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LEGAL PRACTITIONERS

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CHAPTER 16

LEGAL PRACTITIONERS

AN ACT TO REGULATE THE LEGAL PROFESSION AND TO MAKE PROVISIONS IN RESPECT OF
LEGAL PRACTITIONERS

14 of 1987

[11th September 1987]

PART I

PRELIMINARY

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

Short title

2. In this Act, unless the context otherwise requires-

Interpretation

"court" means the High Court;

"committee" means a disciplinary committee appointed by the Chief Justice under section 8;

"legal practitioner" means a person who in terms of this Act has been admitted as a legal practitioner of the court or is entitled to practise as a legal practitioner in

pursuance of section 4, and includes a person provisionally admitted but does not include a person whose name has been removed from the roll;

"practising certificate" means a certificate issued by the Chief Justice under section 5;

"Registrar" means the Registrar of the High Court;

"roll" means the roll of legal practitioners kept by the Registrar in accordance with the provisions of section 6;

"rules" means the rules made by the Chief Justice under section 21; and

"unqualified person" means a person who is not admitted to practise as a legal practitioner pursuant to this Act, and includes a body corporate, company, or partnership whose principal business activities or objects do not constitute the practice of law for fee, gain or reward.

3. A person who desires to be admitted or provisionally admitted, as the case may be, shall-

Application for certificate of qualification

(a) apply in writing to the Chief Justice for a certificate that he is a fit and proper person to be admitted or provisionally admitted;

(b) set out his qualifications for admission or provisional admission; and

(c) pay the prescribed fee.

4. The provisions of section 3 shall not apply to the Attorney General, the Director of Public Prosecutions, the Public Solicitor or any appointment or office in the service of the Government for which a legal qualification is required. The holding of such office shall in itself constitute admission of such person to practise in the court.

Exemptions

5. (1) The Chief Justice upon being satisfied that the applicant-

Powers of Chief Justice to admit legal practitioners

(a) is qualified for admission or provisional admission, as the case may be;

(b) is a fit and proper person to be admitted or provisionally admitted, as the case may be;

(c) has complied with the rules relating to the admission of legal practitioners;
and

(d) has paid the prescribed fee to the Registrar,

may issue a practising certificate.

(2) Every legal practitioner so admitted, shall be an officer of court and shall be subject to the jurisdiction thereof, in accordance with the provisions of this Act and the rules.

PART II

ADMISSION OF LEGAL PRACTITIONERS

6. (1) The Registrar shall keep a roll of all legal practitioners admitted by the court under section 5 and have custody of the roll and all documents relating thereto.

Roll of legal practitioners

(2) The Registrar, upon production of a certificate signed by the Chief Justice, and on payment of the prescribed fee, shall enter on the roll the name of the person admitted.

(3) The Chief Justice may, if he thinks fit, at any time order the Registrar to replace on the roll the name of a legal practitioner whose name has been removed or struck off the roll.

7. Subject to the provisions of section 4, no person shall be qualified to act as a legal practitioner unless-

Qualifications for
practising as legal
practitioner

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

(b) he is not suspended from practice; and

(c) he has in force a current practising certificate.

PART III

DISCIPLINE

8. (1) Where it appears necessary or desirable, the Chief Justice may appoint a disciplinary committee to investigate any complaint or the conduct of any legal practitioner.

Appointment of disciplinary committee

(2) The committee appointed pursuant to subsection (1) shall consist of-

(a) the Attorney General, who shall be the chairman of the committee; and

(b) two other members appointed from among the members of the legal profession.

9. (1) The committee shall have power to inquire into and investigate the conduct of any legal practitioner in respect of which it was appointed.

Powers of the committee

(2) Subject to the provisions of this Act, upon the hearing of any complaint or the investigation of any conduct, the committee shall have power to make such order as it thinks fit and any such order may, in particular, include provision for all or any of the following matters-

(a) striking off from the roll the name of the legal practitioner to whom the complaint or investigation relates;

(b) suspending that legal practitioner from practice for such period as the committee shall think fit;

(c) ordering the legal practitioner to pay to general revenue a penalty as the committee thinks fit;

(d) censuring the legal practitioner; or

(e) ordering the legal practitioner to pay costs and expenses of and incidental to the inquiry.

10. For the purposes of conducting any inquiry or investigation, a committee shall have all such powers as are vested in the court in the course of any action or suit in respect of the following matters-

Ancillary powers of committee

(a) enforcing the attendance of witnesses, examining them upon oath or otherwise;

- (b) compelling the production of documents;
- (c) punishing persons guilty of contempt;
- (d) ordering the inspection of any property; and
- (e) conducting the examination of witnesses.

11. No order shall be made by the committee under the provisions of section 9, either striking the name of a legal practitioner off the roll or suspending him from practice except upon the following grounds-

Orders for striking off the roll or suspension from practice

(a) that he has been convicted of a crime involving dishonesty; or

(b) that in the opinion of the committee he has been guilty of misconduct in his professional capacity or of conduct unbecoming of a legal practitioner, and by reason thereof is not a fit and proper person to practise as a legal practitioner.

12. An appeal against any order made by the committee shall lie in the High Court, and on any such appeal the court may make such order as it thinks proper having regard to the merits of the case and the public welfare.

Right of appeal

13. The Chief Justice may from time to time make rules in respect of the making, hearing and determination of inquiries or investigations under this Part.

Rules of procedure

PART IV

UNQUALIFIED PRACTICES AND OFFENCES

14. (1) No unqualified person shall act as a legal practitioner or as such sue out any writ or process or commence, carry on or defend any action, suit or other proceeding, in the name of any other person, in any court of civil or criminal jurisdiction or act as a legal practitioner in any cause or matter, civil or criminal, to be heard or determined before any court.

Unqualified person not to act as legal practitioner

(2) Notwithstanding the provisions of subsection (1), a court may-

(a) where the parties in a civil proceeding are unrepresented, and have the same interest; and

(b) if of the opinion that it is desirable in the interest of justice,

authorise the parties to appoint one or more persons from among the parties to assist in the proceedings for the benefit of, or on behalf of, all the parties concerned:

Provided that such representation or assistance shall not be for or, in expectation of fee, gain or reward either directly or indirectly.

(3) Any person who contravenes the provisions of this section shall-

(a) be guilty of contempt of court in which the action, suit, cause, matter or proceeding in relation to which he so acts is brought or taken and may be punished accordingly;

(b) be incapable of maintaining any action for any costs in respect of anything done by him in the course of so acting; and

(c) be guilty of an offence and shall be liable on summary conviction to a fine of two thousand dollars or to imprisonment for two years.

15. Any unqualified person who wilfully pretends to be or takes or uses any name, title, addition or description implying that he is qualified or recognised by law as qualified to act as a legal practitioner shall be guilty of an offence and shall be liable on summary conviction to a fine of two thousands dollars.

Penalty for pretending to be a legal practitioner

16. (1) A person other than-

Conveyancing by unqualified persons prohibited

(a) a legal practitioner; or

(b) a person solely employed to engross a deed, instrument or other proceeding; or

(c) a public officer drawing or preparing official instruments applicable to his respective office and in the course of his duty; or

(d) a person in the full time employment of a corporate body who is acting in the course of his duty for and on behalf of such corporate body; or

(e) any other person exempted by order made under this Act,

shall not, for or in expectation of a fee, gain or reward, directly or indirectly draw or prepare a conveyance or other deed or instrument in writing relating to movable or immovable property or to proceedings in law or equity.

(2) An order made under this section may-

(a) add to the category of persons listed in subsection (1); and

(b) prescribe the extent and scope to which such person may be exempted from the provisions of subsection (1).

(3) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars or to a term of imprisonment not exceeding one year.

17. Any unqualified person, who, either directly or as an agent of any person takes instructions for or draws or prepares any paper on which to find or oppose a grant of probate or of letters of administration shall, unless the act was not done for or in expectation of any fee, gain or reward, be guilty of an offence and, without prejudice to any other liability or disability to which he may be subject under this Act or any other Act, be liable on summary conviction to a fine of one thousand dollars or to a term of imprisonment not exceeding one year:

Unqualified person not to act in preparation of papers for probate, etc.

Provided that this section shall not apply to any public officer drawing or preparing any such papers in the course of his duty.

18. (1) A legal practitioner shall not-

Legal practitioner not to permit unqualified persons to act in his name etc.

(a) wilfully and knowingly act in any legal proceedings as agent for a person who is not a legal practitioner; or

(b) permit his name to be used in connection with legal proceedings conducted by a person who is not a legal practitioner; or

(c) permit his name to be used or be employed by a person who is not a legal practitioner in order to enable that person to undertake business matters that

must according to law be conducted by a legal practitioner; or

(d) carry on the profession of a legal practitioner in partnership with a person who is not a legal practitioner; or

(e) do any other act enabling any unqualified person to appear, act or practise in any respect as a legal practitioner in any action or matter.

(2) Where it appears to the committee or to the court that a legal practitioner has acted in contravention of this section, the committee or the court shall order his name to be struck off the roll.

(3) Where the court orders the name of a legal practitioner to be struck off the roll in respect of an offence under this section, it may further order that the unqualified person who was enabled by the conduct of the offender to act or practise as a legal practitioner to be imprisoned for any period not exceeding one year.

19. No costs in respect of anything done by an unqualified person acting as a legal practitioner shall be recoverable in any action, suit or matter.

No costs for unqualified person

20. If any act is done by a body corporate, or by any director, officer or servant thereof, of such a nature or in such a manner as to be calculated to imply that the body corporate is qualified or recognised by law as qualified to act as a legal practitioner, the body corporate shall be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars, and, in the case of an act done by a director, officer or servant of the body corporate, such person shall also be guilty of an offence and shall be liable on summary conviction to a fine of two thousand dollars.

Application of penal provisions to body corporate

PART V

MISCELLANEOUS

21. (1) It shall be lawful for the Chief Justice in consultation with the Rules Committee, to make rules for carrying this Act into effect, and, without prejudice to the generality of the foregoing, to make rules for all or any of the following matters-

Rules

(a) for regulating the admission of legal practitioners to practise, their professional practice, conduct, etiquette and discipline;

(b) for regulating the remuneration of legal practitioners;

(c) for regulating the conduct of clerks, employees and agents of legal practitioners in connection with the practice of the law;

(d) prescribing the procedure in respect of complaints and disciplinary proceedings against legal practitioners;

(e) as to the opening and keeping by legal practitioners of accounts for clients' moneys;

(f) as to the keeping by legal practitioners of accounts containing particulars and information as to moneys received, held or paid by them for or on account of their clients;

(g) providing for the auditing at regular intervals or otherwise of the foregoing accounts by approved auditors, and for a report or certificate of the result of every such audit;

(h) requiring the production to such auditors of books, papers and accounts;

(i) prescribing a scale of fees to be paid to auditors;

(j) prescribing the procedure for removal of the name of a legal practitioner from the roll on the application of such legal practitioner;

(k) prescribing the form of practising certificates; and

(l) prescribing anything which is required or permitted to be prescribed by rules under this Act.

(2) The Chief Justice in making rules under subsection (1) may provide that any breach or non-compliance of any of such rules shall be an offence under the provisions of this Act punishable with a fine not exceeding four hundred dollars, and that such breach or non-compliance shall constitute professional misconduct.

(3) The Chief Justice may by notice in the Gazette specify lists of approved auditors for the purpose of auditing legal practitioners' accounts.

(4) Rules made under the powers contained in paragraphs (a) and (b) of subsection (1) shall not come into operation unless approved by Parliament either before or after being made.

(5) In this section "Rules Committee" means the Rules Committee appointed under section 90 of the Constitution.

22. The Pacific (Barristers and Solicitors) Order in Council 1913 as amended from time to time and in force on the date of commencement of this Act and not inconsistent with the provisions of this Act, shall continue in force until such time as these orders are revoked or replaced by rules made under this Act.

Transitional provisions

CHAPTER 16

LEGAL PRACTITIONERS

Subsidiary Legislation

THE LEGAL PRACTITIONERS (PROFESSIONAL CONDUCT) RULES

LN 98/1995

(Section 21)

[15th September 1995]

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

Citation

2. In these Rules, unless the contrary intention otherwise appears-

Interpretation

"Act" means the Legal Practitioners Act;

"Bar Association" means the Solomon Islands Bar Association;

"client" means any person from whom a legal practitioner accepts instructions;

"Committee" means a disciplinary committee appointed by the Chief Justice under section 8 of the Act;

"Court" means the High Court;

"legal practitioner" has the meaning assigned to it under the Act and includes a

"lawyer";

"Rules" means these Rules and any schedules hereto.

3. Where a legal practitioner is in doubt in any matter of professional conduct, he may apply in writing to the Bar Association who may advise him on the matter.

Legal practitioner may seek advice on conduct from the Bar Association

4. It is the duty of a legal practitioner-

Duty of every legal practitioner

(a) not to engage in conduct (whether in pursuit of his profession or otherwise) which-

(i) is illegal;

(ii) is dishonest;

(iii) is unprofessional;

(iv) is prejudicial to the administration of justice;

(v) may otherwise bring the legal profession into disrepute;

(b) to observe the ethics and etiquette of the legal profession;

(c) to be competent in all his professional activities; and

(d) to respond within a reasonable time and in any event within twenty-one (21) days (or such extended time as the Committee may allow) to any requirement of the Committee for comments or information on a complaint and in doing so he shall furnish in writing a full and accurate account of his conduct-

(i) in relation to the matter the subject of the complaint; or

(ii) in relation to any other matter the subject of an investigation or inquiry by the Committee;

(e) to respond within the time and in the manner required by the Committee to any requirement of the Committee for comments or information on a complaint; and

(f) to comply with the Act and these Rules and other rules of practice which are

applicable in Solomon Islands.

5. (1) A legal practitioner shall not-

Maintaining professional integrity

(a) attempt to further his client's case by unfair or dishonest means; or

(b) knowingly-

(i) assist; or

(ii) seek to induce,

a breach of these Rules by another legal practitioner.

(2) A legal practitioner shall take reasonable care to ensure that his partners, associates or employees do not commit an act or omission which would be a breach of these Rules if committed by him.

(3) A legal practitioner shall properly supervise all professional work carried out for him and on his behalf by a non-legal practitioner.

(4) Where a legal practitioner becomes aware of-

(a) a breach of any provision of the Act; or

(b) a breach of these Rules,

by another legal practitioner he shall in accordance with his duty to the public and to the legal profession report the matter to the Executive Committee of the Bar Association.

6. (1) For the purposes of this rule-

Advertising

"publication" means a book, pamphlet, brochure, newspaper, magazine, periodical, journal, gazette, directory or other printed material but not information in booklet form or other written form, concerning the firm or the partner of the firm provided to established clients of the firm.

(2) Subject to this rule, a legal practitioner may advertise in connection with his practice, whenever he thinks fit, by means of a transmission or publication provided that such advertising-

(a) is not false in any material particular;

(b) is not misleading or deceptive or likely to mislead or deceive;

(c) is not vulgar, sensational or of such frequency to adversely affect the reputation or standing of the legal practitioner or any other legal practitioner or of the legal profession;

(d) does not claim or imply superiority of the legal practitioner over any or all other legal practitioners; or

(e) does not contain any testimonials or endorsements concerning the legal practitioner.

(3) An advertisement shall not contain any claim or words to the effect or imply that the legal practitioner is-

(a) a specialist, expert or leader; or

(b) an established or experienced legal practitioner,

in a particular field of practice or in any field of practice generally although it may contain a statement of the fields of practice in which he will or will not accept instructions.

(4) In a case of publication, the publication shall not exceed 10 cm by 6 cm.

(5) A legal practitioner may use a business card upon which is stated his name and, if desired-

(a) his degrees and other qualifications (if any);

(b) his address, telephone, telex and facsimile numbers;

(c) the description "Barrister/Solicitor", "Lawyer", "Commissioner for Oaths", "Legal Practitioner" or "Notary" (as the case may be); and

(d) the name of his firm,

provided that such use is discreet and is confined to those occasions when it is proper that he should establish his professional identity.

(6) Subject to this rule, a legal practitioner shall not-

(a) advertise; or

(b) cause or permit an advertisement to be disseminated,

in connection with his practice.

(7) A legal practitioner shall cause a true and correct copy or recording of any advertisement so published pursuant to these Rules to be produced to the Bar Association for inspection forthwith upon being requested so to do.

(8) Subject to this rule, a legal practitioner may in any lecture, talk, public appearance, or publication on any subject be identified therein by his name, firm, academic qualifications and the fact that he is a legal practitioner.

(9) Where the subject-matter or part of the subject-matter of a lecture, talk, public appearance or publication referred to in paragraph (8) concerns a matter in which the legal practitioner is or has been professionally engaged-

(a) the legal practitioner shall confine himself to an objective account of the matter without giving undue publicity to his own part in the matter; and

(b) the legal practitioner shall not in cases where he has-

(i) appeared in Court; or

(ii) acted in relation to proceedings in Court,

in giving an account of the matter or commenting thereon in relation to any proposed news report of the proceedings allow himself to be identified in relation to such account or comments in such report although his name may appear in a newspaper report of the proceedings.

(10) Where the subject-matter thereof concerns a legal or related professional subject the legal practitioner-

(a) shall not (except in the context of a lecture or talk given by the legal practitioner in relation to the education of law students) claim or imply in relation thereto that he is a specialist, expert, leader or an established or experienced lawyer in that or any other legal subject; or

(b) shall not therein profess to be representing the Bar Association or the legal profession or representing the views of the Association or the legal profession unless he has been expressly authorised by the Association or its delegate so to do.

(11) A legal practitioner shall not participate in the matters referred to in paragraph (6) to the extent that he-

(a) receives excessive publicity; or

(b) claims or implies superiority over any or all other legal practitioners.

(12) The Chief Justice may, by notice in writing to a legal practitioner, order him to cease or limit the-

(a) lectures or talks;

(b) public appearances; or

(c) publications,

in which he participates if, in the opinion of the Chief Justice, the legal practitioner is thereby receiving excessive publicity.

7. Except as provided by these Rules, a legal practitioner shall not, directly or indirectly-

A legal practitioner shall not tout business

(a) apply to a person who is not then or who has not been his client for instructions for professional business; or

(b) do or permit in the carrying on of his practice any act or thing,

that may reasonably be regarded as touting or as calculated to attract professional business unfairly.

8. (1) Subject to rules 6(2) and (3), a legal practitioner may display or permit to be displayed on or adjacent to his place of practice such signs indicating-

Display of sign

(a) that he is a legal practitioner;

(b) where his office is to be found; and

(c) such other information concerning his practice as he may think fit.

(2) The Chief Justice may, by notice in writing to a legal practitioner, order-

(a) the alteration, withdrawal or discontinuance of an advertisement;

(b) the removal or alteration of a sign; or

(c) the alteration or discontinuance of the use of a business card,

by the legal practitioner where the Chief Justice is of the opinion that the advertisement, sign or business card, contravenes the provisions of these Rules.

(3) The legal practitioner to whom an order has been given as referred to in paragraphs (2) and (3) shall forthwith comply with the order given by the Chief Justice.

9. (1) A legal practitioner shall treat a client fairly and in good faith, giving due regard to-

Diligence

(a) his special training and experience and the dependence by the client upon him; and

(b) the high degree of trust which the client is entitled to place on him.

(2) A legal practitioner shall always be frank and open with his client and with all others so far as his client's interest may permit and shall at all times give his client a candid opinion on any professional matter in which he represents that client.

(3) A legal practitioner shall take such legal action consistent with his retainer as is necessary and reasonably available to protect and advance his client's interests.

(4) A legal practitioner shall at all times use his best endeavours to complete any work on behalf of his client as soon as is reasonably possible.

(5) If a legal practitioner receives instructions from a client and it is or becomes apparent to him that he cannot do the work within a reasonable time, he shall so inform his client.

(6) A legal practitioner shall not-

(a) take unnecessary steps or do his work in such a manner as to increase his proper costs to his client; or

(b) accept instructions which are beyond his competence.

(7) A legal practitioner shall, when in his client's best interests, seek his client's instructions to endeavour to reach a solution by settlement out of court rather than commence or continue legal proceedings.

10. (1) A legal practitioner shall at all times strive to establish and maintain a relationship of trust and confidence with his client. Confidentiality

(2) A legal practitioner shall impress upon his client that he cannot serve him adequately without knowing all facts that may be relevant to the client's case and that the client should not withhold information which the client might think is embarrassing or harmful to his interests.

(3) A legal practitioner shall not, without the consent of his client, directly or indirectly-

(a) reveal the client's confidence;

(b) use the client's confidence in any way detrimental to the interests of that client; or

(c) lend or reveal the contents of the papers in any brief, advice or instructions to any person,

except to the extent-

(i) required by law, rule of court or court order, provided that where there are reasonable grounds for questioning the validity of the law, rule or order he shall first take all reasonable steps to test the validity of the same; or

(ii) necessary for replying to or defending any charge or complaint of criminal or unprofessional conduct or professional misconduct brought against him or his partners, associates or employees.

11. (1) Subject to the duty of a legal practitioner to the Court, a legal practitioner shall give undivided fidelity to his client's interests, unaffected by- Conflict of interest

- (a) any interest of the legal practitioner;
- (b) any interest of any other person; or
- (c) the legal practitioner's perception of the public interest.

(2) If a legal practitioner has any interest in a matter which-

- (a) may conflict with; or
- (b) is adverse to,

the interests of his client, he shall decline to represent or shall withdraw from representing that client.

(3) If a legal practitioner has or acquires any interest in a matter and he wishes to accept or has accepted instructions from a client, touching on that matter, he shall-

- (a) decline to represent; or
- (b) withdraw from representing,

that client, unless the client is fully informed in writing of the legal practitioner's interest in the matter and the client voluntarily assents in writing to the legal practitioner acting or continuing to act on his behalf.

(4) A legal practitioner or a firm of legal practitioners shall not represent or continue to represent conflicting interests in litigation.

(5) A legal practitioner or a firm of legal practitioners shall only represent or continue to represent two or more parties in any matters, other than litigation if-

- (a) to do so is not likely to prejudice the interests of the client;
- (b) the client is fully informed of the nature and implications of the conflict;
- (c) the client voluntarily assents in writing to the legal practitioner or firm of legal practitioners acting or continuing to act; and
- (d) in the case of any town in which there are two or more firms of legal

practitioners practising, the client has declined to place his instructions with another firm.

(6) A legal practitioner shall not give advice, other than the advice to secure the services of another legal practitioner, to a person who is not his client, where he knows the interests of that person are in conflict with or likely to be in conflict with the interests represented by him of his client.

(7) Where a legal practitioner has accepted instructions from two clients in a matter and a conflict develops between the interests of those clients, the legal practitioner shall immediately inform each of the clients that he has forthwith ceased to act for them and that they each must instruct other legal practitioners.

(8) Where-

(a) a legal practitioner has represented a client; or

(b) because of a legal practitioner's association with a law firm he has had access to a client's confidences,

that legal practitioner shall not thereafter use such information against his client's interest or for the benefit of any other person.

(9) If Counsel forms the view that there is a conflict of interest between his client and his instructing legal practitioner, he shall advise that it would be in the client's interest to instruct another legal practitioner and such advice shall be given either in writing to the legal practitioner or at a conference at which both the legal practitioner and the client are present.

12. Except where it is the whole or part of the client's normal business to lend money a legal practitioner shall not advise or knowingly permit a client to lend money with or without security-

Borrowing from client

(a) to the legal practitioner or a member of the legal practitioner's family;

(b) to a partner of the legal practitioner or a member of that partner's family; or

(c) to a company in which any of the parties referred to in paragraphs (a) and (b) have a significant beneficial interest.

13. (1) A legal practitioner shall not appear in any Court or in any matter where by reason of his connection with the client, whether that connection be blood relationship,

Independence

relationship by matrimony or personal relationship, it will be difficult for him to maintain his professional independence.

(2) A legal practitioner shall not appear in any Court or in any matter where by reason of-

(a) his connection with the Court or a member thereof;

(b) blood relationship;

(c) relationship by matrimony; or

(d) personal relationship,

the impartial administration of justice may appear to be prejudiced.

14. (1) A legal practitioner shall inform his client fully of his rights and possible courses of conduct regarding issues of substantial importance and shall keep his client appraised of all significant developments and generally informed in the matter entrusted to him by that client unless he has been instructed to do otherwise.

Keeping the client informed

(2) A legal practitioner shall-

(a) without delay notify his client of the receipt by him of moneys or securities on behalf of that client;

(b) as soon as possible inform a client in writing of the basis of calculation of his costs; and

(c) advise each of his clients of his intention to close his office or to cease to practise.

(3) During the course of a retainer the legal practitioner shall without delay advise his client in writing of any circumstances likely to have a substantial effect on the amount, or basis of calculation, of such costs or any disbursements.

(4) A legal practitioner shall without delay inform his client of any circumstances of conflict of interest and the consequences following therefrom in accordance with the provisions of rule 11.

(5) If, during the conduct of a matter, a legal practitioner fails to conduct the matter

in the interests of the client, he shall inform the client of the facts of the act or omission and advise the client of the consequences and the remedial action which may be taken.

15. (1) A legal practitioner shall not advise his client to engage in conduct which he considers may be illegal, except in good faith to test the validity or scope of the law and provided that prior to so doing-

Conduct of clients

(a) he informs the client of the consequences and the likelihood of the conduct being found to be illegal; and

(b) the client is given complete freedom of choice whether or not so to act.

(2) A legal practitioner shall draw his client's attention to the possible effect of any proposed course of action which may adversely affect his client's credit or honour.

(3) A legal practitioner, whose client behaves in an offensive or improper manner, shall nevertheless continue to act for him unless-

(a) the legal practitioner is justified in assuming that his instructions have been withdrawn; or

(b) the legal practitioner finds that his professional standing is being or is likely to be impugned and he can withdraw from the case or matter at that stage without jeopardising his client's interests.

(4) A legal practitioner shall not knowingly institute legal proceedings without instructions from his client.

16. (1) Subject to these Rules, a legal practitioner shall conduct each case in such manner as he considers to be most advantageous to his client.

Court proceedings

(2) A legal practitioner shall not knowingly deceive or mislead the Court.

(3) If, at any time before judgment is delivered in a civil case, a legal practitioner is informed by his client that the client has-

(a) committed perjury; or

(b) otherwise been guilty of fraud upon the Court,

the legal practitioner shall not inform the Court of that fact without his client's consent

but he shall not take any further part in the case unless his client authorises him to inform the Court of the perjured statement or to the fraudulent conduct and he has so informed the Court.

(4) A legal practitioner shall-

- (a) act with due courtesy to the Court before which he is appearing;
- (b) use his best endeavours to avoid unnecessary expenses and waste of the Court's time;
- (c) when requested, inform the Court of the probable length of a case;
- (d) inform the Court of the possibility of a settlement provided that he can do so without revealing the existence or the content of "without prejudice" communications;
- (e) subject to these Rules, inform the Court of any development which affects the information already before the Court;
- (f) not delay proceedings that have been set down for trial only for the reason that he does not hold money on account of his costs; and
- (g) appear in Court wearing a long-sleeved clean ironed opaque white shirt or blouse with collar closed at the throat and dark trousers or a skirt and business shoes and-
 - (i) if appearing as Counsel, properly gowned with bib (tabs) and wig;
 - (ii) if appearing as instructing legal practitioner, a tie in the case of a male; and
 - (iii) if appearing as a Queens Counsel with a legal practitioner as a junior.

(5) A legal practitioner shall ensure that the Court is informed of any relevant decision on a point of law or any legislative provision of which he is aware and which he considers to be relevant, whether it be for or against his contention.

(6) In cross-examination which goes to a matter in issue, a legal practitioner may put questions suggesting fraud, misconduct or the commission of a crime provided that-

- (a) the matters suggested are part of his client's case; and

(b) he has no reason to believe that the matters are only put forward for the purpose of impugning the witness's character.

(7) Questions which affect the credibility of a witness by attacking his character, but which are otherwise not relevant to the actual inquiry, shall not be put in cross-examination unless there are reasonable grounds to support the imputation conveyed by the questions.

(8) For the purposes of paragraphs (6) and (7) of this rule, Counsel may regard instructions from his instructing legal practitioner that the imputation is well-founded as reasonable grounds to support the imputation conveyed by such questions.

(9) A legal practitioner instructed to prepare or settle a pleading shall not make any allegation unsupported by his instructions and, in particular-

(a) he shall not allege fraud unless he-

(i) has express instructions to plead fraud;

(ii) has before him credible material which establishes an apparent case of fraud; and

(b) he shall not plead justification unless he-

(i) has express instructions to plead justification; and

(ii) has before him credible material which in his independent judgment supports that pleading.

(10) In all cases it is the duty of a legal practitioner-

(a) to guard against being made the channel for questions or statements which are only intended to insult or annoy either the witness or any other person or otherwise are an abuse of a legal practitioner's function; and

(b) to exercise his own judgment both as to the substance and the form of the questions put or statements made.

(11) A legal practitioner shall not communicate with a witness under cross-examination without the leave of the Court.

(12) A legal practitioner representing an interested party in a Court shall not initiate communication with the Court about the facts or issues in a case that the legal practitioner knows is pending or likely to be pending before the Court unless he has first informed the legal practitioner for the other interested party of the nature of the matters he wishes to discuss with the Court and has given that other legal practitioner and the interested party an opportunity to be present.

(13) If a legal practitioner has a discussion with the Court regarding an issue in a case in the absence of the opposing legal practitioner he shall inform the opposing legal practitioner of such discussion at the earliest opportunity.

(14) A legal practitioner shall not accept instructions in a case in which he has reason to believe that he is or is likely to be a witness.

(15) A legal practitioner shall withdraw from representing a client if-

(a) it becomes apparent to him that he is or is likely to be a witness on a material question of fact; and

(b) he can withdraw without jeopardising his client's interests.

(16) Where legal practitioner-

(a) does not accept instructions under paragraph (14); or

(b) withdraws from representing a client under paragraph (15),

another legal practitioner in the same firm as that legal practitioner may accept the instructions of the client provided that the conduct of the firm or a legal practitioner in the firm is not likely to become a material issue in the case.

(17) A legal practitioner shall not settle a case before the Court without first obtaining his client's specific instructions.

17. (1) Subject to these Rules, a legal practitioner shall defend any person on whose behalf he has accepted instructions on a criminal charge irrespective of any opinion which he may have formed as to the guilt or innocence of that person.

Defending a person
accused of crime

(2) When defending a client on a criminal charge, a legal practitioner shall endeavour to protect his client from being convicted except by a competent tribunal and upon legally admissible evidence sufficient to support a conviction for the offence

with which his client is charged.

(3) A legal practitioner shall not attribute to another person the crime with which his client is charged unless-

(a) he can properly do so in accordance with facts or circumstances; or

(b) there are facts or circumstances,

which reasonably suggest the possibility that the crime may have been committed by the person to whom the guilt is imputed.

(4) A legal practitioner, to whom a client has made a clear confession of guilt in respect of a charge-

(a) may, if the confession is made before the proceedings have commenced;
or

(b) shall, if the confession is made during the proceedings,

continue to act for him, but shall not set up an affirmative case inconsistent with the confession by the client, in particular-

(i) asserting or suggesting that some other person committed the offence charged; or

(ii) calling evidence in support of an alibi.

(5) A legal practitioner may advise his client as to the plea to a criminal charge, if necessary in strong terms, but the client shall be allowed complete freedom of choice as to the plea he wishes to make.

(6) A legal practitioner defending shall not absent himself from a trial unless-

(a) there are exceptional circumstances which he could not reasonably have foreseen;

(b) he obtains the consent of the instructing legal practitioner or his representative or of his client; and

(c) a competent junior or other legal practitioner who is well informed about the case and able to deal with any question which might reasonably be expected to

arise takes his place.

(7) A legal practitioner who is defending in a criminal case is entitled to withdraw from the case if-

(a) during the course of the trial and prior to final sentence, the defendant absconds; or

(b) prior to or during the course of the trial, the defendant refuses to accept the jurisdiction of the Court.

(8) If a procedural irregularity comes to the knowledge of a defending legal practitioner before the verdict in a trial is returned, he shall inform the Court as soon as practicable and shall not wait with a view to raising the matter later on appeal.

(9) If, in a case, the Court has been led by the prosecution to believe that the accused person has no previous convictions, the defending legal practitioner is under no duty to-

(a) disclose facts to the contrary which are known to him; or

(b) correct any information given by the prosecution, if such disclosure or correction would be to his client's detriment, provided that the legal practitioner shall not-

(i) lend himself to any assertion that his client has no convictions; or

(ii) ask a prosecution witness whether there are previous convictions against his client in the hope that he will receive a negative answer.

(10) A legal practitioner may advise his client about giving evidence in his own defence, but the client shall be allowed complete freedom of choice as to whether to give evidence or not.

(11) A legal practitioner when defending in a case shall not, in a plea in mitigation, make any allegation that is merely scandalous or calculated to vilify or insult any person.

(12) Unless there is good reason not to do so, a defending legal practitioner in a case shall attend his client after conviction and sentence or ensure that his instructing legal practitioner or a representative of that legal practitioner does so.

Prosecuting a person
accused of crime

18. (1) A prosecuting legal practitioner in a case shall not seek to obtain a conviction by any improper means, and it is his duty to present before the Court the case for the prosecution fairly, impartially and in a competent manner.

(2) If a legal practitioner prosecuting in a case knows of the identity or existence of-

(a) a person who may be able to give evidence relevant to that case, but who is not proposed to be called before the Court by the prosecution; or

(b) documentary evidence relevant to the case, but which it is not proposed the prosecution will produce,

he shall inform the defence of the identity or existence (if known) of that person or of that documentary evidence prior to the trial.

(3) Where a witness called by the prosecution gives evidence on a material issue in substantial conflict with a prior statement made by him, the prosecuting legal practitioner shall inform the defence accordingly.

(4) A legal practitioner prosecuting in a case shall assist the Court at all times before the verdict is returned, by drawing attention to-

(a) any apparent errors or omissions of fact or law; or

(b) procedural irregularities which, in his opinion-

(i) ought to be corrected; or

(ii) may affect the outcome of the trial.

(5) If an accused person is unrepresented, it is proper for a prosecuting legal practitioner to inform the Court of any mitigating circumstances in respect of which he is instructed.

Fees and trust accounts

19. (1) A legal practitioner shall comply with the provisions of the Act with respect to costs and to the operation and maintenance of trust accounts.

(2) A legal practitioner shall not claim his costs in a letter of demand for debt or damages or other relief written on behalf of a client unless his client has a right to recover such costs.

(3) A legal practitioner shall not in the course of his practice-

(a) give or agree to give an allowance in the nature of an introduction fee or spotter's fee to any person for introducing professional business to him;

(b) receive or agree to receive any such allowances referred to in paragraph (a) from any person for introducing or recommending clients to that person.

(4) A legal practitioner shall, within a reasonable time after being requested by his client, render a bill of costs covering all work performed for that client to which the request relates.

(5) A legal practitioner shall charge no more than is reasonable by way of costs for his services having regard to-

(a) the complexity of the matter, the time and skill involved;

(b) any scale of costs that might be applicable; and

(c) any agreement as to costs between the legal practitioner and his client.

20. (1) A legal practitioner shall recognise that a client is entitled to change his legal adviser at any time without giving any reason for the change and shall, subject to the satisfaction of any lien the legal practitioner may have, take all reasonable steps to facilitate such a change should his client so request.

Termination of retainers

(2) If a client engages another legal practitioner in a matter and the latter legal practitioner is of the opinion that the conduct of his predecessor in the matter warrants the making of a complaint to the Executive Committee of the Bar Association, he shall advise the client accordingly.

(3) Subject to rule 14(4) and rule 19(4), and to the High Court Rules, a legal practitioner may withdraw from representing a client-

(a) at any time and for any reason if the withdrawal does not cause significant harm to the client's interests and the client is fully informed of the consequences of withdrawal and he voluntarily assents to it;

(b) if the legal practitioner reasonably believes that continued engagement in the case or matter would be likely to have seriously adverse effect upon his health; or

(c) if the client commits a significant violation of a written agreement regarding fees or expenses;

(d) if the client made material misrepresentations about the fact of the case or matter to the legal practitioner; or

(e) if the legal practitioner has an interest in any case or matter in which he is concerned for the client which is adverse to that of the client;

(f) where such action is necessary to avoid commission by him of a breach of these Rules;

(g) where the client fails or neglects to instruct the legal practitioner;

(h) by leave of the Court, provided that the legal practitioner shall take reasonable care to avoid foreseeable harm to his client, including-

(i) giving due notice to the client;

(j) allowing reasonable time for substitution of a new legal practitioner;

(k) co-operating with the new legal practitioner; and

(l) subject to the satisfaction of any lien the legal practitioner may have, promptly turning over all papers and property and paying to the client any moneys to which the client is entitled.

(4) Only in the most exceptional circumstances shall a brief for the defence of a person charged with a serious criminal offence be returned and then only if sufficient time remains for another legal practitioner to master the case.

(5) Where, through conflict of interest, a legal practitioner has recommended to a client that the client seeks alternative legal representation, the legal practitioner shall charge only for those items which it is clear a second legal practitioner may not need to duplicate.

21. (1) A legal practitioner shall treat his professional colleagues with the utmost courtesy and fairness.

Professional courtesy

(2) If a legal practitioner observes that another legal practitioner is making or is likely to make a mistake or oversight which may involve the other legal practitioner's client in unnecessary expense or delay, he shall not do or say anything to induce or foster that

mistake or oversight and shall, except where so doing might prejudice his own client, draw the attention of the other legal practitioner to that mistake or oversight.

(3) A legal practitioner shall not communicate regarding a legal matter in which he is acting with a person whom he knows is represented in that matter by another legal practitioner.

(4) A legal practitioner who, on receiving instructions, finds that acceptance of the instructions would amount to his replacing another legal practitioner who has previously been instructed in the same matter, shall inform that other legal practitioner that the instructions have been given to him.

(5) A legal practitioner shall not discriminate against another legal practitioner by reason of the colour, race, ethnic or national origins, sex, marital status or religious beliefs of that other legal practitioner.

(6) A legal practitioner shall always-

(a) conduct himself with dignity and propriety showing due respect and courtesy to the judge or magistrate hearing the case;

(b) rise when the judge or magistrate enters the court and leaves the court;

(c) rise when a judge or magistrate addresses him;

(d) on completion of his case remain at the bar table until the judge leaves the court or until the next case is called;

(e) rise when addressing the bench;

(f) cite cases fully and not by abbreviations;

(g) refer to a judge in Court as "His Lordship" and not "Judge"; and

(h) in citing reported cases, refer to the Judges' full name and title and not just initials or abbreviations.

22. (1) A legal practitioner shall ensure that his practice is efficiently and properly administered and shall take all reasonable and practicable steps to ensure that professional engagements are fulfilled or that early notice is given if they cannot be fulfilled.

Conduct of practice

(2) A legal practitioner shall conduct his practice from a proper office and shall inform the Registrar and the Secretary of the Bar Association promptly of his address of practice or any change in the address.

(3) A legal practitioner shall ensure that at his main place of practice he or another legal practitioner is in charge at that place and gives substantial attendance thereat during the normal hours of his practice at that place.

(4) Where the legal practitioner has a place of practice which is a branch of his practice he shall ensure that he or another legal practitioner is in charge of that branch of his practice and provides adequate and regular supervision of all professional business conducted thereat.

23. (1) A legal practitioner may carry on another business in addition to his legal practice provided that-

Conduct of other
business

(a) the other business does not derogate from the dignity of the legal profession;

(b) he keeps the conduct of that business entirely separate from his legal practice in so far as correspondence, accounts and presentation to the public are concerned; and

(c) the carrying on of that business is not calculated to attract professional business to him or likely to lead to any other infringement of the Act or of these Rules.

(2) For the purpose of this rule, a legal practitioner shall be deemed to be carrying on another business if that business, being conducted by a company, is carried on substantially under his direction or control.

24. (1) A legal practitioner shall not-

Firms

(a) hold a person out as; or

(b) represent that a person is,

his partner or former partner unless that person is or was his partner.

(2) A legal practitioner shall not permit to appear on any sign in relation to his

practice or his professional stationery the name of any other person unless-

(a) the name forms part of the firm name under which he practises; or

(b) the person whose name so appears is a legal practitioner and-

(i) his partner; or

(ii) a consultant or is employed as his associate and the word "Consultant" or "Associate" appears in conjunction with the name of that person.

(3) The names of all partners, consultants and associates shall appear on the letterhead and no name of a person other than a partner, consultant or associate shall appear on the legal practitioner's letterhead.

25. (1) In this rule "legal practitioner" includes a person practising as a lawyer in any other jurisdiction outside Solomon Islands, notwithstanding that the person is not qualified to practise as a legal practitioner in Solomon Islands.

Agent's fees

(2) Except where otherwise agreed, a legal practitioner who instructs another legal practitioner or Counsel to advise on or to assist in a matter is responsible for the payment of the latter's fee.

(3) A legal practitioner who directs a client to another legal practitioner is not responsible for the payment of the latter's fee.

26. A legal practitioner shall honour any personal undertaking given by him when he is acting professionally for a client whether such undertaking is to his client, a third person or to a court.

Undertakings