ANGUILLA

# REVISED STATUTES OF ANGUILLA

## CHAPTER L33

# LEGAL PROFESSION ACT

Showing the Law as at 31 December 2022

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition revises and consolidates—
Act 6/2016, in force 27 April 2016
U.K. S.I. 2019 No. 852, in force 14 May 2019

Published by the
Attorney General's Chambers
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# LEGAL PROFESSION ACT

## PART I

## PRELIMINARY

### Interpretation

**1.** In this Act—

"Anguillian" has the same meaning as given in section 80(2) of the Constitution;
*(U.K. S.I. 2019 No. 852, s.13(c))*

"Association" means the Anguilla Bar Association;

"certificate of good standing" means a certificate in writing issued by the Council, which includes a confirmation that as at the date of the certificate a search of the Council's records in relation to discipline, discloses no orders or findings of misconduct or reprimands to the discredit of a named legal practitioner;

"client" includes—

(a) in respect of contentious business, any person who as principal or on behalf of another person retains or employs a legal practitioner and any person who is or may be liable to pay to a legal practitioner costs for that business;

(b) in relation to non-contentious business, any person who as a principal, or on behalf of another or as a trustee or executor or in any other capacity, has power, expressed or implied, to retain or employ and retains or employs a legal practitioner, and any person for the time being liable to pay costs for that business;

"Code" means the Code of Ethics referred to in section 39;

"Constitution" means the Constitution of Anguilla made under the Anguilla Constitution Order 1982;

"costs" includes fees for any legal business done by a legal practitioner;

"Council" means the Council of the Anguilla Bar Association established under section 3;

"Court" means the Eastern Caribbean Supreme Court;

"dollars" means Eastern Caribbean currency, unless otherwise provided in this Act;

"fees" includes charges, disbursements, expenses and remuneration;

"legal practitioner" means a person whose name is on the Roll;

"practise law" means practising as a barrister, solicitor or both, or undertaking or performing the functions of a barrister or solicitor, as recognised by any law whether before or after the 27 April 2016;

"practising certificate" means a certificate issued under section 23 or 35;

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"Registrar" means the Registrar of the High Court;

"Roll" means the register of barristers and solicitors maintained by the Registrar referred to in section 14;

"Secretary" means the Secretary of the Disciplinary Tribunal;

"Treasury" means the Department of Inland Revenue or any other Governmental Department charged with the responsibility of collecting monies on behalf of the Government;

"Tribunal" means the Disciplinary Tribunal established under section 40.

## PART 2

## BAR ASSOCIATION

**The Bar Association**

**2.** The Anguilla Bar Association is continued as a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

**The Council**

**3.** The affairs of the Association shall be managed and its functions performed by a Council constituted in accordance with Schedule 1.

**Purposes of the Association**

**4.** The purposes of the Association are to—

(a) maintain and improve the standards of conduct of the practice of law in Anguilla;

(b) promote good relations between the profession and professional bodies of the legal profession in other countries and to participate in the activities of any international association of lawyers and to become a member thereof;

(c) promote good relations within the profession, between the profession and persons concerned in the administration of justice in Anguilla and between the profession and the public generally;

(d) promote, maintain and support the administration of justice and the rule of law;

(e) represent and protect the interests of the legal profession in Anguilla;

(f) protect and assist the public in Anguilla in all matters relating to law; and

(g) do any other thing incidental or conducive to the achievement of the purposes set out at paragraphs (a) to (f).

**Practitioner members**

**5.** (1) Every legal practitioner to whom a practising certificate is issued is a member of the Association and shall remain a member for so long as his or her practising certificate has effect.

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(2) Subject to this Act, a practising certificate ceases to have effect where the practitioner member to whom it relates fails to pay his or her subscription to the Association for 3 successive years.

(3) Every legal practitioner who is a member of the Association by virtue of subsection (1) is for the purposes of this Act a "practitioner member".

**Non-practitioner member**

**6.** A non-practitioner member is a legal practitioner who is not the holder of a practising certificate.

**Honorary members**

**7.** The Council may confer honorary membership in the Association on distinguished lawyers as it thinks fit and may in its discretion revoke any such membership.

**Privileges of membership**

**8.** (1) Subject to this section and section 9, all members of the Association have the same rights and privileges.

(2) Only practitioner members who pay the annual subscription to the Association are eligible to—

(a) attend and vote at a general meeting or at an election of members of the Council;

(b) be elected to the Council; or

(c) be issued a certificate of good standing.

(3) Practitioner members may, by a resolution, exclude from a general meeting of the Association or any part thereof all other members.

**Expulsion and suspension of rights and privileges**

**9.** (1) A practitioner member or a non-practitioner member of the Association may in the prescribed manner, and upon any grounds prescribed, after being given reasonable opportunity to answer allegations made against him or her—

(a) be expelled from membership; or

(b) be deprived of any one or more rights and privileges of membership.

(2) In this section "prescribed" means prescribed by rules made by the Council.

**Termination of membership**

**10.** A member of the Association other than an honorary member, who ceases to be qualified for membership after expulsion or deprivation of rights and privileges under section 9(1), ceases to be a member.

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**Annual subscription to Association**

**11.** (1) The amount of the annual subscription, in respect of the period of 12 months commencing on 1 October, in each year, payable by members other than honorary members of the Association shall, subject to subsection (4), be fixed by the Council and be paid to the Association.

(2) In fixing the annual subscription the Council may divide the members into classes and provide that different amounts shall be paid by different classes of members and for different periods, and generally regulate and vary from time to time the subscription payable by members or by different classes of members, as the Council may think fit.

(3) The Council may fix levies payable by practitioner members for any of the purposes of the Association.

(4) The annual subscription payable under subsection (1) and levies payable under subsection (3) shall not in any year exceed the sum as may be prescribed by resolution passed at a general meeting of the Association.

## PART 3

## ENROLMENT, ADMISSION, STATUS

**Persons holding offices in the Attorney General's Chambers**

**12.** (1) Any person holding an office in the public service for the appointment to which legal qualifications are required under section 68 of the Constitution shall be an *ex-officio* barrister and solicitor of the Supreme Court, and is deemed to be enrolled as a barrister in accordance with this Act.

(2) Upon the termination of the appointment of a person referred to in subsection (1), that person shall not thereafter be entitled to practise law, unless and until admitted and enrolled in the manner prescribed by section 13.

**Admission of legal practitioner**

**13.** (1) A judge of the High Court may, subject to subsections (2) and (3), admit to practise—

(a) as a barrister of the Supreme Court any—

(i) member of the English Bar,

(ii) member of the Northern Ireland Bar,

(iii) member of the Scottish Bar, and

(iv) person who has obtained a degree from a recognised university and has also obtained a Certificate of Legal Education from the Council of Legal Education of the West Indies; and

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(b) as a solicitor of the Supreme Court, any—

(i) person who has obtained a degree from a recognised university and has also obtained a Certificate of Legal Education from the Council of Legal Education of the West Indies, and

(ii) person who shall have been admitted to practise as a solicitor or law agent by a Superior Court in England, Scotland or Northern Ireland.

(2) A person shall not be admitted to practise unless he or she satisfies the Court that he or she—

(a) has attained the age of 21 years;

(b) has paid to the Court the application for admission to practise fee specified in Schedule 3;

(c) has not been disbarred or struck off the Roll of attorneys-at-law, barristers or solicitors of any Court;

(d) holds a qualifying certificate;

(e) is an Anguillian or is ordinarily resident in Anguilla or a national of any of the countries listed in Schedule 4; and

*(U.K. S.I. 2019 No. 852, s.13(c))*

(f) is of good character.

(3) Upon cause shown, any application to be admitted may be refused, notwithstanding that the applicant has complied with subsection (2).

(4) Where the Court refuses to admit an applicant under subsection (3), the applicant may appeal the decision to the Court of Appeal in accordance with the applicable Rules of Court.

(5) Every person applying to be admitted to practise as a barrister or solicitor under this Act shall—

(a) pay to the Treasury the enrolment fees specified in Schedule 3;

(b) file in the office of the Registrar an affidavit as to his or her identity;

(c) annex to the affidavit for inspection by the Court—

(i) the receipt for the payment of the enrolment fee, and

(ii) one of the following proofs of qualification—

(A) his or her certificate of call to the English, Scottish, or Northern Ireland Bar,

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(B) his or her degree certificate from a recognised university and his or her certificate of Legal Education from the Council of Legal Education of the West Indies,

(C) his or her certificate of admission as a solicitor in England or in Northern Ireland or as a law agent admitted to practise in Scotland; and

(d) in respect of a person applying to be admitted as a barrister and who was called to the English Bar after 1 January 1966 have obtained a certificate—

(i) issued by the relevant body in England, that he or she has satisfactorily completed a Bar Vocational Course or Bar Professional Training Course which is approved by the Chief Justice for the purpose of this section, which—

(A) was approved by the relevant body of the Bar Council of England or Bar Standards Board of England and Wales, and

(B) has been approved by the Chief Justice under section 65(2)(d)(i) of the Eastern Caribbean Supreme Court (Anguilla) Act, and

*(Section 65 of the Eastern Caribbean Supreme Court (Anguilla) Act was repealed by Act 6 of 2016 s. 54)*

(ii) signed by his or her pupil master and countersigned on behalf of his or her Inn of Court that he or she has either before or after Call or partly before and partly after Call, read as a pupil for an aggregate period of not less than 6 months in the chambers of one or more barristers of not less than 5 years standing practising in England or in Wales or in the chambers of one or more barristers of not less than 10 years standing practising in Anguilla.

(6) Notwithstanding subsection (5)(c)(ii), in a special case the judge may exempt any person from depositing, or producing any of the certificates, if otherwise satisfied that he or she has the qualifications required.

(7) Notwithstanding subsection (5)(d), any person who, prior to 27 April 2016, satisfies the requirements of section 65(2)(d)(i) of the Eastern Caribbean Supreme Court (Anguilla) Act, may before 27 October 2016, apply to the judge of the High Court to be admitted to practise as a barrister and is qualified to be called.

*(Section 65 of the Eastern Caribbean Supreme Court (Anguilla) Act was repealed by Act 6 of 2016 s.54)*

(8) A copy of an application under this section shall be served on the President of the Association.

(9) No unqualified person shall act as a solicitor or barrister or as such sue by any suit 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 solicitor in any cause or matter, civil or criminal, to be heard or determined before any court.

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(10) Any person who contravenes subsection (9)—

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

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

(c) is liable on summary conviction to a fine of $10,000.

(11) Any person, not being enrolled as a barrister or a solicitor, who wilfully pretends to be, or takes or uses any name, title, addition or description implying that he or she is qualified to act as a barrister or solicitor is liable on summary conviction to a fine of $10,000.

(12) Nothing in this Part shall affect any enactment empowering any unqualified person to conduct, defend or otherwise act in relation to any legal proceedings.

(13) It is hereby declared that in subsection (9) and in section 20 references to unqualified persons include references to bodies corporate.

**Enrolment of barristers and solicitors**

**14.** (1) No unqualified person shall act as a barrister or solicitor before any Court.

(2) For the purposes of this section "act as a solicitor" means preparing legal documents for reward.

(3) Every person admitted as a barrister or solicitor of the Court shall cause his or her name to be enrolled in a book to be kept for this purpose by the Registrar and to be called the "Roll", and, upon his or her name being so enrolled, shall be entitled to a certificate of enrolment under the seal of the High Court in accordance with Form 1 of Schedule 2.

(4) Every person whose name is so enrolled shall, if enrolled as a barrister, be entitled to practise as a barrister, and, where enrolled as a solicitor, be entitled to practise as a solicitor in every court in Anguilla.

(5) Any person whose name is not enrolled shall not be entitled to practise in any of the courts of Anguilla.

**Barristers practising as solicitors**

**15.** Subject to section 16, every person enrolled as a barrister shall be entitled to practise as a solicitor, and to sue for and receive his or her taxed costs as such, but if he or she practises as a solicitor, he or she shall be subject to all the liabilities which attach by law to a solicitor.

**Queen's Counsel**

**16.** (1) Notwithstanding subsection (2), any barrister who has the rank of Queen's Counsel shall not perform any of the functions which in England are performed by a solicitor and are not performed by a barrister, but a barrister who has the rank of Queen's Counsel shall not be precluded from continuing or engaging in partnership with another barrister by reason only that the last mentioned

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barrister performs any of the functions which in England are performed by a solicitor and are not performed by a barrister.

(2) Every person holding the office of Attorney General may, notwithstanding that he or she has the rank of Queen's Counsel, perform the functions of both a barrister and solicitor in relation to the duties of his or her office as Attorney General.

**Solicitors and Commissioners for oaths are officers of the Court**

**17.** (1) Every person practising as a solicitor and whose name is enrolled either as a barrister or solicitor shall be an officer of the Court.

(2) Every person who, has been or is appointed a Commissioner to administer oaths under the Commissioner of Oaths Act, shall be an officer of the Court.

**Barristers and solicitors may be suspended or struck off Roll**

**18.** (1) Any judge of the High Court, on application by any person, may for reasonable cause, suspend any legal practitioner from practising in Anguilla during any specified period, and may order his or her name to be struck off the Roll.

(2) An appeal shall lie against that decision to the Court of Appeal.

**Unauthorised persons drawing legal documents**

**19.** (1) Any person, not being enrolled as a barrister or solicitor, or otherwise lawfully authorised, who either directly or indirectly draws or prepares any instrument relating to real or personal property, or any legal proceedings is, unless he or she proves that the act was not done for or in expectation of any fee, gain or reward, liable on summary conviction to a fine of $20,000.

(2) For the purposes of this subsection, the expression "instrument" does not include—

(a) a will or other testamentary instrument;

(b) an agreement under hand only;

(c) a letter of power of attorney; or

(d) a transfer of stock containing no trust or limitation thereof.

(3) Any person not being enrolled as a barrister or solicitor, or otherwise lawfully authorised, who either directly or indirectly draws or prepares any instrument of transfer or charge for the purposes of the Registered Land Act or makes any application or lodges any caveat or other instrument or document for registration under that Act is, unless he or she proves that the act was not done for or in expectation of any fee, gain or reward, liable on summary conviction to a fine of $20,000.

(4) Subsections (1), (2) and (3) do apply to—

(a) a duly certificated Notary Public;

(b) any public officer drawing or preparing instruments in the course of his or her duty; or

(c) any person employed merely to engross any instrument or proceeding.

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(5) Any person not being enrolled as a barrister or solicitor or otherwise lawfully authorised, who either directly or as an agent of any other person, whether that person is qualified or not, takes instructions for or draws or prepares any papers on which to found or oppose a grant of probate or of letters of administration is, unless he or she proves that the act was not done for or in expectation of any fee, gain or reward, liable on summary conviction to a fine of $20,000.

**No legal practitioner to act as agent for unqualified person**

**20.** (1) A legal practitioner shall not wilfully and knowingly act as an agent in any action, or in any matter in bankruptcy or in relation to any business which can only be transacted by a person with legal qualifications, for any unqualified person, or permit his or her name to be made use of in any action, or matter upon the account, or for the profit, of any unqualified person, or send any process to any unqualified person, or 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) A legal practitioner who contravenes this section or section 21, may be suspended from practising in Anguilla during any specified period, or the name of that legal practitioner may be struck off the Roll by any judge of the High Court, under section 18.

(3) Where any judge of the High Court orders the name of a legal practitioner to be struck off the Roll in respect of an offence under this section, the unqualified person who was enabled by the conduct of the offender to act or practise as a legal practitioner commits an offence and is liable on summary conviction to imprisonment for one year.

**No sharing of profit or costs with person not enrolled as a barrister or solicitor**

**21.** A legal practitioner shall not agree to share his or her profit or costs in respect of contentious or non-contentious business with any person who is not enrolled as a barrister or solicitor, subject to the following exceptions—

(a) an annuity may be paid out of profits to a retired partner or to the dependents or to the legal personal representative of a deceased partner; and

(b) a legal practitioner may be employed by a company or other employer who is not a legal practitioner on the basis of receiving a salary and accounting to the employer to the extent of his or her salary for any costs received from third parties in respect of contentious or non-contentious business transacted by the legal practitioner for his or her employer and any reasonable office expenses incurred by the employer in connection with that legal practitioner.

**Law relating to solicitors, taxation and recovery of costs**

**22.** Subject to modification by the Rules of Court, the law and practice relating to solicitors, and the taxation and recovery of costs in force in England shall extend to and be in force in Anguilla and shall apply to all persons lawfully practising in Anguilla as legal practitioners.

**Practising certificate**

**23.** (1) A legal practitioner who desires to practise law shall apply to the Registrar for a practising certificate and shall pay to the Association the fees specified in Schedule 3.

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(2) On being satisfied that the legal practitioner has paid—

(a) the annual subscription to the Association under section 11;

(b) the annual fee for the practising certificate under this section; and

(c) any professional liability insurance imposed under section 53;

the Registrar shall issue to him or her, an annual practising certificate.

(3) A practising certificate shall be—

(a) valid for one year; and

(b) in the form set out in Form 2 in Schedule 2.

(4) The Registrar shall cause to be published in the *Gazette*—

(a) in the month of February in every year, an alphabetical list of persons who have as the 31st January of that year obtained a practising certificate; and

(b) as soon as practicable after he or she obtains a practising certificate, the name of any person obtaining a practising certificate after the 31st January, in any year.

(5) A copy of the *Gazette* containing the name of any person published under subsection (4) is *prima facie* evidence in any court of the registration on the Roll of the name of, and the holding of a valid practising certificate by that person.

(6) Where a legal practitioner practises without a practising certificate, he or she commits an offence and is liable on summary conviction to a fine of $10,000.

(7) On 27 April 2016, every person whose name is registered in the Court Roll under section 66 of the Supreme Court Act is deemed to hold a valid practising certificate for 2016.

**Special cases**

**24.** (1) In the cases enumerated in subsection (2), a legal practitioner applying for a practising certificate shall, unless the Court otherwise orders, give notice of his or her intention to make the application to the Registrar at least 6 weeks before the application is made, and the Court may in its discretion order the Registrar to issue or refuse the application or to issue a certificate to the applicant, subject to such terms and conditions as it may think fit.

(2) Subsection (1) applies to any case where a legal practitioner makes an application for a practising certificate—

(a) where for 12 months or more he or she has ceased to hold a valid practising certificate;

(b) where he or she is an undischarged bankrupt or there is in force against him or her a receiving order in bankruptcy;

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(c) where having been suspended from practice or having had his or her name struck off the Roll, the period of his or her suspension has expired, or his or her name has been restored to the Roll, as the case may be;

(d) not having held a practising certificate within 12 months following the date of his or her registration on the Roll;

(e) when he or she has been adjudicated a person of unsound mind;

(f) without having paid any penalty, compensation or reimbursement or costs ordered by the Disciplinary Tribunal to be paid by him or her, or without having otherwise complied with any order of the Disciplinary Tribunal;

(g) after having had an order made against him or her for the issue of a writ of attachment;

(h) after having been adjudicated a bankrupt and obtained his or her discharge or after having entered into a composition with his or her creditors or a deed of arrangement for the benefit of his or her creditors; or

(i) after having had given against him or her any judgment which involves the payment of moneys other than costs and is not a judgment as to the whole effect of which upon him or her, he or she is entitled to indemnity or relief from any other person, and without having produced to the Court evidence of the satisfaction of such judgment.

(3) In the event of an appeal having been made against a receiving order referred to in subsection (2)(b) or against the order for the issue of a writ of attachment referred to in subsection (2)(g), the Court shall not refuse the application while the appeal is pending unless in its opinion the proceedings on the appeal have been unduly protracted by the appellant or are unlikely to be successful.

(4) Where, a discretion becomes exercisable by the Court in any of the cases set out in subsections 2(a), (c), (d), (g), (h) and (i), as soon thereafter as a practising certificate has been issued in the exercise of the discretion to the applicant free of conditions, those facts shall cease to operate so as to require the legal practitioner to give the notice mentioned in this section or to vest any discretion on the Court.

**Suspension of practising certificate**

**25.** When and so long as any of paragraph (b), (e), (f) or (g) of section 24(2) applies to a legal practitioner, he or she shall be suspended from practising law.

**Unlawful practice and similar offences**

**26.** (1) Subject to this Act, if a person whose name is not registered on the Roll or who is suspended from practising law—

(a) practises law;

(b) wilfully pretends to be a legal practitioner; or

(c) makes use of any name, title or description implying that he is entitled to be recognised or to act as a legal practitioner;

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that person commits an offence and is liable on summary conviction to a fine of $10,000 and 2 years imprisonment or, on conviction on indictment, to 3 years imprisonment.

(2) A person who, not being entitled to act as a legal practitioner, acts in any action or matter or in any court in the name or through the agency of a legal practitioner entitled to act, commits an offence and is liable on summary conviction to a fine of $10,000 and 2 years imprisonment or, on conviction on indictment, to 5 years imprisonment.

(3) Notwithstanding any other law, information for an offence under this section may be laid at any time within 2 years after the commission of an offence or within 6 months after the first discovery of the offence by the informant, whichever period is the shorter.

(4) A legal practitioner shall not, during any period of suspension, without the written permission of the Council, employ a person who to his or her knowledge has been suspended from practising law or whose name has been removed from the Roll, otherwise than at his or her own request under section 28, unless permission is given for a stated period subject to conditions.

**Law officers**

**27.** (1) For the purposes of this Act, a law officer is a legal practitioner who holds office in the Public Service.

(2) A law officer is deemed to be the holder of a valid practising certificate.

(3) A certificate in the form set out in Form 3 of Schedule 2 to the effect that a person is a law officer is *prima facie* evidence of that fact.

(4) A law officer is exempt from paying annual subscription to the Bar Association and any fees for professional liability insurance.

**Voluntary removal from the Roll**

**28.** An application by a legal practitioner to procure the removal of his or her name from the Roll shall be made in a summary manner to the Court, which shall make any order it deems fit.

**Removal from Roll and suspension from practice by order of Court**

**29.** (1) The Registrar shall make the appropriate entry or alteration in the Roll and publish the appropriate notice in the *Gazette* whenever any of the following occurs—

(i) the Court orders the name of a legal practitioner to be removed from the Roll,

(ii) the Court orders that the legal practitioner be suspended from practising law, or

(iii) by virtue of any law, the name of a legal practitioner is removed from the Roll or a legal practitioner is suspended from practising law.

(2) In the event of an appeal against any order from which a suspension or removal results, the Registrar shall take no action under this section until the appeal has been determined.

(3) Where the name of a legal practitioner is removed from the Roll, his or her practising certificate ceases to be valid.

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(4) During the period of suspension of a legal practitioner from practising law, a practising certificate shall not be issued to him or her, and any practising certificate issued to him or her prior to the suspension ceases to be valid for the period of that suspension.

**Expiration of suspension to be noted on Roll**

**30.** Upon the termination of the suspension of a legal practitioner from practising law, the Registrar shall forthwith cause a note of termination of the suspension to be entered in the Roll against the name of the legal practitioner, and cause a notice thereof to be published in the *Gazette*.

**Restoration of name to Roll and termination of suspension**

**31.** (1) A legal practitioner whose name has been removed from the Roll or who has been suspended from practising law may, subject to section 32, apply to the Court by petition on payment of the fee specified in Schedule 3 to have his or her name restored to the Roll or the order of his or her suspension withdrawn, as the case may be.

(2) An appeal lies to the Court of Appeal from an order of the Court refusing an application made under this section.

**Procedure on application**

**32.** (1) On the hearing of an application made under section 31, the Court may request a report from the Disciplinary Tribunal, and may, where satisfied that the applicant is a fit and proper person to practise law, order that his or her name be restored to the Roll or that the order suspending him or her from practising law be withdrawn.

(2) Any order made by the Court under this section restoring the name of a legal practitioner or terminating the suspension of a legal practitioner shall be published in the *Gazette* by the Registrar.

(3) Upon the publication in the *Gazette* of an order made under subsection (1) and on the payment of any fee prescribed, the Registrar shall make the appropriate entry on the Roll and where appropriate restore the name of the practitioner to the Roll.

## PART 4

## TEMPORARY ADMISSION OF FOREIGN COUNSEL

**Temporary admission of foreign counsel**

**33.** (1) Subject to sections 34 and 35, a legal practitioner or a firm of legal practitioners that wishes to have a person who is not an Anguillian, or ordinarily resident in Anguilla, temporarily admitted and enrolled as a legal practitioner for the purpose of a particular case or matter, shall first apply to the Council for its approval.

*(U.K. S.I. No. 852, s. 13(c))*

(2) On an application under subsection (1), the legal practitioner or the firm of legal practitioners that wish to have the foreign counsel temporarily admitted and enrolled as a legal practitioner shall serve copies of the application on the President of the Association.

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(3) The Council shall not grant approval under subsection (1) unless the applicant produces proof to the satisfaction of the Council that the person—

(a) is a Queen's Counsel or Senior Counsel;

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

(c) is in good standing with the relevant Bar, Law Society or other regulatory body of the jurisdiction where he or she ordinarily resides and the jurisdiction and the relevant Bar, Law Society or other regulatory body thereof are both recognised by the Council; and

(d) is a fit and proper person to be temporarily admitted as a legal practitioner.

(4) The Council shall grant, or refuse to grant, its approval for a person to be temporarily admitted and enrolled as a legal practitioner within 7 days of the date on which the application for approval is submitted.

(5) The Council may make its own rules of procedure for the purposes of this section.

(6) Where the Council grants approval for a person to be temporarily admitted and enrolled as a legal practitioner, that person may, by way of application made not less than 7 days before the date on which he or she proposes to commence his or her temporary practice of law, apply to the High Court to be admitted and the High Court shall, unless cause to the contrary is shown to its satisfaction, temporarily admit and enrol that person as a legal practitioner.

(7) Where the application under this section is granted, the Registrar shall, after the foreign counsel has presented a valid work permit and paid the fee for the temporary practising certificate, issue to the foreign counsel a temporary certificate to practice law specifying in it the matter in which the foreign counsel is permitted to appear.

(8) Where the High Court is satisfied that an application under subsection (6) is of sufficient urgency and that it is appropriate, having regard to all the circumstances, to reduce the period specified in subsection (6), it may reduce the period to not less than 2 days upon an application from the legal practitioner or firm of legal practitioners who wish to have the foreign counsel temporarily admitted to practise.

(9) The Registrar shall not enter the name of a foreign counsel admitted under this section upon the Roll but shall keep a separate roll for foreign counsel admitted under this section.

(10) This Part does not apply to a person whom the Attorney General seeks to have temporarily admitted and enrolled as a legal practitioner for the purpose of representing the Crown in any proceedings.

**Effect of admission under section 33**

**34.** (1) A person admitted under section 33 is admitted only for the purpose of a particular case or matter and the admission is only for the purpose of enabling that person to practise law for the duration of the case or matter, including any relevant appeals.

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(2) A person admitted under section 33 shall not retain as junior counsel in that case or matter, any person who does not hold a valid practising certificate.

(3) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of $15,000.

**Temporary practising certificates**

**35.** (1) The Registrar shall issue to a person who is temporarily admitted and enrolled to practise law, a temporary practising certificate which shall expire upon the termination of the particular case or matter in respect of which the certificate is issued or on the 31st day of January of the year following the year in which the certificate was issued, whichever is sooner.

(2) A temporary practising certificate shall not be renewed unless it is supported by a letter from the legal practitioner or the firm of the legal practitioner referred to in section 33(1) to the effect that the holder of the temporary practising certificate is still engaged in the particular case or matter in respect of which the certificate was issued.

(3) Subject to section 33(7), the relevant fees in Schedule 3 are payable in respect of the temporary admission and enrolment of legal practitioners and the issuance and renewal of temporary practising certificates.

## PART 5

## ACCOUNTS

**Rules as to accounts and interest**

**36.** (1) All money received for or on behalf of a client by a legal practitioner shall be held, on trust for that client to be paid to the client or as the client may direct, in a bank account in the name of the legal practitioner and be designated a client's account.

(2) The Council may, after consultation with the Bar Association, make rules generally for the operating of bank accounts of clients' money by legal practitioners, for audits thereof to be conducted and the production to the Council of the relevant auditor's certificate, and without prejudice to the generality of the foregoing, the rules may provide for legal practitioners to—

(a) open and keep accounts at banks for clients' money; and

(b) keep accounts containing particulars and information as to money received, held or paid by them for or on account of their clients.

(3) Rules made under this section may also require a legal practitioner, in prescribed cases, to—

(a) keep on deposit in a separate account at a bank for the benefit of the client, money received for or on account of the client; or

(b) make good to the client out of the legal practitioner's own money a sum equivalent to the interest which would have accrued if the money received had been kept on deposit.

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(4) Pursuant to subsection (3), a legal practitioner is required to keep a record of any sum of money received and the period for which it is or is likely to be retained or both.

(5) Nothing in subsection (3) and (4), or in rules made pursuant to subsection (3), shall—

(a) affect any arrangement in writing, whenever made, between a legal practitioner and his or her client as to the application of the client's money or interest on that money; or

(b) apply to money received by a legal practitioner being money subject to a trust of which the legal practitioner is a trustee.

**Relief to banks**

**37.** (1) Subject to subsection (2), a bank is not liable on any transaction concerning the account of a legal practitioner, other than an account kept by a legal practitioner as trustee for a specified beneficiary, and a bank is under no obligation to make any enquiry and is not deemed to have knowledge of any right of any person to money paid or credited to that account.

(2) Notwithstanding subsection (1), a bank or other financial institution at which a legal practitioner keeps an account for clients' money shall not, in respect of any liability of the legal practitioner to the bank or other financial institution, not being a liability in connection with that account, have or obtain any recourse or right, whether by way of set-off, counterclaim, charge or otherwise, against money standing to the credit of that account.

**Dealings with clients' accounts where improper conduct alleged**

**38.** (1) Where a Judge is satisfied, on application made to him or her in Chambers by a client, legal practitioner or the Attorney General that there is reasonable cause to believe that—

(a) a legal practitioner has committed an offence involving fraud or improper conduct in relation to the money or property of a person; or

(b) any money entrusted to the legal practitioner has been unlawfully appropriated by the legal practitioner, his or her servant or agent;

the Judge shall cause the Registrar forthwith to inform the legal practitioner of the application and the grounds upon which it is based and summon him or her to appear in Chambers before a Judge of the Court on a date and, at a time stated in the order, to be examined concerning the matter and shall cause the Registrar to summon the person who made the application also to appear before the same Judge on that date and at that time.

(2) Where on examination it appears to the Judge that the legal practitioner has committed an offence involving fraud or improper conduct the Judge may order that—

(a) an account be kept by the legal practitioner or his or her firm with a bank or other financial institution for the client, or make an order as to the keeping of an account by a bank or other financial institution for the client by the legal practitioner or his or her firm of legal practitioners as he or she thinks proper, and that order shall be served on the bank or financial institution; and

(b) the Registrar make, or cause to be made, an application to the Council in respect of the legal practitioner, wherein Part B of the Code shall apply insofar as is practicable.

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(3) Where on an application made under subsection (1) the Court, in any proceedings brought under Part 5, finds the legal practitioner guilty of professional misconduct, it may make an order as to the keeping or distribution of the money standing to the credit of the account as it thinks proper in the circumstances of the case.

(4) Rules of Court may prescribe the form and procedure for any application or proceedings made or brought under this section.

## PART 6

## DISCIPLINE

**Rules to govern professional practice and conduct**

**39.** (1) The Code set out in Schedule 5 shall regulate the professional practice, etiquette, conduct and discipline of legal practitioners.

(2) A breach of the Rules in Part A of the Code may constitute professional misconduct, but a breach of the Rules in Part B of the Code shall constitute professional misconduct.

(3) Where provision is not made in the Rules in respect of any matter, the Rules and practice of the legal profession which existed before 27 April 2016 shall apply as far as is practicable.

(4) The Council, with the approval of the Chief Justice, may amend Schedule 5.

**Disciplinary Tribunal**

**40.** (1) A Disciplinary Tribunal is established for the purpose of dealing with complaints against legal practitioners.

(2) The Tribunal shall, at a general meeting, appoint a Secretary from among the members of the Council to perform the duties of Secretary to the Tribunal.

(3) In performing the duties in subsection (2), the Secretary shall not divulge to anyone information in relation to any of the complaints or proceedings or exhibits which come into his or her hands or knowledge, unless authorised by the Disciplinary Tribunal or a court of law.

(4) Schedule 6 shall have effect in relation to the constitution of the Tribunal and other matters relating to it.

(5) Expenses incurred by the Tribunal shall be met from the funds of the Association.

**Complaints to Tribunal**

**41.** (1) A client or, by leave of the Tribunal, any other person alleging himself or herself aggrieved by an act of professional misconduct committed by a legal practitioner, other than the Attorney General or other law officer, may apply to the Tribunal to require the legal practitioner to answer allegations contained in an affidavit made by that person, and the Secretary or any member of the Tribunal may make a like application to the Tribunal in respect of allegations concerning any professional misconduct as may for the purposes of this section be defined by the Council, with the approval of the Chief Justice.

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(2) In any matter or hearing before any Court, where the Court considers that an act referred to in subsection (1) has been committed by a legal practitioner, other than the Attorney General or other law officer, the Court may make or cause the Secretary to make an application to the Tribunal in respect of the legal practitioner under that subsection.

(3) A complaint against a legal practitioner for misconduct shall not be brought more than 1 year after the date of—

(a) occurrence of the facts giving rise to the complaint; or

(b) knowledge of the facts giving rise to the complaint of the complainant.

**Disciplinary proceedings**

**42.** (1) Schedule 7 shall have effect in relation to disciplinary proceedings against any legal practitioner other than the Attorney General or other law officer.

(2) For the purposes of a complaint made to it under this Act, the Tribunal shall have the powers of the Court to summon witnesses, call for the production of books and documents and examine witnesses and parties concerned on oath.

(3) The conviction of a legal practitioner of a criminal offence may, for the purposes of disciplinary proceedings against him or her, be accepted by the Tribunal as proof of his or her having committed the offence.

**Hearing of application**

**43.** (1) On the hearing of a complaint under this Part, the Tribunal may—

(a) dismiss the complaint;

(b) strike off the Roll the name of the legal practitioner to whom the complaint relates;

(c) suspend the legal practitioner to whom the complaint relates from practice on such conditions as it may determine;

(d) impose on the legal practitioner to whom the complaint relates, a fine as it thinks proper; or

(e) reprimand the legal practitioner to whom the complaint relates; and

(f) make any order as to costs as it thinks fit, and in addition, except where the complaint is dismissed, the Tribunal may order the legal practitioner to pay the complainant or person aggrieved a sum by way of compensation and reimbursement, and any further sum in respect of expenses incidental to the hearing of the complaint and the consideration of the report, as it thinks fit.

(2) The removal of the name of the legal practitioner from the Roll is not a bar to the continuation of the hearing and determination of a complaint.

(3) Where a decision of the Tribunal is that a legal practitioner is to be suspended from practice or struck off the Roll, the Registrar shall make the appropriate entry or alteration in the Roll.

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(4) Every decision or order made under this section shall be drawn up, settled and signed by the Secretary, who shall keep a written record of every decision or order.

(5) Where a legal practitioner is ordered by the Tribunal to pay compensation or to make reimbursement to a complainant or other aggrieved person, any compensation or reimbursement shall be taken into account in the assessment of damages recoverable against the legal practitioner in any civil proceedings brought against him or her by the complainant or other aggrieved person, in respect of any act or default which was the subject matter of the complaint which gave rise to the order of the Tribunal.

**Appeal from Disciplinary Tribunal**

**44.** (1) A legal practitioner aggrieved by a decision given or penalty imposed by the Tribunal may appeal against that decision or penalty to the Court of Appeal within 28 days of the decision or penalty being given.

(2) Upon an appeal under this section, the Court of Appeal may—

(a) affirm or set aside the decision or penalty appealed against;

(b) substitute any other decision or penalty which the Tribunal could have made or imposed; or

(c) re-submit the matter to the Tribunal for a re-hearing.

(3) At the conclusion of the re-hearing of a complaint following an appeal by the legal practitioner, no greater punishment shall be inflicted upon the legal practitioner concerned than was inflicted by the order made at the first hearing.

**Disciplinary proceedings by Supreme Court**

**45.** (1) Without prejudice to any other rule of law or to any rule of practice whereby the Supreme Court is empowered to take disciplinary action against a person admitted to practise as a legal practitioner before it, it is hereby declared that the Court has the power to take disciplinary action against a legal practitioner in accordance with the Rules of Court, with respect to his or her professional conduct, and in particular the Court may make any one or more of the following orders, namely—

(a) an order removing from the Roll the name of the legal practitioner against whom disciplinary proceedings have been instituted;

(b) an order suspending the legal practitioner from practice for such time as the Court deems fit;

(c) such order as to costs, as regards both the proceedings before it and the proceedings before the Tribunal as the Court deems fit;

(d) such further or other order as the circumstances of the case may require.

(2) In the exercise of the powers under subsection (1) the Court shall sit as a full court consisting of two judges appointed for the purpose by the Chief Justice.

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(3) The legal practitioner whose professional conduct is the subject of any disciplinary proceedings before the Court is entitled to a right of appeal to the Court of Appeal from any decision or other determination of the Court in the proceedings.

**Saving of jurisdiction of Courts**

**46.** Notwithstanding anything contained in this Act, the jurisdiction, power or authority vested in any court on 27 April 2016—

(a) by the common law with respect to discipline; or

(b) by any enactment to deal with contempt of court committed by legal practitioners;

shall continue to be exercisable after that date.

## PART 7

## LEGAL EDUCATION AND LAW REPORTING

**Legal education and law reporting**

**47.** (1) The Council may make arrangements—

(a) for the provision of a system of legal education and practical legal training and professional development; and

(b) for the provision of a system of law reporting.

(2) The Council may make rules relating to matters connected with its functions under subsection (1) and, in particular, but without prejudice to the generality of the foregoing, concerning—

(a) courses of instruction for students and generally for affording opportunities for students to read and obtain practical experience in law; and

(b) the nature and conditions of examinations and fees payable in respect of these examinations.

(2) Rules made under subsection (2) are subject to a negative resolution of the Anguilla House of Assembly.

## PART 8

## REMUNERATION AND COSTS

**Interpretation of this Part**

**48.** In this Part—

"legal practitioner" includes the executors, administrators and assignees of a legal practitioner;

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"person chargeable" in relation to a legal practitioner's bill of costs includes any person who has paid or is liable to pay the bill either to the legal practitioner or to any other person chargeable with the bill;

"taxing officer" means, in relation to the Court or any Court of Record, the Registrar of that Court.

**Payments in advance and accountability**

**49.** (1) A legal practitioner who receives any money in advance from or on behalf of a client to cover prospective costs, other than a retainer, or as security for future costs shall, on the written demand of the client made at any time after the expiration of 3 months from the receipt of the money or at any subsequent time during any period which is at least 3 months from the date of the last demand, deliver to the client a statement in writing showing—

(a) the amounts of money received up to the date of the statement;

(b) the dates when the amounts of money were received; and

(c) the purposes for which the money or so much of it as has been expended have been applied.

(2) Where a client fails to obtain the statement referred to in subsection (1) after demanding it under subsection (1), he or she may apply to a Judge in Chambers for an order requiring the legal practitioner to deliver the statement, and the Judge may, on the making of that order, give other directions as he or she thinks fit.

**Bills of costs to be taxed**

**50.** (1) Subject to subsection (2), a legal practitioner may not commence a claim for the recovery from his or her client of the amount of any bill of costs for any legal business done by him or her unless the bill of costs is taxed or assessed and a taxed or assessed copy is served on the client with a demand in writing for payment 15 days before the filing of the suit.

(2) The Court may, on the application of a legal practitioner, authorise him or her to commence or proceed with a suit for the recovery of any costs before the expiration of 15 days from the delivery of the copy of the bill of costs required by subsection (1), if it is satisfied that there is reasonable cause for believing that the person chargeable with the costs is about to—

(a) leave Anguilla;

(b) become bankrupt; or

(c) do any other act which would tend to prevent or delay the legal practitioner from obtaining payment.

(3) Where in any proceedings before a Court the amount set out in a bill of costs is sought to be recovered, or is disputed, and the bill of costs or part of it relates to matters in respect of which no scale of fees is prescribed, the court shall decide whether the fees set out in respect of those matters are fair and reasonable having regard to the work done, or are excessive, and shall allow or reduce them accordingly.

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(4) It shall not be necessary in the first instance for a legal practitioner in proving compliance with this section to prove the contents of the bill of costs served, and it shall be sufficient to prove that the bill—

(a) is signed by the legal practitioner or, in the case of a partnership, by any one of the partners either in his or her own name or in the name of the partnership; or

(b) being enclosed in or accompanied by a letter signed in the manner specified in paragraph (a) referring to the bill, was duly served.

**Rules as to costs for non-contentious business**

**51.** (1) The Association may, with the approval of the Chief Justice, make rules prescribing and regulating the remuneration of legal practitioners in respect of non-contentious business.

(2) Rules made under this section may—

(a) regulate the amount of remuneration which may be charged, having regard to the following—

(i) the amount of money that is expended or likely to be expended in the business,

(ii) the number and importance of documents prepared or perused by the legal practitioner,

(iii) the place where and the circumstances in which the business or any part of it is transacted, and

(iv) the skill, labour and complexity required by the legal practitioner in handling the business; and

(b) authorise and regulate—

(i) the allowance of interest, and

(ii) the taking by a legal practitioner from his or her client of security for payment of remuneration, to be ascertained by taxation or otherwise, which may become due to him or her.

(3) Where rules made under this section are in force, the taxation of a bill of costs of a legal practitioner in respect of non-contentious business shall be regulated by those rules.

**Remuneration agreements for non-contentious business**

**52.** (1) Notwithstanding section 50, a legal practitioner and his or her client may either before, after or in the course of the transaction of any non-contentious business by the legal practitioner, enter into an agreement as to the remuneration of the legal practitioner in respect of the work to be performed.

(2) The agreement made under subsection (1) may provide for the remuneration of the legal practitioner by gross sum, by commission, by percentage, by salary, or otherwise, and it may be made on terms that the amount of the remuneration stipulated in the agreement does not include all or any

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disbursements made by the legal practitioner in respect of searches, plans, travelling, stamps, fees or other matters.

(3) An agreement made under subsection (1) shall be in writing and signed by the person to be bound or his or her agent.

(4) An agreement made under subsection (1) may be sued and recovered on, or set aside, in the same manner and on the same grounds as an agreement not relating to the remuneration of a legal practitioner, but if on any taxation of costs the agreement is relied on by the legal practitioner and objected to by the client as unfair or unreasonable, the taxing officer may inquire into the facts and certify them to the Court.

(5) If on the certificate of the taxing officer it appears just to the Court that the agreement should be cancelled or the amount payable under it reduced, the Court may order the agreement to be cancelled, or the amount payable under it to be reduced, and may give consequential directions as it may think fit.

## PART 9

## MISCELLANEOUS

**Professional liability insurance**

**53.** (1) The Council may make rules requiring legal practitioners to maintain professional liability insurance.

(2) The Council may establish, administer, maintain and operate a professional liability insurance programme and may use for that purpose fees set under this section.

(3) The Council may, by resolution, set—

(a) the insurance fee; and

(b) the amount to be paid for each class of transaction under subsection (4)(c).

(4) The Council may make rules to do any of the following—

(a) permit legal practitioners to pay the insurance fee by instalments on or before the date by which each instalment of that fee is due;

(b) establish classes of membership for insurance purposes and exempt a legal practitioner or class of legal practitioners from the requirement to maintain professional liability insurance or from payment of all or part of the insurance fee; and

(c) designate classes of transactions for which the legal practitioner must pay a fee to fund the professional liability insurance programme.

(5) The Council may use fees set under this section to act as the agent for the members in obtaining professional liability insurance.

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(6) Any insurance fund established by the Council pursuant to subsection (2), comprised of the insurance fees and other income of the professional liability insurance programme, and the insurance fund—

(a) is not subject to any process of seizure or attachment by a creditor of the Council; and

(b) must be accounted for separately from other funds.

(7) A legal practitioner shall not practise law unless he or she has paid the insurance fee which is due and payable or is exempted from payment of the fee.

(8) A legal practitioner shall immediately surrender to the Council his or her practising certificate and any proof of professional liability insurance issued by the Council, where—

(a) the Council has paid a deductible amount on behalf of the legal practitioner in respect of a claim against the legal practitioner, under a professional liability insurance programme; and

(b) the legal practitioner has not reimbursed the Council, at the date that the insurance fee or an instalment of that fee is due.

(9) The Council may waive or extend the time—

(a) to pay all or part of the insurance fee; or

(b) to repay all or part of a deductible amount paid on behalf of a legal practitioner.

(10) Where the Council extends the time for a payment under subsection (9), the later date for payment is the date when payment is due for the purposes of subsections (7) and (8).

**Rules**

**54.** The Council may, after consulting the Chief Justice, make rules to give effect to the provisions of this Act.

**Citation**

**55.** This Act may be cited as the Legal Profession Act, Revised Statutes of Anguilla, Chapter L33.

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## SCHEDULE 1

(Section 3)

## THE COUNCIL

**Council to be governing and executive body of Association**

**1.** The Council shall be the governing and executive body of the Association and shall exercise and perform such functions, duties and powers as are imposed or conferred upon it by this Act or any other enactment.

**Type of members**

**2.** The Council shall consist of—

(a) the immediate past president of the Association when he or she is resident in Anguilla; and

(b) elected members comprising—

(i) officers of the Association, and

(ii) 3 ordinary members.

**Officers of the Association**

**3.** (1) The officers of the Association shall be the President, the Vice-President and the Treasurer, who shall be elected at the same time as the ordinary members in accordance with paragraph 4, and the Secretary who shall be appointed by the Council as soon as it is constituted from among ordinary members.

(2) Subject to paragraph 2, every practitioner member of the Association of more than 10 years standing is eligible for election as President or Vice-President and of 7 years standing as Treasurer.

**Ordinary members**

**4.** There shall be three ordinary members of the Council comprising three practitioner members, each of them whom shall be of not less than 8 years standing on the day of his or her nomination for election to the Council.

**Elections to be held every year**

**5.** In every year elections shall be held in accordance with the Schedule and any rules made thereunder for the election of President, Vice-President and Treasurer of the Association and the ordinary members of the Council.

**Closing date for nomination**

**6.** In the month of January every year the Council shall publish in the *Gazette* and in any other manner which it thinks expedient, the closing date for nominations of candidates for election to the Association and the Council.

**Candidate's consent to be obtained**

**7.** Every nomination of a candidate for election to the Association and the Council shall be in writing, signed by not less than 2 practitioner members, and shall name only 1 candidate whose consent shall be endorsed thereon.

**Date of election and the publication**

**8.** Election of elected members to the Council shall be held as soon as practicable after the month of January in every year but the names of the candidates nominated shall not be published before the first day of February in that year.

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**Ballot voting**

**9.** Voting shall be by ballot.

**Election to offices**

**10.** (1) A person may at the same election be a candidate for two or more of the offices of President, Vice-President, Treasurer and ordinary member of the Council.

(2) The election to these offices shall be determined in the order in which the offices are mentioned in subparagraph (1).

**Equality of votes**

**11.** In the event of an equality of votes between candidates, the one to be declared elected shall be determined by lot in such manner as may be prescribed.

**Names of members of new Council to be published in the *Gazette***

**12.** (1) The names of the members of the new Council shall be published in the *Gazette.*

(2) On the date of such publication, the new Council is deemed to have been constituted and its members to have taken office.

(3) On that date, the terms of office of the members of the previous Council expire.

**New Council**

**13.** Subject to this Act, all members of the Council shall hold office until the coming into office of a new Council in the following year under paragraph 12.

**Filling of vacancies**

**14.** If a vacancy arises in the office of an elected member, it shall be filled in one of the following ways—

(a) where it arises less than 6 months after a member took office, by a by-election; and

(b) where it arises 6 months or more after the member took office, by the appointment by the Council of a person qualified for election to the office.

**Presiding at meetings of Council and Association**

**15.** (1) The President of the Association or, in his or her absence, the Vice-President of the Association shall be the Chairman of the Council and the Association and shall preside at all meetings of the Council and the Association.

(2) In the absence from a meeting of both the President and the Vice-President the members present shall select one of their members to preside at that meeting.

**Appointment of officer due to illness, etc.**

**16.** Subject to paragraph 15, where for any reason an officer of the Association is unable to carry out his or her functions under this Act, the Council shall appoint a member from among the elected members of the Council to act in his or her place.

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**Vacation of office of statutory member**

**17.** The statutory member of the Council shall vacate his or her office if—

(a) he or she is struck off the Roll or is suspended from practising as a legal practitioner;

(b) he or she becomes bankrupt or is insolvent;

(c) he or she becomes of unsound mind; or

(d) he or she resigns his or her seat on the Council.

**Vacation of office of elected member**

**18.** An elected member shall vacate his or her office in any of the circumstances specified in paragraph 17 and shall also vacate his or her office if—

(a) being elected under paragraph 5, he or she ceases for any reason to have in force a practising certificate; or

(b) he or she is absent from 3 consecutive meetings of the Council without its consent.

**Quorum of Council**

**19.** Four members present at a meeting of the Council shall constitute a quorum for the transaction of any business.

**Out-of-pocket expenses to be paid to members of the Council**

**20.** No fees shall be paid to any member of the Council but a member may be reimbursed from the funds of the Association for out-of-pocket and travelling expenses incurred by him or her in relation to the Association.

**Annual General Meeting**

**21.** (1) The Council shall convene an Annual General Meeting which shall be held on or before the 31st day of March in each year and shall cause to be prepared and presented to the Annual General Meeting—

(a) a report on the activities of the Association; and

(b) proper accounts, duly audited, of all funds, property and assets of the Association, for the year terminating on the 31st day of January preceding such General Meeting.

(2) The Auditor shall be appointed at each Annual General Meeting.

**General Meeting**

**22.** (1) The Council may convene a Special General Meeting of the Association at such time or times as the Council thinks expedient.

(2) The quorum at general meetings shall be ten.

**Ten practitioner members can requisition general meeting**

**23.** (1) Ten practitioner members of the Association may at any time requisition a Special Meeting by written notice signed by them stating the objects of the meeting and served on the President, the Vice-President or Secretary of the Association.

(2) The Council shall convene a General Meeting to be held in 30 days of the service of the notice.

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(3) If the Council fails to convene a Special General Meeting within the time required by subparagraph (2), the requisitioning members may convene that General Meeting within 60 days of the service of the notice.

**Chairman to have casting vote at meetings**

**24.** At every Council and General Meeting, every member present shall have one vote and the person presiding at that meeting shall have a casting as well as an original vote.

**Management of Association to be vested in Council**

**25.** (1) All such powers, acts, or things which are not by this Act expressly authorised, directed or required to be exercised or done by the Association in General Meeting may, subject to this Act or any rules made thereunder or any resolution passed from time to time by the Association in General Meeting, be exercised or done by the Council.

(2) No resolution of the Association passed under subparagraph (1) shall invalidate the previous exercise of any power or the previous doing of any act or thing by the Council which would have been valid if such resolution had not been passed.

**Council to have power to make rules**

**26.** (1) The Council shall have power to make rules to provide for all matters not expressly reserved to the Association in General Meeting (whether the same be expressed to be among its powers or not) and for all such things as may appear to it to be necessary or desirable for carrying out its functions under this Act or any other enactment.

(2) Without prejudice to the generality of the power conferred by subparagraph (1), the Council may make rules on any of the following matters—

(a) the manner of nominating candidates;

(b) the manner of communicating to members the names of the persons nominated for election;

(c) the form of nomination paper and the ballot paper;

(d) the times at which the various steps in an election are to take place;

(e) the mode of voting; and

(f) the number of practitioner members (not being less than ten) to constitute a quorum at a General Meeting:

PROVIDED THAT if there is no quorum present within 30 minutes of the notified time for commencement, the meeting shall be adjourned to the same day, place and time 7 days later and the number of persons then present at the announced time shall constitute the quorum.

———————

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**SCHEDULE 2**

(Section 14)

FORM 1

Anguilla

EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

(LEGAL PROFESSION ACT)

**CERTIFICATE OF ENROLMENT**

It is hereby certified that …….. is registered on the Roll of Legal Practitioners as a barrister/solicitor under section 14 of the Legal Profession Act.

Dated this day of 20 .

*Registrar of the Court*

FORM 2

THE LEGAL PROFESSION ACT

*(Section 23)*

**ANNUAL PRACTISING CERTIFICATE**

**Pursuant to the Legal Profession Act it is hereby certified that**

……

whose name is registered in the Roll of Legal Practitioners is entitled to practise as a barrister/solicitor until the …… day of …….. 20 .

Dated this day of 20 .

*Registrar of the Court*

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FORM 3

(Section 27)

THE LEGAL PROFESSION ACT

**LAW OFFICERS CERTIFICATE**

It is hereby certified that ……..
is a law officer holding the office of …….. in the Anguilla public service.

Dated this day of 20 .

…..……
Attorney-General

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## SCHEDULE 3

(Sections 13, 23, 31 and 35)

## FEES PAYABLE

| | Description | US$ |
|---|---|---|
| 1. | Application for admission to practise (non-refundable) | $600.00 |
| 2. | Enrolment Certificate | $200.00 |
| 3. | Certified copy of enrolment certificate | $ 50.00 |
| 4. | Practising Certificate (payable annually) | |
| | (a) If less than five (5) years at the Bar | $200.00 |
| | (b) If five (5) years or more but less than ten (10) years at the Bar | $350.00 |
| | (c) If 10 years and above at the Bar | $450.00 |
| | (d) Queen's Counsel | $700.00 |
| 5. | Certified copy of a practising certificate (all classes) | $ 50.00 |
| 6. | Application for temporary admission of foreign Counsel | $1,200.00 |
| 7. | Temporary Practising Certificate for foreign Counsel | $1,000.00 |
| 8. | Restoration of name to the Roll | $600.00 |
| 9. | Certificate of Good Standing | $200.00 |

## SCHEDULE 4

(Section 13)

## LIST OF COUNTRIES

Antigua and Barbuda
Bermuda
Barbados
Belize
British Virgin Islands
Cayman Islands
Dominica
Grenada
Guyana
Jamaica
Montserrat
St. Kitts and Nevis
St. Lucia
Saint Vincent and the Grenadines
Trinidad and Tobago
Turks and Caicos

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## SCHEDULE 5

(Section 39)

PART A

## CODE OF ETHICS

GENERAL GUIDELINES

*In Relation to the Profession and Himself or Herself*

**1.** A legal practitioner shall observe the rules of this Code, maintain his or her integrity and the honour and dignity of the legal profession and encourage other legal practitioners to act similarly and both in the practice of his or her profession and in his or her private life, shall refrain from conduct which is detrimental to the profession or which may tend to discredit it.

**2.** A legal practitioner shall in the discharge of his or her professional duties expose without fear or favour before the proper tribunals unprofessional or dishonest conduct by any other legal practitioner and shall not lightly refuse a retainer against another legal practitioner who is alleged to have wronged his or her client or committed any other act of professional misconduct.

**3.** A legal practitioner shall scrupulously preserve his or her independence in the discharge of his or her professional duties.

**4.** A legal practitioner shall protect the profession against the admission of any candidate whose moral character or education renders him or her unfit for admission.

**5.** A legal practitioner shall not endeavour by direct or indirect means to attract the clients of another legal practitioner and where a client is referred to him or her by another legal practitioner, the client remains for all other purposes the client of the referring legal practitioner and the legal practitioner to whom the client is referred shall act with due deference to the relationship between the client and the referring legal practitioner.

**6.** A legal practitioner may speak in public or write for publication on legal topics so long that it is not likely to be regarded as a result of that action as being concerned with the giving of individual advice.

**7.** (1) A legal practitioner shall endeavour to uphold standards of integrity, capability, dedication to work, fidelity, and trust.

(2) It is unprofessional for a legal practitioner to seek retainers through agents of any kind.

**8.** A legal practitioner shall defend the interest of his or her client without fear of judicial disfavour or public unpopularity and without regard to any unpleasant consequences to himself or herself or to any other person.

**9.** A legal practitioner has a right to decline employment and is not obliged to act either as adviser or advocate for every person who may wish to become his or her client.

**10.** A client is not entitled to receive nor is a legal practitioner entitled to render any service or advice—

(a) exhibiting disrespect for a judicial office;

(b) concerning the corruption of any person exercising a public or private trust; or

(c) concerning the deception or betrayal of the public.

**11.** Every legal practitioner shall bear in mind that the oath of office taken on his or her admission to practise is not a mere formality but is a solemn undertaking to be strictly observed on his or her part.

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*In Relation to the State and the Public*

**12.** The primary duty of a legal practitioner when engaged as a public prosecutor is not to secure a conviction but to see that justice is done and to that end he or she shall not withhold facts tending to prove either guilt or innocence of the accused.

**13.** A legal practitioner shall endeavour by lawful means, where the needs of society require it, to promote and encourage the modernisation, simplification and reform of legislation.

**14.** A legal practitioner shall not by his or her actions, stir up strife or litigation by seeking out defects in titles, claims for personal injury or other causes of action for the purpose of securing a retainer to prosecute a claim or pay or reward any person directly or indirectly for the purpose of procuring him or her to be retained in his or her professional capacity, and where it is in the interest of his or her client, he or she shall seek to obtain reasonable settlement of disputes.

**15.** A legal practitioner shall not except for good reason refuse his or her services in capital offences.

**16.** A legal practitioner shall not be deterred from accepting proffered employment owing to the fear or dislike of incurring the disapproval of officials, other legal practitioners or members of the public.

**17.** Where a legal practitioner consents to undertake legal aid and he or she is requested by the Council and consents to undertake the representation of a person who is unable to afford legal representation or to obtain legal aid, the legal practitioner shall not, except for compelling reasons, seek to be excused from undertaking that representation.

**18.** A legal practitioner in undertaking the defence of a person accused of crime shall use all fair and reasonable means to present every defence available at law.

*In Relation to the Client*

**19.** (1) A legal practitioner shall always act in the best interest of his or her client, represent him or her honestly, competently and zealously and endeavour by all fair and honourable means to obtain for him or her the benefit of any and every remedy and defence which is authorised by law, always bearing in mind that his or her duties and responsibilities should be carried out within and not without the boundaries of the law.

(2) The first concern of a legal practitioner should always be the interest of his or her client and the exigencies of the administration of justice which should rank before his or her right to compensation for his or her services.

**20.** (1) A legal practitioner should, before advising on the cause of a client, obtain a sound knowledge of the matter and give a candid opinion of its merits or demerits and the probable results of pending or contemplated litigation.

(2) A legal practitioner should be reluctant in proffering bold and confident assurances to his or her client especially where his or her employment may depend on these assurances in light of the fact that the law is not always on the side of his or her client and that the law allows for the *audi alteram partem* rule to be followed.

(3) Where a dispute allows for settlement without litigation, a legal practitioner should advise his or her client to avoid or settle the dispute.

**21.** (1) A legal practitioner shall at the time of agreeing on a retainer disclose to his or her client all the circumstances of his or her relations to the parties and his or her interest in or connection with the dispute which may influence the client in his or her selection of a legal practitioner.

(2) A legal practitioner shall scrupulously guard and never divulge the secrets and confidence of his or her client except with his or her client's consent.

**22.** A legal practitioner shall treat adverse witnesses, litigants and other legal practitioners with fairness and courtesy, refraining from offensive personal references and should refrain in conducting his or her professional duties from being influenced by his or her client's personal feelings and prejudices.

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**23.** A legal practitioner has the right to undertake the defence of a person accused of crime regardless of his or her own personal opinion as to the guilt of the accused and having undertaken to conduct the defence, he is bound by all fair and honourable means to present every defence that the law of the land permits so that no person may be unjustly deprived of life or liberty.

**24.** (1) A legal practitioner may represent multiple clients only if he or she can adequately represent the interests of each and if each consents to his or her representation after full disclosure of the possible effects of multiple representations.

(2) A legal practitioner shall, in all situations where a possible conflict of interest arises, resolve the conflict by leaning against multiple representations.

**25.** (1) A legal practitioner shall deal with the business of his or her client with all due expedition and shall whenever reasonably so required by the client, provide him or her with full information as to the progress of the business.

(2) It is improper for a legal practitioner to accept a case unless he or she can handle it without undue delay.

**26.** Where a legal practitioner determines that the interest of his or her client requires it, he or she may with the specific or general consent of the client refer his or her business or part of it to another legal practitioner whether or not a member of his or her own firm of legal practitioners.

**27.** (1) A Queen's Counsel or Senior Counsel may accept instructions, appear or do any work without a junior, except where he or she would otherwise be unable properly to carry out his or her instructions or conduct his or her case if he or she were to do so.

(2) Where more than one legal practitioner appears as advocate for the same party in the same proceedings, the decision of who shall lead the conduct of the case shall, subject to the instructions of the client, be settled by the legal practitioners representing that party before they appear in court and shall not be altered during the course of the proceedings and the leader shall have all authority over the conduct of the case.

(3) A legal practitioner, including a Queen's Counsel, who appears with the leader, is entitled to an appropriate negotiated fee for his or her conduct of the case.

**28.** (1) A legal practitioner is entitled to reasonable compensation for his or her services but should avoid charges which either overestimate or undervalue the service rendered.

(2) A legal practitioner shall not charge in excess of the value of the service rendered because of the ability of a client to pay, however, he or she may consider the indigence of a client as a factor in charging below the value of the service rendered, or not charging at all.

(3) A legal practitioner should avoid controversies with clients regarding compensation for his or her services as far as is compatible with self-respect and his or her right to receive compensation for his or her services.

**29.** The right of a legal practitioner to ask for a retainer or to demand payment of out-of-pocket expenses and commitments and to withdraw his or her services for non-payment of these fees shall not be exercised where the client may be unable to find other timely assistance to prevent irreparable damage being done to his or her case.

**30.** Where a legal practitioner engages a foreign colleague to advise on a case or to co-operate in handling it, he or she is responsible for the payment of the charges involved except if there is an express agreement to the contrary, but where a legal practitioner directs a client to a foreign colleague he or she is not responsible for the payment of the charges, nor is he or she entitled to a share of the fee of his or her foreign colleague except where there is an express agreement to the contrary.

**31.** Subject to paragraph 12 of Part B, a legal practitioner may at any time withdraw from employment—

(a) where the client fails, refuses or neglects to carry out an agreement with or his or her obligation to the legal practitioner as regards the expenses or fees payable by the client;

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(b) where his or her inability to work with colleagues indicates that the best interest of the client is likely to be served by his or her withdrawal;

(c) where his or her client freely assents to the termination of his or her employment;

(d) where by reason of his or her mental or physical condition or other good and compelling reason it is difficult for him or her to carry out his or her employment effectively; or

(e) in cases of conflict as contemplated in paragraph 25 of this Part or paragraph 8 of Part B.

**32.** (1) A legal practitioner may not appear as a witness for his or her own client except in merely formal matters or where the appearance is essential to the ends of justice.

(2) If a legal practitioner is a necessary witness for his or her client with respect to matters other than those that are merely formal, he or she shall entrust the conduct of the case to another legal practitioner of his or her client's choice.

*In relation to the Courts and the Administration of Justice*

**33.** (1) A legal practitioner shall maintain a respectful attitude towards the Court and shall not engage in undignified or discourteous conduct which is degrading to the Court.

(2) A legal practitioner shall encourage respect for the Courts and the Judges.

(3) A legal practitioner shall not support unjust criticisms of Judges and Magistrates.

(4) Where there is ground for complaint against a Judge or Magistrate a legal practitioner may make representation to the proper authorities and where this is done, the legal practitioner shall be protected.

**34.** A legal practitioner shall endeavour always to maintain his or her status as an advocate and shall not either in argument to the court or in address to the jury assert his or her personal belief in his or her client's innocence or in the justice of his or her cause or his or her personal knowledge as to any of the facts involved in the matter under investigation.

**35.** A legal practitioner shall never seek privately to influence directly or indirectly the Judges of the Court in his or her favour or in the favour of his or her client, nor shall he or she attempt to influence juries by fawning, flattery or pretended solicitude for their personal comfort.

**36.** A legal practitioner shall be punctual in attendance before the Courts and concise and direct in the trial and disposition of causes.

**37.** A legal practitioner appearing before the Court shall at all times be attired in the manner prescribed or agreed upon by the proper authorities and as befits the dignity of the Court.

*In Relation to his or her Fellow Legal practitioners*

**38.** (1) The conduct of a legal practitioner towards his or her fellow legal practitioners shall be characterised by courtesy, fairness and good faith and he or she shall not permit ill-feelings between clients to affect his or her relationship with his or her colleagues.

(2) All personal conflicts between legal practitioners should be scrupulously avoided as should also colloquies between them which cause delay and promote unseemly wrangling.

**39.** (1) A legal practitioner shall reply promptly to letters from other legal practitioners making inquiries on behalf of their clients.

(2) A legal practitioner shall endeavour as far as reasonable to suit the convenience of the opposing legal practitioner when the interest of his or her client or the cause of justice will not be injured by so doing.

**40.** A legal practitioner shall not give a professional undertaking that he or she cannot fulfil.

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**41.** (1) A legal practitioner shall in the course of his or her professional duties report improper or unprofessional conduct by a colleague to himself or herself or his or her client to the Council, except where the information relating to the improper or unprofessional conduct is received in professional confidence in which case he or she shall respect the duty of silence imposed in those circumstances.

(2) A legal practitioner shall in the course of his or her professional duties expose without fear a legal practitioner who is alleged to have wronged a client and shall not lightly refuse a retainer against another legal practitioner if called upon to do so.

**42.** Where a legal practitioner has been sent money, documents or other things by a colleague in pursuance of a legal matter on condition that the receiving party will use them for a particular purpose, he or she must comply with that request or forthwith return the money, documents or other things.

**43.** A legal practitioner shall not in any way communicate upon a subject in controversy or attempt to negotiate or compromise a matter directly with any party represented by another legal practitioner except through that other legal practitioner or with his or her prior consent.

**44.** (1) A legal practitioner shall not ignore the customs or practices of the legal profession even when the law expressly permits it, without giving timely notice to the opposing legal practitioner.

(2) A legal practitioner should avoid all sharp practices and should refrain from taking any paltry advantage when his or her opponent has made or overlooked some technical error or matter, bearing in mind that no client has a right to demand that a legal practitioner representing him or her shall be illiberal or shall do anything repugnant to his or her own sense of honour and propriety.

**45.** A legal practitioner shall not accept instructions to act in Court proceedings in which to his or her knowledge a client has previously been represented by another legal practitioner, unless he or she first notified the other legal practitioner of the change, and makes reasonable efforts to ensure that the other legal practitioner has been paid for his or her services, however he or she shall be deemed to have notified the other legal practitioner if he or she has made reasonable efforts to notify him or her of the change.

**46.** A legal practitioner shall not accept instructions to act in proceedings other than Court proceedings in which to his or her knowledge, another legal practitioner has previously represented the client unless he or she makes reasonable efforts to ascertain that the retainer of that legal practitioner has been determined by the client or that the client wishes both legal practitioners to represent him or her.

**47.** A legal practitioner who instructs or employs another legal practitioner to act on behalf of his or her client shall, unless otherwise agreed, pay the proper fee of that legal practitioner whether or not he or she has received payment from the client.

*General*

**48.** Nothing contained in this Code shall be construed as derogating from any existing rules of professional conduct and duties of a legal practitioner which are in keeping with the traditions of the legal profession and which are not specifically provided for in this code.

**49.** Where in any particular matter explicit ethical guidance does not exist, a legal practitioner shall determine his or her conduct by acting in a manner that promotes public confidence in the integrity and efficiency of the legal system and the legal profession.

**50.** (1) A person who previously held a substantive appointment as a Judge of the Supreme Court shall not appear as a legal practitioner in any of the Courts of Anguilla for a period of 5 years commencing on the date of his or her retirement, resignation or other termination of appointment.

(2) This rule shall not apply to a person who is appointed to act as a Judge in a temporary capacity.

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PART B

## MANDATORY PROVISIONS AND SPECIFIC PROHIBITIONS

**1.** A legal practitioner shall not practise as a legal practitioner unless he or she has been issued a practising certificate in accordance with the provisions of this Act.

**2.** (1) A legal practitioner shall never knowingly mislead the Court.

(2) A legal practitioner shall not withhold facts or secrete witnesses in order to establish the guilt or innocence of the accused.

**3.** A legal practitioner shall not hold out any person who is not qualified to practise law as a partner, associate, consultant or legal practitioner.

**4.** A legal practitioner shall not become involved in a matter unless at the request of a party to the matter; however, it is proper for a legal practitioner to become involved in matters referred by the Bar Association or by another legal practitioner or for which he or she is engaged in any other manner not inconsistent with this Code.

**5.** A legal practitioner shall not in the carrying on of his or her practice or otherwise permit any act or thing which is likely or is intended to attract business unfairly or can reasonably be regarded as touting or public advertising.

**6.** (1) A legal practitioner shall not in any way make use of any form of public advertisement calculated to attract clients to himself or herself or any firm of legal practitioners with which he or she is associated and he or she shall not permit, authorise or encourage anyone to do so or reward anyone for doing so on his or her behalf.

(2) A legal practitioner shall not permit his or her professional standing to be used for the purpose of advertising any particular product, service or commercial organisation.

(3) A legal practitioner shall not advertise for business indirectly by furnishing or inspiring newspaper comment concerning cases or causes in which he or she has been or is connected or concerning the manner of his or her conduct, the magnitude of the interest involved, the importance of his or her position and any similar self-laudations.

(4) Notwithstanding subparagraphs (1), (2), and (3)—

(a) a legal practitioner or firm of legal practitioners may have a website or publish professional newsletters, the contents which shall be in accordance with good practice of the legal profession, informing of the firm of legal practitioners, its members and staff, current legal issues. Websites and professional newsletters must carry content of a professional nature and not contain anything derogatory of the legal profession, Government, judiciary or their respective members.

(b) a legal practitioner may permit limited and dignified identification of himself or herself as a legal practitioner—

(i) in political advertisements relevant to the cause of a political campaign or issue,

(ii) in public notices where the announcement of his or her professional status is required or authorised by law, or is reasonably necessary for a purpose other than attracting potential clients,

(iii) in reports and announcements of bona fide commercial, civic, professional or political organisations in which he or she serves as a director or officer,

(iv) in and on legal textbooks, articles, professional journals and other legal publications and in dignified and restrained advertisements of these publications,

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(v) in announcements of any public address, lecture, or publication by him or her on legal topics except that these announcements do not emphasise his or her own professional competence and are not likely to be regarded as being concerned with the giving of individual advice by him or her;

(c) a legal practitioner may speak in public or write for publication on legal topics so long as it is not likely to be regarded as being concerned with the giving of individual advice;

(d) the following cards, office signs, letterheads or directory listings may be used by a legal practitioner but in a restrained and dignified form—

(i) a professional card identifying the legal practitioner by name and as a legal practitioner, giving his or her decorations and degrees, legal or otherwise, his or her addresses, telephone numbers and the name of his or her law firm or professional associates; however these cards should not be published in the news media and should only be handed out on request,

(ii) a brief professional announcement card which may be delivered only to legal practitioners, clients, former clients, personal friends and relations, and government bodies stating new or changed associations, addresses, or law firm names or similar professional matters,

(iii) a sign of a size and design compatible with the existing practice of the profession displayed on or near the door of the office and in the building directory identifying the law office,

(iv) a letterhead identifying the legal practitioner by name and as a legal practitioner and giving his or her decorations and degrees, legal or otherwise, his or her addresses, telephone numbers and the name of his or her law firm and of his or her associates,

(v) a listing in a telephone directory, a reputable law list, legal directory or biographical reference giving a brief biographical or other relevant information and the professional card, office sign, letterhead or listing may also state that the legal practitioner is a notary public,

(vi) a listing in a legal or other related trade journal giving information on the contact details of the attorney-at-law and his or her law firm, and the services provided.

**7.** Where a legal practitioner commits a criminal offence which in the opinion of the Council is of a nature likely to bring the profession into disrepute, the commission of the offence shall constitute professional misconduct if—

(a) he or she has been convicted by a Court, including a foreign court of competent jurisdiction, of the offence; or

(b) he or she has been prosecuted and has been acquitted by reason of a technical defence or he has been convicted but the conviction is quashed by reason of some technical defence.

**8.** A legal practitioner shall not acquire directly or indirectly by purchase or otherwise a financial or other interest in the subject matter of a case which he or she is conducting.

**9.** (1) A legal practitioner shall not enter into partnership or fee sharing arrangements concerning the practice of law with a non-qualified body or person.

(2) A legal practitioner shall not enter into an arrangement for or charge or collect a fee in contravention of this Code or any law.

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**10.** (1) A legal practitioner shall not charge fees that are unfair or unreasonable and in determining the fairness and reasonableness of a fee the following factors may be taken into account—

(a) the time and labour required, the novelty and difficulty of the questions involved and the skill required to competently perform the legal service;

(b) the likelihood that the acceptance of the particular employment will preclude other employment by the legal practitioner;

(c) the fee customarily charged in the locality for similar legal services;

(d) the amount, if any involved;

(e) the time limitations imposed by the client or by the circumstances;

(f) the nature and length of the professional relationship with the client;

(g) the experience, reputation and ability of the legal practitioner concerned;

(h) any scale of fees or recommended guide as to charges prescribed by law or by the Council.

(2) A legal practitioner shall not accept any fee or reward for merely introducing a client or referring a case or client to another legal practitioner.

(3) A legal practitioner shall not charge a contingency fee except with the prior agreement of the client for reasonable commissions on the collection of liquidated claims.

**11.** (1) A legal practitioner shall not act in any matter in which his or her professional duties and personal interests conflict or are likely to conflict except with the specific approval of his or her client given after full disclosure to the client.

(2) A legal practitioner shall not accept or continue his or her retainer or employment on behalf of two or more clients if their interests are likely to conflict or if his or her independent professional judgment is likely to be impaired.

**12.** (1) A legal practitioner who withdraws from employment under paragraph 31 of Part A shall not do so until he or she has taken reasonable steps to avoid foreseeable prejudice or injury to the position and rights of his or her client including—

(a) giving adequate notice;

(b) allowing time for employing another legal practitioner;

(c) delivering to the client all documents and property to which he or she is entitled subject however to any lien which the legal practitioner may have over these items;

(d) complying with any laws, rules or practice that may be applicable; and

(e) where appropriate, obtaining the permission of the Court where the hearing of the matter has commenced.

(2) A legal practitioner who withdraws from employment shall refund promptly that part of the fees, if any, already paid by his or her client as may be fair and reasonable having regard to all the circumstances of the case.

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**13.** A legal practitioner shall withdraw forthwith from employment or from a matter pending before a tribunal—

(a) where the client insists upon his or her presenting a claim or defence that he or she cannot conscientiously advance;

(b) where the client seeks to pursue a course of conduct which is illegal or which will result in deliberately deceiving the Court;

(c) where a client has in the course of the proceedings perpetrated a fraud upon a person or tribunal and on request by the legal practitioner has refused or is unable to rectify the same;

(d) where his or her continued employment will involve him or her in the violation of the law;

(e) where the client by any other conduct renders it unreasonably difficult for the legal practitioner to carry out his or her employment as such effectively, or in accordance with his or her judgment and advice, or the rules of law or professional ethics; or

(f) where for any good and compelling reason it is difficult for him or her to carry out his or her employment effectively.

**14.** A legal practitioner shall not retain money he or she receives for his or her client for longer than is absolutely necessary.

**15.** A legal practitioner shall never disclose, unless ordered to do so by the Court or required by statute, what has been communicated to him or her in his or her capacity as a legal practitioner by his or her client or the legal practitioner of his or her client and this duty not to disclose extends to his or her partners and to any junior legal practitioner assisting him or her, however, a legal practitioner may reveal confidences or secrets necessary to establish or collect his or her fee or to defend himself or herself or associates against an accusation of wrongful conduct.

**16.** A legal practitioner shall not permit his or her professional services or his or her name to be used in any way that would make it possible for persons who are not legally authorised to do so to practise law.

**17.** A legal practitioner shall not delegate to a person not legally qualified and not in his or her employ or under his or her control, any functions which are by the laws of Anguilla, should only be performed by a qualified legal practitioner.

**18.** A legal practitioner shall not act with inexcusable or undue delay, negligence or neglect in the performance of his or her duties.

**19.** A legal practitioner shall not engage in undignified or discourteous conduct which is degrading to the Court or his or her profession.

**20.** A legal practitioner shall not wilfully make false accusations against a Judge or Magistrate.

**21.** A legal practitioner who holds a public office shall not use his or her public position to influence or attempt to influence a tribunal to act in favour of himself or of his or her client.

**22.** A legal practitioner shall not accept private employment in a matter upon the merits of which he or she previously acted in a judicial capacity or for which he or she had substantial responsibility while he or she was in public employment.

**23.** A legal practitioner shall not give, lend or promise anything of value to a Judge, juror or official of a tribunal before which there is pending any matter in which he or she is engaged.

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**24.** A legal practitioner shall not, in any proceedings in a Court, communicate or cause any other person to communicate with a juror information as to the merits of the proceeding, and shall only do so with a Judge or person exercising judicial functions—

(a) in the normal course of the proceedings; or

(b) where authorised by law or the practice of the Courts.

**25.** A legal practitioner shall not for the purpose of making any person unavailable as a witness, advise or cause that person to secrete himself or herself or leave the jurisdiction of the Court.

**26.** A legal practitioner shall not pay or offer to pay or acquiesce in the payment of compensation to a witness for giving evidence in any cause or matter except as reimbursement for expenses reasonably incurred and as reasonable compensation for loss of time in attending, for preparation and testifying, and in the case of an expert witness a reasonable fee for his or her professional services.

**27.** A legal practitioner shall not knowingly use perjured testimony or false evidence or participate in the creation or use of evidence that he or she knows to be false.

**28.** A legal practitioner shall not counsel or assist his or her client or a witness in conduct that the legal practitioner knows to be illegal or fraudulent, and where he or she is satisfied that his or her client has in the course of the particular representation perpetrated a fraud upon a person or tribunal, he or she shall promptly call upon the client to rectify the act.

**29.** A legal practitioner shall not knowingly make a false statement of law or fact.

**30.** (1) A legal practitioner shall not commit a breach of an undertaking given by him or her to a Judge, a Court, tribunal or any of its officials, whether the undertaking relates to an expression of intention as to future conduct or is a representation that a particular state of facts exists.

(2) A legal practitioner shall not knowingly represent falsely to a Judge, a Court or tribunal that a particular state of facts exists.

**31.** In pecuniary matters a legal practitioner shall be most punctual and diligent and shall never mingle funds of others with his or her own and shall at all times be able to refund money he or she holds for others.

**32.** (1) A legal practitioner shall keep accounts as clearly and accurately as is possible to distinguish the financial position between himself or herself and his or her client as and when required.

(2) A legal practitioner shall comply with the rules that may be made by the Council under the provisions of the Act.

(3) Nothing contained in paragraphs 28 and 29 shall deprive a legal practitioner of any recourse or right whether by way of lien, set-off, counterclaim, charge or otherwise against monies standing to the credit of an account maintained by that legal practitioner for a client.

**33.** A legal practitioner shall reply promptly to any letter received from the Council relating to his or her professional conduct.

**34.** Where no provision is made in this Code in respect of any matter, the rules and practice of the legal profession which govern the particular matter shall apply in so far as is practicable.

**35.** (1) Breach by a legal practitioner of any of the rules contained in this Part shall constitute professional misconduct and a legal practitioner who commits a breach is liable to any of the penalties which the Council is empowered to impose.

(2) Breach by a legal practitioner of any of the provisions of Part A of this Code while not automatically amounting to punishable professional misconduct is a derogation from the standard of conduct expected from a legal practitioner and may, depending on the circumstances of the particular case, amount to misconduct or form a material ingredient thereof.

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## SCHEDULE 6

(Section 40)

## DISCIPLINARY TRIBUNAL

**Constitution and membership**

**1.** (1) The Disciplinary Tribunal shall consist of five persons appointed by the Chief Justice after consultation with the Council.

(2) The appointed members shall include three members of the Council.

(3) One of the other two appointed members shall be a lay person and the other a non-resident judge of the High Court.

(4) The Chairman and the Vice-Chairman of the Tribunal shall be appointed by the Chief Justice after consultation with the Council and shall be persons who have held judicial office or are legal practitioners of not less than 10 years standing.

**Term of office**

**2.** Subject to this Schedule, the members of the Tribunal shall hold office for a period not exceeding 3 years, and are eligible for re-appointment.

**Power of Disciplinary Tribunal to sit in divisions**

**3.** (1) For the purposes of hearing complaints made pursuant to section 32 of the Act, the Disciplinary Tribunal may sit in two divisions.

(2) Subject to the directions of the Council, the Chairman of the Tribunal shall determine the composition of each division.

(3) Each division shall be entitled to hear and determine any complaint and shall be entitled to exercise all powers of the Disciplinary Tribunal, and any hearing by or determination or order of such division is deemed to be a hearing by or determination or order of the Disciplinary Tribunal.

**Resignation**

**4.** A member of the Tribunal may at any time resign his or her office by letter addressed to the Chief Justice and to the Chairman of the Tribunal.

**Revocation of appointment**

**5.** The Council may, if it thinks it expedient so to do and with the approval of the Chief Justice, at any time revoke the appointment of any member of the Tribunal.

**Filling of vacancies**

**6.** Where an appointed member of the Council vacates his or her seat before the expiration of his or her term of office, a person similarly qualified to him or her shall be appointed in a similar manner to fill the vacancy for the remainder of that term of office.

**Publication of membership**

**7.** The names of all members of the Tribunal as first constituted and every change in membership thereof shall be published in the *Gazette.*

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**Liability for default of Tribunal**

**8.** No member of the Tribunal is personally liable for any act or default of the Tribunal done or omitted to be done in good faith in the performance of its functions under this Act.

**Proceedings at meetings**

**9.** (1) The Tribunal shall meet in private at such times as may be expedient for the transaction of business and such meeting shall be held in such places and times and on such days as the Tribunal shall determine.

(2) The Chairman or, in his or her absence the Vice-Chairman, shall preside at the meetings of the Tribunal.

(3) If, at any meeting of the Tribunal, the Chairman or Vice-Chairman is for any reason unable to act as such, the members present may elect one of their members to preside at that meeting.

(4) The quorum of the Tribunal shall, subject to paragraph 3, be three.

(5) The validity of any proceedings of the Tribunal is not affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.

(6) Subject to this Schedule and Schedule 7, the Tribunal shall have power to regulate its proceedings.

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## SCHEDULE 7

(Section 42)

## DISCIPLINARY PROCEEDINGS RULES

**Interpretation**

**1.** For the purposes of these Rules "Secretary" means the secretary of the Disciplinary Tribunal who shall be appointed by the Tribunal at a general meeting or the person deputed by him or her for the time being to perform all or any of the functions of the secretary.

**Application and affidavits**

**2.** (1) A complaint to the Tribunal to require a legal practitioner to answer allegations contained in an Affidavit shall be in writing under the hand of the complainant and shall be in Form 1 of the Appendix and shall be sent to the Chairman of the Disciplinary Tribunal together with an Affidavit by the applicant in Form 2 of the Appendix stating the facts on which he or she relies in support of his or her complaint.

(2) A complaint referred to in subsection (1) and any other document or communications pertaining to such complaint shall be forwarded forthwith to the Secretary by the Chairman of the Disciplinary Tribunal.

**No case to answer**

**3.** The Tribunal, before fixing a date for the hearing of a matter, may require the complainant to supply further information and documents relating to all allegations as it deems fit, and in any case where in the opinion of the Tribunal no *prima facie* case is shown, the Tribunal may, without requiring the legal practitioner to answer the allegations, dismiss the complaint and notify the complainant and the legal practitioner of the dismissal.

**Notice of hearing**

**4.** In any case in which, in the opinion of the Tribunal, a *prima facie* case is shown, the Tribunal shall fix a date for hearing and the Secretary shall serve notice of the date on the complainant and the legal practitioner together with a copy of the complaint and affidavit. The notice shall be served not less than 21 days before the date of hearing.

**Lists of documents for hearing**

**5.** The notice to the complainant shall be in Form 3 and the notice to the legal practitioner shall be in Form 4 as set out in the Appendix and shall require the complainant and the legal practitioner respectively to furnish to the Tribunal Secretary and to each other a list of all documents on which they respectively propose to rely. The lists shall, unless otherwise ordered by the Tribunal, be furnished by the applicant and by the legal practitioner respectively at least 10 days before the date of hearing.

**Inspection of documents**

**6.** Either party may inspect the documents included in the list furnished by the other party and a copy of any document mentioned in the list of either party shall, on the application of the requesting party, be furnished to that party by the other within three days after the receipt of the application.

**Absence of parties**

**7.** If either or both parties fail to appear at the hearing the Tribunal may, upon proof of service of the notice of hearing, proceed to hear and determine the complaint in his or her or their absence.

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**Affidavit evidence**

**8.** The Tribunal may, either as to the whole case or as to any particular fact, proceed and act upon evidence given by affidavit, but a party to the proceedings may require a deponent to an affidavit to be summoned to appear before the Tribunal unless the Tribunal is satisfied that the affidavit is purely formal and that the requirement of the appearance of the deponent is made frivolously.

**Summons**

**9.** A summons issued by the Tribunal under section 42 may be in Form 5 as set out in the Appendix with such variation as the case may require.

**Privacy of hearings**

**10.** The Tribunal shall hear all complaints in camera but shall pronounce its findings in public.

**Notes of Proceedings**

**11.** Notes of proceedings shall be taken by the Secretary or other person appointed by the Tribunal, and any party who appeared at the proceedings shall be entitled to inspect the original or a copy. Every person entitled to be heard on an appeal from the decision of the Tribunal shall be entitled to a copy of the notes on payment of the charges, if any, prescribed by the Rules of Court.

**Power to extend time**

**12.** Notwithstanding anything to the contrary, the Tribunal may extend or abridge the time for doing an act under these Rules.

**Privileges and immunities**

**13.** (1) Legal practitioners and witnesses shall have the same privileges and immunities in relation to hearings of complaints under this Act as in a court of law.

(2) A party to a complaint is entitled to be represented by a legal practitioner.

**Exemption from stamp duty**

**14.** No stamp duty shall be paid on any document and no fee shall be charged by the Secretary in respect of a complaint alleging professional misconduct by a legal practitioner.

**Dismissal of application after hearing**

**15.** The Tribunal may, after hearing a complaint, dismiss it if it is satisfied that a case of professional misconduct has not been made out.

**Reprimand suspension strike from Roll**

**16.** The Tribunal may, where a case of professional misconduct has been established, make an order as it deems appropriate.

**Citation**

**17.** These Rules may be cited as the Legal Profession (Disciplinary Proceedings) Rules, 2016.

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## SCHEDULE 8

APPENDIX OF FORMS FOR DISCIPLINARY PROCEEDINGS

FORM 1

### COMPLAINT AGAINST AN ATTORNEY

To the Disciplinary Tribunal Constituted under the Legal Profession Act

IN THE MATTER OF

…… (LEGAL PRACTITIONER)

AND

……..…..…. (APPLICANT)

AND IN THE MATTER OF THE LEGAL PROFESSION ACT

### COMPLAINT AGAINST A LEGAL PRACTITIONER

I, the undersigned …….. hereby make application that ……..…… *(a)* ……. of ……., legal practitioner may be required to answer the allegations contained in the affidavit which accompanies this application.

I make this application on the ground that the matters of fact stated in the accompanying affidavit constitute conduct unbecoming to his or her profession on the part of the said ……..in his or her capacity of as legal practitioner.

In witness whereof I have hereunto set my hand this ……. day of …….. 20 ….. .

……
**Signature**

……
**Address**

……
**Profession business or occupation**

*(a) insert full name and last known place or places of business.*

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FORM 2

**AFFIDAVIT BY COMPLAINANT**

**IN THE MATTER OF**

..……..…(a)……. **(LEGAL PRACTITIONER)**

**AND**

……(b)……..…… **(APPLICANT)**

**AND IN THE MATTER OF THE LEGAL PROFESSION ACT**

**AFFIDAVIT**

I, ……...(b)……..….. make oath and say as follows–

1. I reside at ……..…(c) …… in the country of ……..……(d)…….……..

2. I am a …….……(e)……. and my postal address is ……(f)……..…..

3. The above-named legal practitioner …….(g)……..……

4. The complaint I make against the legal practitioner is that he or she

……..……(h)……...……..

Sworn at ]

This day of 20 ] ……
Signature or mark of applicant

[*the same having been first
read over and explained to
the deponent and he appeared
fully to understand the same]

Before me: ]
]
……
Signature and stamp of person taking oath

*(*If the person making the affidavit can read and write strike out the words in square brackets).*

*(a) Name of the legal practitioner*
*(b) Name of applicant*
*(c) Place of residence*
*(d) Country*
*(e) Occupation*
*(f) Postal Address*
*(g) Set out facts complained of*
*(h) Set out shortly the ground of complaint*

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FORM 3

**NOTICE BY TRIBUNAL TO COMPLAINANT OF DATE OF HEARING OF COMPLAINT**

Complaint No. of 20 . . .

**IN THE MATTER OF**

…… **(LEGAL PRACTITIONER)**

AND

……..……**(APPLICANT)**

**AND IN THE MATTER OF THE LEGAL PROFESSION ACT**

**NOTICE**

To ……...…
of ……

The …….. day of …….. 20…. is the day fixed for the hearing of your complaint in the matter of ……..……., legal practitioner, by the Tribunal constituted under the Legal Profession Act.

The Tribunal will sit at ……at ……o'clock in the forenoon.

If you fail to appear the Tribunal may in accordance with the Rules made under the Legal Profession Act proceed in your absence.

You are requested by the Rules under the Legal Profession Act to furnish to the said …….. and the Secretary of the Tribunal at …….. at least 14 days before the said …….. day of ……20…… a list of all documents on which you propose to rely.

Either party may inspect the documents included in the list furnished by the other party and a copy of any document mentioned in the list of either party must, on the application of a party requiring it, be furnished to him or her by the other party within three days after receipt of the application.

You are requested to acknowledge the receipt of this Notice without delay.

Dated the …….. day of …… 20……..

……
**Secretary, Disciplinary Tribunal**

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FORM 4

**NOTICE BY TRIBUNAL TO LEGAL PRACTITIONER OF DATE OF HEARING OF COMPLAINT**

Complaint No . . . of 20 . . .

**IN THE MATTER OF**

……. **(LEGAL PRACTITIONER)**

**AND**

……. **(APPLICANT)**

**AND IN THE MATTER OF LEGAL PROFESSION ACT 2016**

**NOTICE**

To ……of ……, legal practitioner.

Complaint has been made by ……..…..…..… of …..……..……..…….. to the Disciplinary Tribunal constituted under the Legal Profession Act that you be required to answer the allegation contained in the affidavit a copy of which accompanies this Notice.

The ..… day of ……. 20…… is the day fixed for the hearing of the complaint by the Disciplinary Tribunal. The Tribunal will sit at …….. at ……... o'clock in the forenoon.

If you fail to appear the Tribunal may in accordance with the Rules made under the Legal Profession Act proceed in your absence.

You are required by the Rules made under the Legal Profession Act to furnish to the applicant and to the Secretary of the Disciplinary Tribunal at …….. at least 14 days before the day fixed for hearing a list of all the documents on which you propose to rely.

Either party may inspect the documents included in the list furnished by the other party and a copy of any documents mentioned in such list shall on application of the party requiring it, be furnished to him or her by the other party within 3 days after the receipt of the application.

You are requested to acknowledge receipt of this Notice without delay.

Dated the ….. day of ……. 20…….

……
**Secretary, Disciplinary Tribunal**

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FORM 5

**SUMMONS BY TRIBUNAL TO WITNESS**

Complaint No. of 20 . . .

**IN THE MATTER OF**

…….. **(LEGAL PRACTITIONER)**

**AND**

……..……..……..…. **(APPLICANT)**

**AND IN THE MATTER OF THE LEGAL PROFESSION ACT.**

**SUMMONS**

To ……

You are hereby summoned to appear before the Disciplinary Tribunal constituted under the Legal Profession Act at ……..……. on the …… day of ……. at the hour of …….o'clock in the …..… noon, and so from day to day until the application in the above matter is heard, to give evidence on behalf of ……. (if the person summoned is to produce books or documents add) and you are required to bring with you ……. (specify the books or documents required).

Dated this …….. day of ……. 20……

……
**Secretary, Disciplinary Tribunal**

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