Commencement: 9 December 1996

LEGAL PRACTITIONERS (QUALIFICATIONS) REGULATIONS

Order 22 of 1996

To provide for the qualifications required for applicants for registration as legal practitioners.

1. Definitions

In these regulations, unless the context otherwise requires –

"practical legal experience" means working as a barrister, solicitor, advocate, legal advisor, government law officer, or judicial officer, in private practice, commerce, industry, government or the courts, or trainee of one of the above, doing work of a legal nature on a daily basis but may include a period spent undertaking a course in practical legal training provided that such course does not take up more than 50% or one year (whichever is the lesser) of the relevant period of practical legal experience required under these regulations;

"supervised practical legal experience" means practical legal experience undertaken as an employee, junior, colleague or other associate of an unconditionally registered legal practitioner who is substantially present on a daily basis in the same office or other premises with the person being supervised;

"practice on own account" means practicing as a legal practitioner in private practice without an employer or partner who is an unconditionally registered legal practitioner.

2. Conditional registration

No person shall be qualified to be registered as a legal practitioner unless he or she –

(a) holds a law degree or similar qualification from a University or such other appropriate institution recognised by the Law Council; and

(b) (i) is a Ni-Vanuatu citizen who is admitted as a barrister and/or solicitor in a Commonwealth jurisdiction; or

(ii) not being a Ni-Vanuatu citizen admitted in a Commonwealth jurisdiction, has at least two years post-graduate supervised practical legal experience acceptable to the Law Council;

(c) is resident in Vanuatu.

3. Members of the Judiciary not entitled to practice

Persons who are serving or have served in the Judiciary as magistrates, registrars or judges in Vanuatu shall not be entitled to be registered as legal practitioners within a period of 12 months commencing on the last day of their service as such member of the Judiciary.

4. Unconditional registration

(1) Any registered legal practitioner shall be entitled to apply for unconditional registration:

(a) on completion of one year of continuous supervised practical legal experience in Vanuatu provided that he or she has not less than two years continuous practical legal experience; or

(b) who is a Ni-Vanuatu citizen who has already undergone two years post-graduate supervised practical legal experience acceptable to the Law Council.

(2) Such application shall be accompanied by a certificate of fitness in the form in Schedule 1 signed by his supervisor.

(3) The Law Council shall, on receiving an application for unconditional registration, grant the application unless it is satisfied that:

(a) the practitioner has not received appropriate supervision; or

(b) the practitioner is not a fit and proper person to be granted unconditional admission.

(4) If an application for unconditional admission is refused, the Law Council may, in its discretion, impose other or further conditions, including the undergoing of legal training and/or examination, precedent to the practitioner re-applying.

(5) The Law Council may, if it considers it in the interests of Vanuatu so to do, waive the requirement of one year continuous supervised practical legal experience in Vanuatu in individual cases and may, in those circumstances, substitute a requirement for the practitioner to undergo legal training and/or examination in aspects of Vanuatu Law approved by the Law Council.

5. Lapsing of conditional registration

(1) If a legal practitioner who has been granted conditional registration fails to obtain unconditional registration within three years of the date of conditional registration, his or her registration shall become void unless the Law Council has granted an extension of the period for conditional registration.

(2) The Law Council shall grant an extension of the period if the practitioner has submitted an application for unconditional registration which has not yet been determined by the Law Council or if the practitioner is in the process of fulfilling further or other conditions imposed under regulation 4(4) and may grant an extension in any other circumstances in which the Council is of the view than an extension would be appropriate.

6. Practice on own account

(1) No legal practitioner or other person shall be entitled to practice on his or her own account unless –

(a) he or she has unconditional registration as a legal practitioner; and

(b) subject to subregulation (2) of this regulation he or she has not less than 5 years practical legal experience.

(2) The Law Council may waive the requirement of 5 years practical legal experience in the case of a Ni-Vanuatu legal practitioner provided that it is in the public interest to do so.

(3) Every legal practitioner practicing on his own account or in partmership or otherwise must have suitable office premises in Vanuatu, staffed on a substantially full-time basis by himself or some other legal practitioner. However, any legal practitioner with an office in Vanuatu may establish a further office or offices anywhere in Vanuatu other than Port Vila which are not staffed on a full-time basis by a legal practitioner.

7. Practice ownership

No firm or other organisation may describe itself as barrister(s), solicitor(s), advocate(s), lawyer(s) or other description holding itself out as a legal practitioner if any part of the proprietorship or equity in that firm is owned by a person who is –

(a) not a legal practitioner unconditionally registered in Vanuatu; or

(b) not a legal practitioner registered in another jurisdiction who has at least one partner or employee practicing in the firm in Vanuatu who is a legal practitioner unconditionally registered in Vanuatu.

8. Firm name

A person, firm or other organization may practice as legal practitioner(s) in Vanuatu under any business name which –

(a) consists of the true surnames of any partner(s)/proprietor(s) without any addition other than the true first name(s); and/or

(b) consists of the names of any former partner(s) or proprietor(s) of the firm; and/or

(c) consists of the name(s) under which any of the proprietors/partners of the business who are legal practitioners admitted to practice in a foreign jurisdiction are permitted to practice in that jurisdiction; and/or

(d) adds the words “lawyers”, ”solicitors”, “barristers” or “notary public” (where appropriate); and/or

(e) adds the words ”and partners”, “and company”, “and associates” or some such similar expression (where appropriate).

9. Names of practitioners

No person who is not a legal practitioner registered in Vanuatu shall have their name printed on any stationery of a firm which practices as a legal practitioner unless it is also clearly stated that the person so named is not so registered.

10. Transitional provisions

All persons admitted to practice as legal practitioners in Vanuatu prior to the date of this regulation shall be deemed to be unconditionally admitted.

SCHEDULE

CERTIFICATE OF FITNESS

In the matter of the LEGAL PRACTITIONERS (QUALIFICATIONS) REGULATIONS

And in the matter of an application by …… for unconditional registration as a legal practitioner in Vanuatu, I …… of …… make oath as follows:

1. I was on the day of 20 , unconditionally registered to practice as a legal practitioner in Vanuatu, and I remain so registered.

2. On the day of 20 , I commenced to continuously supervise the practical legal experience in Vanuatu of (hereinafter called the candidate) and I completed one year of such supervision on the day of 20 .

3. To the best of my knowledge and belief:

   (a) The candidate has never been convicted of any criminal offence.

   (b) The candidate has never been found guilty of an offence by any Law Society, Law Council or law institute disciplinary body in any jurisdiction in which he/she has studied or practiced law.

   (c) The candidate has not done anything that would render him/her liable to have his/her name struck off the roll of legal practitioners or be suspeneded from practice in Vanuatu.

4. I believe the candidate is a fit and proper person to be unconditionally registered as a legal practitioner.

SWORN by the deponent at this day of 20 .

Before me: