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No. 6

THE LEGAL PROFESSION ACT

THE LEGAL PROFESSION (CONTINUING LEGAL PROFESSIONAL DEVELOPMENT) REGULATIONS, 2013

In exercise of the powers conferred on the General Legal Council, as Legal Education Authority, by section 10 of the Legal Profession Act and of every other power hereunto enabling, the following Regulations are hereby made:—

PART I. Preliminary

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| Citation and commencement. | 1. These Regulations may be cited as the Legal Profession (Continuing Legal Professional Development) Regulations, 2013, and shall come into operation on February 1, 2013 (hereinafter referred to as the “commencement date”). |
| Principal object of Regulations. | 2. The principal object of these Regulations is to make provision for the continuing legal professional development requirements to be complied with for the purposes of sections 5(3)(b) and 12(4)(e) of the Act by attorneys-at-law and by officers referred to in section 7 of the Act. |

Interpretation.

3. In these Regulations, unless the context otherwise requires—

“accredit” means the according of recognition by the Committee that a course of training or other activity satisfies the standards prescribed by these Regulations and any other requirements of the Act;

“activity” in respect of any CLPD programme means an activity that has been accredited by the Committee as part of a CLPD programme and which includes—

- (a) participation in courses and seminars;
- (b) coaching and mentoring sessions of not less than one hour;
- (c) coaching and mentoring sessions delivered from a distance and each being of a duration of not less than one hour;
- (d) writing on legal theory or practice;
- (e) work shadowing schemes which are structured with clear aims and objectives and which require feedback and reflection;
- (f) production of a thesis or dissertation relating to legal theory or practice;
- (g) watching or listening to material delivered in an electronic format;
- (h) distance-learning courses where there is provision for the answering of enquiries or for discussion;
- (i) preparation and delivery of training courses forming part of the process of qualification to practise law or post enrolment training;
- (j) participation in the work of committees which are engaged in the promotion or regulation of the legal profession, the maintenance of professional standards and ethics of the legal profession;
- (k) participation in the development of specialist areas of law and practice by attending meetings of specialist committees or working parties of relevant professional or other competent bodies;
- (l) participation in conferences whether locally or internationally which are related to the practice of law;

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- (m) group attendance at video presentations;
 - (n) writing legal books or articles;
 - (o) participation in researching legal articles or speeches;
 - (p) teaching legal courses;
 - (q) delivering addresses on legal topics;
 - (r) participation in postgraduate legal studies or obtaining other professional qualification.

“approved” means approved by the Committee for the purposes of these Regulations;

“CLPD” means Continuing Legal Professional Development;

“CLPD programme” means a course of training or other activity that has been accredited by the Committee pursuant to these Regulations as a Continuing Legal Professional Development course of training or activity, as the case may be;

“Committee” means the Continuing Legal Professional Development Accreditation Committee established by regulation 4;

“Council” means the General Legal Council;

“course” in relation to a CLPD programme, means a course of training that has been accredited by the Committee as part of a CLPD programme and includes—

- (a) face-to-face sessions forming part of the course, including such sessions delivered by an approved distance learning provider; or
- (b) a course wholly provided by distance learning that involves assessment by dissertation and written examination; or
- (c) coaching sessions and structured seminars, delivered face-to-face, of one hour or more that have written aims and objectives which are documented showing an outcome; or
- (d) structured mentoring sessions that involve professional development, are delivered face-to-face,

and are each of a duration of one hour or more and have written aims and objectives which are documented showing an outcome;

“Disciplinary Committee” means the Disciplinary Committee of the General Legal Council established under section 11 of the Act;

“participation” means preparing, delivering or attending a CLPD programme;

“practice” means practising as a lawyer;

“Provider” means any person or entity who has been approved by the Committee to provide a CLPD programme;

“year in practice” means a period of practice commencing on January 1 in the year in question and ending on December 31 in that year.

PART II. *Accreditation Committee and Requirements for Continuing Legal Professional Development.*

Accreditation Committee. 4.—(1) There is hereby established, for the purposes of these Regulations, a body to be known as CLPD Accreditation Committee.

Schedule. (2) The provisions of Part 1 of the Schedule shall have effect as to the constitution and operation of the Committee.

Functions of Committee. 5. The functions of the Committee are to—

- (a) devise the criteria and requirements for the accreditation of courses and other activities comprising a CLPD programme;
- (b) accredit courses and other activities comprising a CLPD programme;
- (c) apply the general scheme set out in these Regulations in order to assess the hours to be credited for participation in any CLPD programme within the general categories set out in these Regulations or as otherwise prescribed by the Council;
- (d) accredit courses participation in which shall be mandatory for attorneys enrolled or commencing practice on or after October 1, 2012 and unless otherwise prescribed by the Council such courses shall be—
 - (i) ethics and client welfare;
 - (ii) business management and finance; and
- (e) ensure the provision of CLPD programmes at reasonable times and venues.

Role of Council. 6.—(1) The Council shall retain general supervisory authority over the Committee and the administration of CLPD programmes and the Council shall also be ultimately responsible for approval of the academic standards

and presentation of the activities within the programme, the number of credits to be allotted to participation in any CLPD course, and the number of credits to be allotted for participation in CLPD activities.

(2) Decisions of the Committee as to the accreditation of any CLPD programme or as to the allotment of credit for participation in any CLPD programme are subject to review by the Council in accordance with regulation 7 either of its own motion or on application by an interested person and the decision of the Council on any review shall be final.

Internal
review:

7.—(1) A person may apply to the Council for review of, or the Council may of its own motion review, a decision of the Committee—

- (a) not to allot credit for the person's participation in a CLPD programme;
- (b) to refuse to accredit a course or activity proposed to be offered by the person;
- (c) to refuse to approve the person as a Provider.

(2) An application for review shall be made in writing to the Council—

- (a) within fourteen days after the date of notification to the applicant of the relevant decision; or
- (b) where no such notification has been given, within fourteen days after the expiration of any period prescribed for the giving of the decision.

(3) The Council upon review of the Committee's decision—

- (a) may take any decision in relation to the application which could have been taken by the Committee;
- (b) shall take that decision within a period of 30 days after the date of receipt of the application.

CLPD
requirements
for first three
years of
practice,

8.—(1) Subject to regulation 24, an attorney who commences practice on or after October 1, 2012 shall during each of the first three years in practice obtain a minimum of sixteen CLPD credits consisting of not less than—

- (a) six credits earned in a CLPD course in ethics and client welfare; and
- (b) two credits earned in a CLPD course on business management and finance.

(2) For the purpose of this regulation, the first three years in practice are reckoned from January 1 in the year following the date of the attorney's enrolment.

CLPD
requirements
for other
attorneys.

9.—(1) Subject to regulation 24 and to paragraphs (2) and (3), an attorney other than one specified in regulation 8 shall obtain a minimum of twelve CLPD credits during each year in which he is duly engaged in practice, consisting of—

- (a) four credits earned in a CLPD course in ethics and client welfare; and
- (b) remaining credits which may be earned in any CLPD course or a CLPD activity.

(2) This regulation does not apply to any year in practice preceding the commencement date.

(3) As regards the year 2013, the year in practice shall be reckoned as the period beginning with the commencement date and ending on December 31, 2013.

Credits for
participation
in a CLPD
programme.

10.—(1) Subject to the provisions of these Regulations, the Committee shall confer credits for participation in any CLPD programme.

(2) Credits shall be conferred only for a CLPD programme accredited by the Committee, and, subject to paragraph (3), approval of such accreditation shall be sought and granted at least sixty days prior to the commencement of the CLPD programme.

(3) Accreditation may be granted retroactively, if the Committee, in its discretion, determines that in all the circumstances it is reasonable to do so.

(4) Credits shall usually be allotted by the Committee in accordance with the hours spent in participation in a CLPD programme.

(5) An attorney participating in a CLPD programme shall keep a written record of his participation in the programme for at least three years commencing from the end of the year of participation and shall produce the record to the Committee or the Council at any time on request.

(6) When a presentation is made by a panel, the credits shall be divided equally among the panel members, unless they advise the Committee otherwise and the Committee approves some other distribution.

(7) Repeat presentations shall qualify for one-half of the credits available for the original presentation.

Course or activity for CLPD to be accredited.

11.—Subject to regulation 9(3), a person shall not offer a course of training or other activity for the purposes of CLPD unless the course or activity is accredited under these Regulations.

Application to be Provider.

12.—(1) Any person seeking the accreditation of a course or activity may apply to the Committee for its accreditation by submitting an application in the form set out as Form 1 in the Schedule accompanied by such supporting documentation as the Committee may require.

Form 1. Schedule.

(2) In considering the application, the Committee shall have regard to the standards specified in regulation 12.

(3) The Committee shall within thirty days of the receipt of an application made in accordance with paragraph (1) notify the applicant in writing or electronically whether the application for accreditation is approved or refused.

(4) Where the application is refused, the applicant may seek a review of the decision by submitting a letter to the Council within fifteen days of the issuing of the notice of refusal, and on such review, the Council may make any of the following decisions, which shall be final, namely to—

- (a) confirm the decision of the Committee;
- (b) set aside the decision of the Committee and grant of the application; or
- (c) vary the decision of the Committee.

Application for credit, course participation.

13.—(1) An attorney may apply to the Committee in the form set out as Form 2 in the Schedule for—

Form 2. Schedule.

- (a) approval in advance for credit in respect of hours spent in participating in a course or activity to be held outside Jamaica;
- (b) approval of participation in a course or activity which has not been accredited by the Committee prior to the date of the attorney's participation.

(2) An application under paragraph (1)(b) shall be accompanied by supporting documentation and proof of the attorney's participation but the application shall be made no later than sixty days after December 31 of the year of participation.

Notification of results.

14. The Committee shall no later than 30 days after receiving the summary of results and the list of participants referred to in regulation 18, in writing, notify participants of their results.

Re-
evaluation,
Revocation
of CLPD
programme.

15.—(1) The Committee may, at any time re-evaluate a CLPD programme and if it is satisfied that the programme offered does not meet the standards prescribed in regulation 17 or that the Provider is in breach of any term or condition subject to which approval was granted or is otherwise in breach of the provisions of these Regulations, subject to paragraph (2), revoke approval of the Provider or the accreditation of any particular course or activity.

(2) The Committee shall, before revoking the approval, serve a notice on the Provider—

- (a) specifying the breach or default; and
- (b) informing the Provider of the right to apply to be heard or the matter within such time as may be specified in the notice.

Annual publi-
cation of list
of Providers;
advertise-
ment of
programmes.

16.—(1) The Committee shall compile and publish a list of all Providers of CLPD programmes.

(2) CLPD programmes may be advertised in informational brochures and programme materials supplied by the Provider.

Criteria for
accreditation
of CLPD
programmes.

17.—(1) In order for a course or activity to be accredited by the Committee as a CLPD programme, the Committee must be satisfied that it meets the standards specified in paragraph (2).

(2) The standards referred to in paragraph (1) are that—

- (a) the course or activity must have significant intellectual or practical content and its primary objective shall be to increase the participant's professional competence as an attorney;
- (b) the course or activity must deal primarily with substantive and procedural legal issues, practice management, professional responsibility, client welfare or ethical obligations of attorneys;
- (c) the course or activity, if a legal seminar, shall be offered by a provider having substantial, recent experience in offering CLPD programmes or demonstrated ability to organize and present effectively CLPD programmes, and demonstrated ability shall be regarded as arising partly from the extent to which individuals with legal training or educational experience are involved in the planning, instruction and supervision of the activity;
- (d) the course or activity itself shall be conducted by an individual or group qualified by practical or academic experience and the programme, including the participation by named advertised providers be conducted substantially as planned, subject to emergency withdrawals and alterations; and

- (e) thoroughly researched, high quality, readable, and carefully prepared written material either hard copy or soft copy shall be made available to all participants at or before the time a course is presented, unless the absence of such material is recognized as reasonable by the Committee.

(3) The Committee may approve presentations to be made or made by experienced attorneys in an informal setting which have legal content, are of high quality and have been thoroughly researched and carefully prepared.

(4) Approval may be given for courses or activities where electronically recorded or reproduced material is used only if a duly qualified instructor is available to comment and answer questions.

(5) Inter disciplinary courses and activities may be considered for approval.

PART III. *Obligations of Providers, Attorneys*

Obligations
of CLPD
Providers.

18.—(1) At the conclusion of a CLPD programme, the Provider shall give each participating attorney the opportunity of completing an evaluation questionnaire addressing the quality, effectiveness and usefulness of the particular activity.

(2) Within thirty days of the conclusion of the course the Provider shall forward a summary of the results of the questionnaire to the Committee, and if requested copies of the completed questionnaires shall also be forwarded to the Committee.

(3) Within thirty days of the conclusion of the course the Provider shall submit to the Committee a list of all attorneys participating in the programme and the time spent in such programme.

(4) The Provider shall furnish each participating attorney with written confirmation of his participation in a CLPD programme, immediately upon completion of the programme and retain a copy of the record of participation for at least six years and produce it to the Committee and the Council on request.

Reporting.

19.—(1) An attorney to whom these Regulations apply shall, submit to the Committee details of any CLPD programme undertaken by the attorney in each year in the form set out as Form 3 in the Schedule, no later than March 1 of the succeeding year or at such other time specified by the Council.

Form 3.
Schedule.

(2) On or before June 30 in each year, the Committee shall send to each attorney, a report indicating the Committee's assessment of the credits earned by the attorney for the preceding year and the credits, if

any, carried forward for the current year and if the attorney failed to meet the minimum CLPD requirements for the preceding year, the report shall inform the attorney and require him to satisfy the Committee that, that requirement has been met or remedied by September 31.

(3) The Committee shall, by October 31, in each year send a final report to all attorneys who are not in compliance with these Regulations and each shall be given until December 15 to satisfy the Committee that they are in compliance and have made up any deficiency for the preceding year.

(4) The Committee shall extend time on any written request by an attorney for an extension of time to comply with these Regulations where the attorney establishes a valid reason or excuse (illness, absence from the Island or other good cause) for failure to comply.

(5) An attorney may apply to the Committee at any time for verification of the number of credits and supply any relevant information pertaining to the credits earned to the committee.

(6) Amendments may be permitted to the records of the Committee in relation to an attorney throughout the year but such requests for amendments shall be written and shall specify the titles, sponsors, dates and locations of the amendments, as well as the credits earned.

(7) The files and records of the Committee shall be confidential and shall not be disclosed except in furtherance of the duties of the Committee; statistical abstracts, however, may be drawn therefrom in an anonymous fashion.

Exemptions.
Form 4.
Schedule.

20.—(1) An attorney may apply to the Committee in the form set out as Form 4 in the Schedule for exemption from the CLPD requirements under these Regulations on particular grounds which may include, unemployment, pregnancy, illness, employment outside Jamaica, and the Committee in the exercise of its discretion may grant such total or partial exemption as it considers appropriate.

(2) An attorney who is exempt from the requirement of obtaining a prescribed number of credits per annum shall ensure that this exemption is obtained from the Committee in writing.

Non-
compliance
with CLPD
requirements.

21.—(1) An attorney to whom these Regulations apply who fails to meet the minimum CLPD requirements under these Regulations in respect of a particular year, and who fails to remedy that breach in the manner prescribed by regulation 19(2) and (3) shall be deemed not to be in compliance with these Regulations, and for the purposes of sections 5 (3) (b) and 12 (4) (e) of the Act, not to be in compliance with the prescribed requirements for CLPD.

(2) The Committee shall by December 31 of each year report to the Council the names of all attorneys who have not complied with the minimum CLPD requirements for the preceding year and in respect of each attorney provide details of the number of credits earned and the number of credits outstanding along with any requests for additional time and the Committee's recommendation on any such requests.

(3) The Council shall consider any request for an extension of time to comply where the attorney has a valid reason or excuse for failure to comply.

(4) Subject to paragraph (3), the Council may withhold the issue of a practising certificate to any attorney who is deemed not in compliance with these Regulations.

PART IV. *Miscellaneous*

Appeal to
Court of
Appeal.

22. An attorney may appeal to the Council from any decision of the Committee and, except for decisions of the Council under regulation 5(2) and 10(2), which are final, an appeal shall lie from any decision of the Council to the Court of Appeal in accordance with section 16 of the Act.

Breach of
Regulations
to constitute
professional
misconduct.

23.—(1) Subject to section 5 of the Act, any breach of these Regulations by an attorney may also constitute misconduct in a professional respect within the meaning of section 12(1) of the Act.

(2) If upon a complaint made by a member of the Council to the Disciplinary Committee, the Disciplinary Committee makes a finding of such breach and misconduct, the Disciplinary Committee may, if it thinks fit, order the attorney to—

- (a) complete CLPD of such nature and duration as the Disciplinary Committee shall direct; and
- (b) provide satisfactory proof of compliance with such order to the Council.

(3) An order of suspension from practice made pursuant to section 12(4)(a) of the Act may be made subject to such a condition that the attorney complete CLPD of such nature and duration as the Disciplinary Committee shall direct.

24. As regards the year in practice 2013—

- (a) regulation 8(1) shall have effect as if for the word "sixteen" there were substituted the word "twelve";
- (b) regulation 9(1) shall have effect as if for the word "twelve" there were substituted the word "nine".

SCHEDULE

(Regulations 4, 12,
13, 19 and 20)

PART I

The Continuing Legal Professional Development Accreditation Committee

1. The Committee shall consist of—
 - (a) a member of the Council (herein called the “nominated member”);
and
 - (b) eight other members (herein called the “selected members”) who may be selected from—
 - (i) attorneys who have been in practice for not less than five years;
 - (ii) persons which have held the office of a judge of a court of record having jurisdiction in civil or criminal matters or a court having jurisdiction to hear appeals from any such court;
 - (iii) law teachers;
 - (iv) persons with training or experience in accreditation of courses of study;
 - (v) any other person who in the opinion of the Council could enhance the work of the Committee.
2. The nominated member shall be appointed by the Council by instrument in writing signified under the hand of the Chairman of the Council, shall be the Chairman of the Committee and shall hold that office for a period of one year, which period may be renewed for two successive periods only.
3. The selected members shall be appointed by the Council for a period of three years at a time by instrument in writing signified under the hand of the Chairman of the Council.
4. Every selected member shall be eligible for reappointment for two successive periods only.
5. The Committee shall elect a Deputy Chairman and Secretary from among its members annually.
6. The quorum of the Committee shall be five and the Committee shall make such other rules for procedure to be adopted at its meetings as it shall deem necessary; the Chairman shall have a casting vote in any case where voting is equal.

SCHEDULE, *contd.*

7. The Committee may organize itself into subcommittees of no fewer than three members for the purpose of considering and deciding matters submitted to them.
8. The Committee may delegate executive authority to any person to conduct the business of the Committee within the scope of these Regulations subject at all times, however, to continual review by the Committee.

SCHEDULE, *contd.*

PART II

FORM 1

(Regulation 12(1))

THE LEGAL PROFESSION ACT

THE LEGAL PROFESSION (CONTINUING LEGAL PROFESSIONAL DEVELOPMENT) REGULATIONS, 2013

APPLICATION FOR ACCREDITATION OF CLPD COURSE OR ACTIVITY

NAME OF

APPLICANT:

ADDRESS OF APPLICANT:

Tel. No. Fax No.

E-mail:

Subject Area of

Course/Activity:

(e.g. Company Law, Criminal Procedure)

Title of

Course/Activity:

(e.g. "Constructive Trusts between Vendors and Purchases")

Nature of

Presentation:

(e.g. face to face, seminar) *(Attach copy of course material)*

Location of

Presentation:

Name of

Presenter:

Qualifications and Experience of

Provider:

(N.B. Provider may be a group, institution or person taking responsibility for preparation and presentation. *Attach additional sheets where necessary.*)

.....
.....

SCHEDULE, *contd.*

PART II, *contd.*

FORM 1I, *contd.*

Qualifications and Experience of Presenter:

(N.B.: The Presenter is the person who actually delivers the lecture or conducts the seminar or other course or activity. *Attach additional sheets where necessary.*)

.....
.....
.....
.....

Duration of

Presentation:

(At least 15% of the time must be dedicated to interactive participation)

Number of Credits sought to be allotted to the

course/activity:

Dated the..... day of 20

Signed: _____

Applicant

SCHEDULE, *contd.*

FORM 2

(Regulation 13(1))

THE LEGAL PROFESSION ACT

THE LEGAL PROFESSION (CONTINUING LEGAL PROFESSIONAL
DEVELOPMENT) REGULATIONS, 2013

ATTORNEY-AT-LAW'S APPLICATION FOR CREDITS

I, _____ (name) of _____
 _____ (address) in the parish
 of _____ (address) being attorney-at-law no.
 _____ (insert no.) DO HEREBY apply for
 _____ (insert number of credits applied
 for) credits in respect of the CLPD courses/activities in which I participated
 during the year 20____ and which are set out in the attached Schedules. (Give
 particulars of each course/activity accompanied by supporting documents and proof
 of participation in a separate Schedule).

SCHEDULE

1. Title of Course/Activity: _____
2. Name of Provider: _____
3. Date of Participation: _____
4. Venue of Course /Activity: _____
5. Duration of participation: _____

Signed: _____

Dated the _____ day of _____ 20__.

Applicant's e-mail address: _____ Fax No.: _____

SCHEDULE, *contd.*

FORM 3

(Regulation 19(1))

THE LEGAL PROFESSION ACT

THE LEGAL PROFESSION (CONTINUING LEGAL PROFESSIONAL
DEVELOPMENT) REGULATIONS, 2013

REPORT BY ATTORNEY-AT-LAW ON CLPD PROGRAMME

UNDERTAKEN DURING THE YEAR _____

I, _____ (name) of _____
 _____ (address) in the parish
 of _____ (address) being attorney-at-law no.
 _____ (insert no.) HEREBY SUBMIT to the Accreditation
 Committee the details of the CLPD programme undertaken by me during the
 year 20____ the courses/activities which are set out in the attached Schedules.
 (Set out each course/activity in a separate Schedule).

SCHEDULE

1. Title of Course/Activity: _____
2. Name of Provider: _____
3. Date of Participation: _____
4. Venue of Course/Activity: _____
5. Duration of participation: _____
6. Credits applied for: _____

Signed: _____

Dated the _____ day of _____ 20__.

Applicant's e-mail address: _____ Fax No.: _____

SCHEDULE, *contd.*

FORM 4

(Regulation 20(1))

THE LEGAL PROFESSION ACT

THE LEGAL PROFESSION (CONTINUING LEGAL PROFESSIONAL DEVELOPMENT) REGULATIONS, 2013

APPLICATION BY ATTORNEY-AT-LAW FOR EXEMPTION

I, _____ (name) of _____
_____ (address) in the parish
of _____ (address) being attorney-at-law no.
_____ (insert no.)

HEREBY APPLY for exemption from the CLPD requirements

[for the year _____] [for _____ credits for the
year _____ (insert number of credits for which exemption
sought)] on the grounds of

(insert grounds, particulars and documentary evidence in support
where appropriate).

Signed: _____

Dated the _____ day of _____ 20__.

Applicant's e-mail address: _____ Fax No.: _____

Dated this 29th day of January, 2013.

B. ST. MICHAEL HYLTON, QC
Chairman,
General Legal Council.