

PRACTICE DIRECTION

NO. 4 OF 2012

LIMITED ADMISSION AS AN ATTORNEY-AT-LAW

Section 4(1) of the Legal Practitioners Law (2010 Revision) (“the Law”) gives power to a Judge to admit a person as an Attorney-at-Law on a limited basis for the purpose of a specified suit or matter in regard to which that person has been instructed by a local Attorney-at-Law or when, in a Legal Aid case, the Clerk of Court has certified that there is no local representation available. The person proposed to be admitted must possess a qualification prescribed by Section 3(1) of Law and to have come or intends to come to the Islands for the purpose of appearing, acting or advising in the specified suit or matter. The application is to be made in such manner as the Judge may think fit.

There are concerns that such limited admission has become simply a formality and that the Judge concerned is not usually being provided with the information necessary to enable a proper exercise of discretion as the Law requires. In future, such applications must be made in the following manner:

1. The application and supporting affidavits must be filed and delivered to the Judge who is to hear the application not less than three (3) business days before the hearing of the application. If necessary, the affidavit of the person proposed to be admitted (“the Applicant”) may, for the purposes of the hearing of the application, be in unsworn final draft form if the Applicant is not present in the Islands at the time, provided that an undertaking is given to the Court at the hearing of the

application that the affidavit will be sworn as soon as possible after the Applicant's arrival in the Islands.

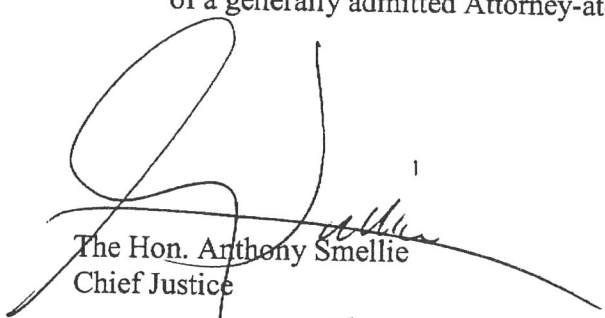
2. The application will not be listed to be heard less than one business day prior to the hearing of the specified suit or matter in which it is proposed that the Applicant should appear if that is the purpose for which the Applicant's admission is sought.
3. The application shall be supported by an affidavit sworn by the Applicant ("the Applicant's Affidavit") and also by an affidavit by the local Attorney-at-Law who, or a member of whose firm, has instructed the Applicant to come to the Islands for the purpose of appearing, acting or advising in the specified suit or matter ("the Attorney's Affidavit").
4. The Applicant's Affidavit shall contain and exhibit the following:
 - (a) details of the qualification(s) prescribed by Section 3(1) of the Law which the Applicant possesses and a certified copy or copies thereof shall be exhibited;
 - (b) confirmation that the Applicant is not or has not been the subject of any criminal conviction or proceedings other than in respect of a minor traffic offence;
 - (c) confirmation that the Applicant is not or has not been the subject of any disciplinary or other similar proceedings relating to professional misconduct of any kind and an appropriately certified Certificate of Good Standing or the equivalent issued by the professional body to which the Applicant belongs shall be exhibited;

- (d) confirmation that the Applicant has been instructed by a Cayman Islands Attorney-at-Law, who shall be identified, to come to the Islands for the purpose of appearing, acting or advising in the specified suit or matter, and that the Applicant has come or intends to come to the Islands for one or more of those purposes.
- 5. The original(s) of the certified copy or copies of the Applicant's qualifications(s) referred to in paragraph 4(a) above and of the certified Certificate of Good Standing or equivalent referred to in paragraph 4(c) above shall be made available to the Judge at the hearing of the application.
- 6. The Attorney's Affidavit shall contain and exhibit the following:
 - (a) confirmation that it is the wish of the relevant client of the deponent or his firm that the Applicant should be instructed on the client's behalf to come to the Islands for the purpose of appearing, acting or advising in the specified suit or matter;
 - (b) confirmation that the Applicant has been instructed by the deponent, or by some other named Attorney-at-Law in his firm, to come to the Islands for the purpose of appearing, acting or advising in the specified suit or matter;
 - (c) confirmation that the Applicant has been granted the necessary work permit or other immigration authorization for the necessary duration to enable the Applicant to be in or come to the Islands for the purpose of appearing, acting or advising in the specified suit or matter and a copy of the relevant work permit or other such authorization shall be exhibited;

- (d) unless the Judge hearing the Application is already very familiar with the specified suit or matter concerned, a sufficiently detailed summary thereof to enable the Judge to exercise his discretion in all the circumstances as to whether or not to admit the Applicant for the purpose of appearing, acting or advising in that specified suit or matter;
 - (e) if the Applicant is not Leading Counsel or the equivalent but is junior counsel or a solicitor or the equivalent, sufficient explanation as to why it is necessary and appropriate for the Applicant to come to the Islands for the purpose of appearing, acting or advising in the specified suit or matter concerned.
- 7. Subject to paragraph 8 below, the limited admission of junior counsel, solicitors or the equivalent will not normally be granted except in unusual and special circumstances which must be fully set out in the Attorney's Affidavit.
- 8. The Judge may, in his discretion in the particular circumstances, himself direct that a person qualified pursuant to Section 3(1) of the Law shall apply for limited admission for the purpose of appearing, acting or advising in a specified suit or matter. In that case, with the exception of paragraphs 3, 4 (a) –(c), 5, 6 (c), 9 and 10, which shall remain applicable, the Judge may dispense with compliance with such other of the provisions, if any, of this Practice Direction as he may think fit.
- 9. If granted limited admission the Applicant is required to sign the Register of Admitted Attorneys either at the time of the application or, if the application has been heard prior to the Applicant having come to the Islands, as soon as

practicable after his arrival in the Islands and in any event before any appearance in the specified suit or matter in which it is proposed the Applicant should appear.

10. By signing the Register of Admitted Attorneys the Applicant is deemed to have accepted and agreed to act in accordance and to comply with all of the professional duties and obligations and to be subject to the professional discipline of a generally admitted Attorney-at-Law and an Officer of the Court.



The Hon. Anthony Smellie
Chief Justice

9th February 2012