the Council of Legal Education hereby agree that notwithstanding the provisions of paragraph 1 of Article 5, the Government of the Cayman Islands shall be able to admit to practise in the Cayman Islands persons holding qualifications other than a Legal Education Certificate awarded by the Council of Legal Education:

Provided that the Government of the Cayman Islands may, at any time not later than five years from the date on which that Agreement entered into force, adhere unconditionally to the full terms of that Agreement but if, at the conclusion of the said period of five years, the Government of the Cayman Islands has not so adhered, it shall cease forthwith to be a participating Government in the Council of Legal Education.