

THE LEGAL PRACTITIONERS BILL 1987

(NAME OF BILL)

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Covering letter from Minister to Clerk to Parliament
~~(Authorisation from Minister of Finance under s.60 of Constitution)~~

✓ FROM: Attorney General's Chambers 14-7-87

✓ TO: Minister of Police & Justice
(for signing Objects & Reasons, Notice of Presentation and covering letter to Clerk)

~~TO: Minister of Finance
(for signing of letter to Clerk signifying Cabinet approval under s.60 of Constitution)~~

✓ TO: Clerk to National Parliament 15-7-87
(for certificate by Speaker)

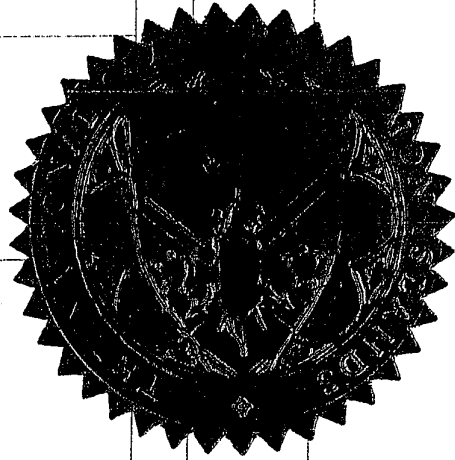
~~TO: Attorney General's Chambers
(for printing)~~

✓ TO: Clerk to National Parliament 4/8/87
(for reference during 1st, 2nd and 3rd Readings)
(Date passed 4.8.87 Act No. 14/87)

✓ TO: Attorney General's Chambers
(for checking before Assent)

✓ TO: Governor-General 23/8/87
(for Assent)

TO: Clerk to National Parliament
(for distribution: 1 copy Attorney General's Chambers
1 copy Ministry
1 copy Parliament Office
1 Registrar of the High Court)



THE LEGAL PRACTITIONERS ACT 1987

(NO. 14 OF 1987)



THE LEGAL PRACTITIONERS ACT 1987

(NO. 14 OF 1987)

Passed by the National Parliament this fourth day of August 1987.

This printed impression has been carefully compared by me with the Bill passed by Parliament and found by me to be a true and correct copy of the said Bill. -

M Tuhaika

Clerk to the National Parliament

Assented to in Her Majesty's name and on Her Majesty's behalf this twenty-fifth day of August 1987.

B Devesi

Governor-General

Date of commencement: date of publication in the Gazette.

AN ACT to regulate the legal profession and to make provisions in respect of legal practitioners.

ENACTED by the National Parliament of Solomon Islands.

THE LEGAL PRACTITIONERS ACT 1987

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PART I
PRELIMINARY

Short title.

Interpre-
tation.

Application
for certificate
of qualification.

Exemptions.

1. This Act may be cited as the Legal Practitioners Act 1987.
2. In this Act, unless the context otherwise requires -
 "court" means the High Court of Solomon Islands;
 "committee" means the disciplinary committee appointed by the Chief Justice under section 8;
 "legal practitioner" means a person who in terms of this Act has been admitted as a legal practitioner of the court or is entitled to practise as a legal practitioner in pursuance of section 4, and includes a person provisionally admitted but does not include a person whose name has been removed from the roll;
 "practising certificate" means a certificate issued by the Chief Justice under section 5;
 "Registrar" means the Registrar of the High Court;
 "roll" means the roll of legal practitioners kept by the Registrar in accordance with the provisions of section 6;
 "rules" means the rules made by the Chief Justice under section 21; and
 "unqualified person" means a person who is not admitted to practise as a legal practitioner pursuant to this Act, and includes a body corporate, company, or partnership whose principal business activities or objects do not constitute the practice of law for fee, gain or reward.
3. A person who desires to be admitted or provisionally admitted, as the case may be, shall -
 (a) apply in writing to the Chief Justice for a certificate that he is a fit and proper person to be admitted or provisionally admitted;
 (b) set out his qualifications for admission or provisional admission; and
 (c) pay the prescribed fee.
4. The provisions of section 3 shall not apply to the Attorney General, the Director of Public Prosecutions, the Public Solicitor or any appointment or office in the service of the Government for which a legal qualification is required. The holding of such office shall in itself constitute admission of such person to practise in the court.

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

- (a) is qualified for admission or provisional admission, as the case may be;
 - (b) is a fit and proper person to be admitted or provisionally admitted, as the case may be;
 - (c) has complied with the rules relating to the admission of legal practitioners; and
 - (d) has paid the prescribed fee to the Registrar,
- may issue a practising certificate.

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

Powers of Chief Justice to admit legal practitioners.

PART II
ADMISSION OF LEGAL PRACTITIONERS

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

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

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

Roll of legal practitioners.

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

- (a) his name is for the time being on the roll;
- (b) he is not suspended from practice; and
- (c) he has in force a current practising certificate.

Qualifications for practising as legal practitioner.

PART III
DISCIPLINE

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

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

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

Appointment of disciplinary committee.

Powers of
the
committee.

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

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

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

- (a) striking off from the roll the name of the legal practitioner to whom the complaint or investigation relates;
- (b) suspending that legal practitioner from practice for such period as the committee shall think fit;
- (c) ordering the legal practitioner to pay to general revenue a penalty as the committee thinks fit;
- (d) censuring the legal practitioner; or
- (e) ordering the legal practitioner to pay costs and expenses of and incidental to the inquiry.

Ancillary
powers of
committee.

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

- (a) enforcing the attendance of witnesses, examining them upon oath or otherwise;
- (b) compelling the production of documents;
- (c) punishing persons guilty of contempt;
- (d) ordering the inspection of any property; and
- (e) conducting the examination of witnesses.

Orders for
striking off
the roll or
suspension
from practice.

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

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

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

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

PART IV
UNQUALIFIED PRACTICES AND OFFENCES

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

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

- (a) where the parties in a civil proceeding are unrepresented, and have the same interest; and
- (b) if of the opinion that it is desirable in the interest of justice,

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

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

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

- (a) be guilty of contempt of court in which the action, suit, cause, matter or proceeding in relation to which he so acts is brought or taken and may be punished accordingly;
- (b) be incapable of maintaining any action for any costs in respect of anything done by him in the course of so acting; and
- (c) be guilty of an offence and shall be liable on summary conviction to a fine of two thousand dollars or to imprisonment for two years.

Right of appeal.

Rules of procedure.

Unqualified person not to act as legal practitioner.

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Penalty for pretending to be a legal practitioner.

Conveyancing by unqualified persons prohibited.

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

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

- 16. (1) A person other than -
 - (a) a legal practitioner; or
 - (b) a person solely employed to engross a deed, instrument or other proceeding; or
 - (c) a public officer drawing or preparing official instruments applicable to his respective office and in the course of his duty; or
 - (d) a person in the full time employment of a corporate body who is acting in the course of his duty for and on behalf of such corporate body; or
 - (e) any other person exempted by order made under this Act, shall not, for or in expectation of a fee, gain or reward, directly or indirectly draw or prepare a conveyance or other deed or instrument in writing relating to moveable or immovable property or to proceedings in law or equity.

- (2) An order made under this section may -
 - (a) add to the category of persons listed in subsection (1); and
 - (b) prescribe the extent and scope to which such person may be exempted from the provisions of subsection (1).

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

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

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

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18. (1) A legal practitioner shall not -
- (a) wilfully and knowingly act in any legal proceedings as agent for a person who is not a legal practitioner; or
 - (b) permit his name to be used in connection with legal proceedings conducted by a person who is not a legal practitioner; or
 - (c) permit his name to be used or be employed by a person who is not a legal practitioner in order to enable that person to undertake business matters that must according to law be conducted by a legal practitioner; or
 - (d) carry on the profession of a legal practitioner in partnership with a person who is not a legal practitioner; or
 - (e) do any other act enabling any unqualified person to appear, act or practise in any respect as a legal practitioner in any action or matter.

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

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

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

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

No costs for unqualified person.

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

Application of penal provisions to body corporate.

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PART V
MISCELLANEOUS

Rules.

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

- (a) for regulating the admission of legal practitioners to practise, their professional practice, conduct, etiquette and discipline;
- (b) for regulating the remuneration of legal practitioners;
- (c) for regulating the conduct of clerks, employees and agents of legal practitioners in connection with the practice of the law;
- (d) prescribing the procedure in respect of complaints and disciplinary proceedings against legal practitioners;
- (e) as to the opening and keeping by legal practitioners of accounts for clients' moneys;
- (f) as to the keeping by legal practitioners of accounts containing particulars and information as to moneys received, held or paid by them for or on account of their clients;
- (g) providing for the auditing at regular intervals or otherwise of the foregoing accounts by approved auditors, and for a report or certificate of the result of every such audit;
- (h) requiring the production to such auditors of books, papers and accounts;
- (i) prescribing a scale of fees to be paid to auditors;
- (j) prescribing the procedure for removal of the name of a legal practitioner from the roll on the application of such legal practitioner;
- (k) prescribing the form of practising certificates; and
- (l) prescribing anything which is required or permitted to be prescribed by rules under this Act.

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

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

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

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

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

Transitional provisions.

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