

CAYMAN ISLANDS



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**A BILL FOR A LAW TO REPEAL AND REPLACE THE LEGAL
PRACTITIONERS LAW (2015 REVISION), TO REGULATE THE PRACTICE
OF CAYMAN ISLANDS LAW BOTH IN THE ISLANDS AND ELSEWHERE,
TO ESTABLISH A CAYMAN ISLANDS LEGAL PRACTITIONERS
ASSOCIATION, TO PROVIDE FOR A SYSTEM OF LEGAL EDUCATION;
TO FACILITATE THE ENTRY OF CAYMANIANS INTO THE LEGAL
PROFESSION, TO PROVIDE FOR A MECHANISM TO DEAL WITH
PROFESSIONAL MISCONDUCT AND FOR INCIDENTAL AND
CONNECTED PURPOSES**

THE LEGAL PRACTITIONERS BILL, 2016

MEMORANDUM OF OBJECTS AND REASONS

This Bill would repeal and replace the Legal Practitioners Law (2015 Revision). In particular, it will regulate the practice of Cayman Islands law, both in the Islands and elsewhere, establish a Cayman Islands Legal Practitioners Association, provide for a system of legal education to facilitate the entry of Caymanians into the legal profession and provide for a mechanism to deal with professional misconduct.

Part 1 - Introductory

Clause 1 of the Bill sets out the short title and commencement.

Clause 2 of the Bill defines many of the expressions used in the Law and makes it clear that references in the Law to other Laws means those Laws as from time to time amended or revised.

Clause 3 of the Bill defines what the expressions “qualified law firm”, “affiliate” and “law firm” mean when used in the Law.

Part 2 - The Cayman Islands Legal Practitioners Association

Clause 4 establishes the Cayman Islands Legal Practitioners Association and provides that it is a body corporate which may sue and be sued, enter into contracts, own and dispose of real and personal property and, to the greatest extent possible, do anything else a natural person may lawfully do.

Clauses 5 provides that all attorneys-at-law are members of the Association but also provides that an attorney who is appointed to hold or to act in the office of Judge, Registrar or magistrate is to be taken not to be a member of the Association while holding or acting in that office.

Clause 6 provides that the property and assets of the Association are liable for its debts and obligations but also provides that the liability of each attorney-at-law for the debts or other legal obligations of the Association is limited to the amount (if any) for the time being owed by the attorney to the Association by way of membership levy or penalty.

Clause 7 provides that each year the Council must summon a meeting of the Association at which the Association is to receive a report from the President on

the business of the Council during the previous year, consider the audited financial statements of the Association, elect a Council for the Association for the ensuing year and appoint an auditor of the books of the Association for the ensuing year. It may also transact any other business that might properly be brought.

Clause 8 provides that a special meeting of the Association must be held upon the requisition of the President of the Association, two members of the Council or ten members of the Association.

Clause 9 provides that at a meeting of the Association the President or, if the President is absent or unable to preside, the Vice-President is to preside but that if both the President and the Vice president are absent or unable to preside, the members present must elect one of their number to preside.

Clause 10 sets out the duties of the Secretary with respect to elections and the keeping and circulation of minutes.

Part 3 - The Council of the Association

Clause 11 provides that the Association is to have a Council called the Council of the Cayman Islands Legal Practitioners Association consisting of eight attorneys-at-law ordinarily resident in the Islands and practicing Cayman Islands law in the Islands. It also provides at least two members of the Council must be attorneys practicing Cayman Islands law in law firms with fewer than 10 attorneys, no more than two members of the Council may be practicing Cayman Islands law with the same law firm and that at least five members of the Council must be Caymanian of whom at least three must have qualified locally.

Clause 12 provides for the election of members to the Council and how casual vacancies are to be filled.

Clause 13 provides that it is the function of the Council to manage the Association's affairs and must, in particular, support and protect the character, status and interests of the legal profession, support the judiciary in upholding the rule of law and the administration of justice, maintain and protect the independence of the legal profession and the defence of the profession in its relations with the executive of the Cayman Islands government and the judiciary, encourage legal education and the promotion of the study of jurisprudence, promote the qualification, training and development of Caymanians as attorneys-at-law, determine questions relating to etiquette and the professional conduct of attorneys and the conduct of law companies, support public rights of access to the courts and the right of representation by attorneys before courts and tribunals,

encourage improvements in the administration of justice, encourage the provision of law reports, encourage and support law reform and further good relations between members of the Association and lawyers of other jurisdictions and between the Association and other similar associations in other jurisdictions.

Clause 14 provides for procedures to be followed at meetings of the Council.

Clause 15 provides that the quorum for a meeting of the Council is one half of its number of members at the time.

Clause 16 provides an immunity for the Association, its officers, employees, agents, representatives and others for anything done or omitted to be done in the discharge or purported discharge of a function under the Law unless done or omitted to be done in bad faith.

Clause 17 provides that, if a member of the Council has a pecuniary or other interest in a matter to be dealt with by the Council, the member must disclose the fact to the other members of the Council and must not vote on the matter.

Clause 18 provides that the Council must keep proper accounts of the receipts, payments, credits and liabilities of the Association.

Clause 19 provides that the Council may from time to time require each member of the Association to contribute by way of a compulsory membership levy to the financial resources required by the Council to manage the affairs of the Association.

Clause 20 provides that the Council may appoint committees to carry out any of its functions on its behalf and in its name.

Clause 21 provides that the Council may make rules prescribing any matter which under the Law is required or permitted to be prescribed by rules and generally for the better carrying out by the Council of its functions under the Law and for the direction, government and control of the Association and its members.

Clause 22 provides that, except as is otherwise provided by the Law, the Council may determine its own rules of procedure.

Clause 23 provides that the Council may make rules requiring law firms to open bank accounts for clients' money and to keep accounts containing particulars and information as to money received, held or paid both for or on account of their clients. It may also make rules prescribing the manner in which law firms must deal with money held by them in a fiduciary capacity, the books of accounts that

must be kept by law firms in respect of money held by them in a fiduciary capacity and how any such accounts must be audited.

Part 4 - The practice of Cayman Islands law

Clause 24 provides that except as provided by Part 4 of the Law, a person must not practise Cayman Islands law in the Islands or in any other jurisdiction and provides for a fine not exceeding \$100,000, imprisonment for a term not exceeding 2 years or both. It also provides what “practice Cayman Islands law” means.

Clause 25 provides that an attorney-at-law who holds a practicing certificate that permits him or her to do so may practise Cayman Islands law in the Islands and, subject to compliance with the Law, in any other jurisdiction subject also to compliance with the law of that jurisdiction.

Clause 26 provides that a law company may practise Cayman Islands law in the Islands and, subject to compliance with the Law, in any other jurisdiction subject also to compliance with the law of that jurisdiction.

Clause 27 provides that nothing in Part 4 affects a function of the Attorney General, a person holding public office in the Attorney General’s Chambers or an attorney-at-law or equivalent admitted as such in any other jurisdiction and instructed by or on behalf of the Attorney General in legal proceedings.

Clause 28 provides that nothing in Part 4 affects a function of the Director of Public Prosecutions, a person holding public office in the Office of the Director of Public Prosecutions or an attorney-at-law or equivalent admitted as such in any other jurisdiction and instructed by or on behalf of the Director of Public Prosecutions in legal proceedings.

Clause 29 provides that nothing in Part 4 affects any ability a person, whether or not an attorney-at-law, may have under any other Law to practise Cayman Islands law.

Part 5 - Admission as an attorney-at-law

Clause 30 provides that a judge may, on an application made in accordance with the Law, admit a person as an attorney-at-law but goes on to provide that the judge may not do so unless the judge is satisfied that the person has the prescribed personal qualification, the additional personal qualifications, the professional qualification and any additional post foreign qualification experience and is otherwise a fit and proper person to be an attorney-at-law.

Clause 31 sets out the personal qualification required for admission. Namely a person must be a Caymanian or hold a current work permit or a Residency and Employment Rights Certificate or otherwise be entitled under the Immigration Law (2015 Revision) to reside and work in the Islands as an attorney in the capacity in which the person is or is to be employed or be employed by the Government or be ordinarily resident in another jurisdiction and be a partner, director, shareholder or an associate or employee of a qualified law firm or an affiliate of a qualified law firm.

Clause 32 sets out the additional personal qualifications required for admission. Namely, the person must satisfy the judge that the person is not an undischarged bankrupt, has not engaged in conduct that would constitute an act of serious professional misconduct under the Law and is not disbarred for professional misconduct from practicing law in any other jurisdiction.

Clause 33 sets out the professional qualification required for admission. Namely, the person must satisfy the judge that the person is qualified locally or has a prescribed foreign qualification.

Clause 34 sets out the experience a person seeking admission by virtue of a post foreign qualification is required to have. The person must have had at least three years post qualification experience in the practice of law and must be in good standing on a register or its equivalent maintained by a court or other relevant body of the foreign jurisdiction. Further, the person must have undertaken any course in relevant Cayman Islands law and passed any examination approved in both cases by the Legal Advisory Council or have worked for not less than four months (or such longer period as may be determined by the Council) as a probationary attorney under the supervision of an attorney-at-law who has been in continuous practice as a legal practitioner for a period of at least five years (at least three of which have been as an attorney-at-law).

Clause 35 provides that a person may apply for admission to practise as an attorney-at-law by application to the Court made in accordance with Rules of Court and that the application must be filed in the Court Office together with an affidavit that sets out the facts by virtue of which the person claims to be qualified to be admitted, documentary evidence as to those facts and any fee prescribed by Rules of Court.

Clause 36 provides that an application may be made to a judge for authorisation to permit a person to come to the Islands to carry out the functions of an attorney-at-law in a specified suit or matter.

Part 6 - Attorneys-at-law

Clause 37 provides that an attorney-at-law is an officer of the Court and, as such, has the right of audience in all courts and tribunals.

Clause 38 provides that attorneys-at-law and law companies must observe high standards of professional ethics and conduct. It also provides that an attorney or a law company must comply with an obligation imposed on the attorney or law company by or by virtue of this Law and that a failure to do so amounts to professional misconduct and accordingly may be the subject of disciplinary proceedings. In particular, it provides that an attorney or a law company must observe the “Code of professional conduct for attorneys and law companies” set out in Part 1 of Schedule 2 of the Law and a law firm must observe the “Law firms best practice guidelines” set out in Part 2 of Schedule 2. However, the clause goes on to provide that a failure to do so does not amount to professional misconduct, but any such failure may in disciplinary proceedings in relation to the attorney or a law company be relied upon as tending to establish professional misconduct by the attorney or company.

Clause 39 requires the Clerk of Court to keep a register to be known as the Court Roll on which the Clerk must enter the name of each person admitted for the time being to practise as an attorney-at-law.

Clause 40 requires the Clerk of Court to keep the Court Roll and documents relating to it at the Court and to permit a person seeking to do so to inspect the Roll free of charge if the offices of the Court are open.

Clause 41 provides that upon the name of a person being entered in the Court Roll the Clerk of the Court must grant a Certificate of Enrolment to the person sealed by the Court and signed by the Clerk. The production of the Certificate is evidence that the person named in it is enrolled as an attorney-at-law and is admissible in evidence without further proof of its sealing and signing

Clause 42 applies if there is an alteration in the details registered in the Court Roll in respect of an attorney-at-law and requires the attorney, within thirty days of the alteration, to notify the Clerk of the Court giving details of the alteration.

Clause 43 provides that an attorney-at-law may, in accordance with Rules of Court, apply to the Clerk of the Court to have the attorney’s name removed from the Court Roll

Clause 44 applies where the name of an attorney-at-law appears on the Court Roll but the attorney has ceased to hold a practising certificate. It requires the Clerk of the Court within one year of the attorney ceasing to hold a practising certificate to send a notice to the attorney. The notice must inform the attorney that unless the

attorney applies for a practising certificate or, if the attorney is a Caymanian, applies to keep his or her name on the Roll, the Clerk will remove the name of the attorney from the Roll three months after the service of the notice. The Clerk must, as soon as practicable, publish the name of any attorney whose name has been removed from the Roll pursuant to the provision.

Clause 45 applies if an attorney-at-law who is a Caymanian does not wish to practise Cayman Islands law but wishes to keep his or her name on the Court Roll and provides that the attorney may apply, before 31st January in each year, to the Clerk of the Court to keep the attorney's name on the Roll.

Clause 46 applies if a qualified law firm or an affiliate of a qualified law firm ceases to employ in another jurisdiction an attorney-at-law who is not a Caymanian and requires the law firm to inform the Clerk of the Court of the name of the attorney. After receipt of the notice from the firm and any notice from the attorney, the Clerk must remove the name of the attorney from the Roll unless the attorney has satisfied the Clerk that there are adequate reasons consistent with the Law for not doing so.

Clause 47 provides that an attorney-at-law may administer oaths.

Clause 48 provides that an attorney-at-law or law company may sue for fees and costs in respect of services rendered by the attorney or law firm as an attorney or law company. But an attorney may not do so except in respect of services rendered by the attorney when the attorney held a practising certificate that authorised the attorney to render the service and a law company may not do so except in respect of services rendered by the company when it was a law company.

Part 7 - Practising certificates

Clause 49 provides that an attorney-at-law must not practise Cayman Islands law, whether in the Islands or in another jurisdiction, when the attorney does not have a practising certificate that authorises the attorney to do so. A Government attorney is to be taken to be the holder of a practising certificate authorising the attorney to practise Cayman Islands law on behalf of the government.

Clause 50 provides that a practising certificate may be obtained in the case of an attorney-at-law who intends to practise Cayman Islands law within the Islands, by the law firm in which the attorney intends to practice applying to the Clerk of the Court for the certificate or in the case of an attorney who intends to practise Cayman Islands law in another jurisdiction, by the qualified law firm in which or

in whose affiliate the attorney intends to practice applying to the Clerk for the certificate.

Clause 51 provides that the Clerk of the Court must, on an application made in accordance with the Law, issue a practising certificate to or in respect of an attorney-at-law unless, at the time of the application, the attorney was suspended from practice. However, if in an application for a practising certificate, it is stated that the attorney has been the subject of a disciplinary complaint or action that could cause or did cause the attorney's name to be struck off the roll of a jurisdiction in which the attorney is or was admitted, the Clerk may not issue a practising certificate to the attorney except pursuant to an order of the Court.

Clause 52 provides when a practising certificate issued to an attorney-at-law becomes void. Namely, on the name of the attorney being removed from the Court Roll, on the attorney being suspended from practice, on the attorney being adjudicated bankrupt or when in accordance with the Law a law firm in another jurisdiction informs the Clerk of the Court that an attorney, other than a Caymanian, who was practising with it, has ceased to be so practising.

Clause 53 provides that the Clerk of the Court must publish during February in each year, an alphabetical list of attorneys-at-law who have at the previous 31st January obtained a practising certificate and that thereafter, at 3 monthly intervals during the year, the name of any attorney who subsequently obtains a practising certificate during that year. It also provides that as soon as practicable after the Clerk becomes aware that a practising certificate has become void, the Clerk must publish the name of the attorney-at-law who held the certificate and the fact that his or her practicing certificate has become void.

Part 8 - Law companies

Clause 54 provides that an application by a company for recognition as a law company must be made on a form approved for the purpose by the Council and must be accompanied by the fee prescribed by the Council and evidence sufficient to show that the company complies with the requirements of the Law.

Clause 55 provides that the Council may recognise a company as a law company if the Council is satisfied that the company complies with the Law and is otherwise satisfied that it is a suitable body to practise Cayman Islands law.

Clause 56 provides that if the Council recognises a company as a law company, the Council must issue a certificate of recognition to the company and also publish a notice stating that the company has been recognised as a law company and its name.

Clause 57 provides that if the Council refuses to recognise a company as a law company, the company may, within 30 days of the refusal, appeal to the Court against the refusal on the grounds that the refusal was unreasonable having regard to all the circumstances.

Clause 58 provides that to be recognised as a law company a company must be registered in the Islands under the Companies Law (2013 Revision) as a company limited by shares and all of its directors, managers and members must be attorneys-at-law or law companies.

Clause 59 requires a law company to notify the Council of any change in its directors, managers or members within 60 days of the change.

Clause 60 applies where a member of a law company dies or ceases to be an attorney-at-law or a law company. It requires the law company to ensure that, within 12 months, shares registered in the member's name are registered in the name of an attorney-at-law or that of a law company. If it fails to do so it ceases to be a law company.

Clause 61 provides that a law company must not carry on any business other than the practice of Cayman Islands law. However, it may, with the approval of the Council, carry on a business associated with its practise of Cayman Islands law.

Clause 62 provides that a law company may carry on business under a name that does not include the word "Limited", or the abbreviation "Ltd." and may carry on business under a name that ends in the words "Law Company".

Clause 63 provides that a law company ceases to be a law company if a winding up order under the Companies Law (2013 Revision) is made in respect of it.

Clause 64 requires a law company to insure with an insurer licensed under the Insurance Law, 2010 to carry on insurance business or with an insurer approved by the Council. The insurance must provide a minimum aggregate cover of \$1,000,000 and a minimum cover of \$500,000 for each and every claim.

Clause 65 applies if a company ceases to be a law company but continues to practise Cayman Islands law. It provides that in addition to the company being guilty of an offence under the Law each director, manager or member of the company who is an attorney-at-law is guilty of professional misconduct.

Clause 66 provides that a company must not describe itself as a law company or hold itself out as a law company unless it is a law company. If it does so it faces a fine not exceeding \$100,000.

Part 9 - Law firms

Clause 67 provides that an attorney-at-law must not practise Cayman Islands law in another jurisdiction otherwise than with a qualified law firm or with an affiliate of a qualified law firm.

Clause 68 provides that, except with the approval of the Council, a qualified law firm must not permit an attorney-at-law to practise Cayman Islands law in another jurisdiction with the qualified law firm or an affiliate of the qualified law firm where certain circumstances exist. Those circumstances exist if A exceeds B plus C plus D where -

A equals the number of non-Caymanian attorneys who practise Cayman Islands law in one or more jurisdictions with the qualified law firm and any affiliates of the qualified law firm;

B equals the number of Caymanian attorneys who practise Cayman Islands law in other jurisdictions with the qualified law firm and any affiliates of the qualified law firm;

C equals the number of attorneys who practise Cayman Islands law with the qualified law firm in the Islands; and

D equals the number of trainee attorneys employed by the qualified firm and any affiliates of the qualified law firm.

Clause 69 requires a qualified law firm to file a certificate with the Council by 31 January of each year that certifies -

(a) the number of non-Caymanian attorneys-at-law who at that time are practicing Cayman Islands law in another jurisdiction with the qualified law firm and any affiliates of the qualified law firm;

(b) the number of Caymanian attorneys who at that time are practicing Cayman Islands law in another jurisdiction with the qualified law firm and any affiliates of the qualified law firm;

(c) the number of attorneys who at that time are practicing Cayman Islands law with the qualified law firm in the Islands specifying, in particular, those who are Caymanian; and

(d) the number of trainee attorneys employed by the qualified firm and any affiliates of the qualified law firm.

Clause 70 applies to each law firm whether practicing Cayman Islands law in the Islands or in another jurisdiction and requires it to have an annual operational licence to continue to practise Cayman Islands law.

Clause 71 provides that the Local Companies (Control) Law (2015 Revision) does not apply to a law firm that has an annual operational licence.

Clause 72 provides that a law firm must, on or before 31st January in each year, deliver a report to the Council. The report must certify that during the previous year, the firm complied with each obligation imposed on it by the Law, the Misuse of Drugs Law (2014 Revision), the Proceeds of Crime Law (2014 Revision) and the Terrorism Law (2015 Revision), and has complied with any relevant supervisory or regulatory guidance applicable to the law firm.

Part 10 - Business staffing plans

Clause 73 provides that Part 10 of the Law applies to a law firm that wishes to apply for a work permit for a person to work in the law firm in the Islands or that wishes to apply for a practicing certificate for an attorney-at-law who practises or is to practise Cayman Islands law in another jurisdiction.

Clause 74 provides that the business staffing plan that a law firm must have in place by virtue of section 45 of the Immigration Law (2015 Revision) must also comply with Part 10 of the Law and any rules made by the Council.

Clause 75 applies if a law firm applies for a work permit for a person to work in the law firm in the Islands or applies for a practicing certificate for an attorney-at-law who practises or is to practise Cayman Islands law in another jurisdiction. It requires the manager or the law firm to ensure that that at the time the application is made the law firm has a business staffing plan that complies with this Part and that the grant of any work permit or practicing certificate as a result of the application is in accordance with the business plan as in effect at that time.

Clause 76 provides that the purpose of a business staffing plan that complies with Part 10 of the Law is to ensure that when recruiting staff a law firm accepts a commitment to provide opportunities to Caymanians. It therefore provides that a business staffing plan must make reasonable provision to give Caymanians access to the legal profession, including training and development, and subsequent equitable progression within the law firm. It also provides that a business staffing plan of a law firm must also contain a provision that, if an attorney who is not a Caymanian is proposed as a partner in the law firm but is denied a work permit to practise in that position, the law firm will not, for a period of two years from the date the application for the work permit was denied, apply for a practicing

certificate that would allow the attorney to practise Cayman Islands law as a partner in an affiliate of the law firm.

Clause 77 provides that the Cabinet, following consultation with the Council, may make regulations carrying into effect the purposes and provisions of Part 10 of the Law.

Part 11 - Local educational qualifications for admission

Clause 78 provides that the Legal Advisory Council established by the Legal Practitioners Law (2015 Revision) continues its existence under the Law.

Clause 79 provides that the Legal Advisory Council may make arrangements for the provision of a system of legal education and practical training leading to local qualification for enrolment as an attorney-at-law.

Clause 80 provides that the regulations may prescribe local qualifications for enrolment as an attorney-at-law including the successful completion of a prescribed period of service under articles, the attainment of prescribed academic qualifications or both.

Clause 81 provides that the regulations may require a person admitted as an attorney-at-law pursuant to local qualifications to participate in a programme of continuing legal education and legal training.

Part 12 - Articles

Clause 82 provides that the Legal Advisory Council may make regulations in respect of service under articles.

Clause 83 provides that those regulations may prescribe the minimum qualifications required by a person to be admitted for service under articles.

Clause 84 provides that those regulations may also provide for the governance of service under articles. They may, in particular, prescribe the terms, including remuneration and conditions of service, on which trainee attorneys may be taken and retained by an attorney-at-law and the conduct, duties and responsibilities towards each other of the parties to articles.

Clause 85 provides that an attorney-at-law who has been admitted as a legal practitioner in any jurisdiction for at least seven continuous years and who has held a Cayman Islands practicing certificate for at least five years may take a

person with the prescribed qualification into his or her service as a trainee attorney.

Clause 86 provides that a law company may take on persons with the prescribed qualifications into its service as trainee attorneys.

Clause 87 provides that the Attorney General and, with the leave of the Attorney General, the Director of Public Prosecutions and the Clerk of the Court may have trainee attorneys in their respective service.

Clause 88 provides that if an attorney-at-law or law company takes or has in his or her, or its service a trainee attorney in contravention of Part 12 of the Law the Legal Advisory Council may discharge the articles of the trainee attorney upon such terms as it thinks fit.

Clause 89 applies if the Attorney General is satisfied that a person in a legal or judicial department of the public service is performing duties that are mainly legal in nature and provides that the Attorney General may certify that time spent by a person in the department performing those duties is equivalent to a similar time spent in the service of an attorney-at-law under articles.

Clause 90 applies if an attorney-at-law to whom a trainee attorney is articulated is declared bankrupt, the name of an attorney to whom a trainee attorney is articulated is struck off the Court Roll, an attorney to whom a trainee attorney is articulated is suspended from practice, a law company to whom a trainee attorney is articulated is wound up, a law company to whom a trainee attorney is articulated ceases to be a law company or the Legal Advisory Council is satisfied after investigation that a trainee attorney is morally unfit to become an attorney. It also applies if upon the application of either an attorney or a law company or his or her, or its trainee attorney, the Legal Advisory Council is satisfied that the articles of the trainee attorney ought to be discharged. It provides that in these circumstances the Legal Advisory Council may discharge the articles of the trainee attorney upon such terms as the Council thinks fit.

Clause 91 applies if an application is made to the Legal Advisory Council by an attorney-at-law or a law company and his or her, or its trainee attorney for permission to transfer the articles of the trainee attorney to an attorney or law company and provides that the Legal Advisory Council may give permission if it considers it proper to do so subject to any conditions the Legal Advisory Council may think fit to impose.

Clause 92 applies when an attorney-at-law or law company has a trainee attorney in his or her, or its service. It requires the attorney or law company to ensure that

during the period of articles of the trainee attorney, the trainee attorney receives adequate legal training including training relating to professional responsibility, legal etiquette and conduct, is exposed to all major areas of the Cayman Islands law practised by the attorney or law company; and participates in courses, workshops or programmes that relate to the areas of Cayman Islands law in which the trainee attorney is being trained.

Part 13 - Investigation of alleged professional misconduct

Clause 93 provides that Part 13 does not apply to the conduct of a person while holding or acting in an office to which section 106 of the Constitution applies. These are the offices of the Chief Justice or other judge of the Grand Court, the President of the Court of Appeal or other judge of the Court of Appeal, the Attorney General, the Director of Public Prosecutions and the Magistrate and such other offices in the public service, for appointment to which persons are required to possess legal qualifications, as may be prescribed by any other Law.

Clause 94 requires the Council, as soon as practical after its members have been elected, to appoint a professional conduct committee consisting of two members of the Council, two attorneys-at-law who are not members of the Council and a person with professional qualifications, not being an attorney, approved by the Attorney General. It requires at least 3 of the members of the committee be Caymanian.

Clause 95 permits a person, including the Council, to file with the professional conduct committee a complaint that specified conduct of an attorney-at-law or a law company constituted professional misconduct by the attorney or law company and requires the Council to make rules setting out the manner in which a complaint may be made to the committee. However, it also requires the committee to reject a complaint in respect of any conduct by an attorney or law company that it is satisfied was known or could reasonably have been known more than 6 years before the complaint was made.

Clause 96 requires the professional conduct committee to investigate a complaint made to it in accordance with rules made by the Council and to determine if there is a prima facie case that the conduct complained of amounted to professional misconduct.

Clause 97 applies where the professional conduct committee has investigated a complaint and has subsequently determined that although the conduct amounted to professional misconduct it did not amount to serious professional misconduct. In this case it may reprimand the attorney or law company, advise the attorney or law company as to his or her, or its future conduct, require the attorney or law

company to repay or forego specified fees or charges, require the attorney or a specified attorney in the law company to undertake specified professional development training, require the attorney or law company to remedy a breach of a provision of the Code of Conduct, adjourn the proceedings pending determination of criminal proceedings, require the attorney or law company to pay or make a contribution to the costs of investigating his, her or its conduct or determine that no action need be taken against the attorney or law company.

Clause 98 applies where the professional conduct committee has investigated a complaint in respect of the conduct of an attorney or law company and has determined that there is a prima facie case that the conduct may have amounted to serious professional misconduct or has been unable to complete its investigation or make any findings on professional misconduct because the attorney or law company has failed to cooperate with the committee. It requires the committee to formulate charges in respect of the misconduct and to refer the complaint to the Chief Justice who must appoint a disciplinary tribunal consisting of the Chief Justice or a person who holds or has held high judicial office and two attorneys or former attorneys nominated by the Council, at least one of whom is a Caymanian.

Clause 99 requires a disciplinary tribunal to determine if the charges formulated by the professional conduct committee are made out or if the conduct complained of otherwise amounted to professional misconduct. The tribunal has the power to do everything reasonably necessary for that purpose.

Clause 100 provides that if, after investigating the conduct of an attorney-at-law, a disciplinary tribunal is satisfied that the conduct amounted to professional misconduct it may take any action that the professional conduct committee could have taken and may also order that the name of the attorney be struck off the Court Roll, order that the attorney's practising certificate be qualified to the effect that the attorney is not entitled to appear as an advocate before all or any court or to practise in a specific area of Cayman Islands law, in either case, permanently or for a specified period, order that the attorney be suspended from practice as an attorney for a specified period, not exceeding five years or order the attorney to pay to the Association a fine of up to \$100,000.

Clause 101 provides that if, after investigating the conduct of a law company, a disciplinary tribunal is satisfied that the conduct amounted to professional misconduct it may take any action that the professional conduct committee could have taken and may also order that the status of the law company as a law company be revoked or order the company to pay to the Association a fine of up to \$100,000.

Clause 102 provides that if a disciplinary tribunal orders that the name of an attorney-at-law be struck off the Court Roll, the Clerk of the Court must comply with the order.

Clause 103 provides that if a disciplinary tribunal makes an order, the Council must publish the name of the attorney or law company and details of the order.

Clause 104 applies where the conduct of an attorney-at-law or law company is being investigated either by the professional conduct committee or by a disciplinary tribunal and permits the Council, on the advice of the committee or the tribunal, to order the attorney or the law company to cease to practise Cayman Islands law until the investigation has been completed and any subsequent order made by the committee or tribunal has come into effect.

Clause 105 applies if a complaint of professional misconduct by an attorney-at-law or a law company contains an allegation of or may involve the misuse of a trust fund by the attorney or law company and permits the professional conduct committee to order that the trust fund is to be operated by an accountant or a bank approved, in either case, by the Council until a disciplinary tribunal determines otherwise.

Clause 106 requires the Council to record any finding of professional misconduct by an attorney-at-law or by a law company and requires the Association to make the record available for public inspection free of charge at all reasonable times.

Clause 107 applies where the name of an attorney-at-law was removed from the Court Roll on his or her request or on the order of a disciplinary tribunal and allows the former attorney to apply to the Clerk of the Court for the restoration of the former attorney's name to the Roll. The Clerk may, after hearing the application, restore the name of the former attorney to the Roll with or without conditions.

Clause 108 applies to a document purporting to be an order of a disciplinary tribunal and purporting to be signed by all or any of its members and provides that the document is, in the absence of evidence to the contrary, be taken to be an order of the tribunal duly made.

Clause 109 provides that certain orders must be filed in the Court Office and that on filing they take effect and are enforceable as if they were orders of the Court.

Clause 110 provides that if a disciplinary tribunal imposes a fine payable to the Association or a disciplinary tribunal or a court provides for the payment of costs

to the Association, the fine or payment has effect as if it were a debt due to the Association.

Clause 111 section applies to a finding of a disciplinary tribunal and permits the attorney or the law company, as the case may be, or the Council to appeal to the Court of Appeal against the finding or any action taken by the tribunal. The appeal must be made within such time and in such form and on payment of such fees as may be prescribed by Rules of Court.

Clause 112 applies if an attorney-at-law is suspended from practice or if his or her name is struck off the Court Roll or if a law company is suspended from practise or if the status of a company as a law company is revoked or if for any other reason a law company ceases to be a law company. It permits the Council to serve a notice requiring a person to supply to the Council certain information in respect of trusts and also to serve a notice on a testator or a beneficiary stating that the attorney has been suspended from practice, that the name of the attorney has been struck off the Court Roll or that the company has ceased to be a law company, as the case may be.

Clause 113 provides that an attorney-at-law must not practise law in contravention of a condition or restriction endorsed on the attorney's practising certificate.

Clause 114 provides that if, when investigating the conduct of an attorney-at-law or a law company, it appears to the professional conduct committee or a disciplinary tribunal that the attorney or company or any other person may have committed an offence the committee or tribunal must refer the matter to the police at the first practicable opportunity to do so.

Part 14 - Final provisions

Clause 115 provides that a person must not practise in the Islands the law of another jurisdiction without the consent of the Council and also provides that a person who does is liable to a fine not exceeding \$50,000.

Clause 116 sets out who is responsible in respect of offences under the Law.

Clause 117 repeals the Legal Practitioners Law (2015 Revision).

Clause 118 provides that the transitional provisions set out in Schedule 1 to the Law have effect.

Schedule 1

Transitional provisions

Paragraph 1 defines expression used in the Schedule.

Paragraph 2 provides that the first meeting of the Association must be held within 3 months of the repeal of the present Law and must be held at a time and place agreed between the Cayman Islands Law Society and the Caymanian Bar Association and must be presided over by an attorney-at-law agreed to in the same manner. At the meeting the only matter that must be determined is the election of the Council.

Paragraph 3 provides that an application for admission made under the repealed Law and not determined before the commencement of the new Law must be determined under that Law.

Paragraph 4 provides that a person who immediately before the commencement was admitted as an attorney-at-law under the repealed Law for the purpose of appearing, acting or advising in a specified suit or matter is to be taken as authorised under the new Law for the purpose of appearing, acting or advising in that suit or matter.

Paragraph 5 provides that the Court Roll kept by the Clerk of the Court under the repealed Law shall be taken to be the Court Roll kept by the Clerk of the Court under the new Law.

Paragraph 6 provides that a practising certificate issued under the repealed Law and in force immediately before the commencement of the new Law shall be taken to be a practising certificate issued by the Clerk of the Court under that new Law.

Paragraph 7 provides that an annual operational licence issued under the repealed Law and in force immediately before the commencement of the new Law shall be taken to be an annual operational licence issued by the Clerk of the Court under that Law.

Paragraph 8 provides that an articulated clerk serving articles under the repealed Law immediately before the commencement of the new Law shall be taken as serving articles as a trainee attorney under that Law and any period of articles served by the trainee attorney under the repealed Law shall count as time served under articles for the purpose of the new Law.

Paragraph 9 provides that a body recognised in accordance with regulations made under the repealed Law immediately before the commencement of the new Law as a recognised company shall be taken to be a law company.

Paragraph 10 provides that the two members of the Legal Advisory Council who immediately before the commencement of the new Law were attorneys-at-law in private practice shall continue as members of the Legal Advisory Council until replaced by nominees of the Council.

Paragraph 11 provides that, despite the repeal of the repealed Law, any action started under that repealed Law before the commencement of the new Law but not concluded before that date (being an action to suspend an attorney-at-law from practising as such during a specified period or to order the attorney's name to be struck off the Court Roll) may be continued as if the repealed Law had not been repealed. It also provides that an attorney in respect of whom the previous provision applies and a person who had a right of appeal under the repealed Law immediately before the commencement of the new Law may still exercise a right of appeal under the repealed Law as if it had not been repealed.

Paragraph 12 provides that, despite the repeal of the repealed Law the Legal Practitioners (Students) Regulations (2015 Revision) made under that Law continue in force as regulations made by the Legal Advisory Council under the new Law.

Paragraph 13 provides that fees prescribed by or by virtue of the repealed Law and in force immediately before the commencement of the new Law are to be taken to be the applicable fees prescribed by the Cabinet, the Council or the Legal Advisory Council under the new Law or by Rules of Court for the purposes of that Law.

Paragraph 14 provides that a law practice practicing Cayman Islands law only in the Islands or both in the Islands and providing Cayman Islands legal advice in another jurisdiction immediately before the commencement of the new Law is to be taken to be a qualified law firm despite the fact that it may not be a qualified law firm for the purposes of that Law. It also provides that an affiliate of a firm is an affiliate of the firm despite the fact that it may not be qualified to be an affiliate of the firm for the purposes of this Law. It however, goes on to provide that those provisions cease to apply to the firm and any affiliate of the firm 12 months after the commencement of the new Law if at that time the firm or affiliate is not a qualified law firm or an affiliate of the law firm as defined by the new Law

Paragraph 15 applies to a person who immediately after the commencement of the new Law was providing Cayman Islands legal advice in another jurisdiction in a qualified law firm or an affiliate of a qualified law firm and had been so doing for at least four months and has the qualifications required under the repealed Law to be admitted as an attorney-at-law. It provides that for up to 12 months after the commencement of the new Law and prior to the person being admitted as an attorney-at-law under the new Law the person shall be taken for the purposes of the new Law to be an attorney with a practicing certificate that permits the attorney to practise Cayman Islands law with the qualified firm or its affiliate. It also provides that Rules made by the Council may provide that the provisions of the new Law in respect of admission to be an attorney may be varied to such an extent as the Council considers necessary and appropriate to allow a person to whom the paragraph applies to be admitted within the 12 months referred to.

Schedule 2

Part 1

Code of professional conduct for attorneys-at-law and law companies

This Part sets out the code of professional conduct for attorneys-at-law and law companies mentioned in clause 38 of this draft which provides that an attorney or a law company must observe the “Code of professional conduct for attorneys and law companies” set out in Part 1 of Schedule 2 but goes on to provide that a failure to do does not amount to professional misconduct, but may in disciplinary proceedings in relation to the attorney or a law company be relied upon as tending to establish professional misconduct by the attorney or company.

Part 2

Law firms best practice guidelines

This Part sets out the guidelines mentioned in clause 38 of this draft which provides that a law firm must observe the “Law firms best practice guidelines” set out in Part 2 of Schedule 2. but goes on to provide that a failure to do does not amount to professional misconduct, but may in disciplinary proceedings in relation to the firm be relied upon as tending to establish professional misconduct by the firm.

THE LEGAL PRACTITIONERS BILL, 2016

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CAYMAN ISLANDS

A BILL FOR A LAW TO REPEAL AND REPLACE THE LEGAL PRACTITIONERS LAW (2015 REVISION), TO REGULATE THE PRACTICE OF CAYMAN ISLANDS LAW BOTH IN THE ISLANDS AND ELSEWHERE, TO ESTABLISH A CAYMAN ISLANDS LEGAL PRACTITIONERS ASSOCIATION, TO PROVIDE FOR A SYSTEM OF LEGAL EDUCATION; TO FACILITATE THE ENTRY OF CAYMANIANS INTO THE LEGAL PROFESSION, TO PROVIDE FOR A MECHANISM TO DEAL WITH PROFESSIONAL MISCONDUCT AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

PART 1 - INTRODUCTORY

1. (1) This Law may be cited as the Legal Practitioners Law, 2016.

Short title and commencement

(2) This Law shall come into force on such date as may be appointed by Order made by Cabinet and different dates may be appointed for different provisions of this Law and in relation to different matters.

2. In this Law -

Interpretation

“affiliate” has the meaning assigned to that word by section 3(2);

“another jurisdiction” means any jurisdiction other than the Islands;

“Association” means the Cayman Islands Legal Practitioners Association established under section 4(1);

“attorney-at-law” or “attorney” means a person whose name is on the Court Roll;

(2015 Revision) “Business Staffing Plan Board” has the meaning assigned to those words by section 2 of the Immigration Law (2015 Revision);

(2015 Revision) “Caymanian” has the meaning assigned to that word under section 2 of the Immigration Law (2015 Revision);

(2015 Revision) “Clerk of the Court” or “Clerk” means the officer appointed under section 7 of the Grand Court Law (2015 Revision) to be the Clerk of the Court;

“Council” means the Council of the Association elected in accordance with section 8(2)(c);

“Court” means the Grand Court;

“Court Roll” or “Roll” has the meaning assigned to the words “Court Roll” by section 39(1);

“disciplinary tribunal” or “tribunal” means a disciplinary tribunal established under section 98;

(2003 Revision) “document” includes an electronic record as defined in the Electronic Transactions Law (2003 Revision);

(2013 Revision) “government attorney” or “government attorney-at-law” means an attorney-at-law employed in the Government service in accordance with the Public Service Management Law (2013 Revision);

“judge” means -

- (a) a judge of the Grand Court appointed as such under section 106 of the Constitution or a person acting as such by virtue of section 97 of the Constitution; or
- (b) a judge of the Court of Appeal;

“law company” means a company recognised as a law company by the Council under section 55;

“law firm” has the meaning assigned to those words by section 3(3);

“Legal Advisory Council” means the Legal Advisory Council as continued in existence by section 78;

“legal practitioner” means a person who has either qualified locally or has a foreign qualification in accordance with section 33;

“manager” in respect of a law firm, means a managing partner or a managing director or a member of the law firm’s management committee or board of directors, as the case may be;

“membership levy” means a levy the Council requires a member of the Association to pay to the Association under section 19;

“partner” means a person who has entered into a partnership in accordance with the Partnership Law (2013 Revision); (2013 Revision)

“partnership” has the same meaning as that construed in accordance with section 3 of the Partnership Law (2013 Revision); (2013 Revision)

“practice Cayman Islands Law” has the meaning construed under section 24;

“professional conduct committee” or “committee” means the professional conduct committee appointed by the Council in accordance with section 94;

“publish”, in respect of information, means published in a manner that is likely to bring the information to the attention of those affected by the information;

“qualified law firm” has the meaning construed under section 3(1);

“rules” means rules made by the Council in accordance with this Law;

“Rules of Court” mean Rules of Court made under section 19 of the Grand Court Law (2015 Revision); (2015 Revision)

“serious professional misconduct” has the meaning assigned to those words in section 97(2);

“trainee attorney” means a person who is serving articles in accordance with section 82 or section 16(1) of the repealed Law;

“work permit” has the meaning given to that expression by the Immigration Law (2015 Revision).

(2) In this Law a reference to any other Law or to a particular Revision of any other Law means that Law or any Revision of that Law as for the time being in force after the commencement of this Law whether amended by any subsequent Law or by any subsequent Revision of it.

“Qualified law firm”,
“affiliate” and “law
firm” defined

3. (1) In this Law “qualified law firm” means a law firm that undertakes the practice of Cayman Islands law in the Islands and that includes at least one attorney-at-law who is a Caymanian and in which the voting control is held -

- (a) by one or more attorneys who are Caymanian; or
- (b) by -
 - (i) one or more attorneys who are legally and ordinarily resident in the Islands and who practise Cayman Islands law from within the Islands; and
 - (ii) one or more attorneys who are Caymanian.

(2) In this Law “affiliate”, in respect of a qualified law firm, means -

- (a) an office engaged in the practice of Cayman Islands law in another jurisdiction where it is trading under a name that is the same as, similar to, or a derivative of the name of the qualified law firm; or
- (b) an office engaged in the practice of Cayman Islands law in another jurisdiction that is held out as being associated with the qualified law firm,

and -

- (c) in which the voting control of the office is held -
 - (i) by one or more attorneys who are Caymanian; or
 - (ii) by -
 - (A) one or more attorneys who are legally and ordinarily resident in the Islands and who practise Cayman Islands law from within the Islands; and
 - (B) one or more attorneys who are Caymanian,
- (d) in which those attorneys listed in Subsection (2)(c) above may veto the appointment or promotion of an attorney at the office.

(3) In this Law “law firm” means any of the following -

- (a) an attorney practising Cayman Islands law as a sole practitioner;
- (b) attorneys practising Cayman Islands law as a partnership or a limited liability partnership;
- (c) a qualified law firm and any one or more of its affiliates; or
- (d) a law company.

(4) For the purpose of this Law a person is legally and ordinarily resident in the Islands -

- (a) if the Islands are the person's principal place of residence;
- (b) if, other than as a tourist visitor or transit passenger, the person has the right to remain in the Islands for a period of time without legal impediment and to engage in employment in the Islands as an attorney; and
- (c) if, barring absences necessitated for medical treatment, the person is or will be physically present in the Islands for at least 183 days in any calendar year.

(5) For the purpose of this Law "voting control", in respect of a qualified law firm or office, means holding directly or indirectly or through an intermediary entity a majority of the voting interests in the firm or office.

(6) In this section "office", means, as the case may be, a branch of a qualified law firm or a separate legal entity.

PART 2 - THE CAYMAN ISLANDS LEGAL PRACTITIONERS ASSOCIATION

4. (1) There is established an association called the Cayman Islands Legal Practitioners Association which shall have the responsibilities, functions, powers and duties conferred or imposed upon it by this Law and any other Law and which shall be a body corporate having perpetual succession and which may enter into contracts and sue and be sued in its corporate name.

The Cayman Islands
Legal Practitioners
Association

(2) The Cayman Islands Legal Practitioners Association, subject to the provisions of this Law, shall have power to buy, sell, hold, deal and otherwise acquire and dispose of land and other property of any kind and to do all things necessary or desirable for the purposes of its responsibilities, functions, powers and duties.

5. All attorneys-at-law are members of the Association but if an attorney-at-law is appointed to hold or to act in the office of judge, Registrar of the Court or magistrate, then the membership of the Association of that attorney-at-law is considered to be suspended for the period of time that the attorney-at-law is holding or acting in that office.

Members of the
Association

6. (1) The property and assets of the Association are liable for the debts and obligations of the Association but the liability of each attorney-at-law for the debts or other legal obligations of the Association is limited to the amount owed by the attorney-at-law to the Association by way of membership levy or penalty.

Liabilities of the
Association

(2) Subsection (1) does not apply to a debt or legal obligation of the Association for which an attorney-at-law has expressly agreed to become responsible either alone or in conjunction with others.

Annual meeting of the Association

7. (1) The Council shall summon a meeting of the Association annually and the meeting shall be held in accordance with the rules of the Association.

(2) At a meeting summoned in accordance with subsection (1) the Association shall -

- (a) receive a report from the President on the business of the Council for the year preceding the year in which the meeting is held;
- (b) consider the audited financial statements of the Association;
- (c) elect a Council for the Association for the ensuing year; and
- (d) appoint an auditor of the books of the Association for the ensuing year,

and may transact any other business that might properly be brought before the meeting.

(3) At a meeting summoned under subsection (1) the number of members representing 25% of the membership of the Association, whether present in attendance in person or present by proxy, shall constitute a quorum.

(4) If within 30 minutes of the time notified for the commencement of a meeting summoned under subsection (1) a quorum is not present the person presiding over the meeting shall adjourn the meeting for one week and if when the meeting is reconvened, within 30 minutes of the time notified for the commencement of the reconvened meeting there is no quorum present, then the members present shall constitute the quorum.

Special meetings

8. (1) A special meeting of the Association shall be convened upon the request of -

- (a) the President;
- (b) two members of the Council; or
- (c) ten members of the Association.

(2) A request under subsection (1) shall be made in writing and addressed to the Secretary of the Association and shall specify the matter to be determined at the meeting.

(3) Upon receipt of a request made pursuant to this section, the Secretary of the Association shall convene a meeting in accordance with the rules.

9. (1) At a meeting of the Association the President or, if the President is absent or unable to preside, the Vice-President shall preside over the meeting. Presiding at meetings of the Association
- (2) If at a meeting of the Association both the President and the Vice-President are absent or unable to preside, the members present at the meeting shall elect one of members present at the meeting to preside over the meeting.
10. (1) The Secretary of the Association shall conduct an election under section 7(2)(c). Duties of the Secretary with respect to the Association
- (2) The Secretary of the Association shall -
- (a) keep minutes of each meeting of the Association; and
 - (b) make the minutes of the meetings of the Association available to members of the Association after the minutes have been signed by the person who presided over the meeting.

PART 3 - THE COUNCIL OF THE ASSOCIATION

The Council

11. (1) There shall be a Council of the Association called the Council of the Cayman Islands Legal Practitioners Association which shall consist of eight members who shall be attorneys-at-law with the qualifications specified in the rules. Council of the Association
- (2) The members of the Council shall be elected in accordance with section 7(2)(c).
- (3) Further to subsections (1) and (2) -
- (a) for an attorney-at-law to be a member of the Council the attorney shall be ordinarily resident in the Islands and practicing Cayman Islands law in the Islands;
 - (b) at least two members of the Council shall be attorneys practicing Cayman Islands law in law firms with fewer than 10 attorneys;
 - (c) no more than two members of the Council may be practicing Cayman Islands law with the same law firm; and
 - (d) at least five members of the Council shall be Caymanian of whom at least three shall have qualified locally.
- (4) One member of the Council shall be elected to be the President of the Association, another to be its Vice-President, another to be its Treasurer, and another to be its Secretary.

(5) A member of the Council ceases to hold office immediately before an election of members of the Council but is eligible for re-election.

(6) For the purpose of subsection (3)(d) an attorney qualified locally if the attorney qualified as an attorney in accordance with section (3)(1)(c) of the Legal Practitioners Law (2015 Revision) or section 33(2) of this Law.

Election of members of
the Council

12. (1) The members of the Council shall be elected by ballot held in the manner determined by the rules.

(2) If a vacancy occurs in the office of President, Vice-President, Treasurer or Secretary the members of the Council shall appoint one of the members of the Council to the office.

(3) If a vacancy of another member of the Council occurs the other members of the Council may appoint any attorney-at-law to fill the vacancy.

(4) Notwithstanding the foregoing, if by virtue of section 11(3) the member who caused the vacancy had a specified qualification the attorney appointed by the other members of the Council is required to have the same qualification.

(5) The President may appoint another attorney to be a temporary member of the Council during the consideration of a matter if -

- (a) by virtue of section 17(1) a member of the Council is disqualified for the consideration of a matter before the Council; and
- (b) as a result the other members do not constitute a quorum.

(6) Further to subsection (5) if by virtue of subsection 11(3) the member who was disqualified had a specified qualification the attorney appointed by the President is required to have the same qualification.

General responsibilities
of Council

13. (1) It is the function of the Council to manage the Association's affairs.

(2) In particular, the Council shall, on behalf of the Association -

- (a) support and protect the character, status and interests of the legal profession;
- (b) support the judiciary in upholding the rule of law and the administration of justice;
- (c) maintain and protect the independence of the legal profession and the defence of the profession in its relations with the executive of the Cayman Islands Government and the judiciary;

- (d) encourage legal education, and the promotion of the study of jurisprudence;
- (e) promote the qualification, training and development of Caymanians as attorneys-at-law;
- (f) determine questions relating to etiquette and the professional conduct of attorneys and the conduct of law companies;
- (g) support public rights of access to the courts and the right of representation by attorneys before courts and tribunals;
- (h) encourage improvements in the administration of justice;
- (i) encourage the provision of law reports;
- (j) encourage and support law reform; and
- (k) further good relations between members of the Association and lawyers of other jurisdictions and between the Association and other similar associations in other jurisdictions.

(3) The Council shall manage such other matters of professional concern to attorneys as the Association may determine.

14. (1) At a meeting of the Council the President or, if the President is absent or unable to preside, the Vice-President shall preside. Meetings of the Council

(2) If at a meeting of the Council both the President and the Vice president are absent or unable to preside, the members present shall elect one of the members present to preside.

(3) The Secretary shall conduct an election under subsection (2).

(4) At a meeting of the Council, matters before the Council shall be determined by a majority of the votes of the members present and voting with the person presiding having an additional determining vote if the votes are equal.

(5) The Secretary shall -

- (a) keep minutes of each meeting of the Council; and
- (b) make the minutes of the meeting available to the members of the Association after the minutes have been signed by the person who presided over the meeting.

15. (1) The quorum for a meeting of the Council is one half of its number of members at the time of the meeting. Quorum of the Council

(2) For the purposes of subsection (1) “members” includes an attorney for the time being appointed to be a member of the Council in accordance with section 12(5).

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|-------------------------------------|---|
| Immunity | <p>16. The Association, its officers, employees, agents or representatives, members of the Council, of the professional conduct committee, of any disciplinary tribunal or of any other committee of the Association shall not have any liability of whatsoever nature and howsoever arising, whether directly or indirectly, out of anything done or omitted to be done in the discharge or purported discharge of their powers, duties or functions under this Law unless the act or omission was in bad faith.</p> |
| Council member to disclose interest | <p>17. (1) If a member of the Council has a pecuniary or other interest in a matter to be dealt with by the Council, the member shall disclose the fact to the other members of the Council and shall not vote on the matter.</p> <p>(2) The Secretary shall record a disclosure under subsection (1) in the minutes of the meeting of the Council.</p> |
| Council to keep accounts | <p>18. The Council shall keep proper accounts of the receipts, payments, credits and liabilities of the Association.</p> |
| Membership levy | <p>19. (1) The Council may from time to time require each member of the Association to contribute by way of a compulsory membership levy to the financial resources required by the Council to manage the affairs of the Association.</p> <p>(2) The Council may provide that different categories of attorneys-at-law are liable to pay different levels of membership levies including, but not limited to, those relating to immigration status and jurisdiction of residence.</p> <p>(3) The Council shall make rules prescribing the time within which and the manner in which membership levies are payable.</p> <p>(4) An unpaid membership levy is a debt due to the Association and may be sued for by the Council on behalf of the Association.</p> |
| Council may appoint committees | <p>20. The Council may appoint committees to carry out any of its functions on its behalf and in its name.</p> |
| Council may make rules - general | <p>21. (1) The Council may make rules -</p> <ul style="list-style-type: none">(a) prescribing any matter which under this Law is required or permitted to be prescribed by rules; and(b) generally for the better carrying out by the Council of its functions under this Law and for the direction, government and control of the Association and its members. |

- (2) Rules made by the Council may -
- (a) exempt a person specified in the rules from compliance with them;
 - (b) impose conditions of the exemption; and
 - (c) provide for the enforcement of those conditions.
22. Except as is otherwise provided by this Law, the Council may determine its own rules of procedure. Rules of procedure of the Council
23. (1) The Council may make rules requiring law firms - Council may make rules - financial
- (a) to open bank accounts for clients' money; and
 - (b) to keep accounts containing particulars and information as to moneys received, held or paid both for or on account of their clients.
- (2) The Council may make rules prescribing -
- (a) the manner in which a law firm shall deal with money held by the law firm in a fiduciary capacity;
 - (b) the books of accounts that shall be kept by a law firm in respect of money held by the law firm in a fiduciary capacity; and
 - (c) how any such accounts shall be audited.
- (3) The Council may make rules that enable the Council to take such action as may be necessary to enable the Council to ascertain if rules made under this section are being complied with.

PART 4 - THE PRACTICE OF CAYMAN ISLANDS LAW

General

24. (1) Except as provided by this Part, a person shall not practise Cayman Islands law in the Islands or in any other jurisdiction and a person who contravenes this subsection commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars or to imprisonment for a term of 2 years or to both. Restriction on the practice of Cayman Islands law
- (2) For the purposes of subsection (1), a person practises Cayman Islands law if, for or in expectation of gain or reward, the person -
- (a) gives legal advice in respect of Cayman Islands law;
 - (b) appears on behalf of a person in a court, tribunal or inquiry in the Cayman Islands; or

- (c) prepares an instrument governed by Cayman Islands law that relates to real, personal or intangible property or legal proceedings.

(3) A person practises Cayman Islands law if the person holds the person or, being a company, the company out as qualified to undertake a function mentioned in subsection (2) for gain or reward.

(4) Notwithstanding the foregoing, a person who is not an attorney or a law company is not to be taken as practicing Cayman Islands law for the purposes of subsection (1) if the person -

- (a) in a matter of a legal nature, acts on the person's own behalf or on behalf of an entity, whether or not incorporated, in which the person has an interest or by which, in the case of an individual, the person is employed;
- (b) as a public officer, prepares a document or instrument in the course of the person's duties;
- (c) as an employee, prepares a document or instrument in the course of the person's employment, other than an employee of a law firm entitled to practice a foreign law who holds a current practicing certificate issued in another jurisdiction;
- (d) prepares a memorandum or articles of association of a company;
- (e) as a director or owner of a company, acts on behalf of the company whether in relation to a document, an instrument, a proceeding or otherwise if permitted by law to do so;
- (f) prepares a will that does not contain trust provisions;
- (g) prepares a document relating to the sale, purchase or lease of land or premises if no mortgage, charge or other form of security interest over land is involved;
- (h) prepares a legally prescribed form or document;
- (i) prepares a letter or power of attorney;
- (j) acts in the transfer of shares containing no trust or limitation;
- (k) as a person licensed under a regulatory law, as defined in the Monetary Authority Law (2013 Revision), carries out a licensed activity; or
- (l) is an arbitrator or counsel brought into the Islands by an attorney-at-law to act in arbitration under the Arbitration Law, 2012 (Law 3 of 2012).

(Law 3 of 2012)

(5) Cabinet, in consultation with the Council, may by order amend this section.

Attorneys-at-law may
practise Cayman Islands
law

25. An attorney-at-law who holds a practicing certificate that permits the attorney-at-law to practise Cayman Islands law may practise Cayman Islands law

in the Islands and subject to compliance with this Law, in any other jurisdiction subject also to compliance with the law of that jurisdiction.

26. A law company may practise Cayman Islands law in the Islands and subject to compliance with this Law, in any other jurisdiction subject also to compliance with the law of that jurisdiction.

Law company may practise Cayman Islands law

Exemptions

27. Nothing in this Part affects a function of -

Attorney General saving

- (a) the Attorney General;
- (b) a person holding public office in the Attorney General's Chambers; or
- (c) an attorney-at-law or equivalent admitted as such in any other jurisdiction and instructed by or on behalf of the Attorney General in legal proceedings.

28. Nothing in this Part affects a function of -

Director of Public Prosecutions saving

- (a) the Director of Public Prosecutions;
- (b) a person holding public office in the Office of the Director of Public Prosecutions; or
- (c) an attorney-at-law or equivalent admitted as such in any other jurisdiction and instructed by or on behalf of the Director of Public Prosecutions in legal proceedings.

29. Nothing in this Part affects any ability a person, whether or not an attorney-at-law, may have under any other Law to practise Cayman Islands law.

Statutory authority to practise law

PART 5 - ADMISSION AS AN ATTORNEY-AT-LAW

30. (1) A judge may, on an application made in accordance with this Law, admit a person as an attorney-at-law.

Admission

(2) Notwithstanding the foregoing, the judge under subsection (1) may not admit a person as an attorney-at-law unless the judge is satisfied that the person -

- (a) has a personal qualification for admission set out in section 31;
- (b) has the additional personal qualifications set out in section 32;
- (c) has obtained a professional qualification set out in section 33;
- (d) has any additional post foreign qualification experience required by section 34; and
- (e) is otherwise a fit and proper person to be an attorney-at-law.

31. (1) To be admitted as an attorney-at-law a person shall -

Personal qualification required for admission

- (a) be a Caymanian;
- (b) hold a current work permit or a Residency and Employment Rights Certificate or otherwise be entitled under the Immigration Law (2015 Revision) to reside and work in the Islands as an attorney in the capacity in which the person is or is to be employed;
- (c) be employed by the Government; or
- (d) be ordinarily resident in another jurisdiction and be a partner, director, member or an associate or employee of a qualified law firm or an affiliate of a qualified law firm.

(2015 Revision) (2) For the purposes of this section “Residency and Employment Rights Certificate” means a certificate issued under sections 30 and 31 of the Immigration Law (2015 Revision).

Additional personal qualifications

32. To be admitted as an attorney-at-law a person shall satisfy a judge that the person -

- (a) is not an undischarged bankrupt;
- (b) has not engaged in conduct that would constitute an act of serious professional misconduct under this Law; and
- (c) is not disbarred for professional misconduct from practicing law in any other jurisdiction.

Professional qualification required for admission

33. (1) To be admitted as an attorney-at-law a person shall satisfy a judge that the person -

- (a) is qualified locally as specified in subsection (2); or
- (b) has a foreign qualification as specified in subsection (3).

(2) A person is qualified locally if the person -

- (a) has obtained the educational qualifications in the study of law; and
- (b) has undertaken the period of articles under the tutelage of an attorney,

as prescribed by regulations made by the Cabinet following consultation with the Council.

(3) A person has a foreign qualification if the person -

- (a) is enrolled as a solicitor in England and Wales or Northern Ireland;
- (b) has successfully completed the Bar Vocational Course or a qualification considered equivalent to that course by the Bar

- Council of England and Wales and, in either case, has served twelve months pupillage in England, Wales or Northern Ireland;
- (c) is a member of the Faculty of Advocates of Scotland or a writer to the Signet of Scotland, a Law Agent or solicitor admitted to practise in Scotland;
 - (d) is an attorney-at-law of the Supreme Court of Jamaica;
 - (e) is entitled to practise law in any court of a jurisdiction prescribed by Cabinet by order made following a recommendation of the Council, being a jurisdiction that has admission qualifications comparable to those mentioned in subsection (2).

34. (1) A person seeking to be admitted by virtue of a foreign qualification shall -

Post foreign
qualification experience
requirement

- (a) before 1st January, 2019 have had at least three years post qualification experience; and
- (b) after 1st January, 2019 have had at least four years post qualification experience,

in the practice of law as a person with a foreign qualification recognised under section 33(3).

(2) In addition the person under subsection (1) shall be in good standing on a register or its equivalent maintained by a court or other relevant body of the relevant jurisdiction for the purpose of section 33(3) that contains the name of each person entitled to practise law in that jurisdiction.

(3) Further to the foregoing, the person under subsection (1)(b) shall -

- (a) have passed a Cayman Islands Law examination set by the Legal Advisory Council; and
- (b) have worked for not less than four months (or such longer period as may be determined by the Council) as a probationary attorney under the supervision of an attorney-at-law who has been in continuous practice as a legal practitioner for a period of at least five years (at least three of which have been as an attorney-at-law).

(4) The Council may designate a person to be a probationary attorney on an application made to the Council by the law firm or affiliate by whom the person is employed accompanied by -

- (a) a statement by the law firm or affiliate that the person meets the requirements for admission set out in this Part other than subsection (3); and
- (b) any administration fee prescribed by the Council.

(5) A probationary attorney shall not be taken as practicing Cayman Islands law if, as a probationary attorney, the probationary attorney acts as the agent for the law firm or affiliate by whom the probationary attorney is employed -

- (a) in the drawing and preparation of instruments relating either to real or personal property, or on which to found or oppose a grant of probate or letters of administration or a resealing thereof;
- (b) in the taking of instructions from clients;
- (c) in the giving of instructions to counsel;
- (d) in the preparation of such documents relating to legal proceedings as are to be prepared by the law firm or affiliate; or
- (e) in giving advice on Cayman Islands law under the supervision of an attorney.

(6) Subsection (1) shall not apply if the person is a Caymanian.

Application for admission

35. (1) A person may apply for admission to practise as an attorney-at-law by application to the Court made in accordance with Rules of Court.

(2) An application under subsection (1) shall be filed in the Court Office together with -

- (a) an affidavit that sets out the facts by virtue of which the person claims to be qualified to be admitted;
- (b) the documentary evidence set out in subsection (3); and
- (c) any fee prescribed by Rules of Court.

(3) The documentary evidence referred to in subsection (2) evidence is evidence as to -

- (a) the person's personal qualification for admission as set out in section 31;
- (b) the person's additional personal qualifications as set out in section 32; and
- (c) the person's professional qualification as set out in section 33,

and, in addition, if the person is applying by virtue of a foreign qualification to which section 33(3) applies, evidence as to -

- (d) the person's professional good standing in the jurisdiction in which the application obtained the foreign qualification; and
- (e) the person's possession of any additional post foreign qualification and experience as required by section 34.

36. (1) An application may be made to a judge for authorisation to permit a person to come to the Islands to carry out the functions of an attorney-at-law in a specified suit or matter.

Application for authorisation to practise in a specified suit or matter

(2) The judge may permit the person to carry out the functions of an attorney for the purpose of that specified suit or matter but for no other purpose.

(3) When carrying out the functions of an attorney for the purpose of the specified suit or matter the person is to be taken for the purposes of this Law to be an attorney with a practising certificate that permits the person to carry out the functions of an attorney for the purpose of the specified suit or matter but for no other purpose.

(4) An application under this section may be made by an attorney who shall satisfy a judge -

- (a) that the attorney has instructed the person to appear, to act or to advise in the specified suit or matter; and
- (b) that the person has the qualifications in law required to appear, to act or to advise in the specified suit or matter.

(5) An application may also be made under this section by a person in relation to whom a legal aid certificate has been granted under section 3 of the Legal Aid Law (1999 Revision), if the Clerk of Court has certified that it is not possible to assign the services of an attorney to the person.

(6) The Clerk of Court shall not make a certification under subsection (5) unless the Clerk is satisfied -

- (a) that reasonable effort has been made to obtain the services of an attorney; and
- (b) that there is no attorney who is willing and able to advise or represent the person pursuant to a legal aid certificate.

(7) Notwithstanding subsection (3) , the person is not by virtue of that subsection a member of the Association.

PART 6 - ATTORNEYS-AT-LAW

37. An attorney-at-law is an officer of the Court and, as such, an attorney has the right of audience in all courts and tribunals.

Status of attorneys-at-law

38. (1) An attorney-at-law and a law company shall observe high standards of professional ethics and conduct.

High standards of professional ethics and conduct to be observed

(2) An attorney or a law company shall comply with an obligation imposed on the attorney or law company by or by virtue of this Law.

(3) A failure to comply with subsection (2) amounts to professional misconduct and accordingly may be the subject of disciplinary proceedings.

(4) An attorney or a law company shall observe the “Code of professional conduct for attorneys and law companies” set out in Part 1 of Schedule 2 and a law firm shall observe the “Law firms best practice guidelines” set out in Part 2 of Schedule 2.

(5) Notwithstanding subsection (2), a failure to comply with subsection (4) does not amount to professional misconduct, but any such failure may in disciplinary proceedings in relation to the attorney or a law company be relied upon as evidence to establish professional misconduct by the attorney or company.

(6) Schedule 2 may be amended by an Order made by the Cabinet.

Clerk of Court shall keep a Roll of attorneys-at-law

39. (1) The Clerk of Court shall keep a register which shall be known as the Court Roll.

(2) The Clerk shall enter on the Roll the name of each person admitted for the time being to practise as an attorney-at-law.

(3) The Court Roll shall show in respect of each person admitted -

- (a) the person’s full name;
- (b) whether the person is or is not a Caymanian;
- (c) the date the person was first admitted to practise Cayman Islands law.

Court roll to be open for inspection

40. (1) The Clerk of Court shall keep the Court Roll and documents relating to it at the Court.

(2) If the offices of the Court are open, the Clerk shall permit a person seeking to so inspect the Court Roll to inspect the Roll free of charge.

Certificate of Enrolment

41. (1) Upon the name of a person being entered in the Court Roll the Clerk of the Court shall grant a Certificate of Enrolment to the person.

(2) The Certificate is to be granted under the seal of the Court and shall be signed by the Clerk.

(3) The production of the Certificate is evidence that the person named in the Certificate is enrolled as an attorney-at-law.

(4) The Certificate is admissible in evidence without further proof of its sealing and signing.

42. (1) This section applies if there is an alteration in the details registered in the Court Roll in respect of an attorney-at-law. Alteration in enrolment details

(2) The attorney shall, within thirty days of the alteration, notify the Clerk of the Court giving details of the alteration.

(3) The Clerk shall amend the Roll as appropriate.

43. (1) An attorney-at-law may apply to the Clerk of the Court to have the attorney's name removed from the Court Roll. Voluntary removal of name from Court Roll

(2) The Clerk may remove the name of the attorney from the Roll.

(3) Rules of Court may prescribe the form and manner of an application under subsection (1).

44. (1) This section applies where the name of an attorney-at-law appears on the Court Roll but the attorney has ceased to hold a practising certificate. Removal of name from Court Roll for non-practice

(2) The Clerk of the Court shall within one year of an attorney ceasing to hold a practising certificate send a notice to the attorney.

(3) The notice shall inform the attorney that unless the attorney -

- (a) applies for a practising certificate; or
- (b) if the attorney is a Caymanian, applies to keep the attorney's name on the Roll,

the Clerk will remove the name of the attorney from the Roll three months after the service of the notice.

(4) The Clerk shall, as soon as practicable, publish the name of any attorney whose name has been removed from the Roll pursuant to this section.

45. (1) This section applies if an attorney-at-law who is a Caymanian does not wish to practise Cayman Islands law but wishes to keep the attorney's name on the Court Roll. Keeping name on Court Roll

(2) The attorney may apply, before 31st January in each year, to the Clerk of the Court to keep the attorney's name on the Roll.

(3) The application shall -

- (a) be made on a form approved for the purpose by the Clerk;
- (b) be accompanied by any fee prescribed by the Cabinet; and
- (c) be accompanied by evidence that the attorney does not owe any membership levy or penalty to the Association.

(4) The application form approved by the Clerk shall require the attorney to -

- (a) specify the attorney's current residential address;
- (b) specify any jurisdiction, other than the Islands, in which the attorney is admitted to practise law; and
- (c) state whether or not the attorney is or has been the subject of a disciplinary complaint or action that could cause or did cause the attorney's name to be struck off the roll of a jurisdiction in which the attorney is or was admitted.

(5) An attorney shall not knowingly or recklessly include in an application form a false or misleading particular and an attorney who acts in contravention of this subsection commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars.

(6) If the Clerk of the Court refuses to keep the name of the attorney on the Roll, the attorney may, within thirty days of the refusal, appeal to the Court against the refusal on the grounds that the refusal was unreasonable having regard to all the circumstances.

Qualified law firm -
obligation to give notice

46. (1) This section applies if a qualified law firm or an affiliate of a qualified law firm ceases to employ in another jurisdiction an attorney-at-law who is not a Caymanian.

(2) Within sixty days -

- (a) the law firm shall, by written notice, inform the Clerk of the Court of the name of the attorney; and
- (b) the attorney may, by written notice, apply to the Clerk to have the attorney's name kept on the Court Roll stating the reason, consistent with this Law, why the attorney's name should remain on the Roll.

(3) After receipt of the notice from the firm and any notice from the attorney, the Clerk shall remove the name of the attorney from the Roll unless the

attorney has satisfied the Clerk that there are adequate reasons consistent with this Law for not removing the name of the attorney from the Roll.

(4) If the Clerk removes the name of an attorney from the Roll pursuant to this section, the Clerk shall as soon as practicable publish a notice stating that the name of the attorney has been removed from the Roll pursuant to this section.

(5) The managers of a qualified law firm shall ensure that the law firm complies with this section.

47. An attorney-at-law may administer oaths.

Attorney-at-law may administer oaths

48. (1) An attorney-at-law or law company may sue for fees and costs in respect of services rendered by the attorney or law firm as an attorney or law firm.

Attorney-at-law and law company may sue for costs

(2) Notwithstanding subsection (1) -

- (a) an attorney may not sue for fees and costs except in respect of services rendered by the attorney when the attorney held a practising certificate that authorised the attorney to render the service; and
- (b) a law company may not sue for fees and costs except in respect of services rendered by the law company when the law company was pursuant to this Law, a law company.

PART 7 - PRACTISING CERTIFICATES

49. (1) An attorney-at-law shall not practise Cayman Islands law, whether in the Islands or in another jurisdiction, if the attorney does not have a practising certificate that authorises the attorney to practise Cayman Islands law.

Attorney-at-law shall have a practising certificate to practise

(2) A Government attorney is deemed to be the holder of a practising certificate authorising the attorney to practise Cayman Islands law on behalf of the government.

(3) A certificate signed by the Attorney General to the effect that a particular person is a Government attorney is evidence of that fact.

50. (1) A practising certificate may be obtained -

Application for practising certificate

- (a) in the case of an attorney-at-law who intends to practise Cayman Islands law within the Islands, by the law firm in which the attorney intends to practice applying to the Clerk of the Court for the certificate; or

- (b) in the case of an attorney who intends to practise Cayman Islands law in another jurisdiction, by the qualified law firm in which or in whose affiliate the attorney intends to practice applying to the Clerk for the certificate.
- (2) An application under subsection (1) shall -
 - (a) be made on a form approved for the purpose by the Clerk; and
 - (b) be accompanied by the fee prescribed by the Cabinet.
- (3) The application form approved by the Clerk shall require an attorney to -
 - (a) state whether the attorney intends to practise Cayman Islands law in the Islands or in another jurisdiction;
 - (b) specify the attorney's current residential address and business address;
 - (c) specify any jurisdiction, other than the Islands, in which the attorney is admitted to practise law; and
 - (d) state whether or not the attorney is or has been the subject of a disciplinary complaint or action that could cause or did cause the attorney's name to be struck off the roll of a jurisdiction in which the attorney is or was admitted.
- (4) An attorney or a law firm shall not knowingly or recklessly include in an application form a false or misleading particular and an attorney or a law firm that acts in contravention of this subsection commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars.
- (5) An application under this section shall be accompanied by evidence that the attorney does not owe any membership levy or penalty to the Association.
- (6) An application under this section not accompanied by the evidence referred to in subsection (5) is of no effect.

Issue of practising certificate

51. (1) The Clerk of the Court shall, on an application made in accordance with section 50, issue a practising certificate to or in respect of an attorney-at-law unless, at the time of the application, the attorney was suspended from practice.

(2) Notwithstanding subsection (1) if in an application for a practising certificate, it is stated that an attorney has been the subject of a disciplinary complaint or action that could cause or did cause the attorney's name to be struck off the roll of a jurisdiction in which the attorney is or was admitted, the Clerk may not issue a practising certificate to the attorney except pursuant to an Order of the Court.

(3) A practising certificate shall be in a form approved by the Clerk.

(4) A practising certificate is valid from the date of its issue and expires on 31st January of the ensuing year unless before that date the practising certificate becomes void.

52. A practising certificate issued to an attorney-at-law becomes void -

When a practising certificate becomes void

- (a) on the name of the attorney being removed from the Court Roll;
- (b) on the attorney being suspended from practice;
- (c) on the attorney being adjudicated bankrupt; or
- (d) when in accordance with section 46 a law firm in another jurisdiction informs the Clerk of the Court that an attorney, other than a Caymanian, who was practising with the law firm, has ceased to be so practising.

53. (1) The Clerk of the Court shall publish -

Details of practising certificates to be published

- (a) during February in each year, an alphabetical list of attorneys-at-law who have at the previous 31st January obtained a practising certificate; and
- (b) thereafter, at 3 monthly intervals during the year, the name of any attorney who subsequently obtains a practising certificate during that year.

(2) As soon as practicable after the Clerk becomes aware that a practising certificate has become void, the Clerk shall publish the name of the attorney-at-law who held the certificate and the fact that attorney's practicing certificate has become void.

PART 8 - LAW COMPANIES

54. (1) An application by a company for recognition as a law company shall be made on a form approved for the purpose by the Council.

Applications for recognition

(2) An application under subsection (1) shall be accompanied by -

- (a) the fee prescribed by the Council; and
- (b) evidence sufficient to show that the company complies with the requirements of section 58.

55. The Council may recognise a company as a law company if the Council -

Recognition by the Council

- (a) is satisfied that the company complies with section 58; and
- (b) is otherwise satisfied that it is a suitable body to practise Cayman Islands law.

Council to issue certificate of recognition

56. (1) If the Council recognises a company as a law company, the Council shall issue a certificate of recognition to the company.

(2) A certificate of recognition shall be in a form approved by the Council and shall specify the name of the law company and its registered office.

(3) The Council shall also publish a notice stating that the company has been recognised as a law company and its name.

Appeal against refusal of recognition

57. If the Council refuses to recognise a company as a law company, the company may, within 30 days of the refusal, appeal to the Court against the refusal on the grounds that the refusal was unreasonable having regard to all the circumstances.

Requirements to be recognised as a law company
(2013 Revision)

58. (1) To be recognised as a law company -

- (a) a company is required to be registered in the Islands under the Companies Law (2013 Revision) as a company limited by shares; and
- (b) all the directors, managers and members of the company are required to be attorneys-at-law or law companies.

(2) For the purposes of this section, the secretary of a law company is not a manager of the law company.

(3) If an attorney holds a share in a law company on behalf of another person the attorney is not an attorney for the purposes of this section unless the share is held on behalf of another attorney or a law company.

(4) A law company may be registered as a company limited by shares divided into two or more classes, and, in respect of at least one such class of shares, the company may, in its memorandum of association, provide a declaration that, in a winding up of the company, the liability of members holding the shares of that class will be unlimited.

Changes to be notified

59. (1) A law company shall notify the Council of any change in its directors, managers or members.

(2) The notification shall be given within 60 days of the change.

Death, etc. of member

60. (1) This section applies if a member of a law company —

- (a) dies; or
- (b) ceases to be an attorney-at-law or a law company.

(2) The law company shall ensure that, within 12 months, shares registered in the member's name are registered in the name of an attorney-at-law or that of a law company.

(3) If the company fails to comply with subsection (2) it ceases to be a law company.

61. (1) A law company shall not carry on any business other than the practice of Cayman Islands law.

Law company may only practise Cayman Islands law

(2) Despite subsection (1) a law company may, with the approval of the Council, carry on a business associated with its practise of Cayman Islands law.

62. (1) A law company may carry on business under a name that does not include the word "Limited", or the abbreviation "Ltd."

Name of a law company

(2) A law company may carry on business under a name that ends in the words "Law Company".

(3) Unless a contrary intention appears, this section applies despite any provision to the contrary in any other legislation whether enacted before or after this section came into force.

63. A law company ceases to be a law company if a winding up order under the Companies Law (2013 Revision) is made in respect of it.

Law company wound up

64. (1) A law company shall insure -

Law company shall insure

- (a) with an insurer licensed under the Insurance Law, 2010 to carry on insurance business; or
- (b) with an insurer approved by the Council.

(2) The insurance shall provide a minimum aggregate cover of \$1,000,000 and a minimum cover of \$500,000 for each and every claim.

(3) The losses against which a law company shall insure are all losses arising from claims in respect of civil liability incurred by it or by an attorney-at-law acting on its behalf -

- (a) in the practice of Cayman Islands law; and
- (b) in carrying on any associated business permitted under section 61(2).

(4) A law company shall each year obtain a certificate of insurance from its insurer that specifies the amount of insurance cover provided to the law company.

(5) The Council may by written notice to a law company require it to submit to the Council a copy of the company's current certificate of insurance.

(6) The law company shall comply with the request within 30 days.

(7) The Council may make rules amending an amount specified in subsection (2).

Company ceasing to be a law company and continuing to practise

65. (1) This section applies if a company ceases to be a law company but continues to practise Cayman Islands law.

(2) In addition to the company being guilty of an offence under section 24(1) each director, manager or member of the company who is an attorney-at-law is guilty of professional misconduct.

(3) As soon as practicable after the Council becomes aware that a company has ceased to be a law company, the Council shall publish the name of the company and the fact that it has ceased to be a law company.

Falsely claiming to be a law company

66. (1) A company shall not describe itself as a law company or hold itself out as a law company unless it is a law company and a company that acts in contravention of this section commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars.

PART 9 - LAW FIRMS

Practice of Cayman Islands law by attorney-at-law in another jurisdiction

67. An attorney-at-law shall not practise Cayman Islands law in another jurisdiction otherwise than with a qualified law firm or with an affiliate of a qualified law firm.

Limits in respect of qualified law firms

68. (1) Except with the approval of the Council, a qualified law firm shall not permit non-Caymanian attorneys to practise Cayman Islands law in another jurisdiction with the qualified law firm or an affiliate of the qualified law firm if A exceeds B plus C plus D where -

A equals the number of non-Caymanian attorneys who practise Cayman Islands law in another jurisdiction with the qualified law firm and any affiliates of the qualified law firm;

- B equals the number of Caymanian attorneys who practise Cayman Islands law with the qualified law firm and any affiliates of the qualified law firm;
- C equals the number of non-Caymanian attorneys who practise Cayman Islands law with the qualified law firm and any affiliates in the Islands; and
- D equals the number of trainee attorneys employed by the qualified law firm and any affiliates of the qualified law firm.

(2) The Council -

- (a) shall not give approval under subsection (1) unless the Council is satisfied that there is an exceptional reason for doing so; and
- (b) if the Council does so, the Council shall publish details of the approval within two weeks of giving it.

(3) The managers of a qualified law firm shall ensure that the law firm complies with this section.

69. (1) A qualified law firm shall file a certificate with the Council by 31 January of each year.

Qualified law firms to
file certificate

(2) The certificate shall certify -

- (a) the number of non-Caymanian attorneys-at-law who at that time are practicing Cayman Islands law in another jurisdiction with the qualified law firm and any affiliates of the qualified law firm;
- (b) the number of Caymanian attorneys who at that time are practicing Cayman Islands law with the qualified law firm and any affiliates of the qualified law firm;
- (c) the number of attorneys who at that time are practicing Cayman Islands law with the qualified law firm and any affiliates of the qualified law firm in the Islands specifying, in particular, those who are Caymanian; and
- (d) the number of trainee attorneys employed by the qualified law firm and any affiliates of the qualified law firm.

(3) A qualified law firm shall file an amended certificate with the Council within sixty days of any change in the numbers mentioned in subsection (2).

(4) The managers of a qualified law firm shall ensure that -

- (a) the qualified law firm complies with each requirement of this section; and
- (b) a certificate filed in accordance with this section does not contain false or misleading information.

(5) If a certificate filed under this section shows a breach of section 68(1), following the recommendation of the Council, the Clerk may suspend the practising certificates of attorneys practising in the relevant affiliate who are non-Caymanian to the extent necessary to ensure compliance with that section.

(6) The Clerk shall -

- (a) consult the qualified law firm before taking any action under subsection (5); and
- (b) as soon as practicable after taking that action, advise the qualified law firm accordingly.

Annual operational
licences

70. (1) This section applies to each law firm whether practicing Cayman Islands law in the Islands or in another jurisdiction.

(2) A law firm shall have an annual operational licence to continue to practise Cayman Islands law.

(3) A law firm may apply to the Clerk of the Court for an annual operational licence on a form approved for the purpose by the Clerk accompanied by the fee prescribed by the Cabinet, being a fee calculated by reference to the number of attorneys-at-law in practice with the law firm subject to a maximum annual fee in respect of any one law firm of \$400,000.

(4) The form approved by the Clerk shall require the law firm to supply -

- (a) the law firm's name;
- (b) the address or addresses both in the Islands and in any other jurisdictions where the law firm or any affiliate of the law firm practises Cayman Islands law; and
- (c) the name of each of the attorneys-at-law in practice with the law firm or any affiliate of the law firm, whether in the Islands or in another jurisdiction, who hold practising certificates.

(5) An annual operational licence is valid from the date of issue and expires on 31 January of the next year.

(6) The managers of a law firm shall ensure that the law firm does not engage or attempt to engage in the practise of Cayman Islands law without being in possession of an annual operational licence.

(7) The Clerk of the Court shall, before each 31 March, publish in the Gazette a list of law firms with an annual operational licence as at that date.

(8) The fee prescribed by the Cabinet for the purpose of subsection (3) is not limited to and may exceed any administrative costs incurred in granting an annual operational licence to a law firm

71. The Local Companies (Control) Law (2015 Revision) does not apply to a law company.

Local Companies (Control) Law (2015 Revision) not to apply to law companies

72. (1) A law firm shall, on or before 31st January in each year, deliver to the Council a report certifying whether or not the law firm has, during the previous year, complied with each obligation imposed on the law firm by -

Compliance certificate

(a) this Law;

(b) the Misuse of Drugs Law (2014 Revision);

(2014 Revision)

(c) the Proceeds of Crime Law (2014 Revision); and

(2014 Revision)

(d) the Terrorism Law (2015 Revision),

(2015 Revision)

and has complied with any relevant supervisory or regulatory guidance applicable to the law firm.

(2) If the law firm has not, during the previous year, complied with any of the obligation mentioned in subsection (1), the report shall specify the obligation and the action (if any) the law firm has subsequently taken to ensure future compliance with the obligation.

(3) The managers of a law firm shall ensure that the law firm complies with subsection (1) and that the report the law firm delivers is complete and correct in all material respects.

(4) Subsection (1) may be amended by Cabinet by Order.

PART 10 – BUSINESS STAFFING PLANS

73. This Part applies to a law firm -

Application of Part

(a) that wishes to apply for a work permit for a person to work in the law firm in the Islands; or

(b) that wishes to apply for a practicing certificate for an attorney-at-law who practises or is to practise Cayman Islands law in another jurisdiction.

74. Every law firm to which this Part applies shall submit to the Business Staffing Board, a business staffing plan that complies with -

Law firm to have a business staffing plan to be compliant

(a) schedule 3 of the Immigration Regulations (2015 Revision);

(2015 Revision)

(b) this Part; and

(c) any rules made by the Council.

- Failure to have or to comply with a business staffing plan
75. (1) This section applies if a law firm -
- (a) applies for a work permit for a person to work in the law firm in the Islands; or
 - (b) applies for a practicing certificate for an attorney-at-law who practises or is to practise Cayman Islands law in another jurisdiction.
- (2) The managers of the law firm shall ensure -
- (a) that at the time the application is made the law firm has a business staffing plan that complies with this Part; and
 - (b) that the grant of any work permit or practicing certificate as a result of the application is in accordance with the business plan as in effect at that time.
- (3) Despite the fact that a failure to comply with subsection (2) may constitute professional misconduct by managers of the law firm and may result in a complaint being made under section 95, any such failure may also make the law firm liable to the penalties prescribed under the Immigration Law (2015 Revision).
- Purpose and content of business staffing plan
76. (1) The purpose of a business staffing plan that complies with this Part is to ensure that when recruiting staff a law firm accepts a commitment to provide opportunities to Caymanians.
- (2) A business staffing plan of a law firm shall make reasonable provision to give Caymanians access to the legal profession, including training and development, and subsequent equitable progression within the law firm.
- (3) A business staffing plan of a law firm shall contain details of how the law firm intends to comply with the provisions of Part 2 of Schedule 2.
- (4) The business staffing plan shall also contain a provision that, if an attorney who is not a Caymanian is proposed as a partner in a law firm but is denied a work permit to practise in that position, the law firm will not, for a period of two years from the date the application for the work permit was denied, apply for a practicing certificate that would allow the attorney to practise Cayman Islands law as a partner in an affiliate of the law firm.
- (5) The managers of a law firm shall ensure that -
- (a) an attorney who is not a Caymanian is not promoted or re-designated by the law firm; or
 - (b) the firm does not appoint as a partner a person who is not a Caymanian,

without having first provided to the Business Staffing Plan Board a declaration regarding the effect that the promotion, re-designation or appointment would have on the opportunity for advancement to that level of Caymanian attorneys within the law firm who may have the qualifications to advance to that level.

77. The Cabinet may make regulations carrying into effect the purposes and provisions of this Part.

Cabinet may make regulations

PART 11 - LOCAL EDUCATIONAL QUALIFICATIONS FOR ADMISSION

78. (1) The Legal Advisory Council established by the Legal Practitioners Law (2015 Revision) continues its existence under this Law; but the Legal Advisory Council shall consist of -

Legal Advisory Council (2015 Revision)

- (a) the Chief Justice;
- (b) the Attorney General or a legal practitioner in the public service nominated by the Attorney General;
- (c) two attorneys-at-law in private practice nominated by the Council, one of whom shall be a Caymanian; and
- (d) the Director of Legal Studies at the Truman Bodden Law School ("the Director").

(2) Any three members of the Legal Advisory Council entitled to vote at meetings of the Legal Advisory Council shall form a quorum of the Legal Advisory Council.

(3) The Legal Advisory Council may otherwise determine the Legal Advisory Council's own rules of procedure.

(4) The Director is not entitled to vote at meetings of the Legal Advisory Council but shall act as secretary to the Legal Advisory Council.

(5) The Cabinet may by Order -

- (a) change the number of members of the Legal Advisory Council;
- (b) determine the qualification required to be a member of the Legal Advisory Council;
- (c) determine if a member is or is not entitled to vote at meetings of the Legal Advisory Council; and
- (d) amend the number of members of the Legal Advisory Council required to form a quorum at meetings of the Legal Advisory Council.

Legal Advisory Council may make arrangements

79. (1) The Legal Advisory Council may make arrangements for the provision of a system of legal education and practical training leading to local qualification for enrolment as an attorney-at-law.

(2) The Cabinet may make regulations relating to matters connected with the Legal Advisory Council's functions under subsection (1).

Regulations in respect of
qualifying as an
attorney-at-law

80. (1) Regulations made under section 79(2) may prescribe local qualifications for enrolment as an attorney-at-law.

(2) The qualifications may, among other things, require -

- (a) the successful completion of a prescribed period of service under articles;
- (b) the attainment of prescribed academic qualifications; or
- (c) both.

(3) The regulations may also prescribe the qualifications required for admission to legal education in the Islands.

(4) The regulations may prescribe -

- (a) the examinations to be taken for enrolment for legal education and for admission; and
- (b) the fees to be paid for examinations for enrolment and admission.

(5) Different examinations may be prescribed in respect of persons who -

- (a) possess different qualifications; or
- (b) have followed or are following different courses of study.

(6) In respect of any examination required to be taken under the regulations, the regulations may prescribe -

- (a) the papers that are to be set;
- (b) the syllabuses to be followed; and
- (c) the courses of lectures to be given by suitably qualified lecturers in any subject included in the examination.

(7) In so far as may be practicable the courses of lectures may be given, in conjunction, if necessary, with any other educational authority.

(8) The regulations may prescribe the arrangement to be made for holding an examination including -

- (a) the time and place when and where an examination may be held;
- (b) the setting, correcting and marking of papers; and
- (c) the conduct of the examination by suitably qualified persons.

81. (1) Regulations made under section 79(2) may require a person admitted as an attorney-at-law to participate in a programme of continuing legal education and legal training. Continuing education
- (2) The regulations may, in particular, prescribe -
- (a) when and where the programmes are to be held;
 - (b) the subjects to be covered by the programmes; and
 - (c) who may or shall provide the programmes.

PART 12 - ARTICLES

82. The Cabinet in consultation with the Legal Advisory Council, may make regulations in respect of service under articles. Regulations – service under articles

83. Regulations made under section 82 may prescribe the minimum qualifications required by a person to be admitted for service under articles. Qualification for admission to articles

84. (1) Regulations made under section 82 may provide for the governance of service under articles. Governance of service under articles

- (2) The regulations may, in particular, prescribe -
- (a) the terms, including remuneration and conditions of service, on which a trainee attorney may be taken and retained by an attorney-at-law; and
 - (b) the conduct, duties and responsibilities towards each other of the parties to articles.

(3) The regulations may make different provision in relation to different categories of persons.

85. (1) An attorney-at-law - Qualifications required to take on a trainee attorney
- (a) who has been admitted as a legal practitioner in any jurisdiction for at least seven continuous years; and
 - (b) who has held a Cayman Islands practicing certificate for at least five years.

may take a person with the prescribed qualification into that attorney's service as a trainee attorney.

(2) An attorney who has two or more trainee attorneys in that attorney's service may not take a further trainee attorney into that attorney's service without the written approval of the Legal Advisory Council.

| | |
|---|--|
| Law company may take on a trainee attorney | 86. A law company may take on a person with the prescribed qualifications into that law company's service as a trainee attorney. |
| Articles served in Government offices | 87. (1) The Attorney General and, with the leave of the Attorney General, the Director of Public Prosecutions and the Clerk of the Court may have a trainee attorney in their respective service. (2) The provisions of this Part that applies to attorneys-at-law and trainee attorneys in their service applies equally to the Attorney General, the Director of Public Prosecutions, and the Clerk of the Court and to trainee attorneys in their service. |
| Powers of the Legal Advisory Council | 88. If an attorney-at-law or law company takes or has in that attorney's or law company's service a trainee attorney in contravention of this Part the Legal Advisory Council may discharge the articles of the trainee attorney upon such terms as the Legal Advisory Council thinks fit. |
| Service in a legal or judicial department | 89. (1) This section applies if the Attorney General is satisfied that a person in a legal or judicial department of the public service is performing duties that are mainly legal in nature. (2) The Attorney General may certify that time spent by a person in the legal or judicial department performing those duties is equivalent to a similar time spent in the service of an attorney-at-law under articles. (3) The certificate has effect accordingly. |
| Power of the Legal Advisory Council to discharge articles | 90. (1) This section applies if - <ul style="list-style-type: none">(a) an attorney-at-law to whom a trainee attorney is articulated is declared bankrupt;(b) the name of an attorney to whom a trainee attorney is articulated is struck off the Court Roll;(c) an attorney to whom a trainee attorney is articulated is suspended from practice;(d) a law company to whom a trainee attorney is articulated is wound up;(e) a law company to whom a trainee attorney is articulated ceases to be a law company(f) the Legal Advisory Council is satisfied after investigation that a trainee attorney is morally unfit to become an attorney; or(g) upon the application of either an attorney or a law company or that attorney's or law company's trainee attorney, the Legal |

Advisory Council is satisfied that the articles of the trainee attorney ought to be discharged.

(2) The Legal Advisory Council may discharge the articles of the trainee attorney upon such terms as the Legal Advisory Council thinks fit.

91. (1) This section applies if an application is made to the Legal Advisory Council by an attorney-at-law or a law company and that attorney's or law company's trainee attorney for permission to transfer the articles of the trainee attorney to another attorney or law company.

Transfer of articles

(2) The Legal Advisory Council may, subject to subsection (3) give permission if the Legal Advisory Council considers it proper to give the permission sought under subsection (1).

(3) Permission may be given subject to any conditions the Legal Advisory Council may think fit to impose.

(4) If articles of a trainee attorney are transferred to an attorney or law company pursuant to permission given under this section, the trainee attorney becomes the trainee attorney of the attorney or law company to which they are transferred.

(5) The articles under which the trainee attorney was serving immediately before the transfer shall continue to have effect as though the attorney or law company to which the trainee attorney was transferred had originally been a party to those articles.

(6) Subsection (5) is subject to any modifications made to the articles by the Legal Advisory Council.

92. (1) This section applies when an attorney-at-law or law company has a trainee attorney in that attorney's or law company's service.

Obligations of attorney-at-law or law company in relation to a trainee attorney

(2) The attorney or law company shall ensure that during the period of articles of the trainee attorney, the trainee attorney -

- (a) receives adequate legal training including training relating to professional responsibility, legal etiquette and conduct;
- (b) is exposed to all major areas of the Cayman Islands law practised by the attorney or law company; and
- (c) participates in courses, workshops or programmes that relate to the areas of Cayman Islands law in which the trainee attorney is being trained.

(3) If an attorney or law company fails to comply with this section and as a result is found guilty of professional misconduct, the attorney or law company shall not take any person into that attorney's or law company's service as a trainee attorney until the Legal Advisory Council advises the attorney or law company otherwise.

PART 13 – INVESTIGATION OF ALLEGED PROFESSIONAL MISCONDUCT

Part not to apply to senior office holders

93. This Part does not apply to the conduct of a person while holding or acting in an office to which section 106 of the Constitution applies, namely the office of -

- (a) the Chief Justice or other judge of the Grand Court;
- (b) the President of the Court of Appeal or other judge of the Court of Appeal;
- (c) the Attorney General;
- (d) the Director of Public Prosecutions; and
- (e) the Magistrate;

and such other offices in the public service, for appointment to which a person is required to possess legal qualifications, as may be prescribed by any other Law.

Council to appoint a professional conduct committee

94. (1) As soon as practical after the members of the Council have been elected in accordance with section 12, the Council shall appoint a professional conduct committee consisting of -

- (a) two members of the Council;
- (b) two attorneys-at-law who are not members of the Council; and
- (c) a person with professional qualifications, not being an Attorney, approved by the Attorney General.

(2) At least three of the members of the professional conduct committee shall be Caymanian.

(3) A member of the professional conduct committee ceases to hold office on the appointment of new members of the professional conduct committee but may be reappointed for further terms not exceeding in aggregate five successive terms.

(4) The Council may make rules determining the procedure of the professional conduct committee but otherwise the professional conduct committee may determine its own rules of procedure.

Complaints of professional misconduct

95. (1) A person or the Council, may file with the professional conduct committee a complaint that specified conduct of an attorney-at-law or a law company constituted professional misconduct by the attorney or law company.

(2) The Council shall make rules setting out the manner in which a complaint may be made to the professional conduct committee about the conduct of an attorney or a law company.

(3) The professional conduct committee shall reject a complaint in respect of any conduct by an attorney or law company that, the professional conduct committee is satisfied was known or could reasonably have been known more than six years before the complaint was made.

96. (1) The professional conduct committee shall investigate a complaint made to the professional conduct committee in accordance with section 95.

Professional conduct committee to investigate complaints

(2) The professional conduct committee shall investigate a complaint in accordance with the rules made by the Council and determine if there is a prima facia case that the conduct complained of amounted to professional misconduct.

(3) The rules may provide -

- (a) in appropriate cases, for the appointment of counsel and experts to assist the professional conduct committee;
- (b) for the procedure to be followed and the action that may be taken by the professional conduct committee if an attorney or law company fails or refuses to co-operate fully with the professional conduct committee.

97. (1) This section applies where the professional conduct committee has, in accordance with section 96, investigated a complaint in respect of the conduct of an attorney or law company and has subsequently determined that although the conduct amounted to professional misconduct the conduct did not amount to serious professional misconduct.

Professional misconduct that is not serious professional misconduct

(2) In subsection (1) “serious professional misconduct” means -

- (a) any criminal conduct the punishment for which may be imprisonment;
- (b) any other conduct involving deceit or dishonesty, knowingly or recklessly misleading, or attempting to mislead, a court or an opponent, encouraging a witness to give evidence that is untruthful or misleading; or
- (c) any other professional misconduct (on its own or together with prior findings of misconduct) in respect of which the professional

conduct committee, in its absolute discretion, considers its powers to be insufficient.

(3) The professional conduct committee may do all or any of the following -

- (a) reprimand the attorney or law company;
- (b) advise the attorney or law company as to that attorney's or law company's future conduct;
- (c) require the attorney or law company to repay or forego specified fees or charges;
- (d) require the attorney or a specified attorney in the law company to undertake specified professional development training;
- (e) require the attorney or law company to remedy a breach of a provision of the Code of Conduct;
- (f) adjourn the proceedings pending determination of criminal proceedings;
- (g) require the attorney or law company to pay or make a contribution to the costs of investigating that attorney's or law company's conduct,

or determine that no action need be taken against the attorney or law company.

(4) The professional conduct committee shall not -

- (a) refer a complaint to a disciplinary tribunal;
- (b) make a finding of professional misconduct; or
- (c) impose a sanction under subsection (3),

in respect of the conduct of an attorney or law company without offering the attorney or law company the opportunity to make, in person or by counsel, appropriate representations in accordance with the rules made by the Council.

(5) The professional conduct committee shall -

- (a) investigate a complaint and carry out any inquiry in camera;
- (b) make decisions based on the decisions of the majority of the professional conduct committee's members; and
- (c) notify the Council of any referral the professional conduct committee has made to the disciplinary tribunal under section 98(1) or any action the professional conduct committee has taken under subsection (3) in respect of the conduct of an attorney or law company.

(6) The Council shall publish details of any sanction the professional conduct committee has imposed under subsection (3)(a) or (c) in respect of the conduct of an attorney or law company.

(7) In any other case, the Council shall determine if it is or is not in the public interest to publish details of -

- (a) any finding of professional misconduct; or
- (b) any action the professional conduct committee has taken,

in respect of professional misconduct by an attorney or law company and act accordingly.

(8) If the professional conduct committee decides to dismiss a complaint, the decision is final and may not be appealed.

(9) In any other case an aggrieved person may within 30 days of the decision apply to the Court for permission to apply for judicial review in respect of the decision.

(10) The Court's ruling on judicial review is final and may not be appealed.

(11) An application for permission to apply for judicial review in respect of a decision may not be sought more than 30 days after the decision.

(12) If an attorney or a law company fails to comply with a requirement imposed on the attorney or law company under subsection (3)(c), (d) or (e) within a time specified by the professional conduct committee or, if no time is specified, a reasonable time, the attorney or law company is guilty of professional misconduct.

(13) An attorney or law company that fails to cooperate in a reasonable manner with the professional conduct committee when carrying out the professional conduct committee's functions under this Part is guilty of professional misconduct.

98. (1) This section applies where the professional conduct committee has investigated a complaint in respect of the conduct of an attorney or law company in accordance with section 96 and -

Appointment of
disciplinary tribunal

- (a) has determined that there is a prima facie case that the conduct may have amounted to serious professional misconduct; or
- (b) has been unable to complete the professional conduct committee's investigation or make any findings on professional misconduct because the attorney or law company has failed to cooperate with the professional conduct committee.

(2) The professional conduct committee shall, on behalf of and in the name of the Association, formulate charges in respect of the misconduct and refer the complaint to the Chief Justice who shall appoint a disciplinary tribunal.

(3) The disciplinary tribunal shall consist of -

- (a) the Chief Justice or a person who holds or has held high judicial office; and
- (b) two attorneys or former attorneys nominated by the Council, at least one of whom is a Caymanian.

(4) If the complaint to the professional conduct committee about the conduct of the attorney or law company was made by the Council the two attorneys or former attorneys (at least one of whom is Caymanian) that would have been nominated by the Council in accordance with subsection (3)(b) shall instead be appointed by the Chief Justice.

(5) The Chief Justice or, if the Chief Justice appoints a person in accordance with subsection (3)(a), the person so appointed shall be the president of the disciplinary tribunal.

(6) The Clerk of the Court or a person appointed by the Clerk shall assist the disciplinary tribunal to carry out the disciplinary tribunal's functions under this Part.

(7) In this section "high judicial office" means the office of judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or in Ireland or a court having jurisdiction in appeals from such a court.

Investigation of alleged serious professional misconduct

99. (1) A disciplinary tribunal established to investigate the conduct of an attorney or a law company shall determine -

- (a) if the charges formulated by the professional conduct committee are made out; or
- (b) if the conduct complained of otherwise amounted to professional misconduct.

(2) The disciplinary tribunal has the power to do everything reasonably necessary for the purposes set out in subsection (1).

(3) In particular, the disciplinary tribunal has -

- (a) the power to allow amendment to the charges; and

- (b) the same powers as the Court to summon witnesses, to examine them on oath or otherwise and to compel the production of documents or other things relevant to the investigation.

(4) The disciplinary tribunal may deal with a failure to comply with a consequential order or direction as if the failure were a failure to comply with an order or direction issued for the same purposes by the Court.

(5) A disciplinary tribunal when investigating the conduct of an attorney or a law company shall -

- (a) make the disciplinary tribunal's decisions based on the decisions of the majority of the disciplinary tribunal's members;
- (b) apply the same standard of proof as that required in criminal proceedings; and
- (c) if requested to hold the hearing in public by the attorney or the law company, as the case may be, or the Council acting on behalf of the Association, consider whether or not it is in the interests of justice for the hearing to be held in public.

(6) Except as otherwise provided by this Law a disciplinary tribunal may establish that disciplinary tribunal's own rules of procedure.

100. (1) If, after investigating the conduct of an attorney-at-law, a disciplinary tribunal is satisfied that the conduct amounted to professional misconduct the disciplinary tribunal may take any action set out in -

Disciplinary sanctions of disciplinary tribunal in respect of attorneys-at-law

- (a) section 97(3); or
- (b) subsection (2).

(2) The disciplinary tribunal may -

- (a) order that the name of the attorney be struck off the Court Roll;
- (b) order that the attorney's practising certificate be qualified to the effect that the attorney is not entitled to appear as an advocate before all or any court or to practise in a specific area of Cayman Islands law, in either case, permanently or for a specified period;
- (c) order that the attorney be suspended from practice as an attorney for a specified period, not exceeding five years; or
- (d) order the attorney to pay to the Association a fine of up to one hundred thousand dollars.

(3) Whether or not the disciplinary tribunal takes any action against an attorney, the disciplinary tribunal may order the Council to report the conduct of the attorney to any other professional association having jurisdiction over the attorney.

(4) The disciplinary tribunal may also award costs to either party which in the absence of agreement shall be taxed in accordance with Rules of Court.

(5) A disciplinary tribunal may only order costs against the Association if the disciplinary tribunal is satisfied that the Council or the professional conduct committee acted in bad faith or wholly unreasonably.

(6) Costs awarded to the Association may take into account any costs incurred by the Association in carrying out the investigation including any costs incurred in appointing or employing any accountant, banker or other person.

Disciplinary sanctions of disciplinary tribunal in respect of law companies

101. (1) If, after investigating the conduct of a law company, a disciplinary tribunal is satisfied that the conduct amounted to professional misconduct the disciplinary tribunal may take any action set out in -

- (a) section 97(3); or
- (b) subsection (2).

(2) The disciplinary tribunal may -

- (a) order that the status of the law company as a law company be revoked; or
- (b) order the company to pay to the Association a fine of up to one hundred thousand dollars.

(3) If a disciplinary tribunal orders that the status of a law company as a law company be revoked, the Council shall -

- (a) comply with the order; and
- (b) publish the name of the law company and the fact that the law company's status as a law company has been revoked.

(4) A disciplinary tribunal may also award costs to either party which in the absence of agreement shall be taxed in accordance with the Rules of Court.

(5) A disciplinary tribunal may only order costs against the Association if the disciplinary tribunal is satisfied that the Council or the professional conduct committee acted in bad faith or wholly unreasonably.

(6) Costs awarded to the Association may take into account any costs incurred by the Association in carrying out the investigation including any costs incurred in appointing or employing any accountant, banker or other person.

Order to strike name of Attorney from Court Roll

102. If a disciplinary tribunal orders that the name of an attorney-at-law be struck off the Court Roll, the Clerk of the Court shall, subject to section 109(4), comply with the order.

103. If a disciplinary tribunal makes an order under section 100(2) or 101(2), the Council shall publish -

Order of a tribunal to be published

- (a) the name of the attorney or law company; and
- (b) details of the order.

104. (1) This section applies where the conduct of an attorney-at-law or law company is being investigated either by the professional conduct committee or by a disciplinary tribunal.

Interim order to cease to practice Cayman Islands law

(2) The Council, on the advice of the professional conduct committee or the disciplinary tribunal, may order the attorney or the law company to cease to practise Cayman Islands law until the investigation has been completed and any subsequent order made by the professional conduct committee or disciplinary tribunal has come into effect.

(3) If the attorney or the law company, as the case may be, fails to comply with an order under subsection (2) -

- (a) the attorney; or
- (b) the law company together with the law company's managers,

are guilty of professional misconduct.

105. (1) This section applies if a complaint of professional misconduct by an attorney-at-law or a law company contains an allegation of or may involve the misuse of a trust fund by the attorney or law company.

Interim Order in respect of trust funds

(2) The professional conduct committee may order that the trust fund is to be operated by an accountant or a bank approved, in either case, by the Council until a disciplinary tribunal determines otherwise.

(3) A disciplinary tribunal may -

- (a) confirm or revoke an order made under subsection (2); or
- (b) if the professional conduct committee has made no order under that subsection, make an order that the trust fund is to be operated by an accountant or a bank approved, in either case, by the disciplinary tribunal.

106. (1) The Council, on behalf of the Association, shall record any finding of professional misconduct by an attorney-at-law or by a law company.

Disciplinary records to be kept and made available

(2) The record shall show -

- (a) the name of the attorney;
- (b) outline details of the professional misconduct; and

(c) the action (if any) taken in respect of the attorney or law company.

(3) Subject to section 97(7), the Association shall make the record available for public inspection free of charge at all reasonable times.

Restoration of name to
Court Roll

107. (1) This section applies where the name of an attorney-at-law was removed from the Court Roll on that attorney's request or on the order of a disciplinary tribunal.

(2) The former attorney may at any time apply to the Court for the restoration of the former attorney's name to the Roll.

(3) The Court may, after hearing the application, restore the name of the former attorney to the Roll with or without conditions.

(4) Any such conditions shall be set out in any practising certificate issued to the attorney.

(5) The Court shall not restore the name of the former attorney to the Roll unless the Court -

- (a) has consulted the Council; and
- (b) is satisfied that the former attorney is a fit and proper person to practise as an attorney.

(6) The Court shall not restore the name of the former attorney to the Roll except -

- (a) on the payment of any fees prescribed by Rules of Court; and
- (b) on receipt of evidence that the former attorney does not owe any membership levy or penalty to the Association.

(7) If the Court restores the name of a former attorney to the Roll, the Clerk shall publish the name of the former attorney and the fact that the attorney's name is to be restored to the Roll.

(8) If the Court restores the name of the former attorney to the Roll with conditions, the conditions shall also be published.

(9) If the Court refuses to restore the name of the former attorney to the Roll, the former attorney may, within 30 days of the refusal, appeal to the Court of Appeal against the refusal on the grounds that the refusal was unreasonable having regard to all the circumstances.

108. (1) This section applies to a document purporting to be an order of a disciplinary tribunal and purporting to be signed by all or any of the disciplinary tribunal's members. Form and proof of order of a tribunal

(2) The document shall, in the absence of evidence to the contrary, be taken to be an order of the disciplinary tribunal duly made, without -

- (a) proof of the disciplinary tribunal's making;
- (b) proof of signature; or
- (c) proof that the persons signing the order were entitled to sign it.

109. (1) This section applies to an order - Certain orders to be filed in Court

- (a) by a disciplinary tribunal that the name of an attorney-at-law be struck off the Court Roll;
- (b) by a disciplinary tribunal that the status of a law company as a law company be revoked;
- (c) by a disciplinary tribunal that an attorney be suspended from practice; or
- (d) by the Court that the name of a former attorney be restored to the Roll.

(2) The order shall be filed in the Court Office.

(3) On filing the order takes effect and is enforceable as if it were an order of the Court.

(4) If the order is -

- (a) that an attorney's name be struck off the Court Roll or that the status of a law company as a law company be revoked; or
- (b) that an attorney be suspended from practice,

the order shall not take effect until the expiry of the time allowed for appeal under section 111, but, if an appeal is commenced, until the appeal is determined or withdrawn.

(5) An order filed under this section may be inspected by a person during office hours of the Court Office without payment of a fee.

110. If - Enforcement of payment of a fine or costs

- (a) a disciplinary tribunal imposes a fine payable to the Association; or
- (b) a disciplinary tribunal or a court provides for the payment of costs to the Association,

the fine or payment has effect as if it were a debt due to the Association.

Appeals from decision
of a disciplinary tribunal

111. This section applies to -

- (a) a finding of a disciplinary tribunal under section 100 or any action (including a decision to take no action) taken by a disciplinary tribunal in relation to an attorney under that section; or
- (b) a finding of a disciplinary tribunal under section 101 or any action (including a decision to take no action) taken by a disciplinary tribunal in respect of a law company under that section.

(2) The attorney or the law company, as the case may be, or the Council acting on behalf of the Association may appeal to the Court of Appeal against the finding or any action taken by the professional conduct committee or disciplinary tribunal.

(2011 Revision)

(3) The appeal shall be made within such time and in such form and on payment of such fees as may be prescribed by the Court of Appeal Law (2011 Revision).

(4) Unless the Court of Appeal considers that there are exceptional circumstances such that it would be in the interests of justice to hold a re-hearing, an appeal in respect of any finding shall be confined to points of law and shall be by way of review.

(5) The Court of Appeal may affirm, set aside or vary any order of the disciplinary tribunal or order a new hearing by a disciplinary tribunal.

(6) The Court of Appeal may make an order for the costs of an appeal.

(7) The Court of Appeal may only order costs against the Association if the Court of Appeal is satisfied that the Council or the professional conduct committee acted in bad faith or wholly unreasonably.

Trusteeships held by
attorney-at-law or law
company

112. (1) This section applies -

- (a) if an attorney-at-law is suspended from practice or if the attorney's name is struck off the Court Roll; or
- (b) if a law company is suspended from practise or if the status of a law company as a law company is revoked or if for any other reason a law company ceases to be a law company.

(2) The Council may serve a notice signed by two members of the Council requiring the person upon whom the notice is served to supply to the Council, in so far as it is practicable -

- (a) a list showing any wills in which the attorney or law company is appointed as executor or trustee, and the names and addresses of the testators;
- (b) a list of any other trusteeships that are held by the attorney or the law company under any trust or are to be held by the attorney or the law company on the occurrence of any event and the beneficiaries under the trusts;
- (c) if the attorney is a sole practitioner, details of the client funds held by the attorney;
- (d) in the case of a law company, details of the client funds held by the law company; and
- (e) any other particulars as may be necessary to enable the Council to exercise the Council's powers under subsection (4).

(3) The notice may be served -

- (a) on the attorney or the law company or on a person carrying on the attorney's or the law company's practice; or,
- (b) if the attorney is a partner, director, member or employee of a law firm, on the law firm or on a manager or employee of the law firm.

(4) After the Council has received the list, the Council may, despite anything to the contrary, serve a notice on -

- (a) a testator named in the list;
- (b) a beneficiary named in the list;
- (c) a person having power to appoint or remove the trustees in respect of a trust mentioned in the list; or
- (d) a person having the power to revoke or amend the trust named in the list.

(5) The notice shall notify the person upon whom it is served that -

- (a) the attorney has been suspended from practice;
- (b) the name of the attorney has been struck off the Court Roll; or
- (c) the law company has ceased to be a law company,

as the case may be.

(6) In this section "trust" means a trust of any kind and includes the duties incidental to the office of a personal representative.

(7) A person shall not, without lawful justification or reason, fail or refuse to comply with the requirement of a notice served under subsection (2) or provide information that is false or misleading.

(8) A person who acts in contravention of this section commits an offence and is liable on conviction on indictment to a fine of fifty thousand dollars.

Attorney-at-law shall comply with conditions and restrictions

113. An attorney-at-law shall not practise law in contravention of a condition or restriction endorsed on the attorney's practising certificate.

Police to be informed of possible offence

114. If, when investigating the conduct of an attorney-at-law or a law company, it appears to the professional conduct committee or a disciplinary tribunal that the attorney or law company or any other person may have committed an offence, the professional conduct committee or disciplinary tribunal shall refer the matter to the police at the first practicable opportunity.

PART 14 - FINAL PROVISIONS

Practice in the Islands of the law of another jurisdiction

115. (1) A person shall not practise in the Islands the law of another jurisdiction without the consent of the Council and a person who acts in contravention of this subsection commits an offence and is liable on conviction on indictment to a fine of fifty thousand dollars.

(2) For the purposes of subsection (1) a person practises the law of another jurisdiction if -

- (a) the person practises that law for or in expectation of gain or reward; or
- (b) the person holds that person out as prepared to practice the law of another jurisdiction.

(3) An application for consent under subsection (1) shall be made to the Council on a form approved by the Council.

(4) The application shall be accompanied by -

- (a) the fee prescribed by the Council;
- (b) evidence sufficient to show that the person is practicing the law of another jurisdiction;
- (c) evidence that the person is qualified to practice the law of another jurisdiction; and
- (d) evidence that the person is a fit and proper person to practice the law of another jurisdiction.

(5) The Council may give consent if the Council is satisfied -

- (a) that the person is practicing the law of another jurisdiction;
- (b) that the person is a suitable person to practise that law and is qualified to practice that law; and
- (c) that to give consent would not be prejudicial to the interests of the Islands.

(6) If the Council gives consent, the Council shall issue a certificate of consent to the person in the approved form.

(7) The form shall specify -

- (a) the name of the person and the address in the Islands where the person practises the law of the other jurisdiction; and
- (b) the jurisdiction in respect of which the person practises that law.

(8) The Council shall also publish a notice stating -

- (a) that the person has been given consent under this section;
- (b) the name of the person; and
- (c) the jurisdiction in respect of which the consent has been given.

(9) The Council may cancel the consent given to a person under this section by written notice to the person if the Council is satisfied that -

- (a) the person has ceased to have any of the qualifications necessary to be given the consent; or
- (b) the practice of the law of another jurisdiction by the person has become prejudicial to the interests of the Islands.

(10) If the Council refuses to give consent to a person or cancels the consent given to a person, the person may, within thirty days of being given notice of the refusal or cancellation, appeal to the Court against the refusal or cancellation on the grounds that the refusal or cancellation was unreasonable having regard to all the circumstances.

(11) A person with consent given under this section is not required to be licenced under the Trade and Business Licensing Law, 2014 (Law 21 of 2014) or the Local Companies (Control) Law (2015 Revision).

(Law 21 of 2014)
(2015 Revision)

116. (1) If an offence under this Law that has been committed by a law company is proved to have been committed with the consent or connivance of, or to be attributable to any wilful neglect on the part of a person -

Responsibility

- (a) who was a director, manager, secretary or other similar officer of the law company; or

(b) who was purporting to act in any such capacity,
that person, as well as the law company, commits the offence and is liable to be proceeded against and punished accordingly.

(2) If an offence under this law by a law firm managed or controlled by that law firm's partners, members or trustees; or persons purporting to act in such a capacity, is proved to have been committed with the consent or connivance of, or to be attributable to any wilful neglect on the part of any such person, that person, as well as the law firm, is to be taken to have committed the offence and may be proceeded against and punished accordingly.

(3) If the affairs of a law company are managed by that law company's members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with the member's functions of management as if the person were a director of the law company.

(4) A person who aids, abets, counsels or procures the commission of an offence under this Law also commits the offence and is liable in the same manner as a principal offender to the penalty provided for that offence.

Repeal of the Legal Practitioners Law (2015 Revision)

117. The Legal Practitioners Law (2015 Revision) is repealed.

Transitional provisions (Schedule 1)

118. The transitional provisions set out in Schedule 1 have effect.

SCHEDULE 1

(Section 118)

TRANSITIONAL PROVISIONS

Interpretation

1. In this Schedule -

“commencement” means the date the relevant provision of this Law came into force;

(2015 Revision)

“repealed Law” means the Legal Practitioners Law (2015 Revision).

First meeting of the Association

2. (1) The first meeting of the Association shall be held within three months of the commencement of section 117.

(2) The meeting shall be held at a time and place agreed between the Cayman Islands Law Society and the Caymanian Bar Association and shall be presided over by an attorney-at-law agreed to in the same manner.

(3) If agreement cannot be reached on any matter the Attorney General shall determine the matter.

(4) At the meeting the only matter that shall be determined is the election of the Council.

3. An application for admission made under section 3(2) of the repealed Law and not determined before the commencement shall be determined under this Law. Application for admission
4. A person who immediately before the commencement was admitted as an attorney-at-law under section 4 of the repealed Law for the purpose of appearing, acting or advising in a specified suit or matter is to be taken as authorised under section 36 of this Law for the purpose of appearing, acting or advising in that suit or matter. Limited admission
5. The Court Roll kept by the Clerk of the Court under section 5 of the repealed Law shall be taken to be the Court Roll kept by the Clerk of the Court under this Law. Court Roll
6. A practising certificate issued under section 12(2) of the repealed Law and in force immediately before the commencement shall be taken to be a practising certificate issued by the Clerk of the Court under section 51, of this Law. Practising certificates
7. An annual operational licence issued under section 13 of the repealed Law and in force immediately before the commencement shall be taken to be an annual operational licence issued by the Clerk of the Court under section 70 of this Law. Annual operational licence
8. An articulated clerk serving articles under the repealed Law immediately before the commencement shall be taken as serving articles as a trainee attorney under this Law and any period of articles served by the trainee attorney under the repealed Law shall count as time served under articles for the purpose of this Law. Trainee attorneys
- Law company

9. A body recognised in accordance with regulations made under section 22 of the repealed Law immediately before the commencement as a recognised company shall be taken to be a law company.

Legal Advisory Council 10. The two members of the Legal Advisory Council who immediately before the commencement were attorneys-at-law in private practice shall continue as members of the Legal Advisory Council until replaced by nominees of the Council.

Disciplinary proceedings 11. (1) Despite the repeal of the repealed Law, any action started under section 7(1) of the repealed Law before the commencement but not concluded before that date (being an action to suspend an attorney-at-law from practising as such during a specified period or to order the attorney's name to be struck off the Court Roll or any investigation in connection with such matters) may be continued as if the repealed Law had not been repealed.

(2) An attorney in respect of whom subparagraph (1) applies and a person who had a right of appeal under section 8 of the repealed Law immediately before the commencement may still exercise a right of appeal under that section as if the repealed Law had not been repealed.

Legal Practitioners (Students) Regulations (2015 Revision) to continue in force 12. Despite the repeal of the repealed Law, the Legal Practitioners (Students) Regulations (2015 Revision) made under that Law continue in force as regulations made by the Cabinet under this Law subject to the necessary amendments to make them applicable under this Law.

Fees 13. (1) Fees prescribed by or by virtue of the repealed Law and in force immediately before the commencement are to be taken to be the applicable fees prescribed by the Cabinet under this Law or by Rules of Court for the purposes of this Law.

(2) Those applicable fees may be amended, as the case may be, by regulations made by the Cabinet under this Law or by Rules of Court.

Qualified law firms and affiliates providing Cayman Islands legal advice in another jurisdiction 14. (1) A law practice, practicing Cayman Islands law only in the Islands or both in the Islands and providing Cayman Islands legal advice in another jurisdiction immediately before the commencement is to be taken to be a qualified law firm despite the fact that it may not be a qualified law firm for the purposes of this Law.

(2) An affiliate of a law firm mentioned in subparagraph 14 is an affiliate of the law firm despite the fact that it may not be qualified to be an affiliate of the law firm for the purposes of this Law.

(3) Subparagraphs (1) and (2) cease to apply to the law firm and any affiliate of the law firm twelve months after the commencement if at that time the law firm or affiliate is not a qualified law firm or an affiliate of the law firm as defined by this Law.

15. (1) This paragraph applies to a person who -

- (a) immediately after the commencement was providing Cayman Islands legal advice in another jurisdiction in a qualified law firm or an affiliate of a qualified law firm and had been so doing for at least four months; and
- (b) has the qualifications required under the repealed Law to be admitted as an attorney-at-law.

Attorneys providing
Cayman Islands legal
advice in another
jurisdiction

(2) For up to twelve months after the commencement and prior to such person being admitted as an attorney-at-law under this Law, the person shall be taken for the purposes of this Law to be an attorney with a practicing certificate that permits the attorney to practise Cayman Islands law with the qualified law firm or its affiliate.

(3) Rules made by the Council may provide that the provisions of this Law in respect of admission to be an attorney may be varied to such an extent as the Council considers necessary and appropriate to allow a person to whom this paragraph applies to be admitted within the twelve months referred to in subparagraph (2).

(4) For the purpose of section 85(1)(b) of the Law, the time spent by the person practicing Cayman Islands law in another jurisdiction in a qualified law firm or an affiliate of a qualified law firm is to be taken as time during which the person held a Cayman Islands practicing certificate.

SCHEDULE 2

(Section 38)

PART 1

CODE OF PROFESSIONAL CONDUCT FOR ATTORNEYS-AT-LAW AND
LAW COMPANIES

Introduction

The purpose of this Code is to provide guidance for attorneys-at-law and law companies both to those who provide legal services in the Cayman Islands and those who provide legal services outside the Islands.

This Code is not exhaustive, but instead seeks to define the bounds within which an attorney-at-law or law company can practise the profession. Observance of those bounds and managing all aspects of practice within them involves the acceptance of the basic principle of professional responsibility.

In this Code and in the Law firms best practice guidelines set out in Part 2 of this Schedule -

- (a) “attorney” is used to refer to both an attorney-at-law and a law company; and
- (b) “partner” is used to refer to -
 - (i) a person who has entered into a partnership; and
 - (ii) a director or member of a law company.

The Law firms’ best practice guidelines do not add obligations to this Code but provide guidance for practicing in compliance with it.

CHAPTER 1 – ATTORNEYS’ RIGHTS, DUTIES AND RESPONSIBILITIES
GENERALLY: INDEPENDENCE OF ATTORNEYS: CONFLICTS OF
INTERESTS

Rule 1.01

Attorneys shall not conduct themselves -

- (a) dishonestly or otherwise discredibly;
- (b) so as to prejudice or undermine confidence in the administration of justice or otherwise bring it or the profession into disrepute;
- (c) in a manner that is unbecoming to the profession or otherwise may be deemed unprofessional; or
- (d) inconsistently with the proper interests of their clients.

Commentary:

It is not possible to define the circumstances in which an attorney may be held to have acted unprofessionally or otherwise improperly or so as to bring the profession into disrepute, although there are a large number of

disciplinary offences that can occur at common law or on breach of statutory laws. Examples could include the solicitation of business from clients of an erstwhile employer; or being found guilty of a criminal offence of whatever nature, including, say, crimes of violence or serious traffic offences where the safety of others is jeopardised.

The relationship between practitioner and client is one of confidence and trust that shall never be abused. Rule 1.02

An attorney shall at all times observe and comply with the Legal Practitioners Law (the "LPL") as the same may be revised, amended or replaced from time to time. Rule 1.03

Commentary:

An example of this is that an attorney may not aid any person or entity in the practice of Cayman Islands law contrary to the LPL.

An attorney's primary duty is to the attorney's client, to whom the attorney shall act in good faith. An attorney shall at all times and by all proper and lawful means advance and protect the best interests of the attorney's clients without fear or regard for self-interest. Rule 1.04

Commentary

(1) The professional judgment of an attorney should at all times be exercised within the bounds of the law solely for the benefit of the client and free from compromising influences and loyalties.

(2) The attorney should never seek an advancement of personal interest or position at the expense of a client.

If an attorney acts as a director or officer of a company, the fact that the attorney may also be that company's external legal representative in no way diminishes the attorney's liability as a director or officer arising under law. Attorneys should beware of conflicts of interests arising from their simultaneously acting as such and in the event of any such conflicts arising either immediately notify their fellow directors and officers and resign from office or resign as the company's external legal representative. Rule 1.05

Except in the specific circumstances contemplated by statute, an attorney has a duty to hold in strict confidence all information concerning the business and Rule 1.06

affairs of the client acquired in the course of the professional relationship, and may not divulge such information except where -

- (a) the attorney is reasonably seeking to establish or collect the attorney's fee; or
- (b) the attorney is defending the attorney or the attorney's partners or employees against an allegation by the client of malpractice or misconduct or against a criminal charge;
- (c) the information is or has become public knowledge;
- (d) disclosure is required by law;
- (e) disclosure to the attorney's professional indemnity insurer is required in order to maintain or secure the attorney's cover;
- (f) the attorney forms the view that there is a serious and imminent risk to the health or safety of the client; or
- (g) the attorney has an overriding duty to a court or tribunal.

Commentary

(1) Save as set out in statute, confidentiality and privilege of client information are among the prime principles of professional practice. Such information belongs to the client and not to the attorney. Generally, any request by a third party for client information held by an attorney should be referred to the client or refused.

(2) If an attorney is in possession of information received from joint clients, the consent of both or all the clients is required to waive the duty of confidentiality.

(3) If an attorney is obliged to provide information, documents or other disclosure of the attorney's client's affairs by reason of any court order or warrant, the attorney shall assert legal privilege if relevant on behalf of the attorney's client and should, unless the order otherwise specifically provides, inform the attorney's client of the service of the order or warrant.

(4) In any circumstances where disclosure is justified, an attorney should nonetheless be concerned not to divulge more information than is required of the attorney for the purpose.

(5) An attorney practising on the attorney's own account or as a partner in a firm may disclose the client's affairs to partners (if any) and employed attorneys and, to the extent necessary, to employed law clerks, legal executives, non-legal staff such as secretaries and filing clerks, and to others whose services are utilised by the attorney.

(6) *An employed practitioner may always disclose the client's affairs to the practitioner's employer. The practitioner should not agree to accept instructions or directions from the client on any other basis.*

(7) *An attorney's duty continues even after the client has ceased to be the attorney's client. Following the death of the client or former client, the right to confidentiality passes to the client's personal representatives and can be waived only by them.*

(8) *Difficulties often arise in relation to an attorney's duties when a client becomes insolvent. Upon the liquidation of a client or, if the client is a company, receivership of the company client, authority is vested in the liquidator or receiver, who is entitled to information and documents relating to the client or company. Authority to permit disclosure to others thereafter vests in the liquidator or receiver. If an attorney has also acted in the past for directors or shareholders in their personal matters, care shall be taken to ensure that confidentiality in respect of such personal matters is maintained.*

(9) *Information not to be divulged by the attorney in terms of this rule will include the fact of having been consulted or retained by a person, unless the nature of the matter requires such disclosure.*

An attorney shall not undertake to provide a service that the attorney knows or ought to know *the attorney* is not competent to undertake or for which the attorney does not have the time or opportunity to fulfil. Rule 1.07

An attorney shall not discriminate against or treat unfairly any other attorney by reason of the colour, race, ethnic or national origin, sex or sexual orientation, marital status or religious or ethical belief of that other attorney. Rule 1.08

An attorney shall not permit a disqualified or unqualified person in the attorney's employ to hold the disqualified or unqualified person out as an attorney in contravention of the Law. Rule 1.09

Commentary

A person employed by an attorney as a paralegal, corporate assistant, secretary or employee of the attorney is not to be regarded as a person falling within this Rule if in correspondence it is made clear that the person is not an attorney.

Rule 1.10

Attorneys shall have regard to the provisions of the International Principles on Conduct for the Legal Profession promoted by the International Bar Association set out in the Appendix to this Part and act in the spirit in which it calls upon all lawyers to act. If, however, there is a conflict between these Rules and those Principles on Conduct for the Legal Profession, these Rules prevail.

Rule 1.11

An attorney shall not, without the informed consent of a person, act or continue to act for the person if there is a conflict of interest between the attorney on the one hand and an existing or prospective client on the other hand; nor similarly may the attorney agree to act for any such person if, at the time the attorney takes instructions, it is reasonably foreseeable that such a conflict may arise during the course of the attorney doing so.

Commentary

(1) The rule is based on the principle that a person who occupies a position of trust shall not permit that person's personal interests to conflict with the interests of those whom it is that person's duty to protect.

(2) The rule is intended to protect a client in situations where the interest or position of the attorney would or could make the attorney's professional judgement less responsive to the interests of the client.

(3) The existence of a personal interest of an attorney should be disclosed to the client or prospective client irrespective of a perceived lack of conflict and as soon as the attorney becomes aware of it. The attorney should consider carefully whether a personal interest is in any way in conflict with the interests of the client, and refuse to act, or to act further, if there is any such conflict.

(4) An attorney may not enter any financial, business or property transaction with a client if there is a possibility of the fiduciary relationship between practitioner and client being open to abuse by the attorney. This applies even if the attorney does not propose to act for the client in the particular transaction.

(5) The rule will usually apply to any interest or dealing through the attorney's family or relatives or any company, trust, partnership, or other body in which the attorney has or exerts a material measure of control or influence. It will also include interests which are not personal in the strict sense but representative in character such as directorships and trusteeships.

(6) *"Informed consent" in this and subsequent Rules means that the person in question understands all the facts and the person's rights in relation to the issue. Attorneys should carefully consider recommending that the person takes independent advice so that the person's consent may be fully informed.*

(7) *It is difficult to guard against conflicts of interest when clients are represented by different attorneys in the same firm. There is a danger that information may be imparted by one client to an attorney in the firm to which the firm should not have access, having regard to the interest of another client who is represented by a different practitioner in that firm. Firms shall establish workable systems to prevent such events occurring.*

(8) *A potential conflict of interest is a situation which, without care, could well lead an attorney into a breach of fiduciary duty.*

An attorney shall not act for more than one party in the same transaction or matter without the prior informed consent of both or all parties. Rule 1.12

Commentary

A conflict of interest does not arise between parties simply because the attorney is acting for more than one of them.

An attorney should exercise careful professional judgement to ensure that a conflict of interest does not exist and is not likely to arise.

(1) As soon as an attorney becomes aware of a conflict or likely conflict of interest among clients, the attorney shall forthwith take the following steps - Rule 1.13

- (a) advise all clients involved of the areas of conflict or potential conflict;
- (b) advise the clients involved that they should take independent advice as may be appropriate;
- (c) decline to act further for any party in the matter if so acting would or would be likely to disadvantage any of the clients involved unless the parties have given their prior informed consent to the attorney continuing to act.

(2) Unless the relevant parties have given their prior informed consent, it is not acceptable for attorneys in the same firm to continue to act for more than one client in a transaction. The use of an information barrier such as a "Chinese wall" should be considered carefully and appropriate safeguards adopted with respect to

segregating confidential information. Such a device does not overcome a conflict of interest that has already arisen.

(3) Save as hereinafter set out, an attorney shall disclose to the attorney's client all information received by the attorney in the course of the attorney's business that relates to the client's affairs. The exception to this rule is that an attorney should not disclose to a client details of any enquiry or request to such practitioner from a third party to act against or otherwise in connection with that client's interests and the attorney has advised such third party that the attorney cannot assist or act for it or where such disclosure is otherwise prohibited by any law or regulation or by the order of any governmental, judicial authority or agency.

Commentary

(1) *An attorney should take all reasonable steps to prevent a situation arising where confidential information is received on the basis that it is not to be disclosed to a client.*

(2) *As regards the exception to this rule set out above, the attorney may agree with the third party that information relayed to the attorney by it, for the purpose of enabling the attorney to establish whether a conflict of interest may arise in acting for the third party, will not be disclosed to anyone, including any existing client.*

CHAPTER 2 - CONDUCT OF PRACTICE GENERALLY

Rule 2.01

The name of an attorney's firm shall be one that is not likely to -

- (a) be misleading as to the nature or structure of the firm;
- (b) bring the profession into disrepute; or
- (c) be unfair to other attorneys or the public.

Commentary

(1) *The reference to firm where appropriate includes references to the business of a sole practitioner.*

(2) *Unless it is already well-established when these Rules come into effect*

- (a) *the name of a firm shall be consistent with the requirements of professional standing; and*
- (b) *the name of a firm shall not be misleading nor should it unfairly describe the firm. It should not, for instance, give an impression to the public that the firm is multi-partnered and broadly based when it is not. Nor should it falsely suggest patronage of or*

connection with some person or authority that has no connection with the firm.

On a firm's letterhead or email or any other publication or literature issued by a firm, or in an advertisement of a firm's services, a firm shall ensure that neither the public nor other attorneys are misled about the structure of the firm or the status of any person named in such letterhead or publicity. Rule 2.02

Commentary

(1) If the names of partners, consultants or associates, or any of them, are shown, their status should be indicated.

(2) If a person whose name is included is not a partner, consultant or associate, this should be made clear by the use of appropriate expressions such as "legal executive", "office accountant", "paralegal", "corporate assistant", "financial controller", "practice manager", etc.

(3) A firm shall ensure that the public, and other attorneys dealing with a principal or an employee of the firm, know the name and status of the person with whom they are dealing.

CHAPTER 3 - RELATIONS: ATTORNEYS AND CLIENTS

An attorney may charge a client for the attorney's services no more than that charged on a prior agreed basis or which otherwise is fair and reasonable for the work done, having regard to the interests of both client and practitioner. Rule 3.01

Commentary

(1) There is no objection in principle to fees calculated on a percentage of the value of the transaction provided that is agreed in advance by the client.

(2) If not on a prior agreed basis, charges shall be fair and reasonable in all the circumstances. Charges by a lawyer for professional work shall be calculated to give a fair and reasonable return for the services rendered, having regard to the interests of both client and lawyer. Charges may take account of all relevant factors, including -

- (a) the skill, specialized knowledge, and responsibility required;*
- (b) the importance of the matter to the client and the results achieved;*
- (c) the urgency and circumstances in which the business is transacted;*
- (d) the value or amount of any property or money involved;*

- (e) *the complexity of the matter and the difficulty or novelty of the questions involved*
- (f) *the number and importance of the documents prepared or perused;*
- (g) *the time and labour expended; and*
- (h) *the reasonable costs of running a practice.*

The relative importance of the factors set out above will vary according to the particular circumstances of each transaction.

Rule 3.02

An attorney shall not receive a reward, whether financial or otherwise, of which a client is unaware, in respect of services rendered to the client, and if the attorney does so without the consent of the client such reward will be treated as held by the attorney on trust for the client.

Commentary

(1) Attorneys shall at all times make appropriate disclosure to a client of any personal gain by them from a transaction or otherwise from representing that client.

(2) Where an attorney sends an account to a client and that account includes a payment which has been or is to be made to an agency company or other body in which the relevant practitioner, the relevant practitioner's partner(s) or members of their family has or have an interest, then that interest shall be disclosed on the account.

Rule 3.03

An attorney shall keep accounts that clearly and accurately distinguish the financial position between the attorney and the attorney's client.

Commentary

(1) Attorneys shall at all times ensure that any monies that are held by the attorney on behalf of the client are kept in separate accounts from those accounts which contain monies belonging to the attorney.

(2) The attorney shall, unless otherwise instructed by the attorney's client, keep any money held by the attorney on behalf of a client in the account of a bank regulated by a legally constituted regulatory authority in the Cayman Islands or some other legally constituted regulatory authority located in the country in which the attorney is practicing.

- (3) *An attorney shall indicate in the title or designation of an account that the funds belong to a client of the attorney if the account is one in which the client's money is held in the name of the attorney out of expediency.*
- (4) *An attorney shall maintain clear records to -*
- (a) *show all the transactions in relation to a client's account;*
 - (b) *show separately in respect of each client, all money received, held or paid by the attorney for or on account of that client and distinguish the same from any other money received, held or paid by the attorney; and*
 - (c) *ensure that the attorney is at all times able, without delay, to account to clients for all money received, held or paid by the attorney on behalf of the client.*
- (5) *An attorney shall preserve for at least six years from the date of the last entry therein all accounts, books, ledgers and records maintained in relation to the client's affairs.*
- (6) *An attorney shall not make any payment or withdrawal from money held on behalf of any client except where the money paid or withdrawn is -*
- (a) *properly required for a payment to or on behalf of the client;*
 - (b) *properly required for or towards payment of a debt due to the attorney from the client or in reimbursement of money expended by the attorney on behalf of the client;*
 - (c) *paid or withdrawn on the client's authority; or*
 - (d) *properly required for or towards payment of the attorney's costs where a bill of costs or other written intimation of the amount of the costs incurred has been delivered to the client and it has been made clear to the client that the money so paid or withdrawn will be applied to satisfying the bill of costs.*
- (7) *An attorney is not deprived of any recourse or right whether by way of lien, set-off, counterclaim, charge or otherwise against moneys standing to the credit of a client's account maintained by that attorney.*

CHAPTER 4 - INFORMATION ABOUT LEGAL SERVICES:
DISSEMINATION

Advertisements to or any other communications with a person relating to the services of an attorney or of a firm of attorneys shall be consistent with the maintenance of proper professional standards.

Rule 4.01

Commentary

(1) *The advertisement or communication shall not be false, misleading or deceptive, or likely to be so.*

(2) *The advertisement or communication may indicate a field or fields of practice in which the attorney is prepared to take instructions.*

(3) *If any advertisement or communication contains or refers to testimonials, endorsements or the like about an attorney or the services offered, the attorney must be able to show on enquiry that such testimonials or endorsements were not provided for monetary or other reward. The genuineness and veracity of any testimonials or endorsements may be tested on enquiry.*

(4) *The advertisement or communication shall not disparage other attorneys, either individually or as a group. For further reference see Rule 4.03.*

(5) *An attorney may not consent to, nor permit, being mentioned (whether by name or in any other identifiable way), in an advertisement or other promotion by a third party which is misleading in relation to the legal services offered.*

Rule 4.02

An attorney shall not, in any advertisement to, or any other communication with, a person, claim to be a specialist or to have special expertise or experience in a field or fields of practice unless the claim is true.

Rule 4.03

In offering services other than by normal advertising channels, whether within or outside the Cayman Islands, an attorney shall ensure that approaches to persons who are not existing clients, whether or not they are the clients of another attorney, are made in a manner that does not bring the profession or the jurisdiction into disrepute. Such approaches shall accord with proper professional standards and shall not be misleading or misrepresent the standard of services provided by other attorneys. Nor may they be intrusive or offensive or disparage other attorneys (whether individually or as a firm or group).

Commentary

(1) *A direct approach to a potential client should not misrepresent the standard of services provided by other attorneys or firms or by the attorney.*

(2) *The manner of such approaches, their frequency and surrounding circumstances, may be taken into account in assessing the propriety of the attorney's actions.*

An attorney shall not directly or indirectly offer to or receive from a third party a reward or inducement, whether financial or otherwise, in respect of services rendered or to be rendered to the client. Rule 4.04

Commentary

(1) A financial arrangement between an attorney and a third party whereby that third party refers work to the attorney, or is recommended by the attorney, is likely to involve a conflict of interest, with an attorney having loyalties to both the client and the third party. That conflict of interest will often be irremediable under Chapter 1. Rules 1.11 - 1.13.

(2) Although the rule is cast in absolute terms, there is a line to be drawn between two situations. While the offering of direct payments or benefits for the advancing of work is proscribed, it is not intended that the rule should prohibit the usual professional associations that develop between attorneys and third parties, i.e. those associations which may involve social exchanges, the mutual referrals of work, or small gifts. There could, nevertheless, be instances where indirect benefits may create a conflict of interest, or involve a breach of Chapter 1. Rules 1.11 - 1.13.

An attorney may not, without the specific consent of a client, give an interview or make a public statement involving the confidential information of a client, whether or not the client's involvement is a matter of public knowledge. Rule 4.05

CHAPTER 5 - ANTI MONEY-LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM

Each practitioner shall observe and comply with regulations made under the Misuse of Drugs Law (2014 Revision), the Proceeds of Crime Law (2014 Revision) and the Terrorism Law (2015 Revision) and follow any relevant supervisory or regulatory guidance, such as the Money Laundering Regulations (2015 Revision), made by the Cayman Islands Monetary Authority or the Legal Advisory Council. Each firm of attorneys shall maintain appropriate procedures in accordance with such Regulations for the conduct of relevant financial business. Rule 5.01
(2014 Revision)
(2014 Revision)
(2015 Revision)
(2015 Revision)

Commentary

Failure by an attorney to observe such Regulations in the conduct of relevant financial business may render the attorney liable to civil or criminal sanctions.

CHAPTER 6 - RELATIONS BETWEEN ATTORNEYS

Rule 6.01

An attorney shall promote and maintain proper standards of professionalism in relations with other attorneys.

Commentary

(1) An attorney shall treat professional colleagues with courtesy and fairness at all times consistent with an overriding duty to the client.

(2) There are many occasions when an attorney needs to rely on information given by another practitioner. Professionalism demands that such reliance should not be misplaced. Whether the information is given in writing, or orally, or is in the form of an oral or written undertaking, the attorney receiving the information or undertaking is entitled to be able to rely and act on it with impunity.

(3) Wherever possible oral undertakings should be avoided in favour of written undertakings - see Commentary (2) in relation to Rule 6.06.

(4) While it is not always possible to take telephone calls from another practitioner or to answer emails, text or instant messaging immediately, such calls, emails or messaging should be returned at the earliest opportunity.

(5) It is an invasion of a person's privacy to tape a conversation without that person's consent. It is unprofessional and discourteous for one practitioner to tape a conversation in respect of another practitioner or an employee of another practitioner. If an attorney wishes a conversation by telephone or otherwise to be taped, then the attorney should first notify the other practitioner or employee so as to give them the opportunity to decline to go ahead with the conversation if they wish.

Rule 6.02

It is only in very exceptional cases that an attorney should communicate either directly or in writing with the client of another practitioner (without the knowledge of or without addressing a copy of such communication to that practitioner) in relation to a matter in which the attorney has reason to believe the other practitioner is still instructed by that client.

Commentary

(1) An attorney may suggest to a client that an approach by that client to the other practitioner's client might be appropriate or useful.

(2) *If an attorney has tried unsuccessfully for a reasonable period to obtain a response from the other practitioner in a matter, then it may be appropriate for the client of that other attorney to be approached. This action should, however, be regarded as most unusual and be used only in extreme circumstances. In any event, the action should be taken only after advising the other practitioner of the attorney's intention to do so.*

(3) *In circumstances where the client is acting in a professional capacity (e.g. a liquidator of a company), it may be appropriate for lawyers of other clients to communicate with the client directly.*

Unless there are exceptional circumstances, an attorney shall not -

Rule 6.03

- (a) stop a cheque drawn on such practitioner's account payable to another practitioner;
- (b) stop a bank cheque payable to another practitioner; or
- (c) cancel or reverse or amend an order for payment made to another practitioner by means of electronic transfer from an attorney's account,

once the cheque or printed verification of the electronic transfer instructions has been handed or dispatched to the other practitioner.

Commentary

The circumstances that would justify stopping such a cheque, or cancelling or reversing or amending such an order for payment, would need to be truly exceptional. Such a step is not likely to be justified in the absence of clearly proper and legal grounds for doing so.

A client has an unequivocal right to change one practitioner for another.

Rule 6.04

Commentary

(1) *An attorney has no proprietary interest in a client. It is permissible to inquire why a client is changing but it is not permissible to exert influence or pressure on the client to return to the attorney.*

(2) *On a change of practitioner, an authority to transfer specific documents should be acted upon without undue delay subject only to any lien that the holding practitioner may lawfully claim. It is however recognised that documents may be required for a short time for costing purposes.*

(3) *Even when an attorney does have a lien over documents, the urgency of a situation may demand that as a matter of courtesy, the practitioner will make the documents available to the client's new adviser on receipt of an appropriate undertaking as to the payment of the attorney's fee.*

(4) *Efforts should be made in the interests of the former client and of the profession to facilitate the transfer of files on a change of practitioner. There could be circumstances, such as a revision of costs, where delays might occur that would be harmful to the client's interest unless the file was handed to the new practitioner against appropriate undertakings.*

(5) *A circumstance might arise where the attorney, whose client wishes to change to another practitioner has given undertakings to settle and pay settlement moneys and hand over documents. In such a situation, an attorney should decline to hand over documents and moneys to the new practitioner until the attorney receives from the new practitioner a personal written undertaking to honour the terms of the undertaking already made.*

Rule 6.05

Immediately upon an attorney becoming aware of a potential claim for negligence that a client may assert against the attorney or the attorney's firm, the attorney shall advise the client to seek independent advice in connection with the matter and shall inform the client that the attorney can no longer act in the matter, unless the client, either having been independently advised or having deliberately chosen not to take advice and to waive any claim, requests it.

Commentary

(1) *An attorney is entitled to ensure, while informing the client of the client's rights, that the attorney does not make any statement that may prejudice any insurance cover held by the attorney.*

(2) *An attorney who is requested to hand the relevant papers to a new practitioner instructed by the client should, as a matter of prudence and at the expense of the client, take copies of relevant papers that may be material in the attorney's defence.*

Rule 6.06

Every attorney has an absolute professional duty to honour an undertaking, written or oral, given by the attorney in the course of legal proceedings or in the course of practice; and this rule applies whether the undertaking is given by the attorney personally or by a partner or employee in the course of the practice.

Commentary

(1) An attorney's word is the attorney's bond. Further, the honouring of an undertaking involves the joint and several responsibility and liability of all the partners of that practitioner's firm.

(2) While a professional undertaking may be given in writing or orally, it is prudent for attorneys to express an undertaking in writing if it is at all practicable. An oral undertaking has the same effect as one in writing but may raise evidential problems as to its content or existence.

(3) If circumstances require an oral undertaking to be given, it may be that a contemporaneous note, transcript or written confirmation recorded by either practitioner may be necessary as conclusive proof of its existence. If the recipient confirms or accepts the terms of an oral undertaking and these are not promptly repudiated by the giver of the undertaking, this would be likely to constitute sufficient evidence of the existence and terms of the undertaking.

(4) An undertaking should be given expressly and not merely by implication.

(5) An attorney should try to ensure that an undertaking is precise and unambiguous in its terms. An ambiguous undertaking will generally be construed in favour of the recipient.

(6) An attorney may not escape liability on an undertaking by pleading that to honour it would be a breach of a duty owed to the attorney's client.

(7) If a client makes it impossible or impracticable for the undertaking to be honoured, the attorney shall investigate the circumstances and, if appropriate, consider resigning.

An attorney who instructs another practitioner in the role of counsel or in any other capacity in any matter is, unless agreement to the contrary is reached, responsible personally for the prompt and full payment of the fee of the instructed practitioner.

Rule 6.07

Commentary

An attorney may not delay payment because the client has not paid the amount of the fee to the attorney.

The relationship of the attorney to the instructed practitioner is that of a professional client, who may be looked to for the fee accordingly.

Rule 6.08

Subject always to the rights and duties pertaining to practitioner and client privilege, there is an obligation on every attorney who has grounds to suspect improper acts by another practitioner (including breaches of these Rules) to make a confidential report at the earliest possible time to the Hon. Chief Justice of the Cayman Islands.

Commentary

(1) An attorney may receive information in professional confidence from an attorney who is a client. In any such case the attorney/client privilege applies and there is a duty of silence imposed on the attorney. An attorney should where appropriate encourage a client to consent to disclosure to the Hon. Chief Justice of the Cayman Islands unless such encouragement is contrary to the attorney's professional duty to the client.

(2) It is not possible to itemise all the indications there might be of improper conduct on the part of an attorney, but such circumstances as breach of law, the dishonouring of cheques, or a delay or procrastination in effecting settlements, might be sufficient to indicate that all is not well with the attorney's practice or with the attorney's firm.

CHAPTER 7 - RELATIONS WITH THIRD PARTIES

Rule 7.01

An attorney, when acting for a client in a matter where the other party is acting in person, shall treat the other party with courtesy and fairness.

Rule 7.02

An attorney who -

- (a) instructs another person, for example an accountant, valuer or engineer to prepare an assessment valuation or report or to provide other services; or
- (b) engages an expert witness,

is, in the absence of an agreement to the contrary, liable for the prompt payment of the proper fee of the person so instructed, or the witness, as the case may be.

Commentary

(1) Except where the matter is funded on legal aid, the attorney is not relieved from liability merely because the client or a third party has not paid the amount of the fee to the attorney. In the absence of agreement with

the person so instructed or the witness ("the instructed person"), the attorney has personal responsibility for payment.

(2) Attorneys should be precise as to fee arrangements at the time the instructed person is retained. Where a fee or formula for fixing a fee (e.g. an hourly rate) has been agreed in advance, then that agreed fee or a fee fixed in accordance with that formula will be the proper fee for which the attorney will be responsible under this rule. Otherwise the proper fee is the instructed person's reasonable fee. If there is a dispute about the reasonableness of the fee, the attorney should promptly pay the amount, which the attorney considers reasonable, and attempt to negotiate prompt settlement of any balance.

(3) All fee arrangements with an instructed person should be in writing.

(4) The provisions of this rule will also apply in circumstances where an attorney has made a personal commitment to be responsible for the fees and expenses of a non-expert witness.

An attorney shall make all reasonable efforts to ensure that legal processes are used for their proper purposes only and that their use is not likely to cause unnecessary embarrassment, distress or inconvenience to another person's reputation, interests or occupation.

Rule 7.03

Commentary

Examples of the operation of the rule are:

(1) An attorney should not issue a statutory demand under section 93 of the Companies Law (2013 Revision) knowing that or being reckless as to whether the debt is bona fide disputed, and should make reasonable inquiry from the client as to the existence of any such dispute.

(2013 Revision)

(2) Ex parte applications should be made by an attorney only if the attorney is satisfied that to make an ex parte application is both permitted by the Grand Court Rules and that it is impractical or inappropriate to give notice to the persons likely to be affected by the order being sought in the application.

(2004 Revision)

(3) An attorney should not register a caution under section 127 of the Registered Land Law (2004 Revision) knowing that there is no "unregistrable interest" of the client to be protected pursuant to that Law,

and should make reasonable inquiry from the client as to the existence of any such interest.

(4) An attorney, in arranging service of a document on a person, has a clear duty to the client to make all reasonable efforts to effect service promptly or to seek substituted service, but the attorney should also take reasonable steps to avoid in the manner and place of service causing the person served unnecessary embarrassment or damage to the person's reputation, interests or occupation.

CHAPTER 8 - COURT PROCEEDINGS AND PRACTICE

Rule 8.01

The overriding duty of an attorney acting in litigation is to ensure in the public interest that the proper and efficient administration of justice is served. Subject to this, the attorney has a duty to act in the best interests of the client.

Commentary

(1) An attorney shall never deceive or knowingly or recklessly mislead the court or the tribunal.

(2) The attorney shall at all times be courteous to the court or the tribunal.

(3) The attorney, whilst acting in accordance with these duties, shall uphold the attorney's client's interests without regard for personal interests or concerns.

(4) The attorney has an obligation when conducting a case to put all relevant authorities known to the attorney, whether decided cases or statutory provisions, before the court, whether they support the attorney's case or not.

(5) If a fact or an authority which may affect the judgment in the case is discovered by the attorney sometime after the hearing but before the decision has been given, the attorney has a duty to bring it to the attention of the court and to inform or, as the case may be, provide a copy of the reference to the attorney acting for the other party or parties in the matter.

(6) An attorney should not make any statement to the news media relating to proceedings that have not been concluded which may have the effect or may be seen to have the effect of interfering with a fair trial.

The following points should be specifically noted -

(a) A publication will amount to contempt if it is likely to prejudice the trial or conduct of the action.

- (b) *A publication may constitute a contempt if it is likely to interfere with the proper adducing of evidence, either by discouraging witnesses from coming forward or by influencing them in the evidence that they are prepared to give. An example would be a publication attacking or criticising a witness or disparaging a party in proceedings.*
- (c) *Contempt of court in a civil action extends also to conduct that is calculated to inhibit suitors from availing themselves of their right to have their legal rights determined by the courts. An example would be a publication which is likely to bring pressure to bear on one or other of the parties to an action so as to prevent that party from prosecuting or defending the action.*

(7) *Whether or not civil or criminal proceedings are pending or imminent, an attorney shall not discuss a client's affairs without the client's consent.*

(8) *Unless invited to assert a personal opinion on fact or law by the court or tribunal, an attorney shall not assert a personal opinion on fact or law.*

(9) *Attorneys shall not allow their independence and freedom from external pressures to be compromised and they shall not themselves compromise their professional standards to appease a client, the court or any third party.*

An attorney shall exercise care in court about naming persons not involved in the proceeding, and shall refrain particularly from making merely scandalous or unnecessary allegations against such persons. Further, *the attorney* should not make statements or ask questions that are merely scandalous or calculated only to insult, vilify, harass, threaten or intimidate a witness or another.

Rule 8.02

Except in cases of urgency or where an *ex parte* application is justified, an attorney shall not discuss the merits of a case or matter with a judge or other presiding officer, either formally or informally, without the consent of the other practitioner; and such discussion should be held only in the presence of the other practitioner unless the other practitioner consents otherwise. In any event, natural justice demands that generally there should not be unilateral communications with a court or other tribunal.

Rule 8.03

An attorney shall not attack a person's reputation without good cause nor make any allegation of fraud or dishonesty unless *the attorney* has clear instructions to attack the person's reputation or make an allegation of fraud or dishonesty and is satisfied that there is reasonably credible material supporting a *prima facie* case.

Rule 8.04

Commentary

(1) *This rule applies equally both in court during the course of proceedings and out of court by inclusion of statements in documents that are to be filed in the court.*

(2) *An attorney should not be a party to the filing of a pleading or other court document containing an allegation of fraud, dishonesty, undue influence, or duress unless the attorney is first satisfied that it is necessary relevant and material and that there is reasonably credible material to support the allegation. For an attorney to allow such an allegation to be made, without the fullest investigation, could be an abuse of the protection which the law affords to the attorney in the drawing and filing of pleadings and other court documents.*

(3) *An attorney should not permit to be filed or used in proceedings or in evidence an affidavit or witness statement including any statements of fact other than those which the attorney reasonably believes on the attorney's instructions would be given in evidence by the witness in live testimony or which are included in the affidavit subject to confirmation by the client as to its accuracy.*

(4) *An attorney shall not place a witness or prospective witness under any pressure to provide untruthful evidence.*

Rule 8.05

An attorney shall not act as both advocate and witness in the same matter.

Commentary

(1) *If there is any reason for an attorney to think that the attorney may be required as a witness in a matter, the attorney should decline to act as advocate. This does not necessarily prevent the attorney's partners or other colleagues in the attorney's firm from doing so, however.*

(2) *The same principle applies to making an affidavit in a contentious matter where the attorney is acting as advocate.*

(3) *If, having started to act as advocate, the attorney finds it necessary to make an affidavit in respect of the matter concerned, unless it is of a formal or non-contentious nature, the attorney shall immediately retire from the position of advocate, unless the court, in the particular circumstances, directs that it is still appropriate for the attorney to continue to act.*

(4) *Even where an affidavit might appear to be in respect of a formal or non-contentious nature, it may be prudent for the attorney to have it made and sworn by some other person.*

(5) *If an attorney, having already accepted instructions as advocate, becomes aware that a partner or employee of the attorney might be called as a witness for the client, the attorney shall exercise care and professional judgment in deciding whether or not to continue as advocate in the matter.*

(6) *The constraints expressed above apply to the same extent where an attorney acts as both attorney and advocate.*

In litigation matters, as in the course of other aspects of practice, an attorney shall avoid a conflict of interest. Rule 8.06

Commentary

(1) *In civil proceedings an attorney should ensure that parties with conflicting interests are not represented by the same practitioner, whether or not counsel is or are briefed.*

(2) *If a remote possibility is identified of a conflict arising, it should generally be avoided by the attorney declining to act unless with the informed consent of both parties and upon clear agreement as to what should happen in the event of a conflict.*

(3) *The provisions of this rule apply where two or more persons are charged jointly in a criminal matter.*

An attorney appearing for a party shall not seek or agree to a consent order without the client's authority. The attorney should obtain written instructions. Rule 8.07

Commentary:

(1) *If an attorney appearing for a party informs the court that the attorney consents to an order on behalf of the party, the court and the other counsel and client are entitled to rely on the authority of counsel.*

(2) *The rule applies whether -*

- (a) the client is present and makes no demur; or*
- (b) the client is absent.*

(3) If, unknown to the other party's counsel, an attorney's usual authority has been expressly limited by instructions but the attorney has nevertheless entered into a compromise without authority, the court in its discretion may set aside the compromise and the orders based on it.

CHAPTER 9 - COUNSEL FOR DEFENCE

Rule 9.01

1. On a plea of not guilty the counsel for the defence has a duty to see that the prosecution discharges the appropriate onus to prove the guilt of the accused, and to put before the court any proper defence in accordance with the client's instructions.

2. An attorney may not wantonly or recklessly attribute to another person the crime or offence with which the client is charged. An attorney may so attribute if it goes to a matter or issue (including the credibility of a witness) that is material to the client's case and it is necessary to wantonly or recklessly attribute to another person the crime or offence with which the client is charged as part of the client's case.

Commentary

(1) Attorneys should examine the facts that the prosecution seek to prove before advising the client about an appropriate plea. If the client's decision is to plead not guilty, the attorney shall act conscientiously in presenting the case for the accused.

(2) Counsel for the defence has the same general duty to the court to disclose all cases and authorities bearing on the matter whether or not they support the defence.

(3) Although an attorney may present a technical defence available to the client, the client shall not invent or participate in the invention of facts that will assist in advancing the client's case.

Rule 9.02

The attorney has, on receiving instructions, a duty to defend a person on a criminal charge, whether or not *the attorney* has formed a belief or opinion about the guilt or innocence of that person.

Commentary

(1) It is not for the attorney to assess the guilt or innocence of the client. That is a matter for the Court or a properly instructed jury. There could well be cases where an attorney feels reasonably sure of the client's guilt,

but is still under a duty to put the prosecution to proof and is free to submit, if justified, that there is insufficient evidence for a conviction.

(2) If a client tries to put before the court evidence that to the knowledge of the client's counsel is false the attorney should avail himself or herself of any opportunity to persuade the client to withdraw the evidence failing which the attorney should cease to act.

1. If an attorney has been instructed to defend a criminal charge and before or after the proceedings have started the client makes a confession of guilt to the attorney, the attorney shall bear in mind Rule 9.03

- (a) a trial is for the purpose of finding whether the accused person is guilty or not guilty, and not whether the accused is innocent;
- (b) it is for the prosecution to call evidence to justify a verdict of guilty;

2. In such circumstances, the attorney may continue to act only if the plea is changed to one of guilty or otherwise within strict limit. An attorney shall not put forward a factual case inconsistent with the confession.

3. If the plea is to remain one of not guilty, the attorney may conduct the defence by putting the prosecution to proof, and if appropriate, assert that the prosecution evidence is inadequate to justify a verdict of guilty; but shall not raise any matter which suggests that the client has an affirmative defence, for example an alibi. An attorney may, however, proceed with a defence based on a special plea such as insanity, if such a plea appears in *the attorney's* professional opinion to be available.

Commentary:

(1) This rule applies to a case where there is a clear confession that the client committed the offence charged.

(2) No rule can deal with doubts raised in an advocate's mind after the advocate has been instructed to act on a not guilty plea, by inconsistent statements by the client which might suggest to the attorney that the client is guilty. An attorney can deal with such a situation only in the light of all the circumstances and pursuant to the attorney's professional judgment and duty as an officer of the Court.

An attorney shall, in advising the client on a plea, or as to whether or not to give evidence, explain the relevant aspects of the case and seek to ensure that the client makes an informed decision. Rule 9.04

Commentary

(1) *Although an attorney has a clear duty to advise on a plea, the client has the sole right to make the decision whether to plead guilty or not guilty.*

(2) *If the client might have difficulty making a decision on a plea, where the client asserts a position inconsistent with a decision to plead guilty or where the client changes the client's decision to one in which the client pleads guilty, it is prudent for the attorney to take written instructions on the plea. To have the client's decision so recorded might well assist the attorney if in the course of the proceedings or on appeal, the client decides to change the plea. It may also be prudent for an attorney to take written instructions as to whether or not the client is to give evidence on the client's own behalf.*

(3) *In giving advice on a plea, the attorney's clear duty is to the client and the court. The interest of the attorney or any potential benefit to the attorney by way of fee or otherwise, is quite irrelevant to the nature of the plea.*

Rule 9.05

Where an attorney is told by the accused that the accused did not commit the offence, or where the attorney believes that on the facts there should be an acquittal, but for particular reasons the client wishes to plead guilty, *the attorney* may continue to represent the client, but only after warning the client of the consequences and advising the client that *the attorney* can act after the entry of the plea only on the basis that the offence has been admitted, and put forward factors in mitigation.

APPENDIX

INTERNATIONAL BAR ASSOCIATION INTERNATIONAL PRINCIPLES
ON CONDUCT FOR THE LEGAL PROFESSION

Lawyers throughout the world are specialized professionals who place the interests of their clients above their own, and strive to obtain respect for the Rule of Law. They have to combine a continuous update on legal developments with service to their clients, respect for the courts, and the legitimate aspiration to maintain a reasonable standard of living. Between these elements there is often tension. These principles aim at establishing a generally accepted framework to serve as a basis on which codes of conduct may be established by the appropriate authorities for lawyers in any part of the world. In addition, the purpose of adopting these International Principles is to promote and foster the ideals of the legal profession. These International Principles are not intended to replace or limit a lawyer's obligation under applicable laws or rules of professional conduct. Nor are they to be used as criteria for imposing liability, sanctions, or disciplinary measures of any kind.

1. Independence

A lawyer shall maintain independence and be afforded the protection such independence offers in giving clients unbiased advice and representation. A lawyer shall exercise independent, unbiased professional judgment in advising a client, including as to the likelihood of success of the client's case.

2. Honesty, integrity and fairness

A lawyer shall at all times maintain the highest standards of honesty, integrity and fairness towards the lawyer's clients, the court, colleagues and all those with whom the lawyer comes into professional contact.

3. Conflicts of interest

A lawyer shall not assume a position in which a client's interests conflict with those of the lawyer, another lawyer in the same firm, or another client, unless otherwise permitted by law, applicable rules of professional conduct, or, if permitted, by client's authorization.

4. Confidentiality/professional secrecy

A lawyer shall at all times maintain and be afforded protection of confidentiality regarding the affairs of present or former clients, unless otherwise allowed or required by law and/or applicable rules of professional conduct.

5. Clients' interest

A lawyer shall treat client interests as paramount, subject always to there being no conflict with the lawyer's duties to the court and the interests of justice, to observe the law, and to maintain ethical standards.

6. Lawyers' undertaking

A lawyer shall honour any undertaking given in the course of the lawyer's practice in a timely manner, until the undertaking is performed, released or excused.

7. Clients' freedom

A lawyer shall respect the freedom of clients to be represented by the lawyer of their choice. Unless prevented by professional conduct rules or by law, a lawyer shall be free to take on or reject a case.

8. Property of clients and third parties

A lawyer shall account promptly and faithfully for and prudently hold any property of clients or third parties that comes into the lawyer's trust, and shall keep it separate from the lawyer's own property.

9. Competence

A lawyer's work shall be carried out in a competent and timely manner. A lawyer shall not take on work that the lawyer does not reasonably believe can be carried out in that manner.

10. Fees

Lawyers are entitled to a reasonable fee for their work, and shall not charge an unreasonable fee. A lawyer shall not generate unnecessary work.

COMMENTARY ON IBA INTERNATIONAL PRINCIPLES ON CONDUCT
FOR THE LEGAL PROFESSION

ADOPTED BY THE INTERNATIONAL BAR ASSOCIATION AT THE
WARSAW COUNCIL MEETING 28 MAY 2011

Introduction

1 The lawyer's role, whether retained by an individual, a corporation or the state, is as the client's trusted adviser and representative, as a professional respected by third parties, and as an indispensable participant in the fair administration of justice. By embodying all these elements, the lawyer, who faithfully serves a client's interests and protects the client's rights, also fulfils the functions of the lawyer in society – which are to forestall and prevent conflicts, to ensure that conflicts are resolved in accordance with recognized principles of civil, public or criminal law and with due account of rights and interests, to negotiate and draft agreements and other transactional necessities, to further the development of the law, and to defend liberty, justice and the rule of law.

2 The International Principles consist of ten principles common to the legal profession worldwide. Respect for these principles is the basis of the right to a legal defence, which is the cornerstone of all other fundamental rights in a democracy.

3 The International Principles express the common ground which underlies all the national and international rules which govern the conduct of lawyers, principally in relation to their clients. The General Principles do not cover in detail other areas of lawyer conduct, for instance regarding the courts, other lawyers or the lawyer's own bar.

4 The International Principles take into consideration:

- national professional rules from states throughout the world;

- the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana (Cuba), 27 August to 7 September 1990;
- the Universal Declaration of Human Rights.

5 It is hoped that the Principles and this Commentary will be of help, for instance, to bars that are struggling to establish their independence and that of their members in emerging democracies, and to lawyers and bars to understand better the issues arising in cross border situations as a consequence of conflicting national rules and regulations.

6 It is hoped that the Principles will increase understanding among lawyers, decision makers and the public of the importance of the lawyer's role in society, and of the way in which the principles by which the legal profession is regulated support that role.

7 The IBA urges judges, legislators, governments and international organizations to strive, along with lawyers and bars, to uphold the principles set out in the International Principles. However, no statement of principles or code of ethics can provide for every situation or circumstance that may arise. Consequently, lawyers shall act not only in accordance with the professional rules and applicable laws in their own state (and maybe also the rules and laws of another state in which they are practising), but also in accordance with the dictates of their conscience, in keeping with the general sense and ethical culture that inspires these International Principles.

8 The Appendix to this Commentary contains definitions of some of the terms contained in it.

1. Independence

1.1 General principle

A lawyer shall maintain independence and be afforded the protection such independence offers in giving clients unbiased advice and representation. A lawyer shall exercise independent, unbiased professional judgment in advising a client, including as to the likelihood of success of the client's case.

1.2 Explanatory note

It is indispensable to the administration of justice and the operation of the Rule of Law that a lawyer act for the client in a professional capacity free from direction,

control or interference. If a lawyer is not guaranteed independence and is subject to interference from others, especially those in power, it will be difficult for the lawyer fully to protect clients. Therefore, the guarantee of a lawyer's independence is an essential requirement for the protection of citizens' rights in a democratic society. The requirement of independence calls upon the individual practicing lawyer, government and civil society to give priority to the independence of the legal profession over personal aspirations and to respect the need for an independent legal profession. Clients are entitled to expect independent, unbiased and candid advice, irrespective of whether or not the advice is to the client's liking.

Independence requires that a lawyer act for a client in the absence of improper conflicting self-interest, undue external influences or any concern which may interfere with a client's best interest or the lawyer's professional judgment.

Circumstances in which a lawyer's independence will or may be at risk or impaired include:

- the involvement of the lawyer in a business transaction with a client absent proper disclosure and client consent;
- where the lawyer becomes involved in a business, occupation or activity whilst acting for a client and such an interest takes or is likely to take precedence over the client's interest;
- unless otherwise authorized by law, knowingly acquiring an ownership, possessory or security interest adverse to the client; and
- holding or acquiring a financial interest in the subject matter of a case which the lawyer is conducting, whether or not before a court or administrative body, except, where authorized by law, for contingent fee agreements and liens to secure fees.

The fact that lawyers are paid by a third party shall not affect their independence and professional judgement in rendering their services to the client.

Independence of a lawyer requires also that the process for the lawyer's admission to the bar, professional discipline, and professional supervision in general, are organized and carried out in a manner that guarantees that administration of the legal profession is free from undue or improper influence, whether governmental, by the courts or otherwise.

1.3 International implications

While the principles of independence of the lawyer and of the legal profession are undisputed in all jurisdictions adhering to, and striving for, the improvement of the Rule of Law, the respective regulatory and organizational frameworks vary significantly from jurisdiction to jurisdiction. In certain jurisdictions, the bars enjoy specific regulatory autonomy on a statutory and sometimes constitutional basis. In others, legal practice is administered by the judicial branch of government and/or governmental bodies or regulatory agencies. Often the courts or statutory bodies are assisted by bar associations established on a private basis. The various systems for the organization and regulation of the legal profession should ensure not only the independence of practicing lawyers but also administration of the profession in a manner that is itself in line with the Rule of Law. Therefore, decisions of the Bars should be subject to an appropriate review mechanism. There is an ongoing debate as to the extent to which governmental and legislative interference with the administration and conduct of the legal profession may be warranted. Lawyers and bars should strive for and preserve the true independence of the legal profession and encourage governments to avoid and combat the challenges to the Rule of Law.

Some jurisdictions hold certain types of activities and the handling of certain matters by members of the bar as incompatible with their independent practice; others see no conflict at all. As regards employment of a lawyer admitted to the bar, it is allowed in some jurisdictions and prohibited in others for a lawyer to be employed by another lawyer or a third party (in house or corporate counsel). Of those jurisdictions that allow a lawyer to be employed, some jurisdictions acknowledge the privileges of a lawyer (protection of independence and confidentiality) only in those cases where the lawyer works for a client other than the lawyer's employer, while other jurisdictions grant this protection also for work performed for the employer.

Differences in jurisdictional approach should be taken into account in cases of cross-border or multi-jurisdictional practice. Every lawyer is called upon to observe applicable rules of professional conduct in both home and host jurisdictions (Double Deontology) when engaging in the practice of law outside the jurisdiction in which the lawyer is admitted to practise. Every international law firm will have to examine whether its entire organization is in conformity with such rules in every jurisdiction in which it is established or engaged in the provision of legal services. A universally accepted framework for determining proper conduct in the event of 15 conflicting or incompatible rules has yet to be developed, although certain jurisdictions have adopted conflict of law principles to determine which rules of professional conduct apply in cross-border practice.

2. Honesty, integrity and fairness

2.1 General principle

A lawyer shall at all times maintain the highest standards of honesty, integrity and fairness towards the lawyer's clients, the court, colleagues and all those with whom the lawyer comes into professional contact.

2.2 Explanatory note

Trust in the legal profession requires that every member of the legal profession exemplifies personal integrity, honesty and fairness.

A lawyer shall not knowingly make a false statement of fact or law in the course of representing a client or fail to correct a false statement of material fact or law previously made by the lawyer. Lawyers have an obligation to be professional with clients, other parties and counsel, the courts, court personnel, and the public. This obligation includes civility, professional integrity, personal dignity, candor, diligence, respect, courtesy, and cooperation, all of which are essential to the fair administration of justice and conflict resolution. Lawyers should be mindful that while their duties are often carried out in an adversarial forum, lawyers should not treat the court, other lawyers, or the public in a hostile manner. Nevertheless, it is also true that there are different standards expected towards the client, the court or a professional colleague since the lawyer has different responsibilities towards each category. The expression of these responsibilities varies jurisdiction by jurisdiction.

2.3 International implications

A lawyer who appears before or becomes otherwise engaged with a court or tribunal shall comply with the rules applied by such court or tribunal. Cross-border cooperation between lawyers from different jurisdictions requires respect for the differences that may exist between their respective legal systems, and the relevant rules for the regulation of the legal profession. A lawyer who undertakes professional work in a jurisdiction where the lawyer is not a full member of the local profession shall adhere to applicable law and the standards of professional ethics in the jurisdiction of which the lawyer is a full member, and the lawyer shall practice only to the extent this is permitted in the host jurisdiction and provided that all applicable law and ethical standards of the host jurisdiction are observed.

3. Conflicts of interest

3.1 General principle

A lawyer shall not assume a position in which a client's interests conflict with those of the lawyer, another lawyer in the same firm, or another client, unless otherwise permitted by law, applicable rules of professional conduct, or, if permitted, by client's authorization.

3.2 Explanatory note

Trust and confidence in the legal profession and the rule of law depends upon lawyers' loyalty to clients. Rules regarding conflicts of interest vary from jurisdiction to jurisdiction. The definition of what constitutes a conflict also differs from jurisdiction to jurisdiction, including (but not exhaustively) whether information barriers are permitted at all, and also whether conflict of interest prohibitions cover all the law firm or whether information barriers can help. Generally, a lawyer shall not represent a client if the representation involves a conflict of interest. A conflict of interest exists if the representation of one client will be directly adverse to another client; or there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client, a third person or by a personal interest of the lawyer. Notwithstanding the existence of conflict of interest, in some jurisdictions a lawyer may represent the client if the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client, the representation is not prohibited by law, the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal, and each affected client gives informed consent, confirmed in writing. A lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not use information relating to the representation to the disadvantage of the former client except when permitted by applicable law or ethics rules.

In some jurisdictions, certain potentially conflicting situations may be permitted subject to proper disclosure to and, to the extent permitted by applicable law or ethics rules, consent by all parties involved, provided always that disclosure may be made without breaching confidentiality obligations. Without prejudice to additional duties, if a conflict becomes apparent only after the lawyer's work has commenced, some jurisdictions require the conflicted lawyer to withdraw from the case in its entirety and in respect of all clients concerned; others require withdrawal from representing one client only, but not all of them.

In addition, legal and professional conduct conflict of interest shall be clearly distinguished from commercial conflict of interest. A lawyer should be entitled to defend the interests of or represent a client in a case even if that client is a competitor or its interests conflict with the commercial interests of another

present or former client, not involved or related in that particular case assigned to the lawyer. Also, a lawyer may defend the interests of or represent a client against another client in any circumstance where the latter, whether in negotiating an agreement, or in another legal action or arbitration, has chosen to place its interests for those cases with another lawyer; however, in such cases, the first-mentioned lawyer will have to comply with all other applicable rules of professional conduct, and in particular with rules of confidentiality, professional secrecy and independence.

In upholding the interests of clients, lawyers shall not allow their own interests to conflict with or displace those of their client. A lawyer shall not exercise any undue influence intended to benefit the lawyer in preference to that of a client. A lawyer shall not accept instructions or continue to act for a client, when the lawyer becomes aware that the client's interest in the proceedings would be in conflict with the lawyer's own interest.

3.3 International implications

The differences in national rules on conflicts of interest will have to be taken into account in any case of cross-border practice. Every lawyer is called upon to observe the relevant rules on conflicts of interest when engaging in the practice of law outside the jurisdiction in which the lawyer is admitted to practise. Every international law firm will have to examine whether its entire organization complies with such rules in every jurisdiction in which it is established and engaged in the provision of legal services. A universally accepted framework for determining proper conduct in the event of conflicting or incompatible rules has yet to be developed, although certain jurisdictions have adopted conflict of law principles to determine which rules of professional conduct apply in cross-border practice.

4. Confidentiality/ professional secrecy

4.1 General principle

A lawyer shall at all times maintain and be afforded protection of confidentiality regarding the affairs of present or former clients, unless otherwise allowed or required by law and/or applicable rules of professional conduct.

4.2 Explanatory note

The right and duty of a lawyer to keep confidential the information received from and advice given to clients is an indispensable feature of the rule of law and

another element essential to public trust and confidence in the administration of justice and the independence of the legal profession.

The principles of confidentiality and professional secrecy have two main features. On the one hand there is the contractual, ethical and frequently statutory duty on the part of the lawyer to keep client secrets confidential. The statutory duty is sometimes in the form of an evidentiary attorney-client privilege; this differs from the lawyer's obligations under applicable rules of professional conduct. Such obligations extend beyond the termination of the attorney-client relationship. Most jurisdictions respect and protect such confidentiality obligations, for example, by exempting the lawyer from the duty to testify before courts and other public authorities as to the information the lawyer has gathered from clients, and/or by affording lawyer-client communications special protection.

On the other hand, there are manifest situations in which the principles of confidentiality and professional secrecy of lawyer-client communications no longer apply in full or in part. Lawyers cannot claim the protection of confidentiality when assisting and abetting the unlawful conduct of their clients. Some jurisdictions also allow or require a lawyer to reveal information relating to the representation of the client to the extent the lawyer reasonably believes it necessary to prevent reasonably certain crimes resulting, for example in death or substantial bodily harm, or to prevent the client from committing such a crime in furtherance of which the client has used or is using the lawyer's services. Recent legislation imposing special duties upon lawyers to assist in the prevention of criminal phenomena such as terrorism, money laundering or organized crime has led to further erosion of the protection of the lawyer's duty of confidentiality. Many bars are opposed in principle to the scope of this legislation. Any encroachment on the lawyer's duty should be limited to information that is absolutely indispensable to enable lawyers to comply with their legal obligations or to prevent lawyers from being unknowingly abused by criminals to assist their improper goals. If neither of the above is the case and a suspect of a past crime seeks advice from a lawyer, the duty of confidentiality should be fully protected. However, a lawyer cannot invoke confidentiality/professional secrecy in circumstances where the lawyer acts as an accomplice to a crime.

Jurisdictions differ on the scope of protection and its geographical extension. In some jurisdictions clients may waive the lawyer's obligation of confidentiality and professional secrecy, but in others clients may not. In some jurisdictions, the obligation can be broken for self-defence purposes in judicial proceedings. Apart from client waiver, such self-defence and any requirements imposed by law, the lawyer's obligation of confidentiality and professional secrecy is usually without time limit. The obligation also applies to assistants, interns and all employed within the law firm. In any event, lawyers shall be under a duty to ensure that

those who work in the same law firm, in whatever capacity, maintain the obligation of confidentiality and professional secrecy.

Law firms or associations raise different aspects of the duty of confidentiality and professional secrecy. The basic and general rule shall be that any information or fact known by a lawyer in a law firm is held to be known by the entire organization, even if that organization is present in different branches and countries. This means that extraordinary measures shall be adopted within the organization if a lawyer is involved in a case that should be considered as strictly confidential even beyond the general standards of the professional secrecy principle.

Lawyers should also take care to ensure that confidentiality and professional secrecy are maintained in respect of electronic communications, and data stored on computers. Standards are evolving in this sphere as technology itself evolves, and lawyers are under a duty to keep themselves informed of the required professional standards so as to maintain their professional obligations.

The extent to which clients may waive the right to confidentiality is subject to differing rules in different jurisdictions. Those rules limiting the ability to waive argue that clients frequently cannot properly assess the disadvantages of issuing such a waiver. Restrictions on waivers are of paramount importance to protect against a court or governmental authority putting inappropriate pressure on a client to waive his or her right to confidentiality.

Finally, lawyers should not benefit from the secrets confided to them by their clients.

4.3 International implications

Although there is a clear common goal behind the various regimes governing the duty of confidentiality and its protection, national rules differ substantially. While civil law countries entitle and oblige the lawyer not to testify, and protect the lawyer against search and seizure, common law countries protect the confidentiality of certain attorney-client communications, even if, for example, privileged correspondence is found with a client suspected of having committed a criminal offence.

Lawyers engaged in cross-border practice and international law firms will have to investigate all rules that may be of relevance and will have to ensure that information to which they gain access and the communication in which they are engaged will in fact enjoy the protection of confidentiality.

Generally, the national rules of all relevant jurisdictions shall be complied with (Double Deontology). But national rules sometimes do not address the issue of how to deal with conflicting rules. If the conflicting rules are broadly similar, then the stricter rule should be complied with. There is, however, no universally accepted solution for those cases where the rules contradict each other (for instance secrecy protection versus reporting obligation), although certain jurisdictions have adopted conflict of law principles to determine which rules of professional conduct apply in cross-border practice.

Likewise, national rules as to the ability of a client to waive confidentiality vary, and the applicable rule or rules will have to be determined individually in every case. A special international consideration arises from the fact that some jurisdictions permit employment of a lawyer admitted to the Bar, while others do not permit employment of in-house counsel. Accordingly, the question arises how jurisdictions that do not recognize in whole or in part the duty of confidentiality on the part of in-house counsel deal with foreign in-house counsel who enjoy that protection in their home jurisdiction.

5. Clients' interests

5.1 General principle

A lawyer shall treat client interests as paramount, subject always to there being no conflict with the lawyer's duties to the court and the interests of justice, to observe the law, and to maintain ethical standards.

5.2 Explanatory note

This means that lawyers in all of their dealings with the courts, by written or oral form, or by instructing an advocate on the client's behalf, should act with competence and honesty.

Lawyers should serve their clients competently, diligently, promptly and without any conflict to their duty to the court. They should deal with their clients free of the influence of any interest which may conflict with a client's best interests; and with commitment and dedication to the interest of the client. A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and take whatever lawful and ethical measures may be required to vindicate a client's cause or endeavour.

Lawyers should maintain confidentiality. They should also provide all relevant information to their clients, in order to protect their clients' interests and advise them competently, subject to any contrary law or ethics rule.

Lawyers shall not engage in, or assist their client with, conduct that is intended to mislead or adversely affect the interest of justice, or wilfully breach the law. Lawyers' duty to safeguard clients' interests commences from their retainer until their effective release from the case or the final disposition of the whole subject matter of the litigation. During that 26 period, they are expected to take such steps and such ordinary care as clients' interests may require.

Even if not required by the applicable law of a jurisdiction, it is considered good practice in many jurisdictions for lawyers to ensure that they secure in the interest of their clients adequate insurance cover against claims based on professional negligence or malpractice.

6. Lawyers' undertaking

6.1 General principle

A lawyer shall honour any undertaking given in the course of the lawyer's practice in a timely manner, until the undertaking is performed, released or excused.

6.2 Explanatory note

A lawyer's undertaking is a personal promise, engagement, stipulation and responsibility, as well as a professional and legal obligation. A lawyer shall therefore exercise extreme caution when giving and accepting undertakings. A lawyer may not give an undertaking on behalf of a client if they do not have a prior mandate, unless they are requested to give an undertaking on behalf of a client by another lawyer representing that client. A lawyer should not give or request an undertaking that cannot be fulfilled, and shall exercise due diligence in this regard. This therefore requires that a lawyer has full control over the ability to fulfil any undertaking given. Ideally, a lawyer should provide a written confirmation of an undertaking in clear and unambiguous terms, and in a timely manner – if the lawyer does not intend to accept personal responsibility this should be made clear in the undertaking. Breaches of undertakings adversely affect both the lawyer's own reputation as being honourable and trustworthy, as well as the reputation and trustworthiness of the legal profession as a whole.

In those jurisdictions in which undertakings are not recognized as described here, lawyers should nevertheless exercise the same extreme caution in engaging themselves in the way outlined.

7. Clients' freedom

7.1 General principle

A lawyer shall respect the freedom of clients to be represented by the lawyer of their choice. Unless prevented by professional conduct rules or by law, a lawyer shall be free to take on or reject a case.

7.2 Explanatory note

The client may issue an instruction or mandate to the lawyer, instructing the transfer of all papers and files to another lawyer. The lawyer is under an obligation to comply with the instruction or mandate, subject to any lawful right of retention or lien. A lawyer should not withdraw from representation of a client except for good cause or upon reasonable notice to the client, and shall minimize any potential harm to the client's interests, and (where appropriate or required) with the permission of the court. A lawyer should do everything reasonable to mitigate the consequences of the change of instructions.

8. Protection of property of clients and third parties

8.1 General principle

A lawyer shall account promptly and faithfully for and prudently hold any property of clients or third parties that comes into the lawyer's trust, and shall keep it separate from the lawyer's own property.

8.2 Explanatory note

A lawyer shall hold property of clients or third parties that is in the lawyer's possession in connection with a representation separate from the lawyer's own business or personal property. Client or third-party funds should be held in a separate bank account and not commingled with the lawyer's own funds. Property other than funds should be identified as such and appropriately safeguarded. Complete records of such funds and other property shall be kept by the lawyer and shall be preserved after termination of a representation to the extent required by applicable law or professional regulations. The lawyer should ascertain the identity, competence and authority of the third person that is transferring the possession of the property or the funds.

Upon receiving funds or other property in which a client or third person has an interest, the lawyer shall promptly notify the client or third person. Except as permitted by law or by agreement with the client, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall

promptly render a full accounting regarding such property. A lawyer cannot use a client's property or client's funds in order to set off or compensate any outstanding payment of the lawyers' professional fees or expenses unless so is authorized by law or in writing by the client.

9. Competence

9.1 General principle

A lawyer's work shall be carried out in a competent and timely manner. A lawyer shall not take on work that the lawyer does not reasonably believe can be carried out in that manner.

9.2 Explanatory note

As a member of the legal profession, a lawyer is presumed to be knowledgeable, skilled, and capable in the practice of law. Accordingly, the client is entitled to assume that the lawyer has the ability and capacity to deal adequately with all legal matters to be undertaken on the client's behalf or to procure that somebody else either in or outside the law firm will do it.

Competence is founded upon both ethical and legal principles. It involves more than an understanding of legal principles: it involves an adequate knowledge of the practice and procedures by which such principles can be effectively applied, and includes competent and effective client, file and practice-management strategies.

A lawyer shall consider the client's suggestion to obtain other opinions in a complex matter or from a specialist, without deeming such requests to be a lack of trust.

10. Fees

10.1 General principle

Lawyers are entitled to a reasonable fee for their work, and shall not charge an unreasonable fee. A lawyer shall not generate unnecessary work.

10.2 Explanatory note

The basis for the claim of a lawyer to fees for services performed may be contractual or statutory. The lawyer shall make a clear and transparent arrangement on fees with the client jointly with the giving and taking of

instructions. If permitted by law or applicable rules of professional conduct, such arrangement may contain an agreement on the limitation of the lawyer's liability.

On whatever basis a fee arrangement is made, it shall be reasonable. Reasonableness is normally determined with a view to the nature of the assignment, its difficulty, the amount involved, the scope of work to be undertaken and other suitable criteria. The lawyer shall strive to achieve the most cost effective resolution of the client's dispute.

The lawyer's invoices shall be submitted in accordance with the agreement with the client and statutory rules, if any.

Where permitted, a lawyer may require the payment of reasonable deposits to cover the likely fees and expenses as a condition to commencing or continuing his or her work. As mentioned in Principle 7, the lawyer may have a lawful right of retention or lien if the client instructs the lawyer to transfer all the papers and files to another lawyer. A lawyer shall also hold separate from the lawyer's own business or personal property any legal fees and expenses that a client has paid in advance, to be withdrawn by the lawyer only as those fees are earned or expenses are incurred. If a dispute arises between the client and the lawyer as to the lawyer's entitlement to withdraw funds for fees or expenses, then, subject to applicable law, the disputed portion of the funds shall be held separate until the dispute is resolved. The undisputed portion of the funds shall be promptly distributed to the client.

If a lawyer engages or involves another lawyer to handle a matter, the responsibility for such other lawyer's fees and expenses shall be clarified among the client and the lawyers involved beforehand. In the absence of such clarification and depending on applicable law the lawyer so having involved another lawyer may be liable for the latter lawyer's fees and expenses.

10.3 International implications

When engaging in cross-border practice, the lawyer should investigate whether arrangements on fees, payments of deposits and limitations of liability are permitted under all applicable rules and, if relevant, the rules which govern the responsibility for fees of other lawyers who may become involved. In particular, a contingency fee or pactum de quota litis is permitted in certain jurisdictions provided certain requirements are met but prohibited as a matter of public policy in other jurisdictions.

In some jurisdictions, it is not appropriate for a lawyer to ask another lawyer or a third party for a fee, or to pay a fee to another lawyer or a third party for referring work.

Appendix

Definitions

Bar An officially recognized professional organization consisting of members of the legal profession that is dedicated to serving its members in a representative capacity to maintain the practice of law as profession, and, in many countries possessing regulatory authority over the bar in its jurisdiction. Membership in the bar may be compulsory or voluntary.

Client-lawyer confidentiality Subject to specific exceptions, the lawyer's ethical duty of confidentiality prohibits a lawyer from disclosing information relating to the representation of or advice given to a client from any source, not just to communications between the lawyer and client, and also requires the lawyer to safeguard that information from disclosure. The principle of confidentiality is greater in scope than the legal professional privilege. Matters that are protected by the legal professional privilege are also protected by the principle of confidentiality; the converse, however, is not true.

Confirmed in writing Informed consent provided via a writing from the person from whom such consent is sought or a writing that a lawyer promptly transmits to that person confirming an oral informed consent. The written consent may take the form of a tangible or electronic record. It may consist of handwriting, typewriting, printing, photocopy, photograph, audio or video recording, and electronic communication such as an e-mail or Twitter message.

Court/tribunal An entity, whether part of the judicial, legislative or executive branch of government, including an arbitrator in a binding arbitration proceeding, administrative agency or other body, acting in an adjudicative capacity. This entity acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party's interests in a particular matter.

Informed consent Agreement by a person to allow something to happen in response to a proposal by a lawyer after the lawyer has made full disclosure of the facts, material risks of, and reasonably available alternatives to the proposed course of action.

Knowingly Actual knowledge of the fact in question. Knowledge may be inferred from the circumstances.

Legal profession The body of lawyers qualified and licensed to practise law in a jurisdiction or before a tribunal, collectively, or any organized subset thereof, and who are subject to regulation by a legally constituted professional body or governmental authority.

Legal professional privilege An evidentiary privilege that protects a lawyer from being compelled to disclose certain communications between a lawyer and a client in a judicial or other proceeding where a lawyer may be called as a witness.

Professional secrecy The handling of information about a client received during the course of the representation from the client or other sources that the lawyer may not be able to disclose, regardless of client consent. This principle is effective in many civil law jurisdictions.

Reasonable or reasonably In reference to a lawyer's actions, the level of conduct of a prudent and competent lawyer.

Reasonably believes or reasonable belief A belief by a prudent and competent lawyer in a fact or set of facts that is appropriate under the circumstances in which that belief exists. Secrets Information gained by the lawyer in the course of a representation that the client specifically requests that the lawyer not reveal or information the nature of which would be potentially embarrassing or detrimental to the client if revealed.

PART 2

LAW FIRMS BEST PRACTICE GUIDELINES

The Code of Conduct for Cayman Islands Attorneys-at-Law (the "Code of Conduct") provides guidance for attorneys-at-law with regards to their individual rights duties and responsibilities as attorneys-at-law.

As a supplement to the Code of Conduct, these guidelines attempt to identify certain general principles and standards that may help law firms manage their practices in a way that is consistent with the Legal Practitioners Law 2015 and the Code of Conduct, including the International Bar Association ("IBA") International Principles on Conduct for the Legal Profession which is incorporated by reference into the Code of Conduct. These Guidelines are adapted from the IBA Law Firm Best Practice Guidelines.

Some of its points may be of more relevance to larger firms, or to those with a broader element of international work. Some may need to be adapted over time to reflect changing conditions and concerns. There will be few firms (if any) that will adopt every provision. But all law firms should benefit by thinking about the

extent to which each of the guidelines applies to them and could make them more effective and successful.

The points dealt with below are, in general, expressed in terms of obligations, almost as though they represent a mandatory code of practice. This is not the intention. It is more of a checklist of issues to consider. It is inevitable that most firms having considered the possible adoption of all of the suggestions will decide that some of them are not applicable. There is nothing wrong with that.

In the event of any inconsistency between these Guidelines and the Code of Conduct, the Code of Conduct shall prevail.

1 The firm

1.1 The firm should set out in writing its governance and decision-making structure.

1.2 It should have a transparent process for the selection of partners and the appointment of its management team.

1.3 The capital structure of the firm should be described to partners in a clear and transparent manner and explain clearly to the partners the obligations and rights of partners to contribute and withdraw capital.

1.4 The way in which the profits of the firm are distributed among the partners should be clearly described to all partners in the firm.

2 Its people

Recruitment and retention

2.1 The firm should set out in writing its requirements for the role so that all potential recruits (partners, associates and support staff) have access to enough information to allow them to make an informed decision about whether or not they wish to pursue recruitment discussions with the firm.

2.2 Firms should adopt recruitment and promotion policies and processes that are non-discriminatory and that are designed to encourage diversity at all levels within the firm.

2.3 When hiring new recruits (at any level) who have previously worked for another firm, the hiring firm should do what it can to ensure that the recruit does not breach any employment covenants owed by the recruit to the previous firm.

2.4 The firm should ensure that every new recruit receives an appropriate induction which introduces him or her to the firm, its values, policies and procedures.

Training and development

2.5 The firm should offer appropriate support to those within the firm (whether or not they are attorneys-at-law) who are studying for or taking relevant professional qualifications.

2.6 It should give attorneys-at-law appropriate support and encouragement to undertake relevant continuing professional development and to develop their personal and professional skills.

2.7 A firm should encourage every employee to produce and maintain a written training and development plan which is suited to their needs and to the culture and structure of the firm.

2.8 Firms should ensure that all attorneys-at law receive appropriate supervision and with respect to associates of less than 5 years PQE (post qualification or admission as a lawyer) are given an opportunity to undertake a suitable range of work within their practice area.

Performance management

2.9 Firms should ensure that every person in the firm receives a clear written statement of their role and responsibilities and their duties to the firm should be clearly stated either in their employment contract or the relevant policies and procedures of the firm.

2.10 Firms should ensure that all employees within the firm are given clear and honest feedback in respect of performance and behaviour. A firm should have a clear and transparent appraisal process and procedure that includes, for associate attorneys, working with such attorney to develop a career development plan for the following year. Appraisals should take place at least annually and should be properly prepared and, where appropriate, documented.

2.11 The appraisal process should include a face-to-face meeting with the person being appraised and should be conducted on a confidential basis. In appropriate cases immediate oral feedback should also be encouraged in the day to day working environment.

Remuneration and benefits

2.12 Firms should adopt a remuneration and benefits policy which is designed to ensure that the firm complies with all relevant employment laws when determining the remuneration and benefits to be received by its employees. This policy should be clearly communicated to all those within the firm.

Dealing with problems

2.13 A firm should ensure that everyone in the firm has an appropriate opportunity to make a complaint with respect to their work or related matters.

2.14 Firms should have a written grievance procedure. This should seek to ensure that any grievance of any person in the firm is dealt with in a fair and sympathetic manner.

2.15 If an employee of a firm experiences a significant personal crisis event, such as the death of a close family member, the firm should show appropriate compassion towards that employee and to the fullest extent possible, without disrupting the high performance working environment of the firm, have regard to that employee's personal needs at the relevant time.

Career development

2.16 Firms should state clearly and openly the basis on which people are promoted to higher positions in the firm (including partnership). Selection criteria and processes should be clearly and fairly described. Firms should ensure that all associate attorneys are aware either through training or the appraisal process of the requirements to progress to higher positions in the firm (including partnership).

2.17 Where possible, firms should seek to allow people in the firm to undertake secondments to other parts of the firm, to other law firms outside of the Cayman Islands or to clients. Secondment opportunities should be clearly and fairly described, as should the terms of any secondment.

2.18 Firms should state clearly whether and in what circumstances flexible working is permitted. Firms should also state their policies on maternity and paternity leave.

2.19 Firms should seek to ensure that their support staff are respected and included in the firm's activities. Integration between support staff and attorneys-at-law should be an objective of every firm.

3 Its culture

3.1 Firms should seek to define and communicate a limited number of fundamental values which underpin and inform decisions taken by the firm.

3.2 Firms should encourage all attorneys-at-law to undertake pro bono work in appropriate circumstances.

3.3 Firms should develop and communicate a policy on charitable giving. This should deal with giving by the firm itself and also any support which the firm offers to charitable efforts by persons in the firm.

4 Participation in the Profession and the Community

4.1 Firms should develop, communicate and encourage participation in the community, including service on government appointed committees, committees that provide comments and feedback in relation to consultation on new legislative initiatives and amendments to existing legislation.

4.2 Firms should seek to apply consistently high ethical standards in relation to all of their work.

4.3 A firm should take appropriate steps to promote the good standing and development of the legal profession. It should provide opportunities for its attorneys-at-law to participate in the activities of legal professional bodies and support those who participate in the activities of legal professional bodies .

4.4 Firms should play an active role in promoting the rule of law and access to justice.

4.5 Firms should actively promote the independence and values of the legal profession.

4.6 Firms should seek to support the work of the judiciary and to promote the rule of law.

4.7 Firms should do all they reasonably can to promote human rights and the freedom of the individual.

5 Legal and regulatory compliance

5.1 A firm should seek to ensure that its attorneys-at-law comply with all applicable Cayman Islands laws and regulations and the requirements of the Cayman Islands Legal Practitioners Association of which its attorneys-at-law are members.

5.2 A firm should put in place appropriate processes and procedures to promote compliance with all regulatory obligations imposed on the firm and its people. Firms should have particular regard to the impact of the relevant anti money laundering and counter-terrorist financing legislation so as to develop policies and procedures that comply with such regulations in a way that is properly consistent with other professional obligations.

6 Transparency

6.1 Firms should seek to put in place mechanisms that encourage frank and effective internal communication.

6.2 If firms choose to disclose financial information they should ensure that it is fairly and accurately presented.

6.3 Firms should strive to be culturally inclusive, culturally aware and integrative in their dealings with their people and with clients and the wider community.

Passed by the Legislative Assembly the day of , 2016.

Speaker.

Clerk of the Legislative Assembly.