Commencement: 30 July 1980

CHAPTER 119

LEGAL PRACTITIONERS

JR 26 of 1980
Act 39 of 1989
Act 18 of 2001

ARRANGEMENT OF SECTIONS

PART 1 – INTERPRETATION
1. Interpretation

PART 1A – ADMISSION OF BARRISTERS AND SOLICITORS
1A. Chief Justice to admit Barristers and Solicitors
1B. Qualification of Barristers and Solicitors
1C. Application for admission
1D. Roll of Court and enrolment of Barristers and Solicitors
1E. Grant of Practicing Certificate
1F. Grant of Temporary Practicing Certificate
1G. Qualifications for practicing as a Barrister and Solicitor
1H. Removal from Roll
1I. Replacement on the Roll

PART 1B – REGISTRATION OF LEGAL PRACTITIONERS
1J. Application for and registration of legal practitioners
1K. Grant of the Certificate of a Registered Legal Practitioner
1L. Qualification for registration as legal practitioners
1M. Removal of name from the Register

PART 2 – LAW COUNCIL
2. Establishment of Law Council
3. Disqualification of members
4. Secretary to the Law Council
5. Functions of Law Council
6. Meetings of the Law Council

PART 3 – DISCIPLINARY COMMITTEE
7. Disciplinary Committee
8. Complaints against legal practitioners and employees
9. Powers of Disciplinary Committee
10. Appeals
11. Applications for restoration to register and for cancellation of orders of Disciplinary Committee

PART 4 – PRACTICE BY PERSONS NOT REGISTERED AS LEGAL PRACTITIONERS
12. Penalty for illegally practising as a legal practitioner
13. Temporary admission
14. Penalty for employing person suspended from employment

PART 5 – REGULATIONS
15. Regulations

PART 6 – REGISTRATION OF ACADEMIC LAWYERS
16. Application of Part 6
17. Definition
18. Application for registration
19. Cancellation of registration
20. Academic lawyers registered before commencement of this Part
21. Engagement in private legal practice

LEGAL PRACTITIONERS

To provide for the admission and registration of legal practitioners, their qualifications, discipline and other matters connected therewith.

PART 1 – INTERPRETATION

1. Interpretation

In this Act unless the context otherwise requires –

"Barrister and Solicitor" means a person who in terms of this Act has been admitted as a Barrister and Solicitor or is entitled to practice as a Barrister and Solicitor in pursuance of section 13;

"certificate of a Registered Legal Practitioner" means a certificate granted under section 1L;

"Court" means the Supreme Court of Vanuatu;

"employee" means a person employed by a legal practitioner in his professional practice in any capacity or a person serving a qualifying period of apprenticeship or training with a legal practitioner in accordance with any regulation made under section 15;

"legal practitioner" means a person registered as a legal practitioner, in accordance with the provisions of Part 1B of this Act;

"Law Council" means the Law Council established under section 2 of this Act;

"practicing certificate" means a certificate issued by the Registrar under section 1E;

"prescribed" means prescribed by order made under this Act;

"Registrar" means the Chief Registrar of the Supreme Court;

"Roll" means the Roll of Barristers and Solicitors, kept by the Registrar in accordance with provisions of section 1D;

"Secretary" means the Secretary of the Law Council appointed in accordance with section 4.

PART 1A – ADMISSION OF BARRISTERS AND SOLICITORS

1A. Chief justice to admit Barristers and Solicitors

(1) The Chief Justice shall have power to admit to practice as a Barrister and Solicitor, any person duly qualified for admission in accordance with the provisions of this Act.

(2) Every person shall, before admission as a Barrister and Solicitor subscribe the oath of allegiance in the form prescribed by law and also the following oath:

"IN THE SUPREME COURT OF THE REPUBLIC OF VANUATU

OATH OF SOLICITOR

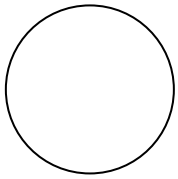
I, _____, of _____ in The Republic of Vanuatu, do swear [or do solemnly, sincerely and truly declare and affirm] that I will truly and honestly demean myself in the practice of a Solicitor according to the best of my knowledge and ability. {and in the case of an oath} *So help me God*.

SUBSCRIBED by the said
_____,

before me,

_____
Chief Justice of the Republic of Vanuatu
this ____ day of _____, 20____

_____
Chief Justice of the Republic of Vanuatu



Seal"

"IN THE SUPREME COURT OF THE REPUBLIC OF VANUATU

OATH OF BARRISTER

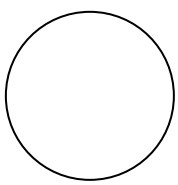
I, _____, of _____ in the Republic of Vanuatu, do swear [or do solemnly, sincerely and truly declare and affirm] that I will truly and honestly demean myself in the practice of a Barrister according to the best of my knowledge and ability. {and in the case of an oath} *So help me God*.

SUBSCRIBED by the said
_____,

before me,

_____
Chief Justice of the Republic of Vanuatu
this ____ day of _____, 20____

_____
Chief Justice of the Republic of Vanuatu



Seal"

1B. Qualification of Barristers and Solicitors

Subject to the other provisions of this Act, every person who holds a valid certificate of Registered Legal Practitioner, shall be qualified for admission as Barrister and Solicitor under this Act.

1C. Application for admission

Every application for admission, shall be made to the Chief Justice in such form and manner as may be prescribed.

1D. Roll of court and enrolment of Barristers and Solicitors

(1) The Registrar of the Supreme Court shall keep a Roll of all Barristers and Solicitors admitted by Court under section 1A and have custody of such Roll and all documents relating thereto.

(2) Every person admitted to practice as a Barrister and Solicitor referred to in subsection (1) shall cause his name to be enrolled in the Roll referred to in subsection (1).

1E. Grant of practising certificate

(1) The Registrar of the Court shall, on application and on payment of the prescribed fee, and subject to subsection (2) grant a practicing certificate under the seal of the Court to any person who has been enrolled under subsection (2) of section 1D.

(2) Where the certificate of a Registered Legal Practitioner issued by the Law Council under section 1K in respect of any person is subject to any conditions specified therein, the practicing certificate issued under this section in respect of that person shall be issued subject to the same conditions and such conditions shall be specified in such practicing certificate.

1F. Grant of temporary practising certificate

(1) The Registrar of the Court shall, on payment of the prescribed fee grant a temporary practicing certificate, to any persons who has been admitted temporarily to practice under section 13.

(2) The temporary practicing certificate granted under subsection (1) shall be subject to the conditions imposed by the Chief Justice under section 13.

1G. Qualification for practising as a Barrister and Solicitor

No person shall be entitled to practice as a Barrister and Solicitor unless –

(a) his name is for the time being on the Roll;

(b) he is not suspended from practice; and

(c) he holds a valid practicing certificate.

1H. Removal from Roll

The Registrar may remove from the Roll, the name of any Barrister and Solicitor –

(a) who applies for such removal, under any order made under this Act;

(b) upon notification by the Law Council, made in accordance with an order made under this Act.

1I. Replacement on the Roll

1I. The Chief Justice may subject to any order made under this Act, if he thinks fit, at any time order the Registrar to replace on the Roll the name of a Barrister and Solicitor whose name has been removed or struck off the Roll.

PART 1B – REGISTRATION OF LEGAL PRACTITIONERS

1J. Application for and registration of legal practitioners

(1) Any person who is qualified to be registered as a legal practitioner under this Act, may apply for and obtain a certificate of a Registered Legal Practitioner from the Law Council.

(2) Application under subsection (1) shall be made in the form and manner prescribed by the Law Council.

1K. Grant of the certificate of a registered legal practitioner

(1) Subject to the provisions of this Act, upon an application made by any person under section 1J, and a payment of the prescribed fee the Law Council shall –

(a) cause the name and the relevant particulars contained in such application to be entered in the register in the prescribed form kept for that purpose; and

(b) issue in respect of that person a Certificate of a Registered Legal Practitioner.

(2) The Law Council may, in its discretion, refuse to register any person as a legal practitioner, notwithstanding that he may have the qualifications specified under section 1L.

(3) The Certificate of a Registered Legal Practitioner may be issued subject to such conditions, as the Law Council may see fit to impose.

(4) Subject to the provisions of this Act no Certificate of a Registered Legal Practitioner shall be issued to any person under subsection (1), unless he is a resident of Vanuatu, in terms of the provisions of the laws of Vanuatu relating to immigration.

1L. Qualification for registration as legal practitioners

Subject to the provisions of this Act, any person shall be qualified to be registered as a legal practitioner who fulfils the qualification, specified by the Law Council by order made under section 15 of this Act.

1M. Removal of name from the register

(1) If a legal practitioner –

(a) is sentenced to imprisonment on conviction by any Court in Vanuatu or outside Vanuatu;

(b) no longer resides in Vanuatu having departed due to any reason whatsoever, with no intention of return, and has not applied for removal of his name from the register;

(c) commits an act of professional misconduct;

the Law Council shall remove the name of such legal practitioner from the Register of Legal Practitioners kept by the Law Council.

(2) Whenever the name of a legal practitioner is removed or struck off the Register of Legal Practitioners under subsection (1), the Secretary of the Law Council shall notify the Registrar of such removal.

PART 2 – LAW COUNCIL

2. Establishment of Law Council

(1) There is established a council to be known as the Law Council.

(2) The Law Council shall consist of –

(a) The Chief Justice who shall be chairman;

(b) The Attorney General;

(c) One legal practitioner appointed for 2 years by the Minister responsible for justice and who shall be eligible for reappointment.

3. Disqualification of member

The office of the appointed member of the Council shall become vacant if he –

(a) resigns by not less than 30 days notice in writing addressed to the Minister;

(b) ceases to be a registered legal practitioner;

(c) becomes bankrupt;

(d) is declared by notice in writing addressed to the Minister and signed by the other members to be incapable by reason of physical or mental illness from carrying out the functions of his office;

(e) becomes otherwise unable or unfit to carry out the duties of his office as a member.

4. Secretary to the Law Council

(1) There shall be a Secretary to the Law Council who shall be a public officer.

(2) The Secretary may be the holder of another public office.

(3) When there is a vacancy in the office of Secretary the Minister responsible for justice may appoint a public officer as acting Secretary.

5. Functions of Law Council

(1) The Law Council shall have general responsibility for the control and supervision of legal practitioners.

(2) Without derogating from the generality of subsection (1) the Law Council shall –

(a) prescribe the qualifications for legal practitioners;

(b) keep a Register of Legal Practitioners;

(c) be responsible generally for the discipline of legal practitioners;

(d) be responsible for the etiquette and conduct of legal practitioners;

(e) provide for the legal education and training of legal practitioners;

(f) control the registration of notaries public.

6. Meetings of the Law Council

(1) Meetings of the Law Council shall be convened by the Chief Justice by not less than 7 days notice in writing to the other members.

(2) Decisions of the Law Council shall be made by a majority of its members.

(3) The quorum at meetings shall be all the members.

(4) Subject to this Act the Law Council may regulate its own procedures.

PART 3 – DISCIPLINARY COMMITTEE

7. Disciplinary Committee

(1) The Law Council shall by order appoint a Disciplinary Committee to hear complaints against legal practitioners and employees.

(2) The Disciplinary Committee may be appointed for a fixed term, or from time to time to hear a particular complaint or number of complaints.

(3) The Disciplinary Committee shall consist of 5 members who shall be:

(a) a judicial officer within the meaning of the Criminal Procedure Code nominated by the Chief Justice and who shall be the Chairman;

(b) a legal practitioner nominated by the Attorney General;

(c) three other persons who are not registered as legal practitioners under this Act and who are considered suitable by the Law Council.

(4) The quorum at meetings of the Disciplinary Committee shall be 3 members out of whom two shall be the chairman and legal practitioner nominated under subsection (3)(b).

(5) The Secretary shall be the secretary of the Disciplinary Committee.

8. Complaints against legal practitioners and employees

(1) Any person who wishes to complain concerning the conduct of a legal practitioner or an employee shall do so by lodging a complaint in writing to the Secretary containing specific allegations of misconduct which may consist of acts or omissions.

(2) The manner in which the Disciplinary Committee shall hear complaints shall be prescribed and provision may be made for summary dismissal of complaints where the committee considers a complaint does not reveal a *prima facie* case of misconduct.

9. Powers of Disciplinary Committee

(1) The Disciplinary Committee shall have the same powers as the Supreme Court to summon and examine witnesses and order the production of documents.

(2) The Disciplinary Committee may require the Secretary to investigate and report on a complaint before it considers it further.

(3) If the Disciplinary Committee finds a legal practitioner has committed misconduct it may –

(a) order that he be struck off the Register of Legal Practitioners;

(b) suspend the legal practitioner from practice for such period as it shall consider fit;

(c) impose a fine of not more than VT 150,000 on the legal practitioner which shall be payable into the Revenue Fund;

(d) order the legal practitioner in addition to any other penalty to pay compensation to a complainant of not more than VT 150,000;

(e) reprimand the legal practitioner.

(4) If the Disciplinary Committee finds an employee has committed misconduct it may order that no legal practitioner may employ that employee either without defining a period or during a defined period from the date of the order.

(5) The Disciplinary Committee may order a complainant or person against whom a complaint has been made to pay the costs or part of the costs of any person appearing before it.

10. Appeals

(1) A person found guilty of misconduct by the Disciplinary Committee may appeal against such finding to the Supreme Court within 15 days of the notification to him by the Secretary of such finding.

(2) The Chief Justice shall make rules for appeals to the Supreme Court under this section.

(3) The Supreme Court may dismiss such appeal or set aside or vary the decision of the Disciplinary Committee.

(4) The Attorney General may appoint counsel to represent the Disciplinary Committee as respondent before the court.

11. Applications for restoration to register and for cancellation of orders of Disciplinary Committee

(1) A person against whom an order has been made under section 9(3)(a) may apply to the Disciplinary Committee at any time or times after 6 months have elapsed after the making of the order to have his name restored to the Register of Legal Practitioners.

(2) A person against whom an order has been made under section 9(3)(b) or section 9(4) may if the order is indefinite or for 12 months or more apply to the Disciplinary Committee at any time or times after 6 months have elapsed after the making of the order to have the order cancelled or the period of suspension made shorter.

(3) The Disciplinary Committee shall have absolute discretion to restore the name of the applicant to the Register of Legal Practitioners, cancel the order, shorten the period of suspension or refuse the application.

PART 4 – PRACTICE BY PERSONS NOT REGISTERED AS LEGAL PRACTITIONERS

12. Penalty for illegally practising as a legal practitioner

Subject to section 13 any person, not being a legal practitioner or being a legal practitioner but suspended from practice and whether or not such person has at any time before the coming into operation of this Act practised as a legal practitioner in Vanuatu, who holds himself out to be entitled to practice or practises as a legal practitioner in Vanuatu shall be guilty of an offence and liable on conviction to imprisonment for 2 years or to a fine of VT 40,000, or to both such fine and imprisonment.

13. Temporary admission

Notwithstanding the other provisions of this Act, the Chief Justice may, after consulting the Attorney General –

(a) in the public interest; or

(b) on application by a legal practitioner;

admit to practice, subject to conditions as the Chief Justice may see fit to impose, as Barrister and Solicitor, for the purposes of any specific cause or matter, any person who is not a legal practitioner registered under this Act and who has come or intends to come to Vanuatu for the purposes of appearing in such cause or matter,

Provided that –

(a) any such person shall only be entitled to appear or act –

(i) in the cause or matter for the purpose of which he is admitted; and

(ii) if he is instructed by, and if when appearing in any court in the conduct of the cause or matter, he appears together with a Barrister and Solicitor admitted under section 1A;

(b) any such person has complied with the appropriate provisions of the laws of Vanuatu applicable to him, including the laws relating to immigration, work permit and business licence.

14. Penalty for employing persons suspended from employment

A legal practitioner who knowingly employs a person in respect of whom an order has been made under section 9(4) shall be guilty of an offence and liable on conviction to a fine not exceeding VT 50,000.

PART 5 – REGULATIONS

15. Regulations

(1) The Law Council may make rules and regulations not inconsistent with the provisions of this Act and for the better carrying out of its provisions.

(2) Without derogating from the generality of subsection (1), regulations made pursuant to this section may provide for –

(a) the qualifications required for applicants for registration as legal practitioners;

(b) the name by which legal practitioners shall be called;

(c) the postgraduate training of persons desiring to become legal practitioners;

(d) forms and fees that persons making applications pursuant to this Act or orders made hereunder may be required to complete and pay;

(e) the form of the Register of Legal Practitioners and certificates of registration therein;

(f) the procedures to be followed for the making of complaints and for hearings of the Disciplinary Committee;

(g) the procedure to be followed on applications for cancellation of orders by the Disciplinary Committee;

(h) rules of etiquette and conduct of legal practitioners;

(i) scales of fees chargeable by legal practitioners in contentious and non-contentious matters;

(j) the regulation of the manner in which legal practitioners shall deal with money held by them on behalf of other persons and the accounts to be kept in respect thereof;

(k) the auditing of the accounts of legal practitioners and the qualifications of the auditors who audit those accounts;

(l) the conduct of employees;

(m) any other matter that shall or may be prescribed under this Act.

(3) The Law Council may by order make regulations necessary or convenient for the carrying out or giving effect to Part 6 of this Act

PART 6 – REGISTRATION OF ACADEMIC LAWYERS

16. Application of Part 6

This Part applies to academic lawyers.

17. Definition

In this Part:

"Law School" means the Law School of the University of the South Pacific, or any other recognized tertiary institution offering legal courses, located in Vanuatu;

"academic lawyer" means a person who provides teaching services at the Law School.

18. Application for registration

(1) An academic lawyer may apply in writing to the Law Council to be registered as a legal practitioner.

(2) The Law Council must consider all applications.

(3) The Law Council must not approve any application unless:

(a) the applicant is:

(i) employed by the Law School as a law lecturer or a tutor of the Law Programme at the Law School; or

(ii) attached to the Law School as a law lecturer or a tutor of the Law Programme at the Law School; and

(b) the applicant is admitted to practice law in another jurisdiction.

(4) An application must be made for purposes related to transferring practical legal skills to students.

19. Cancellation of registration

The registration of an academic lawyer as a legal practitioner must be cancelled by the Law Council if the academic lawyer ceases to be employed by, or attached to, the Law School.

20. Academic lawyers registered before commencement of this Part

(1) This Part also applies to an academic lawyer who is registered as a legal practitioner in Vanuatu immediately before the commencement of this Part.

(2) The academic lawyer must, within 3 months after that commencement, apply under this Part to the Law Council for registration.

(3) If the academic lawyer does not so apply, his or her registration lapses at the end of the 3 month period, subject to the order of the Law Council.

21. Engagement in private legal practice

The registration of an academic lawyer as a legal practitioner does not confer on the academic lawyer the right to engage in private practice for personal gain.

Table of Amendments (since the Revised Edition 1988)

1 Amended by Act 39 of 1989
1A-1M Inserted by Act 39 of 1989
7(3),(4) Substituted by Act 39 of 1989
7(3),(4) Substituted by Act 39 of 1989
13 Substituted by Act 39 of 1989
15(3) Inserted by Act 18 of 2001
16-21 Inserted by Act 13 of 2001

The reader is advised that the Legal Profession Act 49 of 2005 was passed by Parliament, but not yet published nor commenced, prior to the appointed day for this Consolidation (31 March 2006). The Legal Profession Act 49 of 2005, once in effect, will replace the Legal Practitioners Act as published here.