

# LEGAL PRACTITIONERS

---

---

## Table of Contents

	<i>Page</i>
<b><i>Principal</i></b>	
<b>Legal Practitioners Act 2019</b>	
Table of Provisions .....	660,201
Table of Amendments .....	660,401
Legal Practitioners Act 2019 .....	660,601
<b><i>Subsidiary</i></b>	
<b>Legal Practitioners (Admission) Rules 2019</b>	
Table of Provisions .....	670,001
Table of Amendments .....	670,201
Legal Practitioners (Admission) Rules 2019 .....	670,401
<b>Legal Practitioners (Practicing Certificates) Rules 2019</b>	
Table of Provisions .....	675,001
Table of Amendments .....	675,201
Legal Practitioners (Practicing Certificates) Rules 2019 .....	675,401
<b>Legal Practitioners (Pleaders Training and Examination) Rules 2020</b>	
Table of Provisions .....	680,001
Table of Amendments .....	680,201
Legal Practitioners (Pleaders Training and Examination) Rules 2020 .	680,401

[The next page is 660,201]

# Legal Practitioners Act 2019

## TABLE OF PROVISIONS

*Section*

*Title*

### **PART 1 — PRELIMINARY**

- 1 Short title
- 2 Commencement
- 3 Objectives
- 4 Definitions

### **PART 2 — ADMISSION OF LEGAL PRACTITIONERS**

- 5 Chief Justice to approve admission of practitioners
- 6 Admission as a barrister and solicitor or pleader
- 7 Qualifications of barristers and solicitors
- 8 Qualifications of pleaders
- 9 Qualifications for foreign practitioners
- 10 Application for admission to practice as a practitioner
- 11 Oath or affirmation of admission
- 12 Roll of Legal Practitioners

### **PART 3 — TEMPORARY ADMISSION**

- 13 Temporary admission

### **PART 4 — PRACTICING CERTIFICATES**

- 14 Practicing certificates
- 15 Application for practicing certificates
- 16 Practicing certificate may be declined
- 17 Suspension of certificate
- 18 Cancellation of certificate

### **PART 5 — RIGHTS AND LIABILITIES OF LEGAL PRACTITIONERS**

- 19 Right to practice
- 20 Limitation on right of practitioner to commence private practice on own account
- 21 Officer of the Court

### **PART 6 — COSTS**

- 22 Recovery of costs
- 23 Agreement to costs
- 24 Taxation of costs

<i>Section</i>	<i>Title</i>
25	Right to particulars
26	Agreements exempting negligence to be void

**PART 7 — DISCIPLINARY MATTERS**

27	Legal Practitioners Disciplinary Tribunal
28	Secretary to the Tribunal
29	Functions of Tribunal
30	Powers of the Tribunal
31	Orders by Tribunal
32	Rules of evidence
33	Tribunal hearing open to public
34	Witnesses
35	Judgments, decisions or orders of Tribunal
36	Appeal
37	Complaints about conduct of legal practitioners
38	Referral by Court, Judge, etc
39	Power of Registrar to institute proceedings
40	Practitioner may be appointed
41	Jurisdiction of court not affected
42	Limitation period
43	No fees for complaints
44	Register of Complaints
45	Information to be recorded
46	Records of complaints dismissed

**PART 8 — NAURU LAW SOCIETY**

47	Establishment of Nauru Law Society
48	Common seal
49	Constitution of the Society
50	Functions of the Law Society
51	Council of the Nauru Law Society
52	Council to act as executive
53	Law Society bank account
54	Meetings of the Council
55	Conflict of interest
56	Annual or Special General Meetings
57	Minutes
58	Reports and accounts

**PART 9 — COMMISSIONER FOR OATHS**

59	Appointment of Commissioners for Oaths
60	Roll of Commissioners for Oaths

**PART 10 — NOTARIES PUBLIC**

61	Chief Justice may appoint Notaries Public
----	---

<i>Section</i>	<i>Title</i>
62	Notaries to be sworn
63	Roll of Notaries Public
64	Notaries to be officers of the Court
65	Fees

**PART 11 — OFFENCES**

66	Prohibition to practice
67	Unqualified person practicing
68	Acting as agent for unqualified persons
69	Employment of person struck-off or suspended
70	Failure to disclose fact of having been struck-off, etc
71	Acting as Commissioner for Oaths
72	Acting as Notary Public

**PART 12 — MISCELLANEOUS**

73	Liability
74	Admission fees
75	Designated countries
76	Trust accounts
77	Publication of Rolls
78	Service of notices
79	Jurisdiction of the District Court
80	Rules
81	Regulations

**PART 13 — REPEAL, SAVINGS AND TRANSITIONAL**

82	Repeal
83	Savings and transitional

SCHEDULE 1 — OATH AND AFFIRMATION

SCHEDULE 2 — LEGAL PRACTITIONERS (PROFESSIONAL CONDUCT) RULES 2019

[The next page is 660,401]

# Legal Practitioners Act 2019

---

## TABLE OF AMENDMENTS

The Legal Practitioners Act 2019 No 13 was certified on 14 June 2019 and commenced on 2 September 2019 (s 2).

<b>Amending Legislation</b>	<b>Certified</b>	<b>Date of Commencement</b>
Legal Practitioners (Amendment) Act 2019 No 28	28 November 2019	28 November 2019
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021
Legal Practitioners (Amendment) Act 2021 No 16	14 September 2021	14 September 2021
Anti-Money Laundering and Targeted Financial Sanctions Act 2023 No 2	7 June 2023	s 140: 7 June 2023

[The next page is 660,601]



An Act to regulate the legal profession and legal practice and for related purposes.

Enacted by the Parliament of Nauru as follows:

## PART 1 — PRELIMINARY

### 1 Short title

This Act may be cited as the *Legal Practitioners Act 2019*.

### 2 Commencement

This Act commences on 2 September 2019.

### 3 Objectives

The objectives of this Act are to:

- (a) provide for the regulation of the legal profession and the practice of law;
- (b) prescribe requirements for the admission of practitioners and the rights and obligations of practitioners;
- (c) provide for the engagement, admission and appearance of foreign practitioners;
- (d) establish the Nauru Law Society;
- (e) regulate the holding of trust accounts for the purposes of practice as a practitioner as required by this Act or under any other written law;
- (f) provide for the fixing of a scale of professional fees and costs and monitoring compliance of professional service delivery;
- (g) establish a Legal Practitioners Disciplinary Tribunal to deal with any act of professional misconduct; and
- (h) establish and enforce the Professional Conduct Rules for Legal Practitioners.

### 4 Definitions

In this Act:

**'client'** means a person who:

- (a) consults a practitioner and on whose behalf the practitioner renders or agrees to render a legal service with or without fees; and
- (b) having consulted a practitioner, reasonably concludes that the practitioner has agreed to render services on his or her behalf,  
and includes a client of the law practice of which the practitioner is a partner or employee whether or not the practitioner handles the client's work;

**'Commissioner for Oaths'** is a person appointed under Section 59;

**'conflict of interest'** means the existence of a genuine risk that the practitioner's loyalty to or acting in the best interest of a client would be materially and adversely affected by the practitioner's own interest or the practitioner's duty to other clients;

**'Council'** means the Executive Council of the Nauru Law Society established under Section 51;

**‘Court’** means the Supreme Court unless stated otherwise;

**‘foreign practitioner’** means a practitioner who is not a citizen of Nauru;

**‘judicial officer’** means a Justice of Appeal, Judge, Magistrate, Registrar, Deputy Registrar or any other person exercising judicial powers under any written law;

**‘law practice’** or **‘practice’** means a law firm registered under the *Business Names Registration Act 2018*, the *Business Licences Act 2017*, *Beneficial Ownership Act 2017* and where applicable, the *Partnership Act 2018* but does not include a department of the Government providing legal services or a legal section of an instrumentality of the Republic;

**‘legal practitioner’** or **‘practitioner’** means a barrister and solicitor or a pleader duly admitted to practice law under Parts 2 or 3 of this Act and who has a current practicing certificate;

**‘Minister’** means the Minister for Justice;

**‘President’** means the President of the Law Society who shall be a legal practitioner duly admitted to practice law in the Republic;

[def subst Act 28 of 2019 s 4, opn 28 Nov 2019]

**‘professional misconduct’** includes:

- (a) unsatisfactory professional conduct of a legal practitioner, law practice, employee or agent where the conduct involves a substantial and or consistent failure to reach or maintain a reasonable standard of competence and diligence;
- (b) conduct of a legal practitioner where the occasion in the practice of law or occurring otherwise than in connection with the practice of law, that would, where established justify a finding that the practitioner is not a fit and proper person to engage in legal practice;
- (c) conduct of the law practice, its employee or agent in the practice of law or occurring otherwise than in connection with the practice of law where established justify a finding that the law practice is not fit to operate; or
- (d) any misconduct which practitioners of good repute and competency would reasonably regard as disgraceful or dishonourable;

**‘Registrar’** means the Registrar of Courts;

**‘resident practitioner’** means a practitioner having a law practice in the Republic and has a current practicing certificate;

**‘secretary’** means the secretary of the Nauru Law Society;

**‘Society’** means the Nauru Law Society established under Section 47; and

**‘Tribunal’** means the Legal Practitioners Disciplinary Tribunal established under Section 27.

[The next page is 660,801]

## PART 2 — ADMISSION OF LEGAL PRACTITIONERS

### **5 Chief Justice to approve admission of practitioners**

- (1) The Chief Justice shall approve an application by a person duly qualified under this Act to practice as a practitioner after considering:
  - (a) an application for admission;
  - (b) any objections to the application received by the Registrar; and
  - (c) a report prepared by the Registrar for the purposes of the application for admission for consideration by the Chief Justice.
- (2) Where there is no objection to the application, the application shall be heard and determined by the Chief Justice.
- (3) Where the application is granted, the Chief Justice or a Supreme Court Judge shall proceed to administering the oath or affirmation to practice law and to admit the practitioner to the Roll of Legal Practitioners.
- (4) Subject to Section 10(5), where there is an objection to an application for admission by a person, the Chief Justice shall hear and determine the application and the objection in open court.

### **6 Admission as a barrister and solicitor or pleader**

A person may be admitted to practice law where he or she satisfies:

- (a) in the case of a barrister and solicitor who is a Nauruan citizen, the requirements in Section 7;
- (b) in the case of a pleader, the requirements in Section 8;
- (c) in the case of a foreign practitioner, the requirements in Section 9; or
- (d) in the case of a temporary admission, the requirements in Part 3.

### **7 Qualifications of barristers and solicitors**

- (1) A Nauruan citizen shall be qualified for admission as a barrister and solicitor if he or she:
  - (a) is a fit and proper person to practice law;
  - (b) holds a degree in law from a designated country or tertiary institution; and
  - (c) is duly admitted to practice as a practitioner in any other designated country or has practiced as a pleader in the Republic for a period of over 12 months at any time prior to the date of application for admission.
- (2) The Chief Justice may prescribe such other requirements as may be necessary for the purposes of subsection (1).
- (3) The Chief Justice may exempt a person from the requirement under subsection (1)(c) or may admit a person on any condition as the Chief Justice deems fit.

### **8 Qualifications of pleaders**

- (1) A person may be admitted to practice as a pleader if he or she:
  - (a) is a fit and proper person to practice law; and

- (b) has successfully completed a Pleadings course prescribed by the Chief Justice.
- (2) The Chief Justice may prescribe such other requirements as may be necessary for the purposes of subsection (1).

## **9 Qualifications for foreign practitioners**

- (1) A person who is not a citizen of Nauru may be eligible for admission as a barrister and solicitor if he or she:
  - (a) is a fit and proper person to practice law;
  - (b) holds the prescribed qualifications;
  - (c) is duly admitted to practice as a practitioner in a designated country;
  - (d) provides evidence of offer of employment as a barrister and solicitor in the Republic or is a partner in the law practice of a Nauruan practitioner duly admitted to practice under Sections 7 and 8; and
  - (e) he or she complies with the interpretation of 'legal representative' in Article 15 of the *Constitution*.
- (2) On or before the hearing of an application for admission as a barrister and solicitor under subsection (1), the applicant shall have resided in the Republic for a continuous period of not less than 2 months.
- (3) The Chief Justice, on the hearing of the application for admission to practice as a barrister and solicitor may abridge or dispense with the requirement under subsection (2).
- (4) This Section does not apply to the temporary admission of foreign practitioners under Part 3.

## **10 Application for admission to practice as a practitioner**

- (1) An application for admission to practice as a practitioner shall be made to the Chief Justice in such form and manner as may be prescribed.
- (2) The Registrar shall provide a copy of the application under subsection (1) to the Secretary for Justice and the Society as soon as practicable.
- (3) The Registrar shall publish the application filed under subsection (1) in the Gazette.
- (4) The Secretary for Justice and the Society may make such enquiries as to the character, qualifications and experience of the applicant and submit a report to the Registrar for the purposes of the hearing and determination of the application.
- (5) A person who intends to object to an application for admission shall notify the Registrar in writing:
  - (a) the grounds and reasons for such objection; and
  - (b) whether he or she intends to appear in person or be represented by a practitioner on the hearing of the application for admission, no later than 14 days from the publication of the application in the Gazette.
- (6) The Registrar may provide a copy of the objection to the person seeking to be admitted as a practitioner and require the applicant to respond to the objection in writing within 7 days of receipt of the copy of the objection.
- (7) The Registrar shall include the name of the person objecting to the application for admission, the reasons for such objection in the report under Section 5(1)(c) and any response received under subsection (6).

- (8) Where an application for admission is dismissed, the Chief Justice shall deliver his or her decision or judgment and publish the reasons for his or her determination.

## **11 Oath or affirmation of admission**

- (1) Where the Chief Justice grants an application for admission, the person shall subscribe to the oath or affirmation contained in Schedule 1 before being enrolled in the Roll of Legal Practitioners.
- (2) A person shall not be enrolled in the Roll of Legal Practitioners or practice law unless the person has complied with the requirement under subsection (1).

## **12 Roll of Legal Practitioners**

- (1) The Registrar shall be responsible for keeping and maintaining a register of the Roll of Legal Practitioners.
- (2) The name of every person admitted to practice as a practitioner shall be enrolled in the Roll of Legal Practitioners.
- (3) No person shall be entitled to practice as a practitioner unless the person's name is enrolled in the Roll of Legal Practitioners.
- (4) The Registrar shall issue a certificate of enrolment under the seal of the Supreme Court to a person who is admitted as a practitioner.
- (5) The Registrar may on an application by a practitioner issue a duplicate copy of the certificate of enrolment to a practitioner whose name appears in the Roll of Legal Practitioners.
- (6) The Registrar may remove from the Roll of Legal Practitioners, the name of a practitioner:
- (a) who applies for such removal;
  - (b) where the Tribunal orders the removal of the practitioner's name;
  - (c) where the Court orders the removal of such name;
  - (d) subject to any appeal, who has been convicted of a criminal offence under the *Crimes Act 2016*; or
  - (e) who has been declared bankrupt.

[subs (6) am Act 16 of 2021 s 4, opn 14 Sep 2021]

- (7) The Chief Justice may prescribe the details of the records to be contained in the Roll of Legal Practitioners.

[The next page is 661,001]

### PART 3 — TEMPORARY ADMISSION

#### 13 Temporary admission

- (1) A foreign practitioner admitted to practice law in any other designated country may apply to the Chief Justice to be admitted to practice as a barrister and solicitor for the purpose of any specific cause or matter.
- (2) For the purposes of subsection (1), the foreign practitioner shall comply with the requirements under Section 9 (1)(a), (b), (c) and (e).
- (3) The application under subsection (1) shall be in the form and manner as prescribed by the Chief Justice.
- (4) The Registrar shall:
  - (a) provide a copy of an application under subsection (1) to the Secretary for Justice and the Society; and
  - (b) publish the application under subsection (1) in the Gazette.
- (5) The Secretary for Justice and the Society may make such enquiries as to the character, qualifications and experience of the applicant and submit a report to the Registrar for the purposes of the hearing of the application.
- (6) The Chief Justice, a Supreme Court Judge or the Registrar of Courts upon considering an application and any objections received may:
  - (a) summarily allow or dismiss the application;
  - (b) grant the application with conditions; or
  - (c) adjourn to allow the hearing of the application.
- (7) Where the Chief Justice grants an application for admission, the foreign practitioner shall subscribe to the oath or affirmation contained in Schedule 1 before being enrolled in the Roll of Temporary Legal Practitioners.
- (8) The foreign practitioner shall not be enrolled in the Roll of Temporary Legal Practitioners or practice law unless he or she has complied with the requirement under subsection (7).
- (9) A foreign practitioner admitted under this Part shall:
  - (a) represent a client limited to the cause or matter for which he or she is admitted; and
  - (b) appear on instructions of a resident barrister and solicitor or a pleader with more than 10 years' experience, for that cause or matter.
- (10) The Registrar shall issue a temporary practicing certificate under this Part to a foreign practitioner with a condition of practice limited to the specific cause or matter and any other conditions granted by the Court under subsection (6)(b).
- (11) A temporary practicing certificate issued under this Part shall be valid for 6 months from the date of issue or the earlier determination of the specific cause or matter for which admission was granted.
- (12) Before the expiry of the practicing certificate under subsection (1), the foreign practitioner shall renew his or her temporary certificate unless:
  - (a) the cause or matter is determined by the Court;
  - (b) the foreign practitioner formally withdraws from the cause or matter;
  - (c) the instructing practitioner under this Section has formally withdrawn from the cause or matter; or

- (d) the foreign practitioner is unable to enter the Republic.
- (13) Where the temporary practicing certificate has lapsed, the foreign practitioner shall:
  - (a) cease to practice; or
  - (b) apply for temporary admission under this Part.

[The next page is 661,201]



## PART 4 — PRACTICING CERTIFICATES

### 14 Practicing certificates

- (1) All practicing certificates issued by the Registrar under this Act are deemed to expire on the 14th day of February of each year.
- (2) A practicing certificate issued other than pursuant to an application for a renewal, shall take effect from the day the certificate is issued.
- (3) A current practicing certificate is deemed to be cancelled where the name of the practitioner is removed from or struck-off the Roll of Legal Practitioners or Roll of Temporary Legal Practitioners.
- (4) The Registrar shall:
  - (a) by notice, gazette a list of practitioners with current practicing certificates on or before 15 March each year;
  - (b) provide a copy of the list of practitioners to the Minister; and
  - (c) provide a copy of the list of practitioners with current practicing certificates to the Society.
- (5) Except for subsection (3), this Section does not apply to practitioners admitted under Part 3.

### 15 Application for practicing certificates

- (1) The application for a practicing certificate shall be:
  - (a) in the prescribed form;
  - (b) accompanied by the prescribed fees; and
  - (c) accompanied by evidence of payment of the Society's annual membership fees.
- (2) A practitioner who:
  - (a) changes his or her place of business or residence;
  - (b) enters into or dissolves a partnership in relation to his or her practice; or
  - (c) changes his or her employment,shall immediately notify the Registrar and the secretary in writing.
- (3) A practicing certificate issued under this Section shall:
  - (a) be in the prescribed form with or without any conditions;
  - (b) where the certificate is subject to a condition, such condition shall be endorsed on the certificate; and
  - (c) be signed by the Registrar and the seal of the Supreme Court shall be affixed.
- (4) The Registrar in considering an application for the issuance of a practicing certificate may require the practitioner to provide further information or particulars as the Registrar deems fit.

### 16 Practicing certificate may be declined

- (1) The Registrar may decline an application for the renewal of a practicing certificate where the practitioner:
  - (a) fails to comply with the requirements of this Act;

- (b) subject to any pending appeal, has been convicted in the Republic or elsewhere of an offence which involves dishonesty or fraud;
  - (c) is unfit to carry on and conduct his or her law practice as a result of an injury or illness;
  - (d) has failed to comply with any laws relating to trust funds under his or her control;
  - (e) fails to comply with any order or direction given by the Tribunal; or
  - (f) is absent from the Republic for more than a continuous period of 3 months without any reasonable cause or without having a practitioner managing the law practice.
- (2) The Registrar shall give reasons in writing for declining an application for a practicing certificate under subsection (1).

## **17 Suspension of certificate**

- (1) A practicing certificate may be suspended by the Registrar where the:
- (a) Tribunal orders that the practicing certificate be suspended;
  - (b) practitioner fails to comply with any conditions of his or her practicing certificate;
  - (c) practitioner fails to maintain and provide a record of any trust account when required to do so; or
  - (d) practitioner is absent from the Republic for more than a continuous period of 3 months without any reasonable cause or without having a practitioner managing the practice.
- (2) The Registrar shall notify the practitioner in writing of the suspension of a practicing certificate under subsection (1).
- (3) On receipt of a notice under subsection (2), the practitioner shall immediately cease practice as a practitioner until such time the suspension lapses or is removed.
- (4) The Registrar may rescind the suspension where the practitioner complies with any orders or directions of the Tribunal or with such other conditions.

## **18 Cancellation of certificate**

- A practicing certificate may be cancelled by the Registrar where the practitioner:
- (a) has been struck-off the Roll of Legal Practitioners or Roll of Temporary Legal Practitioners;
  - (b) habitually fails to comply with the provisions of this Act and conditions of the practicing certificate; or
  - (c) is absent from the Republic for more than a continuous period of 3 months without any reasonable cause or without having a practitioner managing the practice.

[The next page is 661,401]

## PART 5 — RIGHTS AND LIABILITIES OF LEGAL PRACTITIONERS

### 19 Right to practice

A person who is duly admitted as a practitioner and has a current practicing certificate may practice law in the Republic in accordance with this Act or any other written law.

### 20 Limitation on right of practitioner to commence private practice on own account

- (1) A practitioner shall not commence practice under his or her own name or a business name:
  - (a) without any supervision unless he or she has practiced for a minimum period of 3 years after admission to the Supreme Court; and
  - (b) has practiced under the supervision of a practitioner having practiced for not less than 3 years in the Republic or elsewhere.

[subs (1) subst Act 28 of 2019 s 5, opn 28 Nov 2019]

- (2) The requirements under subsection (1) may be deemed to be complied with where the practitioner has practiced law under supervision for part or whole of the 3 years in the Republic, a Commonwealth jurisdiction or a designated country.
- (3) A practitioner seeking to practice law under his or her name or business name shall:
  - (a) seek the approval of the Registrar;
  - (b) notify the secretary;
  - (c) comply with the requirements of the *Business Names Registration Act 2018*, *Business Licences Act 2017*, *Beneficial Ownership Act 2017* and where applicable, the *Partnership Act 2018*;
  - (d) register and obtain a tax identification number under the *Revenue Administration Act 2014*;
  - (e) provide a written report certifying competency from his or her supervising practitioner; and
  - (f) comply with the requirements of this Act.
- (4) The Chief Justice may abridge the time of 3 years under subsection (1) upon the recommendation of the Society.

### 21 Officer of the Court

A practitioner is an officer of the Court.

[The next page is 661,601]

## PART 6 — COSTS

### 22 Recovery of costs

A practitioner may, in respect of services rendered, sue for and recover:

- (a) costs pursuant to any agreement as to costs made under Section 23; or
- (b) in the absence of such agreement, in accordance with the schedules of fees prescribed by the Chief Justice in consultation with the Society.

### 23 Agreement to costs

- (1) A practitioner may enter into a written agreement with a client in relation to the amount and manner of payment of costs for the whole or any part or parts of any past or future services, fees, charges or disbursements in respect of services provided or to be provided by such practitioner.
- (2) An agreement under subsection (1) shall exclude any further claim by the practitioner in respect of any costs for the provision and completion of the services provided.
- (3) Where a party to an agreement dies or becomes incapable of performing his or her obligations prior to such obligations being fully performed and unless a contrary intention is shown in the agreement:
  - (a) the agreement shall cease; and
  - (b) the practitioner shall be entitled to charge the client such fees, charges and disbursements as would have been payable had such agreement not been entered into.
- (4) Nothing in this Act shall prevent a practitioner from taking such security from a client or any other person for future service fees, charges or disbursements as may be agreed.
- (5) Where a practitioner requires a client to pay all or a substantial portion of the total fees, he or she shall retain the money in the trust account and render periodical bills to inform the client of the manner of the use of the fees.
- (6) An agreement under this Section may be reviewed by the Court on application by either party and where in the opinion of the Court such agreement is unreasonable, the Court may:
  - (a) increase or reduce the amount payable; or
  - (b) cancel the agreement and tax the costs; and
  - (c) make such order as to the costs of such review as the Court deems necessary.
- (7) In considering the reasonableness of such an agreement, the Court may take into account:
  - (a) the experience and standing of the practitioner;
  - (b) the duration of the matter to which the agreement relates;
  - (c) the urgency and circumstances in which the business is transacted;
  - (d) the difficulty of the matter and the complexity of the issues involved;
  - (e) whether the practitioner is to carry the costs of any disbursements;
  - (f) whether the practitioner is entitled to charge professional costs only in the event of success in any proceedings;
  - (g) the value or amount of any property or money involved; and

(h) any other matters or circumstances which the Court deems appropriate.

## **24 Taxation of costs**

- (1) The Court may, on an application by a practitioner or a client of the practitioner, tax any costs in respect of services rendered by the practitioner:
  - (a) in an account rendered and not yet paid; or
  - (b) in an account already paid, on application within 6 months of payment.
- (2) For the purpose of taxation under subsection (1), the Court may summon a person to render accounts relating to those services.

## **25 Right to particulars**

- (1) Where an account for professional services has been delivered to a client by a practitioner, whether calculated pursuant to an agreement made under Section 23 or any schedule of fees prescribed by regulations, the client may request from the practitioner particulars of the calculation of those charges.
- (2) Where a client has requested such particulars from a practitioner, the practitioner shall not be able to institute a suit or if already instituted proceed further with proceedings, for the recovery of those charges until those particulars have been provided and 5 days have since elapsed.

## **26 Agreements exempting negligence to be void**

Any provision in any agreement between a practitioner and a client providing that the practitioner shall not be liable for negligence or that the practitioner shall be relieved from any responsibility to which he or she would otherwise be subject as such practitioner, shall be wholly void.

[The next page is 661,801]

## PART 7 — DISCIPLINARY MATTERS

### 27 Legal Practitioners Disciplinary Tribunal

- (1) The Legal Practitioners Disciplinary Tribunal is hereby established.
- (2) The Tribunal shall be constituted by the following persons appointed by the Minister in consultation with the Registrar and President of the Society:
  - (a) a person qualified to be appointed as a Judge of the Supreme Court, who shall be the chairperson;
  - (b) a legal practitioner employed by the Government; and
  - (c) a legal practitioner who has practiced law in private practice for 10 years or more.

[subs (2) subst Act 16 of 2021 s 5, opn 14 Sep 2021]

- (3) The members of the Tribunal appointed under subsection (2), shall be appointed for a period of 2 years and he or she may be reappointed for a further term of 2 years.

[subs (3) subst Act 16 of 2021 s 5, opn 14 Sep 2021]

- (4) A member may resign from office at any time by notice in writing to the secretary of the Tribunal.

[subs (4) subst Act 16 of 2021 s 5, opn 14 Sep 2021]

- (5) A member is not entitled to a fixed remuneration but may be paid a reasonable allowance as may be determined by the Minister.

[subs (5) subst Act 16 of 2021 s 5, opn 14 Sep 2021]

### 28 Secretary to the Tribunal

- (1) The Registrar shall be the secretary to the Tribunal.
- (2) All complaints for professional misconduct shall be lodged with the secretary to the Tribunal.
- (3) The secretary to the Tribunal shall conduct or cause an inquiry into the complaint and submit a report to the Tribunal within 30 days of receipt of the complaint.
- (4) Where the Tribunal directs that a disciplinary hearing be convened, the secretary to the Tribunal shall comply with the disciplinary procedures as prescribed by regulations.

### 29 Functions of Tribunal

- (1) The Tribunal:
  - (a) may hear and determine all charges of professional misconduct;
  - (b) may summarily dismiss a complaint which lacks any merit;
  - (c) may record any settlement reached between a practitioner and a complainant;
  - (d) shall give the practitioner adequate notice of the hearing and adequate opportunity to prepare and state his or her defence;
  - (e) may inquire into the allegations against the practitioner in any manner that it deems necessary;
  - (f) may regulate its own proceedings;
  - (g) may make a finding that the conduct amounts to professional misconduct and impose a penalty accordingly; or

(h) may impose a penalty under Section 31 which shall take immediate effect.

[subs (1) renum Act 16 of 2021 s 6, opn 14 Sep 2021]

(2) A complaint against a legal practitioner shall be heard and determined by the Tribunal within 3 months of receipt of such complaint.

[subs (2) insrt Act 16 of 2021 s 6, opn 14 Sep 2021]

(3) Where a complaint against a legal practitioner is not heard and determined as provided for in subsection (2), the Registrar shall suspend the legal practitioner's practicing certificate until such time as the Tribunal hears and determines the complaint.

[subs (3) insrt Act 16 of 2021 s 6, opn 14 Sep 2021]

### **30 Powers of the Tribunal**

- (1) The Tribunal shall have such powers as may be necessary to carry out its functions.
- (2) The Registrar shall immediately take such action necessary to give effect to a decision made by the Tribunal.
- (3) The Tribunal shall have the same powers as that of a Supreme Court Judge.

### **31 Orders by Tribunal**

- (1) On completion of the hearing of a disciplinary proceeding the Tribunal is satisfied that the practitioner or law practice or any employee or agent of a practitioner or law practice has engaged in professional misconduct, the Tribunal may make one or more of the following orders:
  - (a) that the practicing certificates of the practitioner or the partner or partners of the law practice be cancelled or suspended for such period as the Tribunal deems fit;
  - (b) that the name of the practitioner or the partner or partners of the law practice be struck from the Roll of Legal Practitioners;
  - (c) directing that the law practice cease to operate or engage in legal practice;
  - (d) that the practicing certificates of the practitioner or the partner or partners of the law practice not be issued for such period as the Tribunal deems fit;
  - (e) that the practitioner or the partner or partners of the law practice shall not apply for a practicing certificate for such period as the Tribunal deems fit;
  - (f) imposing conditions on the issued or to be issued practicing certificates of the practitioner or the partner or partners of the law practice;
  - (g) reprimanding the practitioner or the partner or partners of the law practice;
  - (h) that the practitioner or the partner or partners of the law practice be removed from the Roll of Notaries Public or Roll of Commissioners for Oaths;
  - (i) that the practitioner or the partner or partners of the law practice pay a fine or penalty to the Tribunal, of such sum not exceeding \$50,000;
  - (j) requiring the practitioner or the partner or partners of the law practice to pay compensation to any complainant of such sum as directed by the Tribunal;



- (k) directing the practitioner or the partner or partners of the law practice to make ledgers, books of accounts records, deeds, files and other documents relating to the practitioner's practice available for inspection at such times and by such persons as are specified in the order;
  - (l) directing the practitioner or the partner or partners of the law practice to make reports on their legal practice in such manner and at such times and to such persons as are specified in the order;
  - (m) directing the practitioner or the partner or partners of the law practice to comply with conditions, including attendance at continuing legal education programmes and other educational programmes and seminars relating to legal education, practice management and other related topics in respect of the conduct of legal practice;
  - (n) directing the practitioner or the partner or partners of the law practice engage in legal practice under supervision, upon such terms and periods as stated in the order;
  - (o) directing the practitioner or the partner or partners of the law practice to stop accepting instructions as a Notary Public or Commissioner for Oaths for such period as the Tribunal deems fit;
  - (p) directing that any fees or costs paid to the practitioner or law practice by a person in relation to the subject matter of the disciplinary proceedings be reimbursed by the practitioner or law practice to such person; and
  - (q) such other orders as may be provided for in the rules of procedure made pursuant to this Act.
- (2) Without limiting any order made under subsection (1), the Tribunal may order that on and from the date specified in the order no person shall employ that employee or agent in any capacity in a law practice, except on such conditions as may be specified in the order.
- (3) The Tribunal may make any interlocutory or interim orders as it thinks fit before making its final decision in an application for disciplinary proceedings against a practitioner or law practice or any employee or agent of a practitioner or law practice.
- (4) The Tribunal may make ancillary orders in addition to the orders under subsection (1), to give full effect to the orders made under subsection (1).
- (5) The Tribunal may, with the consent of the Registrar or complainant and the practitioner or the partner or partners of a law practice, make any orders by consent, either before or after the hearing in the Tribunal and any order by consent shall have the same effect and force as an order of the Tribunal under this Section.
- (6) Where the Tribunal by its order directs that something be done, it may also direct the period of time within which the order is to be complied with.
- (7) Where a person against whom an order is made is not present at the time the order is made, the Tribunal shall as soon as practicable cause a copy of the order to be served on that person.
- (8) Where the Tribunal orders a law practice to cease the practice, it shall order a receiver of the law practice be appointed by the Registrar to wind up the practice and the receiver to provide a report to the Registrar.

**32 Rules of evidence**

- (1) The Tribunal shall not be bound by the strict rules of evidence.
- (2) Where the Tribunal admits any evidence, the Tribunal shall provide an opportunity to the practitioner to respond or rebut such evidence.

**33 Tribunal hearing open to public**

The hearings of the Tribunal shall be open to the public unless the Tribunal may otherwise determine.

**34 Witnesses**

- (1) The Tribunal or any parties to a disciplinary proceeding may summon such witnesses to appear before the Tribunal.
- (2) The provisions of the *Criminal Procedure Act 1972* apply to the summoning and giving of evidence of witnesses in this Section.

**35 Judgments, decisions or orders of Tribunal**

- (1) The Tribunal shall deliver its judgments, decisions or orders in writing.
- (2) The Registrar shall have the power to enforce such judgments, decisions or orders.
- (3) The delivery of any judgments, decisions or orders shall be open to the public.
- (4) A copy of the judgment, decision or order shall be provided to the practitioner against whom the disciplinary charges were brought.

**36 Appeal**

- (1) A practitioner aggrieved by a judgment, decision or order of the Tribunal under Section 35 may appeal as of right to the Nauru Court of Appeal.
- (2) An appeal from the Tribunal is deemed to be an appeal in the civil jurisdiction of the Nauru Court of Appeal.

**37 Complaints about conduct of legal practitioners**

Any complaint against a practitioner shall be:

- (a) in writing; and
- (b) provided to the Registrar.

**38 Referral by Court, Judge, etc**

- (1) A judicial officer may refer the conduct of a practitioner to the Registrar for the purposes of conducting an inquiry or investigation and where necessary, to institute disciplinary proceedings.
- (2) For the avoidance of any doubt, a referral under subsection (1) shall not be deemed a conclusive determination of the particular conduct referred to the Registrar.

**39 Power of Registrar to institute proceedings**

- (1) The Registrar shall institute disciplinary proceedings against a practitioner where the practitioner contravenes the provisions of this Act.

- (2) The Chief Justice may make rules for the proceedings of the Tribunal.

#### **40 Practitioner may be appointed**

- (1) The Chief Justice may appoint a practitioner including a practitioner from the Office of the Public Legal Defender to represent the interests of the complainant in any disciplinary proceeding.
- (2) The practitioner may appear in person or by a counsel of his or her choice.

#### **41 Jurisdiction of court not affected**

- (1) Nothing in this Act shall affect the power of a court to deal with a practitioner for contempt of court.
- (2) Any finding for contempt of court shall not be a bar to disciplinary proceedings.

#### **42 Limitation period**

No complaint relating to an alleged professional misconduct of any practitioner or law practice shall be lodged by an intended complainant after the expiry of 2 years from the time when the right to bring the complaint accrued or when the intended complainant first became aware of the act complained of had occurred entitling him or her to lodge a complaint.

#### **43 No fees for complaints**

- (1) No fees shall be charged for lodging a complaint to the Registrar against a practitioner.
- (2) Subsection (1) does not preclude the power of the Tribunal to order costs against the complainant where the Tribunal deems fit.

#### **44 Register of Complaints**

The Registrar shall keep and maintain a Register of Complaints made against practitioners and law practices.

#### **45 Information to be recorded**

- (1) The Registrar shall keep and maintain the Register of Complaints which shall contain the following particulars:
  - (a) the date of receipt of the complaint;
  - (b) the full name and identity of the complainant;
  - (c) the address, telephone number and electronic mail contact of the complainant;
  - (d) the name of the practitioner or law practice concerned; and
  - (e) the outcome of the complaint.
- (2) The Registrar in respect of a practitioner, shall record the following outcome or the final determination of the complaint received under subsection (1):
  - (a) an order removing the name of the practitioner from the Roll of Legal Practitioners or Roll of Temporary Legal Practitioners;
  - (b) an order relating to the issue or renewal of practicing certificates;
  - (c) an order suspending a practitioner's practicing certificate;
  - (d) an order cancelling the practicing certificate;

- (e) an order imposing a condition on the practicing certificate;
- (f) an order requiring a practitioner to undertake training, education, counselling or supervision;
- (g) an order requiring inspection of the law practice of the practitioner; or
- (h) an order requiring the payment of a fine by the practitioner.

#### **46 Records of complaints dismissed**

- (1) The Registrar shall keep and maintain a rejected or dismissed complaints record in the Register of Complaints which shall contain the following particulars:
  - (a) the date of receipt of the complaint; and
  - (b) the reason for the rejection or dismissal of the complaint.
- (2) Where a complaint is dismissed after a hearing by the Tribunal or on appeal to the Nauru Court of Appeal, the Registrar shall remove all such records of the complaint from the practitioner's record of complaint for the purposes of reporting to any authority or issuing a certificate of standing as a practitioner in the Republic.

[The next page is 662,001]

## PART 8 — NAURU LAW SOCIETY

### 47 Establishment of Nauru Law Society

- (1) The Nauru Law Society is hereby established.
- (2) The Society:
  - (a) shall have perpetual succession;
  - (b) shall have power to acquire real and personal property; and
  - (c) may sue and be sued.
- (3) A practitioner carrying on the practice of law in the Republic shall:
  - (a) be a member of the Society; and
  - (b) comply with the requirements in this Act or any other written law for the conduct of such practice.
- (4) Subsection (3)(a) does not apply to a practitioner admitted to practice under Part 3.

### 48 Common seal

- (1) The Society shall have a common seal.
- (2) The common seal of the Society shall be kept under the custody of the secretary.

### 49 Constitution of the Society

- (1) The Society shall within 3 months of the date of the coming effect of this Act, adopt a constitution.
- (2) A copy of the constitution shall be provided to the Registrar.
- (3) The constitution of the Society may be amended in a special or general meeting by simple majority of all the members of the Society.
- (4) The constitution shall be consistent with the requirements of this Act.

### 50 Functions of the Law Society

The functions of the Society are to:

- (a) advance the interests, integrity and practice of the legal profession;
- (b) provide education and training for professional development;
- (c) facilitate continuing legal education;
- (d) appear by the President or the secretary of the Society or a nominated legal representative in matters relating to professional misconduct, admissions and judicial ceremonial occasions or when invited by the Court;
- (e) in consultation with the Registrar, review and fix annual membership fees for practitioners;
- (f) represent and promote the views and interests of the legal profession;
- (g) encourage the profession to promote the welfare and interests of clients or client care;
- (h) make internal administrative rules for the governance of the profession; and
- (i) carry out any other functions under this Act and any other written law.

**51 Council of the Nauru Law Society**

- (1) The Nauru Law Society Council shall consist of:
  - (a) a President;
  - (b) a Vice President;
  - (c) a Secretary;
  - (d) a Treasurer; and
  - (e) 1 member elected in any general or special meeting of the Society.
- (2) A Council member:
  - (a) may hold office until the next annual general meeting;
  - (b) may resign from office in writing to the Council; and
  - (c) shall be deemed to have vacated his or her office on the grounds of:
    - (i) being undischarged bankrupt or who has an arrangement with any of his or her creditors;
    - (ii) has been convicted and sentenced to custodial imprisonment for a term of 12 months or more by a court of the Republic or any other country and has not received a pardon in or outside of the Republic;
    - (iii) lacks capacity in respect of his or her duties as a councillor;
    - (iv) is found guilty of a professional misconduct under this Act;
    - (v) fails to attend 2 consecutive Council meetings for no reason or cause; or
    - (vi) is disqualified from the practice of law under this Act.
- (3) Where any vacancy occurs in the Council, the Society shall:
  - (a) in the case of the President, Secretary or Treasurer, in a Special General Meeting, where the Annual General Meeting is not to be held within 30 days of the vacancy occurring; and
  - (b) in case of the 1 member, in a special or annual General Meeting.
- (4) The Secretary for Justice, Solicitor General, Director of Public Prosecutions and the Director of the Office of the Public Legal Defender shall not hold any office in the Council.

**52 Council to act as executive**

The Council shall be the executive body of the Society and shall be responsible for the administration, control and management of the affairs of the Society, its funds and other assets.

**53 Law Society bank account**

The Society shall:

- (a) establish and maintain a bank account to be called the '*Nauru Law Society Account*';
- (b) ensure that all monies lawfully received by the Society or the Council are deposited into the account; and
- (c) provide for the keeping and maintaining of such account in the Society's constitution.

**54 Meetings of the Council**

- (1) The Council shall meet at least 4 times in each year.
- (2) A meeting of the Council shall be chaired by the President and in his or her absence, the Council may appoint a Council member to act as the Chairperson.

- (3) The Council may regulate the procedure for its meetings.
- (4) The quorum for a meeting shall be at least 3 of the 5 members of the Council.
- (5) The secretary shall issue a notice for the meeting under subsection (1) by giving each member at least 3 days' clear notice through electronic mail or in writing.
- (6) The President may abridge the time required under subsection (5) where the convening of an urgent meeting may be required.

## **55 Conflict of interest**

- (1) Where a Council member has any conflict of interest in a matter, he or she shall:
  - (a) declare his or her interest; and
  - (b) not take part in a process or decision relating to that matter.
- (2) The secretary shall record a declaration made under subsection (1).

## **56 Annual or Special General Meetings**

- (1) The annual general meeting of the Society shall be held by no later than 31 October of each successive year.
- (2) A special general meeting may be held:
  - (a) where the Council deems it necessary; or
  - (b) where at least 50% of the members petition the Council to convene such a meeting and such meeting shall be convened and held no later than 30 days from the date of the presentation of the petition to the secretary.
- (3) The quorum for a meeting shall be no less than 55% of the members.
- (4) Where a member is unable to attend a meeting, he or she shall inform the secretary 3 days prior to the meeting.
- (5) Where a member fails to attend a general meeting without any reasonable excuse, the member commits a disciplinary offence which may be liable to be referred for disciplinary proceedings by the Council.

## **57 Minutes**

- (1) The secretary shall cause proper minutes of all general and special meetings of the Society and of all meetings of the Council and of committees appointed by the Council to be taken and recorded.
- (2) The minutes in subsection (1) shall be available for inspection by any member of the Society at any reasonable time.

## **58 Reports and accounts**

- (1) The Society shall keep proper records and books of account and shall cause its account to be audited annually.
- (2) The Council shall present to the Society in a general meeting, a full report of the activities of the Society in respect of the 12 months preceding that date.

- 
- (3) The secretary shall provide to every member of the Society, a copy of the annual accounts together with the auditor's report on the account at a general meeting.

[The next page is 662,201]



**PART 9 — COMMISSIONER FOR OATHS**

**59 Appointment of Commissioners for Oaths**

- (1) The Chief Justice may, on application and from time to time, appoint any practitioner whom he or she shall consider a fit and proper person to be a Commissioner for Oaths.
- (2) The Chief Justice may, on application and from time to time and in addition to a practitioner, appoint such other persons as Commissioners for Oaths as may be necessary.
- (3) A Commissioner for Oaths shall have the power to administer oaths or affirmations for the purposes of affidavits, declarations or other depositions.
- (4) No action shall be brought against any Commissioner for Oaths in respect of any act or order performed or made by him or her in good faith in the execution of the powers or jurisdiction vested in him or her, but every such act or order, if in excess of such powers and jurisdiction, shall be liable to be revised, altered, amended or set aside upon application to the Court.
- (5) The signature of a person, when placed on a document in the exercise by that person of the powers of a Commissioner under this Section, shall be followed by the description '*Commissioner for Oaths*'.

**60 Roll of Commissioners for Oaths**

- (1) A person appointed as a Commissioner for Oaths shall cause his or her name to be enrolled in a book to be kept for that purpose by the Registrar and to be called the Roll of Commissioners for Oaths.
- (2) The Registrar shall issue a certificate of enrolment under the seal of the Supreme Court to a person appointed a Commissioner for Oaths under subsection (1).
- (3) A person whose name has not been enrolled under subsection (1) shall not be entitled to perform the duties of a Commissioner for Oaths within the Republic.
- (4) The Chief Justice may, in his or her discretion, strike-off the Roll of Commissioner for Oaths the name of a person who the Chief Justice deems to be no longer a fit and proper person to perform the duties of a Commissioner for Oaths.

[The next page is 662,401]

## PART 10 — NOTARIES PUBLIC

### **61 Chief Justice may appoint Notaries Public**

- (1) The Chief Justice may, on application and from time to time, appoint any practitioner whom he or she shall consider a fit and proper person to be a Notary Public for the Republic.
- (2) A Notary Public appointed under subsection (1) shall discharge the duties assigned to such office by the laws of the United Kingdom and of the Republic.
- (3) A Notary Public shall pay such fees as may be prescribed by the Chief Justice.

### **62 Notaries to be sworn**

- (1) The Chief Justice may administer the oath or affirmation of a Notary Public.
- (2) Where a practitioner is appointed as a Notary Public under Section 61, he or she shall subscribe to the oath or affirmation contained in Schedule 1 before being enrolled on the Roll of Notaries Public.

### **63 Roll of Notaries Public**

- (1) Every practitioner appointed to the office of a Notary Public shall cause his or her name to be enrolled in a book to be kept for that purpose by the Registrar and to be called the Roll of Notaries Public.
- (2) The Registrar shall issue a certificate of enrolment under the seal of the Supreme Court to a practitioner appointed a Notary Public under subsection (1).
- (3) A person whose name has not been enrolled under subsection (1) shall not be entitled to perform the duties of a Notary Public within the Republic.
- (4) The Chief Justice may, in his or her discretion, strike-off the Roll of Notaries Public a person who the Chief Justice deems to be no longer a fit and proper person to perform the duties of a Notary Public.

### **64 Notaries to be officers of the Court**

- (1) Every person discharging the duties of a Notary Public is deemed to be an officer of the Court.
- (2) Where any Notary Public is found guilty of misconduct in the execution of the duties of his or her office, such Notary Public shall immediately be discharged by the Chief Justice from the duties of his or her office.

### **65 Fees**

The fees chargeable by a Notary Public for discharging his or her duties under the provisions of this Act shall be as prescribed by the Chief Justice.

[The next page is 662,601]

## PART 11 — OFFENCES

### **66 Prohibition to practice**

- (1) A person shall not practice as a practitioner without:
  - (a) being admitted to practice; and
  - (b) a current practicing certificate.
- (2) A person who contravenes subsection (1), commits an offence and upon conviction is liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 2 years or to both.

### **67 Unqualified person practicing**

- (1) A person who is not qualified to be admitted or to practice as a practitioner and who wilfully pretends to be or takes or uses any name or title implying that he or she is qualified or recognised under this Act as qualified to act as a practitioner, shall not solicit or pretend to provide legal services to a person with or without any reward.
- (2) A person who contravenes subsection (1), commits an offence and upon conviction is liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 2 years or to both.

### **68 Acting as agent for unqualified persons**

- (1) A practitioner shall not:
  - (a) knowingly act as agent for a person who does not hold a current practicing certificate in the performance of any act which may only be lawfully performed by the holder of a current practicing certificate; or
  - (b) allow his or her name to be used by a person other than the holder of a current practicing certificate in respect of the performance of such an act.
- (2) A person who contravenes subsection (1), commits an offence and upon conviction is liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 2 years or to both.

### **69 Employment of person struck-off or suspended**

- (1) A practitioner shall not knowingly employ a person who is prevented as a result of disciplinary proceedings or suspension, from practicing as a practitioner in the Republic or any other jurisdiction.
- (2) A person who contravenes subsection (1), commits an offence and upon conviction is liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 2 years or to both.

### **70 Failure to disclose fact of having been struck-off, etc**

- (1) A practitioner shall not seek or accept employment by a practitioner or Government department or statutory authority or private entity as a practitioner while:
  - (a) suspended from practice as a practitioner;
  - (b) disqualified from practicing as a practitioner; or

- (c) prevented for disciplinary reasons from practicing as a practitioner.
- (2) A person who contravenes subsection (1), commits an offence and upon conviction is liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 2 years or to both.

## **71 Acting as Commissioner for Oaths**

- (1) A person who is suspended from performing the functions of a Commissioner for Oaths or whose name is not on the Roll of Commissioners for Oaths shall not purport to or make, do, exercise or perform any act, matter or thing relating to the office, function or practice of a Commissioner for Oaths.
- (2) A person who contravenes subsection (1), commits an offence and upon conviction is liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 2 years or to both.

## **72 Acting as Notary Public**

- (1) A person who is suspended from practicing as a Notary Public or whose name is not on the Roll of Notaries Public, shall not purport to or make, do, exercise or perform any act, matter or thing relating to the office, function or practice of a Notary Public.
- (2) A person who contravenes subsection (1), commits an offence and upon conviction is liable to a fine not exceeding \$50,000 or to a term of imprisonment not exceeding 2 years or to both.

[The next page is 662,801]

## PART 12 — MISCELLANEOUS

### 73 **Liability**

The Chief Justice, a Supreme Court Judge, Tribunal, Registrar, Secretary for Justice and the Council shall not be liable for any act or omission in the performance in good faith of any function, duty or power under this Act.

### 74 **Admission fees**

The Chief Justice may by notice in the Gazette, prescribe fees for the purposes of Parts 2 and 3.

### 75 **Designated countries**

- (1) The Chief Justice shall notify in the Gazette a list of designated countries for the purposes of Sections 7, 9 and 13.
- (2) The Chief Justice in consultation with the Minister and the Society may add or amend the list of designated countries.

### 76 **Trust accounts**

- (1) Any practitioner who wishes to operate a trust account for his or her clients shall only operate such account with the approval of the Chief Justice.
- (2) A practitioner who operates a trust account under subsection (1) shall:
  - (a) keep trust account books or records in such manner as to disclose clearly the position of the funds and to enable the same to be properly audited on an annual basis;
  - (b) account properly for trust account money to his or her clients; and
  - (c) provide an account on an annual basis to the Registrar for the renewal of his or her practicing certificate.

### 77 **Publication of Rolls**

The Registrar shall publish in the Gazette on or before 15 March of each year:

- (a) the Roll of Legal Practitioners;
- (b) the Roll of Temporary Legal Practitioners;
- (c) the Roll of Commissioners for Oaths; and
- (d) the Roll of Notaries Public.

### 78 **Service of notices**

Any notice or other document required under this Act to be provided or served on a practitioner may, unless otherwise provided, be given or served by:

- (a) delivering such notice or document personally to that practitioner;
- (b) posting such notice or document by pre-paid post to that practitioner at his or her usual or last known place of business or abode last notified by that practitioner to the Registrar; or
- (c) transmission of an electronic mail message to the electronic mail address of the practitioner or the place with whom the practitioner is employed, as provided to the Registrar.

**79 Jurisdiction of the District Court**

The District Court shall have jurisdiction to hear and determine all criminal offences under this Act and, shall have power to impose the penalty or punishment in respect of the offences under this Act.

**80 Rules**

The Chief Justice may make rules to give effect to certain provisions of this Act and, without limiting the generality of this power, may make rules relating to all or any of the following matters:

- (a) the form and manner of application for admission;
- (b) the time and manner for service and delivery of any documents and provision of public notice;
- (c) fees to be paid on the filing or lodging of any application or other document;
- (d) prescribing anything which is required or permitted to be prescribed by rules under this Act;
- (e) prescribing the form of practicing certificates;
- (f) regulating the fees chargeable by practitioners;
- (g) requiring the production to such auditors of books and account;
- (h) as to the opening and keeping by practitioners of accounts at a bank for clients' money;
- (i) as to the keeping by practitioners of accounts containing particulars and information as to monies received, held or paid by them or on account of their clients; and
- (j) prescribing anything which is required under this Act to be prescribed and carried out by the Chief Justice.

**81 Regulations**

The Cabinet may make regulations prescribing all matters necessary or convenient to be prescribed to give effect to this Act including disciplinary proceedings.

[The next page is 663,001]



**PART 13 — REPEAL, SAVINGS AND TRANSITIONAL**

**82 Repeal**

The *Legal Practitioners Act 1973* is hereby repealed.

**83 Savings and transitional**

- (1) All practitioners admitted including those on current temporary admission under the repealed Act as barristers and solicitors or pleaders continue as if they were admitted as barristers and solicitors or pleaders under this Act.
- (2) All Government practitioners deemed to have been admitted or exempted from the requirements of admission under the repealed Act continue as if they were admitted under this Act.
- (3) The Registrar shall enter the names of those practitioners under subsections (1) and (2) into the Roll of Legal Practitioners under this Act.
- (4) Any law practice established and carrying out the practice of law under the repealed Act shall continue as if commenced under this Act.
- (5) Any Commissioner for Oaths appointed under the repealed Act shall continue as if appointed under this Act.
- (6) Any Notary Public appointed under the repealed Act shall continue as if appointed under this Act.
- (7) Any practicing certificate issued by the Registrar under the repealed Act remains current until the expiry date under this Act.

[The next page is 663,201]

## SCHEDULE 1

[Section 11]

### OATH AND AFFIRMATION

#### Oath of legal practitioner

“I A.B. swear by the almighty God that I will be faithful and bear true allegiance to the Republic of Nauru and will truly and honestly conduct myself in the practice of law as a (*barrister and solicitor/pleader*) of the Supreme Court of the Republic of Nauru according to the best of my knowledge and ability so help me God.”

#### Affirmation of legal practitioner

“I A.B. solemnly sincerely and truly declare and affirm that I will truly and honestly conduct myself in the practice of law as a (*barrister and solicitor/pleader*) of the Supreme Court of the Republic of Nauru according to the best of my knowledge and ability.”

[Section 62]

#### Oath of Notary Public

“I A.B. do swear, that I will faithfully exercise the office of a public notary; I will faithfully make contracts or instruments for or between any party or parties requiring the same, and I will not add or diminish any thing without the knowledge and consent of such party or parties that may alter the substance of the fact; I will not make or attest any act, contract, or instrument in which I shall know there is violence or fraud; and in all things I will act uprightly and justly in the business of a public notary, according to the best of my skill and ability. So help me God”

#### Affirmation of Notary Public

“I, A.B., do solemnly sincerely and truly declare and affirm, that I will faithfully exercise the office of a public notary; I will faithfully make contracts or instruments for or between any party or parties requiring the same, and I will not add or diminish any thing without the knowledge and consent of such party or parties that may alter the substance of the fact; I will not make or attest any act, contract, or instrument in which I shall know there is violence or fraud; and in all things I will act uprightly and justly in the business of a public notary, according to the best of my skill and ability.”

[The next page is 663,401]

## SCHEDULE 2

### LEGAL PRACTITIONERS (PROFESSIONAL CONDUCT) RULES 2019

#### Table of Provisions

*Page*

#### **PART 1 — PRELIMINARY**

- 1 Citation
- 2 Commencement
- 3 Application
- 4 Definition

#### **PART 2 — LAW AND SOCIETY**

- 5 Duty to uphold the Constitution and the law
- 6 Availability of legal services, integrity, independence and effectiveness
- 7 Practitioners to represent their actual capabilities
- 8 Participation in development of the legal system
- 9 Professional development of legal practitioners
- 10 Practitioners in Government service
- 11 Prohibition on sexual harassment

#### **PART 3 — THE LEGAL PRACTITIONER AND THE COURTS**

- 12 Practitioner to act with candour and good faith
- 13 Practitioner to observe and respect the Courts and judicial officers
- 14 Practitioner to promote the speedy and efficient administration of justice
- 15 Practitioner to present the merits of a case

#### **PART 4 — LEGAL PROFESSION AND LEGAL PRACTITIONER**

- 16 Practitioner to uphold integrity and dignity of the profession
- 17 Practitioner to show courtesy and candour to other practitioners
- 18 Practitioner to prohibit unauthorised practise of law
- 19 Communication amongst practitioners

#### **PART 5 — THE LEGAL PRACTITIONER AND THE CLIENT**

- 20 Practitioner not to refuse his or her services
- 21 Practitioner not to discriminate the level of representation
- 22 Practitioner to maintain candour, fairness etc when dealing with clients
- 23 Practitioner to hold moneys on trust

*Page*

- 24 Practitioner owes fidelity to client
- 25 Practitioner shall serve client with competence and diligence
- 26 Practitioner to act in best interest of client
- 27 Practitioner shall charge only fair and reasonable fees
- 28 Practitioner bound by client confidentiality
- 29 Practitioner not to abandon or withdraw

### **PART 6 — RUNNING A LAW PRACTICE**

- 30 Practitioner shall maintain a reputable practice
- 31 Practitioner duty to report on any money laundering

### **PART 7 — FREE LEGAL ASSISTANCE TO DEPRIVED PERSONS**

- 32 Practitioner to provide free legal assistance

### **PART 8 — ENFORCEMENT OF THE RULES**

- 33 Enforcement of Rules

[The next page is 663,601]

IN EXERCISE of the powers conferred by Section 80 of the *Legal Practitioners Act 2019*, the Chief Justice makes the following Rules:

## PART 1 — PRELIMINARY

### 1 Citation

- (1) These Rules may be cited as the *Legal Practitioners (Professional Conduct) Rules 2019*.
- (2) The Rules shall be cited as follows:
  - (a) in case of the general Rule, shall be cited as ‘Rule X’ for example, ‘Rule 3’; and
  - (b) in case of a subrule of the general Rule, shall be cited as ‘subrule X(y)’ for example, ‘subrule 3(a)’.

### 2 Commencement

These Rules come into effect on 2 September 2019.

### 3 Application

These Rules apply to the practitioners admitted to practise under Parts 2 and 3 of the Act.

### 4 Definition

‘*client*’ means a person who:

- (a) consults a practitioner and on whose behalf the practitioner renders or agrees to render a legal service; and
- (b) having consulted a practitioner, reasonably concludes that the practitioner has agreed to render services on his or her behalf,  
and includes a client of the law practice of which the practitioner is a partner or employee whether or not the practitioner handles the client’s work;

‘*conflict of interest*’ means the existence of a genuinely substantial risk that the practitioner’s loyalty to or acting in the best interest of a client would be materially and adversely affected by the practitioner’s own interest or the practitioner’s duty to other clients;

‘*consent*’ means a fully informed and voluntary consent after full disclosure;

‘*judicial officer*’ means a Justice of Appeal, Judge, Magistrate, Registrar, Deputy Registrar or any other person exercising such judicial powers under any written law;

‘*law practice*’ or ‘*practice*’ means a law firm registered under the *Business Names Registration Act 2018*, the *Business Licences Act 2017*, *Beneficial Ownership Act 2017* and where applicable, the *Partnership Act 2018* but does not include a department of the Government providing legal services or a legal section of an Instrumentality of the Republic;

‘*practitioner*’ means a barrister and solicitor and a pleader duly admitted to practise law under Parts 2 and 3 of the Act and has a current practicing certificate;

***‘professional misconduct’*** means the conduct of a practitioner’s professional capacity that tends to bring disrepute to the legal profession including:

- (a) breaching or attempting to breach the Act, these Rules or any other written law;
- (b) knowingly assist or inducing another practitioner to breach or attempt to breach the Act, these Rules or any other written law;
- (c) misappropriating or otherwise dealing dishonestly with a client’s or other party’s monies or property;
- (d) engaging in conduct which is prejudicial to the administration of justice;
- (e) stating or implying an ability to influence a government agency or official;
- or
- (f) knowingly assisting a judicial officer in conduct that is in breach of the applicable rules of judicial conduct; and

***‘sexual harassment’*** means a one-off incident or a series of incidents involving unwelcome sexual advances, requests for sexual favours or other verbal or physical conduct of a sexual nature when:

- (a) such conduct might reasonably be expected to cause insecurity, discomfort, offence or humiliation to the recipients of the conduct;
- (b) such conduct is made implicitly or explicitly a condition for the provision of legal services;
- (c) such conduct is made implicitly or explicitly a condition of employment; or
- (d) such conduct has the purpose or effect of interfering with the person’s work performance or creating an intimidating, hostile or offensive work environment.

[The next page is 663,801]



**PART 2 — LAW AND SOCIETY****5 Duty to uphold the Constitution and the law**

- (1) A practitioner shall uphold the *Constitution*, abide by the written and other laws and promote respect for law and legal processes.
- (2) A practitioner shall:
  - (a) not engage in unlawful, dishonest, immoral or deceitful conduct;
  - (b) not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system;
  - (c) not for any corrupt motive or interest, encourage any suit or proceeding or delay any person's cause; and
  - (d) encourage his or her clients to avoid, end or settle a controversy where it will promote justice and fair outcome of a dispute.

**6 Availability of legal services, integrity, independence and effectiveness**

- (1) A practitioner shall avail his or her legal services in an efficient and convenient manner compatible with professional independence, integrity and effectiveness.
- (2) A practitioner shall not:
  - (a) except for valid reasons, reject the provision of legal services for the cause of those unable to afford legal services or are without a defence or oppressed;
  - (b) refuse to render legal advice to the person concerned where it is necessary to protect a person's legal right; and
  - (c) do or permit to be done any act designed primarily to solicit legal business.

**7 Practitioners to represent their actual capabilities**

- (1) A practitioner in making known the facts and capabilities of his or her legal services to the public shall be objective, honest, fair and dignified.
- (2) A practitioner:
  - (a) shall not use or permit the use of any false, fraudulent, misleading, deceptive, undignified, self-laudatory or unfair statement or claim regarding his or her capabilities, qualifications or legal services;
  - (b) in choosing the name of the law practice, shall not use a false, misleading or assumed name, except may continue to use the name of a deceased partner provided the practice indicates in all its communications that the respective partner is deceased; and
  - (c) when accepting appointment to public office, shall withdraw from private practice and his or her name from the private law practice unless the Registrar of Courts allows the retention of the name.

**8 Participation in development of the legal system**

A practitioner shall participate in the development of the legal system by initiating or supporting efforts in law reform and in the promotion, development and maintaining of the administration of justice.

## **9 Professional development of legal practitioners**

A practitioner shall:

- (a) where practicable, keep abreast of legal developments;
- (b) participate in continuing legal education programmes;
- (c) support efforts to achieve high standards as well as in the practical training of junior members of the bar; and
- (d) assist in disseminating the law and jurisprudence.

## **10 Practitioners in Government service**

- (1) A practitioner in the Government service shall:
  - (a) discharge their duties with due diligence and care;
  - (b) not use his or her public position to promote or advance his or her private interests or to allow private interest to interfere with his or her public duties; and
  - (c) not after leaving Government service, accept engagement or employment in connection with any matter in which he or she had carriage of or has any knowledge of.
- (2) A practitioner engaged in public prosecution:
  - (a) shall while prosecuting ensure justice is done and not conviction as the only final outcome; and
  - (b) in making disclosures, shall not suppress facts or conceal witnesses capable of establishing the innocence of the accused.
- (3) A practitioner employed in the Government service may provide services to the instrumentalities of the Republic with the authorisation or approval of the Cabinet.

## **11 Prohibition on sexual harassment**

A practitioner shall not sexually harass a fellow practitioner, a staff member, a client or any other person in the course of delivering legal services.

[The next page is 664,001]

**PART 3 — THE LEGAL PRACTITIONER AND THE COURTS****12 Practitioner to act with candour and good faith**

- (1) A practitioner owes candour, fairness and good faith to the courts.
- (2) A practitioner shall:
  - (a) not mislead or allow the court to be misled by any artifice;
  - (b) not knowingly misquote or misrepresent the contents of pleadings or evidence, the language or the argument of opposing counsel or the principles or text of a decision or authority or knowingly cite as law a provision already rendered inoperative by repeal or amendment or assert as a fact that which has not been proven; and
  - (c) observe the rules of procedure and shall not misuse them.

**13 Practitioner to observe and respect the courts and judicial officers**

- (1) A practitioner shall observe and maintain the respect due to the courts and to judicial officers and should insist on similar conduct by others.
- (2) A practitioner shall:
  - (a) appear in court properly attired in accordance with the practice directions issued by the Chief Justice on dress code;
  - (b) be punctual for all the fixtures of the courts;
  - (c) attend to such sittings of the courts unless he or she has obtained prior leave of the court to be absent or instructs another practitioner to appear on his or her behalf;
  - (d) address the judicial officers and professional colleagues in the appropriate manner;
  - (e) maintain proper decorum in court;
  - (f) abstain from scandalous, offensive or menacing language or behaviour before the courts;
  - (g) conduct the cause or matter in logical sequence to assist the court and the opposing practitioner to follow the cause or matter or issues with ease;
  - (h) prepare for a cause or matter and not seek unnecessary adjournments;
  - (i) not attribute to a Judge motives not supported by the record or evidence; and
  - (j) submit grievances against a judicial officer only to the Chief Justice or duly appointed proper authorities.

**14 Practitioner to promote the speedy and efficient administration of justice**

- (1) A practitioner shall exert every effort and consider it his or her duty to assist in the speedy and efficient administration of justice.
- (2) A practitioner shall:
  - (a) be adequately prepared for his or her cause or matter on law and facts for the hearing of the cause or matter before the courts;
  - (b) not file multiple actions arising from the same facts or cause of action;

- (c) not after obtaining extensions of time to file pleadings, evidence, submissions or other documents let the period lapse without filing the same or providing an explanation or justification for his or her failure to do so;
- (d) not unduly delay a case, impede the execution of a judgment or abuse the processes of the courts;
- (e) refrain from talking to his or her witness during a break or recess of a hearing or proceeding while the witness is still under oath or affirmation and giving testimony;
- (f) not knowingly assist a witness to misrepresent himself or herself or to impersonate another;
- (g) not abuse, badger or harass a witness; and
- (h) avoid testifying on behalf of his or her client except:
  - (i) on formal matters;
  - (ii) on substantial matters, in cases where his or her testimony is essential to the ends of justice, in which event he or she shall, during his or her testimony, entrust the trial of the case to another counsel; or
  - (iii) when lawfully required to testify but shall ensure the practitioner-client privilege is not breached.

## **15 Practitioner to present the merits of a case**

- (1) A practitioner shall:
  - (a) rely on the merits of the cause or matter which he or she is representing; and
  - (b) refrain from any impropriety which tends to influence or gives the appearance of influencing the court.
- (2) A practitioner shall not:
  - (a) extend extraordinary attention or hospitality to nor seek opportunity for cultivating familiarity with judicial officers;
  - (b) make public statements in the mass media in print or electronic form regarding a pending case tending to arouse public opinion for or against the facts or outcome of the case or a party; and
  - (c) allow or invite interference by another branch or agency of the Government in the normal course of judicial proceedings.

[The next page is 664,201]

**PART 4 — LEGAL PROFESSION AND LEGAL PRACTITIONER****16 Practitioner to uphold integrity and dignity of the profession**

- (1) A practitioner shall uphold the integrity and dignity of the legal profession and support the activities of the Nauru Law Society.
- (2) A practitioner shall not:
  - (a) knowingly make a false statement or suppress a material fact in connection with his or her application for admission to practice;
  - (b) support the application for admission to the bar of a person known by him or her to be unqualified in respect of character, education or other relevant attribute; and
  - (c) engage in any conduct whether in public or private life that adversely reflects on his or her fitness to practice law or behave in a scandalous manner which would bring disrepute to the legal profession.

**17 Practitioner to show courtesy and candour to other practitioners**

- (1) A practitioner shall conduct himself or herself with courtesy, fairness and candour towards his or her professional colleagues and shall avoid harassing tactics against opposing counsel.
- (2) A practitioner shall not:
  - (a) in his or her professional dealings, use language which is abusive, offensive or otherwise improper; and
  - (b) directly or indirectly, encroach upon the professional employment of another practitioner.
- (3) Subrule (2)(b) does not prohibit a practitioner from rendering proper advice and assistance to persons seeking relief against practitioners conducting themselves in breach of these Rules or that is expected of a reasonable and prudent practitioner.

**18 Practitioner to prohibit unauthorised practice of law**

- (1) A practitioner shall not, directly or indirectly, assist in the unauthorised practice of law.
- (2) A practitioner shall:
  - (a) not delegate to any unqualified person the performance of any legal services which by law may only be performed by a practitioner;
  - (b) not share a fee for legal services with persons not authorised to practice law under the Act including practitioners on the Roll of Practitioners having no current practising certificates;
  - (c) pay all such monies payable over a reasonable period of time to a partner upon his or her death where a pre-existing agreement provides for the payment of such money to his or her estate or to persons specified in the agreement; and
  - (d) undertake to complete unfinished legal business of a deceased practitioner being a partner or employee.

**19 Communication amongst practitioners**

- (1) A practitioner shall not in the course of professional practice send correspondence or otherwise communicate with another practitioner in a

manner that is abusive, offensive or otherwise inconsistent with the proper tone of a professional communication with a practitioner.

- (2) A practitioner shall respond with reasonable promptness to all communication with other practitioners that require a response.
- (3) A practitioner when dealing with an unrepresented person shall take care to ensure that the unrepresented person is not proceeding under the impression that such person's interest will be protected by the practitioner.
- (4) A practitioner shall not give an undertaking that cannot be fulfilled and shall fulfil all undertakings given once accepted by the other practitioner or person.

[The next page is 664,401]

**PART 5 — THE LEGAL PRACTITIONER AND THE CLIENT****20 Practitioner not to refuse his or her services**

- (1) A practitioner shall not refuse his or her services to a person in need of such advice.
- (2) A practitioner shall not:
  - (a) decline to represent a person solely on account of race, sex, creed or inability to pay or because of a personal opinion regarding the guilt or otherwise of such person;
  - (b) except for serious and sufficient cause, decline an appointment as *amicus curiae* or a request from the Nauru Law Society or for rendering of free legal assistance; and
  - (c) refuse to accept representation of an indigent client except where:
    - (i) he or she is unable to carry out the work effectively and competently; or
    - (ii) he or she has a conflict of interest.

**21 Practitioner not to discriminate the level of representation**

A practitioner who accepts the cause of a person unable to pay his or her professional fees shall observe the same standard of conduct governing his or her relations with paying clients.

**22 Practitioner to maintain candour, fairness, etc when dealing with clients**

- (1) A practitioner shall observe candour, fairness and loyalty in his or her dealings and transactions with his or her clients.
- (2) A practitioner shall:
  - (a) in conferring with a prospective client ascertain as soon as practicable, whether the matter would involve a conflict with another client or his or her own interest and inform the prospective client;
  - (b) be bound by the principles of privileged communication in respect of matters disclosed to him or her by a client;
  - (c) not represent conflicting interests except with the written consent of the client after a full disclosure of the facts;
  - (d) with the written consent of clients or other parties concerned to act as mediator, conciliator or arbitrator in settling disputes;
  - (e) when advising his or her client, give a candid and honest opinion on the merits and probable results of the client's cause or matter, neither overstating nor understating the prospects of the cause or matter;
  - (f) not state or imply that he or she is able to influence any public official, tribunal or legislative body;
  - (g) impress upon his or her client compliance with the laws and the principles of fairness; and
  - (h) not engage in another profession or occupation concurrently with the practice of law and where the practitioner does engage in such profession, he or she make clear to his or her client whether he or she is acting as a practitioner or in another profession.

**23 Practitioner to hold monies on trust**

- (1) A practitioner shall hold in trust all monies and properties of his or her client that may come into his or her possession.
- (2) A practitioner shall:
  - (a) account for all money or property collected or received for or from the client;
  - (b) keep the funds of each client separate and apart from his or her own and those of others kept by him or her;
  - (c) deliver the funds and property of his or her client when due or upon demand;
  - (d) not borrow money from his or her client unless the client's interest are fully protected by the nature of the case or by independent legal advice; and
  - (e) not lend money to a client except, when in the interest of justice, he or she has to advance necessary expenses in a legal matter he or she is handling for the client.
- (3) For the purposes of subrule (2)(c), where a practitioner has a lien over the client's funds held on trust, the practitioner may apply such sums as may be necessary to satisfy the lien:
  - (a) for the lawful fees and disbursements on notice and proper accountability to the client; or
  - (b) to the same extent on all judgments and executions he or she has secured for his or her client as provided for in the rules of court.

**24 Practitioner owes fidelity to client**

A practitioner owes fidelity to his or her client and shall accept that the clients do repose trust and confidence in the practitioner for the professional delivery of legal services.

**25 Practitioner shall serve client with competence and diligence**

A practitioner shall:

- (a) not undertake any legal service which he or she knows or ought to have known that he or she is not qualified to render except where the practitioner may render such service in collaboration or assistance of a competent practitioner with the consent of his or her client;
- (b) not handle any legal matter without adequate preparation;
- (c) not neglect a legal matter entrusted to him or her; and
- (d) keep the client informed of the status of his or her cause or matter or any other purpose of engagement of the practitioner at regular intervals or within a reasonable time in response to the client's request for information.

**26 Practitioner to act in best interest of client**

- (1) A practitioner shall represent his or her client with passion and in the best interest of the client within the bounds of the law.
- (2) A practitioner shall:
  - (a) employ only fair and honest means to attain the lawful objectives of the client and shall not present, participate in presenting or threaten to present unfounded criminal charges to obtain an improper advantage in any cause or matter;



- (b) inform his or her client of any relevant information received in the course of the representation, perpetration of fraud and shall promptly call upon the client to rectify the same; and
- (c) not allow his or her client to dictate the procedure in handling the cause or matter.

## **27 Practitioner shall charge only fair and reasonable fees**

- (1) A practitioner shall be guided by the following factors in determining his or her fees:
  - (a) the time spent and the extent of the service rendered or required;
  - (b) the novelty and difficulty of the questions involved;
  - (c) importance of the subject matter;
  - (d) skills demanded;
  - (e) probability of losing other employment as a result of acceptance of the proffered case;
  - (f) customary charges for similar services;
  - (g) amount involved in the controversy and the benefits resulting to the client from the service;
  - (h) contingency or certainty of compensation;
  - (i) character of the employment, whether occasional or established; and
  - (j) the professional standing of the practitioner.
- (2) In case of referral to another practitioner, the practitioner is entitled to a division of fees in proportion to the work performed and responsibility assumed with the consent of the client.
- (3) The practitioner shall not without the full knowledge and consent of the client, accept any fee, reward, costs, commission, interest, rebate or forwarding allowance or other compensation whatsoever related to his or her professional employment from anyone other than the client.
- (4) A practitioner shall avoid controversies with clients concerning compensation and shall resort to judicial action only to prevent imposition, injustice or fraud.

## **28 Practitioner bound by client confidentiality**

- (1) A practitioner shall preserve the confidentiality of the client even after the practitioner-client relation is terminated.
- (2) A practitioner shall:
  - (a) not reveal the confidences or secrets of his or her client except when:
    - (i) authorised by the client after having provided an advice on the consequences of such disclosure;
    - (ii) required by law or in compliance with a court order; or
    - (iii) necessary to collect his or her fees or to defend himself or herself, his or her employees or associates or by judicial action;
  - (b) not to the disadvantage of the client by using the information acquired in the course of engagement of service;
  - (c) not without the written consent of his or her client, give information from his or her files to an outside agency seeking such information for auditing, statistical, bookkeeping, accounting, data processing, or any similar purpose;

- (d) not disclose the affairs of a client of the firm to partners or associates unless necessary;
  - (e) adopt such measures as may be required to prevent those whose services are utilised by him or her, from disclosing or using confidences or secrets of the clients;
  - (f) avoid indiscreet conversation about a client's affairs even with members of his or her family; and
  - (g) not reveal that he or she has been consulted about a particular case except to avoid possible conflict of interest.
- (3) This Rule extends to all other practitioners including the non-legal staff in the practice.
- (4) Communications with practitioners are privileged and protected from disclosure in judicial and other proceedings.

## **29 Practitioner not to abandon or withdraw**

- (1) A practitioner shall not abandon or withdraw from his or her services except for good cause and upon notice appropriate in the circumstances.
- (2) A practitioner shall withdraw his or her services where:
- (a) the client pursues an illegal or immoral course of conduct in connection with the cause or matter the practitioner is handling;
  - (b) the client insists that the practitioner acts contrary to these Rules;
  - (c) the client persists against the practitioner's advice and remonstrance in pressing for a frivolous cause or defence;
  - (d) the practitioner has the inability to work with co-counsel who will not promote the best interests of the client;
  - (e) the mental or physical condition of the practitioner renders it difficult for him or her to carry out the employment effectively;
  - (f) the client deliberately fails to pay the fees for the services or fails to comply with the retainer agreement;
  - (g) the practitioner is elected or appointed to public office; and
  - (h) other similar cases.
- (3) A practitioner who has agreed to act in a criminal cause or matter may withdraw where the client has not paid the agreed fees and where the interval between the withdrawal and date set for the trial of a case is sufficient to enable the client to obtain representation and the new practitioner has adequate time for preparation.
- (4) A practitioner shall not withdraw from a criminal cause or matter for the reason of payment of fees if the date set for the trial of the cause or matter is not sufficient for the client to obtain new representation without adversely affecting the client's interests.
- (5) A practitioner who withdraws or is discharged shall, subject to a retainer lien, immediately turn over all papers and property to which the client is entitled and shall cooperate with his or her successor in the orderly transfer of the matter, including all information necessary for the proper handling of the matter.

[The next page is 664,601]

**PART 6 — RUNNING A LAW PRACTICE****30 Practitioner shall maintain a reputable practice**

- (1) A practitioner practicing on his or her own account or as an employee shall keep his or her office and the working style of a professional reputation as an autonomous and independent service.
- (2) A practitioner:
  - (a) shall maintain an orderly and timely record of all cases, develop a storage system and accurate files of all fixtures for appointments, conveyancing instruments or court commitments so that both the practitioner and the client are always able to check the files for any data on a particular case;
  - (b) shall always provide without delay any information required by the Registrar, Nauru Law Society, courts or other lawful authorities within the bounds of legal professional privilege;
  - (c) shall be responsible for the work of his or her law office;
  - (d) shall be particularly conscientious and punctual in his or her financial operations and not permit:
    - (i) to commingle a client's money with his or her own; and
    - (ii) shall always be in a position to pay out such money; and
  - (e) may put office sign on the building and in the building in which the law office is located.

**31 Practitioner duty to report on any money laundering**

A practitioner shall inform the relevant authorities for any suspicious activities of money laundering by clients under the *Anti-Money Laundering and Targeted Financial Sanctions Act 2023*.

[r 31 am Act 2 of 2023 s 140, opn 7 June 2023]

[The next page is 664,801]

**PART 7 — FREE LEGAL ASSISTANCE TO DEPRIVED PERSONS****32 Practitioner to provide free legal assistance**

A practitioner shall provide at least 1 annual pro bono legal assistance to persons unable to afford legal services and such assistance shall be carried out to the standard of practice of a reasonable and prudent practitioner.

[The next page is 665,001]

**PART 8 — ENFORCEMENT OF THE RULES****33 Enforcement of Rules**

- (1) Where a practitioner acts in contravention of these Rules or fails to perform any duty imposed by the Rules, he or she shall be guilty of professional misconduct and is liable to such punishment as provided in the Act or any other written law.
- (2) It is the duty of every practitioner to report any breach of these Rules that comes to his or her knowledge to the Registrar.

[The next page is 670,001]



# Legal Practitioners (Admission) Rules 2019

## TABLE OF PROVISIONS

*Rule*

*Title*

### **PART 1 — PRELIMINARY**

- 1 Citation
- 2 Commencement

### **PART 2 — INTITULE**

- 3 Intitule of documents

### **PART 3 — ADMISSION REQUIREMENTS**

- 4 Application for admission
- 5 Particulars required for application for admission
- 6 Affidavit verifying the petition
- 7 Lodging of petition
- 8 Notice of petition
- 9 Hearing of application for admission

### **PART 4 — MISCELLANEOUS**

- 10 Application for abridgment of time
- 11 Fees
- 12 Forms
- 13 Repeal

#### SCHEDULE 1 — FORMS

##### FORM 1 — INTITULE

##### FORM 2 — PETITION FOR ADMISSION AS BARRISTER AND SOLICITOR

##### FORM 3 — PETITION FOR ADMISSION AS A PLEADER

##### FORM 4 — PETITION FOR ADMISSION AS A BARRISTER AND SOLICITOR [FOREIGN PRACTITIONER]

##### FORM 5 — PETITION FOR ADMISSION AS A BARRISTER AND SOLICITOR [TEMPORARY ADMISSION]

##### FORM 6 — AFFIDAVIT VERIFYING PETITION

##### FORM 7 — CERTIFICATE OF GOOD CHARACTER

##### FORM 8 — CERTIFICATE OF GOOD STANDING

*Title*

FORM 9 — NOTICE OF APPLICATION FOR ADMISSION TO  
PRACTICE

SCHEDULE 2 — ADMISSION FEES

[The next page is 670,201]

# Legal Practitioners (Admission) Rules 2019

---

## TABLE OF AMENDMENTS

The Legal Practitioners (Admission) Rules 2019 SL 27 were notified on 30 August 2019 and commenced on 2 September 2019 (r 2).

<b>Amending Legislation</b>	<b>Notified</b>	<b>Date of Commencement</b>
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

[The next page is 670,401]

**IN EXERCISE** of the powers conferred by Section 80 of the *Legal Practitioners Act 2019*, the Chief Justice makes the following Rules:

**PART 1 — PRELIMINARY**

**1 Citation**

These Rules may be cited as the *Legal Practitioners (Admission) Rules 2019*.

**2 Commencement**

These Rules come into effect on 2 September 2019.

[The next page is 670,601]

**PART 2 — INTITULE**

**3 Intitule of documents**

An application for admission, affidavit to be presented, lodged or filed under these Rules shall be intituled as set out in Form 1 of Schedule 1.

[The next page is 670,801]



## PART 3 — ADMISSION REQUIREMENTS

### 4 Application for admission

An application for admission to practice shall be by petition:

- (a) in the case of a barrister and solicitor under Section 7 of the Act, in Form 2 of Schedule 1;
- (b) in the case of a pleader under Section 8 of the Act, in Form 3 of Schedule 1;
- (c) in the case of a foreign practitioner under Section 9 of the Act, in Form 4 of Schedule 1; and
- (d) in the case of temporary admission under Part 3 of the Act, in Form 5 of Schedule 1.

### 5 Particulars required for application for admission

- (1) The particulars of a petition for admission to practice as a barrister and solicitor under Section 7 of the Act shall have the following documents attached to it and marked appropriately:
  - (a) a certified true copy of the original of the applicant's birth certificate or current passport;
  - (b) a certified true copy of the original of the applicant's degree or Pleadings Certificate;
  - (c) a certified true copy of the original of the applicant's certificate of admission to practice; and
  - (d) 2 original certificates of good character no more than a month old.
- (2) The particulars of a petition for admission to practice as a barrister and solicitor under Section 8 of the Act shall have the following documents attached to it and marked appropriately:
  - (a) a certified true copy of the original of the applicant's birth certificate or current passport;
  - (b) a certified true copy of the original of the applicant's Pleadings Certificate;
  - (c) a certified true copy of the original of the applicant's Advocacy Certificate; and
  - (d) 2 original certificates of good character no more than a month old.
- (3) The particulars of a petition for admission to practice as a barrister and solicitor under Section 9 of the Act shall have the following documents attached to it and marked appropriately:
  - (a) a certified true copy of the original of the applicant's birth certificate or current passport;
  - (b) a certified true copy of the original of the applicant's degree;
  - (c) a certified true copy of the original of the applicant's certificate of admission to practice;
  - (d) original copy of Certificate of Good Standing from a law society or Board of Legal Education from the country the applicant is currently practicing in;
  - (e) 2 original certificates of good character no more than a month old;
  - (f) a certified true copy of the original of the applicant's business visa;

- (g) police certificate certifying petitioner has not been subject of any order, judgment, finding or conviction arising from any criminal cause or matter or is subject to any pending criminal cause or matter; and
  - (h) 2 original certificates of good character no more than a month old.
- (4) The particulars of a petition for admission to practice as a barrister and solicitor under Part 3 of the Act shall have the following documents attached to it and marked appropriately:
- (a) a certified true copy of the original of the applicant's birth certificate or current passport;
  - (b) a certified true copy of the original of the applicant's degree;
  - (c) a certified true copy of the original of the applicant's certificate of admission to practice;
  - (d) original copy of Certificate of Good Standing from a law society or Board of Legal Education from the country the applicant is currently practicing in;
  - (e) 2 original certificates of good character no more than a month old;
  - (f) evidence of cause or matter in which the applicant intends to appear;
  - (g) evidence of instruction by the client and a resident legal practitioner;
  - (h) a certified true copy of the original of the applicant's business visa;
  - (i) police certificate certifying petitioner has not been subject of any order, judgment, finding or conviction arising from any criminal cause or matter or is subject to any pending criminal cause or matter; and
  - (j) 2 original certificates of good character no more than a month old.

## **6 Affidavit verifying the petition**

A petition for admission shall be verified by an affidavit in Form 6 of Schedule 1.

## **7 Lodging of petition**

A petition for admission shall be lodged with the Registrar in triplicate copies.

## **8 Notice of petition**

- (1) The Registrar shall cause a notice of the petition for admission to be published in the Gazette and to be affixed to the public notice board at the Court House in Yaren.
- (2) The notice under subrule (1) shall be in Form 7 of Schedule 1.

## **9 Hearing of application for admission**

- (1) The date of hearing of an application for admission shall be fixed by the Chief Justice and in his or her absence, the Registrar.
- (2) In fixing the date of the hearing of a petition for admission under subrule (1), consideration shall be given to the requirements of Section 10(4) of the Act.
- (3) The Registrar shall provide to the applicant reasonable notice of the date fixed for the hearing of the applicant's application for admission.
- (4) An applicant for admission to practice shall attend in person unless exempted by the Chief Justice.

- (5) A notice of the hearing of the petition shall be served to the Secretary for Justice and the President of the Nauru Law Society, who shall attend the hearing.

[The next page is 671,001]

**PART 4 — MISCELLANEOUS**

**10 Application for abridgment of time**

Where an applicant for admission seeks an abridgment of time under the Act or these Rules, the application shall:

- (a) be made in the petition itself; and
- (b) set out the circumstances and grounds in which the application is made.

**11 Fees**

The fees payable to the Registry of the Supreme Court for the filing of petitions and related documents are set out in Schedule 2.

**12 Forms**

The forms in these Rules shall be used as far as practicable and where required, used with the necessary modifications.

**13 Repeal**

The *Legal Practitioners (Admission) Rules 1973* are repealed.

[The next page is 671,201]

**SCHEDULE 1**

**FORMS**

**FORM 1**

*[Rule 3]*

**INTITULE**

**IN THE SUPREME COURT OF NAURU**

**MISCELLANEOUS JURISDICTION**

Miscellaneous Proceedings No. . . . of  
20. . . .

**IN THE MATTER** of the *Legal  
Practitioners Act 2019*

**AND IN THE MATTER** of the *Legal  
Practitioners (Admission) Rules 2019*

**AND IN THE MATTER** of an  
application for admission as a Pleader  
by **[INSERT NAME]**

## FORM 2

[Rule 4(a)]

**PETITION FOR ADMISSION  
AS BARRISTER AND SOLICITOR**

**TO :** The Chief Justice of the Supreme Court of Nauru

I, **[INSERT NAME]** of [*insert District*] District, [*insert occupation*], petition to be admitted to practice as a barrister and solicitor.

1. I have attained the age of 21 years and I am a citizen of Nauru. I annex hereto and marked "Attachment 1" a certified true copy of the original of my [*birth certificate or current passport*<sup>1</sup>].
2. I am ordinarily resident in [*Nauru*<sup>2</sup>].
3. I am a qualified person under Section 7 of the *Legal Practitioners Act 2019*.
4. My law degree was completed at [*insert name of tertiary institution*]. I annex hereto and marked "Attachment 2" a certified true copy of the original of the certificate of my degree issued on the [*insert date*] and I am the person named therein.
5. I was on the [*insert date*] duly admitted as a barrister and solicitor in [*insert country*]. I have practiced as a pleader in Nauru for a period of over 12 months before completing my law degree from [*insert date*] to [*insert date*].<sup>3</sup>
6. I annex hereto and marked "Attachment 3" a certified true copy of the original of the certificate of my admission as a barrister and solicitor in [*insert country*]/ I annex hereto and marked "Attachment 3" is a certified true copy of the original of the Certificate conferred on me on completing and graduating from the Pleadings Course of [*insert date*].<sup>4</sup>
7. My normal residential address is [*insert address*].
8. The address at which I intend to practice, is [*insert address*].
9. I annex hereto and marked "Attachment 4" and "Attachment 5" the original certificates of good character (no more than 1 month old) from persons who have known me for at least 12 months and who are not related to me.
10. My address for service is [*insert address*].

**DATED** this                      day of                      , 20.....

.....  
**[INSERT NAME]**

<sup>1</sup> Delete whichever is inapplicable.

<sup>2</sup> Insert country where ordinarily resident.

<sup>3</sup> Delete whichever is inapplicable.

<sup>4</sup> Delete whichever is inapplicable.



FORM 3

[Rule 4(b)]

PETITION FOR ADMISSION AS A PLEADER

TO : The Chief Justice of the Supreme Court of Nauru

I, [INSERT NAME] of [insert District] District, [insert occupation], petition to be admitted to practice as a Pleader.

- 1. I am a citizen of Nauru. I attach hereto and marked "Attachment 1" a certified true copy of the original of my [birth certificate or current passport].
2. I am ordinarily resident in Nauru
3. I am a qualified person under Section 8 of the Legal Practitioners Act 2019.
4. I have undergone the training and satisfactorily completed the Pleaders Course [insert date], pursuant to Section 8(1)(b) of the Legal Practitioners Act 2019 and [insert name of Rules].
5. I have passed the examination prescribed by the Chief Justice contained in [insert name of Rules]. I attach herewith a copy of the results of my examination marked as "Attachment 2".
6. On the [insert date] I, graduated and a Certificate was conferred to me. I attach hereto marked as "Attachment 2" a certified true copy of the original of the Certificate.
7. I also undertook a further programme conducted by the Department of Justice for Advocacy Training. I attach herewith a copy of the Certificate of Achievement marked as "Attachment 3".
8. I attach hereto marked as "Attachment 4" and "Attachment 5" are original certificates of good character (no more than 1 month old) from persons who have known me for at least 24 months and who are not related to me.
9. My normal residential address is [insert District] District.
10. My address for service is [insert address for service].

DATED this day of , 20.....

[INSERT NAME]

5 Delete whichever is inapplicable.

## FORM 4

[Rule 4(c)]

**PETITION FOR ADMISSION  
AS A BARRISTER AND SOLICITOR  
[FOREIGN PRACTITIONER]**

**TO :** The Chief Justice of the Supreme Court of Nauru

I, **[INSERT NAME]** of *[insert address]*, *[insert occupation]*, foreign practitioner, petition to be admitted to practice as a barrister and solicitor.

1. I have attained the age of 21 years and I am a citizen of *[insert country of citizenship]*. I attach hereto and marked "Attachment 1" a certified true copy of the original of my *[birth certificate or current passport<sup>6</sup>]*.
2. I am ordinarily resident in *[insert country of residence]*.
3. I am a qualified person under Section 9 of the *Legal Practitioners Act 2019*.
4. My law degree was completed at *[insert name of tertiary institution]* in *[insert country]*. I attach hereto and marked "Attachment 2" a certified true copy of the original of the certificate of my degree issued on *[insert date]* and I am the person named therein.
5. I was duly admitted as a barrister and solicitor in *[insert country]* on *[insert date]*. I attach hereto and marked "Attachment 3" a certified true copy of the original of the certificate of my admission as a barrister and solicitor in *[insert country]*.
6. I have legal experience practicing *[insert<sup>7</sup>]* for a period of *[insert duration of practice]* in *[insert country<sup>8</sup>]*.
7. I have not been and am not the subject of any proceedings, whether concluded or pending, for professional misconduct on my part where I have been admitted to practice as a barrister and solicitor. I attach hereto and marked "Attachment 4" the original copy of my Certificate of Good Standing from the *[insert country<sup>9</sup>]* of *[insert country]*.
8. I attach hereto and marked "Attachment 5" the original copy of a Police Certificate certifying that I have not been the subject of any order, judgment, finding or conviction arising from any criminal cause or matter against me and I am not the subject of any pending criminal cause or matter in *[insert country of residence]*.
9. I attach hereto and marked "Attachment 6" a certified true copy of the original of my business visa granted on *[insert date]* by Nauru Immigration.
10. I attach hereto and marked "Attachment 7" and "Attachment 8" are original certificates of good character (no more than 1 month old) from persons who have known me for at least 24 months and who are not related to me.
11. I have resided in Nauru for a continuous period of not less than 2 months.
12. My normal residential address is *[insert address]*.
13. The address at which I intend to practice, is *[insert address]*.

**DATED** this                      day of                      , 20.....

<sup>6</sup> Delete whichever is inapplicable.

<sup>7</sup> Insert: own my own account; as a lawyer in Attorney General's Office; as a lawyer in Department of Justice; as a lawyer in Office of Director of Public Prosecutions; as a lawyer in Legal Aid/Public Legal Defender's Office.

<sup>8</sup> If the Petitioner has practiced in more than 1 country, list the countries and duration of practice in each country.

<sup>9</sup> Insert Law Society or Board of Legal Education

.....  
**[INSERT NAME]**

## FORM 5

[Rule 4(d)]

**PETITION FOR ADMISSION  
AS A BARRISTER AND SOLICITOR  
[TEMPORARY ADMISSION]**

**TO :** The Chief Justice of the Supreme Court of Nauru

I, **[INSERT NAME]** of *[insert address]*, *[insert occupation]*, foreign practitioner, petition to be admitted to temporary practice as a barrister and solicitor.

1. I have attained the age of 21 years and I am a citizen of *[insert country of citizenship]*. I attach hereto and marked "Attachment 1" a certified true copy of the original of my *[birth certificate or current passport<sup>10</sup>]*.
2. I am ordinarily resident in *[insert country of residence]*.
3. I am a qualified person under Part 3 of the *Legal Practitioners Act 2019*.
4. My law degree was completed at *[insert name of tertiary institution]* in *[insert country]*. I attach hereto and marked "Attachment 2" a certified true copy of the original of the certificate of my degree issued on *[insert date]* and I am the person named therein.
5. I was on the *[insert date]* duly admitted as a barrister and solicitor in *[insert country]*. I attach hereto and marked "Attachment 3" a certified true copy of the original of the certificate of my admission as a barrister and solicitor in *[insert country]*.
6. I have legal experience practicing *[insert<sup>11</sup>]* for a period of *[insert duration of practice]* in *[insert country]*.
7. I have not been and am not the subject of any proceedings, whether concluded or pending, for professional misconduct on my part where I have been admitted to practice as a barrister and solicitor. I attach hereto and marked "Attachment 5" the original copy of my Certificate of Good Standing from the *[insert<sup>12</sup>]* of *[insert country]*.
8. I seek admission as a barrister and solicitor under the Act to act in respect of the following cause or matter *[insert cause or matter<sup>13</sup>]* and I am instructed by *[insert name of legal practitioner<sup>14</sup>]*.
9. I attach hereto and marked "Attachment 6" a certified true copy of the original of my business visa granted on *[insert date]* by Nauru Immigration.
10. I attach hereto and marked "Attachment 7" the original copy of a Police Certificate certifying that I have not been the subject of any order, judgment, finding or conviction arising from any criminal cause or matter against me and I am not the subject of any pending criminal cause or matter in *[insert country of residence]*.
11. I attach hereto and marked "Attachment 8" and "Attachment 9" original certificates of good character (no more than 1 month old) from persons who have known me for at least 24 months and who are not related to me.
12. My normal residential address is *[insert address]*.

---

<sup>10</sup> Delete whichever is inapplicable.

<sup>11</sup> Insert: own my own account; as a lawyer in Attorney General's Office; as a lawyer in Department of Justice; as a lawyer in Office of Director of Public Prosecutions; as a lawyer in Legal Aid/Public Legal Defender's Office.

<sup>12</sup> Insert Law Society or Board of Legal Education.

<sup>13</sup> Clearly set out cause or matter for which admission is sought.

<sup>14</sup> The resident barrister and solicitor or pleader giving instructions to petitioner shall have more than 10 years' experience.

13. The address at which I intend to practise from is *[insert address]*.

**DATED** this                      day of                      , 20.....

.....  
**[INSERT NAME]**

**FORM 6**

*[Rule 6]*

**AFFIDAVIT VERIFYING PETITION**

**TO :** The Chief Justice of the Supreme Court of Nauru

I, **[INSERT NAME]** of *[insert address]*, *[insert occupation]* make oath or affirm and says as follows:

1. I am the Petitioner herein.
2. As the petitioner, I am aware of the facts contained in the petition signed by me on *[date]*.
3. I have read and understood the contents of the Petition to be filed in this Honourable Court and verify the contents therein are true to the best of my knowledge, information and belief. The Petition annexed hereto and marked as “*Annexure [insert initials] 1*”
4. I seek order in terms of the prayer in the Petition.

**SWORN/ AFFIRMED** by *[insert name]*

at *[insert place affidavit sworn or affirmed]* this *[insert date]*

.....  
*[Signature of petitioner]*

Before me:

\_\_\_\_\_

**[COMMISSIONER FOR OATHS/NOTARY PUBLIC<sup>15</sup>]**

<sup>15</sup> Delete whichever is inapplicable.

**FORM 7***[Rule 8]***CERTIFICATE OF GOOD CHARACTER**

The Chief Justice  
Supreme Court of Nauru  
Yaren District  
**Republic of Nauru**

1. I, *[insert name]*, of *[insert address]*, *[insert occupation]*, certify that the applicant *[insert name]*:
  - (a) is not related to me by blood or marriage;
  - (b) has been known to me for a period of *[insert duration]*<sup>16</sup>; and
  - (c) is known to me *[insert capacity]*<sup>17</sup><sup>18</sup>.
2. In my opinion, the applicant is of good character and a fit and proper person to be admitted as a *[insert]*<sup>19</sup> of the Supreme Court of Nauru.

.....  
*[Signature]*

.....  
*[Date]*

---

<sup>16</sup> Referee shall have known the Petitioner for a period of at least 24 months.

<sup>17</sup> Insert in what capacity you know the Petitioner – whether professional, academic or other.

<sup>18</sup> Please describe your relationship including relevant details such as your role or title and the name of the law practice, department, agency, academic institution or other such organisation.

<sup>19</sup> Insert: barrister and solicitor or pleader.

**FORM 8**

**CERTIFICATE OF GOOD STANDING**

The Chief Justice  
Supreme Court of Nauru  
Yaren District  
**Republic of Nauru**

I, *[insert name]*, of *[insert address]*, *[insert occupation]*, certify that:

- (a) at the date of this certificate, no disciplinary proceedings are pending or contemplated against the application and, his or her professional conduct is not under investigation;
- (b) <sup>20</sup>there has been no record of any professional misconduct or proceedings against the applicant/the applicant has a record of professional misconduct or proceedings against him/her, namely:  
<sup>21</sup> *[insert charge] [insert proceedings] [insert result]*

**DATED** this ..... day of ....., 20.....

.....  
*[insert<sup>22</sup>]*

<sup>20</sup> Delete where applicable.

<sup>21</sup> Set out clearly in number paragraphs, that is (i), (ii), (iii) etc

<sup>22</sup> Insert Secretary of Law Society or Chairperson of Board of Legal Education



**FORM 9**



**REPUBLIC OF NAURU**

LEGAL PRACTITIONERS ACT 2019

*[Section 10]*

**NOTICE OF APPLICATION FOR ADMISSION TO PRACTICE**

**TAKE NOTICE** that a petition by *[name of petitioner]* seeking admission to practice as a *[insert<sup>23</sup>]* was lodged with the Court on this ..... Day of ..... 20.....

A person knowing any reason why the petition should not be granted may, within 14 days of the date of this notice, lodge with the Registrar of the Supreme Court at Yaren a written statement of the grounds of his or her objection.

**DATED** this ..... day of ....., 20.....

.....  
Registrar

---

<sup>23</sup> Insert: barrister and solicitor or pleader.

[The next page is 671,401]

## SCHEDULE 2

[Rule 11]

### ADMISSION FEES<sup>24</sup>

No	Document	Rule	Fee (\$)
1.	Filing petition for admission ( <i>Nauruan citizen barrister and solicitor</i> )	5(1)	200
2.	Filing petition for admission ( <i>pleader</i> )	5(2)	100
3.	Filing petition for admission ( <i>foreign practitioner</i> )	5(3)	200
4.	Filing petition for admission ( <i>temporary admission</i> )	5(4)	300
5.	On a petition for temporary admission, for each cause or matter in which the petitioner intends to appear	5(4)(b)(vi)	200
6.	Affidavits	5 and 6	10

---

<sup>24</sup> These fees are inclusive of the hearing of the petition.

[The next page is 675,001]

# Legal Practitioners (Practicing Certificates) Rules 2019

## TABLE OF PROVISIONS

<i>Rule</i>	<i>Title</i>
1	Citation
2	Commencement
3	Application for practicing certificate
4	Form of practicing certificate
5	Fees
6	Repeal
	SCHEDULE 1 — FORMS
	FORM 1 — APPLICATION FOR PRACTICING CERTIFICATE
	FORM 2 — PRACTICING CERTIFICATE
	SCHEDULE 2 — FEES FOR PRACTICING CERTIFICATE

[The next page is 675,201]

# Legal Practitioners (Practicing Certificates) Rules 2019

---

## TABLE OF AMENDMENTS

The Legal Practitioners (Practicing Certificates) Rules 2019 SL 28 were notified on 30 August 2019 and commenced on 2 September 2019 (r 2).

<b>Amending Legislation</b>	<b>Notified</b>	<b>Date of Commencement</b>
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

[The next page is 675,401]



**IN EXERCISE** of the powers conferred by Section 80(e) of the *Legal Practitioners Act 2019*, the Chief Justice makes the following Rules:

**1 Citation**

These Rules may be cited as the *Legal Practitioners (Practicing Certificates) Rules 2019*.

**2 Commencement**

These Rules come into effect on 2 September 2019.

**3 Application for practicing certificate**

- (1) An application for a practicing certificate shall be made in Form 1 of Schedule 1.
- (2) A person applying for a practicing certificate shall provide the following:
  - (a) a certified true copy of the original of his or her certificate of admission in the Republic;
  - (b) where the person is applying for a renewal, a certificate of good standing not more than 1 month old from the appropriate authority in the country where he or she is practicing; and
  - (c) payment of the prescribed fee.

**4 Form of practicing certificate**

For the purpose of Section 15 of the Act, a practicing certificate shall be in Form 2 of Schedule 1.

**5 Fees**

The fees set out in Schedule 2 are payable in respect of the matters set out in that schedule.

**6 Repeal**

The *Legal Practitioners (Practicing Certificates) Rules 1973* and the *Legal Practitioners (Practicing Certificates) (Fees) Rules 2005* are hereby repealed.

[The next page is 675,601]

**SCHEDULE 1**

**FORMS**

**FORM 1**



**REPUBLIC OF NAURU**

**LEGAL PRACTITIONERS ACT 2019**

*[Rule 3(1)]*

**APPLICATION FOR PRACTICING CERTIFICATE**

<b>Name of applicant:</b>	<i>[insert full name]</i>
<b>Contact details:</b>	<i>[insert address, current phone number and current email address]</i>
<b>Employment status:</b>	<i>[insert whether: law practice<sup>1</sup>; government department or agency; instrumentality of the Republic; consultant]</i>
<b>Basis of admission:</b>	<i>[insert whether barrister and solicitor or pleader]</i>
<b>Have you been the subject of any proceedings, whether concluded or pending, for professional misconduct?</b>	<i>[if yes, provide details]</i>
<b>New practicing certificate or renewal:</b>	
<b>Evidence of payment of annual membership fees to Law Society:</b>	
<b>Declaration</b>	I, <i>[insert name]</i> of <i>[insert address]</i> , <i>[insert occupation]</i> , do solemnly and sincerely declare that the information and particulars provided in this application are complete and accurate in every detail.

	<p>And I make this solemn declaration by virtue of the <i>Oaths, Affirmations and Statutory Declarations Act 1976</i> conscientiously believing in the statement contained therein to be true in every particular.</p> <p>Signature:.....</p> <p>Date:.....</p> <p>Declared at <i>[insert place of declaration]</i> <i>[insert date]</i>.</p> <p>Before me:</p> <p>.....</p> <p>[Signature<sup>2</sup>]</p>
--	---

---

<sup>1</sup> Insert: partner; sole practitioner; employee; consultant

<sup>2</sup> Insert: Commissioner for Oaths or Notary Public.

**FORM 2**

[Rule 4]



**REPUBLIC OF NAURU**  
LEGAL PRACTITIONERS ACT 2019  
*[insert section of Act]*

**PRACTICING CERTIFICATE**

I hereby certify that *[insert name]* of *[insert address]* is duly enrolled as a *[insert<sup>3</sup>]* of the Supreme Court of Nauru and, subject to any provisions of the *Legal Practitioners Act 2019* and the terms and conditions<sup>4</sup> of practice, *[he/she<sup>5</sup>]* is entitled to practice as a *[insert<sup>6</sup>]*.

Given under my hand and sealed this *[insert date]*.

.....

**Registrar of Courts**

PC: No ...../20.....

---

<sup>3</sup> Insert: (1) Barrister and Solicitor or (2) Pleader.

<sup>4</sup> Insert any applicable conditions.

<sup>5</sup> Delete whichever is inapplicable.

<sup>6</sup> Insert: (1) Barrister and Solicitor or (2) Pleader.

[The next page is 675,801]

**SCHEDULE 2**

*[Rule 5]*

**FEES FOR PRACTICING CERTIFICATE**

<b>No</b>	<b>Document</b>	<b>Rule</b>	<b>Fee (\$)</b>
1.	Barrister and Solicitor	5	200
2.	Pleader	5	100
3.	Barrister and Solicitor ( <i>foreign practitioner</i> )	5	300
4.	Barrister and Solicitor ( <i>temporary admission</i> )	5	300
	– For each cause or matter		100

[The next page is 680,001]



# Legal Practitioners (Pleaders Training and Examination) Rules 2020

## TABLE OF PROVISIONS

*Rule*

*Title*

### **PART 1 — PRELIMINARY**

- 1 Citation
- 2 Commencement
- 3 Interpretation

### **PART 2 — ADMISSION AS PLEADER AND APPOINTMENT OF PERSONS TO TEACH COURSE**

- 4 Admission as a Pleader
- 5 Appointment of person to teach course

### **PART 3 — EXEMPTIONS MADE BY CHIEF JUSTICE**

- 6 Exemption
- 7 Person to pass another examination
- 8 Assessment criteria
- 9 Certificate

### **PART 4 — QUALIFICATIONS**

- 10 Persons qualified to be Pleaders
- 11 Rules not to apply to qualified persons
- 12 Pleader qualified under Rule 4

### **PART 5 — REPEAL**

- 13 Repealed Rules
- SCHEDULE 1 — UNITS OF PLEADERS COURSE
- SCHEDULE 2 — PLEADERS CERTIFICATE

[The next page is 680,201]

# Legal Practitioners (Pleaders Training and Examination) Rules 2020

---

## TABLE OF AMENDMENTS

The Legal Practitioners (Pleaders Training and Examination) Rules 2020 SL 37 were notified and commenced on 30 November 2020.

<b>Amending Legislation</b>	<b>Notified</b>	<b>Date of Commencement</b>
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

[The next page is 680,401]

IN EXERCISE of the powers conferred on me by Sections 8(b) and 80 of the *Legal Practitioners Act 2019*, I hereby make the following Rules:

**PART 1 — PRELIMINARY**

**1 Citation**

These Rules may be cited as the *Legal Practitioners (Pleaders Training and Examination) Rules 2020*.

**2 Commencement**

These Rules commence on the day they are notified in the Gazette.

**3 Interpretation**

In these Rules:

‘*Act*’ means the *Legal Practitioners Act 2019*;

‘*Pleaders course*’ means the series of courses of instructions, examinations and training in law; and

‘*unit*’ means a specific subject or area of law as specified by code number in Schedule 1.

[The next page is 680,601]

**PART 2 — ADMISSION AS PLEADER AND APPOINTMENT OF PERSONS  
TO TEACH COURSE**

**4 Admission as a Pleader**

- (1) For the purposes of Section 8 of the Act, the training which a person is required to have undergone in order to qualify for admission as a Pleader is the Pleaders course specified in Schedule 1.
- (2) Where a person participated in part but not in whole of the Pleaders course, the Chief Justice shall determine, in consultation with the Secretary for Justice, whether such participation was sufficient for that person to be regarded as having acquired the qualification of a Pleader, provided that such participation shall require successful completion of at least 80 percent of the Pleaders course and examinations.

**5 Appointment of person to teach course**

The Secretary for Justice may appoint suitably qualified persons to teach the Pleaders course.

[The next page is 680,801]



### **PART 3 — EXEMPTIONS MADE BY CHIEF JUSTICE**

#### **6 Exemption**

A person who has attended the Pleders course and has:

- (a) been unable for reasons beyond his or her control to take the examination in one or more of the units, the Chief Justice after consultation with the Secretary for Justice, may exempt that person from the requirement of passing that examination; or
- (b) taken the examination in one or more of the units but has not passed such units, the Chief Justice after consultation with the Secretary for Justice, may exempt that person from the requirement of passing the examination provided the person has:
  - (i) not previously failed to take the examination otherwise than for reasons beyond his or her control;
  - (ii) previously taken but not passed examination in two units; or
  - (iii) had withdrawn from any prior Pleders course.

#### **7 Person to pass another examination**

- (1) Where the Chief Justice grants an exemption to a person under Rule 6, he or she shall require that person to take and pass another examination within 2 months from the date of notification of the results of the Pleders course specified in Schedule 1.
- (2) The decision of the Chief Justice made under Rules 4, 6 and 7 shall be final.

#### **8 Assessment criteria**

The assessment criteria for each of the units shall be:

- (a) approved by the Chief Justice in consultation with the Secretary for Justice; and
- (b) made known to persons undertaking the Pleders course before the commencement of any instruction, training and examination.

#### **9 Certificate**

A certificate as specified in Schedule 2 shall be conferred on a person who successfully completes the Pleders course.

[The next page is 681,001]

## PART 4 — QUALIFICATIONS

### **10 Persons qualified to be Pleaders**

A person, who has obtained a Diploma in Legal Studies from a tertiary institution, may satisfy the requirements of training and examinations for the purposes of Section 8 of the Act to be qualified for admission as a Pleader if the Chief Justice so decides in his or her deliberate judgment.

### **11 Rules not to apply to qualified persons**

These Rules do not affect or apply to persons who are already qualified and admitted to practice law as a Pleader.

### **12 Pleader qualified under Rule 4**

A Pleader who has qualified under Rule 4 shall:

- (a) be admitted to practice law under supervision of a practitioner for 3 years before commencing practice on his or her own accord;
- (b) have an unrestricted right to appear in the District Court; and
- (c) not appear before the Supreme Court for the purposes of conducting any hearing in chambers or a trial for at least 3 years after admittance to practice law unless accompanied by a legal practitioner with not less than 3 years practice in law.

[The next page is 681,201]

**PART 5 — REPEAL**

**13 Repealed Rules**

The *Legal Pleadings (Training and Examination) Rules 2016* are hereby repealed.

Made this 26<sup>th</sup> day of November 2020

**Mohammed Shafiullah Khan**  
**ACTING CHIEF JUSTICE**

[The next page is 681,401]

## SCHEDULE 1

*[Rules 3, 4 and 7]*

### UNITS OF PLEADERS COURSE

<b>CODE</b>	<b>Units</b>
NLP01	Introduction to the Law
NLP02	Constitution and Administrative Law
NLP03	Criminal Law and Procedure
NLP04	Contracts
NLP05	Land Law
NLP06	Torts
NLP07	Equity, Trusts, Wills and Succession
NLP08	Family Law
NLP09	Ethics
NLP10	Evidence
NLP11	Civil Procedure and Practice
NLP12	Advocacy

[The next page is 681,601]



SCHEDULE 2

[Rule 9]

PLEADERS CERTIFICATE



REPUBLIC OF NAURU

[insert name ]

has been this day conferred the

**PLEADERS CERTIFICATE**

having fulfilled the instruction, examinations and training prescribed by Section 8 of the *Legal Practitioners Act 2019* and *Legal Practitioners (Pleaders Training and Examination) Rules 2020*.

**DATED** this..... day of .... 20....

.....  
**Chief Justice**

.....  
**Secretary for Justice**

[The next page is 690,001]