

CONSOLIDATED TO 1 DECEMBER 2014

LAWS OF SEYCHELLES

CHAPTER 111

LEGAL PRACTITIONERS ACT

[1st September, 1994]

Act 4 of 1991
Act 4 of 1994
Act 13 of 1995
Act 17 of 1996
Act 18 of 2013

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PART I – PRELIMINARY

Short title and commencement

1. This Act may be cited as the Legal Practitioners Act.

Interpretation

2. In this Act

"approved chambers" means -

(a) the chambers of an attorney-at-law of not less than 5 years standing and practicing in Seychelles approved by the Chief Justice for the purposes of this Act;

(b) the Department of Legal Affairs;

"attorney-at-law" means a person admitted as such under section 3;

"banker" means any person carrying on a banking business;

"banker's book" means any book or ledger used in or in connection with the banking business of a banker and includes any device on which information relating to banking business is stored, recorded or kept and any computer data bank kept by a banker in connection with his banking business;

"clerk" means an articulated clerk serving a clerkship in an approved chambers;

"examination board" means the examination board referred to in section 20;

"foreign law" means the law of a country or jurisdiction other than that of Seychelles;

"legal practitioner's licence" means a licence issued under section 6A;

"Minister" means the Minister responsible for legal affairs;

"pupil" means a person serving as a pupil in an approved chambers;

"pupil master" means-

(a) an attorney-at-law of an approved chambers designated as such under this Act;

(b) where the approved chambers is the Department of Legal Affairs, the Attorney General;

"Registrar" means the Registrar of the Supreme Court;

"roll" means the roll of attorney-at-law under section 4;

"Seychelles corporate and finance law" means the laws set out in the First Schedule.

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PART II - ATTORNEYS-AT-LAW

Admission of attorney-at-law

3. (1) The Supreme Court may, in accordance with the rules prescribed by the Chief Justice, admit as an attorney-at-law a person who is qualified for admission as such under this Act.

(2) Where the Supreme Court refuses to admit a person as an attorney-at-law the Supreme Court shall, if required to do so by the applicant, give reasons for so refusing.

(3) Where the Supreme Court has refused an application for admission as an attorney-at-law, it shall not consider another application for admission by the same person within 12 months from the date of refusal of the application.

Roll of attorneys-at-law

4. The Registrar shall -

(a) keep a roll of all attorneys-at-law admitted by the Supreme Court;

(b) upon the Supreme Court making an order admitting a person as an attorney-at-law, enter the name and other prescribed particulars of that person on the roll;

(c) issue to the person admitted as an attorney-at-law a certificate under the seal of the Supreme Court certifying the admission and enrolment of the person as an attorney-at-law.

Qualifications for admission as an attorney-at-law

5. (1) A person shall not be admitted as an attorney-at-law-

(a) unless he -

(i) has been called to and stands enrolled or registered at the Bar in a country or jurisdiction designated by the Minister after consultation with the Chief Justice and the Bar Association of Seychelles;

(ii) has been admitted to practice and stands enrolled or registered as an advocate, attorney-at-law or solicitor in a country or jurisdiction designated by the Minister after consultation with the Chief Justice and the Bar Association of Seychelles;

(iii) has been admitted to practice and stands enrolled or registered in a country or jurisdiction designated by the Minister after consultation with the Chief Justice and the Bar Association of Seychelles as a person holding a professional status equivalent to an attorney-at-law in Seychelles;

(iv) holds a degree in law, of a level prescribed by the Minister, awarded by an institution designated by the Minister after consultation with the Chief Justice and the Bar Association of Seychelles and has successfully completed such professional or vocational examination or training as the Minister may, after consultation with the Chief Justice and the Bar Association of Seychelles, by regulations prescribe; or

(v) has passed the admission examination prescribed under section 20;

(b) subject to subsection (3), (4) and (5), unless he has, after having been called to the Bar or admitted to practice, or completed the professional or vocational examination or training, or passed the final examination, as provided under paragraph (a), served as a pupil in an approved chambers or as Registrar of the Supreme Court for an aggregate period of at least two years;

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(c) subject to subsection (2), unless he has paid the prescribed fee and given security for the amount and in the manner prescribed under this Act;

(d) if at the time of his application for admission he is an undischarged bankrupt or has been convicted of a criminal offence of such a nature that in the opinion of the Supreme Court his admission is undesirable;

(e) if the Supreme Court is of the opinion that he is not a fit and proper person to be admitted as an attorney-at-law.

(2) Where the person who has applied to be admitted as an attorney-at-law is a notary and the Supreme Court is satisfied that the security furnished by him as a notary is still valid and the amount of the security is not less than that prescribed under this Act, the person shall be deemed to have furnished security under subsection(1)(c).

(3) Subject to subsection (4), where the Supreme Court is satisfied that a person who is

eligible for admission under sub-section (1) (a) (i), (ii) and (iii) has at least five years experience at the bar, or as an advocate, attorney-at-law or solicitor in a country or jurisdiction other than Seychelles as designated by the Minister, it may exempt the person from the requirement to serve as a pupil in an approved chambers for an aggregate period of at least two years.

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(4) A person who is exempted from the requirement to serve as a pupil in an approved chamber for an aggregate period of two years under subsection (3) shall only provide legal services in relation to -

- (a) a foreign law; or
- (b) Seychelles corporate and finance law.

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(5) For the purposes of subsection (4), legal services means providing assistance and tendering legal advice to clients in relation to a foreign law or Seychelles corporate and finance law.

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(6) Notwithstanding subsection (5), a person who is exempted under subsection (3) may tender legal advice on the laws of Seychelles other than a Seychelles corporate and finance law if the advice is-

- (i) incidental to the provision of legal services in relation to a foreign law or a Seychelles corporate and finance law; and
- (ii) expressly based on the advice given on the Seychelles law by an attorney-at-law who is not subject to subsection (4).

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Qualifications to practice as an attorney-at-law

6. Subject to this Act, a person shall not practice or hold himself out as, represent himself to be, use such term in describing himself so as to suggest that he is or is qualified to perform any of the function of or permit his name to be used so as to suggest that he is or is qualified to perform any of the function of, an attorney-at-law unless -

- (a) his name is entered on the roll;
- (b) he has not been suspended from practice under this Act;
- (c) he has not been disbarred, removed from the roll or register referred to under section 5 or suspended from practice, in any country or jurisdiction outside Seychelles by reason of any misconduct, malpractice or crime;
- (d) he or she holds a legal practitioner's licence.

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***Legal practitioner's licence**

6A. (1) Application for a legal practitioner's licence or for the renewal of a legal practitioner's licence shall be made to the Registrar in the prescribed form and shall be accompanied by the prescribed fee.

(2) The holder of a legal practitioner's licence shall display the licence in a conspicuous place at his or her principal place of business.

(3) The Registrar shall keep or cause to be kept a register of legal practitioner's licence [sic] in the prescribed form which shall be open to public inspection.

(4) (a) A legal practitioner's licence may be subject to such terms and conditions as the Registrar may specify in the licence.

(b) The Registrar may, at any time by giving the licence holder written notice, alter or waive any, or impose additional licence conditions as the Registrar deems fit.

(c) Without limiting the generality of paragraphs (a) and (b), the Registrar may impose conditions on a legal practitioner's licence as may be required under this Act.

(5) In addition to any condition which the Registrar may impose, a licence issued to a person referred to in section 5(3) shall be subject to the condition that the person is only entitled to provide the legal services referred to in section 5(5) in relation to a foreign law or Seychelles corporate and finance law.

(6) If an attorney-at-law-

(a) contravenes this Act or any regulations made thereunder or any directions issued by the Registrar or the Supreme Court;

(b) breaches the code of conduct, and despite written warning from the Registrar, fails to remedy such breach to the satisfaction of the Registrar;

(c) is unable to meet his or her debts and liabilities;

(d) carries on business in a manner that is prejudicial to the public interest or to the interests of his or her clients;

(e) contravenes any conditions of his or her licence;

(f) ceases to carry on business;

(g) furnishes false or misleading information or documents to the Registrar or to the Chief Justice.or

(h) is convicted of an offence punishable by a term of imprisonment of at least 2 years,

the Registrar may suspend his or her licence for such period as the Registrar may determine or revoke or refuse to renew his or her licence.

(7) Where the Registrar suspends, revokes or refuses to renew a legal practitioner's licence,

the Registrar shall immediately notify the holder of the licence in writing.

(8) An attorney-at-law whose licence has been suspended or revoked or whose application for renewal of licence has been refused may appeal to the Supreme Court within 30 days of notification of the decision of the Registrar.

(9) A person whose licence has been suspended or revoked shall immediately cease to provide legal services.

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Note: There is no section heading to s 6A as gazetted; the above heading has been inserted in this version for ease of reference only.

Attorney-at-law subject to supervision of Supreme court

7. (1) An attorney-at-law is an officer of the court and is subject to the jurisdiction of the Supreme Court.

(2) The Chief Justice may, subject to this Act, prescribe rules for the purpose of the exercise of jurisdiction of the Supreme Court under subsection (1).

Acts which an attorney-at-law may perform

8. Subject to section 5(4), (5) and (6) and section 6, an attorney-at-law is entitled to -

- (a) assist and advise clients;
- (b) appear, plead or represent a person in every court, tribunal or other institution established by law for the administration of justice where the person has a right to be heard and be represented by legal practitioner; or
- (c) appear and represent a person who has a right to be heard and be represented by legal practitioner before any other person or tribunal exercising quasi-judicial functions.

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Acts which an attorney-at-law may not perform

9. (1) An attorney-at-law shall not directly or indirectly through another person -

- (a) acquire an interest in any matter in respect of which he gives his services as an attorney-at-law;
- (b) invest in his own name or for his own benefit any sum of money which he may have received for or on behalf of a client;
- (c) receive or keep any sum of money in his capacity as an attorney-at-law on condition that he pays the interest on the sum;
- (d) make use, at any time or for any period, of any sum of money or security which may have been entrusted to him for any purpose whatsoever, other than the purpose for which the sum of money or security was originally entrusted to him;

(e) cause any note or receipt to be signed in blank;

(f) use any information received by him or which came to his knowledge in confidence in his capacity as an attorney-at-law.

(2) An attorney-at-law shall not take on a person as a pupil or clerk in his chambers unless -

(a) his chambers is an approved chambers;

(b) he has complied with the provisions of this Act regulating the taking of a person as a pupil or clerk;

(c) he has satisfied himself that the person is qualified to read as a pupil or clerk and has complied with the provisions of this Act regulating pupillage and clerkship.

Suspension or removal of attorney-at-law from roll

10. (1) Subject to subsection (4), the Supreme Court may, in accordance with the rules prescribed by the Chief Justice -

(a) suspend from practice or remove from the roll an attorney-at-law -

(i) who is guilty of any malpractice or misconduct, or any offence under a written law, which in the opinion of the Supreme Court makes him unfit to practice as an attorney-at-law, or

(ii) who has been suspended from practice or disbarred or removed from the roll or register kept in any country or jurisdiction outside Seychelles referred to in section 5, by reason of any malpractice, misconduct or crime;

(b) suspend from practice as attorney-at-law where it is not satisfied that the security furnished by the attorney-at-law is sufficient or a good enough security for the purposes of this Act.

(2) The Supreme Court may -

(a) instead of making an order suspending an attorney-at-law under subsection (1) impose a fine on, or order the payment of such compensation as it thinks fit by, the attorney-at-law;

(b) when making an order under subsection (1) or fining or making an order under paragraph (a) of this subsection, make such other order, including -

(i) an order relating to the security referred to in section 5(1)(c) given by the attorney-at-law to the assets of the attorney-at-law under section 5(1) and the assets of the attorney-at-law, and

(ii) an order relating to the assets of the firm in which the attorney-at-law is a partner, as it thinks.

(3) For the purposes of subsection(1) the Supreme Court may act on its own motion or upon an application in writing by the Attorney-General or the Bar Association of Seychelles.

(4) Before an attorney-at-law is suspended from practice or removed from the roll he shall be informed of the charge or complaint against him and be given an opportunity to be heard in person or by legal practitioner as he thinks fit.

(5) The Registrar shall -

(a) when the Supreme Court has suspended an attorney-at-law from practice, enter a note of the Court order on the roll,

(b) where the Supreme Court has removed an attorney-at-law from the roll, remove the name of the attorney-at-law from the roll.

Reinstatement of an attorney-at-law

11. (1) The Supreme Court may, on an application of a person who has been suspended from practice as an attorney-at-law or removed from the roll, remove the suspension or reinstate the person as an attorney-at-law on the roll.

(2) Where the Supreme Court has removed the suspension or made an order of reinstatement under subsection(1), the person shall, if the security given by him under section 5(1)(c) is still valid and, subject to any written law requiring him to have a licence to provide legal services, be entitled to practice as an attorney-at-law.

(3) The Registrar shall -

(a) where the Supreme Court has removed a suspension under subsection (2), enter a note to this effect on the roll, or

(b) where the Supreme Court has reinstated a person under subsection (2), reinstate the name of the person on the roll.

(4) The Chief Justice may make rules in connection with the proceedings for the hearing of an application under subsection (1).

PART III - OTHERS WHO MAY PLEAD IN COURT ETC

Supreme Court may allow other persons to appear before court etc

12. (1) The Supreme Court may, in accordance with the rules other prescribed by the Chief Justice, allow a person who is qualified to appear under subsection (3) to appear and practice before a court or a tribunal or other institution established by law for the administration of justice in respect of any proceedings or for any period not exceeding six months.

(2) A person who is allowed to practice under subsection (1) shall not, except for the purpose of appearing in a court, tribunal or institution referred to in subsection (1) for the proceeding, or during the period, for which he has been allowed by the Supreme Court, act as an attorney-at-law or deal with clients otherwise than through an attorney-at-law.

(3) A person is qualified for the purpose of subsection (1) if he is qualified under section 5(1)(a)(i), (ii) or (iii) and the Supreme Court is of the opinion that he is a fit and proper person to be allowed to practice.

(4) The Registrar shall keep a register in which he shall enter the particulars of the person

allowed to practice under subsection (1) together with any conditions imposed by the Supreme Court and he shall issue the person with a certificate containing the particulars and the conditions.

(5) A person who is allowed to practice under subsection (1) is subject to the jurisdiction of the Supreme Court and the Supreme Court may at any time, after informing the person of the charge or complaint against him and giving the person an opportunity to be heard, alter or add new condition to or revoke the permission granted under subsection (1) if the Supreme Court is of the opinion that the person is guilty of any malpractice, misconduct or a crime which makes him unfit to practice before the court, tribunal or institution referred to in subsection (1).

Attorney-General and other law officers may practice before court etc

13. (1) The Attorney-General and any other person -

(a) who is employed in the Department of Legal Affairs, and

(b) who has been appointed by the Attorney-General for the purpose of appearing, on behalf of the Republic or Government or another public body or the Attorney-General or a public officer under any written law,

are entitled to appear on behalf of the Republic, Government, public body, Attorney-General or public officer in legal proceedings before a court or tribunal or other institution established by law for the administration of justice and to assist, advise and deal directly with the Government or other public body, Attorney-General or public officer and when so assisting, advising and dealing are deemed for the purpose of the Licences Act to be licensed to provide legal services under that Act.

(2) The Attorney-General shall not later than the 31st January of each year, or, where he has appointed a person in the course of a year, not later than 30 days after the appointment, notify the Registrar of the names and other prescribed particulars of the person employed in the Department of Legal Affairs and appointed by him for the purposes specified in subsection (1)(b) and the Registrar shall enter the names and the prescribed particulars of the person in a register kept for this purpose.

(3) The Attorney-General shall notify the Registrar of the name of any person who is entered on the register referred to in subsection (2) who has ceased to be employed in the Department of Legal Affairs within 30 days of the person ceasing to be so employed and the Registrar shall remove the name of that person from the register.

(4) For avoidance of doubt -

(a) notwithstanding that a person is enrolled as an attorney-at-law he may be entered in the register referred to in subsection (2) and notwithstanding that a person is entered in the register referred to in subsection (2) he may, subject to this Act, apply to be admitted as an attorney-at-law and he may be entered in the roll, if so admitted;

(b) a person who is entered on the register referred to in subsection (2) and who is also an attorney-at-law may, subject to this Act, practice as an attorney-at-law.

(5) In subsection (1), public body means -

(a) a ministry, department, division or agency of the Government;

(b) a statutory corporation approved in writing by the President; or

(c) a company incorporated under the Companies Act, 1972 of which the Government is the majority shareholder and which has been approved in writing by the President

Authorisation to provide legal advice

13A. (1) The Minister may, after consultation with and receiving written confirmation that a person satisfies any of the requirement of section 5(1)(a)(i) to (iv) from the Chief Justice, authorise the person to provide legal advice and assistance for a fee.

(2) A person shall not provide legal advice or assistance pursuant to an authorisation under subsection (1) unless -

(a) the person has paid the prescribed fee and given the security referred to in section 5(1)(c); and

(b) the person has complied with the written law requiring a person to hold a licence before providing legal services.

(3) An authorisation under subsection (1) shall not authorise a person -

(a) to appear, plead or represent a person in a court, tribunal or other institution established by law for the administration of justice where a person has a right to be heard and be represented by counsel; or

(b) to appear and represent a person who has a right to be heard and be represented by counsel before any other person or tribunal exercising quasi-judicial functions.

(4) An authorisation under subsection (1) shall be for such term and conditions as may be specified in the authorisation but shall automatically cease to have effect on the holder thereof ceasing to be qualified under section 5(1)(a) (i) to (iv) and a licence granted in consequence of the authorisation shall, notwithstanding the law under which it is granted -

(a) cease to have effect on the authorisation ceasing to have effect;

(b) include as conditions to the licence any conditions attached to the authorisation and the restrictions contained in subsection 3(a) and (b).

(5) Where the holder of an authorisation under subsection (1) fails to comply with subsection (3) or any condition subject to which the authorisation was granted, the Minister may revoke the authorisation.

PART IV - PUPILAGE AND CLERKSHIP

Pupil

14. A person who meets any of the qualifications specified in section 5 (1)(a) may, subject to the rules which may be prescribed by the Chief Justice, serve as a pupil in an approved chambers.

Clerk

15. A person who qualifies under this Act may, subject to the rules which may be prescribed by the Chief Justice, serve as an articled clerk in an approved chambers.

Pupil or clerk acts on behalf of attorney-at-law

16. (1) A person shall not, while serving as a pupil or articled clerk, act on his own behalf as an attorney-at-law but shall at all time when conducting himself as a pupil act for and on behalf of and be responsible to the attorney-at-law in whose chambers he is serving or whose pupil or clerk he is .

(2) For avoidance of doubt, an attorney-at-law in whose chambers or under whom a person is serving as a pupil or articled clerk shall, subject to this Act, be liable for the conduct of the person when the person is conducting himself as a pupil or clerk.

Supervisory jurisdiction of Supreme court over pupil or clerk

17. (1) A pupil or clerk is subject to the jurisdiction of the Supreme Court and the Supreme Court may, at any time where it is of the opinion that a person serving as a pupil or clerk is guilty of any malpractice, misconduct, or crime take such action, including prohibiting the person from continuing to serve as a pupil or clerk, as it may think fit in the circumstances.

(2) The Supreme Court shall, before acting under subsection (1), inform the pupil or clerk and the attorney-at-law under whom the pupil or clerk is serving of the charge or complaint against the pupil or clerk and give the pupil or clerk an opportunity of being heard in person or by legal practitioner.

PART V – MISCELLANEOUS

Committee of inquiry

18. (1) Without prejudice to the power of the Supreme Court under sections 10, 12 and 17 the Supreme Court may, of its own motion or upon receiving a complaint from any person or body, appoint a committee of inquiry for the purposes of inquiring into any complaint against an attorney-at-law, a person allowed to practice under section 12, a pupil or clerk.

(2) The committee of inquiry shall consist of not less than three members.

(3) The Supreme Court shall appoint a chairman of the committee of inquiry from among its members.

(4) For the purposes of conducting an inquiry a committee of inquiry may -

(a) compel the attendance of any person before it and examine the person on oath or otherwise,

(b) compel the production of documents;

(c) notwithstanding the Evidence (Banker's Books) Act, make an order of inspection of a banker's book and authorise the taking of copies of any entry in the banker's book, and

(d) order an inspection of any property.

(5) The proceedings of the committee of inquiry shall not be held in public.

(6) The committee of inquiry shall submit to the Supreme Court a report of its findings together with a transcript of the evidence taken and copies of the documents put in evidence in the

course of the inquiry.

(7) The Supreme Court shall send a copy of the report to -

(a) the attorney-at-law, person allowed to practice under section 12, pupil or clerk whose conduct was being inquired into;

(b) the Attorney-General; and

(c) the Bar Association of Seychelles.

(8) The Supreme Court may use the report for the purpose of deciding whether to take action against the attorney-at-law, person allowed to practice under section 12 or pupil or clerk under sections 10, 12 or 17.

(9) A member of a committee of inquiry shall not be liable to any action, prosecution or other proceeding in any civil or criminal court in respect of any act or thing done or omitted to be done by him in his capacity as member of the committee.

(10) The power of the Supreme Court under this section to appoint the members of the committee of inquiry and its chairman shall be exercised by the Chief Justice.

Immunity

19. (1) Subject to subsection (2), an attorney-at-law, a person allowed to practice under section 12 or a pupil or clerk acting for and on behalf of an attorney-at-law is not criminally or civilly liable in respect of his conduct and management of a case in court, a tribunal or institution, or before a person or tribunal, referred to in section 8.

(2) Subsection (1) shall not affect -

(a) the power of the Supreme Court under this Act;

(b) the power which the court, tribunal, institution or person exercising quasi judicial functions referred to in section 8(c) has under any written law to punish for contempt or otherwise in respect of his conduct any person appearing before the court, tribunal institution or person.

(3) For the purposes of subsection (1), "conduct and management of a case" includes any preliminary work done in connection with the case.

Examination Board

20. (1) There shall be an examination board which shall be responsible for the conduct of examinations for admission of attorneys-at-law under this Act.

(2) The examination board shall consist of at least three persons to be appointed by the President, after consultation with the Chief Justice, from amongst persons who are knowledgeable in law generally and in particular in the laws of Seychelles.

(3) The President shall appoint one of the members to be its chairman.

(4) A member of the examination board shall not sit on the board if the person being

examined is serving as a pupil or clerk under him or in the same chambers as him.

(5) Where subsection (4) applies to prevent the chairman from sitting on the examination board, the members shall elect another member as chairman for the purpose of the particular examination.

Offences

21. (1) An attorney-at-law who contravenes section 9(1) or section 9(4) is guilty of an offence and liable to a fine of R.25,000 or to imprisonment for five years.

(2) A person who contravenes section 6 is guilty of an offence and liable to a fine of R.25,000 and to imprisonment for five years.

(3) A person who holds himself out or represents himself to be, or uses such terms in describing himself so as to suggest that he is or is qualified to perform any of the functions of, or permits his name to be used so as to suggest that he is or is qualified to perform the functions of a person who has been allowed to practice under section 12 or to be a pupil or clerk when -

(a) he has not been allowed to practice under section 12 or is not a pupil or clerk, or

(b) his permission to practice under section 12 has been revoked by the Supreme Court, or he has been prohibited from continuing to serve as a pupil or clerk by the Supreme Court,

is guilty of an offence and liable to a fine of R.25,000 and to imprisonment for 5 years.

(4) A person who has been allowed to practice under section 12 and who fails to comply with a condition imposed by the Supreme Court under that section is guilty of an offence and liable to a fine of R.15,000 and to imprisonment for 3 years.

(5) A person who -

(a) does not have an authorisation under section 13A (1) and who provides or offers to provide legal advice or assistance for a fee; or

(b) is the holder of authorisation under section 13A(1) and who contravenes section 13A(2) or section 13A(3),

is guilty of an offence and liable to a fine of R25,000 and to imprisonment for 5 years.

Regulations

22. (1) The Minister may make regulations for carrying into effect the purposes and provisions of this Act, and without restricting the generality of the foregoing, may make regulations-

(a) after consultation with the Chief Justice and the Bar Association of Seychelles, designating the countries, jurisdictions or institutions for the purposes of section 5(1);

(b) prescribing any matter required or necessary to be prescribed by the Minister under this Act.

(2) The Chief Justice may make rules -

- (a) prescribing any matter required or necessary to be prescribed for articulated clerks;
- (b) prescribing the subjects for, the mode of conduct of and any other matter relating to any examination under this Act;
- (c) prescribing the fees payable for any examination under this Act;
- (d) prescribing any matter which is required to be prescribed by rules made by the Chief Justice.

Repeal of Caps 83 [1971 Ed], 84 [1971 Ed] and 86 [1971 Ed]

23. Subject to section 24, the Barristers and Attorneys Act, the Law Officers Act and the Queen's Counsel (Seychelles) Act are repealed.

Transitional provision

24. Notwithstanding the repeal of the Barristers and Attorneys Act -

- (a) a person who has been admitted and is enrolled under that Act as an attorney and barrister or as an attorney shall be deemed to have been admitted and enrolled under this Act as an attorney-at-law and the Registrar shall on the coming into force of this Act enter the particulars of that person together with the date on which that person was admitted and enrolled under that Act in the roll and the certificate of enrolment issued to the attorney-at-law under section 15 of that Act shall be deemed to be a certificate of admission and enrolment as an attorney-at-law issued under section 4 of this Act;
- (b) a person who has been admitted and enrolled as a barrister under that Act shall be entitled on application under this Act to be admitted and enrolled as an attorney-at-law under section 4 if he complies with section 5 (1)(c) to (e) within six months after the coming into force of this Act;
- (c) any period which a pupil or clerk has served in an approved chambers under that Act shall be treated as an equivalent period of pupillage or clerkship under this Act;
- (d) where a clerk has sat for and passed any examination under that Act he shall be deemed to have sat for and passed the corresponding examination under this Act;
- (e) any rules made by the Chief Justice in relation to articulated clerks under the repealed Barristers and Attorneys Act and in force at the commencement of this Act shall, so far as they are not inconsistent with this Act, continue in force until amended or repealed by a statutory instrument made under this Act.

SCHEDULE

(Section 2)

Act 18 of 2013

Seychelles corporate and finance law includes -

- (a) International Business Companies Act, 1994;
- (b) Companies Act, 1972;
- (c) Companies (Special Licences) Act, 2003;
- (d) Limited Partnerships Act, 2003;
- (e) Protected Cell Companies Act, 2003;
- (f) International Trusts Act, 1994;
- (g) International Trade Zone Act;
- (h) The Mutual Fund and Hedge Act, 2008;
- (i) Securities Act, 2007;
- (j) Insurance Act, 2007;
- (k) Foundations Act, 2009;
- (l) Financial Institutions Act, 2004;
- (m) Anti-Money Laundering Act, 2006;
- (n) Proceeds of Crime (Civil Confiscation) Act, 2008;
- (o) Copyright Act;
- (p) revenue and taxation laws;
- (r) law relating to financing and/or investment projects and transactions;
- (s) other financial services law as may be prescribed by the Minister from time to time.

LAWS OF SEYCHELLES

CHAPTER 111

LEGAL PRACTITIONERS ACT

SUBSIDIARY LEGISLATION: SECTIONS 5 AND 22: LEGAL PRACTITIONERS (QUALIFICATIONS) REGULATIONS

(8th August, 1994)

1. These Regulations may be cited as the Legal Practitioners (Qualification) Regulations.
2. The President, after consultation with the Chief Justice and the Bar Association of Seychelles hereby -
 - (a) designates the countries, jurisdictions and institutions;
 - (b) prescribes the level of the degree in law; and
 - (c) prescribes the professional examination, specified in the Schedule for the purposes of section 5 of the Act in relation to the qualification for the admission of a person as an attorney.

Note: The President is the Minister responsible for the administration of the Legal Practitioners Act.

3. A person shall not be admitted as an attorney-at-law unless the person has -
 - (a) paid at the Registry of the Supreme Court a fee of R1000; and
 - (b) given security to the satisfaction of the Chief Justice for the amount of R50,000 in the form of –
 - (i) a bond of 2 persons acceptable to the Chief Justice;
 - (ii) a guarantee from a financial institution or insurance company which is licensed to carry on business in Seychelles; or
 - (iii) a first-line mortgage or charge on immovable property.

SCHEDULE

Part I: DESIGNATED COUNTRIES OR JURISDICTIONS FOR THE PURPOSES OF SECTION 5(1)(a)(i) (iii)

A Commonwealth country or a jurisdiction within a Commonwealth country.

Part II: PRESCRIBED LEVEL OF LAW DEGREE FOR THE PURPOSES OF SECTION 5(1)(a)(iv)

At least a Third Class Degree with honours

Part III :DESIGNATED INSTITUTIONS FOR THE PURPOSES OF SECTION 5(1)(a)(iv)

1. University of Mauritius
2. A University or Polytechnic of the United Kingdom whose law degree is acceptable to the Council of Legal Education of England or the Law Society of England.
3. A "Universite d'Etat" of France.

Part IV: PRESCRIBED PROFESSIONAL EXAMINATION

1. Professional examination set by the Examination Board established under section 20 of the Act.
2. Professional examination set by the Council of Legal Education of Mauritius.
3. Professional examination set by the Council of Legal Education of England.
4. Professional examination set by the Law Society of England.

SUBSIDIARY LEGISLATION: SECTIONS 22(2) AND 23(E): RULES FOR ARTICLED CLERKS

[23rd June, 1947]

G.N. 152/1947
SI 33 of 1951
SI. 88 of 1951
SI. 7 of 1977
SI. 115 of 1978
SI. 71 of 1979
SI. 38 of 1993
SI. 46 of 1995

Note: These Rules were made under the Barristers and Attorneys Act (Cap 83 (1971 Ed) but continue in force under section 23(e) of this Cap.

Articled clerk to be bound for six years.

1. Every articled clerk shall be duly bound by contract in writing to be bounded serve six years' actual clerkship, to someone attorney, or several six years attorneys, actually practicing in the Supreme Court.

Rules as to employment by attorney

2. No attorney shall have more than two clerks at one and the same time, who shall be bound by such contract in writing as aforesaid, to serve him as clerks. No attorney shall take, have or retain any clerk who shall be bound in writing as aforesaid, after such attorney shall have discontinued or left off practicing as, or carrying on the business of, an attorney, nor whilst such attorney shall be retained or employed is a clerk by any other attorney, and service by any clerk under articles to one attorney for and during any part of the time that such attorney shall be so employed as clerk by any other attorney shall not be deemed or accounted as good service under such articles.

Person bound to be actually and exclusively employed in the practice of an attorney

3. (1) Every person who now is, or hereafter shall be, bound by actually and contract in writing to serve as a clerk of any attorney shall, during the whole term of service specified in such contract, continue and be in the actually and exclusively employed for the whole of his service as such clerk by such attorney in the office of such attorney or, from time to time, in any court with the permission of such attorney in the proper business, practice or employment of an attorney save only and except in the cases mentioned elsewhere in these rules.

- (2) Every attorney shall furnish on or immediately before the first day of July in each year in

which an articulated clerk is serving under contract with him an account of the work performed and the duties carried out by that articulated clerk during the year immediately preceding that date and such account shall be verified by the affidavit of such attorney.

(3) Any articulated clerk who during the whole term of service specified in his contract with an attorney does not fulfill the terms of paragraph (1) of this rule, or who does any work which may be incompatible with his clerkship to an attorney, without first seeking the written approval of the Chief Justice, shall be liable to have his articles cancelled and shall not be permitted to be a candidate for any or all of the examinations set out in Rules 7, 8, 9 and 10 of these Rules :

The Chief Justice shall be the sole arbiter of what work is incompatible with articulated clerkship.

Power of Supreme Court where employer unable to fulfill contract

4. In case any attorney to whom any clerk shall be bound as aforesaid shall become incapable by imprisonment or otherwise of employer fulfilling his obligations under such contract, it shall be lawful for the Supreme Court, on the motion of such clerk, to order and direct that the said contract be discharged or assigned to such person on such terms and in such manner as the said court shall think fit.

When clerk may be bound to another attorney

5. If any attorney to whom any such clerk shall be so bound shall happen to die before the expiration of the term for which such clerk shall be so bound or shall discontinue or leave off practice as an attorney, or if such contract shall by mutual consent of the parties be cancelled, or in case such clerk shall be legally discharged as aforesaid by order of the Supreme Court, such clerk may, in any of the said cases, be bound by another contract in writing to serve as clerk to any other practicing attorney, during the residue of the said term, and service under such second or other contract, in manner herein before mentioned, shall be deemed and taken to be good and effectual.

Note: Rule 6 was omitted from the official 1996 revised edition of this Cap.

Certificate of preliminary examination to be produced

7. Any articles binding any person to serve as clerk to an attorney shall, within six months of the date thereof, be produced to the Registrar of the Supreme Court, who, on being satisfied of the due execution of the articles and that the articulated clerk has paid into the Treasury the sum of rupees seventy-five, shall enroll in a book the name and addresses of the parties to and the date of the articles and the date of entry.

In the event of the articulated clerk being subsequently admitted, to practice as an attorney in Seychelles the said sum of seventy-five rupees shall be treated as a payment on account of the sum of five hundred rupees payable upon his admission to practice as an attorney under section 10 of the Barristers' and Attorneys' Act, but the said sum of seventy-five rupees shall not in any event be returned to the articulated clerk.

The book in which such articles are enrolled, shall during office hours be open to inspection by any person without fee. If articles are not produced to the Registrar for enrolment within six months from the date thereof they may be subsequently produced and entered. But in that case the service of the clerk shall be reckoned to commence from the date of the production for entry, unless and until the Chief Justice shall otherwise direct. The provisions of this rule shall apply to the case of fresh articles under rule 5.

All attorneys' clerks shall, before or at the time of producing their articles of clerkship for enrolment by the Registrar, produce a certificate of having passed the Preliminary Examination in general knowledge or other equivalent examination.

Procedure for entrance, preliminary examination

8. (1) A candidate for the preliminary examination shall inform the Chief Justice in writing of the desire to sit for the preliminary examination.

(2) The preliminary examination shall be held on such day or days and at such place as may be specified by the Chief Justice in a notice published in the Gazette.

(3) The preliminary examination shall be a written examination on subjects which the examination board shall deem fit to test the competency of the candidate in general knowledge.

(4) The fee for the preliminary examination shall be rupees five hundred payable to the Registrar of the Supreme Court prior to the date or, as the case may be, the first date of the examination specified under sub rule (2).

Procedure for entrance, intermediate examination and subjects

9. (1) A candidate for the intermediate examination shall inform the Chief Justice in writing of the desire to sit for the intermediate examination.

(2) A candidate shall be qualified to sit the intermediate examination if the candidate has served as an articulated clerk or as the Registrar of the Supreme Court for a period of not less than two years.

(3) The intermediate examination shall be held on such day or days and at such place as may be specified by the Chief Justice in a notice published in the Gazette.

(4) The intermediate examination shall be partly a written examination and partly an oral examination and shall comprise the following subjects -

(a) Seychellois Charter of Fundamental Human Rights and Freedoms contained in Chapter III of the Constitution of the Republic of Seychelles;

(b) General principles of the law of Evidence as modified by the Evidence Act and the Evidence (Bankers' Books) Act;

(c) Articles 1 to 1386 of the Civil Code of Seychelles;

(d) Seychelles Code of Civil Procedure.

(5) The fee for the intermediate examination shall be rupees eight hundred payable to the Registrar of the Supreme Court prior to the date or, as the case may be, the first date of the examination specified under sub rule (3).

Procedure for entrance, final examination and subjects

10. (1) A candidate for the final examination shall inform the Chief Justice in writing of the desire to sit for the final examination.

(2) A candidate shall be qualified to sit the final examination if the candidate has served as an articulated clerk or as the Registrar of the Supreme Court for a period not less than four years and has, unless exempted by the Chief Justice, passed the intermediate examination.

(3) The final examination shall be held on such day or days and at such place as may be specified by the Chief Justice in a notice published in the Gazette.

(4) The final examination shall be partly a written examination and partly an oral examination and shall comprise the following subjects-

- (a) the Constitution of the Republic of Seychelles;
- (b) the Civil Code of Seychelles;
- (c) Commercial Code of Seychelles;
- (d) Seychelles Code of Civil Procedure and the provisions of the French Code of Procedure still in force in Seychelles;
- (e) Penal Code;
- (f) Criminal Procedure Code;
- (g) General principles of the law of evidence as modified by the Evidence Act and Evidence (Bankers' Books) Act;
- (h) Companies Act; Act 4 of 1972
- (i) Immovable Property (Judicial Sales) Act;
- (j) Civil Status Act;
- (k) Children Act;
- (l) Matrimonial Causes Act;
- (m) Immovable Property (Transfer Restriction) Act;
- (n) Land Registration Act;
- (o) Mortgage and Registration Act.

(5) Where a candidate at the final examination fails to satisfy the examination board in only one of the subjects specified in sub-rule (4), the candidate may be separately examined orally or in writing on that subject and if the candidate satisfies the examination board at that subsequent examination the examination board may pass the candidate without having been called to sit the whole examination.

(6) The fee for the final examination shall be rupees one thousand payable to the Registrar of the Supreme Court prior to the date or, as the case may be, the first date of the examination specified under sub-rule (3).

Record of successful candidates

11. A record of successful candidates shall be kept by the Registrar of the Supreme Court, showing their names and addresses and the dates at which they passed the respective examinations.

Each successful candidate shall be given a certificate of having passed the examination in which he has been successful and such certificate shall be signed by the Chief Justice.

SUBSIDIARY LEGISLATION: LEGAL PRACTITIONERS (DISCIPLINARY MEASURES AND REINSTATEMENT) RULES

(6th March, 1995)

SI. 18 of 1995
SI. 3 of 2004

1. These Rules may be cited as the Legal Practitioners (Disciplinary measures and Reinstatement) Rules.

2. (1) The Chief Justice may, before commencing proceedings against a person for suspension from practice or removal from the roll of attorneys-at-law or the register of persons allowed to practise under section 12, or taking disciplinary measures in the case of a pupil or clerk, on any complaint in writing made by any person or information received otherwise, refer the matter to the Bar Association of Seychelles for their comments.

(2) Having considered the comments of the Bar Association of Seychelles on the matter referred to them under sub rule (1), or after the lapse of 2 months if no such comments have been received, the Chief Justice may commence such proceedings or take such measures as are referred to in sub rule (1).

3. (1) The Chief Justice shall cause to be served on the attorney-at-law in respect of which proceedings are sought to be taken under rule 2 a statement containing the substance of the allegation made against the attorney-at-law together with a list of all documents relating to the allegation and a copy of any such documents which the Chief Justice is of the view is necessary to the attorney-at-law in the preparation of any defence to the allegation.

(2) An attorney-at-law referred to in subrule (1) may, on application made to the Registrar, inspect at any time before the date set for hearing the application any document referred to sub rule (1), other than a document served on the attorney-at-law under that sub rule.

4. (1) An attorney-at-law who has been served under rule 3 shall within 21 days of such service lodge with the Registrar of the Supreme Court -

(a) a statement in writing dealing with each of the allegations made against the attorney-at-law;

(b) a list of documents in support of the statement;

(c) a copy of each document listed under paragraph (b);

(d) an affidavit in support of the statement under paragraph (a).

(2) The Registrar shall -

(a) where documents under sub rule (1) have been lodged with the Registrar within the period of 21 days referred to in the sub rule, forthwith transmit the documents to the Chief Justice;

(b) where the Registrar has not received any documents after the period of 21 days referred to in sub rule (1), within 7 days after the period of 21 days has elapsed notify the Chief Justice accordingly.

5. (1) An attorney-at-law who has been served under rule 3 may once at any time within 7 days after such service apply to the Supreme Court for further particulars of the allegations made against the attorney-at-law.

(2) The Chief Justice shall, within 7 days after receiving an application under sub rule (1), cause the Registrar to furnish such further particulars as appear to the Chief Justice to be necessary.

6. (1) The Chief Justice shall as soon as practicable after receiving the documents or being notified under rule 4 set a date which shall be not less than 14 days after receiving the documents or, as the case may be, after the period of 21 days referred to in rule 4(1) for the hearing of the complaint and shall cause the attorney-at-law who is the subject of the complaint to be notified of the date of the hearing.

(2) The complaint may be heard by the Chief Justice or another judge of the Supreme Court and shall be in public.

7. (1) An application under section 11 by a person who has been suspended from practice as an attorney-at-law or removed from the roll of attorneys-at-law for the removal of the suspension or for reinstatement shall be made in writing, state the grounds on which the application is made and be accompanied by such document as is necessary to support the application.

(2) The Registrar shall forthwith upon receiving an application under sub rule (1) refer the application to the Chief Justice who may, after considering it, require the applicant to submit, within such time as the Chief Justice may specify, any further particulars or document which the Chief Justice believes is necessary to properly dispose of the application.

(3) The Chief Justice shall cause a copy of the application and any relevant document to be served on the Attorney-General or, where the Chief Justice is of the opinion that the Bar Association of Seychelles should be made a party to the proceedings in respect of the application, on the Bar Association of Seychelles.

(4) The Attorney-General and, where the Bar Association of Seychelles has been served under sub rule 3, the Bar Association of Seychelles may within 21 days of being served under sub rule (3) file a statement objecting or supporting or otherwise the application under sub rule (1).

8. (1) The Chief Justice shall as soon as practicable after receiving a statement under rule 7(4) or, where no statement has been received after the period of 21 day specified under rule 7(4), after that period of 21 days set a date which shall be not less than 7 days after receiving a statement under rule 7(4) or, as the case may be, after the period of 21 days referred to in rule 7(4) has elapsed for hearing the application and shall cause the applicant to be notified of the date of the hearing.

(2) An application under rule 7(1) may be heard by the Chief Justice or another judge of the Supreme Court and shall be in public.

9. Where the Chief Justice has fixed a date for hearing under rule 6 or rule 8 and an attorney-at-law or applicant, as the case may be, fails to appear on that date, the Supreme Court may, where it is satisfied that the attorney-at-law or applicant has been notified of the date of the hearing, dispose of the complaint or application in the absence of the attorney-at-law or applicant.

**SUBSIDIARY LEGISLATION: LEGAL PRACTITIONERS (PROFESSIONAL CONDUCT)
RULES, 2013**

[29th July 2013]

SI 59 of 2013

Citation

1. These Rules may be cited as the Legal Practitioners (Professional Conduct) Rules, 2013.

Interpretation

2. In these Rules-

“Act” means the Legal Practitioners Act;

“court” means all courts and tribunals established by law for the administration of justice in Seychelles;

“legal practitioner” means-

(a) an attorney-at-law practising in Seychelles;

(b) a person permitted to appear and practise in courts or tribunals or other institutions established by law for the administration of justice pursuant to sections 12 and 13 of the Act;

(c) a pupil; and

(d) a person authorised under section 13A of the Act.

Application

3. These Rules apply to all legal practitioners.

Overriding duty to uphold the rule of law

4. (1) A legal practitioner has an overriding duty as an officer of the court, to uphold the rule of law and facilitate the administration of justice.

(2) A legal practitioner shall act honestly, fairly, diligently and competently in providing legal services to his or her clients.

(3) A legal practitioner shall not engage in or assist or encourage a client to engage in conduct which is-

- (a) in breach of any written law; .
- (b) an abuse of the process of the court;
- (c) intended to harass or embarrass another person; or
- (d) prejudicial to the administration of justice.

Relationship with clients

5. (1) A legal practitioner shall not use the legal practitioner and client relationship to his or her own personal advantage.

(2) A legal practitioner shall not exploit the inexperience, lack of understanding, illiteracy or other personal shortcomings of a client for his or her own benefit or the benefit of any other person.

(3) A legal practitioner shall conduct all business on behalf of clients with due diligence and not unreasonably delay in replying to correspondence or carrying out instructions received from his or her clients.

(4) A legal practitioner shall at all times seek to advance and protect his or her clients' interests to the best of his or her professional ability, independent of any external influence.

(5) A legal practitioner shall not knowingly or recklessly encourage a client to adopt a course of action which is, in the opinion of the Supreme Court, contrary to the best interests of the client.

Relationship with other legal practitioners and members of the public

6. (1) A legal practitioner shall act with honesty, fairness and courtesy towards other legal practitioners, and shall take all reasonable care to maintain the integrity and reputation of the legal profession.

(2) A legal practitioner shall-

(a) honour all professional undertakings, whether written or oral, given to another legal practitioner or to any other person in the course of his or her practice; and

(b) not undertake any professional engagements where he or she has no authority or means of fulfilling the professional engagements.

(3) A legal practitioner shall conduct his or her practice and his or her dealings with members of the public according to the same principles of honesty, fairness and courtesy and consistently with the public interest.

(4) A legal practitioner shall not deal directly with a person who is represented by another legal practitioner for the purposes of the matter in which he or she is acting except-

(a) to find out whether the person is represented;

(b) with the consent of the other legal practitioner; or

(c) where the legal practitioner reasonably believes that the circumstances are too urgent for consent to be sought from the other legal practitioner and it will not be

unfair to the person.

(5) All written communications by a legal practitioner shall state the name, and provide full contact details, of the legal practitioner.

(6) A legal practitioner shall not engage in a trade or profession, solely or jointly with any other person, which is unbecoming of the dignity of the legal profession.

Accepting instructions

7. (1) A legal practitioner shall not-

(a) act for any person unless he or she has received instructions from that person or his or her duly authorised agent;

(b) accept instructions to act for any person in any matter in which he or she is aware that the person's interest in the matter is or is likely to be in conflict with his or her own interest or the interest of a close personal or professional associate;

(c) accept instructions from any person in respect- of a matter involving a former client if the legal practitioner as a result of acting for the former client is aware of any facts material to the matter which may be prejudicial to that former client.

(2) Where a legal practitioner knows or has reason to believe that another legal practitioner has been instructed by a client to act in a matter, the legal practitioner may only accept instructions to act for the client in that matter if-

(a) the other legal practitioner consents;

(b) the other legal practitioner has refused to act further for the client; or

(c) the client has withdrawn instructions from the other legal practitioner.

(3) A legal practitioner shall not accept instructions to act for more than one party to any matter unless each party is aware that he or she intends to act for the other and consents to him or her so acting in the knowledge that he or she may—

(a) be prevented from keeping all clients fully informed;

(b) be prevented from giving advice which he or she would otherwise give; and

(c) become obliged to act in a manner contrary to the interests of one or more party, in which case the legal practitioner shall cease to act for all parties.

Personal responsibility for appearing and acting on behalf of clients

8. (1) In contentious matters, a legal practitioner shall appear in court personally or brief a partner or another legal practitioner employed by his or her chambers to appear on behalf of his or her client.

(2) (a) Subject to paragraph (b), where it is not possible for the legal practitioner to appear personally or to brief a partner or another legal practitioner employed by his or her chambers, he or she shall brief another legal practitioner acceptable to the client to appear on behalf of his or her

client.

(b) Where the legal practitioner considers a particular appearance in circumstances described in paragraph (a) to be of minor decisive value to the final outcome of the matter, he or she shall not be required to obtain the client's consent to such other legal practitioner.

(3) (a) A legal practitioner shall ensure that he or she is able to competently appear at all court hearings scheduled on any particular day.

(b) A legal practitioner who becomes aware of any overlap between court hearings scheduled on any particular day shall ensure that each legal practitioner who is briefed to appear on his or her behalf is sufficiently briefed to do so.

(4) A legal practitioner shall be personally responsible for all work undertaken on behalf of a client and shall supervise or make arrangements for supervision by a partner or another legal practitioner employed by his or her chambers of all work undertaken by non-legal supporting staff.

Keeping clients informed

9. (1) A legal practitioner shall inform a client of-

(a) the client's legal rights and obligations and possible courses of conduct regarding all issues of substantial importance in each matter in which the legal practitioner is instructed; and

(b) all significant developments in that matter.

(2) A legal practitioner shall make full and prompt disclosure to a client of any personal interest that he or she has or may have in any matter in which he or she is acting on behalf of the client.

(3) A legal practitioner shall make full and prompt written disclosure to a client of the amount and nature of all payments made to the legal practitioner on behalf of the client and of any and all deductions made by the legal practitioner from those receipts.

(4) A legal practitioner shall, at all times, communicate promptly and clearly with clients about fees and disbursements, and shall explain the basis for calculating his or her fees as soon as possible after accepting instructions.

Client confidentiality

10. (1) A legal practitioner shall, at all times, respect the confidentiality of the legal practitioner and client relationship.

(2) The obligation of confidentiality shall continue after the end of the term of legal service.

(3) A legal practitioner shall not in any circumstance make use of any information received by him or her, or which came to his or her knowledge in confidence, in the course of acting on behalf of a client.

(4) Notwithstanding sub-rule 3, a legal practitioner may disclose information received by him or her, or which came to his or her knowledge in confidence, in the course of acting on behalf of a

client where-

- (a) the client consents to the disclosure in advance;
- (b) the legal practitioner reasonably believes that the information is no longer confidential to the client;
- (c) disclosure is expressly required or authorised by law;
- (d) disclosure is to the Supreme Court, for the purposes of reporting suspected professional misconduct by another legal practitioner, and the client is informed before the disclosure is made; or
- (e) the legal practitioner reasonably believes that disclosure is necessary to prevent a serious risk to the health or safety of any person.

Avoiding conflicts of interest

11. (1) A legal practitioner has a continuing responsibility to avoid conflicts of interest with or between his or her clients and shall ensure that all potential conflicts of interest are promptly identified, disclosed and addressed.

(2) A legal practitioner shall not acquire any interest, either directly or indirectly through another person, in any matter in which he or she is instructed.

(3) In any dealings with a client, a legal practitioner shall not allow his or her own interest or an interest of his or her close personal or professional associate to conflict with the client's interest.

(4) A legal practitioner shall not enter into an intimate personal relationship with a client where this would be inconsistent with the trust and confidence placed in him or her by the client.

(5) (a) Subject to paragraph (b), a legal practitioner shall not appear, or shall cease to appear, before any court in any matter in which he or she has reason to believe that he or she will be required as a witness to give evidence, whether verbally or by affidavit.

(b) A legal practitioner shall not be prevented from giving evidence on a formal or non-contentious point.

(6) A legal practitioner shall not advance any money to a client other than disbursements connected with a matter in which he or she is instructed.

(7) Where a legal practitioner or the chambers acting for more than one party to any matter determines that he or she or the chambers cannot continue to act for all parties without acting in a manner that is contrary to the interests of one or more of them, the legal practitioner or the chambers shall cease to act for all parties unless all parties consent to the legal practitioner or the chambers continuing to act for one party.

Dealing with client money and other property

12. (1) A legal practitioner shall promptly release all money, securities or other property received from or on behalf of a client except where-

- (a) the money, securities, or other property is held in accordance with the client's

express instructions; or

(b) the legal practitioner withholds any amount owing under a taxed bill of costs or an authenticated fee agreement.

(2) A legal practitioner shall not use money, securities, or other property held on behalf of a client for his or her own benefit or the benefit of any other person, or for any purpose other than the purpose for which the property was entrusted to him or her.

Prohibition on excessive or unfair charging

13. (1) A legal practitioner shall not charge fees and disbursements which are excessive or enter into a contingency or other costs agreement the terms of which are excessive or unfair.

(2) Without prejudice to the generality of sub-rule (1), a legal practitioner shall comply with the provisions of the Court Fees (Supreme Court) and Costs Act or other applicable statutory instrument for the time being in force.

(3) For the purposes of determining whether any fees and disbursements charged or the terms of any costs agreement are excessive or unfair, the following shall be taken into consideration -

(a) the maximum amount recoverable under the Court Fees (Supreme Court) and Costs Act or other applicable statutory instrument;

(b) the nature, jurisdiction, complexity and urgency of the matter;

(c) the amount involved;

(d) the terms of any costs agreement and the information given by the legal practitioner to the client in this regard; and

(e) the experience and reputation of the relevant legal practitioner or chambers.

Conduct of litigation

14. (1) The overriding duty of a legal practitioner when conducting litigation is to the court.

(2) Subject to sub-rule (1), a legal practitioner when conducting litigation shall, at all times, act in the best interests of his or her client.

(3) A legal practitioner shall not mislead or deceive the court.

(4) A legal practitioner shall conduct litigation with diligence and not disregard time limits imposed by the court or seek or consent to any adjournment without proper cause.

(5) A legal practitioner when conducting litigation shall ensure that the court is informed of all relevant decisions and legislative provisions of which he or she is aware whether the effect is favourable or unfavourable to his or her client's case.

Duty to maintain independence in litigation

15. (1) A legal practitioner shall not discuss any case or matter before the court with any judicial officer involved in the proceeding, formally or informally, except in accordance with the law and

generally accepted procedure.

(2) In cases tried by jury, a legal practitioner shall not have any contact with jurors before or after verdict where it is likely to bring the administration of justice into disrepute.

(3) A legal practitioner shall not have contact with any witness, whether or not the witness is his or her client, under cross-examination or re-examination, including during adjournments.

(4) A legal practitioner shall not intimidate a witness who he or she knows has been or is likely to be called by another party or cause or encourage such a witness to be intimidated or induced from departing from the truth or abstaining from giving evidence.

Duty to inform client about alternatives to litigation

16. (1) At the commencement of, and during, litigation a legal practitioner shall inform his or her client of-

(a) available alternatives to pursuing litigation;

(b) any law, procedure or practice which has the prospect of a substantive advantage if the client-

(i) pleads guilty; or

(ii) takes any steps to reduce the issues, time, costs or distress involved in a proceeding.

(2) A legal practitioner shall not enter into any arrangement with a public prosecutor for the purposes of securing either the acquittal of the legal practitioner's client, charging the client with an offence which carries a less severe penalty or varying the evidence to be adduced by or for the prosecution except in accordance with the law.

Duty to prevent abuses of court process

17. (1) A legal practitioner when conducting litigation shall ensure, to the best of his or her ability, that discovery obligations are fully complied with and that the rules of privilege are adhered to.

(2) A legal practitioner shall not devise facts which will assist in advancing a client's case or file or serve any document containing-

(a) any statement of fact which is not supported by the client's instructions; or

(b) any contention which the legal practitioner does not consider to be properly arguable.

(3) A legal practitioner shall not make any allegation against a person's reputation or allow any document to be filed or served which alleges, criminality, fraud, or other serious misconduct unless the legal practitioner believes on reasonable grounds that factual material already available to the legal practitioner provides a prima facie case for that allegation.

(4) A legal practitioner shall not coach or permit any potential witness to be coached and shall not call a witness to give evidence where he or she knows or has a reasonable suspicion that the

witness has been coached.

(5) If a procedural irregularity or material point of law comes to the attention of a legal practitioner during or after the hearing of a case but before verdict or judgment has been given, the legal practitioner shall inform the court of that irregularity or point of law without delay.

(6) A legal practitioner who becomes aware that his or her client or client's agent is abusing or intends to abuse the process of the court shall immediately raise the matter with his or her client and seek instructions to ensure that the court and opposing parties are not misled.

(7) A legal practitioner shall cease to act in circumstances where he or she knows that a serious abuse of court process has occurred, but is prevented by obligations of confidentiality or the rules of privilege from bringing that abuse to the attention of the court.

Withdrawal from litigation

18. (1) Where a legal practitioner intends to withdraw from litigation, the legal practitioner shall give his or her client, the court and all other parties reasonable advance notice of that intention.

(2) A legal practitioner may only withdraw from litigation where-

(a) his or her instructions have been withdrawn; or

(b) he or she is permitted by the court to withdraw.

(3) A legal practitioner may seek the court's permission to withdraw from litigation, without disclosing the specific circumstances giving rise to the request, where-

(a) the client has instructed the legal practitioner to act in a manner that is or is likely to be contrary to these Rules or the Act;

(b) the client has abused or intends to abuse the process of the court, the legal practitioner has advised the client against that course, and the client has declined to act on the legal practitioner's advice; or

(c) the relationship of trust and confidence between the client and legal practitioner has irretrievably broken down.

(4) A legal practitioner may seek the court's permission to withdraw from litigation, in writing setting out the circumstances giving rise to the request, where-

(a) the client has unjustifiably disregarded an agreement or obligation as to the payment of the legal practitioner's costs; or

(b) there are other substantial grounds for withdrawal due to personal circumstances of the legal practitioner beyond his or her control.

Termination of legal services

19. (1) A legal practitioner shall not terminate the legal services for which he or she was engaged except where-

(a) the legal practitioner and client agree;

(b) the client withdraws instructions from the legal practitioner; or

(c) there is a just cause for termination and on reasonable advance notice to the client.

(2) All documents prepared or received by a legal practitioner for the purposes of a client's matter, and intended for the use or information of the client, shall be retained securely and confidentially by the legal practitioner during the term of legal service and for at least seven years after the end of legal service, or until released to the client or otherwise dealt with in accordance with the client's instructions.

(3) At the end of legal service, if the client so requests, the legal practitioner shall promptly release all documents referred to in sub-rule (2) to the client or the client's agent, except where the legal practitioner has terminated the engagement and claims a lien over documents for costs due from the client.

(4) A legal practitioner shall promptly return any sum paid by or on behalf of a client as a retainer if the amount paid exceeds the value of the fees and disbursements recoverable from the client.

Public conduct and advertising

20. (1) A legal practitioner shall have due regard to the importance of maintaining public confidence in the administration of justice in all aspects of his or her public conduct, both personal and professional.

(2) A legal practitioner shall not make any comment to news media which-

(a) expresses a personal opinion on the merits of any current or anticipated matter in which the legal practitioner has been instructed, other than in an academic or educational context; or

(b) is calculated or may reasonably be expected to diminish public confidence in the administration of justice or to bring any legal practitioner, any judicial officer, or the legal system into disrepute.

(3) A legal practitioner shall not advertise in connection with his or her practice if the advertisement is -

(a) inaccurate;

(b) misleading or likely to mislead;

(c) defamatory of another legal practitioner;

(d) incompatible with the legal practitioner's obligations of confidentiality; or

(e) likely to diminish public confidence in the legal profession or the administration of justice.

Breach of Rules

21. Any breach of these Rules shall constitute professional misconduct for the purposes of section 10 of the Act and the Legal Practitioners (Disciplinary measures and Reinstatement) Rules.

Reporting misconduct

22. (1) A legal practitioner who has reasonable grounds to believe that another legal practitioner has committed professional misconduct shall make a confidential report to the Supreme Court at the earliest opportunity, subject only to the legal practitioner's duty to protect privileged communications.

(2) A legal practitioner shall not use or threaten to use the reporting or disciplinary process for any improper purpose.

SUBSIDIARY LEGISLATION: SECTION 22(C) AND (D): LEGAL PRACTITIONERS (EXAMINATION FOR ADMISSION OF ATTORNEYS-AT-LAW) REGULATIONS, 2013

[21st October, 2013]

SI 70 of 2013

Citation

1. These Regulations may be cited as the Legal Practitioners (Examination for admission of Attorneys-at-law) Regulations, 2013.

Fees and mode of conducting examination

2. The examinations for admission for Attorneys-at-Law shall be held on such dates, times, place and fees as may be determined by the examination board by notice in the Official Gazette and a local newspaper at least one month prior to the holding of the examinations.

Course content

3. The course content of the examination for admission of Attorneys-at-law shall be as follows –

Paper 1	Civil Code of Seychelles and all laws to be read as part thereof
Paper 2	Seychelles Code of Civil Procedure
Paper 3	(1) Immovable Property (Judicial Sales) Act (2) The Immovable Property (Transfer Restriction) Act (3) The Land Registration Act (4) The Mortgage and Registrations Act
Paper 4	(i) Penal Code (ii) Criminal Procedure Code
Paper 5	General Principles of Law of Evidence
Paper 6	Commercial Code Company Law

Paper 7	(i) Civil Status Act (ii) Children Act (iii) Matrimonial Causes Act
Paper 8	Constitutional and Administrative Law
