

LAW PRACTITIONERS VOCATIONAL COURSE – LM521

(ATTORNEYS, BARRISTERS and NOTARIES)

1. Objectives

The Law Practitioners Vocational Course offers high-quality training in legal principles from a practical perspective with an emphasis on legal techniques, reasoning and ethics. It aims at preparing candidates for either of the three streams (Attorneys, Barristers and Notaries) of legal practice existent in Mauritius. It has been designed in compliance with The Law Practitioners (Amendment) Act 2011 (Act No. 30 of 2011). Courses shall be taught in both English and French in line with the hybrid nature of the Mauritian legal system.

2. Course Requirements

Candidates should hold an LLB (Hons) with at least a Second Class, Second Division or a Maîtrise en Droit/Masters 1 (Mention: Assez Bien) or a law degree as stipulated in The Law Practitioners (Amendment) Act 2011 or any other qualifications deemed acceptable by the Council for Vocational Legal Education.

3. Course Duration

The Law Practitioners Vocational Course will be offered on a full-time basis and should be of a maximum of twelve months' duration.

4. Course Conditions

- (i) The Law Practitioners Vocational Course shall consist of 3 levels for each stream:
 - 1. Foundation
 - 2. Advanced
 - 3. Professional Practice
- (ii) 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.

5. List of Subjects

(i) FOUNDATION (Attorneys, Barristers and Notaries)

CPLS 6001 Introduction to Mauritian Law
CPLS 6002 Criminal Law: Practical aspects
CPLS 6003 Droit Civil Approfondi

(ii) ADVANCED (Attorneys and Barristers)

CPLS 6004 Administrative and Constitutional Law
CPLS 6005 Arbitration and Mediation
CPLS 6006 Civil Procedure
CPLS 6007 Commercial and Business Law
CPLS 6008 Criminal Procedure
CPLS 6009 Evidence
CPLS 6010 Family Law

(iii)ADVANCED (Notaries)

CPLS 6007 Commercial and Business Law
CPLS 6011 Civil Procedure (Notaries)
CPLS 6012 Practical aspects of Family Law
CPLS 6013 Practical aspects of the Law of Immovable Property
CPLS 6014 Revenue and Taxation Laws

(iv)PROFESSIONAL PRACTICE (Attorneys and Barristers)

CPLS 6015 Conferencing
CPLS 6016 Drafting of Legal Documents
CPLS 6017 Ethics
CPLS 6018 Opinion Writing
CPLS 6019 Advocacy

(v) PROFESSIONAL PRACTICE (Notaries)

CPLS 6015 Conferencing
CPLS 6016 Drafting of Legal Documents
CPLS 6017 Ethics
CPLS 6018 Opinion Writing
CPLS 6020 Rédaction des Actes
CPLS 6021 Responsabilité Notariale
CPLS 6022 Tenue de l'Office Notariale

6. Course Plan

PART 1- Prospective Law Practitioners (Compulsory for all)

Subjects	Hours/ Year
	Attorneys/ Barristers/ Notaries
Introduction to Mauritian Law	10
Criminal Law: Practical Aspects	10
Droit Civil Approfondi	10
TOTAL	30

Subjects	Hours/ Year		
	Attorneys	Barristers	Notaries
Conferencing	30	30	30
Drafting of Legal Documents	30	30	30
Ethics	15	15	15
Opinion Writing	30	30	30
TOTAL	105	105	105

PART II- Prospective Barristers and Attorneys

Subjects	Hours/ Year	
	Attorneys	Barristers
Administrative and Constitutional Law	30	30
Advocacy	30	30
Arbitration and Mediation	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

PART III- Prospective Notaries

Subjects	Hours/ Year
	Notaries
Civil Procedure	45
Commercial and Business Law	60
Practical Aspects of Family Law	30
Practical Aspects of the Law of Immovable Property	54
Rédaction des Actes	30
Responsabilité Notariale	30
Revenue and Taxation Laws	39
Tenue de l'Office Notariale	12
Total	300

Stream	No of hours for			Total No. of Hours
	Foundation Level	Advanced Level	Professional Practice Level	
Attorneys	30	300	105	435
Barristers	30	300	105	
Notaries	30	300	105	

7. Outline Syllabus

CPLS 6001 Introduction to Mauritian Law

Sources of Mauritian Law, Historical development of the Mauritian Legal System, Judicial Precedent, Statutory Interpretation, Legal research skills and reasoning for practitioners, Court Structure and Legal Institutions, The Litigation process.

CPLS 6002 Practical Aspects of Criminal Law

Overview of principles of criminal law, Infractions contre l'État, Infractions contre les personnes, Infractions contre les biens, Infractions extérieures au code pénal mauricien.

CPLS 6003 Droit Civil Approfondi

Introduction aux Codes : la codification, l'application dans l'espace et le temps, l'interprétation, La méthodologie juridique Droits subjectifs, La Preuve, Les obligations, Practical aspects of contract law and torts, La Propriété.

CPLS 6004 Administrative 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, Human rights, Fundamental principles of the Constitution and constitutional adjudication framework.

CPLS 6005 Arbitration and Mediation

Utility of Alternative Dispute Resolutions, Friendly settlement of disputes, 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, Institutional framework.

CPLS 6006 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, Proceipe, 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 exécution 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.

(For Relevant Legislations: vide CVLE syllabus)

CPLS 6007 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, E-commerce issues.

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.

FINANCIAL LAWS

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. 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. 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.

LABOUR AND INDUSTRIAL RELATIONS

Legal framework, Industrial Court, Termination and dismissal, Trade Unions.

CPLS 6008 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.

(For Relevant Legislations: vide CVLE syllabus)

CPLS 6009 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.

CPLS 6010 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.

CPLS 6011 Civil Procedure (Notaries)

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.

CPLS 6012 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 remploi, 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.

CPLS 6013 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

certaines 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.

CPLS 6014 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 Reassessment 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.

CPLS 6015 Conferencing

Knowledge and principles underpinning the purpose of meeting with the client, objectives of a conference and the factual, legal, procedural and evidential issues that should be raised in a conference; conduct of the conference in a structured and efficient way, follow an agenda as far as possible, Organisation of all relevant issues in a logical sequence; Identification of the strengths and weaknesses of a 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.

CPLS 6016 Drafting of Legal Documents

Conceptual and analytical skills necessary to draft a variety of legal documents, Concise, appropriate, correctly spelt and appropriately punctuated drafting, Drafting of 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.

CPLS 6017 Ethics

Essential qualities of ethical and professional behaviour required from a legal practitioner, 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, Code of Ethics applicable to the three branches of the profession, Breaches, Disciplinary Action: Courts Act, Law Practitioners Act, Notaries Act.

CPLS 6018 Opinion Writing

Develop the student's skill in providing written advice to counsel and/or the instructing attorney and lay client, Give reliable and practical advice, Identify and address the needs and objectives of the client and provide a practical solution to the client's problems, 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, Identify and ask for further information/evidence, when necessary; and use a clear and appropriate structure, dealing with each issue in a logical order.

CPLS 6019 Advocacy

Preparation, presentation and response 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. Submissions, examination and cross-examination of witnesses, use of a clear, audible 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.

CPLS 6020 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.

CPLS 6021 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.

CPLS 6022 Tenue de l'Office Notarial

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

Disclaimer: After completion of the Law Practitioners Vocational Course, candidates will obtain a Certificate of Attendance of the University of Mauritius. However, in order to be qualified as a professional Attorney, Barrister of Notary, candidates will need to satisfy the requirements as prescribed by the Council for Vocational Legal Education

1. List of relevant books and documents

- Domingue P.R. *Introduction to Law & Legal Methods*, CPDL
Domingue P.R. *Criminal Law*. CPLD, UoM
Domingue P.R. *Evidence*, CPDL, UoM
Domingue P.R. *Human Rights*, CPDL, UoM
Gunpath R.P. *Traité de Droit Civil*, Star Publication, N.Delhi
Gunpath R.P. *Treatise on Criminal Law*, Star Publication, N.Delhi
Gunpath R.P. *La Cour Suprême de l'Ile Maurice*, Star Publication, N.Delhi
Gunpath R.P. *Labour Law & Industrial Relations Law*, CPDL, UoM
Gunpath R.P. & Co-authors *Legal Aspects of Financial Law*, CPDL, UoM
Sornum D. in collaboration with R.P.Gunpath. *Getting into International Arbitration*, EOI