

CHAPTER 5.**LEGAL PROFESSION****ARRANGEMENT OF SECTIONS****Section**

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An Act to regulate the practice of law in the Republic of the Marshall Islands.

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| Commencement: | March 22, 1991 |
| Source: | P. L. 1991-117 |
| | P. L. 1992-17 |
| | P. L. 1993-64 |
| | P. L. 1996-3 |
| | P. L. 2007-81 |

§501. Short title.

This Chapter may be cited as the Legal Profession Act 1991. [P.L. 1991-117, § 1.]

§502. Interpretation.

In this Chapter, unless the context otherwise requires:

(a) “client” means a person, group of persons, firm, joint venture, partnership, corporation or any other agency or body, public or private, which engages the services of a lawyer or a trial assistant with respect to legal services;

(b) “lawyer” means any person qualified in the law who provides legal services to a client. The term includes a person, group of persons, firm, joint venture, partnership, corporation or any other body, public or private, which engages in the delivery of legal services;

(c) “legal services” include, but are not limited to, the following: appearing before any court in the Republic or before any person, agency, body, corporation or tribunal or any other institution or department of government; drafting of pleadings, affidavits and other documents to be filed in court; and the preparation and drafting of deeds, agreements, contracts or any other document or instrument and giving legal advice whether in or outside the Republic of the Marshall Islands;

(d) “practice of law” means to engage in the delivery of legal services by a lawyer or trial assistant who is not an employee of or independent contractor with the Central Government, any Local Government or any agency of the Central Government or any Local Government;

(e) “trial assistant” means an adult citizen of the Republic of the Marshall Islands, who is not a graduate of a law school, but has been admitted to practice law in the Courts of the Trust Territory for the Marshall Islands District prior to March 3, 1982, or by the Court of the Republic of the Marshall Islands after that date. [P.L. 1991-117, §2]

§503. Requirements for the practice of law.

(1) Except as provided for in Section 504 of this Chapter, a person may not engage in the practice of law, provide legal services, hold himself out to be a lawyer or trial assistant or otherwise represent or designate himself to be a lawyer unless that person:

(a) is 21 years of age or older;

(b) is a resident of the Republic of the Marshall Islands whether or not that person was born in the Republic, or is a citizen of the Republic, or is not a resident of the Republic but who maintains an active law practice in the Republic;

(c) has passed a written examination, which examination shall be selected, developed and administered by the Supreme Court; provided, however that any such written examination shall include an adequate section on the customary law of the Marshall Islands; and

(d) has been duly admitted to practice by the Supreme Court or the High Court of the Republic.

(2) This Section does not apply to persons admitted to practice prior to the date PL.1991-117 came into effect, February 19, 1991. [P.L. 1991-117, §3; amended by P.L. 1992-17, §4; amended by P.L. 1996-3, §3(1).]

§504. Admissions without examination.

(1) Subject to the provisions of Court Rules on Admission promulgated in accordance with Section 19 of the Judiciary Act (27 MIRC s 219), the following persons shall not be required to pass a written examination to be admitted to practice:

(a) a person who is duly authorized to practice and is in good standing in another jurisdiction and is temporarily in the Republic in connection with a particular matter or for a particular client, or who has been admitted pro hac vice in any matter;

(b) a person who is duly authorized to practice and is in good standing in another jurisdiction who accepts full-time employment with the central government, any local government, or any agency or department of the central government or any local government, or any public agency providing legal services;

(c) any Marshallese citizen who has graduated from a three year law curriculum at an established institution of higher education who accepts full-time employment with the central government, any local government, or any agency or department of the central government or any local government, or any public agency providing legal services: or

(d) any Marshallese citizen who is appropriately qualified by experience or training to act as a trial assistant and accepts full-time employment with the central government, any local government, or any agency or department of the central government or any local

government, or any public agency providing legal services.

(2) A Marshallese citizen who has completed at least two years full time employment in the Marshall Islands as an attorney in a public service capacity may be admitted to practice without a written examination.

(3) Any non-citizen who has completed at least six years full time employment in the Marshall Islands as an attorney in a public service capacity may be admitted to practice without a written examination.

(4) Any Marshallese citizen who has worked in the Republic for a period of two years as a paralegal under the supervision of an attorney may be admitted as a trial assistant without examination. The supervising attorney must be a resident, duly authorized to practice and in good standing in the Marshall Islands and must certify to the Court that the person applying for admission as a trial assistant will be able to act independently in that capacity.

(5) Any lawyer or trial assistant admitted to practice before the High Court of the Trust Territory of the Pacific Islands, and who actually practiced law in the Marshall Islands during the existence of that court, is and shall be admitted to practice law in the Republic. To record such admission:

(a) Any such lawyer or trial assistant, who has not been previously admitted to practice law under statutes or court rules then in effect, shall provide to the Clerk of the Court evidence of his admission to the High Court of the Trust Territory, of the Pacific Islands and of participation in at least one case during the existence of that court.

(b) Without limiting other methods of proof;

(i) a copy of an admission certificate to the High Court of the Trust Territory of the Pacific Islands will suffice to show admission to practice, and

(ii) a copy of pleadings or other filings showing said attorney or trial assistant as counsel of record in the Marshall Islands District of the Trust Territory of the Pacific Islands will suffice to show practice in the Marshall Islands.

(c) Upon receiving such evidence, the Clerk of Courts shall enter an Order of Admission, assigning the next lineal admission number to such Order, and shall serve a copy of said Order of Admission on the recording attorney or trial assistant. [P.L. 1991-117, §4; amended by P.L. 1992-1 7, §4; subsection (5) added by P.L. 1996-3, §3(2).¹]

§505. Failure to comply with requirements.

A person who is currently engaged in the private practice of law in the Republic who is not in compliance with the provisions of this Chapter shall immediately cease the practice of law in the Republic, and shall make every reasonable effort to secure replacement counsel for each of his

¹Although not part of the amending text PL 1996-3 §2 made the following finding:

Section 2. Statement of Policy.

The Nitijela finds that there are a limited number of qualified lawyers and trial assistants practicing law in the Republic and this has resulted in persons being unable to obtain suitable representation. The policy of the Republic is to give full recognition to a person's constitutional right to counsel of his own choosing and to implement that right by allowing the widest possible practice of law in the Republic by individuals of demonstrated experience.

clients. Any such person shall then be placed on an inactive list until such time as that person is in full compliance with this Chapter and any rules adopted hereunder. If it appears that compliance with this provision will place any client in jeopardy or leave such client without adequate legal representation, the person representing that client shall then submit an application to the High Court, supported by an affidavit or affidavits which provide good cause for the person to continue in that matter until adequate replacement counsel is secured. The High Court shall regularly, but no less than twice each year, submit a written report to the Nitijela during its regular constitutional sessions regarding all such applications and the status of the same. [P. L. 1991-117, §5.]

§506. Transition.

All contracts and agreements entered into and all rights, liabilities and obligations assumed or incurred between a lawyer or a trial assistant who does not comply with the requirements of this Chapter and any rules adopted hereunder, except as provided for in Section 504 of this Chapter, and a client with respect to the provision of legal services for a fee, and which subsists on the effective date of this Chapter, are null and void as of that date. A lawyer or a trial assistant who is a party to any such contract or agreement shall be entitled to be paid the value of all legal services actually performed on a quantum merit basis. [P.L. 1991-117, §6; amended by P.L. 1992-1 7, §4.]

§507. Unauthorized practice of law.

It is unlawful for any person to engage in the practice of law, provide legal services, hold himself out to be a lawyer or a trial assistant or otherwise represent or designate himself to be a lawyer or a trial assistant, except as provided for in Section 504 of this Chapter unless that person is authorized to practice law in the Republic and has complied with the provisions of this Chapter. [P.L. 1991-117, §7; amended by P.L. 1992-1 7, §4.]

§508. Rules.

Any rules adopted by the Judiciary pursuant to Section 219 of the Judiciary Act 1983 (27 MIRC s219), shall be made or revised in accordance with the Constitution, this Chapter and any other Act of the Nitijela. [P.L. 1991-117, §8.]

§509. Legal fees.

(1) *Methods of charging.* Unless otherwise provided in this Section, all legal fees shall be calculated on an hourly basis, the amount of which shall be that which is agreed with a client. In the absence of agreement, a lawyer and/or a trial assistant shall render an hourly fee which is proper and reasonable in all circumstances.

(2) *[deleted by P.L. 2007-81].*

(3) Increase of fee.

(a) When a case has been accepted with an agreed hourly fee, and with knowledge of its contents and other matters relevant to the fee, no request shall be made for the fee to be increased, unless circumstances arise which increase substantially the burden and responsibility on the lawyer and/or trial assistant.

(b) In any case where an increase in the original fee is considered to be justified, the client must be so informed without delay, and, save in exceptional circumstances, no request for an increase of the original fee shall be made at a time so close to the hearing of the case

that the client would be prejudiced in electing to retain another lawyer and/or trial assistant.

(c) Where more than twelve (12) months pass from the date upon which a fee on a case is agreed upon, and the hearing has not then commenced or the matter is part heard, or where special circumstances exist, a lawyer and/or trial assistant may require a reasonable adjustment in the fees previously agreed upon.

(d) If the client does not concur in that requirement the lawyer and/or trial assistant is entitled to return the case provided that this can be done without prejudicing the interest of the client.

(4) *Contingency fees.* A lawyer and/or trial assistant shall be permitted to accept a case or instructions on terms that payment of fees, or the amount of fees, may depend upon or be related to the outcome of the litigation, or any other contingency.

(5) *Speculative actions.* Any case where the client is poor or otherwise deserving of assistance it is permissible (but not obligatory) for a lawyer and/or trial assistant to accept a case on the basis that no fee, or less than a full fee, will be paid if litigation concerning the matters is unsuccessful. In no case will more than a usual fee be charged.

(6) *False receipts - conditional payments.* A lawyer and/or a trial assistant shall not sign a receipt for any fee unless it has been actually paid. A lawyer and/or a trial assistant shall not accept a check or promissory note on condition that it shall not be payable pending the result of any action.

(7) *Time for payment.* In the absence of other agreement, a lawyer and/or a trial assistant is entitled, but not obliged, to require payment of fees within a reasonable time of rendering a memorandum of fees, whether or not any litigation to which the work relates is concluded.

(8) *[deleted by P.L. 2007-81.]*

(9) Interest on fees.

(a) Except as otherwise provided for by law or in the following paragraph, a lawyer and/or a trial assistant shall not charge interest on outstanding fees.

(b) A lawyer and/or a trial assistant shall charge interest on outstanding fees, if there is a prior written agreement with the client to that effect, setting out the rate and period of interest. [added by P.L. 1993-64, §9.] [Subsections (2) and (8) deleted by P.L. 2006-81.]

§510. Penalty.

Any person who, after due notice of the alleged violation and upon a hearing of said violation, is found to have violated any provision of this Chapter or any rule promulgated in accordance with this Chapter, shall be guilty of contempt of the Supreme Court and, upon conviction, shall be subject to the following punishments:

(a) persons who are citizens of the Marshall Islands shall be subject to permanent disbarment, or a term of imprisonment not to exceed six (6) months, or a fine not to exceed \$10,000, or any combination thereof;

(b) persons who are not citizens of the Marshall Islands shall be subject to deportation, or a term of imprisonment not to exceed six (6) months, or a fine not to exceed \$10,000, or any combination thereof. [P.L. 1991-117, §9; amended by P.L. 1993-64, §2.]

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