



**TURKS AND CAICOS ISLANDS**

**CHAPTER 2.10**  
**LEGAL PROFESSION ORDINANCE**

**Revised Edition**  
showing the law as at 31 December 2014

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance 1997.

This edition contains a consolidation of the following laws—

**LEGAL PROFESSION ORDINANCE**

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Ordinance 5 of 1997 .. in force 15 November 1997 (L.N. 27/1997)  
Amended by Ordinance 3 of 1998 .. in force 3 April 1998  
Amended by Ordinance 8 of 1998 .. in force 15 November 1997

**PRACTISING CERTIFICATE REGULATIONS – Section 30**

27

Legal Notice 3/1998 .. in force 31 January 1998





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**CHAPTER 2.10**

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## **CHAPTER 2.10**

### **LEGAL PROFESSION ORDINANCE**

*(Ordinances 5 of 1997, 3 of 1998 and 8 of 1998)*

AN ORDINANCE TO MAKE PROVISION WITH RESPECT TO THE PRACTICE OF LAW IN THE TURKS AND CAICOS ISLANDS; FOR THE ADMISSION OF ATTORNEYS; FOR THE ESTABLISHMENT OF A BAR COUNCIL; FOR THE CONDUCT AND DISCIPLINE OF PERSONS ADMITTED AS ATTORNEYS; AND FOR CONNECTED PURPOSES.

#### **Commencement**

*[15 November 1997]*

#### PART I

#### PRELIMINARY

#### **Short title**

1. This Ordinance may be cited as the Legal Profession Ordinance.

#### **Interpretation**

2. In this Ordinance—

“Attorney” means a person who has been admitted as an Attorney under the provisions of this Ordinance, and whose name has been entered on the Roll of Attorneys;

“Belonger” has the same meaning as in the Immigration Ordinance;

“enrolled” means entered on the Roll of Attorneys;

“functions” includes powers and duties;

“Islands” means the Turks and Caicos Islands;

“Registrar” means the Registrar of the Supreme Court;

“Roll of Attorneys” means the register of Attorneys kept by the Registrar in accordance with section 9;

“Supreme Court” means the Supreme Court of the Islands.

#### **Definition of “practising law”**

3. (1) Subject to subsection (2), a person practises law if—

(a) for or in expectation of gain or reward—

(i) he gives legal advice to any person;

- (ii) he appears on behalf of any person in any court, tribunal or inquiry having jurisdiction in the Islands;
  - (iii) he directly or indirectly draws or prepares any instrument relating to any property or any legal proceedings;
  - (b) he holds himself out (expressly or impliedly) to any other person, by the use of the description of advocate, attorney, attorney-at-law, barrister, solicitor, counsel, counsellor, law-agent, lawyer, or any other description, as being a person who is competent, qualified or ready in such capacity to give legal advice in relation to the laws of the Islands; or
  - (c) he wilfully pretends to be an Attorney.
- (2) For the purposes of subsection (1)(a)(iii), the expression “instrument” does not include—
- (a) a will or other testamentary instrument which does not contain a trust;
  - (b) an agreement under hand only;
  - (c) a letter or power of attorney;
  - (d) a transfer of stock which does not contain a trust or limitation thereof.
- (3) A person does not practise law if—
- (a) he acts on his own behalf in any matter of a legal nature;
  - (b) being a public officer, he draws or prepares instruments in the course of his duty;
  - (c) he merely engrosses or copies any instrument or proceeding;
  - (d) being employed as an Attorney, he draws up or prepares any instrument in the course of his employment;
  - (e) he completes forms prescribed under the Registered Land Ordinance, or completes contract documents drafted by an Attorney;
  - (f) he prepares memorandum or articles of association of any company.

## PART II

### ADMISSION OF ATTORNEYS

#### Admission of Attorneys

**4.** (1) Subject to the provisions of this Part, the Chief Justice after consulting the Bar Council—



- (a) shall admit as an Attorney any applicant who is a Belonger; and
- (b) may admit as an Attorney any other applicant,

who has obtained the qualifications specified in section 5(1) and who has gained the experience specified in section 5(2), and who in the opinion of the Chief Justice is otherwise a fit and proper person to be so admitted.

(2) In admitting a person as an Attorney, the Chief Justice may impose such conditions and restrictions on the Attorney's right to practise as he deems fit, and shall order the Registrar to endorse any practising certificate issued under section 10 accordingly.

(3) Subject to subsection (4), in any particular case, if the Chief Justice, after consulting the Bar Council, is satisfied that an applicant is otherwise qualified, he may exempt him from any or all of the qualification and experience requirements specified in sections 5(1) and (2), or may exempt him from producing any of the documents required by sections 6(1)(a) and (b).

(4) Subsection (3) only applies to applicants who are Belongers, the spouses of Belongers, Crown Officers or applicants who are seeking limited admission under section 8.

### Qualification for admission

5. (1) The qualifications referred to in section 4(1) are that such person—
- (a) (i) has been called to the bar or admitted as a solicitor or an attorney in some part of the Commonwealth or the Republic of Ireland; or
  - (ii) has obtained a Certificate of Legal Education from the Council of Legal Education of the West Indies; or
  - (iii) has obtained a Diploma of Legal Practice from an institution approved by the Law Society of England and Wales; or
  - (iv) is qualified to practise as an attorney under regulations made under section 30; and
- (b) has not been disbarred or struck off the roll of attorneys of any court in any part of the Commonwealth or the Republic of Ireland or has not done any act or thing which would render him liable to be disbarred or struck off the roll of attorneys of any such court.  
*(Amended by Ord. 3 of 1998)*
- (2) The experience referred to in section 4(1) is as follows—
- (a) in the case of all applicants, not less than three months' training in the practice of law under the supervision of an Attorney admitted to practice in the Islands for not less than two years:  

Provided that it shall be the responsibility of the Bar Council to secure training places for returning Belongers;
  - (b) in addition to the experience referred to in paragraph (a), in the case of an applicant who is not a Belonger, not less than five

years' experience in practice outside the Islands since call or admission.

### **Application for admission**

6. Subject to section 4(3), any person desirous of being admitted as an Attorney may apply in writing to the Chief Justice and shall attach to such application the following—

- (a) documentary evidence relating to the relevant qualifications specified in section 5(1);
- (b) documentary evidence relating to the relevant experience specified in section 5(2);
- (c) an affidavit setting forth the facts by virtue of which such person claims to be qualified for admission as an Attorney; and
- (d) the prescribed fee.

### **Status of Attorneys**

7. Every Attorney—

- (a) is an officer of the Supreme Court;
- (b) subject to the provisions of this Ordinance limiting or excluding such rights, has the right of audience in all courts and tribunals;
- (c) is entitled to practise law and to sue for and recover his fees and costs in respect of all services rendered in his capacity as Attorney;
- (d) is authorized to administer oaths.

### **Limited admission**

8. (1) Subject to this section, any person who possesses the qualifications specified in section 5(1) or is exempted under section 4(3), and who has come or intends to come to the Islands for the purpose of appearing, acting or advising in a suit or matter, may be admitted as an Attorney by the Chief Justice.

(2) An application for the admission of such person under this section may be made by an Attorney enrolled in the Islands who shall satisfy the Chief Justice that he has instructed such person and that such person has come or intends to come to the Islands for the purpose of appearing, acting, and advising in that suit or matter.

(3) The Chief Justice may admit a person to practise under this section for the purpose of the suit or matter concerned but not otherwise, and shall order the Registrar to endorse any practising certificate issued to such person under section 10 accordingly.

(4) No person shall by virtue of being admitted under this section be eligible to become a member of the Bar Association.

### **Roll of Attorneys**

**9.** (1) The Registrar shall cause to be kept a register of Attorneys in the prescribed form to be known as the Roll of Attorneys, on which he shall cause to be entered the name of every person admitted to practise as an Attorney.

(2) The Registrar shall have the custody of the Roll of Attorneys and of all documents relating thereto, and shall allow any person to inspect the Roll of Attorneys during office hours.

(3) Subject to subsection (5), the Chief Justice on the application of the Bar Council may, for cause shown, order the removal of an Attorney's name from the Roll of Attorneys.

(4) The Bar Council may, in any case where it considers that an Attorney has ceased to be qualified to be enrolled, apply to the Chief Justice for an order removing the Attorney's name from the Roll of Attorneys.

(5) When considering an application under subsection (4) and before reaching his decision thereon, the Chief Justice shall give the Attorney concerned the opportunity to make representations on the application.

(6) The Registrar shall remove the name of an Attorney from the Roll of Attorneys—

(a) when ordered to do so by the Chief Justice;

(b) on the death of an Attorney; or

(c) if he is satisfied that an Attorney who is not a Belonger has not held a practising certificate for a period of five consecutive years.

(7) The Chief Justice may prescribe rules of procedure for the purposes of subsections (4) and (5).

### **Practising certificates**

**10.** (1) An Attorney who desires to practise law in any year shall apply in the prescribed form to the Registrar for a practising certificate.

(2) Subject to this section, the Registrar shall, on payment of the prescribed fee, issue to the Attorney a practising certificate.

(3) A practising certificate is valid from the date of issue and expires on 31 January of the ensuing year.

(4) If the name of an Attorney is removed from the Roll of Attorneys, the Registrar shall cancel any practising certificate issued to him.

(5) During the period of suspension of an Attorney from practice, no practising certificate shall be issued to him, and any certificate issued to him prior to such suspension shall cease to be valid for the period of that suspension.

(6) Subject to subsection (9), the Chief Justice, on the application of the Bar Council or an Attorney, may make any of the orders referred to in subsections (7) and (8), and the Chief Justice shall cause a copy of the Order to be sent to the Registrar for endorsement on the practising certificate.

(7) The Bar Council may, in respect of a practising certificate issued to an Attorney, apply to the Chief Justice for an order—

- (a) amending any condition or restriction endorsed on the certificate;
- (b) adding a new condition or restriction;
- (c) removing a condition or restriction endorsed on the certificate;
- (d) revoking a certificate.

(8) An Attorney may, in respect of any practising certificate issued to him, apply to the Chief Justice for an order—

- (a) amending any condition or restriction endorsed on the certificate;
- (b) removing a condition or restriction endorsed on the certificate;
- (c) restoring to him a certificate that had been revoked.

(9) When considering an application made by the Bar Council under subsection (7), the Chief Justice shall give the Attorney concerned the opportunity to make representations on the application before reaching his decision thereon.

(10) The Chief Justice may make rules of procedure for the purposes of subsections (7), (8) and (9).

### **Attorneys to have an address in the Islands for service of notice etc.**

**11.** Every Attorney shall notify the Registrar and the Secretary of the Bar Council in writing of an address of an office in the Islands at which any notice, order or other document required to be served under the Ordinance may be served upon him, and shall within thirty days of any change of address notify the Registrar and the Secretary of the Bar Council in writing of such change.

### **Offences in relation to practising certificates**

**12.** (1) An Attorney who—

- (a) practises law when he is not in possession of a valid practising certificate;
- (b) practises law during any time when his practising certificate is suspended or revoked; or
- (c) practises law in contravention of any condition or restriction endorsed on his practising certificate;

commits an offence and is liable on summary conviction to a fine of \$5,000 and to a further fine of \$500 for every day on which the offence continues after conviction thereof, and to a term of imprisonment of six months or to both.

(2) In proceedings against a person for an offence under subsection (1)(a), it is a defence to prove that he had submitted an application for a practising certificate or a renewal thereof, and had paid the appropriate fee therefor.

### **Unlawful practice**

**13.** (1) A person whose name is not entered on the Roll of Attorneys who practises law commits an offence and is liable on summary conviction to a fine of \$10,000 or to a term of imprisonment of one year or to both.

(2) If any act is done by a body corporate or by any director, officer, or servant thereof, of such a nature or in such a manner as to be calculated to imply that the body corporate is qualified, or recognized by law as qualified, to act as an Attorney, the body corporate is liable on summary conviction to a fine of \$20,000.

(3) No fee in respect of anything done by a person whose name is not entered on the Roll of Attorneys or to whom subsection (2) relates, acting as an attorney, is recoverable in any action, suit or matter by any person.

(4) Where a person is convicted of an offence under this section, the Supreme Court, on the application of any interested party, may make such orders as it thinks fit for the disposition of funds which that person holds in trust or on behalf of any other person and of any document, record or file pertaining to any matter in respect of which that person has acted or purported to act on behalf of any other person.

### **Crown law officers, etc.**

**14.** (1) Sections 9, 10, 11, 12 and 13 shall not apply to any Crown Officer holding a legal appointment in the public service of the Islands who has not been admitted as an Attorney and enrolled under this Ordinance; subject thereto, every such officer holding such appointment shall be deemed to have been so admitted and enrolled for the purposes of this Ordinance.

(2) Nothing in this Ordinance derogates from the right or authority of any person to appear in any court or tribunal by virtue of any enactment or rule of law.

*(Inserted by Ord. 8 of 1998)*

## PART III

### THE TURKS AND CAICOS ISLANDS BAR ASSOCIATION AND COUNCIL

### **The Bar Association**

**15.** (1) There shall continue to be an association called the Turks and Caicos Islands Bar Association (the "Bar Association") which shall be constituted in accordance with this section.

(2) Every person admitted as an Attorney under this Ordinance, other than a person admitted under section 8, shall be a member of the Bar Association.

(3) Every member of the Bar Association who ceases to be enrolled shall thereupon cease to be a member of the Bar Association.

(4) No member of the Bar Association may participate or vote in any general meeting or be entitled to be sent any reports, notices or circulars unless the annual fee payable by him to the Bar Council has been paid.

### **The Bar Council**

**16.** (1) There shall be a Bar Council constituted in accordance with section 17 which shall, subject to this Ordinance, be responsible for the policy, control and management of the Bar Association.

(2) Civil proceedings by or against the Bar Association shall be instituted by or against the Bar Council.

(3) Subject to this Ordinance, the Bar Council may make rules for the direction, control and government of the Bar Council and the Bar Association.

(4) Subject to this Ordinance, the functions of the Bar Council are—

- (a) to maintain the honour and independence of the Bar Association;
- (b) to promote and encourage proper standards of practice and conduct among members of the Bar Association;
- (c) to promote and encourage the development and dissemination of legal learning, education and training;
- (d) to encourage the improvement of the administration of justice and procedure.

(5) The Schedule has effect with respect to the standards of professional ethics and conduct of Attorneys.

(6) The Bar Council with the approval of the Governor and the Chief Justice may amend the Schedule.

### **Constitution of the Bar Council**

**17.** (1) The Bar Council shall consist of the following five members including the President and the Vice-President—

- (a) three members elected for a term of one year in accordance with section 18, from members of the Bar Association who are Belongers who have been in practice in the Islands for not less than two years;
- (b) one member elected for a term of one year in accordance with section 18, from members of the Bar Association who have been in practice in the Islands for not less than seven years;
- (c) one member appointed by the Attorney General for a term of one year from members of the Bar Association who are Crown Officers holding legal appointments in the public service of the Islands.

(2) A member of the Bar Council is eligible for re-election or re-appointment upon the expiration of his term of office.

(3) Subject to this Ordinance, the Bar Association shall at the time of the election of members of the Bar Council also elect the President and the Vice-President of the Council.

(4) A member of the Bar Council may resign his office at any time by notice in writing given to the President of the Bar Council or, in the case of the President, the Vice-President of the Council.

(5) A member of the Bar Council may be removed from office for disability, neglect of duty or misconduct by a resolution of the Bar Association passed at a general meeting.

(6) The President of the Bar Council may at any time, and the Secretary of the Bar Council shall whenever so requested by a notice in writing signed by two members of the Bar Council, convene a meeting of the Bar Council.

(7) Meetings of the Bar Council shall be convened by delivery of a written notice to every member specifying the time and place of the meeting and describing the general nature of the business to be discussed.

(8) At every meeting of the Bar Council—

- (a) the President shall preside if he is present;
- (b) if he is not present, the Vice-President shall preside; and
- (c) if neither is present, the meeting shall elect some other member to preside during their absence.

(9) Each member of the Bar Council shall have one vote, and every question to be resolved by a meeting of the Bar Council shall be decided by a majority of the votes of the members who are personally present, provided that in the case of an equality of votes, the person presiding shall have a second or casting vote.

(10) The quorum of the Bar Council is three members.

(11) Subject to this Ordinance, the Bar Council may regulate its own proceedings.

(12) For the purposes of this section, a person is in practice in the Islands if he is in private practice in the Islands, is in employment as a law officer in the public service of the Islands or is employed as an Attorney in a private establishment in the Islands.

### **General meetings of the Association**

**18.** Except as provided in section 31, the Bar Association shall in every calendar year, not later than 31 March, convene a general meeting for the purposes of—

- (a) electing the members of the Bar Council;
- (b) considering a report to the members of the proceedings of the Bar Association and Bar Council in respect of the preceding year; and

- (c) considering the annual accounts of the Bar Association and Bar Council.

### **Power to levy fees**

**19.** (1) For the purposes of covering expenses properly incurred by the Bar Council in discharging its functions under the Ordinance, the Council may levy an annual fee on members of the Bar Association which it may vary as the circumstances may require.

(2) The Bar Council may fix different fees and levies for different categories of members and allow exemption, rebates or refunds in respect thereof in any particular case or for any particular category.

(3) The amount of any fee or levy payable to the Bar Council shall be payable in such manner as the Bar Council may determine or approve.

### **Secretary and staff of Bar Council**

**20.** (1) The Bar Council shall employ a person to be the Secretary of the Bar Council to perform his functions under this Ordinance and such other functions as may be required of him by the Council.

(2) The Bar Council may employ such other staff as it considers necessary to carry out its functions.

## **PART IV**

### **ACCOUNTS**

#### **Client accounts**

**21.** (1) All money received for or on behalf of any client by an Attorney shall be held on trust for that client, to be paid to the client or as he may direct, and until so paid, the money shall be deposited at a bank in a general or separate client account maintained by, and in the name of, the Attorney.

(2) No such money shall be available for the payment of the debts of any creditor of the Attorney and no such money shall be liable to be attached or taken in execution under the order or taken in execution under the order of process of any court at the instance of any such creditor.

(3) Nothing in this section shall be construed to take away or affect any just claim or lien that an Attorney may have against any money so received by him.

(4) Any contravention of the provisions of this section shall amount to professional misconduct.

(5) In this section “Attorney” includes a firm of Attorneys.



### **Rules in relation to client accounts**

**22.** (1) The Bar Council may make rules generally as to the keeping of accounts in respect of clients' money and the operating of bank accounts therefor, and without prejudice to the generality of the foregoing, such rules may provide for—

- (a) the keeping by Attorneys of accounts and records containing particulars and information as to money received, held or paid by them for or on account of their clients;
- (b) the audit of such accounts;
- (c) the opening and keeping by Attorneys of accounts at banks for client's money; and
- (d) the powers of the Bar Council as to the action it may take to ascertain whether or not the rules are being complied with.

(2) Nothing in rules made under subsection (1) shall affect any agreement in writing, whenever made, between an Attorney and any of his clients as to the application of the client's money or interest thereon.

### **Audit of client accounts**

**23.** (1) The Supreme Court on the application of the Bar Council may at any time, if it considers that there are reasonable grounds for believing that it is desirable to do so to protect the interests of any client of an Attorney, make an order requiring the Attorney to have his accounts, or any specified one or more of them, audited in accordance with this section, immediately or within a period of time specified in the order.

(2) Before making an order under this section, the Court shall determine to its satisfaction that there is a person possessing the necessary qualifications and competence who is willing to act as auditor for the purposes of the order.

(3) The order shall specify the name of the auditor, and may make such provision concerning the payment of the costs of the audit as the Court thinks fit.

(4) The auditor shall report to the Court in writing the result of the audit, and may make interim reports.

(5) Every audit shall (except in the case of a client who consents to the divulging of his identity) preserve the confidentiality of the identity of every client whose funds are audited by describing him (so far as is necessary to do so particularly) by a letter or number.

(6) No person shall divulge to any person or make use of any information obtained pursuant to an audit under this section, except for the purposes of this Ordinance.

(7) Every person who contravenes subsection (5) or subsection (6) is commits an offence and is liable on summary conviction to a fine of \$10,000 or to a term of imprisonment of two years or to both.

## PART V

## DISCIPLINE

**Complaints**

**24.** (1) It is the duty of the Bar Council to receive a complaint of professional misconduct from any person made in respect of the conduct of any Attorney.

(2) The Bar Council shall within 14 days of receiving a complaint determine whether there are reasonable grounds for the making of the complaint.

(3) Where the Bar Council determines that there are reasonable grounds for the making of a complaint, it shall within 14 days of the determination appoint an independent Attorney to inquire into the complaint, otherwise it shall summarily dismiss the complaint.

(4) An Attorney appointed under subsection (3) shall inquire into the complaint and shall within 14 days of his appointment report to the Bar Council with his opinion on the matter.

(5) If, in such Attorney's opinion, the complaint discloses a *prima facie* case of professional misconduct then the Bar Council shall, within 7 days of receiving the report, refer the matter to the Chief Justice for disciplinary action, and the Council shall appoint an Attorney to represent it at the hearing.

**Powers of the Chief Justice**

**25.** (1) The Chief Justice shall hear any complaint of professional misconduct against an Attorney brought by the Bar Council under section 24.

(2) Where the Chief Justice after hearing the complaint finds the Attorney guilty of professional misconduct he may—

- (a) reprimand the Attorney;
- (b) impose a fine not exceeding \$20,000 on the Attorney;
- (c) suspend the Attorney from practice for such period not exceeding three years; or
- (d) disbar the Attorney;

and he may in any event order the Attorney to pay the costs of the hearing.

**Period of limitation**

**26.** A complaint against an Attorney for misconduct shall not be brought more than six years after—

- (a) the date of occurrence of the facts giving rise to the complaint; or
- (b) the date of knowledge (of the facts giving rise to the complaint) of the complainant.

### Rules of procedure

27. The Chief Justice may make rules of procedure and evidence for the hearing of complaints referred to him by the Bar Council under section 24 and for all matters arising out of such hearing and which are ancillary thereto.

### Appeals

28. An Attorney aggrieved by a decision of the Chief Justice may appeal against the decision to the Court of Appeal within 21 days of his being notified of the decision; and in relation to such an appeal, the provisions of Part II of the Court of Appeal Ordinance shall apply *mutatis mutandis* as if the matter in respect of which the appeal is brought were a judgment or order of the Supreme Court.

## PART VI

### REGULATIONS, REPEAL AND SAVING

### Rules of Court

29. Without prejudice to the generality of any existing power to make rules of court, provision may be made by rules of court with respect to appeals to the Court of Appeal under section 28.

### Regulations

30. The Chief Justice, after consulting the Bar Council and with the approval of the Governor in Council, may make regulations for the better carrying out of the provisions of this Ordinance and may prescribe anything that may be prescribed and, in particular, without derogating from the generality of the foregoing may make regulations—

- (a) prescribing a qualifying academic course of study and examination, or such other course as the Chief Justice considers appropriate for the admission of Attorneys to the Bar;
- (b) prescribing the qualifications for the admission of Attorneys under section 5(1)(a)(iv) which may include an approved course of training with an approved Attorney;
- (c) prescribing the manner of application for admission for the purposes of section 6;
- (d) prescribing the manner of application for limited admission for the purposes of section 8;
- (e) prescribing the form of the Roll of Attorneys;
- (f) prescribing the forms and contents of applications, certificates, affidavits, notices and other documents required for the purposes of section 10;

- (g) requiring Attorneys to maintain in force professional indemnity insurance cover in respect of their legal practices;
- (h) prescribing powers of intervention by the Bar Council in an Attorney's practice with respect to money and documents where—
  - (i) the name of an Attorney has been removed from or struck off the Roll of Attorneys or an Attorney has been suspended from practice;
  - (ii) a sole Attorney dies or is incapacitated by illness or accident to such an extent as to be unable to attend to his practice;
  - (iii) a sole Attorney has abandoned his practice;
  - (iv) a sole Attorney has become insolvent;
- (i) providing for legal advice and aid for persons in need thereof;
- (j) prescribing the fees which may be charged for anything done under this Ordinance or regulations; and
- (k) prescribing the penalties which may be imposed for any breach of any regulations made under this section.

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## SCHEDULE

### CODE OF PROFESSIONAL CONDUCT

*(Section 16(5))*

#### CODE OF PROFESSIONAL CONDUCT

##### Short title

1. These Rules may be cited as the Legal Profession Code of Professional Conduct.

##### Definitions

2. In this Code, the expression “court” includes any court or tribunal, or any other person or body of persons before whom an Attorney appears as an advocate.
3. In this Code the word “Attorney” means an Attorney admitted to practice in accordance with the provisions of section 4 of the Legal Profession Ordinance.

##### Integrity

4. An Attorney must discharge his duties to the court, his client, members of the public and his fellow members of the profession with integrity and in accordance with this Code. In the performance of his duties an Attorney shall not act with inexcusable or undue delay, negligence or neglect.

### **Duties**

5. It is the duty of every Attorney—

- (i) to comply with the provisions of this Code;
- (ii) not to engage in conduct (whether in pursuit of his profession or otherwise) which is dishonest or which may otherwise bring the profession of an Attorney into disrepute, or which is prejudicial to the administration of justice;
- (iii) to observe the ethics and etiquette of his profession;
- (iv) to be competent, diligent and efficient in all his professional activities.

6. An Attorney has a duty to uphold the interest of his client without regard to his own interest or to any consequences to himself or to other persons, subject always to his primary duty to the court and to the law.

### **Advising clients**

7. An Attorney must be both candid and honest when advising clients and give his clients a competent opinion based on the known facts and the law applicable thereto.

8. An Attorney should advise and encourage a client to settle a dispute whenever such a course appears to be advantageous for the client.

9. An Attorney must never knowingly assist or encourage any dishonesty, fraud, crime or illegal conduct nor advise his client as to how to violate the law.

10. An Attorney must immediately inform a client of any mistake he has made which may damage the client's interest. He should do his best to rectify the mistake at no additional expense to such client. If it is in the client's interest he should advise the client to seek promptly the advice of another Attorney.

11. An Attorney shall deal with his client's business with all due expedition and shall, whenever reasonably so required by the client, provide him with full information as to the progress of the client's business.

12. It is improper for an Attorney to accept instructions in any matter unless he can handle it without undue delay.

13. An Attorney shall reply promptly to letters from other Attorneys making inquiries on behalf of their clients.

### **Confidential information**

14. An Attorney shall hold in strict confidence all information acquired in the course of his professional relationship with his client, and he must not divulge such information unless he is expressly or impliedly authorized to do so by his client or is so required by the law. He may, however, unless expressly forbidden by the client, disclose such information to other members of his firm and to such employees of the firm as may be necessary.

15. An Attorney shall not disclose to one client the confidential information concerning or received from another client and he must decline employment which might require him to do so.

16. Notwithstanding the above paragraphs an Attorney may be obliged to reveal information about a client's affairs in order—

- (i) to establish or collect his fees;
- (ii) to defend himself, an associate or an employee in any civil, criminal or disciplinary proceedings;
- (iii) to prevent the commission of a crime; or
- (iv) to obey an order of a court.

### **Impartiality and conflict of interest**

17. An Attorney or firm of Attorneys must neither advise nor represent both sides to a dispute. An Attorney or the firm should not act or continue to act in a matter when there is or there is likely to be a conflict of interest.

18. An Attorney shall at the time of retainer disclose to his client all the circumstances of his relations to the parties and his interest in or connection with the controversy (if any) which might influence the client in his selection of an Attorney.

19. An Attorney may appear for more than one party in a trial provided he satisfies himself that there is not and is not likely to be any conflict of interest.

20. An Attorney shall not act for an opponent of a client, or of a former client, in any case in which his knowledge of the affairs of such client or former client may give him an unfair advantage.

21. An Attorney shall not invest or advise the investment of any funds belonging to a client or in which a client has a beneficial interest, in any company, business or other activity in which the Attorney has a beneficial interest without full and complete disclosure of his interest.

22. Before an Attorney or firm of Attorneys accepts employment for more than one client in any matter he or the firm must advise the clients concerned that he or the firm has been asked to act for both or all of them, that no information received in connection with the matter from one can be treated as confidential so far as any of the others are concerned, and that if a conflict develops which cannot be resolved, he or the firm cannot continue to act for both or all of them and may have to withdraw completely.

23. An Attorney may not appear as counsel in a matter in which he himself is a party or has a significant pecuniary interest, except where claiming for his or his firm's professional fees and disbursements.

### **Outside interests**

24. An Attorney who engages in another profession, business or occupation concurrently with the practice of law must not allow such outside interest to jeopardize his professional integrity, independence or competence.

**25.** It is the duty of an Attorney to ensure, when he is involved in an interest outside his legal practice, that every client for whom he acts who might be affected by such interest is made aware of the Attorney's interest.

**Conduct at court**

**26.** An Attorney must at all times act with due courtesy to the court before which he is appearing and to opposing counsel. He must in every case use his best endeavours to avoid unnecessary expense and waste of the court's time.

**27.** Subject to the provisions of this Code, an Attorney should conduct cases in such a manner as in his discretion he thinks will be most to the advantage of his client.

**28.** An Attorney instructed to settle a pleading is under responsibilities to the court as well as to his client. He may not make any allegation unsupported by his instructions.

**29.** In an appeal either to the Supreme Court or to the Court of Appeal, an Attorney should not settle grounds of appeal unless he considers that the proposed appeal is properly arguable.

**30.** An Attorney shall not—

- (i) knowingly assist or permit his client to do anything which the Attorney considers to be vexatious, dishonest or dishonourable;
- (ii) appear before a court when he or his associates have business or personal relationships with a member of the court which give rise to or might reasonably appear to give rise to pressure, influence or inducement affecting the impartiality of the court;
- (iii) endeavour or allow anyone else to endeavour, directly or indirectly, to influence the decision or action of a court or any of its officials;
- (iv) knowingly attempt to deceive a court or influence the course of justice by offering false evidence, mis-stating facts or law, presenting or relying upon a false or deceptive affidavit; suppressing what ought to be disclosed, or otherwise assisting in any fraud, crime or illegal conduct;
- (v) knowingly mis-state the contents of a document, the testimony of a witness, the substance of an argument or any provision of the law or any case that he cites or refers to;
- (vi) dissuade a material witness from giving evidence or advise such a witness to absent himself;
- (vii) needlessly abuse, hector, harass or inconvenience a witness.

**31.** In both civil and criminal cases, an Attorney must ensure that the court and opposing counsel are informed of any relevant decision on a point of law or any legislative provision whether it be for or against his contention.

**32.** Except with the consent of the client or in unavoidable circumstances, an Attorney may not hand over the conduct of the main trial of an action or prosecution to another Attorney as if the latter Attorney had himself been instructed.

33. An Attorney shall not in any proceedings in which he is appearing as an advocate express his personal opinion or beliefs as to facts or suggest as a fact anything of which there is no evidence before the court.

34. An Attorney shall endeavour always to maintain his position as an advocate and shall not either in argument to the court or in address to the jury, assert his personal belief in his client's innocence, or in the justice of his cause or his personal knowledge as to any of the facts involved in the matter under investigation.

#### **Dress in court**

35. (1) The dress of Attorneys appearing in Court should be unobtrusive and compatible with the wearing of robes.

(2) Suits and dresses should be of dark colour. Dresses or blouses should be long-sleeved and high to the neck. Shirts and blouses should be predominantly white or of other unemphatic appearance. Collars should be white and shoes black.

(3) No conspicuous jewellery ornaments should be worn.

#### **Duties when prosecuting a person accused of a crime**

36. When engaged as a prosecutor, the Attorney's prime duty is to see that justice is done through a fair trial upon the merits and not primarily to seek a conviction. And to that end he shall not withhold facts tending to prove either guilt or innocence of the accused. The prosecutor must act fairly and dispassionately. He should make timely disclosure to the accused or his Attorney (or to the court if the accused is not represented) of all relevant facts and witnesses known to him, whether tending towards guilt or innocence. Where prosecuting counsel has in his possession statements from persons he does not propose to call as witnesses, he should regard it as normal practice to show such statements to the defence.

#### **Duties when defending a person accused of a crime**

37. When defending a client on a criminal charge, an Attorney must endeavour to protect his client from being convicted except by a competent court and upon legal evidence sufficient to support a conviction for the offence with which his client is charged.

38. Admissions made by the accused to his Attorney may impose strict limitations on the conduct of the defence, and the accused should be made aware of this. For example, if the accused clearly admits the factual and mental elements necessary to constitute the offence, the Attorney, even if convinced that the admissions are true and voluntary, may properly take objection to the jurisdiction of the court, or to the form of the indictment, or to the admissibility or sufficiency of the evidence, but he must not suggest that some other persons committed the offence or call any evidence which, by reason of the admissions, he believes to be false. Nor may he set up an affirmative case inconsistent with such admissions. The defence is entitled to test the evidence given by each individual witness for the prosecution and to argue that the evidence taken as a whole is insufficient to amount to proof that the accused is guilty of the offence charged.



### **Withdrawal of service**

**39.** An Attorney shall not withdraw his services from a client except for good cause and upon notice appropriate in the circumstances.

**40.** An Attorney is required to withdraw his services from a client if—

- (i) to continue his services will require him to act in a manner inconsistent with his duty to the court or with the professional conduct expected of him; or
- (ii) a client is guilty of dishonest or dishonourable conduct in relation to the matter in respect of which the Attorney is appearing or acting; or
- (iii) a client wishes to proceed solely to harass or maliciously injure another person; or
- (iv) a client insists on giving evidence either orally or by affidavit which the Attorney is satisfied that the client knows to be false in a material respect.

**41.** An Attorney may withdraw his services from a client if—

- (i) he is satisfied that a client has lost confidence in him or when a client does not accept his advice; or
- (ii) his fees are not paid within a reasonable time of being demanded;

but he may not withdraw his services at a time that will prejudice his client as for instance, shortly before a trial when there is inadequate time for another Attorney to be briefed properly, except with the leave of the Court.

**42.** Upon his discharge or withdrawal an Attorney should—

- (i) subject to any proper lien he may have on them, deliver to or to the order of the client, all papers and property to which the client is entitled;
- (ii) give the client all information he may require in connection with any outstanding business he has with the client;
- (iii) account for all the funds of the client then held or previously dealt with, including the refunding of any remuneration not earned during his employment;
- (iv) promptly render his account for outstanding fees and disbursements; and
- (v) co-operate with any Attorney who succeeds him.

**43.** An Attorney shall not enforce his lien on the papers and property of a client if such a course will materially prejudice the client's position in any pending legal proceedings.

**Making legal services available**

**44.** An Attorney shall make his services available to members of the public in an efficient and convenient manner and by means which are compatible with the integrity, independence and effectiveness of the profession.

**45.** An Attorney should not refuse to act for a person merely because that person is unpopular or notorious or because he is espousing an unpopular cause or because he is charged with a particular criminal offence; nor should he be affected by the fact that powerful interests may be involved in the matter in respect of which he is asked to act.

**46.** An Attorney should decline to act for a prospective client if he is not adequately qualified in the field of law in respect of which he is asked to act.

**Advertising**

**47.** An Attorney may not do, or cause or allow to be done on his behalf, anything for the purpose of touting, whether directly or indirectly, or which is likely to lead to the reasonable inference that it was done for that purpose.

**48.** An Attorney shall not endeavour by direct or indirect means to attract the clients of another Attorney.

**49.** An Attorney may not do, or cause or allow to be done on his behalf, anything with the primary motive of personal advertisement or anything likely to lead to the reasonable inference that it was so motivated.

**50.** An Attorney may—

- (i) publish in legal directories details of himself or his firm including his or the firm's name, address, telecommunications information, and a brief description of the practice of the Attorney or the firm;
- (ii) publish in legal directories, journals or newspapers and circulate amongst his or his firm's regular clients notice of the admission to or retirement of a partner or partners from the practice, the establishment or amalgamation of a firm or firms and notification of change of address of the practice of an Attorney or his firm.

**51.** An Attorney may not write for publication, broadcast by radio or television, publish in a film or otherwise cause or permit to be published any particulars of any matters on which he has been or is currently engaged as counsel, unless he can do so without disclosing confidential information and without giving publicity to his own part in the matter.

**Fees**

**52.** An Attorney shall not—

- (i) stipulate for, charge or accept any fee which is not fair and reasonable;
- (ii) appropriate any funds of his client held in trust or otherwise under his control for or on account of his fees without the express authority of his client, except as permitted by law;

- (iii) where a fee is laid down in any provision of the law as the proper fee, charge more than that fee.

**53.** An Attorney may reduce or waive fees in cases where payment of his usual fees would involve a client in hardship. An Attorney may not reduce his fees in order to attract more clients.

**54.** The right of an Attorney to ask for a retainer or to demand payment of out-of-pocket expenses and commitments, failing payment of which he may withdraw from the case or refuse to handle it, shall not be exercised where the client may be unable to find other assistance in time to prevent irreparable damage being done.

**55.** An Attorney should, if requested, give his client a fair estimate of the fees and disbursements that are likely if he acts for the client pointing out when necessary where there may be an increase in such fees and disbursements.

### **Public office**

**56.** An Attorney who holds an office of a public nature should in the discharge of his official duties adhere to standards of conduct as high as those which this code requires in the practice of law.

### **Respect for administration of justice**

**57.** An Attorney shall encourage public respect for and shall try to improve the administration of justice.

### **Responsibility to profession**

**58.** An Attorney shall assist in maintaining the integrity and reputation of the profession.

**59.** An Attorney shall report to the Bar Council breaches of this Code which come to his knowledge and which he considers to be serious.

### **Unauthorized practice of the law**

**60.** An Attorney shall assist in preventing the unauthorized practice of the law.

**61.** An Attorney has professional responsibility for all business entrusted to him. He must maintain direct supervision over any of his staff who are not Attorneys. He should ensure that all matters requiring an Attorney's professional skill and judgment are dealt with by an Attorney.

### **Relationship between Attorneys**

**62.** An Attorney shall act with good faith and courtesy in relationship with other Attorneys.

**63.** An Attorney shall give no undertaking he cannot fulfill and he must fulfill every undertaking he gives. Undertakings should be written or confirmed in writing and they should be absolutely unambiguous in their terms. If an Attorney giving an undertaking does not intend to accept personal responsibility, he should state this in the undertaking itself. In the absence of such a statement, the person to whom the undertaking is given should be deemed to expect that the Attorney giving it will honour it personally.

**64.** An Attorney shall not communicate upon or attempt to negotiate or compromise a matter directly with any party who is to the Attorney's knowledge represented by an Attorney except through or with the consent of that Attorney.

**65.** (1) An Attorney shall neither in response to the enquiry of a member of the public nor gratuitously criticize the competence, conduct, advice or charges of other Attorneys.

(2) An Attorney should, however, be prepared when requested by a member of the public to do so, to advise and represent such a person in any complaint or proposed court action against another Attorney.

**66.** (1) An Attorney should accede to reasonable requests concerning trial dates, adjournments, waiver or procedural formalities and similar matters which do not prejudice the rights of his client.

(2) Where an Attorney knows that another Attorney is concerned in a case, he should not proceed by default without enquiry and warning.

(3) An Attorney shall not take advantage of or act without fair warning upon slips, irregularities or mistakes on the part of another Attorney not going to the merits or involving the sacrifice of the client's rights.

#### **Rules to be observed in the spirit**

**67.** An Attorney shall observe these rules in the spirit as well as to the letter.

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

**69.** An Attorney shall reply promptly to any letter received from the Bar Council relating to his professional conduct.

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**LEGAL PROFESSION (PRACTISING  
CERTIFICATE) REGULATIONS**

ARRANGEMENT OF REGULATIONS

REGULATION

1. Short title
2. Interpretation
3. Form of application
4. Form of practising certificate
5. Notification of Bar Council
6. Change of circumstances
7. Fees

SCHEDULE: Form 1: Application for a practising certificate Form 2:  
Practising Certificate

.....

**LEGAL PROFESSION (PRACTISING  
CERTIFICATE) REGULATIONS – SECTION 30**

*(Legal Notice 3 of 1998)*

*Made by the Chief Justice after consulting the Bar Council and with the  
approval of the Governor in Council under Section 30 of the Legal  
Profession Ordinance.*

**Commencement**

*[31 January 1998]*

**Short title**

1. These Regulations may be cited as the Legal Profession (Practising Certificate) Regulations.

**Interpretation**

2. In these Regulations—

“application” means application for a practising certificate under section 10 of the Ordinance;

“the Ordinance” means the Legal Profession Ordinance;

“the Registrar” means the Registrar of the Supreme Court;

“the Secretary” means the Secretary of the Bar Council.

**Form of application**

3. Every application shall be in Form 1 in the Schedule hereto together with the information and attachments called for in Form 1, and it shall be the duty of the applicant to ensure that all information and attachments provided in or with the form are complete, accurate and genuine.

**Form of practising certificate**

4. A practising certificate shall be in Form 2 in the Schedule together with such conditions as may be endorsed thereon.

**Notification of Bar Council**

5. (1) At the time of making the application, the applicant shall deliver a true and complete copy thereof to the Secretary.

(2) Within 14 days after 31 January in each year, the Registrar shall deliver to the Secretary a list of the Attorneys to whom a practising certificate has been issued since the previous January.

(3) Forthwith upon the request of the Chief Justice or the Secretary of the Bar Council or any member of the Bar Council, the Registrar shall advise him as to any Attorney's compliance or non-compliance with these Regulations and shall supply him a copy of any application and any correspondence or other document connected with such compliance or non-compliance.

(4) Except as provided in this Regulation, the Registrar shall not disclose to any person any information concerning any Attorney's compliance or non-compliance with these Regulations.

**Change of circumstances.**

6. If during the currency of a practising certificate, any of the information given in the application for that practising certificate ceases to be accurate or applicable, or if any intention expressed therein alters, the Attorney concerned shall forthwith deliver a notice in writing to the Secretary giving full particulars of the change of circumstances.

**Fees**

7. The fee for a practising certificate shall be \$50 when application is made between 1 January and 31 October inclusive, and \$25 when application is made between 1 November and 31 December inclusive.

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## SCHEDULE

### FORM 1

(Regulation 3)

LEGAL PROFESSION (PRACTISING CERTIFICATE) REGULATIONS  
TURKS & CAICOS ISLANDS

#### APPLICATION FOR A PRACTISING CERTIFICATE

*Note: The issue of a practicing certificate is automatic upon the filing of this application and the payment of the prescribed fee. The information required by this form is principally to facilitate compliance with the Legal Profession Ordinance, and to notify the Bar Council of any circumstance which may call for an application to the Chief Justice for the revocation of a practicing certificate or for the imposition of a condition or restriction on the right to practice, or for the removal or amendment of an existing condition or restriction.*

**Section 1:** Please provide the following information:

1. Surname: .....
2. Forenames: .....
3. Former name/s: .....
4. Date of birth (d/m/y): .....
5. Current residential address: .....
6. Home telephone: .....
7. Address for service in Turks and Caicos: .....
8. Nationality: .....
9. Immigration status: .....  
*If not a believer, attach a copy of your work permit or permanent residence certificate.*
10. Period of residence in Turks and Caicos: .....  
*If not currently resident, give the dates of any past periods of residence*
11. Academic qualifications: .....
12. Place of first admission: .....
13. Year first admitted: .....
14. Year admitted in Turks and Caicos: .....
15. Employer's name: .....
16. Employer's address: .....
17. Employer's telephone no.: .....
18. Employer's telefax no.: .....
19. Employer's e-mail address: .....
20. Nature of employer's business: .....
21. Position held: .....
22. Year of expiry of last practicing certificate: .....

**Section 2:** Please answer all questions.

- 1. In Turks and Caicos or elsewhere, have you ever been found guilty of a criminal offense punishable by imprisonment or are you currently charged with a criminal offense? Yes/No
- 2. In Turks and Caicos or elsewhere, have you ever been found guilty of contempt of court or been the subject of disciplinary action by a court or professional body ? Yes/No
- 3. In Turks and Caicos or elsewhere, have you ever been adjudged insolvent, or had any judgment enforced against you ? Yes/No
- 4. Have you ever been treated for mental illness? Yes/No
- 5. Do you intend to be ordinarily resident outside Turks and Caicos at any time during the next twelve months? Yes/No
- 6. If an employee, do you intend to commence practice on your own account within the next twelve months? Yes/No
- 7. Is your right to practice as an Attorney subject to any condition or restriction? Yes/No
- 8. If so, do you intend within the next twelve months to apply for the alteration or removal of any such condition or restriction? Yes/No
- 9. Are you in arrears in the payment of any fee or levy payable under or pursuant to any provision of the Legal Profession Ordinance? Yes/No

**If the answer to any of the above is “yes”, attach full particulars to this form.**

**DECLARATION**

I, ..... (full name of applicant), hereby declare that the particulars provided in this application and the documents accompanying it are accurate to best of my knowledge and belief, and I make this declaration knowing that if any such particular or document is false or misleading in any respect I am guilty of professional misconduct.

APPLICANT'S SIGNATURE: .....

DATE (d/m/y): .....

.....



FORM 2

*(Regulation 4)*

LEGAL PROFESSION (PRACTISING CERTIFICATE) REGULATIONS

TURKS & CAICOS ISLANDS

**PRACTISING CERTIFICATE**

It is hereby certified that .....  
of ....., having  
as at the date hereof complied with the requirements of the Legal  
Profession Ordinance and paid the prescribed fee, is entitled to practice  
as an Attorney in the Turks and Caicos Islands from the date hereof to  
31st January [subject to the following conditions—]

Given under my hand and the seal of the Supreme Court this ..... day  
of .....

.....  
REGISTRAR OF THE SUPREME COURT

.....



