



LORD CHIEF JUSTICE OF THE KINGDOM OF TONGA

Practice Direction 1 of 2023

RENEWALS OF PRACTISING CERTIFICATES

1. The *Law Practitioners Act* provides, relevantly, that no person shall practise as a law practitioner within the Kingdom of Tonga unless his/her name is on the Roll of Law Practitioners, and he/she has in force a valid practising certificate (ss 3(1)). A practising certificate shall, with respect to a resident of Tonga, be issued for a calendar year, and with respect to a non-resident of Tonga, shall be issued for such period or for such particular purpose, as the Lord Chief Justice directs (ss 7(1)). During March each calendar year, the Registrar shall cause to be published in the Gazette a list of all persons holding practising certificates (ss 7(4)).
2. On 19 November 2020, at my direction, the Registrar of the Supreme Court informed (by email) all law practitioners enrolled in the Kingdom, inter alia, that:
 - (a) all applications for annual practising certificates or renewals thereof must be submitted, with evidence of the relevant fees having been paid, by the last Court working day in December each year before the year for which the certificate is being applied; and
 - (b) in the absence of exceptional circumstances, applications submitted outside that period will not be accepted.
3. Section 16(2) of the Act empowers the Tonga Law Society ('TLS') to provide or arrange for the provision of services and facilities for practitioners, including seminars and educational and training services and facilities. Rule 10.02 of the *Rules of Professional Conduct for Law Practitioners 2002* requires practitioners to attend continuing legal education ('CLE') courses as and when provided and for as many hours as directed by the TLS and/or such other relevant course/s as may be approved by the TLS. Failure to attend CLE courses, as required, or to obtain exemption therefrom, may result in the TLS Disciplinary Committee recommending the withholding of, or attaching special conditions to, a practising certificate.
4. Earlier in 2020, the TLS, in consultation with me, promulgated a requirement for law practitioners to attend a minimum of five CLE sessions per calendar year, and as a prerequisite for renewals of practising certificates. In his email to the

profession referred to above, the Registrar also conveyed the TLS's advice that practitioners who had not completed their CLE requirements for that year could still apply for renewal of their practising certificate, subject to providing an undertaking to complete any shortfall during the following year and completing those sessions.

5. Since then, there have been a significant number of applications for renewal of practising certificates filed late, and in some cases, very late in the year of renewal.
6. There have also been a significant number of practitioners who, for various reasons, have not completed the minimum CLE requirements over the last two years. Some of those have also failed to make up the shortfall in the following year. As a result of the disruptions caused by the volcanic eruption, tsunami and Covid-19 restrictions during early 2022, the CLE requirements for that year were reduced to four sessions.
7. The purpose of this Practice Direction is to formally confirm and clarify the requirements for renewals of practising certificates and the potential consequences of non-compliance.
8. Applications for renewal of practising certificates must be submitted to the Registrar of the Supreme Court in December of the year prior and by the last day on which the Supreme Court Registry is open.
9. Unless otherwise stated on its face, a renewed practising certificate has effect from 1 January to 31 December of the year of renewal.
10. Where an application is filed after the last day in December on which the Supreme Court Registry is open, the application must include an explanation for the delay.
11. Where late applications are nonetheless approved, but a reasonable explanation or special circumstances for the delay have not been demonstrated, the renewed practising certificate will only take effect from the date on which the application was filed (which will be noted on the certificate).
12. In that regard, practitioners are reminded that s 10 of the Act provides, relevantly, that:
 - (a) any person who practises as a law practitioner without having in force a valid practising certificate, shall be guilty of an offence subject to a fine, imprisonment or both;
 - (b) unless the person proves that he/she acted without receiving or without expectation of any fee, gain or reward, directly or indirectly; and
 - (c) further, failure to have in force a practising certificate may be treated as professional misconduct.

13. Applications for renewal must also include details of the CLE sessions completed by the applicant during that calendar year.
14. Where an applicant has not completed the minimum CLE requirements for that year, the application must contain an explanation for the non-compliance and, in the absence of an exemption from the TLS, a written and signed undertaking from the practitioner that he/she will complete the remaining number of sessions in the following year in addition to the minimum requirements for that year.
15. Where an applicant fails to attend the aggregate minimum number of CLE sessions over two consecutive years, he or she will be required to apply to the TLS for permission to fulfil the requirements by alternative means. Otherwise, that applicant's practising certificate will not be considered for renewal unless and until such outstanding requirements have been fulfilled.
16. This Practice Direction shall take effect from 1 February 2023.



Michael Whitten KC
Lord Chief Justice of the Kingdom of Tonga

Nuku'alofa

27 January 2023