



REPUBLIC OF NAURU

# LEGAL PRACTITIONERS BILL 2019

No. of 2019

A Bill for an Act to regulate the legal profession and legal practice and for related purposes.

Certified: [ ]

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Enacted by the Parliament of Nauru as follows:

## **PART 1 – PRELIMINARY**

### **1 Short Title**

This Act may be cited as the *Legal Practitioners Act 2019*.

### **2 Commencement**

This Act commences on 2 September 2019.

### **3 Objective**

The objective of this Act is to:

- (a) provide for the regulation of the legal profession and the practice of law;
- (b) prescribe requirements for the admission of practitioners and the rights and obligations of practitioners;
- (c) provide for the engagement, admission and appearance of foreign practitioners;
- (d) establish the Nauru Law Society;
- (e) regulate the holding of trust accounts for the purposes of practice as a practitioner as required by this Act or under any other written law;
- (f) provide for the fixing of a scale of professional fees and costs and monitoring compliance of professional service delivery;
- (g) establish a Legal Practitioners Disciplinary Tribunal to deal with any act of professional misconduct; and
- (h) establish and enforce the Professional Conduct Rules for Legal Practitioners.

### **4 Definitions**

In this Act:

**‘client’** means a person who:

- (a) consults a practitioner and on whose behalf the practitioner renders or agrees to render a legal service with or without fees;
- (b) having consulted a practitioner, reasonably concludes that the practitioner has agreed to render services on his or her behalf, -

and includes a client of the law practice of which the practitioner is a partner or employee whether or not the practitioner handles the client’s work;

**‘Commissioner for Oaths’** is a person appointed under section 59;

**‘conflict of interest’** means the existence of a genuine risk that the practitioner’s loyalty to or acting in the best interest of a client would be materially and adversely affected by the practitioner’s own interest or the practitioner’s duty to other clients;

**‘Council’** means the Executive Council of the Nauru Law Society established under section 51;

**‘foreign practitioner’** means a practitioner who is not a citizen of Nauru;

**‘judicial officer’** means a Justice of Appeal, Judge, Magistrate, Registrar, Deputy Registrar or any other person exercising judicial powers under any written law;

**‘law practice’ or ‘practice’** means a law firm registered under the *Business Names Registration Act 2018*, the *Business Licences Act 2017*, *Beneficial Ownership Act 2017* and where applicable, the *Partnership Act 2018* but does not include a department of the Government providing legal services or a legal section of an Instrumentality of the Republic;

**‘legal practitioner’ or ‘practitioner’** means a barrister and solicitor or a pleader duly admitted to practice law under Parts 2 or 3 of this Act and who has a current practicing certificate;

**‘Minister’** means the Minister for Justice;

**‘President’** means the President of the Law Society who shall be a barrister and solicitor;

**‘professional misconduct’** includes:

- (a) unsatisfactory professional conduct of a legal practitioner, law practice, employee or agent where the conduct involves a substantial and or consistent failure to reach or maintain a reasonable standard of competence and diligence;
- (b) conduct of a legal practitioner where the occasion in the practice of law or occurring otherwise than in connection with the practice of law, that would, where established justify a finding that the practitioner is not a fit and proper person to engage in legal practice;
- (c) conduct of the law practice, its employee or agent in the practice of law or occurring otherwise than in connection with the practice of law where established justify a finding that the law practice is not fit to operate; or
- (d) any misconduct which practitioners of good repute and competency would reasonably regard as disgraceful or dishonourable;

**‘Registrar’** means the Registrar of the Courts;

**‘resident practitioner’** means a practitioner having a law practice in the Republic and has a current practicing certificate;

**‘secretary’** means the secretary of the Law Society;