

LAW PRACTITIONERS ACT
Act 55 of 1984 – 1 April 1985

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LAW PRACTITIONERS ACT

1. Short title

This Act may be cited as the Law Practitioners Act.

2. Interpretation

In this Act—

“accredited person” means the University of Mauritius or a person who is the holder of an authorisation granted under section 12A (3);

“applicant” means a person who has applied, or intends to apply, to be admitted as a law practitioner;

“Board” means the Judicial and Legal Studies Board referred to in section 7 of the Institute for Judicial and Legal Studies Act;

“Chairperson” means the Chairperson of the Council;

“Continuing Professional Development Programme” means a Programme devised, organised and conducted under section 9B;

“Council” means the Council for Vocational Legal Education established under section 11;

“director”, in relation to a law firm or foreign law firm or joint law venture—

- (a) in the case of a company, has the meaning assigned to it in the Companies Act;
- (b) in any other case, means any person, whether acting individually or collectively, having responsibility for managing the day-to-day affairs of a body;

“foreign law” means the law of a jurisdiction other than that of Mauritius;

“foreign law firm” means a corporate entity licensed or registered as a law firm in a foreign country and having a local office registered in accordance with section 10G;

“foreign lawyer” means an individual who is admitted to practise law in a foreign country and is registered in accordance with section 10L;

“Institute” means the Institute for Judicial and Legal Studies established under the Institute for Judicial and Legal Studies Act;

“international law”—

- (a) includes law established by an international treaty or an international convention, or international customary law; but
- (b) does not include laws of Mauritius, or the domestic law of any other country;

“joint law venture” means a joint law venture referred to in section 10H;

“law degree” means a degree in law awarded, following a course of studies for such period and at such level as may be prescribed under section 22 (1) (c), by—

- (a) the University of Mauritius;
- (b) a university in the United Kingdom; or

- (c) such university or other tertiary education institution in Mauritius, the United States, another Commonwealth country or a civil law State, as may be approved by the Council;

“law firm” means a body of persons providing legal services, whether incorporated as a company, or set up as a *société*, registered under section 10A;

“law officer” has the same meaning as in the Law Officers Act;

“law practitioner” means a barrister, an attorney or a notary whose name has been entered on, and not been erased from, the Roll;

“legal consultant” means—

- (a) a person who has retired from office as a Judge; or
- (b) a person authorised to act as such by the Chief Justice where his name has, at his request, been erased from the Roll after he has, for not less than 10 years in the aggregate—
- (i) been a barrister, an attorney, a law officer or a Magistrate; or
- (ii) held a combination of 2 or more professions or occupations set out in subparagraph (i);

“legal officer” means an officer who holds an office specified in the First Schedule and includes the Chief Legal Secretary, the Legal Secretary and the Assistant Legal Secretary;

“Legal Secretary” means the holder of the public office of Chief Legal Secretary, Legal Secretary or Assistant Legal Secretary at the Attorney-General’s Office;

“legal services” means—

- (a) in relation to a law firm or joint law venture, any services which a law practitioner may lawfully provide under this Act; and
- (b) in relation to a foreign law firm, services relating to foreign law or international law;

“local office” means an office set up in Mauritius by a foreign law firm as a branch of its main office and registered in accordance with section 10G;

“member” means a member of the Council and includes the Chairperson;

“professional qualification” means an attestation, in such form as the Council may approve, to the effect that a person who holds a law degree has a qualification as, or equivalent to that of, barrister entitling him to practise in England and Wales, Australia, New Zealand, Canada or France;

“pupil master” means a person designated as such by the Council under section 5A (2);

“Register” means a register kept by the Legal Secretary for the purposes of sections 10B, 10G, 10I and 10L;

“Registrar” means the Master and Registrar;

“Roll” means the roll kept under section 10;

“Secretary” means the person appointed as such under section 11A;

“signing practitioner” means a law practitioner authorised in writing by a law firm to sign on its behalf;

“vocational course” means the course referred to in section 4 (2) (a) (iii) (B) and enabling a person to qualify as a law practitioner;

“Vocational Examinations Board” means the Board set up under section 11B.

[S. 2 amended by Act 29 of 1992; s. 3 of Act 8 of 2008 w.e.f. 15 December 2008; s. 3 of Act 30 of 2011 w.e.f. 3 September 2012.]

3. Provision of legal services

(1) Subject to this Act, no person shall provide legal services unless—

- (a) his name has been entered on the Roll as a barrister, an attorney or notary; and
- (b) he is a member—
 - (i) in the case of a barrister, of the Mauritius Bar Association;
 - (ii) in the case of an attorney, of the Mauritius Law Society; or
 - (iii) in the case of a notary, of the Association of Notaries; or
- (c) he is a foreign lawyer duly registered in his home jurisdiction and practising as such in a law firm, foreign law firm or joint law venture.

(2) Nothing in this Act shall be deemed to prevent a legal consultant from giving legal advice, for a fee or other reward, to any other person.

[S. 3 repealed and replaced by s. 4 of Act 8 of 2008 w.e.f. 15 December 2008.]

4. Qualifications of law practitioners

(1) Any citizen of Mauritius may apply for admission to practise law in Mauritius under section 6 where he satisfies the requirements of subsection (2).

(2) The requirements of this subsection are that an applicant shall have—

- (a) (i) in the case of a prospective barrister who qualified as such in a State other than Mauritius, a professional qualification;
- (ii) in the case of every other prospective barrister or every prospective attorney—
 - (A) been awarded a law degree;

- (B) completed the vocational course in accordance with section 5; and
 - (C) sat for and passed an examination conducted by the Vocational Examinations Board;
- (iii) in the case of a prospective notary—
- (A) the qualifications referred to in subparagraph (ii);
 - (B) attained the age of 25 years; and
 - (C) been authorised by the Prime Minister, after consultation with the Attorney-General, to apply for admission; and
- (b) in every case, undergone pupillage and, in the case of a prospective barrister referred to in paragraph (a) (i), followed a prescribed course of training in accordance with section 5A (6).

[S. 4 amended by Act 20 of 1993; Act 6 of 1995; Act 23 of 1996; s. 43 (2) of Act 7 of 2008 w.e.f. 24 November 2008; s. 5 of Act 8 of 2008 w.e.f. 15 December 2008; repealed and replaced by s. 4 of Act 30 of 2011 w.e.f. 3 September 2012.]

5. Vocational course

An applicant shall, for the purpose of section 4 (2) (a) (ii) (B), have completed the vocational course where he has—

- (a) followed such course as may be approved by the Council and conducted by an accredited person, in the subjects specified in the Second Schedule; and
- (b) satisfied the Council of his proficiency in the subjects specified in the Second Schedule, following such oral and written examinations as the Vocational Examinations Board may conduct.

[S. 5 repealed and replaced by s. 5 of Act 30 of 2011 w.e.f. 3 September 2012.]

5A. Pupillage

(1) (a) The Council shall, after consultation with the Bar Council, the Mauritius Law Society Council or the Chamber of Notaries, as the case may be, for the purpose of determining whether a law practitioner is able to provide the required amenities and training to be a pupil master, draw up and keep under review a list of law practitioners of not less than 15 years' standing, from each of the 3 branches of the profession, who may be pupil masters.

- (b) The Council may—
 - (i) *proprio motu* remove a person's name; or
 - (ii) at a pupil master's request, remove his name,

from the list.

(2) Subject to subsections (4), (5) and (6), pupillage shall, for the purposes of sections 4 and 21 (4), consist—

- (a) in the case of a prospective barrister—
 - (i) who qualified in Mauritius, of attachment to—
 - (A) the chambers of a barrister for 9 months; or

- (B) the chambers of a barrister for 3 months and a barrister in a law firm for 6 months,
and the office of an attorney for 3 months; or
- (ii) who qualified as such in England and Wales, Australia, New Zealand, Canada or France—
 - (A) of attachment for a period of not less than 12 months to the chambers of a barrister of not less than 15 years' standing in the State in which he qualified; or
 - (B) of attachment for an aggregate period of not less than 9 months to the chambers of one or more barrister of not less than 15 years' standing in Mauritius, England and Wales, Australia, New Zealand, Canada or France, and of attachment for a consecutive period of not less than 3 months to the office of an attorney in Mauritius;
- (b) in the case of a prospective attorney, of articleship in, or attachment to, the office of an attorney in Mauritius, or to an attorney in a law firm in Mauritius, for 12 months; and
- (c) in the case of a prospective notary, of articleship in, or attachment to, the office of a notary in Mauritius for 24 months,

under the supervision of a pupil master designated by the Council with the consent of the pupil master and the pupil, where pupillage is undergone in Mauritius, and a pupil master proposed by the pupil and approved by the Council, where pupillage is undergone outside Mauritius.

(3) The duties of a pupil master shall be to—

- (a) ensure that the applicant is in attendance for such aggregate number of hours per week as may be determined by the Council;
- (b) provide him with the necessary assistance and guidance in the completion of his preparation before he is able to practise;
- (c) in the case of a prospective barrister or attorney, make him familiar with proceedings in Court;
- (d) give the applicant the necessary and appropriate opportunity to interact with clients; and
- (e) provide the Council with a comprehensive report, in such form and manner as the Council may require, on the applicant's performance during pupillage.

(4) A period of permanent employment of a prospective barrister or attorney as a Legal Assistant, or in such other office as may be prescribed, in the Attorney-General's Office or the Office of the Director of Public Prosecutions, or in the Judicial Department as a Court Officer, shall be deemed to be pupillage, for the period determined under subsection (2) or part of it, as the case may be.

(5) Where the Council is satisfied that there are no facilities available for pupillage in the case of an applicant, it may authorise him to undergo such other form of training as it may specify, instead of pupillage.

(6) (a) Every prospective barrister who holds a professional qualification and who undergoes pupillage in Mauritius shall, during his period of pupillage, follow, to the satisfaction of the Council, a course of training conducted by the Institute in such subjects as may, in the Council's opinion, be necessary to enable him to practise in Mauritius.

(b) Where a prospective barrister who holds a professional qualification undergoes pupillage in England and Wales, Australia, New Zealand, Canada or France, the course of training referred to in paragraph (a) shall be followed before he takes the oath of office to be admitted to practise law in Mauritius.

(c) A person referred to in paragraph (a) or (b) shall not be required to sit for any examination.

[S. 5A inserted by s. 6 of Act 30 of 2011 w.e.f. 3 September 2012.]

6. Application for admission

(1) Any person who wishes to be admitted to practise law in Mauritius shall make a written application addressed to the Chief Justice and lodged with the Registrar.

(2) An application under subsection (1) shall be accompanied by evidence such as to satisfy the Chief Justice that the applicant—

- (a) is a citizen of Mauritius;
- (b) is of good character; and
- (c) holds the qualifications specified in section 4.

(3) The Registrar shall forward a copy of the application to the Attorney-General and to the Council.

(4) On receipt of an application under subsection (1), the Registrar shall cause a copy of the application to be posted up at the Supreme Court.

7. Objection to application

(1) Any person who wishes to object to an application under section 6 shall, within 15 days of the posting up of the copy of the application under section 6 (4), give a written notice of his objection to the Chief Justice by lodging the notice of objection with the Registrar.

(2) Where an objection is made under subsection (1), the Chief Justice or a Judge designated by him for the purpose shall—

- (a) appoint a day for the hearing of the objection; and
- (b) issue a summons to any interested party to appear before him on the day so appointed.

(3) An objection under subsection (1) shall be heard and determined in Chambers.

8. Order for admission

(1) Where the Chief Justice is satisfied that an applicant for admission as a law practitioner qualifies for admission, he shall, subject to section 15, make an Order for the admission of the applicant and appoint a day for the applicant to appear before the Supreme Court or the Registrar, as the case may be.

(2) The Registrar shall transmit a copy of the Order under subsection (1) to the applicant, and shall notify him of the day appointed for his appearance before the Supreme Court or the Registrar, as the case may be.

[S. 8 amended by s. 7 of Act 30 of 2011 w.e.f. 3 September 2012.]

9. Admission

(1) On the day appointed under section 8, the applicant shall be presented by a Law Officer—

- (a) in the case of a barrister, to the Supreme Court;
- (b) in the case of an attorney or notary, to the Registrar.

(2) After presentation of the applicant and after the applicant takes such oath of office as may be prescribed by the Chief Justice, the Registrar shall enter his name on the Roll.

(3) The rank and standing of a law practitioner, and his authority to practise law, shall take effect from the day on which his name has been entered on the Roll.

9A. Senior barristers and attorneys

(1) The President of the Republic may, subject to subsection (2) and on the recommendation of the Chief Justice, by Letters Patent, appoint—

- (a) a barrister to be Senior Counsel for the Republic of Mauritius (SC); and
- (b) an attorney to be Senior Attorney for the Republic of Mauritius (SA).

(2) No barrister or attorney shall be appointed pursuant to subsection (1) unless he is, and has been, a barrister or an attorney of not less than 15 years' standing.

[S. 9A inserted by Act 29 of 1992; amended by Act 6 of 1995; s. 8 of Act 30 of 2011 w.e.f. 3 September 2012.]

9B. Continuing Professional Development

(1) The Institute shall devise, organise and conduct Continuing Professional Development Programmes for each of the 3 branches of the legal

profession with a view to broadening the knowledge of law practitioners and legal officers, keeping them abreast of developments in the law, encouraging them to share experiences and enhancing their professional skills.

(2) A Programme referred to in subsection (1) may include attendance at such lectures, workshops or seminars, as may be approved by the Institute.

(3) Every law practitioner and legal officer shall, in every year, participate in a Continuing Professional Development Programme for the prescribed number of hours unless he is excused by the Chief Justice for reasons such as age or ill health.

(4) Notwithstanding section 13, where a person referred to in subsection (3) fails, without reasonable excuse, to follow a Continuing Professional Development Programme, the Institute may—

- (a) in the case of a legal officer, report the matter to the Judicial and Legal Service Commission; and
- (b) in the case of a law practitioner, refer the matter to the Chief Justice who may—
 - (i) issue a written warning to him; or
 - (ii) suspend his right to practise for a period not exceeding one year.

[S. 9B inserted by s. 9 of Act 30 of 2011 w.e.f. 3 September 2012.]

9C. Courses for prospective judicial and legal officers

(1) Any person who wishes to be considered for appointment as a Judge, Magistrate or legal officer shall follow a course referred to in subsection (2), which shall be approved by the Judicial and Legal Service Commission.

(2) The Institute shall devise one or more courses with a view to enabling persons referred to in subsection (1) to familiarise themselves with the duties which they will be required to perform in the office to which they wish to be appointed.

(3) Where a person has followed a course in accordance with this section, the Institute shall forward to the Judicial and Legal Service Commission a report on the person's attendance and performance.

[S. 9C inserted by s. 9 of Act 30 of 2011 w.e.f. 3 September 2012.]

10. Roll

(1) The Registrar shall, for the purposes of this Act, keep a roll of law practitioners in such form as the Chief Justice may approve.

(2) The names and addresses of all law practitioners admitted to practise in Mauritius shall be entered on the Roll.

(3) The Supreme Court—

- (a) may, on its own motion or an application by the person concerned, and after making such enquiry as it thinks fit—
 - (i) amend an entry on the Roll;

- (ii) remove the name of a person from the Roll following an order made under section 14 or where the person has ceased to be a member of a body referred to in section 3 (1) (b);
 - (b) may cause the name of a person which has been removed from the Roll to be restored on the Roll.
- (4) The Supreme Court shall, for the purposes of this Act, keep a list of—
 - (a) barristers in private practice;
 - (b) legal officers;
 - (c) law firms and law practitioners employed by them;
 - (d) law practitioners in employment; and
 - (e) legal consultants.

[S. 10 amended by s. 10 of Act 30 of 2011 w.e.f. 3 September 2012.]

10A. Law firm

(1) Where one or more law practitioners, or one or more law practitioners and a legal consultant intend to set up a law firm, they shall make a written application to the Attorney-General for registration in such form and manner as may be prescribed.

(2) On receipt of an application under subsection (1), the Attorney-General may cause the name of the law firm to be entered in the Register where—

- (a) the constitution or the objects of the law firm provide that its primary object is to provide legal services in accordance with this Act;
- (b) the name of the law firm—
 - (i) is not misleading or inappropriate, having regard to the dignity of the legal profession;
 - (ii) is not similar to that of another registered law firm, foreign law firm or joint law venture so as to be likely to cause confusion; or
 - (iii) in the case of a company, is not inconsistent with section 35 of the Companies Act; and
- (c) the firm otherwise complies with the requirements of this Act.

(3) A law firm which is a company, need not, notwithstanding sections 32 and 33 of the Companies Act, have the word “Limited” or “Ltd” as part of its name.

(4) Where the name of a law firm has been entered in the Register, it shall—

- (a) notwithstanding any other enactment, not alter its constitution or objects or its name except with the written approval of the Attorney-General;

- (b) on every correspondence, invoice or other document issued by it or on its behalf, mention the fact that it is a law firm registered under this Act; and
- (c) designate in writing to the Legal Secretary the name of its signing practitioner or practitioners.

(5) Where the name of a law firm has, through inadvertence or otherwise, been entered in the Register in contravention of subsection (2) (b), the Attorney-General may direct the name to be altered and the law firm shall comply with any such direction.

(6) In any enactment other than this Act, a reference to a barrister, an attorney or a notary shall be construed as including a reference to a law firm.

(7) Any invoice raised by a law firm for the provision of legal services shall be made in the name of that firm.

[S. 10A inserted by s. 6 of Act 8 of 2008 w.e.f. 15 December 2008.]

10B. Registration of law firm

(1) The Legal Secretary shall enter in the Register—

- (a) the name and address of every law firm;
- (b) any amendment of the constitution or objects, or of the name, of a law firm; and
- (c) whether any law firm has ceased to provide legal services, or has been wound up, or suspended, or struck off.

(2) The Legal Secretary shall, in June of every year, cause to be published in the *Gazette* a list of law firms, law practitioners, legal consultants and foreign lawyers providing legal services for the law firms.

[S. 10B inserted by s. 6 of Act 8 of 2008 w.e.f. 15 December 2008.]

10C. Acts of law firm and its members

(1) Subject to subsection (2), a law firm—

- (a) may perform any function that a law practitioner can lawfully perform; and
- (b) shall do everything that a law practitioner is lawfully required to do.

(2) A law firm shall not perform any of the functions, under subsection (1), of a barrister, an attorney or a notary, unless the law firm comprises at least one member who is a barrister, an attorney or a notary, as the case may be.

(3) A barrister shall, notwithstanding that he is a member of a law firm, retain his right of audience before any Court.

(4) (a) A law firm shall, in its relationship with its clients, have the same rights and be subject to the same fiduciary, confidential and ethical obligations as a law practitioner has or is subject to.

(b) The law practitioner-client privilege shall exist between a law firm and its clients in the same manner as it exists between a law practitioner and his clients and extends to every law practitioner who is a partner, director or employee of the law firm.

(5) Law practitioners belonging to the same law firm shall not appear for different parties in respect of any litigation where there is a conflict or significant risk of conflict between the interests of those parties.

[S. 10C inserted by s. 6 of Act 8 of 2008 w.e.f. 15 December 2008.]

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10D. Professional conduct

(1) An act or omission of a law practitioner may constitute professional misconduct even where it is only done or occurs while he provides legal services through a law firm.

(2) A signing practitioner may be liable to disciplinary proceedings if the business of the law firm is conducted in a manner unbefitting the legal profession, unless such conduct can be attributed to the act or omission of a particular law practitioner.

(3) A law practitioner or a legal consultant who is a partner, director or employee of a law firm shall not—

- (a) hold shares in any other law firm;
- (b) be a partner, director, employee of any other law firm, or foreign law firm or joint law venture, except the joint law venture in which his firm is a constituent;
- (c) practise as a law practitioner or legal consultant on his own account, as the case may be; or
- (d) after leaving a law firm, join as a partner, director, employee or legal consultant of another law firm, foreign law firm, or joint law venture within a period of 6 months, unless the law firm he is leaving gives its written consent.

(4) Where a director of a law firm has reasonable grounds to believe that an act or omission of a law practitioner or a legal consultant who is a partner, director or employee of the law firm constitutes a breach of the relevant Code of Ethics or rules of professional practice, he shall forthwith report the matter—

- (a) in the case of a barrister, to the Mauritius Bar Association;
- (b) in the case of an attorney, to the Mauritius Law Society;
- (c) in the case of a notary, to the Chamber of Notaries; or
- (d) in the case of a legal consultant, to the Chief Justice.

[S. 10D inserted by s. 6 of Act 8 of 2008 w.e.f. 15 December 2008.]

10E. Shares in law firm

(1) (a) No person other than a law practitioner or a legal consultant shall hold shares in a law firm.

(b) No shares in a law firm may be held by a person as nominee for another person.

(2) No person shall transfer or dispose of shares in a law firm except in accordance with its constitution and such other conditions as may be prescribed.

(3) No security may be created over any share in a law firm.

(4) (a) A law practitioner who, pursuant to disciplinary proceedings, is struck off the Roll, shall not hold any shares in a law firm.

(b) The Attorney-General may, on application of the law practitioner referred to in paragraph (a), or that of the law firm, grant the law practitioner a grace period of not more than 6 months to dispose of his shares in the law firm.

(c) Subject to paragraph (b), a law practitioner referred to in paragraph (a) shall not, directly or indirectly, exercise any voting rights attached to his shares or take part or be concerned in the management or practice of the law firm.

(d) A law practitioner who, pursuant to disciplinary proceedings, is suspended from practice shall forfeit all his rights in the law firm during the period of suspension.

(5) Any transfer or disposal of shares made in contravention of this section shall be null and void.

[S. 10E inserted by s. 6 of Act 8 of 2008 w.e.f. 15 December 2008.]

10F. Winding up or dissolution of law firm

(1) A law firm may, on application made by the Legal Secretary, be wound up under the Companies Act or dissolved under the Code Civil Mauricien, as the case may be, where—

- (a) the law firm ceases to satisfy the requirements of this Act; or
- (b) the activities of the law firm have been conducted in a manner likely to bring the legal profession into disrepute.

(2) The grounds for winding up or dissolution referred to in subsection (1) are in addition to those specified in the Companies Act or the Code Civil Mauricien, as the case may be.

[S. 10F inserted by s. 6 of Act 8 of 2008 w.e.f. 15 December 2008.]

10G. Opening of local office by foreign law firm

(1) A corporate entity licensed or registered as a law firm in a foreign country may make a written application to the Attorney-General, in such form and manner as may be prescribed, for registration of a local office.

(2) The Attorney-General may, on receiving an application under subsection (1), cause the name of the firm to be entered in the Register where he is satisfied that—

- (a) it has given a written undertaking not to provide or put itself forward as providing advice or legal services on, or in relation to, Mauritian law;
- (b) it is qualified, licensed or regulated as a firm in the home jurisdiction, the law of which it professes to practise;

- (c) it has at least 2 lawyers in its office in Mauritius who are qualified under the law of the home jurisdiction to practise the law of that jurisdiction and have been registered pursuant to section 10K; and
- (d) it has a physical establishment in Mauritius.

(3) The Attorney-General may impose such terms and conditions as may be prescribed before causing the name of the foreign law firm to be entered in the Register.

(4) The Attorney-General may, if he is satisfied that it is in the public interest to do so, by notice in writing, vary or revoke any condition imposed under subsection (3).

(5) Every foreign law firm shall, in every correspondence, invoice or other document issued by it or on its behalf, mention the fact that it is a foreign law firm and is registered under this Act.

[S. 10G inserted by s. 6 of Act 8 of 2008 w.e.f. 15 December 2008.]

10H. Approval of joint law venture

(1) Subject to section 10J, the Attorney-General may, on written application made to him in such form and manner as may be prescribed, approve the setting up of a joint law venture by a foreign law firm and a law firm, on such terms and conditions as may be prescribed.

(2) A joint law venture may be constituted as a limited company or a *société*, or by such other arrangements as may be prescribed.

(3) The Attorney-General may, if he is satisfied that it is in the public interest to do so, by notice in writing, suspend or cancel the approval for the setting up of a joint law venture.

(4) Every joint law venture shall, in every correspondence, invoice or other document issued by it or on its behalf, mention the fact that it is a joint law venture and is registered under this Act.

(5) A law firm which is constituent of a joint law venture shall cease to provide legal services in foreign and international law.

[S. 10H inserted by s. 6 of Act 8 of 2008 w.e.f. 15 December 2008.]

10I. Registration of foreign law firm and joint law venture

(1) The Legal Secretary shall enter in a separate part of the Register—

- (a) the name and address of the local office of every foreign law firm;
- (b) the name and address of every joint law venture;
- (c) any amendment in the name of a foreign law firm or joint law venture; and

- (d) whether any foreign law firm or joint law venture has ceased to provide legal services, or has been wound up, or suspended, or struck off.

(2) The Legal Secretary shall, in June of every year, cause to be published in the *Gazette* a list of foreign law firms and joint law ventures and of the partners, directors, legal consultants or other persons providing legal services for the foreign law firms or joint law ventures.

[S. 10I inserted by s. 6 of Act 8 of 2008 w.e.f. 15 December 2008.]

10J. Practice of foreign law firm and joint law venture

(1) A foreign law firm shall not be a constituent of a joint law venture unless it gives notice of its intention to constitute a joint law venture to the Attorney-General and asks to be deregistered as a foreign law firm.

(2) A joint law venture shall, for the purpose of this Act, act as a single legal entity and may invoice its clients as if it were a single entity.

[S. 10J inserted by s. 6 of Act 8 of 2008 w.e.f. 15 December 2008.]

10K. Foreign lawyer

(1) A foreign lawyer may make a written application to the Attorney-General, in such form and manner as may be prescribed, for registration and the right to provide legal services within a law firm, foreign law firm or a joint law venture.

(2) A foreign lawyer shall not engage in conduct that would, if he were a law practitioner, amount to professional misconduct or unsatisfactory professional conduct.

(3) A foreign lawyer may only provide legal services in accordance with section 10M.

[S. 10K inserted by s. 6 of Act 8 of 2008 w.e.f. 15 December 2008.]

10L. Registration of foreign lawyer

(1) The Legal Secretary shall enter in the Register—

- (a) the name and address of every foreign lawyer;
- (b) any amendment or alteration in the name and address of every foreign lawyer; and
- (c) whether any foreign lawyer has ceased to provide legal services, or has been suspended or struck off.

(2) The Legal Secretary shall, in June of every year, cause to be published in the *Gazette* a list of foreign lawyers.

[S. 10L inserted by s. 6 of Act 8 of 2008 w.e.f. 15 December 2008.]

10M. Scope of practice of foreign lawyers

(1) A foreign lawyer may provide legal services—

- (a) in relation to arbitration proceedings;

- (b) in relation to proceedings before bodies other than Courts, being proceedings in which the body concerned is not required to apply the rules of evidence and in which knowledge of the law of a country other than Mauritius is essential;
- (c) for conciliation, mediation and such other forms of consensual dispute resolution as may be prescribed; or
- (d) by tendering legal advice in relation to foreign law or international law.

(2) Notwithstanding subsection (1), a foreign lawyer may advise on the effect of a Mauritian law where—

- (a) the giving of advice on Mauritian law is necessarily incidental to the practice of foreign law or international law; and
- (b) the advice is expressly based on advice given on the Mauritian law by a law practitioner.

[S. 10M inserted by s. 6 of Act 8 of 2008 w.e.f. 15 December 2008.]

10N. Suspension or cancellation of registration

(1) The registration of a foreign law firm, a joint law venture or a foreign lawyer may be suspended or cancelled by the Attorney-General where—

- (a) the foreign law firm's registration in its home jurisdiction has been suspended or cancelled;
- (b) the registration or authorisation of the foreign law firm in its home jurisdiction has lapsed;
- (c) the foreign law firm has been dissolved or is in liquidation;
- (d) the joint law venture has been dissolved or been reconstituted without the approval of the Attorney-General;
- (e) the foreign lawyer is no longer authorised to practise in his home jurisdiction;
- (f) the foreign lawyer has committed an act which constitutes an act of professional misconduct; or
- (g) the Attorney-General is satisfied that it is in the public interest to do so.

(2) A registration may not be suspended or cancelled on any ground specified in subsection (1) unless the foreign law firm, joint law venture or foreign lawyer is given reasonable opportunity to make prior written representations to the Attorney-General as to why the registration should not be suspended or cancelled.

(3) Where there are disciplinary proceedings pending against a foreign lawyer in his home jurisdiction, he shall give notice of same to the Attorney-General and shall cease forthwith to provide legal services in Mauritius.

[S. 10N inserted by s. 6 of Act 8 of 2008 w.e.f. 15 December 2008.]

100. Consultation by Attorney-General

On receipt of an application under section 10A, 10G, 10H or 10K, the Attorney-General shall consult the Chief Justice and such other public authorities as he thinks fit, and keep them informed of the outcome of the application.

[S. 100 inserted by s. 6 of Act 8 of 2008 w.e.f. 15 December 2008.]

10P. Right of entry and residence

Nothing in this Act shall affect the provisions of any enactment relating to the right of entry or residence of any non-citizen in Mauritius.

[S. 10P inserted by s. 6 of Act 8 of 2008 w.e.f. 15 December 2008.]

10Q. Right of appeal

(1) Any person aggrieved by a decision of the Attorney-General pursuant to section 10A (2), (4) (a) or (5), 10G (2), 10H (1), 10K (1) or 10N may, within 21 days of the day on which he has been informed of the decision of the Attorney-General, appeal to the Supreme Court against the decision in such manner as may be prescribed.

(2) On the hearing of an appeal under this section, the Supreme Court may—

- (a) confirm the decision of the Attorney-General; or
- (b) reverse, vary or amend the decision of the Attorney-General,

and may make such order as to the payment of costs as it thinks fit.

[S. 10Q inserted by s. 6 of Act 8 of 2008 w.e.f. 15 December 2008.]

11. Establishment of Council

(1) There is established for the purposes of this Act a Council for Vocational Legal Education, which shall be a body corporate.

(2) The Council shall consist of—

- (a) a Chairperson, who shall be a person who holds or has held judicial office, a law practitioner or a legal officer of not less than 10 years' standing, or a person who has proven ability and experience in legal education, to be appointed by the Chief Justice, after consultation with the Attorney-General and such other persons as he may deem fit;
- (b) the Registrar;
- (c) the Solicitor-General or his representative;
- (d) the Director of Public Prosecutions or his representative;
- (e) a member of the academic staff of the Faculty of Law of the University of Mauritius designated by the Vice-Chancellor of the University;
- (f) 3 law practitioners, to be appointed by the Attorney-General;

(g) such other persons, not exceeding 3 in number, as the Chief Justice may, after consultation with the Chairperson, co-opt on the Council either generally or for any specific purpose.

(3) (a) The persons referred to in subsection (2) (f) shall—

(i) be law practitioners of not less than 10 years' standing; and

(ii) include a barrister, an attorney and a notary appointed on the recommendation of the Bar Council, the Mauritius Law Society Council or the Chamber of Notaries, respectively.

(b) Every member, other than the members referred to in subsection (2) (b), (c) and (d), shall hold office for 2 years but shall be eligible for re-appointment.

(4) (a) Where a vacancy occurs in the membership of the Council, the vacancy shall, in the case of a person appointed under subsection (2) (a) or (f), be filled by a person appointed by the Chief Justice or the Attorney-General, as the case may be, in accordance with subsection (2).

(b) The person appointed under paragraph (a) shall hold office for the remainder of the term of office of the member whom he is replacing.

(5) (a) The Council shall meet as often as is necessary at such place and time as the Chairperson thinks fit.

(b) The Secretary shall convene a meeting of the Council on a request made by not less than 4 members.

(c) At a meeting of the Council, 5 members shall constitute a quorum.

(6) Every member shall be paid such allowance as the Chief Justice may determine.

[S. 11 amended by Act 20 of 1993; repealed and replaced by s. 11 of Act 30 of 2011 w.e.f. 3 September 2012.]

11A. Secretariat of Council

(1) The Council shall, on such terms and conditions as it may determine, appoint a Secretary to the Council.

(2) (a) There shall be such public officers designated by the Registrar as may, in the opinion of the Council, be necessary to assist the Secretary.

(b) Every person referred to in paragraph (a) shall be under the administrative control of the Secretary.

(3) The Secretary shall—

(a) be the chief executive officer of the Council;

(b) act in accordance with such directions as he may receive from the Chairperson; and

(c) ensure that assistance and guidance are available to law students at all reasonable times.

(4) Service of process on or on behalf of the Secretary shall be deemed to be service on or by the Council.

(5) The Council may pay to a person referred to in subsection (2) such allowance as it thinks fit.

[S. 11A inserted by s. 12 of Act 30 of 2011 w.e.f. 3 September 2012.]

11B. Vocational Examinations Board

(1) The Council shall every year set up a Vocational Examinations Board for the purpose of organising and conducting the vocational examinations on behalf of the Council.

(2) The Vocational Examinations Board shall consist of—

- (a) 2 representatives of the Council;
- (b) a member of the Faculty of Law of the University of Mauritius;
- (c) not more than 3 representatives of accredited persons other than the University of Mauritius;
- (d) 2 examiners from foreign recognised institutions.

[S. 11B inserted by s. 12 of Act 30 of 2011 w.e.f. 3 September 2012.]

12. Functions and powers of Council

The Council shall—

- (a) be responsible for the granting of an authorisation to run a vocational course;
- (b) supervise vocational courses and organise, through the Vocational Examinations Board, oral or written examinations for prospective law practitioners;
- (c) after consultation with the appropriate professional body, draw up and keep under review a list of law practitioners of not less than 15 years' standing who are able to provide the required amenities and training to be pupil masters; and
- (d) where appropriate, formulate and cause to be published in the *Gazette* a Code of Ethics for any of the 3 branches of the profession.

[S. 12 amended by Act 20 of 1993; Act 23 of 1996; repealed and replaced by s. 13 of Act 30 of 2011 w.e.f. 3 September 2012.]

12A. Accredited persons

(1) No person, other than an accredited person, shall run a vocational course, or hold himself out, by advertisement or otherwise, as being a person who runs or is entitled to run a vocational course.

(2) Any person, other than the University of Mauritius, wishing to be an accredited person shall make a written request to the Council, accompanied by the prescribed application fee, and furnish to the Council such information as the Council may require regarding his or its ability to run a vocational course.

(3) The Council shall, on receipt of a request under subsection (2), make such enquiry as it thinks fit and may, on payment of the prescribed accreditation fee, authorise the person to run such vocational courses as it may approve.

(4) An accredited person shall, where required by the Council to do so, run a vocational course in accordance with section 5.

(5) An accredited person, other than the University of Mauritius, shall not require any person to pay a fee in excess of such amount as may be prescribed for the purpose of following a vocational course.

(6) The Council may, where an accredited person other than the University of Mauritius contravenes subsection (4) or (5), suspend or revoke an authorisation granted pursuant to subsection (3).

(7) Where an accredited person runs a vocational course, the Council may—

- (a) require the accredited person to submit its syllabus or programme to it for approval; and
- (b) make such arrangements as it thinks fit to supervise the running of the course.

[S. 12A inserted by s. 14 of Act 30 of 2011 w.e.f. 3 September 2012.]

13. Disciplinary proceedings

(1) The Attorney-General may, either *proprio motu* or on receipt of a complaint under subsection (2), enquire into any act done by a law practitioner.

(2) Any person who is aggrieved by an act done by a law practitioner in the exercise of his profession may report the matter to the Attorney-General.

(3) Where the Attorney-General is of opinion that an act done by a law practitioner, whether or not an enquiry under subsection (1) has been made, is of such a nature as to call for the institution of disciplinary proceedings, he shall submit a detailed report on the matter to the Chief Justice and a copy of the report to the person against whom the proceedings are to be taken.

(4) The Chief Justice shall, on receipt of a report under subsection (3), appoint a day for the hearing of the matter.

(5) The Registrar shall cause notice of the day appointed for the hearing, together with a copy of the report, to be communicated to the law practitioner.

(6) Nothing in this section shall be construed as limiting the inherent powers of the Supreme Court to deal with matters of professional discipline of law practitioners.

14. Procedure at disciplinary proceedings

(1) Any proceedings under section 13 shall take place—

- (a) before at least 3 Judges; and
- (b) unless the Court otherwise directs, in public.

(2) Any witness for proceedings under subsection (1) shall be examined on oath.

(3) The Court may, after considering the evidence laid before it—

- (a) suspend the law practitioner for such period as it thinks fit;
- (b) order that the name of the law practitioner be erased from the Roll; or
- (c) make such other order as it thinks fit.

[S. 14 amended by Act 20 of 1993.]

15. Licence and security

(1) No attorney or notary, other than an attorney or a notary in the public service, shall practise law in Mauritius unless—

- (a) (i) in the case of an attorney, he is a member of the Mauritius Law Society and his name is on the Register of Attorneys; and
- (ii) in the case of a notary, he holds the prescribed licence;
- (b) he furnishes to, and maintains with, the Accountant-General, security during the period he is in practice in accordance with this section.

(2) The security shall be in the sum of 100,000 rupees in the case of an attorney and 500,000 rupees in the case of a notary and shall be furnished—

- (a) by deposit in cash;
- (b) by the subscription of a bond by the law practitioner together with 2 sureties approved by the Chief Justice;
- (c) by a guarantee issued by any bank or insurance company registered in Mauritius; or
- (d) in such other form as may be approved by the Chief Justice.

(3) The security shall be applied towards the satisfaction of any liability incurred by an attorney or a notary in respect of a client.

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(4) Subject to subsection (5), the security shall be refunded to the law practitioner or, as the case may be, shall lapse at the expiry of the period of one year after—

- (a) he has ceased to practise law; or
- (b) his name has been erased from the Roll.

(5) Where judicial proceedings have been instituted against a law practitioner in connection with any act done or omitted to be done in his professional capacity, the security required under this section shall not be refunded or lapse, as the case may be, until the conclusion of the proceedings.

[S. 15 amended by Act 31 of 1994; s. 21 (2) of Act 33 of 2005 w.e.f. 1 February 2006.]

15A. Receipts to be given by attorneys and barristers

Every attorney or barrister shall, in respect of his services, give a receipt for the sums which he receives as deposit, fees or for attendance, disbursement or travelling expenses.

[S. 15A inserted by s. 24 (2) of Act 2 of 2007 w.e.f. 7 March 2007.]

16. Unauthorised practices

(1) No person, other than a law practitioner, shall—

- (a) hold himself out to be, or to be qualified to perform any of the functions of, a law practitioner;
- (b) permit his name to be so used as to suggest that he is, or is qualified to perform any of the functions of, a law practitioner;
- (c) for any fee or reward, draft or prepare an affidavit, deed of sale, lease, conveyance, transfer, compromise or any other document under private signature, plaint or pleading, or any other judicial or extrajudicial document;
- (d) for any fee or reward, give legal advice to any person;
- (e) for any fee or reward, find clients for a law practitioner; or
- (f) use such words as “barrister-at-law”, “attorney-at-law”, “solicitor”, “notary”, “*avocat*”, “*avoué*”, “*notaire*” or any other term in such a way as to suggest that he is a law practitioner.

(2) No law practitioner or legal consultant shall hold himself out as belonging to a law firm or make use of the words “Law Firm” or “*Société Civile Professionnelle*” unless he is a member of a law firm.

(3) No person shall hold himself out to be a legal consultant unless—

- (a) he has retired from office as a Judge; or
- (b) he has been authorised to act as such by the Chief Justice.

[S. 16 amended by s. 7 of Act 8 of 2008 w.e.f. 15 December 2008.]

17. Inducing clients

No person shall induce or seek to induce a client of a law practitioner, law firm, foreign law firm or joint law venture to cease to be the client of that law practitioner, law firm, foreign law firm or joint law venture or not to become a client and become the client of any other law practitioner, law firm, foreign law firm, or joint law venture.

[S. 17 repealed and replaced by s. 8 of Act 8 of 2008 w.e.f. 15 December 2008.]

18. Documents

Where a law practitioner draws up or prepares a document in the exercise of his profession, he shall sign and date the document.

19. Employment of persons by law practitioners

(1) Every law practitioner shall, at the beginning of every year, submit to the Attorney-General and the Registrar a list stating—

- (a) the names and addresses of persons employed by him in his professional capacity; and
- (b) the capacity in which those persons are employed.

(2) A nil return shall, where appropriate, be submitted under subsection (1).

(3) Every law practitioner shall, within 8 days of any change in the list of persons employed by him, notify the Attorney-General and the Registrar accordingly.

20. Publication of names of law practitioners

The Registrar shall, not later than 30 September in every year and at such other time as he thinks fit, give public notice of the names of all law practitioners.

21. Right of audience

(1) Subject to subsection (2), every law practitioner, other than a notary, shall have a right of audience before any Court.

(2) No attorney shall appear before—

- (a) the Supreme Court, other than in Chambers, the Bankruptcy Division or the Master's Court; or
- (b) the Intermediate Court,

except in formal matters.

(2A) Notwithstanding subsection (2), where an attorney appears for a plaintiff in a civil suit before the Intermediate Court, and the defendant does not appear or admits the claim, the attorney may proceed to conduct the case until judgment.

(3) Notwithstanding sections 3, 6 and 10M, the Chief Justice may, in specific cases where the special nature or circumstances of proceedings before the Supreme Court so require, grant to a foreign lawyer a right of audience before the Supreme Court on such terms and conditions as he thinks fit to impose.

(4) (a) Notwithstanding sections 3 and 6, a prospective barrister or attorney who has completed 6 months of pupillage may, in the presence of his pupil master, represent his pupil master's client at any stage of any proceedings before a Magistrate other than—

- (i) a trial on the merits;
- (ii) arguments on a matter of law; or
- (iii) submissions at the end of a case.

(b) Every pupil master shall ensure that a prospective barrister or attorney who is his pupil is suitably attired for the purposes of paragraph (a).

[S. 21 amended by Act 29 of 1992; s. 9 of Act 8 of 2008 w.e.f. 15 December 2008; s. 15 of Act 30 of 2011 w.e.f. 3 September 2012.]

21A. Access to Courts and Library

(1) Every prospective law practitioner shall, on payment of the prescribed fee, be issued by the Council with a means of identification showing that he is following a vocational course or undergoing pupillage, which he may be required to produce for the purposes of subsection (2).

(2) The Registrar shall make appropriate arrangements in order that—

- (a) a person following a vocational course may have access to the Supreme Court Library—
 - (i) up to 9.30 a.m. and after 3.30 p.m. on week days; and
 - (ii) during opening hours on Saturdays; and
- (b) a prospective law practitioner undergoing pupillage may have access—
 - (i) to the Supreme Court Library; and
 - (ii) in the case of a prospective barrister or attorney, to the places in a Court reserved for barristers or attorneys where he is representing his pupil master's client in accordance with section 21 (4).

[S. 21A inserted by s. 16 of Act 30 of 2011 w.e.f. 3 September 2012.]

22. Regulations

(1) Regulations may, for the purposes of this Act, be made—

- (a) in relation to law firms, foreign law firms, joint law ventures or foreign lawyers, including the suspension or cancellation of their registration, by the Attorney-General;
- (b) in relation to disciplinary proceedings against law practitioners, by the Attorney-General;

- (c) in relation to any other matter, including an amendment of the Schedule, by the Council, with the approval of the Attorney-General.

(2) Any regulations made under subsection (1) may provide for the taking of fees and the levying of charges.

[S. 22 amended by s. 10 of Act 8 of 2008 w.e.f. 15 December 2008; s. 17 of Act 30 of 2011 w.e.f. 3 September 2012.]

23. Offence

Any person who wilfully contravenes this Act or any regulations made under it shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

[S. 23 amended by s. 10A of Act 8 of 2008 w.e.f. 15 December 2008.]

24. – 27. —

FIRST SCHEDULE

[Section 2]

ATTORNEY-GENERAL'S OFFICE

Solicitor-General
Deputy Solicitor-General
Parliamentary Counsel
Assistant Solicitor-General
Assistant Parliamentary Counsel
Principal State Counsel
Senior State Counsel
State Counsel
Chief State Attorney
Deputy Chief State Attorney
Principal State Attorney
Senior State Attorney
State Attorney

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

Director of Public Prosecutions
Deputy Director of Public Prosecutions
Senior Assistant Director of Public Prosecutions
Assistant Director of Public Prosecutions
Principal State Counsel
Senior State Counsel

State Counsel
Chief State Attorney
Deputy Chief State Attorney
Principal State Attorney
Senior State Attorney
State Attorney

[First Sch. inserted by s. 18 of Act 30 of 2011 w.e.f. 3 September 2012.]

SECOND SCHEDULE

[Section 5]

VOCATIONAL COURSE

SUBJECTS

PART I – PROSPECTIVE LAW PRACTITIONERS

Conferencing
Drafting of legal documents
Ethics
Opinion writing

PART II – PROSPECTIVE BARRISTERS AND ATTORNEYS

Administrative and constitutional law
Advocacy
Arbitration and mediation
Civil Procedure
Commercial and business law
Criminal Procedure
Evidence
Family law

PART III – PROSPECTIVE NOTARIES

Civil Procedure
Commercial and business law
Practical aspects of family law
Practical aspects of the law of immovable property
Rédaction des actes
Responsabilité notariale
Revenue and Taxation Laws
Tenue de l'office notarial

[Second Sch. inserted by s. 18 of Act 30 of 2011 w.e.f. 3 September 2012.]
