



VIRGIN ISLANDS
LEGAL PROFESSION ACT, 2015

Code of Ethics



PURPOSE

As legal practitioners with the honour to serve as legal advisers to the Government of the Virgin Islands, we must exemplify the highest standards in the customs and practices of our profession and in all that we do. This reproduction of Schedule 4 to the Legal Profession Act, 2015 is meant to serve as a handy reference as we carry out our vision to uphold good governance and the proper and adequate administration of justice in these Islands.

Dawn J. Smith
Attorney General

15 January, 2021

Context

The Legal Profession Act, 2015 of the Virgin Islands provides as follows:

Rules to Govern Professional Practise

26. (1) The rules contained in the Code of Ethics set out in Schedule 4 shall regulate the professional practise, etiquette, conduct and discipline of a legal practitioner.

(2) A breach of the rules in Part A of Schedule 4 may constitute professional misconduct and in Part B shall constitute professional misconduct.

(3) Where no provision is made by the rules in respect of any matter, the rules and practise of the legal profession which before the commencement of this Act governed that particular matter, shall apply in so far as is practicable.

CODE OF ETHICS

Contents

PART A *(General)*

- I. IN RELATION TO THE PROFESSION AND THE LEGAL PRACTITIONER.....8-9**
 - 1. General observance of this Code
 - 2. Duty to disclose unprofessional or dishonest conduct
 - 3. Independence of legal practitioner
 - 4. Duty to protect profession
 - 5. Duty to defend interests of clients
 - 6. Right to decline employment
 - 7. Maintaining loyalty to the Territory
 - 8. Effect of declaration upon admission to practise

- II. IN RELATION TO THE CROWN AND THE PUBLIC....10-11**
 - 9. Duty to the Territory
 - 10. Duty as a Public Prosecutor
 - 11. Prohibited conduct
 - 12. Duty not to refuse services in murder case
 - 13. Proffered employment
 - 14. Undertaking legal aid
 - 15. Representation of accused person

- III. IN RELATION TO CLIENTS....11-16**
 - 16. Duty to clients
 - 17. Rendering candid opinions
 - 18. Duty to disclose interest and maintain confidentiality
 - 19. Fair treatment of witnesses, etc

20. Right to defend an accused person without prejudice
21. Multiple representation
22. Dealing with client's business with despatch
23. Referral of client's business
24. Appearance of Queen's Counsel or equivalent without a junior, and leading conduct of client's case
25. Right to negotiated fee
26. Entitlement to reasonable compensation
27. Restriction on demands for deposit, etc
28. Relationship with foreign colleague as regards payment of fees
29. Withdrawal from employment
30. Appearance of legal practitioner as a witness

IV. IN RELATION TO THE COURT AND THE ADMINISTRATION OF JUSTICE....16-17

31. Duty to respect court and judicial officers
32. Duty as an advocate
33. Prohibition against private influence and currying favour
34. Punctuality in court
35. Attire of legal practitioner before the court

V. IN RELATION TO HIS OR HER FELLOW LEGAL PRACTITIONERS....17-20

36. Conduct of legal practitioners to each other
37. Prompt response to correspondence
38. Professional undertaking
39. Duty to report improper or unprofessional conduct
40. Receipt of money, documents, etc. on a specific undertaking
41. Prohibition against direct dealing with a represented party

42. Duty to conform to customs and practices of the legal profession
43. Restriction on representation of client in court
44. Restriction on representation in other matters
45. Duty of instructing legal practitioner to pay fees
46. Assisting a foreign colleague

VI. GENERAL....20

47. Conduct in the absence of specific guidance in this Code
48. Restriction on retired Judge appearing as an Advocate

PART B

Mandatory Provisions and Specific Prohibitions

1. Practising certificate
2. Duty not to mislead
3. Duty in relation to unqualified person as qualified
4. Prohibition against soliciting business
5. Commission of offence by a legal practitioner
6. Prohibition against acquisition of interest in a case
7. Prohibition against charging unfair fees
8. Conditions of interest
9. Conditions precedent to withdrawal from employment
10. Mandatory withdrawal from a case
11. Retaining a client's money
12. Privileged communications
13. Duty not to allow use of one's name
14. Duty not to delegate functions to an unqualified person, etc
15. Duty not to act with delay, or incompetently
16. Duty not to engage in undignified or discourteous conduct

17. Prohibition against false accusations
18. Using public office to influence a tribunal prohibited
19. Conflicts in employment
20. Prohibition against lending, giving, etc. to Judge, juror, etc
21. Restriction on communication with jurors
22. Prohibition against aiding non-availability of witness
23. Prohibition against compensating witnesses
24. Prohibition against perjured testimony, etc
25. Prohibition against counselling or assisting illegal conduct

26. Making false statement of law or fact
27. Breach of undertaking
28. Diligence in pecuniary matters
29. Duty as to keeping accounts
30. Prompt response to Council
31. Professional indemnity insurance
32. Consequences for breach of the rules in this Code

SCHEDULE 4

CODE OF ETHICS

PART A

GENERAL

I. IN RELATION TO THE PROFESSION AND THE LEGAL PRACTITIONER

General observance of this Code

1. A legal practitioner shall observe the rules of this Code, maintain his or her integrity, and the honour and dignity of the legal profession, encourage other legal practitioners to act similarly in the practise of their professions and shall refrain from conduct which is detrimental to the profession or which may tend to discredit it.

Duty to disclose unprofessional or dishonest conduct

2. A legal practitioner shall expose without fear or favour before the proper tribunals unprofessional or dishonest conduct by any other legal practitioner and shall not lightly refuse a retainer against another legal practitioner who is alleged to have wronged his or her client or committed any other act of professional misconduct.

Independence of legal practitioner

3. (1) A legal practitioner shall scrupulously preserve his or her independence in the discharge of his or her professional duties.

(2) A legal practitioner practising on his or her own account or in partnership, shall not engage in any other business or occupation if doing so may cause him or her to cease to be independent.

Duty to protect profession

4. A legal practitioner shall protect the profession against the admission thereto of any candidate whose moral character or education renders him or her unfit for such admission.

Duty to defend interests of clients

5. A legal practitioner shall defend the interests of his or her clients without fear or judicial disfavour or public unpopularity and without regard to any unpleasant consequences to himself or herself or to any other person.

Right to decline employment

6. Subject to paragraph 12, no legal practitioner is obliged to act either as adviser or advocate for every person who may wish to become his or her client; he or she has a right to decline employment.

Maintaining loyalty to the Territory

7. No client is entitled to receive nor should any legal practitioner render, any service or advice involving disloyalty to the Crown or disrespect for judicial office or the corruption of any persons exercising a public or private trust or deception or betrayal of the public.

Effect of declaration upon admission to practise

8. Every legal practitioner should bear in mind that the declaration made on his or her admission to practise is a solemn undertaking to be strictly observed on his or her part.

II. IN RELATION TO THE CROWN AND THE PUBLIC

Duty to the Territory

9. A legal practitioner owes a duty to the Crown and the public to maintain the integrity of the legal profession, to uphold the Constitution and the laws of the Territory and not to aid, abet, counsel or assist anyone to act in any way contrary thereto.

Duty as a public prosecutor

10. When engaged as a Public Prosecutor the primary duty of a legal practitioner is not to secure a conviction but to see that justice is done and to that end he or she shall not withhold facts tending to prove either the guilt or innocence of the accused.

Prohibited conduct

11. A legal practitioner shall not by his or her actions, stir up strife or litigation by seeking out defects in titles, claims for personal injury or other causes of action for the purpose of securing a retainer to prosecute a claim therefor; or pay or regard any person directly or indirectly for the purpose of procuring him or her to be retained in his or her professional capacity, and where it is in the interest of his or her client he or she shall seek to obtain reasonable settlements of disputes.

Duty not to refuse services in murder case

12. A legal practitioner shall not, except for good reason, refuse his or her services in offences of murder.

Proffered employment

13. A legal practitioner shall not be deterred from accepting proffered employment owing to the fear or dislike to incurring disapproval of officials, other legal practitioners or members of the public.

Undertaking legal aid

14. Where a legal practitioner consents to undertake legal aid and he or she is requested by the Council and consents to undertake the representation or to obtain legal aid, the legal practitioner shall not, except for compelling reasons, seek to be excused from undertaking such representation.

Representation of accused person

15. A legal practitioner in undertaking the defence of persons accused of crime shall use all fair and reasonable means to present every defence available at law.

III. IN RELATION TO CLIENTS

Duty to clients

16. (1) A legal practitioner shall always act in the best interest of his or her client, represent him or her honestly, competently and zealously and endeavour by all fair and honourable means to obtain for him or her the benefit of any and every remedy and defence which is authorised by law, steadfastly bearing in mind that the duties and responsibilities of the legal practitioner are to be carried out within and not outside the bounds of the law.

(2) The interests of his or her client and the exigencies of the administration of justice should always be the first concern of a legal practitioner and rank before his or her right to compensation for his or her services.

Rendering candid opinions

17. (1) In the course of advising a client, a legal practitioner shall, on the basis of information provided or obtained, give such candid opinions of the merits or demerits and of the probable results of pending or contemplated litigation, as may be necessary.

(2) A legal practitioner should beware of preferring bold and confident assurances to his or her client (especially where employment may depend on such assurances) always bearing in mind that any outcome would be dependent on findings of law and fact.

(3) Whenever the controversy admits of fair adjustment, a legal practitioner should inform his or her client accordingly and advise to avoid or settle litigation.

Duty to disclose interest and maintain confidentiality

18. (1) A legal practitioner shall at the time of retainer disclose to his or her client all the circumstances of his or her relations to the parties and his or her interest in or connection with the controversy, if any, which might influence the client in his or her selection of a legal practitioner.

(2) A legal practitioner shall scrupulously guard and never divulge his or her client's secrets and confidences, except as provided by law.

Fair treatment of witnesses, etc

19. A legal practitioner shall treat adverse witnesses, litigants and another legal practitioner with fairness and courtesy refraining from all offensive personal references and shall avoid imparting to his or her professional duties his or her client's personal feelings and prejudices.

Right to defend an accused person without prejudice

20. It is the right of a legal practitioner to undertake the defence of a person accused of crime regardless of his or her own personal opinion as to the guilt of the accused and having undertaken such defence he or she is bound by all fair and honourable means to present every defence that the law of the land permits so that no person may be deprived of life or liberty except by due process of law.

Multiple representation

21. (1) A legal practitioner may represent multiple clients only if he or she can adequately represent the interests of each and if each consents to such representation after full disclosure of the possible effects of multiple representation.

(2) Where a legal practitioner is unable adequately to represent the interests of multiple clients due to a conflict of interests, the legal practitioner shall desist from engaging in multiple representation in relation to the clients affected thereby.

Dealing with client's business with despatch

22. (1) A legal practitioner shall deal with his or her client's business with all due expedition and shall whenever reasonably so required by the client provide him or her with full information as to the progress of the client's business.

(2) It is improper for a legal practitioner to accept a case unless he or she can handle it without undue delay.

Referral of client's business

23. Where a legal practitioner determines that the interest of his or her client requires it, he or she may, with the specific or general consent of the client, refer his or her business or part of it to another legal practitioner whether or not a member of his or her own firm.

Appearance of Queen's Counsel or equivalent without a junior, and leading conduct of client's case

24. (1) Queen's Counsel or a Counsel of equivalent designation shall be entitled to accept instructions, appear or do any work without a junior, except where he or she would be unable properly to carry out his or her instructions or conduct his or her case if he or she were to do so.

(2) Where more than one legal practitioner appears as advocate for the same party in the same proceedings, the decision as to who shall lead the conduct of the party's case shall be subject to the instructions of the client and shall be settled by the legal practitioners representing that party before they appear in court, and the leader shall have all authority over the conduct of the case.

Right to negotiated fee

25. A legal practitioner who appears with the leader is entitled to a negotiated fee appropriate for his or her conduct of the case.

Entitlement to reasonable compensation

26. (1) A legal practitioner is entitled to reasonable compensation for his or her services but should avoid charges which either overestimate or undervalue the service rendered.

(2) The ability of a client to pay cannot justify a charge in excess of the value of the service rendered, though the client's indulgence may require a charge that is below such value, or even no charge at all.

(3) A legal practitioner should avoid controversies with clients regarding compensation for his or her services as far as is compatible with self-respect and his or her rights to receive reasonable compensation for his or her services.

Restriction on demands for deposit, etc.

27. The right of a legal practitioner to ask for a deposit or to demand payment of out-of-pocket expenses and commitments, failing payment of which he or she may withdraw from the case or refuse to handle it, shall not be exercised where the client may be unable to find other assistance in time to prevent irreparable damage done.

Relationship with foreign colleague as regards payment of fees

28. Where a legal practitioner engages a foreign colleague to advise on a case or to co-operate in handling it, he or she is responsible for the payment of the latter's charge except where there is express agreement to the contrary, but where a legal practitioner directs a client to a foreign colleague he or she is not responsible for the payment of the latter's charges, nor is he or she entitled to a share of the fee of his or her foreign colleague.

Withdrawal from employment

29. A legal practitioner may at any time withdraw from employment

- (a) where the client fails, refuses or neglects to carry out an agreement with, or his or her obligation to, the legal practitioner as regards the expenses or fees payable by the client;
- (b) where his or her inability to work with his or her colleagues indicates that the best interest of the client is likely to be served by his or her withdrawal;
- (c) where his or her client freely assents to the termination of his or her employment;
- (d) whereby reasons of his or her mental or physical condition or other good and compelling reason it is difficult for him or her to carry out his or her employment effectively; or
- (e) in cases of conflict as contemplated in rule 21(1) of this Part or rule 6 of Part B hereof.

Appearance of legal practitioner as a witness

30. (1) A legal practitioner should not appear as a witness for his or her own client except as to merely formal matters or where such appearance is essential to the ends of justice.

(2) If a legal practitioner is a necessary witness for his or her client with respect to matters other than such as are merely formal, he or she should entrust the conduct of the case to another legal practitioner of his or her client's choice.

IV. IN RELATION TO THE COURT AND THE ADMINISTRATION OF JUSTICE

Duty to respect court and judicial officers

31. (1) A legal practitioner shall maintain a respectful attitude towards the court and shall not engage in undignified or discourteous conduct which is degrading to the court.

(2) A legal practitioner shall encourage respect for the Court and Judges.

(3) A legal practitioner shall support Judges and Magistrates against unjust criticism.

(4) Where there is ground for complaint against a Judge or Magistrate a legal practitioner may make representation to the proper authorities and in such cases, the legal practitioner shall be protected.

Duty as an advocate

32. A legal practitioner shall endeavour always to maintain his or her position as an advocate and shall not either in argument to the court or in an address to the jury assert his or her personal belief in his or her client's innocence or in the justice of his or her cause or his or her personal knowledge as to any of the facts involved in the matter under investigation.

Prohibition against private influence and currying favour

33. A legal practitioner shall not seek privately to influence directly or indirectly the judges of the court in his or her favour or in the favour of his or her client, and he or she shall not attempt to unduly influence a jury by fawning flattery or pretended solicitude for their personal comfort.

Punctuality in court

34. A legal practitioner shall be punctual in attendance before the courts and concise and direct in the trial and disposition of cases.

Attire of legal practitioner before the court

35. A legal practitioner appearing before the court shall at all times be attired in such a manner as prescribed or agreed by the proper authorities and as befits the dignity of the court.

V. IN RELATION TO HIS OR HER FELLOW LEGAL PRACTITIONERS

Conduct of legal practitioners to each other

36. (1) The conduct of legal practitioners towards his or her fellow legal practitioners shall be characterised by courtesy, fairness and good faith and he or she shall not permit ill-feeling between clients to affect his or her relationship with his or her colleagues.

(2) All personal conflicts between legal practitioners and all colloquies between them which cause delay and promote unseemly wrangling shall be scrupulously avoided.

Prompt response to correspondence

37. (1) A legal practitioner shall reply promptly to letters from another legal practitioner making inquiries on behalf of their clients.

(2) A legal practitioner shall endeavour as far as reasonable to suit the convenience of the opposing legal practitioner when the interest of his or her client or the cause of justice will not be injured by so doing.

Professional undertaking

38. A legal practitioner shall not give a professional undertaking that he or she cannot fulfil, and he or she shall, as far as reasonably practicable, fulfil every undertaking that he or she gives.

Duty to report improper or unprofessional conduct

39. (1) There is a duty on every legal practitioner to report improper or unprofessional conduct by a colleague to the Tribunal, save where the information relating to the improper or unprofessional conduct is received in professional confidence in which case he or she must respect the duty of silence imposed in such circumstances.

(2) A legal practitioner shall expose without fear or favour before the proper tribunal unprofessional or dishonest conduct by another legal practitioner and shall not lightly refuse a retainer against another legal practitioner who is alleged to have wronged a client.

Receipt of money, documents, etc. on a specific undertaking

40. Where a legal practitioner has been sent money, documents or other things by a colleague which, at the time of sending, are expressed to be sent only on the basis that the legal practitioner to whom they are sent will receive them on his or her undertaking to do or refrain from doing some act, the receiving legal practitioner shall forthwith return whatever was sent if he or she is unable to accept them on such undertaking, otherwise he or she must comply with the undertaking.

Prohibition against direct dealing with a represented party

41. A legal practitioner shall not in any way communicate upon a subject in controversy or attempt to negotiate or compromise a matter directly with any party represented by another legal practitioner except through such other legal practitioner or with his or her prior consent.

Duty to conform to customs and practices of the legal profession

42. (1) A legal practitioner shall not ignore the customs or practices of the legal profession even when the law expressly permits it, without giving timely notice to the opposing legal practitioner.

(2) A legal practitioner should avoid all sharp practices and should refrain from taking any paltry advantage when his or her opponent has made or overlooked some technical error or matter, bearing in mind that no client has a right to demand that a legal practitioner representing him or her shall be illiberal or shall do anything repugnant to his or her own sense of honour and propriety.

Restriction on representation of client in court

43. A legal practitioner shall not accept instructions to act in court proceedings in which to his or her knowledge the client has previously been represented by another legal practitioner, unless he or she first notifies the other legal practitioner of the change, but shall be deemed to have notified the other legal practitioner if he or she has made reasonable efforts to notify him or her.

Restriction on representation in other matters

44. A legal practitioner shall not accept instructions to act in proceedings (other than court proceedings) in which to his or her knowledge, another legal practitioner has previously represented the client unless he or she makes reasonable efforts to ascertain that the retainer of that legal practitioner has been terminated by the

client, or that the client wishes both legal practitioners to represent him or her.

Duty of instructing legal practitioner to pay fees

45. A legal practitioner who instructs or employs another legal practitioner to act on behalf of his or her client, unless otherwise agreed, shall pay the proper fee of such legal practitioner whether or not he or she has received payment from the client.

Assisting a foreign colleague

46. In undertaking to render assistance to a foreign colleague, a legal practitioner shall remember that his or her responsibility is much greater both when giving advice and handling a case, than would be had he or she undertaken to assist a colleague in the Virgin Islands.

VI. GENERAL

Conduct in the absence of specific guidance in this Code

47. Where in any particular matter explicit ethical guidance does not exist, a legal practitioner shall determine his or her conduct by acting in a manner that promotes public confidence in the integrity and efficiency of the legal system and the legal profession.

Restriction on retired judge appearing as an advocate

48. (1) A person who previously held a substantive appointment as a judge of the Supreme Court shall not appear as a legal practitioner in any of the courts of the Virgin Islands for a period of ten years commencing on the date of his or her retirement, resignation or other termination of such appointment.

(2) This rule shall not apply to a person who is appointed to act as a Judge in a temporary capacity.

PART B

Mandatory Provisions and Specific Prohibitions

Practising certificate

1. A legal practitioner shall not practise as such unless he or she has been issued a practising certificate in accordance with the provisions of this Act.

Duty not to mislead

2. A legal practitioner shall never knowingly mislead the Court.

Duty in relation to unqualified person as qualified

3. A legal practitioner shall not hold out any person who is not entitled to practise law as a legal practitioner or as a person who is so entitled.

Prohibition against soliciting business

4. (1) Subject to subparagraph (2), a legal practitioner may solicit business or publicise his or her practice for the purposes of establishing a well merited reputation for personal integrity, capacity, dedication to work, fidelity and trust and it is unprofessional

- (a) to solicit business by circulars or advertisements or interviews not warranted by personal relations; or
- (b) to seek retainers through agents of any kind.

(2) For the purposes of subparagraph (1), the Council shall, within one year of the coming into force of this Act, issue guidelines to regulate the solicitation of business or the carrying out of publicity by a legal practitioner of his or her practice.

(Amended by Act No. 1 of 2016)

Commission of offence by a legal practitioner

5. Where a legal practitioner commits any criminal offence which in the opinion of the Tribunal is of a nature likely to bring the profession into disrepute, such commission of the offence shall constitute professional misconduct if, he or she has been convicted by any court, including a foreign court of competent jurisdiction, for the offence and the conviction has not been quashed on appeal.

Prohibition against acquisition of interest in a case

6. (1) Subject to subparagraph (2) a legal practitioner shall not acquire directly or indirectly by purchase, or otherwise, a financial or other interest in the subject matter of a case which he or she is conducting.

(2) It is not improper for a legal practitioner to enter into a written agreement with a client for a contingency fee provided that such fee is fair and reasonable.

Prohibition against charging unfair fees

7. A legal practitioner shall not charge fees that are unfair or unreasonable and in determining the fairness and reasonableness of a fee the following factors may be taken into account:

- (a) the time and labour required, the novelty and difficulty of the questions involved and the skill required to perform the legal service properly;
- (b) the likelihood that the acceptance of the particular employment will preclude other employment by the legal practitioner;
- (c) the fee customarily charged in the locality for similar legal services;
- (d) the amount, if any, involved;

- (e) the time limitations imposed by the client or by the circumstances;
- (f) the nature and length of the professional relationship with the client;
- (g) the experience, reputation and ability of the legal practitioner concerned;
- (h) any scale of fees or recommended guide as to charges prescribed by law or by the Association.

Conditions of interest

8. (1) Except with the specific approval of his or her client given after full disclosure, a legal practitioner shall not act in any manner in which his or her professional duties and personal interests conflict or are likely to conflict.

(2) A legal practitioner shall not accept or continue his or her retainer or employment on behalf of two or more clients if their interests are likely to conflict or if his or her independent professional judgment is likely to be impaired.

Conditions precedent to withdrawal from employment

9. (1) A legal practitioner who withdraws from employment under rule 34 of Part A shall not do so until he or she has taken reasonable steps to avoid foreseeable prejudice or injury to the position and rights of his or her client including

- (a) giving due notice;
- (b) allowing time for employment of another legal practitioner;
- (c) delivering to the client all documents and property to which he or she is entitled subject however to any lien which the legal practitioner may have over the same;

- (d) complying with such laws, rules or practice as may be applicable; and
- (e) where appropriate, obtaining the permission of the court where the hearing of the matter has commenced.

(2) A legal practitioner who withdraws from employment shall refund promptly such part of the fees, if any, already paid by his or her client as may be fair and reasonable having regard to all the circumstances.

Mandatory withdrawal from a case

10. A legal practitioner shall withdraw forthwith from employment or from a matter pending before a tribunal

- (a) where the client insists upon his or her representing a claim or defence that he or she cannot conscientiously advance;
- (b) where the client seeks to pursue a course of conduct which is illegal or which will result in deliberately deceiving the court;
- (c) where a client has in the course of the proceedings perpetrated a fraud upon a person or tribunal and on request by the legal practitioner has refused or is unable to rectify the same;
- (d) where his or her continued employment will involve him or her in the violation of the law or a disciplinary rule;
- (e) where the client by any other conduct renders it unreasonably difficult for the legal practitioner to carry out his or her employment as such effectively, or in accordance with the judgment and advice of the legal practitioner, or the rules of law or professional ethics;

- (f) where for any good and compelling reason it is difficult for him or her to carry out his or her employment effectively.

Retaining a client's money

11. A legal practitioner shall not retain money he or she received on his or her client's behalf for longer than is necessary.

Privileged communications

12. A legal practitioner shall never disclose, unless lawfully ordered to do so by the court or required by statute, what has been communicated to him or her in his or her capacity as a legal practitioner by his or her client and this or her duty not to disclose extends to his or her partners, to a junior legal practitioner assisting him or her and to his or her employees, provided however that, a legal practitioner may reveal confidences or secrets necessary to establish or collect his or her fee or to defend himself or herself or his or her employees or associates against an accusation of wrongful conduct.

Duty not to allow use of one's name

13. A legal practitioner shall not permit his or her professional services or his or her name to be used in any way which would make it possible for persons who are not legally authorised so to do to practise law.

Duty not to delegate functions to an unqualified person, etc

14. A legal practitioner shall not delegate to a person not legally qualified and not in his or her employ or under his or her control, any functions which are by the laws of the Virgin Islands only to be performed by a qualified legal practitioner.

Duty not to act with delay, or incompetently

15. In the performance of his or her duties a legal practitioner shall not act with inexcusable or undue delay, negligence or neglect.

Duty not to engage in undignified or discourteous conduct

16. A legal practitioner shall not engage in undignified or discourteous conduct which is degrading to the court or his or her profession.

Prohibition against false accusations

17. A legal practitioner shall not wilfully make false accusations against a Judge or Magistrate.

Using public office to influence a tribunal prohibited

18. A legal practitioner who holds public office shall not use his or her public position to influence or attempt to influence a tribunal to act in favour of himself or herself or of his or her client.

Conflicts in employment

19. A legal practitioner shall not accept private employment in a matter upon the merits of which he or she previously acted in a judicial capacity or for which he or she has substantial responsibility while he or she was in public employment.

Prohibition against lending, giving, etc. to judge, juror, etc

20. A legal practitioner shall not give, lend or promise anything of value to a Judge, or juror or official of a tribunal before which there is a pending matter in which he or she is engaged.

Restriction on communication with jurors

21. In any proceedings in a court a legal practitioner shall not communicate or cause any other person to communicate with a juror as to the merits of such proceedings, and shall only do so with a judge or person exercising judicial functions

- (a) in the normal course of the proceedings; or
- (b) where authorised by law, or the practice of the court.

Prohibition against aiding non-availability of witness

22. A legal practitioner shall not for the purpose of making any person unavailable as a witness, advise or cause that person to secrete himself or herself or leave the jurisdiction of the court.

Prohibition against compensating witnesses

23. A legal practitioner shall not pay or offer to pay or acquiesce in the payment of compensation to a witness for giving evidence in any cause or matter save as reimbursement for expenses reasonably incurred and as reasonable compensation for loss of time in attending for preparation and for testifying, and in the case of an expert witness a reasonable fee for his or her professional services.

Prohibition against perjured testimony, etc

24. A legal practitioner shall not knowingly use perjured testimony or false evidence or participate in the creation of or use of evidence which he or she knows to be false.

Prohibition against counselling or assisting illegal conduct

25. A legal practitioner shall not counsel or assist his or her client or witness, in conduct that the legal practitioner knows to be illegal or fraudulent, and where he or she is satisfied that his or her client has in the course of the particular representation perpetrated a fraud upon a person or tribunal, he or she shall promptly call upon him or her to rectify the same.

Making false statement of law or fact

26. A legal practitioner shall not knowingly make a false statement of law or fact.

Breach of undertaking

27. (1) A legal practitioner shall not commit a breach of undertaking given by him or her to a Judge, a court or other tribunal or an official thereof, whether such undertaking relates to an expression of intention as to further conduct or is a representation

that particular state of facts exists.

(2) A legal practitioner shall not knowingly represent falsely to a Judge, a court or tribunal or to an official of a court or other tribunal, that a particular state of facts exists.

Diligence in pecuniary matters

28. In pecuniary matters a legal practitioner shall be most punctual and diligent, he or she shall never mingle funds of others with his or her own and he or she shall at all times be able to refund money he or she holds for others.

Duty as to keeping accounts

29. (1) A legal practitioner shall keep such accounts as clearly and accurately distinguish the financial position between himself or herself and his or her client as and when required.

(2) A legal practitioner shall comply with such rules as may be made by the Council under the Act.

(3) Nothing contained in this rule or rule 28 shall deprive a legal practitioner of any recourse or right whether by way of lien, set-off, counterclaim, charge or otherwise against moneys standing to the credit of a client's account maintained by that legal practitioner.

Prompt response to Council

30. A legal practitioner shall reply promptly to any letter received from the Council relating to his or her professional conduct.

Professional indemnity insurance

31. A legal practitioner shall, at all times, maintain a policy of professional indemnity insurance with respect to his or her legal practice.

Consequences for breach of the rules in this Code

32. (1) Breach by a legal practitioner of any of the rules contained in this Part shall constitute professional misconduct and a legal practitioner who commits such a breach shall be liable to any of the penalties which the Tribunal imposes.

(2) Breach by a legal practitioner of any of the provisions of Part A while not automatically amounting to punishable professional misconduct is a derogation from the high standards of conduct expected from a legal practitioner and may, depending on the circumstances of the particular case, amount to such misconduct or form a material ingredient thereof.

NOTES



Attorney General's Chambers
Wickhams Cay I
Road Town, Tortola VG1110

<https://bvi.gov.vg/departments/attorney-general-chambers>

Email: agc@gov.vg

