

**THE LAW PRACTITIONERS ACT 1984**

**Act No. 55 of 1984**

Proclaimed by [\[Proclamation No. 6 of 1984\]](#) w.e.f 1.4.1985

I assent,

12 December 1984.

**C. I. MOOLLAN**  
*Acting Governor-General*

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**An Act**

**To amend and consolidate the law regulating the qualifications and eligibility of law practitioners**

ENACTED by the Parliament of Mauritius, as follows-

**1. Short title.**

This Act may be cited as the **Law Practitioners Act** 1984.

**2. Interpretation.**

In this Act-

"certificate of competency" means a certificate issued under section 4;

"Chairman" means the Chairman of the Council;

"Council" means the Council of Legal Education established under section 11;

"existing law" means the law in force immediately before the commencement

of this Act relating to qualifications and eligibility to practise law in Mauritius;

"law practitioner" means a barrister, an attorney or a notary whose name has been entered on the Roll;

"member" means a member of the Council and includes the Chairman;

"Registrar" means the Registrar of the Supreme Court;

"Roll" means the roll established under section 10.

### **3. Practice of law and legal advice.**

(1) Subject to this Act, no person shall practise law in Mauritius unless his name has been entered on the Roll.

(2) Nothing in this Act shall be deemed to prevent a person who has been a judge from giving, for a fee or reward, legal advice to any other person.

### **4. Qualifications of law practitioner.**

(1) Any citizen of Mauritius who has, on or before 31 December 1992, been called to the Bar in England and Wales may apply for admission to practise as a barrister.

(2) Subject to subsection (1), no person shall be admitted as a law practitioner unless-

(a) he is-

(i) the holder of a degree in law awarded by the University of Mauritius of such level as the Council may prescribe; or

(ii) the holder of any other degree in law which the Council considers to be of an acceptable level and satisfies the Council of his proficiency in such areas of Mauritian law as the Council may, having regard to the subjects covered in his degree, determine;

(b) he has passed the appropriate vocational examinations prescribed by the Council-,

(c) he has, subject to subsection (3)-

(i) in the case of a prospective barrister, served a period of pupillage of not less than one year with a barrister of at least 10 years' standing in Mauritius;

(ii) in the case of a prospective attorney, been articled to an attorney in Mauritius for a period of not less than 2 years;

(iii) in the case of a prospective notary-

- (A) been articled to a notary for a period of not less than 2 years;
  - (B) attained the age of 25 and been issued with a certificate of good conduct (certificat de moralité) delivered by the Chamber of Notaries; and
  - (d) he has been issued with a certificate of competency after serving his period of pupillage or articleship or completing his alternative training, as the case may be.
- (3) Where the Council is satisfied that facilities do not exist for a prospective law practitioner to serve a period of pupillage or to be articled, as the case may be, the Council may approve such alternative training as it considers appropriate and may, on being satisfied that the prospective law practitioner has successfully completed the, alternative training, issue a certificate of competency to him.

**5. Pupillage or articleship in special cases.**

The period of employment of a prospective attorney in the Attorney-General's Office as a Law Clerk, or in the Judicial Department as clerk to a Judge or clerk in the Registry of the Supreme Court shall, for the purposes of section 4(2)(c), be reckoned to be service under articleship.

**6. Application for admission.**

- (1) Any person who wishes to be admitted to practise law in Mauritius shall make a written application addressed to the Chief Justice and lodged with the Registrar.
- (2) An application under subsection (1) shall be accompanied by evidence such as to satisfy the Chief Justice that the applicant-
  - (a) is a citizen of Mauritius;
  - (b) is of good character; and
  - (c) holds the qualifications specified in section 4.
- (3) The Registrar shall forward a copy of the application to the Attorney-General and to the Council.
- (4) On receipt of an application under subsection (1), the Registrar shall cause a copy of the application to be posted up at the Supreme Court.

**7. Objection to application.**

- (1) Any person who wishes to object to an application under section 6 shall, within 15 days of the posting up of the copy of the application under section 6(4), give a written notice of his

objection to the Chief Justice by lodging the notice of objection with the Registrar.

- (2) Where an objection is made under subsection (1), the Chief Justice or a Judge designated by him for the purpose shall-
  - (a) appoint a day for the hearing of the objection; and
  - (b) issue a summons to any interested party to appear before him on the day so appointed.
- 3) An objection under subsection (1) shall be heard and determined in Chambers.

**8. Order for admission.**

- (1) Where the Chief Justice is satisfied that an applicant for admission as a law practitioner qualifies for admission, he shall make an Order for the admission of the applicant and appoint a day for the applicant to appear before the Supreme Court or the Registrar, as the case may be.
- (2) The Registrar shall transmit a copy of the Order under subsection (1) to the applicant, and shall notify him of the day appointed for his appearance before the Supreme Court or the Registrar. as the case may be.

**9. Admission.**

- (1) On the day appointed under section 8, the applicant shall be presented by a Law Officer-
  - (a) in the case of a barrister, to the Supreme Court;
  - (b) in the case of an attorney or notary, to the Registrar.
- (2) After presentation of the applicant and after the applicant takes such oath of office as may be prescribed by the Chief Justice, the Registrar shall enter his name on the Roll.
- (3) The rank and standing of a law practitioner, and his authority to practise law, shall take effect from the day on which his name has been entered on the Roll.

**10. Roll.**

- (1) The Registrar shall, for the purposes of this Act, keep a Roll of law practitioners in such form as the Chief Justice may approve.
- (2) The names and addresses of all law practitioners admitted to practise in Mauritius shall be entered on the Roll.
- (3) The Supreme Court may cause any entry on the Roll to be amended or erased.

**11. Establishment of Council.**

- (1) There is established for the purposes of this Act a Council of Legal Education which shall be a body corporate.
- (2) The Council shall consist of-
  - (a) a Puisne Judge designated by the Chief Justice as Chairman;
  - (b) the Master and Registrar;
  - (c) the Solicitor-General or, in his absence, a Law Officer designated by the Attorney-General;
  - (d) the Vice-Chancellor of the University of Mauritius or his representative;
  - (e) a barrister designated by the Mauritius Bar Council;
  - (f) an attorney designated by the Law Society;
  - (g) a notary designated by the Chamber of Notaries;
  - (h) such other persons not exceeding 2 as the Chief Justice may, after consultation with the Chairman, co-opt on the Council either generally or for any specific purpose.
- (3)
  - (a) The members designated under subsection (2)(e) to (g) shall-
    - (i) have at least 10 years standing in their respective professions;
    - (ii) hold office for 3 years but shall be eligible for re-appointment.
  - (b) A co-opted member shall hold office for the period or for the purpose for which he has been co-opted but shall be eligible for re-appointment.
  - (c) The Chairman and 4 other members shall constitute a quorum.
- (4) The Council shall meet at such time and place as the Chairman may approve.
- (5) Every member may be paid such remuneration or allowance as the Prime Minister may approve.
- (6) The Council may appoint on such terms and conditions as it thinks fit a secretary and such other staff as may be necessary for the proper discharge of its functions under this Act.
- (7) The staff of the Council shall be under the administrative control of the Secretary.
- (8) Service of process on or on behalf of the Council shall be made on or on behalf of the Secretary.

**12. Functions of the Council.**

The Council shall-

- (a) conduct or cause to be conducted vocational and training courses and examinations;
- (b) approve courses of study for prospective law practitioners;
- (c) issue certificates of competency;
- (d) prescribe a code of ethics for law practitioners.

**13. Disciplinary proceedings.**

- (1) The Attorney-General may, either *proprio motu* or on receipt of a complaint under subsection (2), enquire into any act done by a law practitioner.
- (2) Any person who is aggrieved by an act done by a law practitioner in the exercise of his profession may report the matter to the Attorney-General.
- (3) Where the Attorney-General is of opinion that an act done by a law practitioner, whether or not an enquiry under subsection (1) has been made, is of such a nature as to call for the institution of disciplinary proceedings, he shall submit a detailed report on the matter to the Chief Justice and a copy of the report to the person against whom the proceedings are to be taken.
- (4) The Chief Justice shall, on receipt of a report under subsection (3) appoint a day for the hearing of the matter.
- (5) The Registrar shall cause notice of the day appointed for the hearing, together with a copy of the report, to be communicated to the law practitioner.
- (6) Nothing in this section shall be construed as limiting the inherent powers of the Supreme Court to deal with matters of professional discipline of law practitioners.

**14. Procedure at disciplinary proceedings.**

- (1) Unless the Chief Justice otherwise orders, any disciplinary proceedings under section 13 shall-
  - (a) take place before all the Judges of the Supreme Court; and
  - (b) be heard in open court.
- (2) Any witness for proceedings under subsection (1) shall be examined on oath.
- (3) The Court may, after considering the evidence laid before it-
  - (a) suspend the law practitioner for such period as it thinks fit-,

(b) order that the name of the law practitioner be erased from the Roll; or

(c) make such other order as it thinks fit.

**15. Licence and security.**

(1) No attorney or notary, other than an attorney or a notary in the public service, shall practise law in Mauritius unless-

(a) he holds the appropriate licence under the Licences Act;

(b) he furnishes to, and maintains with, the Accountant-General, security during the period of the licence in accordance with this section.

(2) The security shall be in the sum of 100,000 rupees (A.31/94) and shall be furnished-

(a) by deposit in cash:

(b) by the subscription of a bond by the law practitioner together with 2 sureties approved by the Chief Justice-,

(c) by a guarantee issued by any bank or insurance company registered in Mauritius; or

(d) in such other form as may be approved by the Chief Justice.

(3) The security shall be applied towards the satisfaction of any liability incurred by an attorney or a notary in respect of a client.

(4) Subject to subsection (5), the security shall be refunded to the law practitioner or, as the case may be, shall lapse at the expiry of the period of 1 year after-

(a) he has ceased to practise law-, or

(b) his name has been erased from the Roll.

(5) Where judicial proceedings have been instituted against a law practitioner in connection with any act done or omitted to be done in his professional capacity, the security required under this section shall not be refunded or lapse, as the case may be, until the conclusion of the proceedings.

**16. Touting.**

No person, other than a law practitioner, shall-

(a) hold himself out to be, or to be qualified to perform any of the functions of, a law practitioner;

- (b) permit his name to be so used as to suggest that he is, or is qualified to perform any of the functions of, a law practitioner;
- (c) for any fee or reward, draft or prepare an affidavit, deed of sale, lease, conveyance, transfer, compromise or any other document under private signature, plaint or pleading, or any other judicial or extra judicial document;
- (d) for any fee or reward, give legal advice to any person;
- (e) for any fee or reward, find clients for a law practitioner;
- (f) use such words as "barrister-at-law", "attorney-at-law", "solicitor", "notary", "avocat", "avoué", "notaire" or any other term in such a way to suggest that he is a law practitioner.

**17. Inducing clients to abandon their law practitioners.**

No person shall induce or seek to induce a client of a law practitioner to cease to be the client of that law practitioner or not to become a client and become the client of any other law practitioner.

**18. Documents.**

Where a law practitioner draws up or prepares a document in the exercise of his profession, he shall sign and date the document.

**19. Employment of persons by law practitioners.**

- (1) Every law practitioner shall, at the beginning of every year, submit to the Attorney-General and the Registrar a list stating-
  - (a) the names and addresses of persons employed by him in his professional capacity; and
  - (b) the capacity in which those persons are employed.
- (2) A nil return shall, where appropriate, be submitted under subsection (1).
- (3) Every law practitioner shall, within 8 days of any change in the list of persons employed by him, notify the Attorney-General and the Registrar accordingly.

**20. Publication of names of law practitioners.**

The Registrar shall, not later than 30 September in every year and at such other time as he thinks fit, give public notice of the names of all law practitioners.

**21. Right of audience.**

- (1) Subject to subsection (2), every law practitioner, other than a notary, shall have a right of audience before any court.
- (2) No attorney shall appear before-



- (a) the Supreme Court, other than in Chambers, the Bankruptcy Division or the Master's Court;
  - (b) the Intermediate Court, except in formal matters.
- (3) Notwithstanding sections 3 and 6, the Chief Justice may, in specific cases where the special nature or circumstances of proceedings before the Supreme Court so require, grant to a barrister entitled to practise law before any court in a country, other than Mauritius, a right of audience before the Supreme Court on such terms and conditions as he thinks fit to impose.

**22. Regulations.**

- (1) The Council may, with the approval of the Prime Minister, make such regulations as it thinks fit for the purposes of this Act.
- (2) Any regulations made under subsection (1) may provide for the taking of fees and the levying of charges.

**23. Offence.**

Any person who wilfully contravenes this Act or any regulations made under it shall commit an offence and shall, on conviction, be liable to a fine not exceeding 2000 rupees and to imprisonment not exceeding 2 years.

**24. Transitional provisions.**

- (1) (a) The Registrar shall enter on the Roll the name of every person who, before the commencement of this Act, is entitled to practise as a barrister, an attorney or a notary.
- (b) Every attorney or notary referred to in paragraph (a) shall, within 3 months of the commencement of this Act, comply with section 15 and, if he fails to do so, his name shall be erased from the Roll.
- (2) Any person who, at the commencement of this Act, is or has been articled with an attorney or employed by a notary shall, for the purposes of being admitted as an attorney or a notary, continue to be governed by the existing law until 31 December 1992.
- (3) (a) Any person who is the holder of-
  - (i) a Licence en Droit delivered by or under the auspices of a French University before 31 December 1977;
  - (ii) a Maîtrise en Droit delivered by or under the auspices of a French University on or before 31 December 1992;shall, for the purposes of being admitted as a law practitioner be governed by the provisions of paragraph (b);

- (b) Where a person to whom paragraph (a) applies wishes to be admitted-
- (i) as a barrister, he shall, subject to subsection (4), be exempted from compliance with the provisions of section 4(2)(a)(i);
  - (ii) as an attorney or a notary, he shall be governed by the existing law but-
    - (A) in the case of an attorney, shall be exempt from the Intermediate Examination under the Attorneys (Admission) Rules 1960 and his period of articleship under those rules shall be reduced to 3 years;
    - (B) in the case of a notary, his period of employment under the Notaries Act shall be reduced to 3 years.
- (4) Any person to whom paragraph (3)(a) applies who reckons, before the Commencement of this Act, such period of pupillage with a barrister practising in Mauritius as the Council considers satisfactory, may, on satisfying the requirements of section 4(2)(a)(ii) and (b), be admitted to practise as a barrister under this Act.
- (5) Notwithstanding section 21, no attorney admitted as such in accordance with the Attorneys (Admission) Rules 1960 shall appear in a criminal matter unless he is the holder of a full certificate issued under those Rules.

**25. Consequential amendments.**

Section 82 of the Notaries Act is amended-

- (a) in subsection (1)(a) by deleting the words "and take all necessary disciplinary measures";
- (b) in subsection (1)(c) by deleting the words "punish by way of censure, or other disciplinary measures, all offences which may have given rise to any such complaint, without prejudice to any action which may be taken by the Prime Minister administratively or by the parties, or by the Attorney-General before the Supreme Court";
- (c) in subsection (1), by deleting paragraph (e), the existing paragraphs (f) and (g) being relettered (e) and (f) accordingly.

**26. Repeal.**

Subject to section 24, the following enactments are repealed-

- (a) the Law Practitioners (Disciplinary Proceedings) Act;
- (b) the Law Practitioners (Protection) Act;

- (c) the Notaries Act--sections 4 to 9, 18, 19, 70 to 72, 75, 88 to 90 and 92,
- (d) the Attorneys (Admission) Rules 1960-,
- (e) rules 172, 173 and 193 of the Rules of the Supreme Court 1903.

**27. Commencement.**

This Act shall come into operation on a day to be fixed by Proclamation.

Proclaimed by [\[Proclamation No. 6 of 1984\]](#) w.e.f 1.4.1985

Passed in the Legislative Assembly on the fourth day of December one thousand nine hundred and eighty four.

G. MAURICE BRÛ  
*Clerk of the Legislative Assembly.*