

No. 1 of 2016

VIRGIN ISLANDS

LEGAL PROFESSION (AMENDMENT) ACT, 2016

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Section 2 amended
3. Section 7 amended
4. Section 11 amended
5. Section 13 amended
6. Section 15 amended
7. Section 16 amended
8. Section 17 amended
9. Section 27 amended
10. Section 45 amended
11. Section 46 amended
12. Section 47 amended
13. Insertion of section 47A
14. Section 62 amended
15. Section 64 amended
16. Schedule 4 amended
17. Schedule 5 amended

I Assent

(Sgd.) John S. Duncan, OBE,
Governor
29th January, 2016

VIRGIN ISLANDS

No. 1 of 2016

An Act to amend the Legal Profession Act, 2015 (No. 13 of 2015).

[Gazetted 29th January, 2016]

ENACTED by the Legislature of the Virgin Islands as follows:

- | | |
|---------------------------------------|---|
| Short title | 1. This Act may be cited as the Legal Profession (Amendment) Act, 2016. |
| Section 2
amended
No.13 of 2015 | 2. Section 2 of the Legal Profession Act, 2015 (hereinafter referred to as the “principal Act”) is amended by repealing subsection (2). |
| Section 7
amended | 3. Section 7 of the principal Act is amended in subsection (2) by deleting the words “to the Council through the Registrar” and substituting with the words “in accordance with section 62.” |
| Section 11
amended | 4. Section 11 of the principal Act is amended by

(a) replacing subsection (1) (a) with the following:

“(1) Subject to subsections (2) and (5) a person is qualified to be admitted to practice as a Legal Practitioner if

(a) he or she has

(i) been admitted as a barrister, advocate, solicitor or attorney-at-law in England, Scotland or Northern Ireland, and was a member of the relevant Bar or Law Society; 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 or Northern Ireland;”

(b) replacing subsection (4) with the following:

“(4) No person shall be qualified to be admitted to practise as a legal practitioner under subsection 1(d), save in accordance with an Order published in the *Gazette* made by the Cabinet upon consultation with the Council specifying the list of institutions, course of study and professional training in law and certificates, diplomas, licences and other status or forms of recognition, as the case may be.”

(c) replacing subsection (5) with the following:

“(5) A person

(a) who is not a believer; or

(b) to whom a certificate of residence has not been granted under the Immigration and Passport Act (Cap. 130),

shall prior to his or her application for admission to practice as a legal practitioner in the Virgin Islands, be a legal practitioner for a period of not less than five years before the 1st January 2019, and thereafter for a period of not less than three years.”

(5A) Notwithstanding the requirements of subsection (5), a person

(a) who is not a believer; or

(b) to whom a certificate of residence has not been granted,

may be admitted to practice as a legal practitioner where he or she has made a sufficient case for such admission.”

(d) replacing subsection (6) with the following:

“(6) Notwithstanding section 13(1) (b) a solicitor who does not have a right of audience before a Superior Court of record in the jurisdiction in which he or she qualified as a solicitor, shall not have the right of audience in the Courts in the Virgin Islands.”

Section 13
amended

5. Section 13 of the principal Act is amended in subsection (4), by repealing the following words “,except in respect of the performance of his or her functions in court”.

Section 15
amended

6. Section 15 of the principal Act is amended by repealing subsection (6) and replacing with the following:

“(6) A person to whom section 9 applies shall be deemed to hold a valid practising certificate from the date the Act comes into operation until the 31st day of January, 2017, subject to

(a) registering with the Registrar and providing the necessary information as outlined in subsection (6A); and

(b) payment of the required fees to the Registrar, as specified in Schedule 2 of the Act.

(6A)The information to be provided to the Registrar by each person registering under subsection (6) (a) shall be as follows;

(a) the person’s name;

(b) the person’s date of admission to practice law in the Territory;

(c) if different from the date of admission to practice law in the Territory under paragraph (b), the date upon which the person was first admitted to practice law in any jurisdiction;

(d) whether or not the person is a believer;

(e) the name of the firm, chambers or entity through which the person practices or is affiliated with for the purpose of practicing law;

(f) whether the person is resident in the Territory;
and

(g) whether the person holds her Majesty's Patent
as Queen's Counsel.

7. Section 16 of the principal Act is amended

Section 16
amended

(a) in subsection (1) by repealing the words "three months" and
replacing with "six months"; and

(b) by repealing subsection (2) and replacing with the following:

"(2) Cabinet may in consultation with the Council make
regulations for carrying into effect and the better
implementation of the provisions of this Act.

(2A) Without limiting the generality of sub-section (2),
Cabinet may in consultation with the Council make
regulations in respect of the following matters:

(a) fixing the ratios to be applied in determining the
issue of practicing certificates; and

(b) the employment of non-resident legal
practitioners by law firms, to practise Virgin
Islands law in their overseas affiliate."

8. Section 17 of the principal Act is amended by inserting after sub-section
(2) the following sub-section

Section 17
amended

"(3) For the purposes of this section a legal document
includes

(a) any document conferring, transferring, altering
or extinguishing or purporting to confer,
transfer, alter or extinguish any right, title or
interest in property, moveable or immoveable;

(b) any document (including a letter) indicating that
legal proceedings may be instituted against the
person to whom it is addressed or against any
other person;

- (c) a petition, memorandum, Articles of Association under the BVI Companies Act, or an application, statement, affidavit, minute, resolution or other document relating to the incorporation, registration, organisation, reorganisation, dissolution or winding up of a corporate body;
- (d) a document for use in a proceeding, judicial or extrajudicial;
- (e) a will, deed of settlement, trust deed, power of attorney or a document relating to a probate or a grant of administration or the estate of a deceased person; or
- (f) a document relating in any way to a proceeding under a statute of the Virgin Islands.”

Section 27
amended

9. Section 27 of the principal Act is amended by deleting subsection (4).

Section 45
amended

10. Section 45 of the principal Act is amended

(a) by repealing subsection (1) and replacing with the following

“(1) Subject to subsection (2A), 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 or a legal practitioner of at least ten years practical experience; and
- (b) has special qualifications or experience for the purpose of the case.”.

(b) by inserting after subsection (2) the following new subsection:

“(2A) A person shall not be admitted under this section unless he or she

- (a) has been admitted and enrolled as a barrister, advocate, solicitor or attorney-at-law in the jurisdiction where he or she ordinarily resides;
- (b) 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;
- (c) 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.”.

11. Section 46 of the principal Act is amended in subsection (2), by deleting the words “section 44” and replacing with “section 45”. Section 46 amended

12. Section 47 of the principal Act is amended in subsection (4), by deleting the numbers “45(6)” and substituting with “45”. Section 47 amended

13. The principal Act is amended by inserting after section 47 the following section: Insertion of section 47A

“47A.(1) A person who is registered on the Roll in accordance with section 15(3) and is not resident in the Virgin Islands, but intends to practice law temporarily in the Virgin Islands for the purposes outlined in section 45(1), shall apply to the High Court for an Order that he or she be issued a temporary practicing certificate by the Registrar, subject to the terms and conditions as specified under section 47(1) and (2). Temporary admission for persons registered on the roll but not resident in the Virgin Islands

(2) The High Court may by Order direct the Registrar to issue a temporary practicing certificate to a person specified under subsection (1), who

- (a) holds Her Majesty’s Patent as Queen’s Counsel or Counsel of equivalent

designation or a legal practitioner of at least ten years practical experience; and

(b) has special qualifications or experience for the purpose of the case.

(3) A person specified under this section shall not be issued a temporary practicing certificate unless he or she

(a) has been admitted and enrolled as a barrister, advocate, solicitor or attorney-at-law in the jurisdiction where he or she ordinarily resides;

(b) 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; and

(c) intends to come to the Virgin Islands for the purpose of appearing in a case and is a fit and proper person to be issued a temporary practicing certificate.

(4) For the purposes of this section, the relevant fees in Schedule 2 shall be payable in respect of the issuance and renewal of a temporary practicing certificate.”

Section 62
amended

14. Section 62 of the principal Act is amended in subsection (1) by deleting the words “The Council, with the approval of the Cabinet,” and substituting with the words “The Cabinet in consultation with the Council”.

Section 64
amended

15. Section 64 of the principal Act is amended by deleting the words “The Council, with the approval of the Cabinet” and substituting with the words “The Cabinet in consultation with the Council”.

Schedule 4
amended

16. Schedule 4 of the principal Act is amended in paragraph 4(2) of Part B by deleting the words “six months” and replacing with “one year”.

17. Schedule 5 of the principal Act is amended

Schedule 5
amended

(a) by repealing paragraph 1; and

(b) by repealing paragraph 6 and replacing with the following

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

(a) upon the recommendation of the Tribunal; or

(b) upon a complaint made by any person

(i) of the member’s inability to function in the course of his or her duties;

(ii) of the member’s misconduct in the course of his or her duties ; or

(iii) for any other cause.”

Passed by the House of Assembly this 27th day of January, 2016.

(Sgd)Ingrid Moses-Scatliffe,
Speaker.

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