

RECOMMENDATION REPORT
ON THE
LAW PRACTITIONERS VOCATIONAL COURSE
AND THE
VOCATIONAL EXAMINATIONS
FOR ATTORNEYS AND BARRISTERS
CONDUCTED BY THE
COUNCIL FOR VOCATIONAL AND LEGAL EDUCATION

TO

The Rt. Honourable Lord Phillips of Worth Matravers,
KG, PC.

JULY 2019

Tuvanika Ganesh : Barika Stream
Pirkish Singh Seetoo : Attorney Stream
Team leader

CHAPTER 1 - Introduction

CHAPTER 2 - An Analysis of the Law Practitioners Vocational Course (LPVC)

CHAPTER 3 - An Analysis of the Vocational Examinations conducted by the CVLE

CHAPTER 4 - Issues arising from the course

CHAPTER 5 - Issues arising from the vocational examination

CHAPTER 6 - Recommendations

CHAPTER 1

Introduction

- This report has been prepared following a series of discussions, analysis, opinions and recommendations imparted by students and lecturers (both past and present) on the Attorney and Barrister streams of the Law Practitioners Vocational Course.
- This report has taken into consideration, accounts by current law practitioners (Attorneys and Barristers) who have passed the vocational examinations and who are in practice
- The purpose of this report is to communicate the grievances and suggestions of all stakeholders of the said course to The Right Honourable Lord Phillips of Worth Matravers to be taken into consideration while submitting his report to reform the Law Practitioners Vocational Course and Vocational Examinations conducted thereof.

Report prepared, compiled and presented by:

PRITISH SINGH SEEBOO

Class Representative of Attorney-at-law Stream Students (2016, 2017 and 2019)

Student of the Law Practitioners Vocational Course on Attorney-at-law Stream (2016, 2017 and 2019)

Special Thanks to the following people who contributed lengthily:

Tuvarika Gunesh, Class Representative of Barrister-at-law stream students (2017 and 2019)

Audrey Ah-Keng, Attorney Stream Student

Jonathan Reekhaye, LPVC Course Student

Moozafar Goriba, LPVC Course Student

Yeshnah Rampall, Barrister Stream Student

Sincere Thanks to:

All Students of the LPVC (past and present) who submitted their recommendations

All Lecturers of the LPVC (past and present) who submitted their recommendations

CHAPTER 2

An Analysis of the Law Practitioners Vocational Course (LPVC)

- 2.1 The legal profession is divided in three streams, Attorney-at-Law (equivalent to a Solicitor in England & Wales), Barrister-at-Law (equivalent to a Barrister-at-law in England & Wales) and Notary.
- 2.2 Section 4 (2) of the Law Practitioners' Act 1994 lays down the requirements to become a law practitioner in Mauritius. It sets two prerequisites, first being to attend the Law Practitioners Vocational Course (hereinafter referred to as LPVC) and, upon successful attendance of 80% on all classes, to pass the Vocational Examinations set by the Council for Vocational and Legal Education (hereinafter referred to as CVLE).
- 2.3 It should be noted that the Bar Professional Training Course (BPTC) from England and Wales and some other commonwealth nations including Australia, Canada, New Zealand and more; are accepted as an exemption to attend the Vocational Examinations for Barrister-at-Law stream ONLY. Students wishing to pursue a career as Attorney-at-Law or Notary must compulsorily pass the examinations set by the CVLE in Mauritius.
- 2.4 Whilst being administered by the CVLE, the LPVC is taught and organized by the Faculty of Law and Management of the University of Mauritius (herein referred to as UOM). It is dispensed through lectures ONLY (with no seminars and moots) by senior law practitioners who are experts on their respective fields of practice. It is noted that some modules/subjects are taught by former and current Judges of the Supreme Court of Mauritius.
- 2.5 The course costs Rs. 120,000/- per year with an additional Rs. 10,000/- for the examinations.
- 2.6 A syllabus circulated by the University of Mauritius¹ provides for the course to be divided into three levels, being Foundation, Advanced and Professional Practice. Each level is divided into modules as prescribed by the Second Schedule of The Law Practitioners (Amendment) Act 2011 and by the syllabus of the CVLE
- 2.7 The course outline is as follows:-

Subjects (foundation level)	Hours/Year
	Attorneys/Barrister/Notaries
Introduction to Mauritian Law	10
Criminal law: practical aspects	10
Droit civil aprofondi	10
Total	30

¹ <http://www.uom.ac.mu/Images/Files/programmes/FLM/YR2019/Postgraduate/LM521A.pdf>

Subjects (Advanced)	Hours/Year	
	Attorney	Barrister
Administrative and Constitutional Law	30	30
Arbitration and Mediation	30	30
Advocacy	30	30
Civil Procedure	60	45
Commercial and Business Law	60	60
Criminal Procedure	30	45
Evidence	30	30
Family Law	30	30
Total	300	300

Subjects (Professional Practice)	Hours/Year	
	Attorney	Barrister
Conferencing	30	30
Drafting of Legal Documents	30	30
Ethics	15	15
Opinion Writing	30	30
TOTAL	105	105

2.8 The Law Practitioners Vocational Course is offered on a full-time basis only and classes start from February to mid-end August every year.

2.9 Upon receipt of an attendance certificate issued by the UOM to confirm a minimum of 80% attendance of a student on all classes conducted through the course. Without that certificate, a candidate cannot enrol on the vocational examination unless he/she has been exempted by having obtained an overall "C" aggregate from the previous year examination. Candidates who had not obtained an aggregate of 'C' in the previous year, and who have petitioned the Chairman for an exemption as a result of their serious illness, them being bed ridden, or mentally ill have never obtained an exemption.

CHAPTER 3

An Analysis of the Vocational Examinations conducted by the CVLE²

3.1 Examinations are conducted during the first two weeks of September every year. It consists of eight written papers and one oral paper in the form of advocacy. They are as follows:

- PAPER I - CONSTITUTION LAW AND ADMINISTRATIVE LAW
- PAPER II - CIVIL PROCEDURE
- PAPER III - COMMERCIAL AND BUSINESS LAW
- PAPER IV - CRIMINAL PROCEDURE
- PAPER V - EVIDENCE
- PAPER VI - FAMILY LAW AND ARBITRATION
- PAPER VII - DRAFTING AND OPINION WRITING
- PAPER VIII - ADVOCACY

3.2 The grading is as follows:

- A: >70%
- B: 60-69%
- C: 50-59%
- D: 40-49%
- E: < 40%

3.3 The timetable for the 2018 examinations³ was as follows:-

- MONDAY, 10 SEPTEMBER - Paper III
- TUESDAY, 11 SEPTEMBER - Paper VI
- WEDNESDAY, 12 SEPTEMBER - Paper I
- THURSDAY, 13 SEPTEMBER - Paper V
- MONDAY, 17 SEPTEMBER - Paper IV
- TUESDAY, 18 SEPTEMBER - Paper II
- THURSDAY, 20 SEPTEMBER - Paper VII

3.4 To pass in a paper, a candidate will have to score at least 50% of the marks. However, to succeed in an examination, the candidate must score at least 60% of the aggregate marks in respect of the EIGHT PAPERS.

² <https://supremecourt.govmu.org/Lists/CVLEDocument/Attachments/191/Examination%20Rules%202018%20Barristers%20and%20Attorneys.pdf>

³ <https://supremecourt.govmu.org/Lists/CVLEDocument/Attachments/190/FINAL%20TIMETABLE%20CVLE%202018.pdf>

3.5 A candidate is allowed to a resit in not more than two papers provided that he/she:-

- (a) Obtains the minimum overall percentage of 60%; and
- (b) Secures at least 40% in the paper(s); and
- (c) Passes in the other papers.

If the candidate secures at least a pass (50%) in the papers in which he has been allowed a resit, he will be deemed to have passed the whole examination, failing which he will, at any future examination and subject to (4), be required to sit for the whole examination.

3.6 All seven written examinations require a candidate to answer 4 out of 6 questions except for paper III which requires 5 answers out of 9 questions.

3.7 Marking is conducted by different law practitioners who do not provide the lecture at UOM.

3.8 Results are published and candidates either PASS or FAIL.

3.9 There is no marking scheme published and most importantly no examiner's report tabled, the only exception being a 2013 report which was circulated being very vague.

3.10 There is a right to request for review of the papers by the Board of Vocational Examinations, which findings and conclusion thereafter remains final without any other recourse.

CHAPTER 4

Issues arising from the course

- **SYLLABUS**

- 4.1 There is not ample time for students to master the course as classes start in February and end by August.
- 4.2 The bulkiness of the syllabus is of great concern. There are currently 15 modules which are set in 8 papers in law. It is of opinion by both students and lectures that certain subjects such as Bills of Exchange is not an area of law relevant enough in the twenty-first century as this instrument is rarely used nowadays.

- **LECTURES**

- 4.3 Some lecturers, who are experts in their respective fields and who are extremely busy, attend classes late at many reprises. Class Representatives have the difficult task of rescheduling classes as an ongoing concern.
- 4.4 Lectures are NOT supported by seminars (which are in smaller groups). It is therefore mostly impossible for everyone asking questions due to the limitation of time.
- 4.5 Most lecturers and all students agree that the number of hours for certain modules is not enough for students to have a grasp of the subject. For example, the arbitration module lecturer was compelled to continue lecturing outside of the 30 hours in order to deliver the course effectively due to shortage of time.
- 4.6 It is of opinion that there is a teaching v/s marking deficit. Lecturers who are teaching are not the ones setting the questions for the examination. There is a vacuum to be filled where most students fail to bridge the theoretical to practical analysis during the examination. The examination questions being set by people who are not aware of what were covered during the lectures is fantastically incomprehensible.
- 4.7 It is a fact that the UOM does not follow the syllabus to precision as there has not been conferencing lectures for over 4 years as of 2019. There is furthermore a difference between the number of hours of Civil and Criminal Procedure conducted for each stream. In practice, all Attorney and Barrister students attend the same lectures for the same number of hours.
- 4.8 It has been reported that the UOM is not able to find appropriate professionals to conduct lectures at various reprises where lecturers with no expertise/knowledge of the subject have to lecture on same.

- **COURSE STRUCTURE**

- 4.9 There are NO teaching/training materials (such as designed copybooks, brochures, and university updated books among others) but just notes provided by lecturers which are sometimes delivered orally.
- 4.10 Lectures are delivered according to the teaching method of each lecturer without a pattern provided by the University. For example, some lecturers use PowerPoint, some others deliver by dictation, while others explain through advanced-given notes. Some methods are dated of the last era which is in 'dephasage' of current teaching methods at University level.
- 4.11 Timetable is set according to the availability of lecturers and NOT to enable the students to have a full grasp of the legal profession. For example, drafting classes are conducted before company law and therefore it is difficult for students to draft a statutory demand without having the knowledge of what it is.
- 4.12 There is no coordination between the CVLE, lecturers, UOM and the examiners to provide synthesis for students to have an understanding of the course, resulting in an amazing failure rate (ranging from 70 to 90%) over the years.

- **CONCLUSION ON COURSE**

- 4.13 Their lack of structure, the teaching/marking deficit and the bulkiness of the syllabus are the main reasons why students following the course are NOT prepared for their forthcoming exams.

CHAPTER 5

Issues arising from the examination

- **UNFAIR RULES**

5.1 It is deemed to be unfair for exemption rules to apply ONLY in cases where candidates have obtained an overall aggregate of C grade. There are students who have obtained remarkable grades (A and B) in some papers and have unfortunately received a D or E grade in 1 or 2 papers which brings their aggregate down therefore not qualifying for the exemption. As a result, such students will have to take the whole examination again and attend the same course, same lecture requiring an 80% compelled attendance even in subjects where they have scored A or B, grades which are considered to be tremendous in this exams.

5.2 It is unfair that Attorney and Notary stream students compulsorily have to take this exam to be able to satisfy the requirements of Section 4 (2) of the Law Practitioners Act 1994 while students who have passed the Bar Professional Training Course (BPTC) in England & Wales, Canada, Australia and New Zealand are exempted from the exam and may start their pupillage directly.

5.3 The timetables are extremely unfair with no days in between papers which can be tough for students. (see reference at 3.3)

- **BULKINESS OF PAPER III**

5.4 Paper III, being Commercial and Business Law is divided in three parts and is as follows:-

Part I – Questions are based on Company and Insolvency law.

Part II – Questions are based on Code de Commerce

Part III – Questions are based Bills of Exchange, Banking Law and Financial Services

Expecting a student to master all these topics in one single paper is incomprehensible. All questions on the topics set above are full length questions carrying equal marks. It is inconceivable for a candidate to answer 5 questions out of 9, each based on a different area of law.

- **ILL-DRAFTED AND LONG QUESTIONS**

5.5 There is a case of ill-drafted and long questions at various instances which causes extreme prejudice to candidates. One is invited to consult a series of past examination questions which are of great concern. The below examples are just a drop of water in the sea. They are as follows:-

Paper 1 (constitutional and Administrative Law) Past Paper 2015 - Part 2 - Question 1

Comment: - This question is four (single-sided) pages long.

Paper IV (criminal procedure) Past Paper 2013 – Question 1

Comment: - This question is extremely long and complexed

Paper IV (criminal procedure) Past Paper 2015 – Question 5

Comment: - This question is asking for possible recourse at the level of the Supreme Court. However, based on the facts, the recourse will be a fresh application at the level of the Bail and Remand Court (BRC). It can be observed from Mauritian Jurisprudence that in case of new facts, a fresh application would have to be made before the court refusing bail at first instance.

Paper III (commercial and business law) Past paper 2013, Part III Question 2 (b)

Comment: - What does the examiner means by a blank cheque? It is signed but not complete or it is totally blank?

The candidate is therefore confronted with confusion in a stressful examination which leads to the providing of wrong answers.

- **REPORTS**

5.6 The most intriguing fact is that there is no published marking scheme and examiners' report after the examination is conducted. The candidate is therefore unaware of where he/she failed to appreciate the questions and answer accordingly. It therefore operates in total opacity where the students revisiting their answers are unable to comprehend the mind of the examiner as to the expected answer. Such opacity is unwarranted and unfair towards the students.

CHAPTER 6

Recommendations

After an analysis of the current course and the issues arising out of it thereof; it is recommended as per the following:-

- 6.1 To reduce the bulkiness of the syllabus OR to increase the number of hours to conduct the course in a full and complete one-year program instead of 6 months.
- 6.2 To eliminate some subjects including Bills of Exchange, which is not a frequently used instrument nowadays.
- 6.3 To structure the course which includes training/teaching materials (copybooks), up to date teaching skills, introduction of seminars, the provision of notes in advanced to students, and coordination amongst lecturers to provide a more efficient grasping of the subjects.
- 6.4 To conduct the LPVC at a different institution specialised for the dispensing of the course and lecture.

After an analysis of the current vocational examinations and the issues arising out of it thereof; it is recommended as per the following:-

- 6.5 To implement fairer and more lenient rules accommodating students who have done well in some subjects whilst at the same time, having not met the minimum required to pass the examination.
- 6.6 To provide exemption to attend classes for students in the subjects where they have scored a minimum of C grade.
- 6.7 To allow students to take the eight papers at two reprises, that is four per year on a two-year part time program.
- 6.8 To be allowed to bring designed statutes or statute books provided by the CVLE in the examination for referencing purposes.
- 6.9 To remove the bulkiness of Paper III, Commercial and Business Law.
- 6.10 To have a fairer timetable for students to breath between papers.
- 6.11 To obtain better drafted and appropriate length questions to meet the ability of a student rather than a senior law practitioner.
- 6.12 To publish marking schemes and examiners' reports after each examination results and allowing a more transparent system towards the correction of answers with an ability to have the papers corrected anew before a new panel when requested.