

**TO COMPLY WITH THE REQUIREMENTS OF THE COUNCIL, THE SYLLABUS OF THE SERVICE PROVIDERS MUST INCLUDE THE FOLLOWING MATTERS.**

**ALL STATUTORY OR ACCREDITED SERVICE PROVIDERS MUST SUBMIT THEIR PROPOSED SYLLABUS FOR APPROVAL BY THE COUNCIL.**

## **A. FOR ALL THREE BRANCHES OF THE LEGAL PROFESSION**

### **1. CONFERENCING**

The purpose of conferencing is to enable the prospective legal practitioners to achieve the knowledge and principles underpinning the purpose of meeting with the client. It enables the prospective legal practitioner to circumscribe the legal and evidential issues in the light of all relevant facts gathered.

The training is intended to enable the prospective legal practitioner to:

- (a) demonstrate an understanding of the objectives of a conference and the factual, legal, procedural and evidential issues that should be raised in a conference;
- (b) conduct the conference in a structured and efficient way, follow an agenda as far as possible and cover all relevant issues in a logical sequence; and
- (c) to pinpoint to the client the strengths and weaknesses of his case; any difficulties on the evidence and law, the proposed course of action including alternative dispute resolution leaving to the client the final choice regarding the action to take.

### **2. DRAFTING LEGAL DOCUMENTS**

The aim of drafting is to enable the prospective legal practitioners to acquire a knowledge, understanding and the conceptual and analytical skills necessary to draft a variety of legal documents which must be concise, appropriate, in simple English with no grammatical errors, correctly spelt and appropriately punctuated. The prospective legal practitioners are expected to draft a full range of legal documents i.e. pleadings, affidavits, notices, notice and grounds of appeals, skeleton arguments, agreement reached at Mediation and other documents like simple contract, leases, divorce petition, objection to notice to petition, cross-petition, provisional measures pending divorce petition.

For the prospective notaries, they must be able to draft a variety of deeds under the topic “Redaction des Actes”.

### **3. ETHICS**

Ethics aims to instill, nurture and develop the essential qualities of ethical and professional behaviour required from a legal practitioner. It provides the understanding of the philosophical issues and purposes underlying ethical conduct in his professional life and the duty to comply with the rule of law when advising the client and conducting cases in Courts or other spheres. The training will provide in-depth knowledge, understanding and requirements of the Code of Ethics applicable to the three branches of the profession. Ethics must remind the law practitioners to display a professional

and responsible approach to clients who place their trust in the profession and to further remind them not to exploit their clients and to preserve the integrity of the profession, maintaining the public's trust.

Code of Ethics, Breaches, Disciplinary Action: Courts Act, Law Practitioners Act, Notaries Act.

#### **4. OPINION WRITING**

Opinion writing aims to develop the student's skill in providing written advice to counsel and/or the instructing attorney and lay client. It will enable the student to analyse the problem so as to give reliable and practical advice.

It is intended that at the end of the course, the student will be able to:

- (a) identify and address the needs and objectives of the client and provide a practical solution to the client's problems;
- (b) accurately identify and show a thorough grasp of all the material facts, the relevant law, the real issues, the relevant procedure, parties and evidence, the steps to be taken;
- (c) identify and ask for further information/evidence, when necessary; and
- (d) use a clear and appropriate structure, dealing with each issue in a logical order.

## **B. FOR PROSPECTIVE BARRISTERS AND ATTORNEYS**

### **1. ADMINISTRATIVE LAW AND CONSTITUTIONAL LAW**

#### **ADMINISTRATIVE LAW**

The historical development of Judicial review and Order 53.

Nature and scope of judicial review.

Procedure: Leave and final stage.

The duty to exhaust alternative remedies.

The need for an arguable case, delay in making an application; *Locus standi and sufficiency of interests*; the duty to make a full and frank disclosure.

Action against Public and Administrative bodies, Public/Private law.

Grounds for judicial review: Error on the face of the record, Natural justice, *Ultra vires*, Unreasonableness.

Section 119 of the Constitution.

#### **CONSTITUTIONAL LAW**

Fundamental rights (Chapter II) and redress [Supreme Court (Constitutional Relief) Rules 2000].

Citizenship.

Powers of the President and removal.

The Executive more especially the Cabinet, the Prime Minister, Commissioner of Police, Director of Public Prosecutions.  
The Judicature.

## **2. ADVOCACY**

Advocacy aims to provide the skills necessary to prepare, present and respond to a case or legal argument before a court or other tribunal by enabling a prospective law practitioner:

- (a) to apply the relevant law, jurisprudence and principles to the facts of a case while observing the Code of Ethics;
- (b) to make submissions using basic advocacy skills;
- (c) to examine, cross-examine and re-examine witnesses.

The prospective legal practitioners are expected to make submission, to examine and to cross-examine witnesses, including those who may be difficult, unfavourable or hostile, raise and formulate objection and submit argument, all undertaken with high ethical standard. They must speak clearly, audibly using a clear and appropriate structure, dealing with each issue in a logical order, pointing out the weak points in the client's case, anticipating the opponent's argument and putting forward reasoned arguments to rebut them.

## **3. ARBITRATION AND MEDIATION**

The prospective legal practitioners are expected to understand the utility of Alternative Dispute Resolutions, to advise their clients on the expeditious friendly settlement of disputes, to understand the procedure that obtains in domestic and international arbitration and mediation within the Court process and the role of the legal advisers in arbitration, mediation and court cases.

Role of the judge mediator.

The powers of the Court when one of the parties invoke an arbitration clause.

Arbitration (Domestic and International): Code de Procédure Civile and the Mauritius International Arbitration Act, Competence/Competence, Provisional measures, Award, Appeal, Nullity, Review, Execution of Domestic Award, Enforcement of Foreign Awards: New York Convention.

Mediation. Supreme Court (Mediation) Rules. Procedure, Confidentiality.

## **4. CIVIL PROCEDURE**

Jurisdiction: Supreme Court, Appellate Courts, Bankruptcy Court, Judge in Chambers, Master's Court, District, Intermediate and Industrial Courts, Assizes, Employment Relations Tribunal, Public Bodies Appeal Tribunal, Assessment Revenue Committee, Environment and Land Use Appeal Tribunal.

Manner of seizing courts: Plaint with Summons, Praecipe, Plaint, Petition, Motion.

Parties: Plaintiff/Applicant/ Appellant, Defendant/Respondent, Third party, Interested parties, Minors, Foreign litigants, State, Curator, Proxy

Legal Aid, Substitution of attorneys, Withdrawal of counsel and attorney.

Services: Types –Personal Service, Substituted Service, Service outside jurisdiction, Services on absent defendant, service by post.

Pleadings: Particulars, Further and Better Particulars, Plea, Reply, Amendment of pleadings, Suggestion of record, striking out pleadings, Plea in limine litis, Objection to jurisdiction, Security for Costs, Péremption et Désistement d’instance, Limitation period, Counterclaim, Exchange of affidavit, Cross-petition.

Third party proceedings, interpleader, offres réelles.

Preparation of cases: notices, summons to witnesses, list of witnesses, Notice of tender of evidence, Personal answers, Witnesses (Judges/magistrates, professionals), Brief, Challenge of Judges/Magistrates, Change of venue, skeleton arguments, Preliminary objections, Bene Esse. Judgment, interlocutory judgment, non-suit, setting aside, Tierce opposition.

Transcription of judgments in respect of real properties and civil status.

Appeals to Supreme Court, Court of Civil Appeal and Judicial Committee.

New trials, Referral.

Costs and Taxation, Wasted Costs.

Enforcement and Execution of Judgment: Saisie execution mobilière, Saisie Immobilière (sale by levy), Saisie conservatoire, Saisie arrêt avec titre et sans titre, Saisie revendication, Validation, SAUJ.

Injunction: Interim, interlocutory, Quia Timet, mandatory, prohibitory, freezing order, search and seizure (Anton Pillar), Référé.

Enforcement of Foreign Judgments and Exequatur.

### **Relevant Legislations (Not Exhaustive)**

Appeals (Skeleton Arguments) Rules  
Civil Procedure Act  
Civil Status Act  
Code de Procedure Civile  
Courts Act  
Courts (Civil Procedure) Act  
Court of Civil Appeal Act  
Court of Civil Appeal Rules  
Curatelle Act  
Customs Act  
Deposit of Powers of Attorney Act  
Divorce and Judicial Separation Act  
District and Intermediate Courts (Civil Jurisdiction ) Act  
District, Industrial and Intermediate Courts Rules  
District Courts (State Proceedings) Rules  
Employment Rights Act  
Employment Relations Act  
Environment and Land Use Appeal Tribunal Act  
Excise Act  
Income Tax Act  
Industrial Court Act  
Interpretation and General Clauses Act  
Land (Duties and Taxes) Act  
Legal Aid and Legal Assistance Act  
Legal Aid (Qualifications) Regulations

Mauritius (Appeals to Privy Council) Order  
Mauritius Revenue Authority Act  
Public Officers Protection Act  
Public Bodies Appeal Tribunal Act  
Registration Duty Act  
Rules of Supreme Court (State Proceedings) Act Sale of Immovable Property Act  
State Proceedings Act  
Supreme Court Rules  
Supreme Court (Judge in Chambers) Rules  
Supreme Court (Preparation of Brief) Rules  
Transcription and Mortgages Act  
Value Added Tax Act.

## **5. COMMERCIAL AND BUSINESS LAW**

### **COMPANY LAW**

Constitution, Public/Private companies.  
Shareholders and Minority protection, Derivative action.  
Directors. Appointment, Powers and Duties, liabilities.  
Meetings and Procedure, Resolutions.  
Secretaries, Qualifications and Duties.  
Auditors (Appointments, Duties).  
Amalgamation, Compositions and Arrangements.  
Insolvency: Insolvency Act, Winding up (compulsory and voluntary including banks and insurance companies), Statutory Demand, Application to set aside.  
Liquidator and Receivers/Managers: Appointment, Qualification, Powers and Duties, Removal, Creditors' meeting, Distribution of assets, Priorities, Termination of liquidation and receivership, Powers of Court.  
Administration: Appointment of Administrator, Powers and Duties, Removal, Effect of administration, Rights of creditors, End of administration, Watershed meeting, Deed of Company Arrangement, Distribution of Assets, Powers of Court.  
Bankruptcy Proceedings: Grounds for application, Bankruptcy notice, Bankruptcy petition, Effect of adjudication, Duties of Bankrupt and control over bankrupt, End of bankruptcy.  
Official Receiver: Powers, Duties and Obligations.  
Registrar of Companies: Powers, Duties and Obligations.  
Director of Insolvency Services: Powers, Duties and Obligations.

### **BILLS OF EXCHANGE**

**Bills of Exchange:** Definition, payee, date, time for payment, indorsement, validity, forgery, rights of holder, presentation for payment, acceptance, non-acceptance, protest and rules, liability of drawer, indorser, stranger, Alteration of bill, validity of duplicate bill.

**Cheque:** Definition, General and special crossings, effect on holder, duties of bankers.

**Promissory notes:** Definition, Liability of maker and parties.

## **CODE DE COMMERCE**

**Actes de commerce:** Definition, Livre de commerce, Preuve, Sociétés-Types de, Cessions, Gage, Saisie de navire (including provisions relative to ship arrests under the Merchant Shipping Act), Ranking of maritime claims.

## **BANK OF MAURITIUS ACT**

Objects and Function, Powers of the Bank, Endorsement of securities, Limitation on activities of the Bank, Relation with other Banks and Financial Institutions, Relation with the Government.

## **BANKING ACT**

Licensing of Banks and other Financial Institutions, Licence, Limitations on operations, Opening and operations of Bank Accounts, Joint holders, Banking confidentiality, Bank statements, Overdraft facilities, Term Loans, Syndicated loans, Floating and Fixed Charges, Pari-Passu and Security sharing agreements, Special Bank privilege, Right of set-off, Responsibility and liability of Banks.

## **FINANCIAL SERVICES ACT**

Function, Powers and Duties of the Financial Services Commission, Regulation of Financial Services, Granting of licences (Insurance and Global Business), Duties of the Enforcement Committee and the Review Panel, Securities Act (Parts V-Prospectus, Part VII Takeovers) including Securities (Takeover) Regulations, Part VIII-Collective Investment Schemes, Part IX Market Abuse, Stock Exchange-Listing Rules, Market manipulation), Protected Cell Companies, Trusts (Trust deed, Settlor, Trustee (Powers and Duties), Protector, End of trust). Use of Trust in International Tax Structuring.

## **6. CRIMINAL PROCEDURE**

Jurisdiction of Courts: Supreme Court, District and Intermediate Court, Industrial Courts, Juvenile Court, Court of Rodrigues.

Judicial and preliminary enquiries. Public and Private prosecutions.

Legal Aid.

Constitutional and fundamental rights of suspects and persons charged.

Police Powers: The Judges rules, Arrest, Search and seizure. *Habeas corpus*. Bail including application for review and objection to departure (prohibition order).

Pre-Trial issues: Communication of used and unused materials and documents, Change of venue and challenge of bench, Abuse of process.

Information: Formalities, Forms and Contents, Description of offence, Particulars, Motion for particulars, Joinder, Consent of the DPP, Reference to Intermediate Court,,Defects and consequences, Duplicity, Not disclosing an offence, Amendment.

Trial: Jury Trial, Judge sitting without Jury, Trial before District, Intermediate and Industrial Courts, Arraignment and pleas, Change of plea. Hearing following a plea of guilty, Voire dire, Hearing in camera. Joint trials, Separate trials, Discontinuance of Proceedings. Submission of no case to answer.

Sentencing: Principles , Panoply of sentencing.

Bail following convictions.

Appeals to the Supreme Court, Court of Criminal Appeal and to the JCPC, Notice and Grounds of appeal, delay, skeleton arguments.

## **Relevant legislations (Not Exclusive)**

Appeals (Skeleton Arguments) Rules  
Bail Act  
Community Service Order Act  
Constitution  
Courts Act  
Criminal Appeal Act  
Criminal Procedure Act  
District and Intermediate (Criminal Jurisdiction) Act  
Juvenile Offenders Act  
Legal Aid and Legal Assistance Act  
Legal Aid (Qualifications ) Act  
Mauritius (Appeal to Privy Council) Order  
Police Act  
Probation of Offenders Act.

## **7. EVIDENCE**

Burden and standard of proof. Presumptions. Hearsay evidence. Competence and Compellability of witnesses. Child witness and victim. Accused as witness for the prosecution and for the co-accused, Evidence of formal witness: affidavit evidence Corroboration: Accomplices, Witness having interest to serve, Agent provocateur, Sexual Offences. Opinion and expert evidence. Character evidence. Examination in chief, Cross-examination and re-examination, Identification evidence, Similar fact evidence. Documentary evidence. Privilege. Public policy. Admission and confession. Voire dire. Courts Act (Part V).

## **8. FAMILY LAW**

Nom, Filiation, Adoption, L' Autorité Parentale, L' Absence, L' Administration Légale, Tutelle et Majeure en Curatelle, Mariage, Les Régimes Matrimoniaux, Les biens, L' Emploi et Le Remploi, Divorce/Séparation, Mesures Provisoires, Custody, Right of Visits, Alimony, Domestic Violence.

## **C. FOR PROSPECTIVE NOTARIES**

### **1. CIVIL PROCEDURE**

Jurisdiction: Supreme Court, Appellate Courts, Bankruptcy Court, Judge in Chambers, Master's Court, District, Intermediate and Industrial Courts, Assizes, Employment Relations Tribunal, Public Bodies Appeal Tribunal, Assessment Revenue Committee, Environment and Land Use Appeal Tribunal.

Deposit of Powers of Attorney Act, Apostille under the Hague International Convention, Convention Abolishing the requirements of Legalization of Public Documents Act.

Exequatur of Foreign Judgments and Awards: Article 546, 1028 to 1028-11 of the Code of Civil Procedure, Foreign Judgments (Reciprocal Enforcement) Act.

## 2. COMMERCIAL AND BUSINESS LAW

### COMPANY LAW

Constitution, Public/Private companies.

Shareholders and Minority protection, Derivative action.

Directors. Appointment, Powers and Duties, liabilities.

Meetings and Procedure, Resolutions.

Secretaries, Qualifications and Duties.

Auditors (Appointments, Duties).

Amalgamation, Compositions and Arrangements.

Insolvency: Insolvency Act, Winding up (compulsory and voluntary including banks and insurance companies), Statutory Demand, Application to set aside.

Liquidator and Receivers/Managers: Appointment, Qualification, Powers and Duties, Removal, Creditors' meeting, Distribution of assets, Priorities, Termination of liquidation and receivership, Powers of Court.

Administration: Appointment of Administrator, Powers and Duties, Removal, Effect of administration, Rights of creditors, End of administration, Watershed meeting, Deed of Company Arrangement, Distribution of Assets, Powers of Court.

Bankruptcy Proceedings: Grounds for application, Bankruptcy notice, Bankruptcy petition, Effect of adjudication, Duties of Bankrupt and control over bankrupt, End of bankruptcy.

Official Receiver: Powers, Duties and Obligations.

Registrar of Companies: Powers, Duties and Obligations.

Director of Insolvency Services: Powers, Duties and Obligations.

### BILLS OF EXCHANGE

**Bills of Exchange:** Definition, payee, date, time for payment, indorsement, validity, forgery, rights of holder, presentation for payment, acceptance, non-acceptance, protest and rules, liability of drawer, indorser, stranger, Alteration of bill, validity of duplicate bill.

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### **3. PRACTICAL ASPECTS OF FAMILY LAW**

Nom, Filiation, Adoption, L'Absence, Abandon de la famille, Mariage, Contrat de mariage, La Communauté, les Biens, L'emploi et le remplacement, Régimes Matrimoniaux, Dissolution, Administration Légale, Tutelle et Majeure en Curatelle, Successions, Libéralités, Partage, Indivision, La Réserve, Concubinage, Accession, Legs, Droit Patrimonial de la famille, Donation, Acte de notoriété. Conflict of Law issues.

### **4. PRACTICAL ASPECTS OF THE LAW OF IMMOVABLE PROPERTY**

The Morcellement Act, Planning Development Act, Leases of Pas Géométriques and State Land, Droit de Construction, Non-Citizens (Property Restriction) Act, Investment Promotion Act and Regulations, Usufruit, Usage et Habitation, Servitude, Service Foncier (Co-propriété, Syndic), Vente d'Immeubles (Types), Contrat de Louages (Différents Types de Baux), Privilèges et hypothèques, Nantissement, Gage, Sûretés Fixes ou Flottantes, Prescription, Transcriptions et Inscriptions. Compulsory Acquisition, Board of Assessment.

**Privilèges** : La différence entre le privilège et l'hypothèque, Mode de publicité, Privilèges généraux sur les meubles, Privilèges sur certains meubles, Le privilège spécial au profit des banques, Privilèges spéciaux sur les immeubles, Privilèges généraux sur les immeubles, La conservation des privilèges, L'extinction du privilège.

**Hypothèques** : Les caractères de l'hypothèque:- un droit: réel, immobilier, indivisible de suite, de préférence, Les biens susceptibles d'hypothèques, Les biens à venir, La capacité Les différentes espèces d'hypothèque - légale, conventionnelle et judiciaire, La publicité, La conservation des hypothèques, La spécialité de l'hypothèque, Le rang, la radiation et la réduction, La purge, Le tiers détenteur, L'extinction de l'hypothèque.

**Transcription and Mortgages Act** : The purpose of transcription, What are the deeds which must be transcribed, "Ouverture de crédit", Procedure to transcribe deed and documents, Transcription of private deeds.

## 5. RÉDACTION DES ACTES

Drafting all types of legal notices and certificates. Drafting all types of contracts, leases and “locations”. Tous actes de prêts, suretés et toutes conventions y relatives. Drafting of all types of minutes of proceedings, Wills, Deeds of sale, “Partage”, Constitution de servitudes, Succession, Copropriété, Actes de notoriété, Retrait Successoral, Donations, Mandat (Procuration et Délégation de pouvoir), Actes constitutifs de Sociétés, de Compagnies, Trust, Fondation; Fixed and Floating Charges, Caution, Guarantee.

## 6. RESPONSABILITÉ NOTARIALE

Actions to be undertaken when deeds are subscribed, the parties, agents and proxies, witnesses, Duties, responsibilities and liabilities in relation to drawing up of deeds or copies, their contents, Chargeable Fees, Répertoire and Register of Wills. Prohibited acts and unauthorized dealings. Professional conduct, Offences: Forgery, Swindling, Embezzlement, Conspiracy, Money Laundering, Power of the Chamber.

Duties and Obligations under the Financial and Anti-Money Laundering Act.

Code of ethics, Notaries Act, Law Practitioners Act, Financial and Anti-Money Laundering Act.

## 7. REVENUE AND TAXATION LAWS

Duties and Responsibilities of the Notary under the Land Duties and Taxes Act, Registration Duty Act.

**Land (Duties and Taxes) Act:** Exemptions and Derogations, Land Transfer Tax, Campement Tax, *Campement Site Tax* – Authorised Officer and Powers, The Register, Levy of Campement Site Tax. Appeal. Tax on transfer of leasehold rights in State Land, Value of Property, Valuation and Re-assessment of Property, Consequences of Undervaluation, Pre-emption, Objections, Payment of Duty and Tax, Power of Registrar to Levy Duty and Taxes on Tax Avoidance Schemes, Refund and Time Limits, Contrainte, Inscription of Privilege, Abatement and Deferment of Duty or Tax, Waiver of Penalty, Recourse to Assessment Review Committee.

### **Registration Duty Act:**

Liability to duty, Assessment of Duty Valuation of property, Mention of under-declaration in deed, Transfer of shares and debentures, Payment of duty and registration, Derogation from liability to duty, Abatement or deferment of duty, Refund of duty and time limit.

**Registration** - The need for registration, Duties of notaries, Time limit for payment of duty, waiver of penalty, Duty of Receiver on registration, Deferment of registration, Information to be inserted before registration, Transfer of rights in succession, Transfer of rights in lease, incorrect declaration. Effect of Non-Registration, Valuation and re-assessment of property, pre-emption, objections. Inscription of privilege by Receiver, Recovery of duty by Receiver. Recourse to Assessment Review Committee.

**Conservator of Mortgages** (Payment under protest, action for refund).

**Taxation of Business under the Income Tax Act and the VAT**-General principles, practical aspects of taxation of Companies, Trusts, Sociétés, Limited Partnerships, Foundations and Protected Cell Companies, Elements of International Tax Structuring.

**8. TENUE DE L'OFFICE NOTARIAL**

Comptabilité Notariale, Tenue des livres, Répertoires, Registres pour archives, Management of Office.

Made by the Council for Vocational Legal Education on 25th January, 2013

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