



LAWS OF SEYCHELLES

LEGAL PRACTITIONERS ACT

CHAPTER III

REVISED EDITION 1991

PRINTED FOR THE GOVERNMENT OF SEYCHELLES
BY STACE

55, COLLEGE STREET, PORT BLAIRE

CHAPTER 111

LEGAL PRACTITIONERS ACT

Act 4 of 1990.

ARRANGEMENT OF CLAUSES

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PART 1 - PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Legal Practitioners Act and shall come into operation on such date* as the Minister may by notice in the *Gazette* appoint and the Minister may appoint different dates for different provisions.

Interpretation.

2. In this Act —

“approved chambers” means —

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

(b) the Department of Legal Affairs;

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

“banker” means any person carrying on a banking business;

“banker’s book” means any book or ledger used in or in connection with the banking business of a banker and includes

*This Act has not come into operation up to December 31, 1991. The Acts specified in section 23 of this Act continues in force till such time as this Act comes into operation.

any device on which information relating to banking business is stored, recorded or kept and any computer data bank kept by a banker in connection with his banking business;

“clerk” means an articulated clerk serving a clerkship in an approved chambers;

“examination board” means the examination board referred to in section 20;

“pupil” means a person serving as a pupil in an approved chambers;

“Registrar” means the Registrar of the Supreme Court.

“roll” means the roll of attorney-at-law under section 4.

PART II - ATTORNEYS-AT-LAW

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

Admission of
Attorney-at-Law.

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

(3) The decision of the Supreme Court under this section is final and cannot be appealed against.

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

4. The Registrar shall —

Roll-of
attorney-at-law.

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

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

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

Qualifications for admission as an attorney-at-law.

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

(a) unless he —

- (i) has been called to and stands enrolled or registered at the Bar in a country or jurisdiction designated by the Minister;
- (ii) has been admitted to practise and stands enrolled or registered as an advocate, attorney-at-law or solicitor in a country or jurisdiction designated by the Minister;
- (iii) has been admitted to practise and stands enrolled or registered in a country or jurisdiction designated by the Minister as a person holding a professional status equivalent to an attorney-at-law in Seychelles;
- (iv) holds a degree in law, of a level prescribed by the Minister, awarded by an institution designated by the Minister and has successfully completed such professional or vocational examination or training as the Minister may by regulations prescribe; or
- (v) has passed the final examination prescribed under this Act;

(b) unless he has, after having been called to the Bar or admitted to practise, or completed the professional or vocational examination or training, or passed the final examination, as provided under paragraph (a), served as a pupil in an approved chambers or as Registrar of the Supreme Court for an aggregate period of at least one year;

- (c) subject to subsection (2), unless he has paid the prescribed fee and given security for the amount and in the manner prescribed under this Act;
- (d) if at the time of his application for admission he is an undischarged bankrupt or has been convicted of a criminal offence of such a nature that in the opinion of the Supreme Court his admission is undesirable;
- (e) if the Supreme Court is of the opinion that he is not a fit and proper person to be admitted as an attorney-at-law.

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

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

- (a) his name is entered on the roll;
- (b) he has not been suspended from practice under this Act;
- (c) he has not been disbarred, removed from the roll or register referred to under section 5 or suspended from practice, in any country or jurisdiction outside Seychelles by reason of any misconduct, malpractice or crime;
- (d) he complies with the written law requiring him to hold office before providing legal services as an attorney-at-law.

Qualifications to practise as an attorney-at-law.

Attorney-at law
subject to
supervision of
Supreme Court.

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

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

Acts which an
attorney-at-law
may perform.

8. Subject to section 6, an attorney-at-law is entitled to —

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

Acts which an
attorney-at-law
may not perform.

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

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

his knowledge in confidence in his capacity as an attorney-at-law.

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

- (a) his chambers is an approved chambers;
- (b) he has complied with the provisions of this Act regulating the taking of a person as a pupil or clerk;
- (c) he has satisfied himself that the person is qualified to read as a pupil or clerk and has complied with the provisions of this Act regulating pupillage and clerkship.

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

Suspension or removal of attorney-at-law from the roll.

- (a) suspend from practice or remove from the roll an attorney-at-law —
 - (i) who is guilty of any malpractice or misconduct, or any offence under a written law, which in the opinion of the Supreme Court makes him unfit to practise as an attorney-at-law; or
 - (ii) who has been suspended from practice or disbarred or removed from the roll or register kept in any country or jurisdiction outside Seychelles referred to in section 5, by reason of any malpractice, misconduct or crime;
- (b) suspend from practice as attorney-at-law where it is not satisfied that the security furnished by the attorney-at-law is sufficient or a good enough security for the purposes of this Act.

(2) The Supreme Court may —

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

- (b) when making an order under subsection (1) or fining or making an order under paragraph (a) of this subsection, make such other order, including —
- (i) an order relating to the security given by the attorney-at-law under section 5(1) and the assets of the attorney-at-law; and
 - (ii) an order relating to the assets of the firm in which the attorney-at-law is a partner,
- as it thinks.

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

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

(5) The Registrar shall —

- (a) when the Supreme Court has suspended an attorney-at-law from practice, enter a note of the Court order on the roll,
- (b) where the Supreme Court has removed an attorney-at-law from the roll, remove the name of the attorney-at-law from the roll.

Reinstatement of
an attorney-at-
law.

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

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

(3) The Registrar shall —

- (a) where the Supreme Court has removed a suspension under subsection (2), enter a note to this effect on the roll; or
- (b) where the Supreme Court has reinstated a person under subsection (2), reinstate the name of the person on the roll.

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

PART III - OTHERS WHO MAY PLEAD IN COURT ETC

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

Supreme Court
may allow other
persons to appear
before court etc.

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

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

(4) The Registrar shall keep a register in which he shall enter the particulars of the person allowed to practise under subsection (1) together with any conditions imposed by the Supreme Court and he shall issue the person with a certificate containing the particulars and the conditions.

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

Attorney-General
and other law
officers may
practise before
court etc.

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

- (a) who is employed in the Department of Legal Affairs; and
- (b) who has been appointed by the Attorney-General for the purpose of appearing, on behalf of the Government, the Attorney-General or any other public officer under any written law, in legal proceedings,

are entitled to appear and practise, on behalf of the Government, Attorney-General and other public officer, in legal proceedings before a court or a tribunal or other institution established by law for the administration of justice and to assist, advise and deal directly with any ministry, department, division or agency of the Government.

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

(3) The Attorney-General shall notify the Registrar of the name of any person who is entered on the register referred to in

subsection (2) who has ceased to be employed in the Department of Legal Affairs within 30 days of the person ceasing to be so employed and the Registrar shall remove the name of that person from the register.

(4) For avoidance of doubt —

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

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

PART IV-PUPILAGE AND CLERKSHIP

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

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

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

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

Supervisory jurisdiction of Supreme Court over pupil or clerk.

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

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

PART V - MISCELLANEOUS

Committee of inquiry.

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

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

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

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

- (a) compel the attendance of any person before it and examine the person on oath or otherwise,
- (b) compel the production of documents;
- (c) notwithstanding the Evidence (Banker's Books) Act, inspect or make an order of inspection of a banker's book and take or authorise the taking of copies of any entry in the banker's book; and
- (d) inspect or order an inspection of any property.

Cap. 75.

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

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

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

- (a) the attorney-at-law, person allowed to practise under section 12, pupil or clerk whose conduct was being inquired into;
- (b) the Attorney-General; and
- (c) the Bar Association of Seychelles.

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

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

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

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

Immunity.

(2) Subsection (1) shall not affect —

- (a) the power of the Supreme Court under this section;

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

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

Examination
Board.

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

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

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

(4) A member of the examination board shall not sit on the board if the person being examined is serving as a pupil or clerk under him or in the same chambers as him.

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

(6) Except as provided under this Act, the examination board shall regulate its own proceedings.

Offences.

21(1) A person who contravenes section 6 is guilty of an offence and liable to a fine of R.25,000 and to imprisonment for five years.

(2) An attorney-at-law who contravenes section 9(1) or section 9(2) is guilty of an offence and liable to a fine of R.25,000 and to imprisonment for five years.

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

- (a) he has not been allowed to practise under section 12 or is not a pupil or clerk; or
- (b) his permission to practise under section 12 has been revoked by the Supreme Court, or he has been prohibited from continuing to serve as a pupil or clerk by the Supreme Court,

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

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

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

Regulations.

- (a) designating the countries, jurisdiction or institutions for the purposes of section 5(1);
- (b) prescribing any matter required or necessary to be prescribed for articled clerks;
- (c) prescribing the subjects for, the mode of conducting and any other matter relating to any examination under this Act;
- (d) prescribing the fees payable for any examination under this Act.

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

Repeal of Cap. 23 [1971 Ed] Cap. 84 [1971 Ed] and Cap. 86 [1971 Ed]

Transitional
provision Cap. 83
[1971 Ed]

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

- (a) a person who has been admitted and is enrolled under that Act as an attorney and barrister or as an attorney shall be deemed to have been admitted and enrolled under this Act as an attorney-at-law and the Registrar shall on the coming into force of this Act enter the particulars of that person together with the date on which that person was admitted and enrolled under that Act in the roll and the certificate of enrolment issued to the attorney-at-law under section 15 of that Act shall be deemed to be a certificate of admission and enrolment as an attorney-at-law issued under section 4 of this Act;
- (b) a person who has been admitted and enrolled as a barrister under that Act shall be entitled on application under this Act to be admitted and enrolled as an attorney-at-law under section 4 if he complies with section 5 (1)(c) to (e) within six months after the coming into force of this Act;
- (c) any period which a pupil or clerk has served in an approved chambers under that Act shall be treated as an equivalent period of pupillage or clerkship under this Act;
- (d) where a clerk has sat for and passed any examination under that Act he shall be deemed to have sat for and passed the corresponding examination under this Act.

NO SUBSIDIARY LEGISLATION