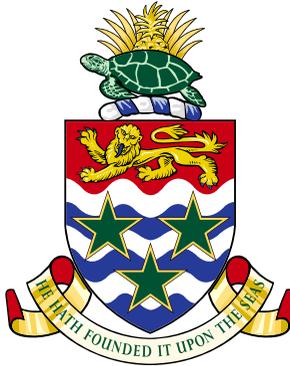


## CAYMAN ISLANDS



# LEGAL SERVICES BILL, 2020

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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; TO PROVIDE FOR A SYSTEM OF LEGAL EDUCATION; TO PROVIDE FOR A MECHANISM TO DEAL WITH PROFESSIONAL MISCONDUCT; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

## PUBLISHING DETAILS

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**Sponsoring Ministry/Portfolio:** Portfolio of Legal Affairs (PLA)



## Memorandum of OBJECTS AND REASONS

This Bill seeks to repeal and replace the Legal Practitioners Law (2015 Revision) to establish the Legal Services Board, to regulate the practice of Cayman Islands law, to provide for a system of legal education, to provide for a mechanism to deal with professional misconduct and to provide for incidental and connected purposes.

Part 1 contains clauses 1 and 2 which deal with preliminary matters.

Clause 1 contains the short title and commencement provisions.

Clause 2 provides definitions for words used throughout the legislation.

Part 2 contains clauses 3 to 23 which provide for the establishment, functions and powers of the Cayman Islands Legal Services Board (the “Board”).

Clause 3 establishes the Board.

Clause 4 provides for the constitution of the Board so that the Board consists of four members as follows —

- (a) the Chief Justice;
- (b) the Attorney General;
- (c) a non-practising attorney-at-law appointed by the Premier; and
- (d) a non-practising attorney-at-law appointed by the Leader of the Opposition.

Clause 5 provides for the Board’s functions which include the following —

- (a) to encourage and promote the upholding of the rule of law;
- (b) to promote high standards of professional conduct by attorneys-at-law;
- (c) to regulate the practice of law in the Islands;
- (d) to encourage and promote the study of law;
- (e) to supervise legal education and practical legal training leading to local qualification for admission as an attorney-at-law;
- (f) to establish or supervise a system of law reporting;
- (g) to carry out the functions of the Board under the Proceeds of Crime Law (2020 Revision), in relation to attorneys-at-law, in accordance with the assignment of the Board as the Supervisory Authority under section 4(9) of that Law; and
- (h) to carry out such other functions as are imposed on the Board by this Law or any other Law.



Clause 5 also gives Board the power to establish committees for the purposes of advising on, or performing, any of the Board's functions under this legislation or any other Law. The committees may comprise members of the Board only or members of the Board and persons who are not members of the Board.

The Board is given the power, with the approval of the Cabinet and by written instrument, to delegate to any committee of the Board or other person any of its functions under the Law or any other Law to together with any powers (except this power of delegation) which the Board determines is necessary or expedient to enable the person or the committee to carry out the delegate function.

Clause 6 gives the Board ancillary powers in relation to the carrying out of its functions.

Clause 7 provides for the appointment and employment of a Secretary to the Board and such other public officers as the Deputy Governor, after consultation with the Attorney General, thinks are necessary for assisting the Board in the proper performance of its functions under this Law.

Clause 8 provides for an appointed member to hold office for five years on terms and conditions determined by the Premier or Leader of the Opposition, as the case may be. An appointed member is eligible for re-appointment for one additional period of three years.

Clause 9 allows for acting appointments to be made where a member is absent or unable to act.

Clause 10 permits an appointed member to resign from office by letter addressed to the Chief Justice.

Clause 11 gives the Premier or Leader of the Opposition, as the case may be, the power to revoke the appointment of an appointed member after consulting the other members of the Board.

Clause 12 provides for the filling of a vacancy in the office of an appointed member.

Clause 13 requires the Clerk of the Court to publish, both in the *Gazette* and such other media as the Clerk of the Court determines, details of each appointment of a member, the resignation of an appointed member and the revocation of the appointment of an appointed member.

Clause 14 gives the Board the power to regulate its practice and procedures.

Clause 15 provides for meetings of the Board. The Board has the power to co-opt any person whom it considers able to assist in its deliberations.

Clause 16 protects members of the Board and members of committees of the Board from liability against claims, damages, costs, charges or expenses resulting from the discharge or purported discharge of a function of the member as a member of the Board where the claims, damages, costs, charges or expenses are not caused by the bad faith of the member.



Clause 17 requires a member of the Board to disclose the fact that the member has a conflict of interest in a matter before the Board.

Clause 18 provides for an appointed member to be paid an allowance.

Clause 19 provides for allowances and other administrative expenses paid or incurred by the Board, or any committee or other person referred to in section 5(3), in carrying out the functions of the Board to be paid out of the general revenue of the Islands.

Clause 20 requires the Board to keep proper accounts.

Clause 21 requires the Board, within three months of the start of each financial year, to prepare and submit to the Cabinet an annual report on the manner in which the Board performed its functions during the preceding financial year.

Clause 22 gives the Chief Justice the power to assign to the Clerk of the Court such functions as the Chief Justice thinks necessary for the proper carrying out by the Board of its functions.

Clause 23 provides for the seal of the Board to be authenticated by the Chief Justice and for a document of the Board not under seal to be executed by an officer of the Board appointed to do so.

Part 3 contains clauses 24 to 28 which make provision for the practice of Cayman Islands law.

Clause 24 prohibits a person from practising Cayman Islands law, in the Islands or in another jurisdiction except as provided in the legislation.

Clause 24 also provides that a person practises Cayman Islands law if, for or in expectation of gain or reward, the person provides legal services in respect of Cayman Islands law or in the Cayman Islands. A person also practises Cayman Islands law if the person holds himself or herself as qualified to provide legal services for gain or reward. Clause 24 sets out the circumstances in which a person is not to be taken as practising Cayman Islands law.

Clause 25 permits an attorney-at-law who holds a practising certificate to practise Cayman Islands law subject to compliance with the legislation. The practice of Cayman Islands law by an attorney-at-law in another jurisdiction with an affiliate is also subject to compliance with the law of that jurisdiction.

Clause 26 permits a recognised law entity to practise Cayman Islands law in the Islands subject to compliance with the legislation. The practice of Cayman Islands law by a recognised law entity in another jurisdiction with an affiliate is also subject to compliance with the law of that jurisdiction.

Clause 27 provides exemptions from the Law in respect of the rights in connection with the duties of offices of the Attorney General or the Director of Public Prosecutions to act as an advocate or the privileges of the Attorney General or Director of Public Prosecutions.

Clause 28 provides an exemption from Part 3 for a person, whether or not an attorney-at-law, who has statutory authority to practise Cayman Islands law. Clause 28 also provides that nothing in Part 3 prohibits an attorney-at-law from establishing that attorney-at-law as a law firm or as a member or partner of a law firm except that —

- (a) in the case of a law firm that is an attorney-at-law practising Cayman Islands law in the Islands as a sole practitioner, the attorney-at-law must be a Caymanian;
- (b) in the case of a law firm that is a partnership practising Cayman Islands law, at least one partner of the partnership must be an attorney-at-law who is Caymanian; or
- (c) in the case of a law firm that is a recognised law entity, at least one member or partner of the recognised law entity must be an attorney-at-law who is Caymanian.

Part 4 contains clauses 29 to 36 which make provision for admission of an attorney-at-law.

Clause 29 gives a judge the power to admit a person as an attorney-at-law. A judge must not admit a person as an attorney-at-law unless the judge is satisfied that the person meets the eligibility criteria set out in that provision, including specific personal qualifications and professional qualifications.

Clause 30 sets out the personal qualifications required for admission as an attorney-at-law so that to be admitted a person must —

- (a) be a Caymanian;
- (b) hold a work permit or a Residency and Employment Rights Certificate or otherwise be entitled under the Immigration (Transition) Law, 2018 to reside and work in the Islands as an attorney-at-law 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 employee, associate or consultant of a law firm or an affiliate of a law firm.

Clause 31 requires that to be admitted as an attorney-at-law a person must satisfy a judge that the person is not an undischarged bankrupt, has not engaged in conduct that would constitute an act of professional misconduct under this Law and is not disbarred for professional misconduct from practising law in another other jurisdiction.

Clause 32 sets out the professional qualifications required for admission as an attorney-at-law, including local and foreign qualifications.

Clause 33 requires a person a person to have had at least five years post-qualification experience in the practice of law in another jurisdiction in order to be admitted as an attorney-at-law by virtue of a foreign qualification. The person must also be in good standing on a register or its equivalent maintained by a court or other relevant body of the relevant jurisdiction that contains the name of each person entitled to practise law in that



jurisdiction. The post-qualification experience requirements do not apply if the person is Caymanian or the holder of a Residency and Employment Rights Certificate.

Clause 34 provides for an application for admission to be made by motion to the Court and provides for a prescribed admission fee and documentary evidence to be submitted in support of the application.

Clause 35 provides for an application to be made to a judge to permit a person to come to the Islands to carry out the functions of an attorney-at-law in a particular suit or matter. The application must be made by a law firm.

Part 5 contains clauses 36 to 47 which provide for matters relating to attorneys-at-law.

Clause 36 provides that an attorney-at-law is an officer of the Court. Clause 36 also prohibits an attorney-at-law from appearing on behalf of another person in a court, tribunal or inquiry in the Islands if the attorney-at-law holds a practising certificate that only authorises the attorney-at-law to practise Cayman Islands law in another jurisdiction. However, the prohibition does not apply to an attorney-at-law who is Caymanian.

Clause 37 requires an attorney-at-law or recognised law entity to comply with an obligation imposed on the attorney-at-law or recognised law entity under the Law and a failure to comply with an obligation amounts to professional misconduct and accordingly may be the subject of disciplinary proceedings.

Clause 37 also requires the Cabinet, after consultation with the Board, by Order published in the *Gazette*, to issue a Code of Professional Conduct for attorneys-at-law and recognised law entities. An attorney-at-law or a recognised law entity is required to observe the Code of Professional Conduct. A failure to comply with that requirement does not amount to professional misconduct, but any such failure may in disciplinary proceedings in relation to the attorney-at-law or a recognised law entity be relied upon as evidence to establish professional misconduct by the attorney-at-law or recognised law entity.

Clause 38 requires the Clerk of the Court to keep a register to be known as the Court Roll (“the Roll”) in respect of each person admitted for the time being to practise as an attorney-at-law.

Clause 39 requires the Clerk of the Court to keep the Roll and documents relating to it at the Court and to permit a person to inspect the Roll free of charge if the Office of the Court is open.

Clause 40 provides for the grant of a certificate of enrolment upon the name of a person being entered in the Roll. The certificate of enrolment is granted under the seal of the Court and must be signed by the Clerk of the Court.

Clause 41 provides for the alteration in enrolment details of an attorney-at-law.

Clause 42 permits the voluntary removal from the Roll of an attorney-at-law upon application to the Clerk of the Court

Clause 43 provides for the removal of the name of an attorney-at-law from Roll for non-practice.

Clause 44 provides for the keeping on the Roll of the name of an attorney-at-law who is Caymanian or employed by a law firm or an affiliate of a law firm and who does not wish to practise Cayman Islands law but wishes to keep his or her name on the Roll.

Clause 45 imposes an obligation on a law firm to inform the Clerk of the Court if a law firm or an affiliate of a law firm ceases to employ in another jurisdiction an attorney-at-law who is not a Caymanian. The managers of the law firm must ensure that the law firm complies with the obligation. If a law firm fails to comply with the obligation each manager of the firm commits an offence and liable on summary conviction to a fine of five thousand dollars.

Clause 46 gives an attorney-at-law the power to administer oaths.

Clause 47 gives an attorney-at-law and a recognised law entity the power to sue for fees and costs.

Part 6 contains clauses 48 to 52 which provide for practising certificates.

Clause 48 prohibits an attorney-at-law from practising Cayman Islands law in the Islands unless the attorney-at-law holds a practising certificate that authorises the attorney-at-law to practise Cayman Islands law principally in the Islands. Clause 48 also prohibits an attorney-at-law from practising Cayman Islands law in another jurisdiction unless the attorney-at-law holds a practising certificate that authorises the attorney-at-law to practise Cayman Islands law principally in another jurisdiction.

Clause 49 provides for an attorney-at-law to obtain a practising certificate on application to the Board and payment of the prescribed practising certificate fee.

Clause 50 provides for the Board to issue a practising certificate. The Board is required to issue and publish guidance on matters that the Board must have regard to in issuing a practising certificate, including —

- (a) the number of practising certificates that are in issue to attorneys-at-law practising Cayman Islands law in another jurisdiction with affiliates of the law firm; and
- (b) the compliance by the attorney-at-law with any applicable programme of legal education and practical legal training that will be undertaken in the attorney-at-law's principal place of practice during the currency of the practising certificate;
- (c) the jurisdiction that will be the attorney-at-law's principal place of practice during the currency of the practising certificate; and
- (d) compliance by the law firm, its affiliates and the attorney-at-law with this Law and regulations made under this Law.

Clause 50 provides that the Board shall not issue a practising certificate that authorises an attorney-at-law to practise Cayman Islands law in another jurisdiction if the total number



of attorneys-at-law practising in all other jurisdictions with affiliates of the law firm would exceed the number of attorneys-at-law practising in the Islands with the law firm.

Clause 50 also provides that the Board must not issue a practising certificate that authorises an attorney-at-law to practise Cayman Islands law in another jurisdiction unless the attorney-at-law swears the prescribed oath or makes the prescribed affirmation. Further, a practising certificate must be in a form approved by the Board and 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.

Clause 51 provides for a practising certificate issued to an attorney-at-law to become void in certain circumstances.

Clause 52 requires the Board to publish details of practising certificates.

Part 7 contains clauses 53 to 62 which provide for the recognition of a company or limited liability partnership as a recognised law entity.

Clause 53 provides for applications for recognition of a company or limited liability partnership as a recognised law entity.

Clause 54 gives the Board the power to recognise a company or limited liability partnership as a recognised law entity if the Board is satisfied that the company or limited liability partnership complies with clause 28(2)(c) and is otherwise satisfied that the company or limited liability partnership is a suitable body to practise Cayman Islands law.

Clause 55 provides for the issue of a certificate of recognition to a company or limited liability partnership recognised as a recognised law entity.

Clause 56 provides for appeals against refusal of recognition of a company or limited liability partnership as a recognised law entity.

Clause 57 requires a recognised law entity, within sixty days after a change in its directors, managers, members or partners, to notify the Board of the change.

Clause 58 restricts a recognised law entity from carrying on any business other than the practice of Cayman Islands law in the Islands. However, a recognised law entity may, with the approval of the Board, carry on a business associated with its practice of Cayman Islands law. A recognised law entity that fails to comply with the restriction ceases to be a recognised law entity.

Clause 59 permits a recognised law entity to carry on business under a name that does not include the word “Limited”, or the abbreviation “Ltd.”, if it holds itself out to be a recognised law entity.

Clause 60 provides that a recognised law entity ceases to be a recognised law entity if a winding up order under the Companies Law (2020 Revision) or the Limited Liability Partnership Law, 2017 is made in respect of it.

Clause 61 makes each director, manager or member of a company or limited liability partnership who is an attorney-at-law guilty of professional misconduct if the company or limited liability partnership ceases to be a recognised law entity but continues to practise Cayman Islands law. As soon as practicable after the Board becomes aware that a company or limited liability partnership has ceased to be a recognised law entity, the Board must publish the name of the company or limited liability partnership and the fact that it has ceased to be a recognised law entity.

Clause 62 makes it an offence for a company or limited liability partnership to falsely claim to be a recognised law entity.

Part 8 contains clauses 63 to 66 which provide for matters in respect of law firms.

Clause 63 makes it a criminal offence for an attorney-at-law to practise Cayman Islands law in another jurisdiction otherwise than with a law firm or with an affiliate of a law firm. The punishment for the offence is fine of fifty thousand dollars or imprisonment for a term of two years, or both.

Clause 64 requires a law firm to have an annual operational licence to practise Cayman Islands law.

Clause 65 gives the Cabinet the power, after consultation with the Board, to make regulations requiring law firms to secure insurance for a prescribed minimum amount of cover against losses arising from claims in respect of civil liabilities incurred by such law firms in the practice of Cayman Islands law and any business associated with the practice of Cayman Islands law permitted under the Law.

Clause 66 requires a law firm, on or before 31st January in each year, to deliver to the Board a certificate indicating whether or not the law firm has, during the previous year complied with each obligation imposed on the law firm by the Law and where the law firm is a recognised law entity, complied with the criteria to maintain its status as a recognised law entity. The annual compliance certificate must be signed by a manager of the law firm. If a law firm fails to comply with a requirement of this provision each manager of the firm commits an offence and liable on summary conviction to a fine of five thousand dollars.

Part 9 contains clauses 67 to 70 which deal with legal education and practical legal training for local qualification for enrolment of an attorney-at-law.

Clause 67 gives the Board the power to designate a legal educator as a recognised legal educator if the Board is satisfied that it has the facilities required to provide legal education or practical legal training to a standard required by Part 9.

Clause 68 gives the Board the power to make arrangements for the provision of a system of legal education and practical legal training leading to local qualification for enrolment as an attorney-at-law. The Cabinet is given the power, after consultation with the Board, to make regulations relating to matters connected with the Board's functions under section 68(1).



Clause 68 also gives the Board the power to make arrangements requiring a person admitted as an attorney-at-law to participate in a programme of legal education or practical legal training. The Cabinet is given the power, after consultation with the Board, to make regulations relating to matters connected with the Board's functions under clause 68(1) and (2).

Clause 69 provides for regulations in respect of qualifying as an attorney-at-law.

Clause 70 provides for regulations to be made in respect of a programme of legal education or practical legal training.

Part 10 contains clauses 71 to 80 which provides for matters in respect of articles of clerkship.

Clause 71 gives the Cabinet the power, after consultation with the Board, to make regulations in respect of service under articles of clerkship.

Clause 72 specifies the qualifications required for an attorney-at-law to take an articulated clerk into the attorney-at-law's service.

Clause 73 gives a recognised law entity permission to take an articulated clerk into the service of the recognised law entity.

Clause 74 gives the Attorney General, Director of Public Prosecutions and Clerk of the Court permission to take an articulated clerk into their respective service.

Clause 75 gives the Board the power to certify that time spent by a person in a legal or judicial department of the public service performing duties is equivalent to a similar time spent in the service of an attorney-at-law under articles of clerkship.

Clause 76 gives the Board the power to discharge articles of clerkship in certain circumstances.

Clause 77 provides for the transfer of articles of clerkship.

Clause 78 sets out the obligations of an attorney-at-law or a recognised law entity in relation to an articulated clerk.

Part 11 contains clauses 79 to 95 which provide for the investigation of alleged misconduct by an attorney-at-law.

Clause 79 exempts from the application of Part 11 any conduct of a person while holding or acting in an office to which section 106 of the Constitution applies.

Clause 80 permits a person to file with the Board a complaint that any specified conduct of an attorney-at-law constitutes professional misconduct by the attorney-at-law.

Clause 81 imposes a duty on the Board to investigate a complaint filed under clause 81.

Clause 82 requires the Board to make and publish rules in respect of the process for its investigation of the conduct of attorneys-at-law.

Clause 83 gives the Board the power to do everything reasonably necessary to investigate any conduct of an attorney-at-law that is alleged to constitute professional misconduct.

Clause 84 provides disciplinary sanctions for professional misconduct by an attorney-at-law.

Clause 85 requires the publication of a striking off and suspension from practice of an attorney-at-law to be published.

Clause 86 gives the Board the power to make an interim order to suspend from practice an attorney-at-law being investigated by the Board until the investigation has been completed and any subsequent order made by the Board under clause 86 has come into effect.

Clause 87 provides for the restoration of name of an attorney-at-law to Roll.

Clause 88 provides for the termination of suspension of an attorney-at-law.

Clause 89 provides for the form and proof of an order of the Board.

Clause 90 requires certain orders of the Board to be filed with the Clerk of the Court.

Clause 91 provides for a fine or payment of costs imposed by an order of the Board to have effect as if it were a debt due to the general revenue of the Islands.

Clause 92 entitles an attorney-at-law to appeal to the Court of Appeal against an action taken by the Board under section 85.

Clause 93 provides for the notification of the suspension or striking off of an attorney-at-law to parties related to a trusteeship held by the attorney-at law.

Clause 94 makes an attorney-at-law guilty of professional misconduct if the attorney-at-law practises law in contravention of a condition or restriction specified in the attorney-at-law's practising certificate.

Clause 95 requires that if, when investigating the conduct of an attorney-at-law, it appears to the Board that the attorney-at-law or any other person may have committed an offence the Board must refer the matter to the police.

Part 12 contains clauses 96 to 101 which are miscellaneous provisions.

Clause 96 provides for practice in the Islands of the law of another jurisdiction.

Clause 97 makes it an offence to knowingly or wilfully provide false or misleading information in an application, notification, notice or filing under the legislation. The punishment for such an offence is a fine of ten thousand dollars or imprisonment for a term of five years, or both.

Clause 98 provides for the liability of partners or officers of a limited liability partnership or officers of a body corporate where an offence is committed by the limited liability partnership or the body corporate.



Clause 99 gives Cabinet the power, after consultation with the Board, to make regulations prescribing anything that may be prescribed under the Law, providing for access to the legal profession and training and development of attorneys-at-law or providing for such matters as may be necessary or convenient for carrying out or giving effect to the legislation and its administration.

Clause 100 repeals the Legal Practitioners Law (2015 Revision) and saves the Legal Practitioners (Students) Regulations (2018 Revision).

Clause 101 gives the Cabinet the power to make regulations to provide for such savings, transitional and consequential provisions to have effect in connection with the coming into force of any provision of this Law as are necessary or expedient. The Regulations may be given retrospective operation to a day not earlier than the day that the Law comes into force.



**CAYMAN ISLANDS**



**LEGAL SERVICES BILL, 2020**

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**CAYMAN ISLANDS****LEGAL SERVICES BILL, 2020**

**A BILL FOR A LAW TO REPEAL AND REPLACE THE LEGAL PRACTITIONERS LAW (2015 REVISION); TO REGULATE THE PRACTICE OF CAYMAN ISLANDS LAW; TO PROVIDE FOR A SYSTEM OF LEGAL EDUCATION; 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 - PRELIMINARY****Short title and commencement**

1. (1) This Law may be cited as the Legal Services Law, 2020.
- (2) This Law shall come into force on such date as may be appointed by Order made by the Cabinet and different provisions of this Law may be brought into force on different days and for different purposes.

**Interpretation**

2. (1) In this Law —
  - “**acting member**” means an attorney-at-law appointed to act in the place of the appointed member under section 9(1);
  - “**affiliate**”, in respect of a law firm, means a person engaged in the practice of Cayman Islands law in another jurisdiction which —

- (a) is trading under a name that is the same as, or similar to, or a derivative of, the name of the law firm;
- (b) is associated with the law firm; or
- (c) is a subsidiary of the law firm;

“**another jurisdiction**” means any jurisdiction other than the Islands and “**other jurisdictions**” shall be construed accordingly;

“**appointed member**” means a member of the Board appointed under section 4(1)(c) or (d) and includes a person for the time being appointed as an acting member of the Board;

“**articled clerk**” means a person who is serving articles of clerkship in accordance with Part 10;

“**articles of clerkship**” means any contract in writing under which any person is bound to serve under the tutelage of an attorney-at-law;

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

“**Board**” means the Cayman Islands Legal Services Board established under section 3;

“**Cayman Islands law**” shall be construed in accordance with section 24;

“**Caymanian**” has the meaning assigned in section 2 of the *Immigration (Transition) Law, 2018*;

“**Chief Justice**” includes a person for the time being carrying out the functions of the office of Chief Justice;

“**Clerk of the Court**” has the meaning assigned in section 2 of the *Grand Court Law (2015 Revision)*;

“**company**” has the meaning assigned in section 2(1) of the *Companies Law (2020 Revision)*;

“**Constitution**” means the Constitution set out in Schedule 2 to the *Cayman Islands Constitution Order 2009 (UK S.I. 1379/2009)*;

“**Court**” means the Grand Court;

“**document**” includes an electronic record as defined under section 2 of the *Electronic Transactions Law (2003 Revision)*;

“**foreign qualification**” shall be construed in accordance with section 32(3);

“**Government attorney-at-law**” means an attorney-at-law employed in the Government service in accordance with the *Public Service Management Law (2018 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 firm**” means —

- (a) an attorney-at-law practising Cayman Islands law in the Islands as a sole practitioner;
- (b) a partnership practising Cayman Islands law in the Islands; or
- (c) a recognised law entity practising Cayman Islands law in the Islands;

“**legal practitioner**” means a person who has either qualified locally in accordance with section 32(2) or has a foreign qualification in accordance with section 32(3);

“**legal services**” means —

- (a) giving legal advice or assistance;
- (b) the exercise of rights of audience before court, tribunal or inquiry;
- (c) preparing a document on behalf of another person for use in a court, tribunal or inquiry;
- (d) preparing an instrument governed by law that relates to real, personal or intangible property; or
- (e) preparing evidence for, or giving evidence in a court or tribunal or inquiry as to the effect of law;

“**legally and ordinarily resident**” shall be construed in accordance with the meaning given to the expression “**legal and ordinary residence**” in section 2 of the *Immigration (Transition) Law, 2018*;

“**limited liability partnership**” means a limited liability partnership registered under the *Limited Liability Partnership Law, 2017*;

“**manager**” in respect of a law firm, means a managing partner or a managing director or a member of the management committee or board of directors or equivalent;

“**partner**” means —

- (a) a person who has entered into a partnership in accordance with the *Partnership Law (2013 Revision)*; or
- (b) a person who is a partner in a limited liability partnership under the *Limited Liability Partnership Law, 2017*,

and does not include a person employed as a salaried partner or equivalent;

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

“**practice of Cayman Islands law**” and “**practise Cayman Islands law**” shall be construed in accordance with section 24;

“**practising certificate**” means a practising certificate issued under section 50;

“**public officer**” has the meaning assigned to that expression in section 124(1) of the Constitution;

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

“**recognised law entity**” means a company or limited liability partnership recognised as a recognised law entity by the Board under section 54;

“**Residency and Employment Rights Certificate**” means a certificate issued or granted under the *Immigration (Transition) Law, 2018*;

“**Roll**” means the register known as the Court Roll kept under section 38;

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

“**subsidiary**” means a company wherever incorporated, the voting control of which is held by or on behalf of a law firm;

“**Supervisory Authority**”, in relation to attorneys-at-law, has the meaning assigned to that expression under section 2(1) of the *Proceeds of Crime Law (2020 Revision)*; and

“**work permit**” has the meaning assigned in section 2 of the *Immigration (Transition) Law, 2018*.

## PART 2 - THE CAYMAN ISLANDS LEGAL SERVICES BOARD

### Establishment of the Cayman Islands Legal Services Board

3. There is established a body called the Cayman Islands Legal Services Board.

### Constitution of the Board

4. (1) The Board consists of four members as follows —
- (a) the Chief Justice;
  - (b) the Attorney General;
  - (c) a non-practising attorney-at-law appointed by the Premier; and
  - (d) a non-practising attorney-at-law appointed by the Leader of the Opposition.
- (2) The appointment of an appointed member shall be by instrument in writing.
- (3) A copy of the instrument under subsection (2) shall be filed with the Clerk of the Court.

### Functions of the Board

5. (1) The Board shall have the following functions —
- (a) to encourage and promote the upholding of the rule of law;



- (b) to promote high standards of professional conduct by attorneys-at-law;
  - (c) to regulate the practice of law in the Islands;
  - (d) to encourage and promote the study of law;
  - (e) to supervise legal education and practical legal training leading to local qualification for admission as an attorney-at-law;
  - (f) to establish or supervise a system of law reporting;
  - (g) to carry out the functions imposed on the Board under the *Proceeds of Crime Law (2020 Revision)*, in relation to attorneys-at-law, in accordance with the assignment of the Board as the Supervisory Authority under section 4(9) of that Law; and
  - (h) to carry out such other functions as are imposed on the Board by this Law or any other Law.
- (2) The Board may establish committees for the purposes of advising the Board on, or performing, any of its functions under this Law or any other Law and a committee established under this subsection may comprise —
- (a) members of the Board only; or
  - (b) members of the Board and persons who are not members of the Board.
- (3) The Board may, with the approval of the Cabinet and by written instrument, delegate to any committee of the Board or other person any of its functions under this Law or any other Law together with any powers (except this power of delegation) which the Board determines is necessary or expedient to enable the committee or other person to carry out the delegate function.

### **Powers of the Board**

6. The Board has the power to do everything reasonably incidental or conducive to carrying out its functions under this Law.

### **Appointment of Secretary and staff**

7. The Deputy Governor shall appoint and employ at such terms and conditions as a provided by this Law and the *Public Service Management Law (2018 Revision)* —
- (a) a Secretary to the Board; and
  - (b) such other public officers as the Deputy Governor, after consultation with the Attorney-General thinks are necessary for assisting the Board in the proper performance of its functions under this Law.

### **Terms and conditions of appointment of members**

8. (1) Except as otherwise provided by this Part, an appointed member holds office for five years on terms and conditions determined by —

- (a) the Premier, in the case of an appointed member appointed under section 4(1)(c); or
  - (b) the Leader of the Opposition, in the case of an appointed member appointed under section 4(1)(d).
- (2) An appointed member is eligible for re-appointment for one additional period of three years.

### **Acting appointments**

9. (1) If, in accordance with section 17, an appointed member has a conflict of interest in a matter to be dealt with by the Board, or is otherwise unable to act in relation to any matter, the Premier or Leader of the Opposition may, in accordance with section 4(1)(c) or (d), appoint another person to act in the place of the appointed member in the matter.
- (2) An acting appointment under subsection (1) shall be made in the same manner as an original appointment.
- (3) An acting member appointed has the same powers, duties and entitlements as the appointed member.

### **Resignation**

10. (1) An appointed member may resign from office by letter addressed to the Chief Justice.
- (2) The resignation takes effect when the letter is received by the Chief Justice.

### **Revocation of appointment**

11. (1) The Premier in the case an appointed member appointed under section 4(1)(c), or the Leader of the Opposition in the case of an appointed member under section 4(1)(d), may, after consulting the other members of the Board, revoke the appointment of the appointed member by letter addressed to the member.
- (2) The revocation takes effect when the letter is received by the member.

### **Vacancy**

12. (1) The Premier in the case an appointed member appointed under section 4(1)(c), or the Leader of the Opposition in the case of an appointed member under section 4(1)(d), shall, as soon as practicable after a vacancy in the office of appointed member arises, fill the vacancy in accordance with this Part.
- (2) The Chief Justice may make an appointment in anticipation of a vacancy arising.

### **Gazetting appointed members**

13. The Clerk of the Court shall publish in the *Gazette* and such other media as the Clerk of the Court determines details of each appointment of a member, the resignation of an appointed member and the revocation of the appointment of an appointed member.



**Board to regulate its practice and procedures**

- 14.** Except as otherwise provided by section 15, the Board may regulate its practice and procedures.

**Meetings**

- 15.** (1) The Board shall meet at times and places determined by the Chief Justice.
- (2) The Chief Justice, in the absence of the Chief Justice, the Attorney General, shall preside at a meeting of the Board.
- (3) At a meeting of the Board, the quorum shall be four members present and voting, including the Chief Justice, or in the absence of the Chief Justice, the Attorney General.
- (4) The Board shall reach its decisions by a simple majority vote of its members present and voting.
- (5) If there is an equality of votes the Chief Justice, or in the absence of the Chief Justice, the Attorney General, may exercise a second or casting vote.
- (6) The Secretary shall record and keep, or cause to be recorded and kept, all minutes of the meetings, proceedings and decisions of the Board but shall not have any right to vote.
- (7) The Board may co-opt any person whom it considers able to assist it in its deliberations and any person so co-opted shall be deemed to be a member for so long as the person is co-opted, except that the person co-opted shall have no vote and shall not be counted for the purposes of constituting a quorum.

**Protection from liability**

- 16.** (1) A member of the Board or a committee of the Board is not liable for claims, damages, costs, charges or expenses resulting from the discharge or purported discharge of a function of the member as a member of the Board or committee of the Board.
- (2) Subsection (1) does not apply to claims, damages, costs, charges or expenses caused by the bad faith of the member of the Board or committee of the Board.

**Disclosure of member's interests**

- 17.** (1) If an appointed member has a conflict of interest in a matter to be dealt with by the Board, the appointed member shall disclose the fact to the other members of the Board and shall not be present at a meeting of the Board when the matter is being discussed by the Board.
- (2) An appointed member who contravenes subsection (1) commits an offence and is liable —
- (a) on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both; or

- (b) on conviction on indictment to a fine of fifty thousand dollars or to imprisonment for a term of five years or to both.
- (3) It is a defence for the member of the Board to prove that the member did not know and could not reasonably have known that the matter in which the member had an interest was the subject of consideration at the meeting.
- (4) A disclosure under subsection (1) shall be recorded in the minutes of the meeting of the Board.
- (5) If the Board is —
  - (a) investigating or determining a complaint against an attorney-at-law;
  - (b) hearing an application by a former attorney-at-law to have the attorney-at-law's name restored to the Court Roll; or
  - (c) hearing an application by an attorney-at-law to have a period of suspension of the attorney-at-law's right to practise terminated,an appointed member is to be treated as having a conflict of interest if the appointed member is a partner, director, shareholder, employee, associate or consultant of the law firm of which the attorney-at-law or former attorney-at-law is or was a partner, director, shareholder, employee, associate or consultant, or the appointed member is the spouse or civil partner, as defined by section 2 of the *Civil Partnership Law, 2020*, of the attorney-at-law or former attorney-at-law.

### **Appointed member to be paid allowance**

**18.** An appointed member shall be paid such allowances as the Cabinet may determine.

### **Payment of administrative expenses**

**19.** Allowances and other administrative expenses paid or incurred by the Board or any committee or other person referred to in section 5(3) in carrying out the functions of the Board shall be paid out of the general revenue of the Islands.

### **Board to keep proper accounts**

**20.** The Board shall keep proper accounts of its receipts, payments, credits and liabilities.

### **Board to submit annual report**

**21.** The Board shall, within three months of the start of each financial year of the Board, prepare and submit to the Cabinet an annual report on the performance of the Board's functions during the preceding financial year.

### **Clerk of the Court may be assigned functions**

**22.** The Chief Justice may assign to the Clerk of the Court such functions as the Chief Justice thinks necessary for the proper carrying out by the Board of its functions.



**Seal and execution of documents**

- 23.** (1) The seal of the Board shall be authenticated by the Chief Justice and one other member of the Board authorised by the Board to do so.
- (2) The seal of the Board shall be judicially noticed.
- (3) The Board may, by resolution, appoint an officer of the Board, either generally or in a particular case, to execute on behalf of the Board a document not under seal.

**PART 3 - THE PRACTICE OF CAYMAN ISLANDS LAW****Restriction on the practice of Cayman Islands law**

- 24.** (1) Except as provided by this Law, a person shall not practise Cayman Islands law in the Islands or in another jurisdiction.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars or to imprisonment for a term of two years, or to both.
- (3) For the purposes of subsection (1), a person practises Cayman Islands law if, for or in expectation of gain or reward, the person provides legal services in respect of Cayman Islands law or in the Islands.
- (4) A person practises Cayman Islands law if the person holds himself or herself as qualified to provide legal services for gain or reward.
- (5) Notwithstanding subsections (3) and (4), a person is not to be taken as practising 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) prepares a memorandum or articles of association of a company;
  - (d) 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;
  - (e) prepares a will that does not contain trust provisions;
  - (f) 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;
  - (g) prepares a legally prescribed form or document;

- (h) prepares a letter or power of attorney;
- (i) acts in the transfer of shares containing no trust or limitation;
- (j) as a person licensed or registered under a regulatory law, as defined in the *Monetary Authority Law (2020 Revision)*, carries out a licensed activity;
- (k) is an arbitrator or counsel brought into the Islands by an attorney-at-law to act in arbitration under the *Arbitration Law, 2012*;
- (l) being a person practising law in another jurisdiction, prepares a draft of a document or instrument to be governed by Cayman Islands law, where the document or instrument will be reviewed, settled and finalised for execution purposes by a law firm or an affiliate;
- (m) is instructed by a law firm or its affiliate to obtain evidence on behalf of a person for use in a court, tribunal or inquiry in the Islands, and where the evidence will be reviewed by a law firm or its affiliate on behalf of a mutual client;
- (n) being a person practising law in another jurisdiction, is instructed by a law firm or an affiliate to assist, under the supervision of that law firm or affiliate, in the preparation of a document (other than evidence or correspondence) for use in connection with proceedings in a court, tribunal or inquiry in the Islands; or
- (o) being a Queen's Counsel, or equivalent and, practising as such in any court of a jurisdiction referred to in section 32(3), instructed by a law firm or an affiliate, provides advice as to Cayman Islands law or prepares a document for use in a court, tribunal or inquiry in the Islands.

(6) The Cabinet may by Order amend subsection (5).

### **Attorneys-at-law may practise Cayman Islands law**

**25.** Subject to compliance with this Law and regulations made under this Law, an attorney-at-law who holds a practising certificate may —

- (a) practise Cayman Islands law in the Islands; or
- (b) practise Cayman Islands law in another jurisdiction with an affiliate, subject also to compliance with the law of that jurisdiction.

### **Recognised law entity may practise Cayman Islands law**

**26.** Subject to compliance with this Law and regulations made under this Law, a recognised law entity may —

- (a) practise Cayman Islands law in the Islands; or
- (b) practise Cayman Islands law in another jurisdiction with an affiliate, subject also to compliance with the law of that jurisdiction.



**Exemptions for Attorney General and Director of Public Prosecutions**

**27.** Nothing in this Law shall —

- (a) prejudice or affect the rights, including the right in connection with the duties of the Attorney General to act as an advocate, or privileges of the Attorney General or of any person holding public office in the Attorney General's chambers or of a person instructed by or on behalf of the Attorney General to appear for the Attorney General in any cause or matter and who possesses the prescribed qualification; or
- (b) prejudice or affect the rights, including the right in connection with the duties of the Director of Public Prosecutions to act as an advocate, or privileges of the Director of Public Prosecutions or of any person holding public office in the Office of the Director of Public Prosecutions or of a person instructed by or on behalf of the Director of Public Prosecutions to appear for the Director of Public Prosecutions in any cause or matter and who possesses the prescribed qualification.

**Ability to practise Cayman Islands law or establish as a law firm**

- 28.** (1) 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.
- (2) Nothing in this Part prohibits an attorney-at-law from establishing that attorney-at-law as a law firm or as a partner or member of a law firm except that —
- (a) in the case of a law firm that is an attorney-at-law practising Cayman Islands law in the Islands as a sole practitioner, the attorney-at-law shall be a Caymanian;
  - (b) in the case of a law firm that is a partnership practising Cayman Islands law, at least one partner of the partnership shall be an attorney-at-law who is Caymanian; or
  - (c) in the case of a law firm that is a recognised law entity, at least one member or partner of the recognised law entity shall be an attorney-at-law who is Caymanian.

**PART 4 - ADMISSION AS AN ATTORNEY-AT-LAW****Admission**

- 29.** (1) Subject to subsection (2), a judge may, on an application made in accordance with this Law, admit a person as an attorney-at-law.
- (2) A judge shall not admit a person as an attorney-at-law under subsection (1) unless the judge is satisfied that the person —
- (a) has a personal qualification for admission set out in section 30;

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

### **Personal qualification required for admission**

**30.** To be admitted as an attorney-at-law, a person shall —

- (a) be a Caymanian;
- (b) hold a work permit or a Residency and Employment Rights Certificate or otherwise be entitled under the *Immigration (Transition) Law, 2018* to reside and work in the Islands as an attorney-at-law 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, employee, associate or consultant of a law firm or an affiliate of a law firm.

### **Additional personal qualifications**

**31.** 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 professional misconduct under this Law; and
- (c) is not disbarred for professional misconduct from practising law in another jurisdiction.

### **Professional qualification required for admission**

**32.** (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 prescribed educational qualifications in the study of law; and
- (b) has undertaken the prescribed period of articles of clerkship in accordance with regulations made under section 71(2)(b).

(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 Professional Training 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; or
- (e) is entitled to practise law in any court of —
  - (i) Australia;
  - (ii) Canada;
  - (iii) a jurisdiction which is a Member of the Caribbean Community that is also a Member of the Commonwealth of Nations;
  - (iv) the Eastern Caribbean Supreme Court;
  - (v) Ireland;
  - (vi) Hong Kong;
  - (vii) New Zealand; or
  - (viii) any another jurisdiction prescribed by Cabinet by Order made upon the recommendation of the Board, being a jurisdiction that has admission qualifications comparable to those mentioned in subsection (2).

### **Post-foreign qualification experience requirement**

- 33.** (1) To be admitted as an attorney-at-law, by virtue of a foreign qualification, a person shall have had at least five years post-qualification experience in the practice of law in another jurisdiction.
- (2) 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 32(3) that contains the name of each person entitled to practise law in that jurisdiction.
- (3) The post-qualification experience requirements under subsection (1) shall not apply if the person is Caymanian or the holder of a Residency and Employment Rights Certificate.

### **Application for admission**

- 34.** (1) A person may apply for admission to practise as an attorney-at-law by motion to the Court.
- (2) An application under subsection (1) shall be filed with the Clerk of the Court 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) the prescribed admission fee.
- (3) The documentary evidence referred to in subsection (2)(b) is evidence as to —
- (a) the person's personal qualification for admission as set out in section 30;
  - (b) the person's additional personal qualifications as set out in section 31;
  - (c) the person's professional qualification as set out in section 32; and
  - (d) if the person is applying by virtue of a foreign qualification to which section 32(3) applies, evidence as to —
    - (i) the person's possession of any additional post-foreign qualification experience as required by section 33(1); and
    - (ii) the person's professional good standing in the jurisdiction in which the person obtained the foreign qualification as required by section 33(2).

#### **Application for admission to practise in a specified suit or matter**

- 35.** (1) An application may be made in the Islands to a judge to permit a person to appear, advise or act in a specified suit or matter if the person has come or intends to come to the Islands for that purpose.
- (2) If the judge gives the permission, the person may carry out the functions of an attorney-at-law for the specified suit or matter upon obtaining a practising certificate limited to those functions.
- (3) An application under subsection (1) shall be made by a law firm.
- (4) The law firm shall satisfy the judge —
- (a) that the law firm has instructed the person to appear, act or advise in the specified suit or matter;
  - (b) that the person has the qualifications in law required to appear, act or advise in the specified suit or matter; and
  - (c) in the case of an application to allow a person, other than a Queen's Counsel, or equivalent, and practising as such in any court of a jurisdiction referred to in section 32(3), to appear, to advise or to act in a specified suit or matter, that there are exceptional circumstances to justify approving the application and for this purpose, the fact that the applicant law firm does not itself have sufficient capacity to act or to advise in the specified suit or matter shall not be considered an exceptional circumstance.
- (5) A judge, when considering an application under subsection (1) made by a law firm, shall, in particular, consider —



- (a) the complexity of the specified suit or matter and the need for a specialist in respect of the suit or matter;
  - (b) the professional experience and expertise of the person proposed to appear, to advise or to act in the specified suit or matter; and
  - (c) whether approval of the application would be consistent with public policy, including —
    - (i) the promotion of the legal profession and advocacy in the Islands, its sustainability, competence and advancement;
    - (ii) the promotion and maintenance of a fair and efficient court system in the Islands; and
    - (iii) the *Grand Court Rules, 1995 (Revised)*.
- (6) An application under subsection (1) shall be accompanied the prescribed application fee.
- (7) Part 11 shall apply to a person referred to in subsection (1) as if the person were an attorney-at-law.
- (8) The Rules Committee of the Grand Court may make rules for the better implementation of this section.

## **PART 5 - ATTORNEYS-AT-LAW**

### **Status of attorneys-at-law**

- 36.** (1) Subject to subsection (2), an attorney-at-law is an officer of the Court.
- (2) An attorney-at-law shall not appear on behalf of another person in a court, tribunal or inquiry in the Islands if the attorney-at-law holds a practising certificate issued pursuant to section 48(2)(b).
- (3) Subsection (2) shall not apply to an attorney-at-law who is Caymanian.

### **Requirements to comply with obligations and to observe Code of Professional Conduct**

- 37.** (1) An attorney-at-law or a recognised law entity shall comply with an obligation imposed on the attorney-at-law or recognised law entity under this Law or Regulations made under this Law.
- (2) A failure to comply with subsection (1) amounts to professional misconduct and accordingly may be the subject of disciplinary proceedings.
- (3) Cabinet shall, after consultation with the Board, by Order published in the *Gazette*, issue a Code of Professional Conduct for attorneys-at-law and recognised law entities.

- (4) An attorney-at-law or a recognised law entity shall observe the Code of Professional Conduct issued under subsection (3).
- (5) Notwithstanding subsection (1) and (4), 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-at-law or a recognised law entity be relied upon as evidence to establish professional misconduct by the attorney-at-law or recognised law entity.

### **Clerk of the Court to keep a Roll of attorneys-at-law**

- 38.** (1) The Clerk of the Court shall keep a register which shall be known as the Court Roll.
- (2) The Clerk of the Court shall, in respect of each person admitted for the time being to practise as an attorney-at-law, enter on the Roll —
- (a) the person's full name and business address;
  - (b) the person's nationality;
  - (c) the date the person was first admitted to practise Cayman Islands law;
  - (d) details of the qualifications in respect of which the person was admitted to practise law;
  - (e) the area of law in which the person specialises and a description of the person's post-qualification experience in that area; and
  - (f) the name of the person's employer, if any.

### **Roll to be open for inspection**

- 39.** (1) The Clerk of the Court shall keep the Roll and documents relating to the Roll at the Court.
- (2) If the Office of the Court is open, the Clerk of the Court shall permit a person to inspect the Roll free of charge.

### **Certificate of enrolment**

- 40.** (1) Upon the name of a person being entered in the Roll, the Clerk of the Court shall grant a certificate of enrolment in the prescribed form to the person.
- (2) The certificate of enrolment is to be granted under the seal of the Court and shall be signed by the Clerk of the Court.
- (3) The production of the certificate of enrolment is evidence that the person named in the certificate of enrolment is enrolled as an attorney-at-law.
- (4) The certificate of enrolment is admissible in evidence without further proof of its sealing and signing.



**Alteration in enrolment details**

- 41.** (1) If there is an alteration in the details registered in the Roll in respect of an attorney-at-law, the attorney-at-law shall, within thirty days of the alteration, notify the Clerk of the Court giving details of the alteration.
- (3) After the notification is given under subsection (1), the Clerk of the Court shall amend the Roll as appropriate.

**Voluntary removal of name from Roll**

- 42.** (1) An attorney-at-law may apply to the Clerk of the Court to have the name of the attorney-at-law removed from the Roll.
- (2) The Clerk of the Court may remove the name of an attorney-at-law who applies to be removed from the Roll under subsection (1) from the Roll.
- (3) Rules of Court may prescribe the form and manner of an application under subsection (1).

**Removal of name from Roll for non-practice**

- 43.** (1) This section applies where the name of an attorney-at-law appears on the Roll but the attorney-at-law has ceased to hold a practising certificate.
- (2) The Clerk of the Court shall as soon as practicable after of an attorney-at-law ceases to hold a practising certificate send a notice to the attorney-at-law at the residential address of the attorney-at-law entered on the Roll.
- (3) The notice under subsection (2) shall inform the attorney-at-law that unless the attorney-at-law —
- (a) applies for a practising certificate; or
  - (b) if the attorney-at-law is a Caymanian or with a law firm, applies to keep the attorney-at-law's name on the Roll,
- the Clerk of the Court shall remove the name of the attorney-at-law from the Roll after three months of the service of the notice.
- (4) If, within three months after the service of the notice under subsection (2), the attorney-at-law has not applied for a practising certificate or applied to keep the attorney-at-law's name on the Roll, the Clerk of the Court shall remove the name of the attorney-at-law from the Roll.
- (5) The Clerk of the Court shall, as soon as practicable, publish the name of any attorney-at-law whose name has been removed from the Roll under this section.
- (6) If the Clerk of the Court removes the name of an attorney-at-law from the Roll under this section, the Clerk of the Court shall —
- (a) immediately following the removal, provide the Board with the name of the attorney-at-law that has been removed from the Roll under this section; and

- (b) as soon as practicable after the removal, publish a notice stating that the name of the attorney-at-law has been removed from the Roll under this section.

### **Keeping name on Roll**

- 44.** (1) This section applies if an attorney-at-law who is —
- (a) Caymanian; or
  - (b) employed by a law firm or an affiliate of a law firm,
- does not wish to practise Cayman Islands law but wishes to keep the attorney-at-law's name on the Roll.
- (2) An attorney-at-law referred to in subsection (1) may apply, before 31st January in each year, to the Clerk of the Court to keep the attorney-at-law's name on the Roll.
  - (3) An application under subsection (2) shall —
    - (a) be made on a form approved for the purpose by the Clerk of the Court;
    - (b) be accompanied by the prescribed fee; and
    - (c) be accompanied by evidence that the attorney-at-law does not owe any penalty to the Board.
  - (4) The application form approved by the Clerk of the Court under subsection (3)(a) shall require the attorney-at-law to —
    - (a) specify the attorney-at-law's current residential or business address and if the attorney-at-law is with a law firm or its affiliate, the name and address of the law firm or its affiliate;
    - (b) specify every jurisdiction, other than the Islands, in which the attorney-at-law is admitted to practise law; and
    - (c) state whether or not the attorney-at-law is or has been the subject of a disciplinary complaint or action that could cause or did cause the attorney-at-law's name to be struck off the roll of a jurisdiction in which the attorney-at-law is or was admitted.
  - (5) If the Clerk of the Court refuses to keep the name of the attorney-at-law on the Roll, the attorney-at-law 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.

### **Law firm - obligation to give notice**

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



- (2) A law firm shall, on or before 31st January in each year by written notice, inform the Clerk of the Court of the name of each attorney-at-law that has ceased to be employed during the previous twelve months in accordance with subsection (1).
- (3) An attorney-at-law referred to in subsection (2) may, by written notice, apply to the Clerk of the Court to have the attorney-at-law's name kept on the Roll stating the reason, consistent with this Law, why the attorney-at-law's name should remain on the Roll.
- (4) After receipt of the notice from the law firm and any notice from the attorney-at-law, the Clerk of the Court shall remove the name of the attorney-at-law from the Roll unless the attorney-at-law has satisfied the Clerk of the Court that there are adequate reasons consistent with this Law for not removing the name of the attorney-at-law from the Roll.
- (5) If the Clerk of the Court removes the name of an attorney-at-law from the Roll under this section, the Clerk of the Court shall —
  - (a) immediately following the removal, provide the Board with the name of the attorney-at-law that has been removed from the Roll under this section; and
  - (b) as soon as practicable after the removal, publish a notice stating that the name of the attorney-at-law has been removed from the Roll under this section.
- (6) The managers of a law firm shall ensure that the law firm complies with this section.
- (7) If a law firm fails to comply with a requirement of this section each manager of the law firm commits an offence and is liable on summary conviction to a fine of five thousand dollars.

### **Attorney-at-law may administer oaths**

**46.** An attorney-at-law may administer oaths.

### **Attorney-at-law and recognised law entity may sue for fees and costs**

- 47.** (1) An attorney-at-law or a recognised law entity may sue for fees and costs in respect of services rendered by the attorney-at-law or recognised law entity as an attorney-at-law or recognised law entity, as the case may be.
- (2) Notwithstanding subsection (1) —
- (a) an attorney-at-law may not sue for fees and costs except in respect of services rendered by the attorney-at-law when the attorney-at-law held a practising certificate that authorised the attorney-at-law to render the service; and

- (b) a recognised law entity may not sue for fees and costs except in respect of services rendered by the recognised law entity when the recognised law entity was under this Law, a recognised law entity.

## **PART 6 - PRACTISING CERTIFICATES**

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

- 48.** (1) An attorney-at-law shall not practise Cayman Islands law other than in accordance with subsection (2) or (4).
- (2) A practising certificate may authorise an attorney-at-law to do any of the following —
- (a) to practise Cayman Islands law principally in the Islands; or
- (b) to practise Cayman Islands law principally in another jurisdiction.
- (3) An attorney-at-law who holds a practising certificate —
- (a) issued under subsection (2)(a), shall not be in breach of this section by practising Cayman Islands law outside of the Islands, provided that the attorney-at-law's principal place of practice remains within the Islands; or
- (b) issued pursuant to subsection (2)(b), shall not be in breach of this section by practising Cayman Islands law in the Islands or elsewhere, provided that the attorney-at-law's principal place of practice remains that other jurisdiction.
- (4) A Government attorney-at-law is deemed to be the holder of a practising certificate authorising the attorney-at-law to practise Cayman Islands law both in the Islands and in another jurisdiction on behalf of the Government.
- (5) A certificate in the form approved by the Attorney General and signed by the Attorney General to the effect that a particular person is a Government attorney-at-law is evidence of that fact.

### **Application for practising certificate**

- 49.** (1) An attorney-at-law may obtain a practising certificate on application to the Board.
- (2) An application for a practising certificate shall, subject to subsection (3), be made by a law firm in the form approved for the purpose by the Board and shall be accompanied by the prescribed practising certificate fee.
- (3) An application for a practising certificate shall —
- (a) state the jurisdiction that will be the attorney-at-law's principal place of practice during the currency of the practising certificate applied for;



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

### **Issue of practising certificate**

- 50.** (1) The Board may, on an application made in accordance with section 49, issue a practising certificate.
- (2) The Board shall issue and publish guidance on the matters that the Board shall have regard to in issuing a practising certificate including —
- (a) the number of practising certificates that are issued to attorneys-at-law practising Cayman Islands law in another jurisdiction with affiliates of the law firm;
  - (b) the compliance by the attorney-at-law with any applicable programme of legal education and practical legal training that will be undertaken in the attorney-at-law's principal place of practice during the currency of the practising certificate;
  - (c) the jurisdiction that will be the attorney-at-law's principal place of practice during the currency of the practising certificate; and
  - (d) compliance by the law firm, its affiliates and the attorney-at-law with this Law and regulations made under this Law.
- (3) The Board shall, before determining an application under subsection (1) for an attorney-at-law to practise Cayman Islands law in another jurisdiction, have regard to the matters specified in the guidance issued and published under subsection (2).
- (4) Notwithstanding subsection (1), if in an application for a practising certificate, it is stated that an attorney-at-law is —
- (a) suspended from practice; or
  - (b) the subject of a disciplinary complaint or action that could cause or caused the attorney-at-law's name to be struck off the roll of a jurisdiction in which the attorney-at-law is or was admitted,
- the Board shall not issue a practising certificate except pursuant to an order of the Court.
- (5) In determining whether to issue a practising certificate authorising an attorney-at-law to practise Cayman Islands law in another jurisdiction, the Board shall have regard to the matters specified in the guidance issued and published under subsection (2).

- (6) Notwithstanding subsection (1), the Board shall not issue a practising certificate that authorises an attorney-at-law to practise Cayman Islands law in another jurisdiction if the total number of attorneys-at-law practising in all other jurisdictions with affiliates of the law firm would exceed the number of attorneys-at-law practising in the Islands with the law firm.
- (7) Notwithstanding subsection (1), the Board shall not issue a practising certificate that authorises an attorney-at-law to practise Cayman Islands law in another jurisdiction unless the attorney-at-law swears the prescribed oath or makes the prescribed affirmation.
- (8) A practising certificate shall be in the form approved by the Board.
- (9) 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.

### **When a practising certificate becomes void**

- 51.** A practising certificate issued to an attorney-at-law becomes void —
- (a) on the name of the attorney-at-law being removed from the Roll;
  - (b) on the attorney-at-law being suspended from practice;
  - (c) on the attorney-at-law being adjudicated bankrupt; or
  - (d) when an attorney-at-law, other than a Caymanian or a holder of a Residency and Employments Rights Certificate, has ceased to be employed by a law firm or an affiliate of a law firm.

### **Details of practising certificates to be published**

- 52.** (1) The Board shall publish —
- (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, as soon as practicable, the name of any attorney-at-law who subsequently obtains a practising certificate during that year.
- (2) As soon as practicable after the Board becomes aware that a practising certificate has become void, the Board shall publish the name of the attorney-at-law who held the practising certificate and the fact that attorney-at-law's practising certificate has become void.



## **PART 7 - RECOGNISED LAW ENTITY**

### **Applications for recognition**

- 53.** (1) An application by a company or limited liability partnership for recognition as a recognised law entity shall be made on a form approved for the purpose by the Board.
- (2) An application under subsection (1) shall be accompanied by the prescribed application fee.

### **Recognition by Board**

- 54.** The Board may recognise a company or limited liability partnership as a recognised law entity if the Board —
- (a) is satisfied that the company or limited liability partnership complies with section 28(2)(c); and
  - (b) is otherwise satisfied that the company or limited liability partnership is a suitable body to practise Cayman Islands law.

### **Board to issue certificate of recognition**

- 55.** (1) If the Board recognises a company or limited liability partnership as a recognised law entity, the Board shall issue a certificate of recognition to the company or limited liability partnership.
- (2) A certificate of recognition shall be in a form approved by the Board and shall specify the name of the recognised law entity and its registered office.
- (3) The Board shall also publish a notice stating that the company or limited liability partnership has been recognised as a recognised law entity and its name.

### **Appeal against refusal of recognition**

- 56.** If the Board refuses to recognise a company or limited liability partnership as a recognised law entity, the company or limited liability partnership 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.

### **Changes to be notified**

- 57.** A recognised law entity shall, within sixty days after a change in its directors, managers, members or partners, notify the Board of the change.

### **Recognised law entity may only practise Cayman Islands law**

- 58.** (1) A recognised law entity shall not carry on any business other than the practice of Cayman Islands law.

- (2) Notwithstanding subsection (1), a recognised law entity may, with the approval of the Board, carry on a business associated with its practice of Cayman Islands law.
- (3) If a recognised law entity fails to comply with this section, it ceases to be a recognised law entity.

### **Name of a recognised law entity**

**59.** A recognised law entity may carry on business under a name that does not include the word “Limited”, or the abbreviation “Ltd.”, if it holds itself out to be a recognised law entity.

### **Recognised law entity wound up**

**60.** A recognised law entity ceases to be a recognised law entity if a winding up order under the *Companies Law (2020 Revision)* or the *Limited Liability Partnership Law, 2017* is made in respect of it.

### **Company ceasing to be a recognised law entity and continuing to practise**

- 61.** (1) If a company or limited liability partnership ceases to be a recognised law entity but continues to practise Cayman Islands law, in addition to the company or limited liability partnership committing an offence under section 62, each director, manager or member of the company or limited liability partnership who is an attorney-at-law is guilty of professional misconduct.
- (2) As soon as practicable after the Board becomes aware that a company or limited liability partnership has ceased to be a recognised law entity, the Board shall publish the name of the company or limited liability partnership and the fact that it has ceased to be a recognised law entity.

### **Falsely claiming to be a recognised law entity**

- 62.** (1) A person shall not describe itself as a recognised law entity or hold itself out as a recognised law entity unless it is a recognised law entity.
- (2) A person that acts in contravention of subsection (1) commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars.

## **PART 8 - LAW FIRMS**

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

- 63.** (1) An attorney-at-law shall not practise Cayman Islands law in another jurisdiction otherwise than with a law firm or with an affiliate of a law firm.



- (2) An attorney-at-law who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars or to imprisonment for a term of two years, or to both.

### **Annual operational licence**

- 64.** (1) A law firm shall have an annual operational licence to practise Cayman Islands law.
- (2) Subject to subsection (4), a law firm shall apply to the Clerk of the Court for an annual operational licence in the form approved by the Clerk of the Court.
- (3) An application under subsection (2) shall be accompanied by the prescribed annual operational licence fee.
- (4) The form of an application approved by the Clerk of the Court under subsection (2) shall require the law firm to supply —
- (a) the law firm's name;
  - (b) the address or addresses both in the Islands and in another jurisdiction 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 31st January of the next year.
- (6) The Clerk of the Court shall, before 31st March in each year, publish in the *Gazette* a list of law firms with an annual operational licence as at that date.

### **Insurance**

- 65.** The Cabinet may, after consultation with the Board, make regulations requiring law firms to secure insurance for a prescribed minimum amount of cover against losses arising from claims in respect of civil liabilities incurred by such law firms in the practice of Cayman Islands law and any business associated with the practice of Cayman Islands law permitted under this Law.

### **Annual compliance certificate**

- 66.** (1) A law firm shall, on or before 31st January in each year, deliver to the Board a certificate indicating whether or not the law firm has, during the previous year —
- (a) complied with each obligation imposed on the law firm and any affiliate by this Law; and
  - (b) where the law firm is a recognised law entity, complied with the criteria to maintain its status as a recognised law entity.

- (2) If the law firm and any affiliate has not, during the previous year, complied with any of the obligations referred to under subsection (1), the law firm shall concurrently with the delivery of the annual compliance certificate specify to the Board which obligation has not been met and the action (if any) the law firm and any affiliate has subsequently taken to ensure future compliance with the obligation.
- (3) The managers of a law firm shall ensure that the law firm and any affiliate complies with subsection (1) and that the annual compliance certificate the law firm delivers is complete and correct in all material respects.
- (4) The annual compliance certificate shall be signed by a manager of the law firm.
- (5) If a law firm fails to comply with a requirement of this section each manager of the law firm commits an offence and is liable on summary conviction to a fine of five thousand dollars.

## PART 9 - LOCAL EDUCATION AND TRAINING

### Recognised legal educators

- 67.** (1) The Board may designate a legal educator as a recognised legal educator for the purpose of this Part if the Board is satisfied that the legal educator has the facilities required to provide legal education or practical legal training to a standard required by this Part.
- (2) A legal educator seeking designation as a recognised legal educator shall apply to the Board in accordance with this section.
  - (3) An application under subsection (1) shall be accompanied by evidence sufficient to show that the legal educator has the facilities necessary to provide legal education or practical legal training to the required standard.
  - (4) If the Board designates a legal educator as a recognised legal educator, the Board shall publish, in the *Gazette* and such other media as the Board may determine, the name of the legal educator and the fact that the legal educator has been recognised by the Board.
  - (5) The Board may, by at least one month's written notice to a legal educator, cancel the designation as a recognised legal educator if the Board is satisfied that the legal educator is failing to provide legal education or practical legal training to a standard required by this Law.
  - (6) If the Board cancels the designation of a legal educator as a recognised legal educator under subsection (5), the Board shall publish, in the *Gazette* and such other media as the Board may determine, the name of the legal educator and the fact that the designation as a recognised legal educator has been cancelled by the Board.



- (7) A legal educator, whether or not providing or intending to provide legal education, that falsely holds itself out as a recognised legal educator commits an offence and is liable on summary conviction to a fine of fifty thousand dollars.
- (8) In this section —
- “**to provide legal education or practical legal training**”, in addition to providing legal education or practical legal training for attorneys-at-law or prospective attorneys-at-laws, includes providing legal education or practical legal training in relation to paralegal assistants, legal secretaries or other persons involved in the practice of law; and
- “**legal educator**” means a person that is capable of providing legal education or practical legal training.

### **System of legal education and practical legal training**

- 68.** (1) The Board may make arrangements for the provision of a system of legal education and practical legal training leading to local qualification for enrolment as an attorney-at-law.
- (2) The Board may make arrangements requiring a person admitted as an attorney-at-law to participate in a programme of legal education or practical legal training.
- (3) The Cabinet, after consultation with the Board, may make regulations relating to matters connected with the Board’s functions under subsection (1).
- (4) The Cabinet, after consultation with the Board, may make regulations relating to matters connected with the Board’s functions under subsection (2).

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

- 69.** Without prejudice to the generality of section 68(3), regulations made under that section may prescribe —
- (a) the qualifications required for enrolment as an attorney-at-law including requirements for any of the following —
- (i) the successful completion of a prescribed period of service under articles of clerkship; and
  - (ii) the attainment of prescribed academic qualifications;
- (b) the qualifications required for admission to legal education in the Islands;
- (c) the examinations to be taken for enrolment for legal education and for admission including —
- (i) the papers that are to be set;
  - (ii) the syllabuses to be followed;

- (iii) the courses of lectures to be given by suitably qualified lecturers in any subject included in the examination;
  - (iv) the time and place at which an examination may be held;
  - (v) the setting, correcting and marking of papers;
  - (vi) the conduct of the examinations; and
  - (vii) the fees to be paid for examinations for enrolment and admission; and
- (d) different examinations in respect of persons who —
- (i) possess different qualifications; or
  - (ii) have followed or are following different courses of study.

### **Regulations for programme of legal education or practical legal training**

**70.** Without prejudice to the generality of section 68(4), regulations made under that section may prescribe —

- (a) the times and places at which the programme of legal education or practical legal training is to be held;
- (b) the subjects to be covered by the programme of legal education or practical legal training; and
- (c) the persons that may provide the programme of legal education or practical legal training.

## **PART 10 - ARTICLES OF CLERKSHIP**

### **Regulations - service under articles of clerkship**

- 71.** (1) The Cabinet, after consultation with the Board, may make regulations in respect of service under articles of clerkship.
- (2) Without prejudice to the generality of subsection (1), regulations made under that subsection may —
- (a) prescribe the minimum qualifications required by a person to be admitted for service under articles of clerkship;
  - (b) prescribe the period for which articles of clerkship shall be undertaken;
  - (c) provide for the terms, including remuneration and conditions of service, on which an articulated clerk may be taken and retained by an attorney-at-law;
  - (d) provide for the conduct, duties and responsibilities towards each other of the parties to articles of clerkship; and
  - (e) may make different provision in relation to different categories of persons.



**Qualifications required to take on an articulated clerk**

- 72.** (1) An attorney-at-law —
- (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 practising certificate for at least five years, may take a person with the prescribed qualification into that attorney-at-law's service as an articulated clerk.
- (2) An attorney-at-law who has two or more articulated clerks in that attorney-at-law's service may not take any additional articulated clerk into that attorney-at-law's service without the written approval of the Board.

**Recognised law entity may take on an articulated clerk**

- 73.** A recognised law entity may take on a person with the prescribed qualifications into that recognised law entity's service as an articulated clerk.

**Articles of Clerkship served in Government offices**

- 74.** (1) The Attorney General and, with the leave of the Attorney General, the Director of Public Prosecutions and the Clerk of the Court may take an articulated clerk into their respective service.
- (2) The provisions of this Part, except section 72(2), that apply to attorneys-at-law and articulated clerks in their service apply equally to the Attorney General, Director of Public Prosecutions and Clerk of the Court and to articulated clerks in their respective service.

**Service in a legal or judicial department**

- 75.** If the Board is satisfied that a person in a legal or judicial department of the public service is performing duties that are mainly legal in nature, the Board 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 of clerkship.

**Power of the Board to discharge articles of clerkship**

- 76.** The Board may discharge the articles of clerkship of the articulated clerk upon such terms as the Board thinks fit if —
- (a) an attorney-at-law to whom an articulated clerk is articulated is declared bankrupt;
  - (b) the name of an attorney-at-law to whom an articulated clerk is articulated is struck off the Roll;
  - (c) an attorney-at-law to whom an articulated clerk is articulated is suspended from practice;

- (d) a recognised law entity to which an articulated clerk is articulated is wound up;
- (e) a recognised law entity to which an articulated clerk is articulated ceases to be a recognised law entity;
- (f) the Board is satisfied after investigation that an articulated clerk is not a fit and proper person to become an attorney-at-law;
- (g) upon the application of either an attorney-at-law or a recognised law entity or that attorney-at-law's or recognised law entity's articulated clerk, the Board is satisfied that the articles of clerkship of the articulated clerk ought to be discharged; or
- (h) if an attorney-at-law or a recognised law entity has in that attorney-at-law's or recognised law entity's service an articulated clerk in contravention of this Part.

### **Transfer of articles of clerkship**

- 77.** (1) This section applies if an application is made to the Board by an attorney-at-law or a recognised law entity and that attorney-at-law's or recognised law entity's articulated clerk for permission to transfer the articles of clerkship of the articulated clerk to another attorney-at-law or recognised law entity.
- (2) The Board may, subject to subsection (3), give permission if the Board considers it proper to give the permission sought under subsection (1).
- (3) The permission under subsection (2) may be given subject to any conditions the Board may think fit to impose.
- (4) If articles of clerkship of an articulated clerk are transferred to an attorney-at-law or recognised law entity pursuant to permission given under this section, the articulated clerk becomes the articulated clerk of the attorney-at-law or recognised law entity to which the articles of clerkship are transferred.
- (5) The articles of clerkship under which the articulated clerk was serving immediately before the transfer shall continue to have effect as though the attorney-at-law or recognised law entity to which the articulated clerk was transferred had originally been a party to those articles of clerkship.
- (6) Subsection (5) is subject to any modifications made to the articles of clerkship by the Board.

### **Obligations of attorney-at-law or recognised law entity in relation to an articulated clerk**

- 78.** (1) If an attorney-at-law or recognised law entity has an articulated clerk in that attorney-at-law's or recognised law entity's service, the attorney-at-law or recognised law entity shall ensure that during the period of articles of clerkship of the articulated clerk, the articulated clerk —



- (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-at-law or recognised law entity; and
  - (c) participates in courses, workshops or programmes that relate to the areas of Cayman Islands law in which the articulated clerk is being trained.
- (2) If an attorney-at-law or recognised law entity fails to comply with this section and as a result is found guilty of professional misconduct, the attorney-at-law or recognised law entity shall not take any person into that attorney-at-law's or recognised law entity's service as an articulated clerk until the Board advises the attorney-at-law or recognised law entity otherwise.

## **PART 11 - INVESTIGATION OF ALLEGED PROFESSIONAL MISCONDUCT**

### **Application to senior office holders**

**79.** This Part does not apply to any conduct of a person while holding or acting in an office to which section 106 of the Constitution applies or to any other Government attorney-at-law.

### **Complaints of professional misconduct by attorneys-at-law**

**80.** Any person may file with the Board a complaint that any specified conduct of an attorney-at-law constitutes professional misconduct by the attorney-at-law.

### **Board to investigate complaints**

- 81.** (1) The Board shall investigate a complaint filed under section 81.
- (2) The Board shall, on its own initiative, investigate any conduct of an attorney-at-law if the Board becomes aware that the conduct may constitute professional misconduct by the attorney-at-law.
- (3) The Board has no power to investigate any conduct by an attorney-at-law that was known or could reasonably have been known more than six years before the complaint was made or the Board became aware of the conduct.
- (4) The Board shall, having investigated the conduct of an attorney-at-law, determine if such conduct amounts to professional misconduct by the attorney-at-law.

### **Board to publish rules**

**82.** (1) The Board shall make and publish rules regarding the procedure for its investigation of the conduct of attorneys-at-law.

- (2) The rules made under subsection (1) shall set out —
  - (a) the manner in which a complaint may be made to the Board about the conduct of an attorney-at-law; and
  - (b) the manner in which the Board will conduct its investigation into the conduct of an attorney-at-law.
- (3) The rules made under subsection (1) —
  - (a) may provide for preliminary proceedings to be held to determine if sufficient evidence of an attorney-at-law's conduct exists to show if it may amount to professional misconduct;
  - (b) shall give an attorney-at-law whose conduct is being investigated a reasonable opportunity to be heard either in person or through counsel; and
  - (c) shall provide that a hearing of the Board to investigate the conduct of an attorney-at-law is to be held in public unless the Board is of the view that publicity would prejudice the interests of justice or commercial confidence.
- (4) The Board shall publish both in the *Gazette* and in such other media as the Board determines notice of any rules made by the Board under this section.
- (5) The notice under subsection (4) shall state where copies of the rules made by the Board under this section may be obtained.

### **Powers of the Board to investigate**

- 83.** (1) The Board has the power to do everything reasonably necessary to investigate any conduct of an attorney-at-law that is alleged to constitute professional misconduct.
- (2) Without prejudice to the generality of the power of the Board under subsection (1), the Board may do any of the following —
    - (a) convene a hearing to investigate the conduct;
    - (b) issue summonses to compel the attendance of a person at a hearing;
    - (c) compel the production of a document or any other information from a person who the Board has reasonable grounds to believe can assist in investigating the conduct;
    - (d) require a person to verify by affidavit a document submitted or information provided to the Board; and
    - (e) examine witnesses on oath, affirmation or otherwise at a hearing.
  - (3) A person is commits an offence if the person —
    - (a) fails to comply with a summons issued by the Board under subsection (2)(b);



- (b) when required to do so under subsection (2)(c), fails or refuses to produce a document or any other information or produces a document or information that is false or misleading;
  - (c) when required to do so under subsection (2)(d), fails or refuses to verify a document submitted or information provided to the Board by affidavit when required to do so by the Board; or
  - (d) as a witness at a hearing by the Board, fails or refuses to answer a question put to the person or provides an answer that is false or misleading.
- (4) A person who commits an offence under subsection (3) is liable —
- (a) on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both; or
  - (b) on conviction on indictment to a fine of fifty thousand dollars or to imprisonment for a term of five years, or to both.

### **Disciplinary sanctions**

- 84.** (1) If, after investigating any conduct of an attorney-at-law, the Board is satisfied the conduct constitutes professional misconduct by the attorney-at-law, the Board may take one or more of the following actions —
- (a) order that the name of the attorney-at-law be struck off the Roll;
  - (b) order that the attorney-at-law's practising certificate be qualified to the effect that the attorney-at-law is not entitled to appear as an advocate before all or any court or to practise in a specific area of law, in either case, permanently or for a specified period;
  - (c) order that the attorney-at-law be suspended from practice as an attorney-at-law for a specified period, not exceeding five years;
  - (d) order the attorney-at-law to pay a fine of fifty thousand dollars;
  - (e) reprimand the attorney-at-law;
  - (f) advise the attorney-at-law as to the attorney-at-law's future conduct; or
  - (g) take no action against the attorney-at-law.
- (2) Whether or not the Board takes any action against an attorney-at-law, the Board may do either or both of the following —
- (a) report the conduct of the attorney-at-law to any other professional association having jurisdiction over the attorney-at-law; or
  - (b) order the attorney-at-law to pay the costs of the investigation, which shall be taxed in accordance with the Rules of the Court.

### **Striking off and suspension from practice to be published**

- 85.** If the Board orders that the name of an attorney-at-law be struck off the Roll or that an attorney-at-law be suspended from practice, other than for an interim period under section 86, the Clerk of the Court shall publish, both in the *Gazette* and in such other media as the Clerk of the Court determines, the name of the attorney-at-law and the fact —
- (a) that the name of the attorney-at-law has been struck off the Roll; or
  - (b) that the attorney-at-law has been suspended from practice and the period of the suspension.

### **Interim orders**

- 86.** (1) If any conduct of an attorney-at-law is being investigated by the Board, the Board may make an interim order that the attorney-at-law be suspended from practice until the investigation has been completed and any subsequent order made by the Board under section 84 has come into effect.
- (2) If the investigation is into the alleged misuse of a trust fund by the attorney-at-law, the Court, on the application of the Board, may make an order that, until the investigation has been completed and any subsequent order made by the Board under section 84 has come into effect, a trust fund operated by the attorney-at-law be operated by an accountant or a bank approved by the Board.

### **Restoration of name to Roll**

- 87.** (1) If the name of an attorney-at-law was removed from the Roll on the request of the attorney-at-law or on the order of the Board, the former attorney-at-law may at any time apply to the Board for the restoration of the former attorney-at-law's name to the Roll.
- (2) Subject to subsection (3), the Board may, after hearing the application under subsection (1), order that the name of the former attorney-at-law be restored to the Roll with or without conditions and any such conditions shall be specified in any practising certificate issued to the attorney.
- (3) The Board shall not make an order under subsection (2) unless the Board is satisfied that the former attorney-at-law is a fit and proper person to practise as an attorney-at-law.
- (4) If the Board orders that the name of a former attorney-at-law be restored to the Roll, the Clerk of the Court shall, on payment by the former attorney-at-law of the prescribed fee, restore the name of the attorney-at-law to the Roll and publish, both in the *Gazette* and in such other media as the Clerk of the Court determines, a notice specifying —
- (a) the name of the attorney-at-law;
  - (b) the fact that name of the attorney-at-law is restored to the Roll; and



- (c) the condition, if any, which the attorney-at-law is subject to under subsection (2).

### **Termination of suspension**

- 88.** (1) If an attorney-at-law has been suspended from practice on the order of the Board under section 85, the attorney-at-law may at any time apply to the Board for the suspension to be terminated.
- (2) After hearing the application under subsection (1), the Board may, if the Board is satisfied that the attorney-at-law is a fit and proper person to practise as an attorney-at-law, order that the attorney-at-law's suspension from practice be terminated with effect from a date specified in the order.
  - (3) If the Board orders that an attorney-at-law's suspension from practice be terminated under this section, the Clerk of the Court shall, on payment by the attorney-at-law of the prescribed fee specified, publish, both in the *Gazette* and in such other media as the Clerk of the Court determines, a notice specifying the name of the attorney-at-law, the fact that the attorney-at-law's suspension from practice has been terminated and the date from which the termination has effect.

### **Form and proof of order of Board**

- 89.** A document purporting to be an order of the Board and purporting to be signed on its behalf by the Chief Justice shall, in the absence of evidence to the contrary, be taken to be an order of the Board duly made, without proof of its making, or proof of signature, or proof that the person signing the order was entitled to sign the order.

### **Certain orders to be filed in Court**

- 90.** (1) An order of the Board under this Law —
- (a) that the name of an attorney-at-law be struck off the Roll;
  - (b) that the name of a person be restored to the Roll;
  - (c) that an attorney-at-law be suspended from practice, other than by an interim order made under section 86; or
  - (d) that the suspension of an attorney-at-law from practice be terminated, shall be filed with the Clerk of the Court.
- (2) An order referred to in subsection (1) takes effect and is enforceable as if it were an order of the Court.
  - (3) If an order referred to in subsection (1) is —
    - (a) that an attorney-at-law's name be struck off the Roll; or
    - (b) that the attorney-at-law be suspended from practice,

the order shall not take effect until the expiry of the time allowed for appeal under section 94, but, if an appeal is commenced, until the appeal is determined or withdrawn.

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

### **Enforcement of order of Board**

- 91.** If the Board makes an order that imposes a fine or provides for the payment of costs, the fine or payment has effect as if it were a debt due to the Crown.

### **Appeal from decision of the Board**

- 92.** (1) An attorney-at-law may appeal to the Court of Appeal against an action taken by the Board under section 84.
- (2) An appeal under this section shall be by way of a new hearing in respect of the conduct of the attorney-at-law that the Board has determined constituted professional misconduct by the attorney-at-law.
- (3) An appeal under this section shall be made within such time and in such form as may be prescribed by Rules of the Court of Appeal.
- (4) On hearing an appeal under this section, Court of Appeal may confirm, reverse, or modify the action taken by the Board.

### **Trusteeships held by attorney-at-law suspended or struck off**

- 93.** (1) If an attorney-at-law is suspended from practice or if the name of the attorney-at-law is struck off the Roll, the Board may serve a notice signed by two members of the Board requiring the person upon whom the notice is served to supply to the Board, in so far as it is practicable to do so —
- (a) a list showing any wills in which the attorney-at-law is appointed as a trustee, and the names and addresses of the testators;
- (b) a list of any other trusteeships that are held by the attorney-at-law under any trust or are to be held by the attorney-at-law on the occurrence of any event and the beneficiaries under the trusts;
- (c) if the attorney-at-law is a sole practitioner, details of the client funds held by the attorney-at-law; and
- (d) any other particulars as may be necessary to enable the Board to exercise its powers under subsection (3).
- (2) The notice under subsection (1) shall be served —
- (a) on the attorney-at-law or on a person carrying on the attorney-at-law's practice; or



- (b) if the attorney-at-law is a partner, member, employee, associate or consultant of a law firm, on the law firm or on a partner, member, employee, associate or consultant of the law firm.
- (3) After the Board receives the list required under subsection (1), the Board may, notwithstanding anything to the contrary under this Part, notify —
- (a) a testator named in the list;
  - (b) a beneficiary named in the list; or
  - (c) a person having power to appoint or remove the trustees in respect of a trust mentioned in the list,
- that the attorney-at-law has been suspended from practice or that the name of the attorney-at-law has been struck off the Roll.
- (4) In this section, “**trust**” means a trust of any kind and includes the duties incidental to the office of a personal representative.
- (5) A person who, without lawful justification or excuse, fails or refuses to comply with the requirement of a notice under this section served commits an offence and liable —
- (a) on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both; or
  - (b) on conviction on indictment to a fine of fifty thousand dollars or to imprisonment for a term of five years, or to both.

### **Attorney-at-law shall comply with conditions and restrictions**

- 94.** An attorney-at-law who practises law in contravention of a condition or restriction specified in the attorney-at-law’s practising certificate commits an act of professional misconduct.

### **Board to inform police of possible offence**

- 95.** If, when investigating the conduct of an attorney-at-law, it appears to the Board that the attorney-at-law or any other person may have committed an offence the Board shall refer the matter to the police.

## **PART 12 - MISCELLANEOUS**

### **Practice in the Islands of the law of another jurisdiction**

- 96.** (1) A person shall not practise in the Islands the law of another jurisdiction without the consent of the Board and a person who acts in contravention of this subsection commits an offence and is liable on summary conviction 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 practise the law of another jurisdiction.
- (3) An application for consent under subsection (1) shall be made to the Board on a form approved by the Board.
- (4) The application shall be accompanied by —
  - (a) the prescribed application fee;
  - (b) evidence sufficient to show that the person is practising the law of another jurisdiction;
  - (c) evidence that the person is qualified to practise the law of another jurisdiction; and
  - (d) evidence that the person is a fit and proper person to practise the law of another jurisdiction.
- (5) The Board may give consent if the Board is satisfied —
  - (a) that the person is practising the law of another jurisdiction;
  - (b) that the person is a suitable person to practise that law and is qualified to practise that law; and
  - (c) that to give consent would not be prejudicial to the interests of the Islands.
- (6) If the Board gives consent, the Board shall issue a certificate of consent to the person in the form approved by the Board.
- (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 Board 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 Board may cancel the consent given to a person under this section by written notice to the person if the Board 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 Board 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 licensed under the *Trade and Business Licensing Law (2019 Revision)* or the *Local Companies (Control) Law (2019 Revision)*.

### **False or misleading information**

- 97.** (1) A person shall not knowingly or wilfully provide false or misleading information in an application, notification, notice or filing under this Law.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of five years, or to both.

### **Liability of officers**

- 98.** (1) If an offence under this Law that has been committed by a partnership, limited liability partnership or body corporate 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 —
- (a) who is a partner of the partnership or limited liability partnership, or a director, manager, secretary or other similar officer of the body corporate; or
  - (b) who is purporting to act in any such capacity,
- that person also commits the offence and is liable to be proceeded against and punished accordingly.
- (2) If the affairs of a body corporate are managed by that body corporate's members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with the member.

### **Regulations**

- 99.** (1) The Cabinet may, after consultation with the Board, make regulations —
- (a) prescribing anything that may be prescribed under this Law;
  - (b) providing for access to the legal profession and training and development of attorneys-at-law; or
  - (c) providing for such matters as may be necessary or convenient for carrying out or giving effect to this Law and its administration.
- (2) Without prejudice to the generality of subsection (1), regulations made under subsection (1)(b) may make provisions giving the Board the power to assess and

monitor compliance with such regulations and, the provisions may include provisions giving the Board the power to delegate the power to assess and monitor compliance with the regulations to another person.

- (3) Regulations made under this Law may —
- (a) make different provision in relation to different cases or circumstances;
  - (b) contain such transitional, consequential, incidental or supplementary provisions as appear to Cabinet to be necessary or expedient for the purposes of such regulations; or
  - (c) create an offence punishable by a fine not exceeding ten thousand dollars.

### **Repeal and savings**

- 100.** (1) Subject to subsection (2), the *Legal Practitioners Law (2015 Revision)* is repealed.
- (2) The *Legal Practitioners (Students) Regulations (2018 Revision)* shall continue in force with the necessary modifications until they are repealed by regulations made under section 99.

### **Savings, transitional and consequential provisions**

- 101.** (1) The Cabinet may make regulations to provide for such savings, transitional and consequential provisions to have effect in connection with the coming into force of any provision of this Law as are necessary or expedient.
- (2) Regulations made under subsection (1) may be given retrospective operation to a day not earlier than the day that this Law comes into force.

**Passed by the Legislative Assembly the                      day of                      , 2020.**

*Speaker*

*Clerk of the Legislative Assembly*

