

No. 13 of 2015

VIRGIN ISLANDS
LEGAL PROFESSION ACT, 2015
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I Assent

**(Sgd.) John S. Duncan, OBE,
Governor.
1st May, 2015**

VIRGIN ISLANDS

NO. 13 of 2015

An Act to provide for the admission of legal practitioners to practise law, for the legal education and discipline of legal practitioners and for connected purposes.

[Gazetted 11th May, 2015]

ENACTED by the Legislature of the Virgin Islands as follows:

**PART I
PRELIMINARY**

Short title and
commencement.

1. This Act may be cited as the Legal Profession Act, 2015 and shall come into force on a date to be fixed by the Governor by Proclamation published in the *Gazette* and different dates may be appointed for different provisions and different purposes.

Interpretation.

2. (1) In this Act, unless the context otherwise requires,

“affiliate” means, for purposes of section 16, a law firm that directly or indirectly through one or more intermediaries controls, is controlled by or is under the control, of another law firm;

“Agreement” means the Agreement of 17th March, 1972, and the protocols thereto between certain territories of the Caribbean providing for a system of legal education and training to which the Virgin Islands is a party;

“approved institution” means an institution approved by the Council under section 5;

“Association” means the body known as the BVI Bar Association;

“belonger” means a person who is deemed to belong to the Virgin Islands in accordance with section 2 of the Virgin Islands Constitution Order, 2007; U.K.S.I. 2007 No. 1678

“client” includes,

- (a) in relation to contentious business, any person who, as principal or on behalf of another person, retains or employs a legal practitioner and any person who is or may be liable to pay to a legal practitioner costs for such business;
- (b) in relation to non-contentious business, any person who, as a principal or on behalf of another person as a trustee or executor or in any other capacity, has power, express or implied, to retain or is about to retain or employ and retains or employs a legal practitioner and any person for the time being liable to pay to a legal practitioner costs for such business;

“costs” includes fees for any legal business done by a legal practitioner;

“Council” means the Virgin Islands General Legal Council established under section 3;

“fees” includes charges, disbursements, expenses and remuneration;

“Fund” means the Legal Aid Fund established under section 41;

“legal practitioner”, except for purposes of Part VII, means a person whose name is entered on the Roll in accordance with this Act;

“practise law” means to practise as a legal practitioner or to undertake or perform the functions of a legal practitioner, as recognised by any law whether before or after the commencement of this Act;

“practising certificate” means a certificate issued pursuant to section 15, 16 or 45;

“prescribed qualifications” means the qualifications for admission to practise law prescribed by or pursuant to section 11;

“pupil” means a person duly bound to serve under a pupillage contract;

“pupillage contract” means a contract in writing under which a person is duly bound to serve a legal practitioner or a firm of legal practitioners as a pupil for a specified period;

“Registrar” means the Registrar of the High Court;

“resident”, in relation to the Virgin Islands, means lawfully, habitually and normally residing, or having a declared intention to lawfully, habitually and normally reside, in the Virgin Islands, apart from temporary and occasional absences, from choice and for a settled purpose such as, but not limited to, the purpose of business, profession, employment, education, health, family or pleasure;

“Roll” means the register of legal practitioners kept by the Registrar pursuant to section 8; and

“Tribunal” means the Disciplinary Tribunal established under section 27.

(2) Save as the context otherwise requires, any reference in this Act to practising law, shall be construed to include a reference to practising Virgin Islands law outside the Virgin Islands.

(3) A reference in an enactment or document to a barrister, solicitor or attorney-at-law shall be read to mean a reference to a legal practitioner.

(4) Where under an enactment the qualifications of a legal practitioner to hold office include a period of years as a legal practitioner, the number of years during which he or she has been entitled to practise as a barrister, solicitor or attorney-at-law shall form part of the period of his or her enrolment as a legal practitioner.

PART II ESTABLISHMENT OF THE VIRGIN ISLANDS GENERAL LEGAL COUNCIL

Establishment of
the Council.

3. There is hereby established a body known as the Virgin Islands General Legal Council.

Composition of
the Council.

4. (1) The Council shall consist of

- (a) a Chairperson who shall be a legal practitioner of not less than ten years standing who is a believer and is nominated by the Chief Justice;
- (b) a Deputy Chairperson who shall be the Attorney General *ex officio*;

- (c) the President of the Association *ex officio*;
- (d) two legal practitioners nominated by the Association, one of whom shall be a believer and both of whom shall be of not less than five years standing;
- (e) one person nominated by the Premier, who is not a legal practitioner and who is a believer; and
- (f) one legal practitioner nominated by the Leader of the Opposition and who is a believer.

(2) The Chairperson and the persons referred to in subsection (1)(d) to (f) shall be appointed by instrument in writing under the hand of the Governor for a period of three years, but shall, subject to this Act, be eligible for re-appointment however that, no one is eligible for appointment for three consecutive periods.

(3) Schedule 1 shall have effect with respect to the constitution and procedure of the Council and otherwise in relation thereto.

Schedule 1

(4) The Registrar shall serve as the Secretary to the Council and shall, in addition to any function or power imposed or conferred on him or her under this Act, perform such other duties as the Council may direct.

(5) The Council may, on such terms and conditions as it may determine, appoint such person as it thinks fit to be the Recording Secretary for the Council.

(6) For the purposes of subsection (1)(e) and (f), the Premier or Leader of the Opposition shall submit the name of his or her nominee within twenty-one days after receipt of the request from the Governor.

5. The powers and functions of the Council are

Powers and functions of the Council.

- (a) to regulate and supervise generally the legal profession and, subject to any limitation or restriction provided in this Act, to ensure compliance with the provisions of this Act;
- (b) to approve institutions and to set standards for determining the equivalence of legal qualifications for purposes of this Act;
- (c) to make rules for such examinations as the Council sees fit for a person to pass before being admitted and enrolled as a legal practitioner or for any exemption a person may be granted from any such examination;

- (d) to appoint examiners for the purpose of conducting examinations under paragraph (c) and to determine the fees to be paid by candidates taking those examinations and the remuneration to be paid to examiners;
- (e) to evaluate, review and set the standards of conduct and proficiency of the legal profession in the Virgin Islands;
- (f) to protect the interests of the public with respect to the practice of law in the Virgin Islands;
- (g) to promote good relations between the legal profession and persons concerned in the administration of justice in the Virgin Islands and between the legal profession and the public generally;
- (h) to promote, maintain and support the administration of justice and the observance of the rule of law;
- (i) to initiate and promote reforms and improvements in any branch of the law, the administration of justice, the practice of law and in the formulation of legislation;
- (j) to monitor the effectiveness of this Act in providing for the supervision and regulation of the legal profession in the Territory to internationally accepted standards including
 - (i) ensuring compliance by legal practitioners with anti-money laundering and countering the financing of terrorism standards;
 - (ii) protection of the Territory's financial industry;
- (k) to make recommendations to the Attorney General on such amendments or revisions to this Act or such new legislation relating to the legal profession as the Council considers necessary or appropriate in developing the legal profession in the Territory; and
- (l) to do such other things as are incidental or conducive to the achievement of the purposes set out in paragraphs (a) to (k).

(2) The Council may from time to time for purposes of this Act, establish such committees it considers necessary to assist it in the performance of its functions under this Act and such committees shall have the power to regulate their own proceedings.

6. (1) The Council may, after consultation with the Premier, confer an honorary award on a distinguished legal practitioner or teacher of law as it may think fit. Honorary awards.

(2) The Council may recommend to the Chief Justice, the conferment of the honour and dignity of Queen's Counsel upon a legal practitioner who has distinguished himself or herself in the practice of law in the Virgin Islands.

(3) Persons admitted under subsection (2), shall pay the fees prescribed in Schedule 2. Schedule 2

(4) Nothing in this section shall be deemed to limit or in any way override any existing practice or convention relating to the conferment of the honour and dignity of Queen's Counsel upon any legal practitioner.

7. (1) Subject to section 15 (5), every legal practitioner shall be liable to pay the requisite prescribed fees for admission to practise and for practising as a legal practitioner in the Virgin Islands. Enrolment and annual fees to practise.

(2) The fees payable by legal practitioners shall be those prescribed in Schedule 2 and shall be paid to the Council through the Registrar. Schedule 2

(3) The fee payable for a practising certificate referred to in section 15 shall be in respect of the period of thirteen months commencing on the 1st day of January in each year.

(4) For purposes of the payment of fees, legal practitioners may be divided into classes and different amounts may be paid by different classes of legal practitioners and for different periods.

PART III ADMISSION, ENROLMENT AND STATUS

8. (1) The Registrar shall keep a register of legal practitioners to be known as the Roll on which he shall cause to be registered the name of every person entitled to practise law under section 9 or admitted and entitled to practise law under section 10, together with the following particulars in respect of each such person: Roll.

(a) his or her full name and address;

- (b) the date of his or her admission to practise law;
- (c) a description and date of the qualifications in respect of which he has been admitted to practise law;
- (d) any other information which, in the opinion of the Registrar, is relevant.

(2) The Roll shall at all reasonable times be open to public inspection at the Registry of the High Court.

(3) A legal practitioner shall, within twenty-one days of any change in his or her name or address, notify the Registrar in writing of the change.

(4) The Registrar shall

- (a) make such alterations in the particulars registered on the Roll as are necessary; and
- (b) remove from the Roll the name of any legal practitioner who is deceased or is no longer entitled to practise law in the Virgin Islands.

(5) The Roll may be kept in electronic form.

Registrar's duty to register persons entitled to practise immediately before this Act.

9. The Registrar shall, as soon as possible after the commencement of this Act, cause to be registered on the Roll the particulars specified in section 8 (1) of every person who immediately before the commencement of this Act was entitled to practise as a barrister, solicitor or an attorney-at-law before the High Court in the Virgin Islands.

Admission to practise.

10. (1) A person shall not be admitted to practise law unless

- (a) he or she has attained the age of twenty-one years, provided that the Council may, in its discretion, approve the application for admission of a person who has attained the age of eighteen years but who has not attained the age of twenty-one years if the person fulfils all other criteria provided for in this subsection;
- (b) he or she is a believer or he or she is, subject to section 16 and 45, resident in the Virgin Islands on the date of the application;
- (c) he or she has obtained the prescribed qualifications set out in section 11;

- (d) he or she has paid the fees prescribed in Schedule 2;
- (e) he or she is of good character,

and has, unless exempted, served a period of pupillage prescribed under this Act and he or she has complied in all other respects with the requirements of this Act.

(2) A person who wishes to be admitted to practise law shall, in accordance with the rules of the High Court, apply for admission to the High Court after serving a copy of such application upon the Attorney General and the Council.

(3) The Attorney General and the Council shall, if satisfied that the applicant has complied in all other respects with the requirements of this Act, certify on such application that the provisions of this section have been complied with and, unless certificates have been obtained from the Attorney-General and the Council as required by this subsection, the applicant shall not be entitled to proceed with his or her application to the High Court.

(4) The Attorney General and the Council shall be entitled to be represented at the hearing of an application for admission.

(5) Where an applicant satisfies the High Court that he or she is eligible to be admitted by the High Court to practise law in the Territory and is not disentitled to proceed with his or her application under subsection (3), he or she shall be admitted to practise by the High Court but the High Court may by order refuse to admit a person who fails to satisfy the requirements of this section.

(6) An appeal lies to the Court of Appeal from an order of the High Court refusing an application made under this section.

11.(1) Subject to subsection (2), a person is qualified to be admitted to practise as a legal practitioner if

Qualifications
for admissions.

- (a) he or she has
 - (i) subject to subsection (5), practised, for a period of not less than five years prior to his or her application for admission, as a barrister, advocate, solicitor or attorney-at-law in England, Scotland, Northern Ireland or other recognised jurisdiction, and was, for the duration of the period that he or she so practised, a member of the relevant Bar, Law Society or other recognised regulatory body, and

- (ii) produced a valid certificate or other relevant document attesting to his or her admission or enrolment to practise as a barrister, advocate, solicitor or attorney-at-law in England, Scotland, Northern Ireland or other recognised jurisdiction, as the case may be;
- (b) he or she has pursued a course of study and professional training in law provided by the Council of Legal Education established by the Agreement or any body succeeding or substituting the Council of Legal Education and has obtained the certificate, diploma, licence or other status or form of recognition awarded by the Council of Legal Education or the body succeeding or substituting the Council of Legal Education;
- (c) he or she has obtained a degree in law from a recognised institution and has, in addition, obtained a certificate, diploma, licence or other status or form of recognition awarded by the Council of Legal Education established by the Agreement or any body succeeding or substituting the Council of Legal Education; or
- (d) he or she has
 - (i) obtained a degree in law from a recognised institution; and
 - (ii) pursued a recognised course of study and professional training in law and has obtained the relevant recognised certificate, diploma, licence or other status or form of recognition.

(2) The Council may, upon cause being shown, refuse to approve an application for the admission of a person as a legal practitioner notwithstanding that the person has complied with subsection (1) and section 10.

(3) An appeal lies to the High Court from a decision of the Council made pursuant to subsection (2).

(4) For purposes of subsection (1)(a), (c) and (d), the Cabinet on the advice of the Council, may from time to time, by Order published in the *Gazette*, specify the list of jurisdictions, regulatory bodies, institutions, courses of study and professional training in law and certificates, diplomas, licences and other statuses and forms of recognition, as the case may be, which are recognised.

(5) Before 1st January, 2019, subsection (1)(a) shall have effect as though a reference to a period of not less than three years were substituted for the reference to a period of not less than five years.

(6) A solicitor who does not have a right of audience before a Superior Court of record in a jurisdiction recognised pursuant to subsection (4), shall not be qualified to be admitted to practise as a legal practitioner in the Virgin Islands.

12. Every person, on being admitted to practise law, shall take and subscribe before the High Court the following declaration:

Declaration of legal practitioner on admission.

“I, _____, do sincerely declare that I will conduct myself in a professional manner in the practise of law as a legal practitioner according to the best of my knowledge and ability.

Dated this _____ day of _____, 20 ____.

.....
Applicant”.

13.(1) Every person whose name is entered on the Roll in accordance with this Act shall be known as a legal practitioner and,

Status of legal practitioner.

- (a) subject to subsection (2), is entitled to practise law and sue for and recover his or her fees for services rendered in that respect;
- (b) subject to subsection (2), has the right of audience before any court;
- (c) is an officer of the Supreme Court.

(2) No person may practise Virgin Islands law unless his or her name is entered on the Roll in accordance with this Act.

(3) A person who practises law in contravention of subsection (2) or section 15(1) is not entitled to institute or maintain any action for recovery of any fee on account of or in relation to any legal business done by him or her in the course of such practice.

(4) A legal practitioner shall enjoy no special immunity from action for any loss or damage caused by his or her negligence in the performance of his or her functions, except in respect of the performance of his or her functions in court.

14. (1) The Registrar shall, on request, issue to every legal practitioner registered on the Roll a certificate of his or her enrolment in the form set out as

Certificate of enrolment.

Form 1 in Schedule 3 under the seal of the High Court and signed by the Registrar. Schedule 3

(2) The production of such certificate shall be *prima facie* evidence that the person named therein is duly enrolled as a legal practitioner and such certificate shall be admissible in evidence without further proof of the sealing and signing thereof by the Registrar.

Practising
certificate.

15. (1) Subject to subsection (6) and any other enactment, no person may practise law in the Virgin Islands unless he or she is the holder of a valid practising certificate.

(2) Upon the admission of a person to practise law, the Registrar shall issue to him or her a practising certificate for the year in which he or she is so admitted.

(3) A person who is registered on the Roll and who desires to practise law in any year shall, in the month of January in that year, apply to the Registrar for a practising certificate, and the Registrar shall, on being satisfied that, on the date of the application, the person

- (a) is a believer or is resident in the Virgin Islands, and has paid the annual fee pursuant to section 7, or
- (b) is, subject to section 16, not resident in the Virgin Islands but
 - (i) is practising law in an overseas branch or affiliate of a law firm operating in the Virgin Islands,
 - (ii) obtained the prior written permission of the Council to practise law in that overseas branch or affiliate,
 - (iii) is not in breach of any term or condition of the permission granted by the Council to practise law in that overseas branch or affiliate, and
 - (iv) has paid the annual fee pursuant to section 7,

issue to that person a practising certificate.

(4) Where a person who is registered on the Roll applies to the Registrar for a practising certificate in a month other than January, the Registrar shall, on being satisfied that the person has paid his or her annual fee pursuant to section 7, issue to that person, a practising certificate.

(5) A practising certificate is valid for the year in which it is issued and expires on the 31st day of January of the ensuing year.

(6) A person to whom section 9 applies shall be deemed to hold a valid practising certificate for the year during which this Act comes into operation and for the month of January of the year next ensuing and for that period no fee shall be payable.

(7) A practising certificate shall be in the form set out as Form 2 in Schedule 3.

Schedule 3

(8) The Registrar shall cause to be published in the *Gazette*

- (a) in the month of February in every year, an alphabetical list of persons, who have as of the 31st day of January in that year obtained a practising certificate;
- (b) as soon as practicable after he or she obtains a practising certificate, the name of any person obtaining a practising certificate after 31st day of January in any year.

(9) A copy of the *Gazette* containing the list referred to in subsection (8)(a) or the name of any person published pursuant to subsection (8)(b), shall be *prima facie* evidence in any court of the registration on the Roll of the name of, and the holding of a valid practising certificate by, any person mentioned in subsection (8)(a) or (b).

(10) A person who, after the month of January in any year, practises law in the Virgin Islands without first obtaining a practising certificate commits an offence and is liable on summary conviction to a fine of ten thousand dollars and to a further fine of one thousand dollars for every day on which the offence continues after conviction of the person.

16. (1) A person who is not resident in the Virgin Islands shall not be issued with a practising certificate and, where such a person is already a holder of such a certificate, the certificate shall not be valid for a period of more than three months from the date of its issue, unless the person to whom the certificate relates is employed in its overseas affiliate, by a law firm that holds a trade licence under the Business Professions and Trade Licences Act and operates in the Virgin Islands.

Issue of practising certificate to non resident persons.

Cap. 200

(2) No law firm shall employ a non- resident legal practitioner to practise Virgin Islands law in its overseas affiliate, save in accordance with regulations made by the Cabinet in consultation with the Council and the regulations shall, among other things, fix the ratios to be applied in determining the issue of practising certificates under this section.

(3) The Council may from time to time, make a determination as to the number of practising certificates which may be issued to non-resident practitioners.

(4) The Cabinet, on the recommendation of the Council shall by regulation, fix the fees applicable in relation to practising certificates issued under this section.

Name and address of legal practitioner to be noted on documents.

17. (1) A legal practitioner who draws or prepares any legal document by himself or herself shall print on it his or her name and the name of the firm, if any, in which he or she is employed together with the appropriate address.

(2) A legal practitioner who contravenes subsection (1), commits professional misconduct.

Unlawful practice and similar offences.

18. (1) Subject to this Act, where a person whose name is not registered on the Roll

- (a) practises law;
- (b) wilfully pretends to be a legal practitioner; or
- (c) makes use of any name, title or description implying that he or she is entitled to be recognised or to act as a legal practitioner,

he or she commits an offence and is liable on summary conviction to a fine of not less than fifteen thousand dollars or to imprisonment for a term of not less than three years, or both.

(2) A person who, not being entitled to act as a legal practitioner, acts in any respect as a legal practitioner in any action or matter or in any court in the name or through the agency of a legal practitioner entitled so to act, commits an offence and is liable on summary conviction to a fine of not less than ten thousand dollars or to a term of imprisonment of not less than two years, or both.

(3) No fee in respect of anything done by a person whose name is not registered on the Roll or to whom subsection (2) relates, acting as a legal practitioner, is recoverable in any action, suit or matter by any person.

(4) Section 13 and this section, subsection (3) excepted, do not extend to a law officer

- (a) drawing or preparing instruments;

- (b) appearing for the informant, complainant or claimant in a Court, in the course of his or her duty.

(5) Notwithstanding section 70 of the Magistrate’s Code of Procedure Act, an information or complaint for an offence under this section may be laid at any time within two years after the commission of the offence or within twelve months after the first discovery thereof by the informant or complainant, whichever period is earlier.

Cap. 44

19. (1) For the purposes of this Act, a law officer is a person who

Law officer as legal practitioner.

- (a) holds or acts in any of the legal offices specified under section 95 (4) of the Virgin Islands Constitution Order, 2007; or
- (b) is employed in a legal capacity under a contract of employment by a statutory body.

UK SI 2007 No. 1678

(2) A law officer so long as he or she remains a law officer shall be deemed to be the holder of a valid practising certificate and to be a legal practitioner and shall not be subject to disciplinary proceedings under this Act.

(3) A certificate in the form set out as Form 3 in Schedule 3 signed by the Attorney General to the effect that a particular person is a law officer is *prima facie* evidence of that fact.

Schedule 3

(4) For the purposes of this Act, a law officer for so long as he or she remains a law officer shall

- (a) in the case of a law officer to whom subsection (1) (a) applies, be subject to the provisions of section 95 of the Virgin Islands Constitution Order, 2007, with respect to disciplinary proceedings.
- (b) in the case of a law officer to whom subsection (1) (b) applies, be subject to the disciplinary proceedings of the statutory body in which he or she is employed.

UK SI 2007 No. 1678

20. A law officer is exempt from paying any fees to the Council.

Law officers exempt.

21. (1) A person who is desirous of having his or her name removed from the Roll, shall in accordance with the rules of the High Court, apply to procure the removal of his or her name from the Roll after serving a copy of such application on the Attorney General and the Council and the High Court shall make such order thereon as it thinks fit.

Voluntary removal of name from Roll.

(2) The Registrar shall forthwith cause to be published in the *Gazette* a notice to the effect that the name of that legal practitioner has been removed from the roll at the request of the legal practitioner under this section and the expenses incurred in publishing the notice shall be paid by the legal practitioner.

22. (1) The Registrar shall make the appropriate entry or alteration in the Roll and publish the appropriate notice in the *Gazette* whenever

Removal from
Roll and
suspension.

- (a) under this Act, the High Court orders the name of a legal practitioner to be removed from the Roll; or
- (b) under this Act, a legal practitioner is suspended from practising law; or
- (c) by virtue of any law, the name of a legal practitioner is removed from the Roll or a legal practitioner is suspended from practising law,

but where there is an appeal against any order from which the removal or suspension results, the Registrar shall ensure that in the event of an appeal he or she takes no action under this section until the order has been confirmed on appeal.

(2) Where the name of a legal practitioner is removed from the Roll his or her practising certificate ceases to be valid.

(3) During the period of suspension of a legal practitioner from practising law, no practising certificate shall be issued to him or her and any practising certificate issued to him or her prior to such suspension ceases to be valid for the period of that suspension.

Restoration of
name to Roll.

23. (1) Any person whose name has been removed from the Roll under section 21 may at any time, in accordance with the rules of the High Court, apply to procure the restoration of his or her name on the Roll after serving a copy of such application on the Attorney General and the Council and the High Court shall make such order thereon as it thinks fit.

(2) A legal practitioner whose name has been removed from the Roll other than under subsection (1), or who has been suspended from practising law may, subject to subsection (3) apply to the High Court in accordance with the rules of the High Court, to have his or her name restored to the Roll or the order of his or her suspension withdrawn, as the case may be.

(3) An appeal lies to the Court of Appeal from an order of the High Court refusing an application made under this section.

(4) On the hearing of an application made under subsection (2), the High Court may refer it to the Council or the Tribunal or both for a report, and may, if satisfied that the applicant is a fit and proper person to practise law, order that his or her name be restored to the Roll or that the order suspending him or her from practising law be withdrawn, as the case may be.

(5) Any order made by the High Court under this section restoring the name of a legal practitioner or terminating the suspension of a legal practitioner shall be published in the *Gazette* by the Registrar.

(6) Upon the publication in the *Gazette* of an order made under subsection (4) and on the payment of any fee prescribed under this Act, the Registrar shall make an appropriate entry on the Roll of the date and effect of the order, and where appropriate restore the name of the legal practitioner to the Roll.

PART IV ACCOUNTS

24. The Council may, by order in the *Gazette*, make rules with respect to the keeping and operating of accounts of client's money by a legal practitioner and without prejudice to the generality of the foregoing such rules, may

Power to make rules as to accounts.

- (a) prescribe the type of client's accounts to be kept, the manner of operating them, the particulars to be recorded and the manner of recording them; and
- (b) empower the Council generally to take such action as may be necessary to enable it to ascertain whether the rules are being complied with.

25.(1) In order to protect clients against loss of money or property held on their behalf by a legal practitioner, the Council may, upon an order of a Judge of the High Court, control the keeping and distribution of monies held by a banker in any client's account, office account or other account, or under the control, of a legal practitioner.

Council's control of accounts in certain circumstances.

(2) Subject to rules of court, a Judge of the High Court, if he or she thinks it necessary or expedient in the interests of the clients to do so, may make an order under subsection (1)

- (a) where the Judge, after due inquiry, is satisfied that a legal practitioner or his or her servant or agent is or may be guilty of fraud or improper conduct with respect to a client's money or property;

- (b) after the death of the legal practitioner concerned if the legal practitioner immediately before his or her death was practising as a legal practitioner on his or her own account and not in partnership with another legal practitioner.

**PART V
DISCIPLINARY AND RELATED MATTERS**

Rules to govern professional practise. Schedule 4

26. (1) The rules contained in the Code of Ethics set out in Schedule 4 shall regulate the professional practice, etiquette, conduct and discipline of a legal practitioner.

(2) A breach of the rules in Part A of Schedule 4 may constitute professional misconduct and in Part B shall constitute professional misconduct. Schedule 4

(3) Where no provision is made by the rules in respect of any matter, the rules and practice of the legal profession which before the commencement of this Act governed that particular matter, shall apply in so far as is practicable.

Disciplinary Tribunal.

27. (1) For the purpose of this Act, there is established a Tribunal to be known as the “Disciplinary Tribunal” which shall be charged with the duty of upholding standards of professional conduct and enforcing the Code of Ethics set out in Schedule 4 and exercising disciplinary control over any legal practitioner.

(2) The Tribunal shall comprise seven persons as follows:

Schedule 4

- (a) two persons appointed by the Chief Justice by instrument in writing, one of whom shall be a legal practitioner of not less than fifteen years standing who is a believer and who shall be the Chairperson;
- (b) one lay person nominated by the Premier and appointed by the Attorney General by instrument in writing;
- (c) one lay person nominated by the Leader of the Opposition and appointed by the Attorney General by instrument in writing;
- (d) one legal practitioner of not less than five years standing nominated and appointed by the Attorney General by instrument in writing;
- (e) one legal practitioner of not less than five years standing nominated by the Director of Public Prosecutions and

appointed by the Attorney General by instrument in writing;

- (f) one legal practitioner of not less than five years standing nominated by the Bar Association and appointed by the Attorney General by instrument in writing.

(3) The Registrar or any person deputed by him or her shall perform the duties of Secretary to the Tribunal.

(4) The provisions of Schedule 5 shall have effect as to the constitution of the Tribunal and otherwise in relation thereto. Schedule 5

(5) For the purposes of subsection (1)(a) (b) and (e), the Premier, Leader of the Opposition or the Director of Public Prosecutions, shall submit the name of his or her nominee within twenty-one days after receipt of the request from the Attorney General.

Complaints to Tribunal.

28. (1) A client, the Attorney General or, by leave of the Tribunal, any other person claiming to be aggrieved by an act of professional misconduct, including any default, committed by a legal practitioner, may apply to the Tribunal to require the legal practitioner to answer allegations contained in an affidavit made by such client, the Attorney General or other person, and the Registrar or any member of the Council may make a like application to the Tribunal in respect of allegations concerning

- (a) any professional misconduct;
- (b) any criminal offence as may, for the purpose of this section, be prescribed; or
- (c) mental illness.

(2) Upon receipt of an application under subsection (1), the Tribunal shall, unless in its opinion, the application is of a frivolous nature, inquire into any charge made before it.

(3) In any matter or hearing before any court, where the court considers that any act referred to in subsection (1) (a) or (b) has been committed by a legal practitioner, the court may, through the Registrar, refer the matter to the Tribunal in respect of the legal practitioner under that subsection.

(4) Any application under subsection (1), shall be made to and be heard by the Tribunal in accordance with rules made under section 29.

Rules of
procedure for
Tribunal.

29. (1) The Tribunal may make rules regulating the presentation, hearing and determination of applications to the Tribunal under this Act.

Schedule 6

(2) The Rules contained in Schedule 6 shall have effect as if made under subsection (1) until rules are made under that subsection and may be amended or revoked by the Tribunal.

(3) For the purposes of any application made to it under this Act, the Tribunal shall have the power of the High Court to summon witnesses, call for the production of books and documents and examine on oath witnesses and parties concerned.

Powers of the
Tribunal.

30. (1) Where the Tribunal decides, after hearing an application under this Part, that a case of professional misconduct has been made out against a legal practitioner, the Tribunal may impose any of the penalties prescribed in subsection (2).

(2) For the purposes of subsection (1), the Tribunal may, as it thinks just, make an order

- (a) removing from the Roll the name of the legal practitioner to whom the application relates;
- (b) suspending the legal practitioner to whom the application relates from practice for a period not exceeding twelve months on such conditions as it may determine;
- (c) imposing on the legal practitioner to whom the application relates such fines not exceeding twenty thousand dollars in relation to Part A of Schedule 4 and not exceeding fifty thousand dollars in relation to Part B of Schedule 4, as it thinks proper;
- (d) subjecting the legal practitioner to whom the application relates, to a reprimand or requiring him or her to provide a written apology;
- (e) requiring the payment by any party of costs or such sum as it may consider a reasonable contribution towards costs;
- (f) requiring the legal practitioner to whom the application relates to pay the applicant or person aggrieved such sum as is reasonable by way of compensation and reimbursement;

Schedule 4

- (g) adopting any other reasonable course of action not prescribed, but not more severe penalties as are provided for in paragraphs (a) to (f).

(3) Where the Tribunal decides, after hearing an application under this Part, that a case of professional misconduct has not been made out, it shall dismiss the application and may order the payment of costs or such sum as it may consider reasonable contribution towards costs.

(4) An order made under subsection (2) (a) or (b) may contain such provisions as the Tribunal thinks fit for the custody of any deeds, documents or papers in the possession of the legal practitioner to whom it relates.

(5) Every decision or order made under this section shall be drawn up, settled and signed by the Registrar.

(6) Any sum by way of compensation or reimbursement ordered under this section to be paid by a legal practitioner, shall be taken into account in the assessment of any damages recoverable against the legal practitioner in any civil proceedings brought against the legal practitioner by the person to whom such compensation or reimbursement has been ordered to be paid or made with respect to any act or default which was the subject matter of the application in respect of which he or she was ordered to pay such sum by way of compensation or reimbursement.

31. (1) For the purpose of conducting a hearing pursuant to this Act, the Chairperson of the Tribunal shall empanel a Tribunal comprising of not less than three members, one of whom shall be a lay member.

Empanelling a Tribunal to conduct a hearing.

(2) The members of the Tribunal shall, in the performance of their duties, conduct themselves in a manner that conforms with the integrity of their office.

32. (1) A member of the Tribunal who has any direct or indirect personal, professional, business or pecuniary interest in any matter which is the subject of a hearing before the Tribunal shall, as soon as is reasonably practicable, declare his or her interest to the Secretary in writing stating the nature of the interest.

Duty to disclose interest.

(2) A disclosure shall be recorded in the minutes of the meeting and the member of the Tribunal shall not, unless the Tribunal otherwise determines

- (a) be present during any deliberations by the Tribunal on that matter;
or
- (b) take part in any decision of the Tribunal relating to the matter.

Right of appeal.

33. (1) Any person who is aggrieved by a decision of the Tribunal may, within twenty-eight days of such decision, appeal to the Court of Appeal in accordance with the rules of court.

(2) Where, pursuant to an appeal, the name of a person is struck off the Roll, the name of that person may be restored to the Roll after five years.

Saving of jurisdiction of courts.

34. Notwithstanding anything in this Act, the jurisdiction, power and authority vested in any court immediately before the commencement of this Act by any enactment to deal with contempt of court committed by barristers, solicitors or attorneys-at-law shall continue to be exercised, after such commencement, by the court in relation to a legal practitioner.

Registrar to make entry of order in Roll and publish in the *Gazette*.

35. (1) Where, by an order of the Tribunal, a legal practitioner is suspended from practice or his or her name is ordered to be removed from the Roll the Registrar shall make the appropriate entry or alteration in the Roll.

(2) Every order made by the Tribunal that a legal practitioner be suspended from practice or his or her name be removed from the Roll, shall be published in the *Gazette* by Notice under the hand of the Registrar.

(3) If the name of a legal practitioner is removed from the Roll any practising certificate issued to him or her shall cease to be valid.

(4) During the period of suspension of a legal practitioner from practice, no practising certificate shall be issued to him or her and any practising certificate issued to him or her prior to such suspension shall cease to be valid for the period of that suspension.

(5) If a legal practitioner is adjudicated a bankrupt, any practising certificate issued to him or her shall cease to be valid for the period during which he or she remains an undischarged bankrupt.

Offences.

36. (1) A person who, while suspended from practising law or whose name has been removed from the Roll

- (a) practises law,
- (b) wilfully pretends to be entitled to practise law, or
- (c) wilfully makes use of any name, title or description implying that he or she is entitled to be recognised or to act as a legal practitioner,

commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding five years or both.

(2) If a person while suspended from practising law, or whose name has been removed from the Roll, seeks or accepts employment from a legal practitioner in connection with the practice of that legal practitioner, without previously informing him or her of the suspension or removal from the Roll, that person commits an offence and is liable on summary conviction to a fine of not less than thirty thousand dollars or to imprisonment for a term not exceeding three years or both.

(3) No legal practitioner shall, in connection with his or her practice, without the written permission of the Tribunal, which permission may be given for such period and subject to such conditions as the Tribunal thinks fit, employ any person who to his or her knowledge is suspended from practice, during the period of such suspension, or whose name has been removed from the Roll.

(4) Any legal practitioner who contravenes subsection (3) commits professional misconduct.

37. (1) Where a person who is or was a pupil to a legal practitioner but is not himself or herself a legal practitioner

Control of
employment of
certain pupil.

- (a) has been convicted by a court
 - (i) of stealing, embezzlement or fraudulent conversion, or
 - (ii) of any other criminal offence in respect of any money or property belonging to or held or controlled by a legal practitioner by whom he or she is or was employed or any client of that legal practitioner, or
- (b) is reasonably suspected by the Council of having been a party to any act or default of the legal practitioner to whom he or she is or was a pupil or clerk in respect of which an application against that legal practitioner has been or might be made to the Tribunal under this Act,

an application may be made to the Tribunal with respect to that person by or on behalf of the Council.

(2) On the hearing of an application under subsection (1), the Tribunal may make an order that as from such date as may be specified in the order no legal

practitioner shall, in connection with his or her practice as a legal practitioner, knowingly take into or retain in his or her employment or remunerate the person with respect to whom the application is made except in accordance with permission in writing granted by the Tribunal for such period and subject to such conditions as the Tribunal thinks fit to specify in the permission, and may make an order as to payment of costs by any party to the application.

(3) Section 29 shall also apply, with necessary adaptation, for the purposes of an application under this section as it applies to an application under section 28.

(4) Every order made under this section shall be filed by the Registrar and a file kept by him or her for that purpose may be inspected by any person during office hours without payment of a fee.

(5) For the purposes of this section,

Cap. 61

- (a) a probation order under the Probation of Offenders Act shall, notwithstanding section 2 of that Act, be deemed to be a conviction of the offence for which it was made;
- (b) the death of a legal practitioner against whom an application might have been made under section 28 shall not prevent an application being made under this section in respect of a person who was a pupil or clerk to the legal practitioner but is not himself or herself a legal practitioner and who is alleged to have been a party to any act or default of that legal practitioner.

Offences in
contravention
orders under
section 26.

38. (1) If a person in respect of whom an order made under section 30 is in force, seeks or accepts any employment by or remuneration from a legal practitioner in connection with the practice of that legal practitioner without previously informing him or her of that order, that person commits an offence and is liable on summary conviction to a fine of not less than two thousand dollars.

(2) Where an order is made under section 30 in respect of any person and no appeal is made against that order or that order is confirmed on appeal, a legal practitioner who knowingly contravenes that order or any condition subject to which permission for the employment of that person has been granted thereunder is guilty of professional misconduct.

(3) A copy of an order made under section 30 certified by the Registrar shall be *prima facie* evidence of that order in any proceedings under this section.

Cap. 44

(4) Notwithstanding section 70 of the Magistrate's Code of Procedure Act, a complaint or an information for an offence under subsection (1) may be made or

laid at any time before the expiration of six months after first discovery of the offence by the informant.

(5) No proceedings under subsection (1) may be commenced by a person, other than the Council or a person acting on behalf of the Council, except with the consent of the Attorney General.

PART VI LEGAL EDUCATION AND LAW REPORTING

39.(1) The Cabinet, on the advice of the Council, may make arrangements for

Legal education and law reporting.

- (a) the provision of a system of legal education and practical legal training in the Virgin Islands;
- (b) establishing a system of continuing legal education for legal practitioners;
- (c) the provision of a system of law reporting.

(2) In making arrangements for the carrying out of its functions under subsection (1), the Cabinet may take into account any existing agreements or arrangements in the English-speaking Caribbean countries and territories.

(3) The Cabinet, on the advice of the Council, may make arrangements for

- (a) courses of instruction for students and generally for affording opportunities for students to read and obtain practical experience in law;
- (b) the nature and conditions of examinations and fees in respect thereof;
- (c) the administration, sale and distribution of law reports; and
- (d) anything that promotes the objectives of a sound system of legal education, training and law reporting.

(4) Rules made under subsection (3), shall be subject to a negative resolution of the House of Assembly.

PART VII REMUNERATION

40. In this Part,

Interpretation of this Part.

“legal practitioner” includes the executors, administrators and assignees of a legal practitioner;

“party chargeable”, in relation to a legal practitioner’s bill of costs, includes any person who has paid or is liable to pay the bill either to the legal practitioner or to any other person chargeable with the bill;

“taxing officer” means, in relation to the High Court, the Registrar of that Court.

Payments in advance and accountability.

41. (1) A legal practitioner who receives in advance from or on behalf of a client any money to cover prospective costs, other than a retainer, or as security for future costs shall, on the written demand of the client made at any time after the expiration of three months from the receipt of the money or at any subsequent time during any period which is at least three months from the date of the last such demand, deliver to the client a statement in writing showing

- (a) the amounts of moneys received up to the date of the statement;
- (b) the dates when they were so received; and
- (c) the purposes for which they or so much of them as has been expended or have been applied.

(2) If the client fails to obtain such a statement as is mentioned in subsection (1) after having made a demand therefor in accordance with that subsection, he or she may apply to the Council or a Judge in Chambers for an order requiring the legal practitioner to deliver the statement, and the Council or Judge may on the making of that order give such other directions as it or he or she thinks fit.

Bill of costs transaction.

42. (1) Subject to this section, a legal practitioner shall not commence any suit for the recovery from his or her client of the amount of any bill of costs for any legal business done by him or her unless

- (a) the bill of costs has been agreed between the legal practitioner and the client; or
- (b) a copy of the bill of costs is served on the client with a demand in writing for payment fifteen days before the filing of the suit.

(2) The High Court may, on the application of a legal practitioner, authorise the legal practitioner to commence or proceed with a suit for the recovery of any costs before the expiration of fifteen days from the service of the copy of the bill of costs required under subsection (1) if it is satisfied that there is reasonable cause for believing that the person chargeable with the costs is about to

- (a) leave the Virgin Islands;
- (b) become bankrupt or compound with his or her creditors; or
- (c) do any other act which would tend to prevent or delay the legal practitioner from obtaining payment.

(3) If in any proceedings before a court

- (a) the amount set out in a bill of costs is
 - (i) sought to be recovered, or
 - (ii) disputed, and
- (b) the bill or part thereof relates to matters in respect of which no scale of fees is prescribed,

the Court shall decide whether the fees set out in respect of those matters are fair and reasonable having regard to the work done or are excessive, and shall allow or reduce them accordingly.

(4) It shall not be necessary in the first instance for a legal practitioner in providing compliance with this section to prove the contents of the bill served, and it shall be sufficient to prove

- (a) that the bill
 - (i) signed by the legal practitioner or, in the case of a partnership, by any one of the partners either in his or her own name or in the name of the partnership, or
 - (ii) being enclosed in or accompanied by a letter signed in the manner specified in paragraph (a) referring to the bill,

was duly served; or

- (b) in the case of electronic billing, that the name of the legal practitioner or the partnership, as the case may be, was entered on the bill and that the bill was submitted to the client in the manner agreed between the client and the legal practitioner or the partnership.

(5) For the purposes of this section, a bill of costs may be served in any manner provided for under section 25 of the Interpretation Act.

Cap. 136

Rules as to costs by legal practitioners for non-contentious business.

43. (1) The Council may make rules

- (a) prescribing and regulating the remuneration of legal practitioners in respect of non-contentious business; or
- (b) authorising and regulating
 - (i) the taking by a legal practitioner from his or her client of security for payment of any remuneration to be ascertained by taxation or otherwise, which may become due to him or her; and
 - (ii) the allowance of interest.

Agreement with respect to remuneration for non-contentious business.

44. (1) Whether or not any rules are in force under section 43, a legal practitioner and his or her client may either before or after or in the course of the transaction of any non-contentious business by the legal practitioner, make an agreement as to the remuneration of the legal practitioner in respect thereof.

(2) The agreement which shall be in writing shall provide for the remuneration of the legal practitioner by a gross sum, or by commission or by percentage, or by salary, or otherwise, and it may be made on the terms that the amount of the remuneration stipulated in the agreement shall not include all or any disbursements made by the legal practitioner in respect of searches, plans, travelling, stamps, fees or other matters.

(3) The agreement may be sued and recovered on or set aside in the same manner and on the same grounds as an agreement not relating to the remuneration of a legal practitioner.

PART VIII TEMPORARY ADMISSION OF FOREIGN LEGAL PRACTITIONERS

Temporary admission of foreign legal practitioner.

45. (1) Notwithstanding anything to the contrary in this Act, the High Court may, for the purpose of any case where the High Court is satisfied that it is of sufficient difficulty and complexity and having regard to the circumstances of the case, admit to practise as legal practitioner any person who

- (a) holds Her Majesty's Patent as Queen's Counsel or Counsel of equivalent designation;
- (b) has special qualifications or experience for the purpose of the case;
- (c) has been admitted and enrolled as a barrister, advocate, solicitor or attorney-at-law in the jurisdiction where he or she ordinarily resides;
- (d) is in good standing with the relevant Bar, Law Society or other regulatory body of the jurisdiction where he or she ordinarily resides and such jurisdiction and the relevant Bar, Law Society or other regulatory body thereof are both recognised by the Council;
- (e) does not ordinarily reside in the Virgin Islands but who has come or intends to come to the Virgin Islands for the purpose of appearing in the case and is a fit and proper person to be temporarily admitted as a legal practitioner.

(2) Any person applying to be admitted under this section shall do so in accordance with the rules of court through the legal practitioner instructing him or her stating the names of the parties and brief particulars of the case in which the applicant intends to appear.

(3) A copy of the application shall be served on the Council and, before admitting a person under this section, the High Court shall have regard to the views of the Council.

Effect of admission under section 45.

46. (1) A person admitted pursuant to section 45 shall be admitted only for the purpose of a particular case or matter and such admission shall only be for the purpose of enabling that person to practise law for the duration of such case or matter, including any relevant appeals.

(2) A person admitted pursuant to section 44 shall not retain as junior counsel in that case or matter, any person who does not hold a valid practising certificate under this Act.

(3) A person who contravenes any provision of this section commits an offence and is liable on summary conviction to a fine not exceeding fifteen thousand dollars.

47. (1) The Registrar shall issue to a person who is temporarily admitted and enrolled to practise law under section 45, a temporary practising certificate which shall expire upon the termination of the particular case or matter in respect of

Temporary practising certificates.

which the certificate is issued or on the 31st day of January of the year following the year in which the certificate is issued, whichever is sooner.

(2) A temporary practising certificate shall not be renewed unless it is supported by a letter from the legal practitioner or firm referred to in subsection (1) to the effect that the holder of the temporary practising certificate is still engaged in the particular case or matter in respect of which the certificate was issued.

(3) The Registrar shall not enter the names of persons admitted under this Part upon the roll but shall keep, in such manner as the Registrar deems appropriate, a separate roll for persons admitted under this Part.

Schedule 2

(4) Subject to sections 45(6) and 62, the relevant fees in Schedule 2 are payable in respect of the temporary admission and enrolment of foreign legal practitioners and the issuance and renewal of temporary practising certificates.

PART IX PUPILLAGE

Information to be placed before the Council by persons intending to become pupils.

48. (1) Subject to subsection (2), every person intending to serve a legal practitioner under a contract of pupillage shall first obtain the approval of the Council and shall, for that purpose, produce to the Council

- (a) his or her birth certificate or, if no birth certificate is available, satisfactory evidence of the date and place of his or her birth; and
- (b) a certificate to the satisfaction of the Council that he or she is a fit and proper person and proof that he or she has
 - (i) obtained a degree in law from such recognised institution, and
 - (ii) pursued such recognised course of study and professional training in law and has obtained such relevant recognised certificate, diploma, licence or other status or form of recognition,

as is referred to in section 11(1)(d).

(2) Nothing in this section shall be construed as empowering the Council to grant approval to a person who is not a resident to serve a legal practitioner under a contract of pupillage.

(3) For purposes of this section, “resident” means a person who is legally residing in the Territory

- (a) by virtue of being a believer; or
- (b) in accordance with the Immigration and Passport Ordinance.

Cap. 130

49.(1) A duplicate original of a pupillage contract shall be lodged with the Council within one month of the date of the pupillage contract, together with a duplicate original affidavit testifying to the signature and date thereof.

Pupillage contract to be lodged with the Council.

(2) On production of a certificate from the Registrar that the prescribed fee has been paid and on production of the original pupillage contract and an affidavit attesting signature and date, the Council, upon being satisfied that the pupillage contract is in order and that no objection exists to registering it, shall endorse upon the original pupillage contract a certificate to the effect that the provisions of this section have been complied with.

50. (1) Subject to subsection (2), the original pupillage contract shall within two months of the date of its signature, be lodged together with an affidavit, testifying to the signature and date thereof and where it was executed, and the necessary prescribed fees, with the Registrar who shall thereupon register the pupillage contract.

Pupillage contract to be lodged with Registrar.

(2) The Registrar shall not register any pupillage contract which has not been endorsed by the Council in accordance with section 49.

(3) If a pupillage contract is not registered within the period of two months, the service shall, subject to any relief which the High Court may grant under section 56, be deemed to have commenced only on the date of the registration.

(4) Within one month from the date on which the pupil commences service under him or her, the legal practitioner shall file an affidavit with the Registrar as to the date upon which the pupil commenced service.

51. (1) The original and a duplicate original of each cession of a pupillage contract shall, within one month of the date thereof, be lodged with the Council.

Cession to be lodged with the Council.

(2) Every such cession shall be accompanied by an original affidavit and a duplicate original affidavit by the cedent as to the due and proper service and as to the date on which the pupil left his or her service, and by an original affidavit and duplicate original affidavit by the cessionary as to the date on which the pupil entered his or her service.

(3) Upon production of the original and duplicate original cession and affidavits and upon production of a certificate from the Registrar that the

prescribed fee has been paid, the Council shall, if satisfied that the cession is in order and that no objection exists to the cession, endorse upon the original cession a certificate to the effect that the provisions of this section have been complied with, and that the cession has been approved.

(4) If the legal practitioner, under whom a pupil has served, has died, or for any other reason discontinued practice, cession of the pupillage contract of a pupil shall be deemed to have been validly executed if it is signed on behalf of the legal practitioner by his or her legal representative or the Attorney General, and a certificate under the hand of the legal representative or the Attorney General, containing the particulars set forth in subsection (2), shall be deemed to be an affidavit referred to in that subsection and subsection (3).

Cession to be lodged with the Registrar.

52. (1) Every cession of a pupillage contract duly endorsed by the Council shall, within two months of the date of the cession of the pupillage contract, be lodged with the Registrar, together with an affidavit in like form as is prescribed in section 50, and the prescribed fees, and the Registrar shall thereupon register the cession.

(2) No such cession shall be registered after the period of two months without an order of the High Court.

Cession of pupillage contract registered outside the Virgin Islands.

53. A pupillage contract, traineeship contract or articles of clerkship registered in the United Kingdom or any other Commonwealth country or territory under the law for the time being in force in such country or territory for the registration of such contracts, articles or their equivalent may, by leave of the High Court after lodging documents with the Council in like manner as is provided in section 51, be ceded to a legal practitioner in the Virgin Islands if the pupil has served not less than two-thirds of such pupillage contract, traineeship contract or articles of clerkship in that other country, and any period so served in such a country shall then be accepted as a portion of the term required to be served under the provisions of this Act for as long as that portion is not less than half of the period of service under the ceded pupillage contract, traineeship contract or articles of clerkship.

Amendment of pupillage contract and cessions.

54. The terms of a pupillage contract and of a cession of a pupillage contract, traineeship contract or articles of clerkship may be amended by the parties thereto with the prior written consent of the Council.

Only practising legal practitioners to have pupil: restrictions on number of pupils.

55. (1) No legal practitioner shall have or retain any pupil under a pupillage contract unless the legal practitioner is actually practising law and has practised continuously for a period of not less than ten years.

(2) Service by any pupil under a pupillage contract to a legal practitioner for and during the whole or any part of the time that the legal practitioner is not practising his or her profession either on his or her own account or as a partner in

a firm of legal practitioners shall not be deemed to be good or sufficient service for the purposes of this Act.

(3) No legal practitioner, other than the Attorney General or the Director of Public Prosecutions shall at any time have more than three pupils but, the Council may by Order, increase the number pupils that a legal practitioner may have.

(4) On the death or retirement from practice of a member of a firm, his or her surviving or remaining partner may take cession of the pupillage contract of any pupil who has been in pupillage to his or her partner so deceased or retiring, although that surviving or remaining partner may at the time have as many pupils as are by law allowed.

56. (1) Where any pupil to a legal practitioner has not served under the pupillage contract strictly in accordance with the provisions of this Act, the High Court, upon being satisfied that the irregular service was occasioned by sufficient cause, and that the service, though irregular, is substantially equivalent to regular service, and that the Attorney General has had due notice of the application, may, subject to the provisions of section 60, at any time during the currency of the pupillage contract or, subject to subsection (3), within two years of the completion of the pupillage contract, condone the irregular service upon such conditions as it may deem fit and treat it as though the service in question had been regular and in conformity with the provisions of this Act.

Powers of High Court.

(2) When any pupil wishes to absent himself or herself from the office of the legal practitioner with whom he or she is in pupillage for any period exceeding six weeks in any one year, the High Court upon being satisfied that the contemplated absence is occasioned by sufficient cause, and that the Attorney General and that legal practitioner have had due notice of the application, may permit the pupil to absent himself or herself from that office, provided that any time during which the pupil is so absent shall be added to the period for which the pupil is bound to serve under the pupillage contract.

(3) The High Court may, on the application of any person made within two years from the date of the completion of his or her pupillage contract, allow such further period as it may deem fit after the expiration of two years from the completion of his or her pupillage contract, within which the applicant may apply for admission as a legal practitioner under this Act and, if that further period is allowed, the High Court may, in its discretion, impose such conditions as it may deem fit including a condition relating to the service of further pupillage.

(4) Where the pupillage contract is or has at any time been cancelled or abandoned before completion thereof, the High Court may, in its discretion, on the application of the person who served under that pupillage and subject to such conditions as the High Court may impose, order that, for the purposes of this Act, the whole or such part of the period served under that pupillage, as the High Court

deems fit, be added to any period served by that person under a pupillage contract entered into after the first mentioned pupillage contract was cancelled or abandoned and, any period so added shall, for the purposes of this Act, be deemed to have been served under the last-mentioned pupillage contract and continuously with any period served thereunder.

Continuous service under pupillage contract.

57. (1) Subject to section 56, a pupil to a legal practitioner shall, during the whole term of service specified in the pupillage contract, be and continue to be in the actual service of that legal practitioner and in the office and under the direct personal supervision of that legal practitioner or any of his or her partners or employees who is a legal practitioner.

(2) The pupil shall receive a salary of not less than three thousand dollars a month from the date of the commencement of his or her pupillage contract for the duration of the contract.

(3) The pupillage contract may, with the mutual consent of that legal practitioner and the pupil, be ceded in accordance with this Act to any other legal practitioner who may be willing and competent to accept cession.

(4) In the event of death, insanity, insolvency, conviction for crime, imprisonment for debt, suspension, striking off the roll or discontinuance of practice of the legal practitioner under whom the pupil is serving, or other similar and sufficient cause, the High Court may, notwithstanding section 54, direct that the pupillage contract be ceded to any other legal practitioner who may be competent and willing to receive the pupil under cession and all service completed under this provision shall be good and effectual for the purpose of this Act.

Restriction on pupil.

58. (1) No person who may become bound under a pupillage contract to any legal practitioner shall, during his or her term of pupillage, without the written consent of the Council previously had and obtained, hold any office for remuneration other than that of pupil to that legal practitioner and his or her partner or partners, if any, in the practice and employment of a legal practitioner, nor shall such a pupil, during the term of that service, have any pecuniary interest in the practice and employment of a legal practitioner.

(2) In the event of a contravention of subsection (1), the pupillage contract shall be null and void *ab initio*, and pupillage thereunder shall be ineffectual, unless the High Court, for good cause shown, condones the contravention.

(3) Any pupil who

(a) has, in terms of section 57, become entitled to payment of the salary referred to in that section;

- (b) being bound in terms of section 60 to serve for a specified period, has served one half of his or her pupillage; or
- (c) has satisfied all the requirements for the prescribed examinations and has served one half of his or her pupillage,

shall be entitled to appear in any Magistrates' Court and before any board, tribunal or similar body in or before which his or her principal is entitled to appear instead of and on behalf of that principal who shall be entitled to charge the fees for the appearance as if he or she himself or herself had appeared.

59. Any period served by a Professional Cadet with a law degree under the Attorney General or Director of Public Prosecutions shall, whether such period relates to any time before or after the commencement of this Act, be deemed, for the purposes of this Act, to be a period of pupillage under a legal practitioner and such pupillage contract shall, upon being lodged with the Registrar and with effect from the commencement of that period, have the same force and effect as any other pupillage contract lodged with the Registrar under this Act.

Period of service of Professional Cadet to count as pupillage.

60. (1) The period of pupillage to be served by a person who is otherwise eligible for admission shall be a period of not less than one year.

Period of pupillage

(2) For the purposes of subsection (1), the Council may by Order published in the *Gazette*, increase or reduce the period of pupillage.

(3) The Council may from time to time, by Order published in the *Gazette*, specify a list of universities and similar institutions which it recognises or approves for purposes of exempting a person from the requirements of this section.

PART X MISCELLANEOUS

61. (1) Any stipulation made on the sale of any land or interest in land after the commencement of this Act to the effect that the conveyance to, or the registration of the title of, the purchase shall be prepared or carried out at the expense of the purchaser by a legal practitioner appointed by or acting for the vendor, and any stipulation that might restrict a purchaser in the selection of a legal practitioner appointed by or acting for the vendor, and any stipulation that might restrict a purchaser in the selection of a legal practitioner to act on his or her behalf in relation to any land or interest in land agreed to be purchased, shall be void; and, if a sale is effected by demise or subdemise, then, for the purpose of this subsection, the instrument required for giving effect to the transaction shall be deemed to be a conveyance.

Stipulations preventing a purchaser, etc., from employing his or her legal practitioner to be void.

(2) Any covenant or stipulation contained in, or entered into with, reference to any lease or underlease made before or after the commencement of this Act

- (a) whereby the right of preparing, at the expense of a purchaser, any conveyance of the estate or interest of the lessee or underlessee in the demised premises or in any part thereof, or otherwise carrying out, at the expense of the purchaser, any dealing with such estate or interest, is expressed to be reserved to or vested in the lessor or underlessor or his or her legal practitioner; or
- (b) which in any way restricts the right of the purchaser to have such conveyance carried out on his or her behalf by a legal practitioner appointed by him or her, shall be void.

(3) In this section “lease” and “underlease” includes any agreement therefor or other tenancy, and “lessee” and “underlessee” and “lessor” have corresponding meanings.

Fees payable.

62. (1) The Council, with the approval of the Cabinet, may by Order published in the *Gazette*, prescribe a scale of fees which shall be paid to the Accountant General in respect of the following matters:

- (a) registration of pupillage contracts and cession of pupillage contracts;
- (b) perusal by the Attorney General of pupillage contracts, deeds of cession of pupillage contracts, applications for admission as legal practitioner or for right of audience;
- (c) the fees payable on applications, affidavits, certificates or documents used or required in connection with any application under this Act;
- (d) the temporary admission of foreign legal practitioners;
- (e) the form of orders required to be made under this Act;
- (f) the restoration of the name of a legal practitioner to the Roll;
- (g) generally, matters which carry into effect the provisions of this Act.

(2) The Minister for Finance may, from time to time, make available to the Council such funds as may be necessary to enable the Council to effectively carry out its functions under this Act.

63. The Council may issue a Code of Practice which shall be published in the *Gazette* and which shall

Power to provide a Code of Practice.

(a) make provision for legal practitioners to guard against and conform with established standards relating to money laundering and other criminal activities; and

(b) provide that non-compliance with the Code of Practice shall constitute professional misconduct to be dealt with within the terms of rule 35 (1) of Part B of Schedule 4.

Schedule 4

64. The Council, with the approval of the Cabinet may, by Order published in the *Gazette*, amend any of the Schedules.

Power to amend Schedules.

65. Nothing in this Act affects any enactment relating to the placing of restrictions on any person, not being a believer, entering, leaving, residing or working in the Virgin Islands.

Saving of enactments restricting persons other than believers.

66. (1) Part IV of the Eastern Caribbean Supreme Court (Virgin Islands) Act is repealed.

Repeal of Part IV of Cap. 80.

(2) Notwithstanding subsection (1), where on the coming into force of this Act an application for admission to practise is pending, such an application shall continue to be dealt with under Part IV of the Eastern Caribbean Supreme Court (Virgin Islands) Act as if this Act had not been enacted, unless the person to whom the application relates withdraws such application and submits a new application pursuant to the provisions of this Act.

(3) Notwithstanding subsection (1), and for the removal of doubt, any person who, prior to the commencement of this Act, was admitted to practise law in the Virgin Islands shall continue to be so admitted as if the admission to practise was under this Act.

SCHEDULE 1

[Section 4]

PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE COUNCIL

Disqualification from office.

1. A person is disqualified for appointment as a non-ex officio member of the Council if

- (a) he or she is the Speaker or an elected member of the House of Assembly;
- (b) he or she is an undischarged bankrupt or has compounded with his or her creditors;
- (c) he or she has been convicted of an indictable offence or any offence involving dishonesty;
- (d) his or her name has been struck off the Roll in consequence of disciplinary proceedings and his or her name has not, on appeal, been restored to the Roll;
- (e) has, after being previously appointed as a member of the Council, been removed in accordance with this Schedule;
- (f) has been certified by a medical practitioner to be of unsound mind.

Resignation of office.

2. A non-ex-officio member of the Council may, at any time, by notice in writing to the Governor, resign his or her office as a member of the Council.

Removal from office.

3. The Governor may, on the recommendation of the Council, remove from office any non-ex-officio member of the Council for inability, misconduct in the course of his or her duties as a member or for any other cause that the Council thinks just.

Temporary appointments.

4. In the event of the temporary incapacity of a non-ex-officio member of the Council, whether by reason of illness or other sufficient cause, or the temporary absence from the Territory of any such member, the Governor may, on the nomination of the person or body that nominated the member, appoint another person to act as a temporary member for so long as the incapacity or absence continues.

5. (1) The Council shall meet at least once in every month and at such other times as may be necessary for the transaction of business, at such places and times and on such dates as the Council may determine. Meetings of the Council.

(2) The Chairperson shall convene a special meeting of the Council within seven days of receipt of a requisition for that purpose addressed to him or her in writing and signed by any four members of the Council.

(3) The Chairperson, or in his or her absence the Deputy Chairperson, shall preside at meetings of the Council.

(4) The Chairperson, or in his or her absence the Deputy Chairperson, and three other members shall form a quorum.

6. The decisions of the Council with regard to any question shall be determined by a majority of votes of the members present and voting at a meeting of the Council, and in the event of an equality of votes the Chairperson, or in his or her absence the Deputy Chairperson, shall, in addition to his or her own original vote, have a casting vote. How decisions to be taken.

7. (1) At a meeting of the Council, a member of the Council in attendance shall, as soon as practicable, declare any direct or indirect personal, professional, business or pecuniary interest in any matter which falls to be considered by the Council. Declaration of interest.

(2) A member of the Council who has declared an interest in a matter under subparagraph (1) shall withdraw from any meeting whilst the matter in respect of which he or she has declared an interest is being considered by the Council and shall not express any view or take part in any vote concerning the matter.

(3) A member of the Council who fails to disclose an interest as required under subparagraph (1) commits professional misconduct.

8. The validity of anything done under this Act shall not be affected solely by reason of Validity of Council's actions.

(a) the existence of any vacancy in the membership, or any defect in the constitution of the Council; or

(b) an omission or irregularity in respect of any meeting or proceedings of the Council.

9. In the conduct of its meetings, the Council may, subject to the provisions of this Act, establish its own rules of procedure. Rules of procedure.

SCHEDULE 2

[Sections 7(2),
10(1)(d), 47(3)
and 62]

FEES PAYABLE

1.	Application for admission to practise (non-refundable)	\$1000
2.	Enrolment Certificate	\$200
3.	Issuing of certified copy of enrolment certificate	\$100
4.	Practising Certificate (payable annually)	\$1,000
5.	Issuing a certified copy of a practising certificate	\$100
6.	Application for temporary admission of foreign legal practitioners (non-refundable)	\$2,000
7.	Temporary Practising Certificate for foreign legal practitioners	\$1,000
8.	Registration of pupillage contract and cession of pupillage contract	\$50
9.	Certification by the Council of a pupillage certificate of completion	\$25
10.	Restoration of name to the Roll	\$500

SCHEDULE 3

[Sections 14(1),
15(7) and 19(3)]

FORM 1

THE LEGAL PROFESSION ACT, 2015

Certificate of Enrolment

It is hereby certified that is registered on the Roll of Legal Practitioners under section 14 of the Legal Profession Act, 2015, his or her name having been entered on the Roll.

Dated this day of , 20 .

.....
Registrar of the High Court

FORM 2

THE LEGAL PROFESSION ACT, 2015

Practising Certificate

Pursuant to the Legal Profession Act, 2015, it is hereby certified that whose name is registered on the Roll is entitled to practise as a legal practitioner during the year 20_____ and the month of January next ensuing.

Dated this day of , 20 _____.

.....
Registrar of the High Court

SCHEDULE 4

[Sections 26,
30(1) and 63 (b)]

CODE OF ETHICS

PART A

General

I. In Relation to the Profession and the Legal Practitioner

1. A legal practitioner shall observe the rules of this Code, maintain his or her integrity, and the honour and dignity of the legal profession, encourage other legal practitioners to act similarly in the practice of their professions and shall refrain from conduct which is detrimental to the profession or which may tend to discredit it.

General observance of this Code.
2. A legal practitioner shall expose without fear or favour before the proper tribunals unprofessional or dishonest conduct by any other legal practitioner and shall not lightly refuse a retainer against another legal practitioner who is alleged to have wronged his or her client or committed any other act of professional misconduct.

Duty to disclose unprofessional or dishonest conduct.
3. (1) A legal practitioner shall scrupulously preserve his or her independence in the discharge of his or her professional duties.

Independence of legal practitioner.

(2) A legal practitioner practising on his or her own account or in partnership, shall not engage in any other business or occupation if doing so may cause him or her to cease to be independent.
4. A legal practitioner shall protect the profession against the admission thereto of any candidate whose moral character or education renders him or her unfit for such admission.

Duty to protect profession.
5. A legal practitioner shall defend the interests of his or her clients without fear or judicial disfavour or public unpopularity and without regard to any unpleasant consequences to himself or herself or to any other person.

Duty to defend interests of clients.
6. Subject to paragraph 12, no legal practitioner is obliged to act either as adviser or advocate for every person who may wish to become his or her client; he or she has a right to decline employment.

Right to decline employment.
7. No client is entitled to receive nor should any legal practitioner render, any service or advice involving disloyalty to the Crown or disrespect for judicial

Maintaining loyalty to the Territory.

office or the corruption of any persons exercising a public or private trust or deception or betrayal of the public.

Effect of declaration upon admission to practise.

8. Every legal practitioner should bear in mind that the declaration made on his or her admission to practise is a solemn undertaking to be strictly observed on his or her part.

II. In Relation to the Crown and the public

Duty to the Territory.

9. A legal practitioner owes a duty to the Crown and the public to maintain the integrity of the legal profession, to uphold the Constitution and the laws of the Territory and not to aid, abet, counsel or assist anyone to act in any way contrary thereto.

Duty as a public prosecutor.

10. When engaged as a public prosecutor the primary duty of a legal practitioner is not to secure a conviction but to see that justice is done and to that end he or she shall not withhold facts tending to prove either the guilt or innocence of the accused.

Prohibited conduct.

11. A legal practitioner shall not by his or her actions, stir up strife or litigation by seeking out defects in titles, claims for personal injury or other causes of action for the purpose of securing a retainer to prosecute a claim therefor; or pay or regard any person directly or indirectly for the purpose of procuring him or her to be retained in his or her professional capacity, and where it is in the interest of his or her client he or she shall seek to obtain reasonable settlements of disputes.

Duty not to refuse services in murder case.

12. A legal practitioner shall not, except for good reason, refuse his or her services in offences of murder.

Proffered employment.

13. A legal practitioner shall not be deterred from accepting proffered employment owing to the fear or dislike to incurring disapproval of officials, other legal practitioners or members of the public.

Undertaking legal aid.

14. Where a legal practitioner consents to undertake legal aid and he or she is requested by the Council and consents to undertake the representation or to obtain legal aid, the legal practitioner shall not, except for compelling reasons, seek to be excused from undertaking such representation.

Representation of accused person.

15. A legal practitioner in undertaking the defence of persons accused of crime shall use all fair and reasonable means to present every defence available at law.

III. In Relation to Clients

- 16.** (1) A legal practitioner shall always act in the best interest of his or her client, represent him or her honestly, competently and zealously and endeavour by all fair and honourable means to obtain for him or her the benefit of any and every remedy and defence which is authorised by law, steadfastly bearing in mind that the duties and responsibilities of the legal practitioner are to be carried out within and not outside the bounds of the law. Duty to clients.
- (2) The interests of his or her client and the exigencies of the administration of justice should always be the first concern of a legal practitioner and rank before his or her right to compensation for his or her services.
- 17.** (1) In the course of advising a client, a legal practitioner shall, on the basis of information provided or obtained, give such candid opinions of the merits or demerits and of the probable results of pending or contemplated litigation, as may be necessary. Rendering candid opinions.
- (2) A legal practitioner should beware of preferring bold and confident assurances to his or her client (especially where employment may depend on such assurances) always bearing in mind that any outcome would be dependent on findings of law and fact..
- (3) Whenever the controversy admits of fair adjustment, a legal practitioner should inform his or her client accordingly and advise to avoid or settle litigation.
- 18.** (1) A legal practitioner shall at the time of retainer disclose to his or her client all the circumstances of his or her relations to the parties and his or her interest in or connection with the controversy, if any, which might influence the client in his or her selection of a legal practitioner. Duty to disclose interest and maintain confidentiality.
- (2) A legal practitioner shall scrupulously guard and never divulge his or her client's secrets and confidences, except as provided by law.
- 19.** A legal practitioner shall treat adverse witnesses, litigants and another legal practitioner with fairness and courtesy refraining from all offensive personal references and shall avoid imparting to his or her professional duties his or her client's personal feelings and prejudices. Fair treatment of witnesses, etc.
- 20.** It is the right of a legal practitioner to undertake the defence of a person accused of crime regardless of his or her own personal opinion as to the guilt of the accused and having undertaken such defence he or she is bound by all fair and honourable means to present every defence that the law of the land permits so that no person may be deprived of life or liberty except by due process of law. Right to defend an accused person without prejudice.

21. (1) A legal practitioner may represent multiple clients only if he or she can adequately represent the interests of each and if each consents to such representation after full disclosure of the possible effects of multiple representation.

Multiple representation.

(2) Where a legal practitioner is unable adequately to represent the interests of multiple clients due to a conflict of interests, the legal practitioner shall desist from engaging in multiple representation in relation to the clients affected thereby.

Dealing with client's business with despatch.

22. (1) A legal practitioner shall deal with his or her client's business with all due expedition and shall whenever reasonably so required by the client provide him or her with full information as to the progress of the client's business.

(2) It is improper for a legal practitioner to accept a case unless he or she can handle it without undue delay.

Referral of client's business.

23. Where a legal practitioner determines that the interest of his or her client requires it, he or she may, with the specific or general consent of the client, refer his or her business or part of it to another legal practitioner whether or not a member of his or her own firm.

Appearance of Queen's Counsel or equivalent without a junior, and leading conduct of client's case.

24. (1) Queen's Counsel or a Counsel of equivalent designation shall be entitled to accept instructions, appear or do any work without a junior, except where he or she would be unable properly to carry out his or her instructions or conduct his or her case if he or she were to do so.

(2) Where more than one legal practitioner appears as advocate for the same party in the same proceedings, the decision as to who shall lead the conduct of the party's case shall be subject to the instructions of the client and shall be settled by the legal practitioners representing that party before they appear in court, and the leader shall have all authority over the conduct of the case.

Right to negotiated fee.

25. A legal practitioner who appears with the leader is entitled to a negotiated fee appropriate for his or her conduct of the case.

Entitlement to reasonable compensation.

26. (1) A legal practitioner is entitled to reasonable compensation for his or her services but should avoid charges which either overestimate or undervalue the service rendered.

(2) The ability of a client to pay cannot justify a charge in excess of the value of the service rendered, though the client's indulgence may require a charge that is below such value, or even no charge at all.

(3) A legal practitioner should avoid controversies with clients regarding compensation for his or her services as far as is compatible with self-respect and his or her rights to receive reasonable compensation for his or her services.

27. The right of a legal practitioner to ask for a deposit or to demand payment of out-of-pocket expenses and commitments, failing payment of which he or she may withdraw from the case or refuse to handle it, shall not be exercised where the client may be unable to find other assistance in time to prevent irreparable damage done.

Restriction on demands for deposit, etc.

28. Where a legal practitioner engages a foreign colleague to advise on a case or to co-operate in handling it, he or she is responsible for the payment of the latter's charge except where there is express agreement to the contrary, but where a legal practitioner directs a client to a foreign colleague he or she is not responsible for the payment of the latter's charges, nor is he or she entitled to a share of the fee of his or her foreign colleague.

Relationship with foreign colleague as regards payment of fees.

29. A legal practitioner may at any time withdraw from employment

Withdrawal from employment.

- (a) where the client fails, refuses or neglects to carry out an agreement with, or his or her obligation to, the legal practitioner as regards the expenses or fees payable by the client;
- (b) where his or her inability to work with his or her colleagues indicates that the best interest of the client is likely to be served by his or her withdrawal;
- (c) where his or her client freely assents to the termination of his or her employment;
- (d) where by reasons of his or her mental or physical condition or other good and compelling reason it is difficult for him or her to carry out his or her employment effectively; or
- (e) in cases of conflict as contemplated in rule 21(1) of this Part or rule 6 of Part B hereof.

30. (1) A legal practitioner should not appear as a witness for his or her own client except as to merely formal matters or where such appearance is essential to the ends of justice.

Appearance of legal practitioner as a witness.

(2) If a legal practitioner is a necessary witness for his or her client with respect to matters other than such as are merely formal, he or she should entrust the conduct of the case to another legal practitioner of his or her client's choice.

IV. In Relation to the Court and the Administration of Justice

Duty to respect court and judicial officers.

31. (1) A legal practitioner shall maintain a respectful attitude towards the court and shall not engage in undignified or discourteous conduct which is degrading to the court.

(2) A legal practitioner shall encourage respect for the court and judges.

(3) A legal practitioner shall support judges and magistrates against unjust criticism.

(4) Where there is ground for complaint against a judge or magistrate a legal practitioner may make representation to the proper authorities and in such cases, the legal practitioner shall be protected.

Duty as an advocate.

32. A legal practitioner shall endeavour always to maintain his or her position as an advocate and shall not either in argument to the court or in an address to the jury assert his or her personal belief in his or her client's innocence or in the justice of his or her cause or his or her personal knowledge as to any of the facts involved in the matter under investigation.

Prohibition against private influence and currying favour.

33. A legal practitioner shall not seek privately to influence directly or indirectly the judges of the court in his or her favour or in the favour of his or her client, and he or she shall not attempt to unduly influence a jury by fawning flattery or pretended solicitude for their personal comfort.

Punctuality in court.

34. A legal practitioner shall be punctual in attendance before the courts and concise and direct in the trial and disposition of cases.

Attire of legal practitioner before the court.

35. A legal practitioner appearing before the court shall at all times be attired in such a manner as prescribed or agreed by the proper authorities and as befits the dignity of the court.

V. In Relation to his or her Fellow Legal Practitioners

Conduct of legal practitioners to each other.

36. (1) The conduct of legal practitioners towards his or her fellow legal practitioners shall be characterised by courtesy, fairness and good faith and he or she shall not permit ill-feeling between clients to affect his or her relationship with his or her colleagues.

(2) All personal conflicts between legal practitioners and all colloquies between them which cause delay and promote unseemly wrangling shall be scrupulously avoided.

Prompt response to correspondence.

37. (1) A legal practitioner shall reply promptly to letters from another legal practitioner making inquiries on behalf of their clients.

(2) A legal practitioner shall endeavour as far as reasonable to suit the convenience of the opposing legal practitioner when the interest of his or her client or the cause of justice will not be injured by so doing.

38. A legal practitioner shall not give a professional undertaking that he or she cannot fulfil, and he or she shall, as far as reasonably practicable, fulfil every undertaking that he or she gives.

Professional undertaking.

39. (1) There is a duty on every legal practitioner to report improper or unprofessional conduct by a colleague to the Tribunal, save where the information relating to the improper or unprofessional conduct is received in professional confidence in which case he or she must respect the duty of silence imposed in such circumstances.

Duty to report improper or unprofessional conduct.

(2) A legal practitioner shall expose without fear or favour before the proper tribunal unprofessional or dishonest conduct by another legal practitioner and shall not lightly refuse a retainer against another legal practitioner who is alleged to have wronged a client.

40. Where a legal practitioner has been sent money, documents or other things by a colleague which, at the time of sending, are expressed to be sent only on the basis that the legal practitioner to whom they are sent will receive them on his or her undertaking to do or refrain from doing some act, the receiving legal practitioner shall forthwith return whatever was sent if he or she is unable to accept them on such undertaking, otherwise he or she must comply with the undertaking.

Receipt of money, documents, etc. on a specific undertaking.

41. A legal practitioner shall not in any way communicate upon a subject in controversy or attempt to negotiate or compromise a matter directly with any party represented by another legal practitioner except through such other legal practitioner or with his or her prior consent.

Prohibition against direct dealing with a represented party.

42. (1) A legal practitioner shall not ignore the customs or practices of the legal profession even when the law expressly permits it, without giving timely notice to the opposing legal practitioner.

Duty to conform to customs and practices of the legal profession.

(2) A legal practitioner should avoid all sharp practices and should refrain from taking any paltry advantage when his or her opponent has made or overlooked some technical error or matter, bearing in mind that no client has a right to demand that a legal practitioner representing him or her shall be illiberal or shall do anything repugnant to his or her own sense of honour and propriety.

Restriction on representation of client in court.

43. A legal practitioner shall not accept instructions to act in court proceedings in which to his or her knowledge the client has previously been represented by another legal practitioner, unless he or she first notifies the other legal practitioner of the change, but shall be deemed to have notified the other legal practitioner if he or she has made reasonable efforts to notify him or her.

Restriction on representation in other matters.

44. A legal practitioner shall not accept instructions to act in proceedings (other than court proceedings) in which to his or her knowledge, another legal practitioner has previously represented the client unless he or she makes reasonable efforts to ascertain that the retainer of that legal practitioner has been terminated by the client, or that the client wishes both legal practitioners to represent him or her.

Duty of instructing legal practitioner to pay fees.

45. A legal practitioner who instructs or employs another legal practitioner to act on behalf of his or her client, unless otherwise agreed, shall pay the proper fee of such legal practitioner whether or not he or she has received payment from the client.

Assisting a foreign colleague.

46. In undertaking to render assistance to a foreign colleague, a legal practitioner shall remember that his or her responsibility is much greater both when giving advice and handling a case, than would be had he or she undertaken to assist a colleague in the Virgin Islands.

VI. General

Conduct in the absence of specific guidance in this Code.

47. Where in any particular matter explicit ethical guidance does not exist, a legal practitioner shall determine his or her conduct by acting in a manner that promotes public confidence in the integrity and efficiency of the legal system and the legal profession.

Restriction on retired judge appearing as an advocate.

48. (1) A person who previously held a substantive appointment as a judge of the Supreme Court shall not appear as a legal practitioner in any of the courts of the Virgin Islands for a period of ten years commencing on the date of his or her retirement, resignation or other termination of such appointment.

(2) This rule shall not apply to a person who is appointed to act as a judge in a temporary capacity.

PART B

Mandatory Provisions and Specific Prohibitions

Practising certificate.

1. A legal practitioner shall not practise as such unless he or she has been issued a practising certificate in accordance with the provisions of this Act.

Duty not to mislead.

2. A legal practitioner shall never knowingly mislead the Court.

- 3.** A legal practitioner shall not hold out any person who is not entitled to practise law as a legal practitioner or as a person who is so entitled. Duty in relation to unqualified person as qualified.
- 4.** (1) Subject to subparagraph (2), a legal practitioner may solicit business or publicise his or her practice for the purposes of establishing a well merited reputation for personal integrity, capacity, dedication to work, fidelity and trust and it is unprofessional Prohibition against soliciting business.
- (a) to solicit business by circulars or advertisements or interviews not warranted by personal relations; or
- (b) to seek retainers through agents of any kind.
- (2) For the purposes of subparagraph (1), the Council shall, within six months of the coming into force of this Act, issue guidelines to regulate the solicitation of business or the carrying out of publicity by a legal practitioner of his or her practice.
- 5.** Where a legal practitioner commits any criminal offence which in the opinion of the Tribunal is of a nature likely to bring the profession into disrepute, such commission of the offence shall constitute professional misconduct if, he or she has been convicted by any court, including a foreign court of competent jurisdiction, for the offence and the conviction has not been quashed on appeal. Commission of offence by a legal practitioner.
- 6.** (1) Subject to subparagraph (2), a legal practitioner shall not acquire directly or indirectly by purchase, or otherwise, a financial or other interest in the subject matter of a case which he or she is conducting. Prohibition against acquisition of interest in a case.
- (2) It is not improper for a legal practitioner to enter into a written agreement with a client for a contingency fee provided that such fee is fair and reasonable.
- 7.** A legal practitioner shall not charge fees that are unfair or unreasonable and in determining the fairness and reasonableness of a fee the following factors may be taken into account: Prohibition against charging unfair fees.
- (a) the time and labour required, the novelty and difficulty of the questions involved and the skill required to perform the legal service properly;
- (b) the likelihood that the acceptance of the particular employment will preclude other employment by the legal practitioner;
- (c) the fee customarily charged in the locality for similar legal services;

- (d) the amount, if any, involved;
- (e) the time limitations imposed by the client or by the circumstances;
- (f) the nature and length of the professional relationship with the client;
- (g) the experience, reputation and ability of the legal practitioner concerned;
- (h) any scale of fees or recommended guide as to charges prescribed by law or by the Association.

Conditions of interest.

8. (1) Except with the specific approval of his or her client given after full disclosure, a legal practitioner shall not act in any manner in which his or her professional duties and personal interests conflict or are likely to conflict.

(2) A legal practitioner shall not accept or continue his or her retainer or employment on behalf of two or more clients if their interests are likely to conflict or if his or her independent professional judgment is likely to be impaired.

Conditions precedent to withdrawal from employment.

9. (1) A legal practitioner who withdraws from employment under rule 34 of Part A shall not do so until he or she has taken reasonable steps to avoid foreseeable prejudice or injury to the position and rights of his or her client including

- (a) giving due notice;
- (b) allowing time for employment of another legal practitioner;
- (c) delivering to the client all documents and property to which he or she is entitled subject however to any lien which the legal practitioner may have over the same;
- (d) complying with such laws, rules or practice as may be applicable; and
- (e) where appropriate, obtaining the permission of the court where the hearing of the matter has commenced.

(2) A legal practitioner who withdraws from employment shall refund promptly such part of the fees, if any, already paid by his or her client as may be fair and reasonable having regard to all the circumstances.

- 10.** A legal practitioner shall withdraw forthwith from employment or from a matter pending before a tribunal Mandatory withdrawal from a case.
- (a) where the client insists upon his or her representing a claim or defence that he or she cannot conscientiously advance;
 - (b) where the client seeks to pursue a course of conduct which is illegal or which will result in deliberately deceiving the court;
 - (c) where a client has in the course of the proceedings perpetrated a fraud upon a person or tribunal and on request by the legal practitioner has refused or is unable to rectify the same;
 - (d) where his or her continued employment will involve him or her in the violation of the law or a disciplinary rule;
 - (e) where the client by any other conduct renders it unreasonably difficult for the legal practitioner to carry out his or her employment as such effectively, or in accordance with the judgment and advice of the legal practitioner, or the rules of law or professional ethics;
 - (f) where for any good and compelling reason it is difficult for him or her to carry out his or her employment effectively.
- 11.** A legal practitioner shall not retain money he or she received on his or her client's behalf for longer than is necessary. Retaining a client's money.
- 12.** A legal practitioner shall never disclose, unless lawfully ordered to do so by the court or required by statute, what has been communicated to him or her in his or her capacity as a legal practitioner by his or her client and this or her duty not to disclose extends to his or her partners, to a junior legal practitioner assisting him or her and to his or her employees, provided however that, a legal practitioner may reveal confidences or secrets necessary to establish or collect his or her fee or to defend himself or herself or his or her employees or associates against an accusation of wrongful conduct. Privileged communications.
- 13.** A legal practitioner shall not permit his or her professional services or his or her name to be used in any way which would make it possible for persons who are not legally authorised so to do to practise law. Duty not to allow use of one's name.
- 14.** A legal practitioner shall not delegate to a person not legally qualified and not in his or her employ or under his or her control, any functions which are by the laws of the Virgin Islands only to be performed by a qualified legal practitioner. Duty not to delegate functions to an unqualified person, etc.

Duty not to act with delay, or incompetently.

15. In the performance of his or her duties a legal practitioner shall not act with inexcusable or undue delay, negligence or neglect.

Duty not to engage in undignified or discourteous conduct.

16. A legal practitioner shall not engage in undignified or discourteous conduct which is degrading to the court or his or her profession.

Prohibition against false accusations.

17. A legal practitioner shall not wilfully make false accusations against a judge or magistrate.

Using public office to influence a tribunal prohibited.

18. A legal practitioner who holds public office shall not use his or her public position to influence or attempt to influence a tribunal to act in favour of himself or herself or of his or her client.

Conflicts in employment.

19. A legal practitioner shall not accept private employment in a matter upon the merits of which he or she previously acted in a judicial capacity or for which he or she has substantial responsibility while he or she was in public employment.

Prohibition against lending, giving, etc. to judge, juror, etc.

20. A legal practitioner shall not give, lend or promise anything of value to a Judge, or juror or official of a tribunal before which there is a pending matter in which he or she is engaged.

Restriction on communication with jurors.

21. In any proceedings in a court a legal practitioner shall not communicate or cause any other person to communicate with a juror as to the merits of such proceedings, and shall only do so with a judge or person exercising judicial functions

(a) in the normal course of the proceedings; or

(b) where authorised by law, or the practice of the court.

Prohibition against aiding non-availability of witness.

22. A legal practitioner shall not for the purpose of making any person unavailable as a witness, advise or cause that person to secrete himself or herself or leave the jurisdiction of the court.

Prohibition against compensating witnesses.

23. A legal practitioner shall not pay or offer to pay or acquiesce in the payment of compensation to a witness for giving evidence in any cause or matter save as reimbursement for expenses reasonably incurred and as reasonable compensation for loss of time in attending for preparation and for testifying, and in the case of an expert witness a reasonable fee for his or her professional services.

Prohibition against perjured testimony, etc.

24. A legal practitioner shall not knowingly use perjured testimony or false evidence or participate in the creation of or use of evidence which he or she knows to be false.

25. A legal practitioner shall not counsel or assist his or her client or witness, in conduct that the legal practitioner knows to be illegal or fraudulent, and where he or she is satisfied that his or her client has in the course of the particular representation perpetrated a fraud upon a person or tribunal, he or she shall promptly call upon him or her to rectify the same.

Prohibition against counselling or assisting illegal conduct.

26. A legal practitioner shall not knowingly make a false statement of law or fact.

Making false statement of law or fact.

27. (1) A legal practitioner shall not commit a breach of undertaking given by him or her to a judge, a court or other tribunal or an official thereof, whether such undertaking relates to an expression of intention as to further conduct or is a representation that particular state of facts exists.

Breach of undertaking.

(2) A legal practitioner shall not knowingly represent falsely to a judge, a court or tribunal or to an official of a court or other tribunal, that a particular state of facts exists.

28. In pecuniary matters a legal practitioner shall be most punctual and diligent, he or she shall never mingle funds of others with his or her own and he or she shall at all times be able to refund money he or she holds for others.

Diligence in pecuniary matters.

29. (1) A legal practitioner shall keep such accounts as clearly and accurately distinguish the financial position between himself or herself and his or her client as and when required.

Duty as to keeping accounts.

(2) A legal practitioner shall comply with such rules as may be made by the Council under the Act.

(3) Nothing contained in this rule or rule 28 shall deprive a legal practitioner of any recourse or right whether by way of lien, set-off, counterclaim, charge or otherwise against moneys standing to the credit of a client's account maintained by that legal practitioner.

30. A legal practitioner shall reply promptly to any letter received from the Council relating to his or her professional conduct.

Prompt response to Council.

31. A legal practitioner shall, at all times, maintain a policy of professional indemnity insurance with respect to his or her legal practice.

Professional indemnity insurance.

Consequences
for breach of the
rules in this
Code.

32. (1) Breach by a legal practitioner of any of the rules contained in this Part shall constitute professional misconduct and a legal practitioner who commits such a breach shall be liable to any of the penalties which the Tribunal imposes.

(2) Breach by a legal practitioner of any of the provisions of Part A while not automatically amounting to punishable professional misconduct is a derogation from the high standards of conduct expected from a legal practitioner and may, depending on the circumstances of the particular case, amount to such misconduct or form a material ingredient thereof.

SCHEDULE 5

[Section 27(3)]

DISCIPLINARY TRIBUNAL

1. The Tribunal shall comprise five legal practitioners of whom at least three shall be of not less than ten years standing in the legal profession and a distinguished lay person, appointed by the Attorney General by instrument in writing addressed to the Registrar.

Constitution and membership.
2. The tenure of office of a member shall, subject to this Schedule, be a period not exceeding two years, but such member shall be eligible for re-appointment.

Tenure of office.
3. There shall be a Chairperson and a Deputy Chairperson of the Tribunal who shall be elected by the Tribunal from among the members of at least ten years standing in the legal profession.

Chairperson and Deputy Chairperson.
4. (1) If a member of the Tribunal is absent or unable to act, another person, being or not being a member, may be appointed to act in place of such member.

Acting appointment.

(2) Where the power to appoint a person to act is being exercised pursuant to this paragraph, such appointment shall be made in such manner and from among such persons as would be required in the case of a substantive appointment.
5. A member may at any time resign his or her office by letter addressed to the Registrar.

Resignation.
6. The Attorney General may, by instrument in writing addressed to the Registrar, revoke the appointment of any member.

Revocation.
7. If any vacancy occurs in the membership of the Tribunal such vacancy shall be filled by the appointment of another member who shall, subject to this Schedule, hold office for the remainder of the period for which the previous member was appointed and the appointment shall be made in the same manner and from the same category of persons as the appointment of the previous member.

Filling of vacancies.
8. The Registrar shall first cause the names of all members of the Tribunal as first constituted and every change in the membership thereof to be published in the *Gazette*.

Gazetting of appointment.

Procedure at meetings.

9. (1) The Tribunal shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Tribunal determines.

(2) The Chairperson, or in his or her absence the Deputy Chairperson shall preside at meetings of the Tribunal.

(3) If, at any meeting of the Tribunal, the Chairperson and Deputy Chairperson are absent, the members present may elect one of their members of at least ten years' standing in the legal profession to act as Chairperson at that meeting.

(4) The quorum of the Tribunal shall be three members, two at least of whom shall be of more than ten years' standing in the legal profession.

(5) Subject to this Schedule, the Tribunal shall have power to regulate its own proceedings.

(6) The validity of any proceedings of the Tribunal shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

(7) No member of the Tribunal shall be personally liable for any act or default done or omitted to be done in good faith in the performance of his or her or the Tribunal's functions under this Act.

Office of member not to be public office.

10. The office of a member shall not be taken to be a public office.

SCHEDULE 6

[Section 29 (2)]

DISCIPLINARY PROCEEDINGS RULES

1. These Rules may be cited as the Legal Profession (Disciplinary Proceedings) Rules, 2015.

Short title.
2. For the purposes of these Rules, “Secretary” means the Registrar or the person deputed by him or her for the time being to perform all or any of the functions of Secretary.

Interpretation.
3. An application to the Tribunal to require a legal practitioner to answer allegations, contained in an affidavit shall be in writing under the hand of the applicant in Form 1 of the Appendix to this Schedule and shall be sent to the Secretary together with an affidavit by the applicant in Form 2 of the Appendix to this Schedule stating the matters of fact on which he or she relies in support of his or her application.

Application and affidavits.
Form 1
Form2
4. Before fixing a day for the hearing, the Tribunal may require the applicant to supply such further information and documents relating to all allegations as it thinks fit, and in any case where in the opinion of the Tribunal no *prima facie* case is shown, the Tribunal may, without requiring the legal practitioner to answer the allegations, dismiss the application and notify the applicant and the legal practitioner of the dismissal.

No case to answer.
5. In any case in which, in the opinion of the Tribunal, a *prima facie* case is shown the Tribunal shall fix a day of hearing and the Secretary shall serve notice thereof on the applicant and on the legal practitioner and shall also serve on the legal practitioner a copy of the application and affidavit. The notice shall not be less than a twenty-one days’ notice.

Notice of hearing.
6. The notice shall be in Form 3 or Form 4 of the Appendix to this Schedule, as the case may be, and shall require the applicant and the legal practitioner respectively to furnish to the Secretary and to each other a list of all documents on which they respectively propose to rely. Such lists shall, unless otherwise ordered by the Tribunal, be furnished by the applicant and by the legal practitioner respectively at least fourteen days before the day of hearing.

Furnishing of list of documents.
Form 3
Form 4
7. Either party may inspect the documents included in the list furnished by the other party and a copy of any documentation mentioned in the list of either party shall, on the application of the party requiring it, be furnished to that party by the other within three days after the receipt of the application.

Inspection of documents.

Absence of parties.

8. If either or both parties fail to appear at the hearing the Tribunal may, upon proof of service of the notice of hearing, proceed to hear and determine the application in his or her or their absence.

Affidavit of evidence.

9. The Tribunal may, in its discretion, either as to the whole case or as to any particular facts, proceed and act upon evidence given by affidavit; but any party to the proceedings may require a deponent to any such affidavit to be summoned to appear before the Tribunal, unless the Tribunal is satisfied that the affidavit is purely formal and that the requirement of the appearance of the deponent is made frivolously.

Subpoenas. Form 5

10. A summons issued by the Tribunal under section 29 (3) of the Act may be in Form 5 of the Appendix to this Schedule with such variations as the case may require.

Privacy of hearings.

11. The Tribunal shall hear all applications in private.

Notes of proceedings.

12. Notes of proceedings shall be taken by the Secretary or other person appointed by the Tribunal, and any party who appeared at the proceedings shall be entitled to inspect the original or a copy thereof, and every persons entitled to be heard at the hearing upon the consideration of any report shall be entitled to a copy of such notes on payment of the charges, if any, prescribed by the rules of court.

Power to extend time.

13. Notwithstanding anything to the contrary, the Tribunal may extend or abridge the time for doing anything under these Rules.

Privileges and immunities.

14. (1) A legal practitioner and a witness shall have the same privileges and immunities in relation to hearings on applications under this Act as in any court of law.

(2) A party to an application is entitled to be represented by a legal practitioner.

Adjournment of hearing.

15. The Tribunal may of its own motion, or upon the application of either party, adjourn the hearing upon such terms as to the Tribunal may appear just.

Dismissal of application after hearing.

16. If after hearing an application the Tribunal is satisfied that no case of professional misconduct has been made out it may dismiss the application.

APPENDIX

[Paragraph 3]

FORM 1

FORM OF APPLICATION AGAINST A LEGAL PRACTITIONER

To the Tribunal constituted under the Legal Profession Act, 2015

In the Matter of _____ legal practitioner,

and

In the Matter of the Legal Profession Act, 2015

I, the undersigned _____ hereby make application that
of _____, legal practitioner, may be required
to answer the allegations contained in the affidavit which accompany this
application.

I make this application on the ground that the matters of fact stated in the said
affidavit constituted conduct unbecoming his or her profession on the part of the
said in his or her capacity of legal practitioner.

In witness whereof I have hereunto set my hand this _____ day of _____, 20____
.

.....
Signature

.....
Address

.....
Profession, business or occupation

FORM 2

[Paragraph 3]

Form of Affidavit by Applicant

- (a) Name of the legal practitioner In the matter of (a)
a legal practitioner;
and
In the matter of the
Legal Profession Act, 2015
- (b) Name of applicant I, (b) make
oath and say as follows:
- (c) Place of residence (1) That I reside at (c)
- (d) Occupation and I am a (d)
- (e) Postal Address and my postal address is (e)
- (f) Name of legal practitioner (2) That (f)
- (g) Set out facts complained of (g)
- (h) Set out shortly the ground
of complaint (3) The complaint I make against
the legal practitioner is that
he/she (h)

.....
Signature or Mark of Applicant.

Sworn at-----this day of-----20 .

(The same having been first read over and explained to the deponent when he/she appeared fully to understand the same).

Before me:

Commissioner for Oaths

If the Person making the affidavit can read or write strike out the words in brackets.

Chairperson
Disciplinary Tribunal

Passed by the House of Assembly this 25th day of March, 2015.

(Sgd.) Ingrid Moses-Scatliffe,
Speaker.

(Sgd.) Phyllis Evans,
Clerk of the House of Assembly.