

REPUBLIC OF THE MARSHALL ISLANDS

RULES FOR ADMISSION TO AND FOR

THE PRACTICE OF LAW

(Effective November 1, 2011)

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REPUBLIC OF THE MARSHALL ISLANDS
RULES FOR ADMISSION TO AND FOR THE PRACTICE OF LAW

These rules are promulgated under the authority of Article VI, Sections 1(1) and 1(2) of the Constitution; Section 508 of the Legal Profession Act 1991, 19 MIRC 508; and Section 219 of the Judiciary Act 1983, 27 MIRC 219. The January 17, 1991 Rules for Admission to and Practice Law Before the Court of the Republic of the Marshall Islands are superseded and replaced by these Rules.

It is unlawful to engage in the practice of law, provide legal services, hold oneself out to be a lawyer or a trial assistant, or otherwise represent or designate oneself to be a lawyer or trial assistant, unless authorized to practice law in the Republic under the Legal Profession Act 1991 and these Rules.

Rule 1. Definitions.

(a) The term "approved law school" means:

(i) Any law school approved by the American Bar Association's section on Legal Education and Admissions to the Bar; or

(ii) A law school in a nation other than the United States which uses the common law as a background for study and which is an accredited institution in that country; or

(iii) Any other law school approved by the Supreme Court.

(b) The term "Chief Clerk" or "Chief Clerk of the Courts" means the Chief Clerk of the Courts of the Marshall Islands, whose mailing address is:

Chief Clerk of the Courts
Republic of the Marshall Islands
P.O. Box B
Majuro, MH 96960
Marshall Islands

(c) The term "counsel" means both attorneys and trial assistants.

(d) The term "Court" as used herein regarding the administration of these rules means the Supreme Court with the concurrence of the High Court, unless the context dictates otherwise.

(e) The terms “criminal charge” and “crime” appearing in Rule 4 do not include traffic offenses, other than those which are felonies in the jurisdiction in which the charge was lodged. The terms include all other types of offenses, misdemeanors as well as felonies.

(f) The term the “Republic” means the Republic of the Marshall Islands.

(g) Except as otherwise provided in these rules, the term “trial assistant” means an adult citizen of the Republic who is not a graduate of an approved law school, and not admitted to the practice of law as an attorney, but one who has, because of the shortage of attorneys in the Marshall Islands, been admitted to practice law in the Courts of the Republic.

Rule 2. Attorneys.

(a) **Previously Admitted.** Any person who on or before the effective date of these Rules was admitted as an attorney to practice law in the Republic shall continue to be qualified to the practice of law, subject to compliance with any specific conditions of admission (e.g., employment by a government agency, etc.) and the requirements of these Rules.

(b) Admission Without Examination.

(i) **Government and Public Service Attorneys.** The Court may admit an applicant who is 21 years of age or older to the practice of law in the Republic as an attorney, without the applicant having first passed the Court’s written examination, if the applicant is employed full-time as an attorney by the national government, a local government, or any agency or department of either, or is employed full-time as an attorney by a non-government, non-profit organization, which has as one of its basic purposes the provision of legal services to the people of the Marshall Islands who cannot afford such services, and the applicant:

(A) has completed and submitted an application in the form attached to these Rules;

(B) has submitted satisfactory proof that the applicant is a graduate of an approved law school;

(C) has either

(1) submitted satisfactory proof that the applicant is licensed to practice by and is in good standing before all the courts of another nation, or state of another nation; or

(2) if a citizen of the Republic, submitted satisfactory proof that the applicant is a graduate of a three-year law curriculum at an approved law school;

(D) has submitted satisfactory proof that the applicant is employed full-time as an attorney by the national government, a local government, or any agency or department of either, or is employed full-time as an attorney by a non-government, non-profit organization, which has as one of its basic purposes the provision of legal services to the people of the Marshall Islands who cannot afford such services;

(E) has submitted the certification of morals and character requirements set forth in Rule 4;

(F) has certified that if admitted to practice the applicant will comply with all of the requirements of these Rules, and any amendments to them;

(G) has certified that the applicant has read the Constitution and is familiar with the Marshall Islands Revised Code and the court rules;

(H) has paid a non-reimbursable application fee of \$250.00; and

(I) has submitted such other information the Court may require.

Admission to practice law granted without an examination under this Rule 2(b)(i) shall terminate upon the termination or expiration of the applicant's employment for which the applicant was admitted to practice. Also, admission granted under this Rule to an applicant employed by a non-government, non-profit organization shall terminate if and when the attorney's employer ceases to perform non-profit legal work in the Marshall Islands.

Admission to practice law granted under the Rule 2(b)(i) is limited to representing the applicant's government employer or clients of the applicant's non-government, non-profit organization employer.

(ii) Admission Based on Experience. The Court may admit an applicant who is 21 years of age or older to the permanent practice of law in the Republic as an attorney, without the applicant first having passed the Court's written examination, if the applicant has been admitted under Rule 2(b)(i) as a government or public service attorney, and the applicant:

(A) has completed and submitted an application in the form attached to these Rules;

(B) if a citizen of the Republic, has practiced for at least two years in the Republic under the provisions of Rule 2(b)(i); and if not a citizen of the Republic, has practiced for at least six years in the Republic under the provisions of Rule 2(b)(i);

(C) has, in the performance of the applicant's attorney duties during that period, been so satisfactory as to convince the Court that the applicant deserves to be given permanent admission as an attorney;

(D) has submitted satisfactory proof of compliance with the provisions of Rules 5 and 6;

(E) has certified that if admitted to practice the applicant will comply with all of the requirements of these Rules, and any amendments to them;

(F) has certified that the applicant has read the Constitution and is familiar with the Marshall Islands Revised Code and the court rules;

(G) has paid a non-reimbursable application fee of \$250.00; and

(H) has submitted such other information the Court may require.

(iii) **Admissions Pro Hac Vice.** The Supreme Court or the High Court may upon an attorney's oral or written motion and payment of a \$250.00 non-refundable application fee grant an attorney who is licensed to practice by and is in good standing before all the courts of any other nation, or state of another nation, but who is not admitted to the practice of law in the Republic, permission to participate in the conduct of a particular case in a court of the Republic of the Marshall Islands in which such a case is pending or is to be filed. Provided, however, such motion shall be allowed only if the interests of justice will be served; and provided further, that such attorney associates with an attorney or trial assistant who has a physical office and residence in the Republic (not just a mail drop), regularly resides in the Republic, and who is admitted to practice in that court, if such local counsel is available. The local attorney or trial assistant shall at all times participate in a meaningful way in the preparation and trial of such case.

(c) **Admission Through Scheduled Written Examinations.** Except for those qualifying under some other rule, any person who is 21 years of age or older and who desires to be admitted to practice law in the Republic as an attorney shall apply to take the Court's written bar examination. The Court shall administer the examination at such times and places as the Court shall designate. The Court may select the type of examination to be taken as well as determine the passing grade. Such applicants shall, prior to being scheduled for examination, tender to the Chief Clerk of the Court the following:

(i) a completed application to practice in the form attached to these Rules;

(ii) satisfactory proof that the applicant is a graduate of an approved law school;

(iii) the applicant's certification of the moral and character requirements set forth in Rule 4;

(iv) satisfactory proof that the applicant meets the requirements of Rule 6;

(v) the applicant's certification that if admitted to practice the applicant will comply with all of the requirements of these Rules, and any amendments to them;

(vi) the applicant's certification that the applicant has read the Constitution and is familiar with the Marshall Islands Revised Code and the court rules;

(vii) a non-reimbursable application fee of \$250.00; and

(viii) such other information as may be required by the Court.

Rule 3. Trial Assistants.

(a) **Previously Admitted.** Any citizen of the Republic who on or before the effective date of these Rules was admitted as a trial assistant to practice law in the Republic shall continue to be admitted to the practice of law as a trial assistant, subject to compliance with any specific conditions of admission (e.g., employment by a government agency, etc.) and the requirements of these Rules.

(b) **Admission Without Examination.** The Court may admit an applicant who is 21 years of age or older to the practice of law in the Republic as a trial assistant, without the applicant having first passed the Court's written examination, if the applicant is employed full-time as a trial assistant by the national government, a local government, or any agency or department of either, or is employed full-time as a trial assistant by a non-government, non-profit organization, which has as one of its basic purposes the provision of legal services to the people of the Marshall Islands who cannot afford such services, and the applicant:

(i) has completed and submitted an application in the form attached to these Rules;

(ii) has submitted satisfactory proof that the applicant is qualified by experience, education, and training to be a trial assistant, which may include on-the-job training as a paralegal;

(iii) has submitted satisfactory proof that the applicant is employed full-time as a trial assistant by the national government, a local government, or any agency or department of either, or is employed full-time as a trial assistant by a non-government, non-profit organization, which has as one of its basic purposes the provision of legal services to the people of the Marshall Islands who cannot afford such services;

(iv) has submitted the certification of the moral and character requirements set forth in Rule 4;

(v) has certified that if admitted to practice the applicant will comply with all of the requirements of these Rules, and any amendments to them; and

(vi) has certified that the applicant has read the Constitution and is familiar with the Marshall Islands Revised Code and the court rules;

(vii) has paid a non-refundable application fee of \$100.00; and

(viii) the government or public service organization employer has by a separate application demonstrated

(A) its need for the trial assistant; and

(B) that the trial assistant's practice will be supervised by a licensed attorney, or in the case of a national or local government prosecutor, that the prosecutor's actions will be subject to oversight by the Attorney General.

(c) Limitation on the Practice. Trial assistants admitted to practice under Rule 3(b) may only serve as counsel for and give advice regarding limited civil matters (i.e., collection matters, and other minor civil cases), traffic cases, and misdemeanors tried in the Community Courts and the District Court, felonies tried in the District Court, initial appearances and preliminary hearings before the High Court in criminal cases, and cases on appeal from the District Court to the High Court.

(d) Limitation on Practice in Criminal Cases Applicable to All Trial Assistants. With respect to criminal matters, trial assistants may only serve as counsel for and give advice regarding traffic cases and misdemeanors tried in the Community Courts and the District Court, felonies tried in the District Court, initial appearances and preliminary hearings before the High Court in criminal cases, and cases on appeal from the District Court to the High Court. No trial assistant shall act as counsel in any criminal case before the High Court or the Supreme Court of the Marshall Islands, except as provided for in these Rules with respect to appearing in the High Court.

(e) Termination of Qualification to Practice. Admission to practice granted under Rule 3(b) terminates upon the termination or expiration of the trial assistant's employment for which admission was granted. Admission to practice granted under Rule 3(b) to an applicant employed by a non-government, non-profit organization shall terminate if and when the trial assistant's employer ceases to perform non-profit legal work in the Marshall Islands, or when the trial assistant ceases to handle such cases in the Marshall Islands for a period of 180 consecutive days.

Rule 4. Morals and Character Requirements.

Each applicant must certify that no criminal charge, nor any charge of violation of professional responsibilities, is currently pending against the applicant, and that the applicant has never been convicted of any crime or found to be in violation of a rule of professional ethics or responsibility. If there are any such charges, convictions, or findings of violations pending, or have been made against the applicant, these shall be admitted to and described in detail in the application and will be subject to further investigation by the Court to determine whether they are of such gravity as to be disqualifying. False or incomplete certification may be considered grounds for non-admission or disbarment. The Court may require, in addition to the applicant's certificate, other proof of good character.

When the Court deems it appropriate, applicants from the United States may be required to submit to a background investigation by the National Conference of Bar Examiners and applicants from other countries may be required to submit to a similar formal inquiry regarding their backgrounds.

Rule 5. Requirements and Conditions Common to All Attorneys and Trial Assistants.

All attorneys and trial assistants who have been admitted to practice law in the Republic shall comply with and abide by the following requirements and conditions:

(a) At or before the time of admission to practice an applicant must submit to the Court the applicant's place of residence and office address, telephone number, fax number and/or email address, and an address within the Republic where legal documents may be served upon the applicant, which service will be binding upon the applicant.

(b) Once admitted, each attorney and trial assistant shall promptly appraise the Chief Justice of the High Court of the following information:

(i) change in residency; office address, telephone number, fax number and/or email address; and address within the Republic for service;

(ii) change in name;

(iii) that the person has become the subject of a disciplinary action by any court or authority responsible for the discipline of attorneys or trial assistants for legal or ethical misconduct; and

(iv) that the person has submitted a guilty plea or has been convicted of a crime.

The above information must be submitted in writing within 30 days of the change, act, or event. Failure to do so is grounds for placing the attorney or trial assistant on the Inactive List and /or for discipline.

(c) All persons admitted to practice in the Republic must pay the annual fee set forth below. The annual fee must be paid to the Chief Clerk on or before September 30 of each year for the next financial year commencing October 1. All persons admitted to practice are responsible to pay the annual fee by the due date without notice from the Court. All persons who fail to pay the annual fee on time shall in addition to the annual fee pay a late fee equal to 15% of the annual fee.

(i) Active List. All persons admitted to practice in the Republic and who intend to actively practice law must pay an annual fee as follows:

(A) \$50 if they were physically present in the Republic for 180 or more days in the previous financial year and

(B) \$100 if they were physically present in the Republic for less than 180 days out of the previous financial year.

The Chief Clerk shall place on the Court's "Active List" all such persons admitted to practice who are current with their dues, unless their admission has otherwise expired or has been suspended or terminated.

(ii) Inactive List. All persons admitted to practice in the Republic but who do not intend to actively practice law may request that the Chief Clerk transfer their name to the Court's "Inactive List" and must pay an annual fee of \$25. While on the "Inactive List" a person shall not be permitted to practice in the Republic. A person may return to the Active list upon paying the balance of the annual fee in Rule 5(c)(i).

(iii) Suspended List. Any person admitted to the practice in the Republic who does not pay the appropriate annual fee shall be deemed suspended from practice, and their name shall be placed on the Court's "Suspended List." While on the "Suspended List" the person shall not be permitted to practice law in the Republic. If within two years of suspension for the failure to pay the annual fee, a person pays a \$125 reinstatement fee, past due annual fees, and late fees, the Chief Clerk shall return the person's name to the Active List or Inactive List, as appropriate. If a person fails within two years of suspension to pay the reinstatement fee, past due annual fees, and late fees, then the person's admission automatically terminates.

(d) Upon request of the Chief Justices of the Supreme Court and/or High Court, attorneys admitted to practice in the Republic shall aid and assist the Courts in the preparation, administration, and grading of examinations given to applicants for admission to practice. Attorneys and trial assistants shall also, upon request, serve on such disciplinary committee or committees as may then be in operation.

(e) All persons admitted to practice shall be familiar with the Constitution of the Republic of the Marshall Islands, the Acts of the Marshall Islands Nitijela, published rules of

procedure of the Courts of the Republic, and case decisions of the Supreme Court (particularly those relating to the Customs and traditions of the Marshallese people). All attorneys and trial assistants shall stay current in their knowledge of the statutes, legal decisions, and treaties, which apply to the Marshall Islands, directly or indirectly. Also, all attorneys and trial assistants should be aware of new developments in the law generally.

(f) All attorneys and trial assistants are bound by the American Bar Association Model Rules of Professional Conduct, as they may be amended from time to time, which this Court adopts as the code of conduct for those practicing law in the Republic of the Marshall Islands. All attorneys and trial assistants are required to be familiar with the rules, in their entirety, and must keep in mind that violations of the rules could result in disciplinary action, including suspension from practice, or disbarment. This requirement shall apply to attorneys admitted *pro hac vice*.

(g) The Supreme Court and/or the High Court may require that individual attorneys and trial assistants, or all attorneys and trial assistants, participate in such basic or continuing legal education as is deemed needed to assure adequate legal representation before the courts.

Rule 6. Commitment to the Marshall Islands; Requirements for All Attorneys and Trial Assistants.

Section 503 of the Legal Profession Act 1991, 19 MIRC 503, provides that a person may not engage in the practice of law, provide legal services, or hold him or herself out to be a lawyer or trial assistant unless that person is, *inter alia*, a resident, a citizen of the Republic, or, if not a resident, one who maintains an active law practice in the Republic. The Courts of the Republic require of all persons who are admitted (other than *pro hac vice*) to the practice of law a substantial commitment toward helping the people of the Republic with their need for legal assistance.

The following list contains examples of the type of commitment required. The list is not intended to be all inclusive.

(a) Proof that the person is employed as a judge, administrative judge, or counsel by the national government, a local government, or any agency or department of either, or is employed as counsel by a non-government, non-profit organization, which has as one of its basic purposes the provision of legal services to the people of the Marshall Islands who cannot afford such services; or

(b) Proof that counsel has a law office within the Republic from which counsel actively practices law; or

(c) Proof that counsel is a member of a law firm that maintains a law office and law practice within the Republic; or

(d) Proof that counsel, or the law firm of which counsel is a member or an employee, has done a substantial amount of legal work before the courts or agencies of the Republic, and that counsel intends to continue to do so in the future; or

(e) Proof that counsel, or the law firm of which counsel is a member or an employee, has one or more clients that conducts business, and/or has an office or offices, within the Republic, and which counsel represents in the courts or other government agencies, and that counsel intends to continue such representation in the future.

Also, all counsel must make every reasonable effort to keep current in their legal work in the Republic. The fact that an attorney may ordinarily work in another nation does not absolve that individual from keeping current in the attorney's court cases or other legal work in the Republic.

Rule 7. Suspended List.

(a) Any counsel admitted to the practice of law, who so requests or who fails to keep current with the requirements of Rules 5 and 6, as applicable to the person's status, shall be transferred by the Court from the Active List or Inactive List to the Suspended List.

(b) While on the "Suspended List" counsel shall not be permitted to practice law in the Republic. Other than for the failure to pay annual dues, any person placed on Suspended List shall be notified of such placement and shall have an opportunity to a hearing thereof. Notice will be sent to the person's last known address or if there is none to the Chief Clerk.

(c) Any person placed on the Suspended List may be removed from the list and restored to the Active List or the Inactive List upon submission of proof that the person is again in compliance with Rules 5 and 6, as applicable to the person's status, and compliance with such other requirements as may be imposed in an individual case by the Court.

(d) The admission to practice of any person who remains on the Suspended List for two years automatically terminates.

Rule 8. Inactive Status for Nitijela Members.

If a person who is admitted to practice and is on the Active List becomes a member of the Cabinet or becomes the Speaker or Vice-Speaker of the Nitijela, the Court shall transfer that person to the Inactive List until the person ceases to hold such office. While on the Inactive List, the person shall not be permitted to practice law in the Republic. Provided, that the person shall have six months to close or transfer existing cases and other matters unless the six-month period is enlarged by court order. Provided, further, the person may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the person's family (within the third degree of consanguinity or affinity), but is prohibited from serving as the

family member's counsel in any forum. This rule is intended to balance the Republic's need for competent counsel with the need to preserve the independence of the courts and to avoid the following: the appearance of improper influence over judges and opposing counsel; conflicts of interests when the National Government is an opposing party; and scheduling delays.

Rule 9. Oath of Attorneys and Trial Assistants.

All attorneys and trial assistants shall subscribe to the following oath or affirmation:

“Na, _____, eindrein ij kalimur im kabin, ke einwot juon attorney (ak trial assistant) im juon counselor ilo jikin ekajet ko an Republic eo an Marshall Islands, inaj komanman im jermal jimwe im jejit ekkar non kakien ko, im inaj jutak bin ilo jurake Jemenei eo an Republic eo an Marshall Islands.”

DATED:

(Signature of Attorney or Trial Assistant)

“I _____ do solemnly swear (or affirm) that, as an attorney (or trial assistant) and as a counselor of the Courts of the Republic of the Marshall Islands, I will conduct myself uprightly, and according to law, and that I will support the Constitution of the Republic of the Marshall Islands.”

DATED:

(Signature of Attorney or Trial Assistant)

Rule 10. Violations of Applicable Rules of Practice.

Any person who violates the provisions of the Legal Profession Act, these Rules, or any other court rules or otherwise commits professional misconduct shall be subject to disciplinary action, including suspension and disbarment.

The term “professional misconduct,” as used in this Rule, includes conduct prohibited by the American Bar Association Model Rules of Professional Conduct, as it exists on the date of the charged violation, including not only fraudulent language or conduct, illegal conduct involving moral turpitude, and the like, but also all of the more benign violations or circumventions of such disciplinary rules, such as revealing clients' confidential communications, failure to act competently on behalf of a client, conduct prejudicial to the administration of justice, circumventing a disciplinary rule through the conduct of others, unauthorized advertising, publicity, and the like, charging excessive fees, holding oneself out publicly as possessing skills or qualifications the practitioner does not possess, contempt of court, communications with prospective jurors (except when authorized by trial procedure), false statements to judges, unauthorized taking or expenditure of client funds, and others.

