

**AMENDED AND RESTATED
CONSTITUTION
OF
THE BVI BAR ASSOCIATION**

as at the 7th day of June, 1997

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WHEREAS the under named persons ("Founder Members") have agreed and resolved to form an Association to be known as the BVI Bar Association the affairs of which shall be governed by the constitution hereinafter set forth as amended from time to time

NOW THIS CONSTITUTION WITNESSETH as follows:

1. INTERPRETATION

In this Constitution:

"Association" means the BVI Bar Association;

"Chief Justice" means the Chief Justice of the Eastern Caribbean Supreme Court or any court replacing such court;

"Council" means the Council of the Association created under clause 9 hereof;

"Member" means member of the Association; and

"Officer" means an officer of the Association referred to in Clause 9.

2 AIMS AND OBJECTS

The aims and objects of the Association shall be as follows:

- (a) To support and protect the character, status and interest of the legal profession within the British Virgin Islands and to maintain the discipline of its Members.

- (b) To promote honourable practice, repress malpractice, to settle disputed points of practice; to decide all questions of the legal profession generally.
- (c) To consider all questions affecting the interests of the legal profession and to initiate and watch over, and, if necessary to petition the Legislature of the British Virgin Islands and the Commonwealth Office or any other bodies or promote deputations in relation to general measures affecting the profession; and to procure changes of law or practice; and the promotion of improvements in the principles and administration of the law.
- (d) To be concerned with questions of Human Rights, Justice and the Rule of Law and to undertake any action which in its judgment may contribute to the protection and preservation of these and other fundamental conditions for a well-ordered society.
- (e) To maintain the honour and independence of the Bar and to defend the Bar in its relations with the Judiciary and the Executive.
- (f) To support the independence of the Judiciary and to maintain cordial relations among members of the Bar and between the Bar and the Bench.
- (g) To promote the improvement of the administration of Justice.
- (h) To maintain good relations and understanding between the Bar and the Public.

- (i) To protect the public right of access to the Courts, the representation by Counsel before the Courts and other tribunals and the rights and privileges of the Bar in relation thereto.
- (j) To make recommendations for the establishment and maintenance of proper Court Houses and of a Law Library in the British Virgin Islands.
- (k) To promote, encourage and improve legal education, the study of jurisprudence, legal literature and law reporting.
- (l) To affiliate with any other association of lawyers.

3. QUALIFICATION FOR MEMBERSHIP

Any person admitted to practice as a barrister at law or solicitor in the British Virgin Islands who has been resident continuously for a period of not less than one year therein shall be eligible to apply for membership of the Association. A period of residence shall be deemed to be continuous notwithstanding temporary absence from the Territory on business or vacation.

4. ADMISSION TO MEMBERSHIP

- (a) Each candidate for membership, except Founder Members, shall sign and deliver to the Secretary an application in the form or to the effect following:

"To the Council of the BVI Bar Association
Ladies and Gentlemen, - I, _____ a
Barrister/Solicitor, desire to become a member of the
BVI Bar Association, and I hereby authorise you in the

event of my being elected to enter my name in the register of members of the Association, and I hereby agree to be bound by the Constitution of the Association and all Rules made thereunder.”

- (b) Such application must be accompanied by a note in writing signed by two Members, the one proposing, the other seconding, the candidate's election.
- (c) At the next meeting of the Council which shall be held after the expiration of thirty days from the receipt of such application, the candidate shall be voted for by the Council and shall be admitted or rejected on a majority vote. A rejected applicant must be given reasons for rejection in writing and may re-apply for membership.
- (d) The Secretary shall, seven days at least before such meeting, give notice in writing to every Member of the Council, stating the name and address of each candidate to be voted for at the forthcoming meeting, and the names of his proposer and seconder.

5. REGISTER OF MEMBERS

- (a) The name and address of every member shall be entered by the Secretary in a Register of Members of the Association which shall be available for inspection by members. Any member who shall at any time change his address shall immediately give notice thereof in writing to the Secretary.
- (b) The Register of Members of the Association shall for all the purposes of the Association be deemed to

contain a correct list of the Members and their respective addresses.

6. TERMINATION OF MEMBERSHIP

(a) Resignation:

Any Member may resign from the Association by giving notice in writing to the Association of his intention so to do, and upon the expiration of the period of time specified in the notice or sixty (60) days after the date of the notice (whichever is the later) he shall cease to be a Member.

(b) Failure to make Payments

If any Member shall neglect for 30 days to pay any money due from him to the Association the Council may by notice request him to pay such money. If the Member continues in default for 90 days after the date of the notice, the Council may at any time thereafter but before payment of the said money terminate the membership of such Member provided that such Member shall be readmitted as a Member upon payment of all outstanding monies due to the Association together with the annual subscription fees for all years following the year in which his membership was terminated.

(c) Breach of Constitution or Directive

Any Member who shall fail in the observance of any provision of this Constitution or of any

Rule made and published by the Council hereunder or who shall have been guilty of any act or practice or conduct which shall have come to the attention of the Council and which in its view is calculated to bring discredit on the legal profession or to lower its status, may by a resolution of the Association adopted by a two thirds majority of the Members present and voting made on a recommendation of the Council be reprimanded, or suspended for a period not exceeding six months or shall have his membership of the Association terminated. Such Member shall have at least seven days' notice in writing sent to him by the President or the Secretary inviting him to attend the meeting of the Council inquiring into the act or practice or conduct as aforesaid; and the Member shall have the right to be heard in his defence, to be represented by counsel or a friend, and to know the reason for any finding against him.

(d) **Disciplinary Matters:**

Where the Disciplinary Committee established pursuant to clause 7 below shall recommend that the membership of any Member shall be terminated, the Council shall forthwith act on such recommendation.

7. DISCIPLINARY COMMITTEE

(a) The Council shall whenever necessary establish a Disciplinary Committee of three persons comprising of two Members and a representative of the general public. The Disciplinary Committee shall be charged with the duty of upholding standards of professional conduct and the investigation of professional misconduct by Members of the Association.

(b) Any person aggrieved by an act of professional misconduct by any Member of the Association may make a written complaint to the President.

(c) The President shall cause a copy of the complaint to be served on the Member concerned and shall request a response thereto within a period of 21 days. The Council shall thereupon consider the complaint and the response thereto (if any) at the earliest opportunity. If the Council considers the response to be satisfactory it shall forward a copy thereof to the Member and the complainant and shall close its investigation. In any other case the Council shall appoint a Disciplinary Committee as provided in (a) above and shall forward all papers relating to the complaint to the Disciplinary Committee.

(d) The Disciplinary Committee shall within 21 days after receipt of the papers fix a date of

hearing and notify the complainant and the Member thereof.

- (e) The Disciplinary Committee shall regulate its own procedure and shall hear all applications in private and may extend or abridge the time for doing anything under this clause. Decisions of the Disciplinary Committee shall be by majority vote. Both the complainant and the Member shall be given an opportunity to be heard.
- (f) If the Disciplinary Committee shall determine that no case of professional misconduct has been made out against the Member it shall notify the Member, the complainant and the Council accordingly with the reasons for its decision.
- (g) If the Disciplinary Committee shall decide that a case of professional misconduct is made out against a Member, the Disciplinary Committee shall forward to the Member, the complainant, the Council and to the Chief Justice, a report of its findings and the reasons for its decision and may recommend to the Council that the membership of the Association by such Member be terminated.

8. OFFICERS

- (a) There shall be five Officers of the Association, namely a President, First Vice President, Second Vice President, Secretary and Treasurer who shall be elected annually. Only Members are eligible to be appointed as Officers.
- (b) The Officers (except as provided in Clause 9(e) below) shall be elected individually by way of motion at each Annual Meeting of the Association and shall hold office until the next Annual Meeting. A retiring Officer shall be eligible for re-election.
- (c) Each Officer shall automatically cease to hold office upon the happening of any of the following events:
 - (i) Upon ceasing to be a Member
 - (ii) Upon receipt by the President or the Secretary of a signed letter of resignation;
 - (iii) Upon the finding by a competent Court that the Officer has committed an act of bankruptcy;
 - (iv) Upon the Officer being proved either medically or by a court of competent jurisdiction to be of unsound mind;
 - (v) If the Officer concerned shall have failed without leave, to attend three consecutive meetings of the Council and a resolution of the Council has been passed declaring the Officer to be disqualified.

9. **THE COUNCIL**

- (a) There shall be a Council of the Association comprising the five Officers.

- (b) The Council shall meet at such time as required, and may adjourn any meeting and may from time to time fix the quorum necessary for the transaction of the business, but until the Council shall have otherwise determined, three members of the Council shall form a quorum. The chair at all meetings shall be taken by whichever of the following members of the Council is present in the order set forth below:
 - (i) The President; failing whom,

 - (ii) The First Vice President; failing whom,

 - (iii) The Second Vice President; failing whom,

 - (iv) Such member of the Council as shall be nominated by a majority of those present; failing whom,

- (c) The President or Secretary alone or any two members of the Council may at any time summon a meeting thereof.

- (d) Questions at any meeting of the Council shall be decided by a majority of votes, and in case of an

equality of votes the Chairman shall have a second or casting vote.

- (e) The Council may act, notwithstanding any vacancy in its body, but if the number of its Members falls below three, the Council shall not act except to appoint any Member of the Association to fill any of the vacancies which shall have arisen. The Member so appointed shall hold office only for the unexpired term of the Officer in whose stead he is appointed.

- (f) Subject to disallowance by Resolution of the Association within a period of sixty (60) days from the date of publication, the Council may make and publish Rules and may in like manner revoke or amend any published Rules which shall not conflict with any provisions of this Constitution and upon so doing shall cause a copy of such Rules to be served on every Member, but Rules so made shall not become effective until sixty (60) days following the date of publication.

- (g) The Council may appoint committees, of such Members of the Council as is deemed fit and may co-opt Members of the Association to sit on such committees. It shall fix the duties and authority of any committee, and may delegate any of its own powers to any such committee. The procedures governing meeting of committees shall be the same as those governing meetings of the Council *mutatis mutandis*.

- (h) Minutes of the proceedings of every meeting of the Council shall be taken by the Secretary, or in case of the absence of the Secretary, by some other person

appointed by the Chairman, which minutes shall be recorded in a minute book, to be kept for that purpose and signed as a true record by the Chairman of that or the next succeeding meeting.

(i) The management of the business and the control of the Association shall be vested in the Council who in addition to the powers and authorities by this Constitution expressly conferred upon them may exercise all such powers and do all such acts and things as may be exercised or done by the Association and are not hereby expressly directed or required to be exercised or done by the Association in general meeting. Without prejudice to the generality of the foregoing, the Council shall have power:

- (i) To purchase or otherwise acquire any books, newspapers and documents;
- (ii) To publish advertisements or notices in the media on matters of concern or importance to the Association;
- (iii) To open, maintain and operate bank accounts in the name of the Association;
- (iv) To organise at its discretion gatherings and functions including without limitation lectures, seminars, social and business events, and to levy a reasonable and proportionate charge on members of the Association to defray the costs thereof;

(v) To petition the Legislature, the Governor-in-Council or, other bodies politic or corporate in this Territory, or the Secretary of State for the Commonwealth, or the United Kingdom Parliament, or other bodies, in the name of the Association.

(vi) To enter into such contracts and do all such acts and things as they may think expedient for the purposes of the Association.

(vii) To sign and execute all instruments, deeds and assurances.

(viii) To nominate Members to act as delegates or otherwise represent the Association at any meeting or to serve on any council, organisation or body to which the Association is entitled to be represented.

10. ANNUAL MEETINGS

(a) There shall be an Annual Meeting of the Members ("Annual Meeting") to be held at such date and time as may be fixed by the Council but an Annual Meeting shall be held at least once in each calendar year and not more than 15 months shall elapse between the date of the one Annual Meeting of the Association and that of the next.

(b) The Secretary shall send written notice to all Members not less than fourteen days before the date fixed by the Council for the Annual Meeting.

- (c) The business of an Annual Meeting shall be the election of Officers of the Association, receipt of the accounts submitted by the Auditor for approval, the appointment of the Auditor, the reception of the annual report of the Council, and the disposal of business introduced by the Council including any variation in the annual subscription fee and of any other matter which may, consistent with this Constitution, be introduced at such meeting.
- (d) Notice in writing signed by the Proposer and a Secunder must be given to the Secretary at least seven clear days before the day of holding any Annual Meeting of any motion to be moved at such meeting.
- (e) The following procedure shall apply in the election of every Officer:
 - i. The meeting shall appoint an elections officer who shall take the chair for the purpose of conducting the elections.
 - ii. Nominations shall be made in writing by 2 Members and agreed in writing by the nominee.
 - iii. Further nominations may be made at election time by voice from the floor by any 2 Members and agreed by the nominee.
 - iv. In the event of a tie, there shall be a second vote.

- v. In the event of a second tie, the elections officer shall have a casting vote.

11. SPECIAL MEETINGS

- (a) A Special Meeting of the Members may at any time be called by the Council. Notice of every such meeting shall be given to each Member seven (7) days before the holding of such meeting, unless the meeting shall be to consider any amendment to this Constitution which shall only be considered at a Special meeting in which case the period of notice shall be twenty one (21) days. A Special Meeting of which seven (7) days notice is required may be called on short notice with the consent of not less than sixty percent (60%) of the Members. Any notice seeking to convene a meeting on short notice must specify that consent for short notice is being sought.
- (b) Three or more Members may at any time by writing under their hands require the Council to call a Special Meeting for any object connected with the Association.
- (c) Every requisition to the Council for calling a Special Meeting shall be sent to the Secretary, and shall express the object for which such meeting is to be called; the Council shall call a meeting in pursuance thereof to be held not later than 21 days from the receipt of such requisition. The notice convening such meeting shall show that it is called by requisition and shall name the requisitionists. If the Council shall fail to call a meeting as required by this sub-clause,

the requisitionists may themselves call a Special Meeting.

- (d) No business shall be transacted at a Special Meeting other than business of which notice has been given.

12. PROVISIONS COMMON TO ALL MEETINGS OF THE ASSOCIATION

- (a) All meetings shall be held at such place as the Council may determine.
- (b) One-third of the Members shall form a quorum at meetings. In case, within half an hour after the time appointed for a meeting a quorum is not present in person or by proxy, the meeting, if called on requisition fails and shall not be held; but if not so called, the meeting shall be adjourned to such date and time as may be agreed by a majority of Members present or in default of such agreement, as may be fixed by the Council and notice given thereof to all Members in accordance with this Constitution. If at such adjourned meeting within half an hour after the time so fixed a quorum is not present in person or by proxy then the Members present shall be deemed to constitute a quorum and may proceed to transact the business of the meeting.
- (c) The Chair at all meetings shall be taken by whichever of the members of the Council shall be in attendance in the following order, President, First Vice President, Second Vice President, Secretary and Treasurer. If no Members of the Council are present, the Members in attendance at the meeting shall elect a Chairman.

- (d) Every meeting may by resolution adjourn to a future date. In case the meeting shall be adjourned the business to be transacted at the adjourned meeting shall be specified previous to the adjournment taking place and shall be entered on the minutes, and no business shall be transacted at such adjourned meeting which shall not have been so specified and entered. Notice of any adjourned meeting shall be given to all Members and shall be the same as the period of notice of the original meeting.

- (e) Except where otherwise provided by this Constitution, all questions shall be decided by a majority of the Members present in person or by proxy and voting, and in all cases, the Chairman and in the case of contested elections officer shall, in the event of an equality of votes, have a second or casting vote. All voting shall be by a show of hands unless any member shall request a ballot and any three (3) Members present may request that the vote be by secret ballot.

- (f) Members may vote by a proxy who must be another Member. The appointment of a proxy must be in writing, signed by the Member appointing the proxy and must be delivered to the Chairman at the commencement of any meeting at which such proxy is to be used. The Chairman may reject any proxy which in his opinion does not clearly evidence the wishes of the appointer.

- (g) In all cases of dispute, doubt or difficulty respecting or arising out of a matter or procedure or order, the

decision of the Chairman shall be final and conclusive.

- (h) Minutes of the proceedings of every meeting shall be kept, and signed by the Chairman at the next succeeding meeting.

13. SUBSCRIPTIONS AND OTHER DUES

- (a) There shall be an annual subscription fee payable by each Member. The annual fee shall be in respect of each calendar year and shall be payable within thirty (30) days of being billed. The amount of such fee presently fixed at US\$200.00 shall be fixed from time to time by the Members at the Annual Meeting on the recommendation of the Council but may only be increased in any calendar year in respect of the next following calendar year. The subscription fee shall be payable upon admission to membership but shall be discounted by one half if such admission shall be after the 30th June in any year.
- (b) Any payments requested by the Council from a Member as part of the Member's contribution towards the assessed cost of a function approved and hosted by the Council or hosted by the Association shall be treated as moneys due to the Association for the purpose of sub-clause 6(b) hereof.

14. ACCOUNTS AND AUDIT

- (a) The Council shall cause proper accounts to be kept of the income and expenditure of the Association, and of the property, assets and liabilities of the Association. All moneys of the Association shall be paid to the

Treasurer, who is authorised to give receipts for the same, and who shall hold and disburse the same as may be directed by the Council. The Treasurer shall keep and be responsible for the accounts of the Association.

- (b) The Association at each Annual Meeting shall appoint an Auditor (who may or may not be a member of the Association), to hold office until the next Annual Meeting.
- (c) Once at least every year the accounts of the Association, made up to the 31st day of March immediately preceding, shall be examined, and the correctness thereof ascertained and certified by the Auditor. The accounts so certified shall be circulated to the members together with the notice convening the Annual Meeting.
- (d) The accounts so certified shall be submitted to the Annual Meeting for approval; and after approval shall be signed by the President in testimony of such approval.

15. AMENDMENT

The Association may alter and amend this Constitution by a two-thirds majority of its members present in person or by proxy and voting at a Special Meeting the notice for which shall set out verbatim the proposed amendment. Any proposed variation of such amendment or any consequential amendments arising therefrom may be considered and voted upon at the meeting upon a motion from the floor which is duly proposed and seconded

16. ADOPTION OF THE CONSTITUTION

This Constitution shall come into force as of the day and year set forth below. Upon each amendment hereof an amended and restated version hereof dated in the heading with the date of the amendment shall be published and delivered to all Members, and an endorsement shall be added at the foot hereof showing the date of every such amendment. The most recent amended and restated version of this Constitution shall supercede all others and shall be binding upon all Members.

Dated the 8th day of May 1976.

Names of Founder Members:

- L.W. Barker
- McW. Todman
- J.S. Archibald
- J. Smith-Hughes
- E.A.C. Hewlett
- N.C. Westwood
- M. Riegels
- L. Stevens

Amended 25th June, 1994

Amended 20th January, 1996

Amended 7th June, 1997

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