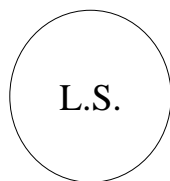


Legal Notice No. 7 of 2025



ST HELENA



COURTS (RIGHTS OF PRACTISING AND REPRESENTATION OF PERSONS IN PROCEEDINGS) RULES, 2025

In exercise of the powers conferred by Section 89(3)(d) of the Constitution the Chief Justice makes the following rules.

Citation and commencement

1. These rules may be cited as the Courts (Rights of Practising and Representation of Persons in Proceedings) Rules, 2025 and come into force on 1 July 2025.

Application

2. These rules regulate the right of practising before the Supreme Court and Magistrates' Court of St Helena and the representation of persons concerned in any proceedings in those courts.

Interpretation

3. In these rules—
 - “**advocacy**” means the exercise of a right of audience before a court, tribunal or other person;
 - “**legal services**” means—
 - (a) giving legal advice to any person;
 - (b) appearing on behalf of any person in any court, tribunal or inquiry having jurisdiction in St Helena;
 - (c) directly or indirectly drawing or preparing any instrument relating to any property or any legal proceedings;
 - “**practising**” includes advocacy or providing legal services on behalf of a person who is a party to proceedings before the Supreme Court or a court subordinate to it and “**practise**” is to be construed accordingly;
 - “**representation**” includes advocacy or the provision of legal services to a person concerned in any proceedings before the Supreme Court or a court subordinate to it and “**represent**” is to be construed accordingly.

HB 29 *No. 7 Courts (Rights of Practising and Representation of Persons in Proceedings) Rules*

Enrolment, Basic Principles and Code of Practice

4. (1) All those who practise before the courts to which these rules apply, or represent persons concerned in proceedings before those courts, must be enrolled or licensed in accordance with the Courts (Rights of Audience and Enrolment) Rules, 1992 unless exempt.
- (2) All those who practise before the courts to which these rules apply, or represent persons concerned in proceedings before those courts, must comply with the Basic Principles and Code of Practice as set out in the Schedule to these rules.
- (3) Upon application by a person to whom these rules apply the Chief Justice may, in his discretion, vary the terms of the Code of Conduct as they apply to the applicant whereupon the applicant must comply with the varied Code of Conduct.
- (4) The Chief Justice may, from time to time, issue guidance as to the circumstances in which the grant of an exemption under paragraph (3) may be appropriate and how such an exemption may be applied for.

Made this 7th day of April 2025.

Judge Rupert Jones
Chief Justice

SCHEDULE
(Rule 4)

Basic Principles

A person to whom these rules apply must:

- (1) Act in a way that upholds the constitutional principle of the rule of law, and the proper administration of justice.
- (2) Act in a way that upholds public trust and confidence in the legal profession and in legal services provided by the legal profession.
- (3) Act with independence.
- (4) Act with honesty.
- (5) Act with integrity.
- (6) Act in a way that encourages equality, diversity and inclusion.
- (7) Act in the best interests of each client.
- (8) Comply with the Code of Conduct in this Schedule.

Code of Conduct

1. Maintaining trust and acting fairly

1.1. You must maintain trust in yourself and your profession and act fairly at all times. This includes, but is not limited to, the following:

- (a) You must not unfairly discriminate by allowing your personal views to affect your professional relationships and the way in which you provide your services.
- (b) You must not abuse your position by taking unfair advantage of clients or others.
- (c) You must perform all undertakings given by you, and do so within an agreed timescale or if no timescale has been agreed then within a reasonable amount of time.
- (d) You must not mislead or attempt to mislead your clients, the court or others, either by your own acts or omissions or allowing or being complicit in the acts or omissions of others (including your client).
- (e) You must treat colleagues fairly and with respect. You must not bully or harass them or discriminate unfairly against them. If you are a manager, you must challenge behaviour that does not meet this standard.

HB 31 *No. 7 Courts (Rights of Practising and Representation of Persons in Proceedings) Rules*

2. Conduct to others and before the courts

2.1. In dispute resolution and proceedings before courts, tribunals and inquiries:

- (a) You must not misuse or tamper with evidence or attempt to do so.
- (b) You must not seek to influence the substance of evidence, including generating false evidence or persuading witnesses to change their evidence.
- (c) You must not provide or offer to provide any benefit to witnesses dependent upon the nature of their evidence or the outcome of the case.
- (d) You must only make assertions or put forward statements, representations or submissions to the court or others which are properly arguable.
- (e) You must not place yourself in contempt of court, and you must comply with court orders which place obligations on you.
- (f) You must not waste the court's time nor act frivolously nor vexatiously.
- (g) You must draw the court's attention to relevant cases and statutory provisions, or procedural irregularities of which you are aware, and which are likely to have a material effect on the outcome of the proceedings.

3. Service and competence

3.1. You must provide a good service to your clients and act competently. This includes, but is not limited to, the following:

- (a) You must only act for clients on instructions from the client, or from someone properly authorised to provide instructions on their behalf. If you have reason to suspect that the instructions do not represent your client's wishes, you must not act unless you have satisfied yourself that they do. However, in circumstances where you have legal authority to act notwithstanding that it is not possible to obtain or ascertain the instructions of your client, then you are subject to the overriding obligation to protect your client's best interests.
- (b) You must ensure that the service you provide to clients is competent and delivered in a timely manner.
- (c) You must maintain your competence to carry out your role and keep your professional knowledge and skills up to date.
- (d) You must consider and take account of your client's attributes, needs and circumstances.

- (e) Where you supervise or manage others practising or providing representation—
 - (i) you must remain accountable for the work carried out through them, and
 - (ii) you must effectively supervise work being done for clients.

- (f) You must ensure that the individuals you manage are competent to carry out their role, and keep their professional knowledge and skills, as well as understanding of their legal, ethical and regulatory obligations, up to date.

4. Client money and assets

- 4.1.** You must properly account to clients for any financial benefit you receive as a result of their instructions.

- 4.2.** You must safeguard money and assets entrusted to you by clients and others.

- 4.3.** All monies belonging to your client must be held in a separate client account and retained in a bank with a presence on St Helena or held in an overseas account specifically created for the purpose of holding client money.

- 4.4.** You must pay in full to your client any interest earned on their money.

5. Business requirements

Referrals and introductions

- 5.1.** You must not accept a referral to you of a client in circumstances where you share your fees with that person or any other person or you pay a fee for the referral.

- 5.2.** You must not refer your client to another person in circumstances where you receive any referral fee or share fees.

Other business requirements

- 5.3.** If you are a lawyer practising or providing representation for the public or a section of the public:
 - (a) You must maintain indemnity insurance and—
 - (i) this insurance must provide adequate and appropriate cover in respect of the services that you provide, or have provided, to a minimum value of £2 million per claim; and the insurance must be valid for practising and providing representation before the courts in St Helena, and

HB 33 *No. 7 Courts (Rights of Practising and Representation of Persons in Proceedings) Rules*

- (ii) you must submit proof of the insurance and its validity in St Helena to the Registrar of the Supreme Court on the 1st day of December each year of enrolment and when applying for enrolment.
- (b) If you provide litigation services you must ensure that your client can contact you via a St Helena telephone number or by internet and provide you with instructions during St Helena business hours.
- (c) If you provide litigation services you shall maintain an address on island for correspondence and service.
- (d) You must ensure that you, and any firm you are responsible for, are in compliance with all local legislation including the Immigration Ordinance, 2011, the Companies Ordinance, 2004 and the Income Tax Ordinance, 2012.

6. Conflict, confidentiality and disclosure

Conflict of interests

- 6.1.** You must not act if there is a conflict with your own interest or that of another client or a significant risk of such a conflict.
- 6.2.** When acting for more than one client you do not act in relation to a matter or particular aspect of it if you have a conflict of interest or a significant risk of such a conflict in relation to that matter or aspect of it, unless—
 - (a) the clients have a substantially common interest in relation to the matter or the aspect of it, as appropriate, or
 - (b) the clients are competing for the same objective, and the conditions below are met, namely that—
 - (i) all the clients have given informed consent, given or evidenced in writing, to you acting,
 - (ii) where appropriate, you put in place effective safeguards to protect your clients' confidential information, and
 - (iii) you are satisfied it is reasonable for you to act for all the clients.

Confidentiality and disclosure

- 6.3.** You must keep the affairs of current and former clients confidential unless disclosure is required or permitted by law or the client consents.

- 6.4.** Where you are acting for a client on a matter, you must make the client aware of all information material to the matter of which you have knowledge, except when—
- (a) the disclosure of the information is prohibited by legal restrictions imposed in the interests of national security or the prevention of crime,
 - (b) your client gives informed consent, given or evidenced in writing, to the information not being disclosed to them,
 - (c) you have reason to believe that serious physical or mental injury will be caused to your client or another if the information is disclosed, or
 - (d) the information is contained in a privileged document that you have knowledge of only because it has been mistakenly disclosed.
- 6.5.** You must not act for a client in a matter where that client has an interest adverse to the interest of another current or former client of you or your business or employer, for whom you or your business or employer holds confidential information which is material to that matter, unless—
- (a) effective measures have been taken which result in there being no real risk of disclosure of the confidential information, or
 - (b) the current or former client whose information you or your business or employer holds has given informed consent, given or evidenced in writing, to you acting, including to any measures taken to protect their information.

7. Cooperation and accountability

- 7.1.** You must keep up to date with and follow the law applying to St Helena and regulations governing the way you work.
- 7.2.** You must be able to justify your decisions and actions in order to demonstrate compliance with your obligations under the Basic Principles and Code of Conduct.
- 7.3.** You must co-operate with those who have a role overseeing and supervising the delivery of, or investigating concerns in relation to, practising and the provision of representation.
- 7.4.** You must respond promptly to any enquiries made of you by the Chief Justice or Registrar of the Supreme Court and—
- (a) provide full and accurate explanations, information and documents in response to any request or requirement, and

- (b) ensure that relevant information which is held by you, or by third parties carrying out functions on your behalf which are critical to the delivery of your legal services, is available for inspection by any person acting on the authority of the Chief Justice.
- 7.5.** You must not attempt to prevent anyone from providing information to the Chief Justice.
- 7.6.** You must notify the Chief Justice promptly if—
- (a) you are subject, in any jurisdiction, to any criminal charge, conviction or caution, in relation to an offence which would be subject to the Rehabilitation of Offenders Act 1974 if committed in England and Wales,
 - (b) you are subject, in any jurisdiction, to any civil proceedings valued in excess of £5,000 or equivalent, or
 - (c) if you become aware—
 - (i) of any material changes to information previously provided to the Chief Justice, by you or on your behalf, and
 - (ii) that information provided to the Chief Justice, by you or on your behalf, about you or your practice is or may be false, misleading, incomplete or inaccurate.
- 7.7.** You must report promptly to the Chief Justice any facts or matters that you reasonably believe are capable of amounting to a breach of the Basic Principles or this Code of Conduct by any person to whom they apply (including you).
- 7.8.** You must inform the Chief Justice promptly of any facts or matters that you reasonably believe should be brought to his or her attention in order that he or she or any other appointed investigator may investigate whether a breach of the Basic Principles or this Code of Conduct has occurred.
- 7.9.** You must be honest and open with clients if things go wrong, and if a client suffers loss or harm as a result you must put matters right (if possible) and explain fully and promptly what has happened and the likely impact.

Client identification

- 7.10.** You must identify who you are acting for in relation to any matter.

Complaints handling

- 7.11.** You must ensure that, as appropriate in the circumstances, you either establish and maintain, or participate in, a procedure for handling complaints in relation to the legal services you provide.

7.12. You must ensure that clients are informed in writing at the time of engagement about—

- (a) their right to complain to you about your services and your charges,
- (b) how a complaint can be made and to whom, and
- (c) how you ensure that complaints are dealt with promptly, fairly, and free of charge.

Client information and publicity

7.13. If you provide litigation services before the courts:

- (a) You must give clients information in a way they can understand. You must ensure they are in a position to make informed decisions about the services they need, how their matter will be handled and the options available to them.
- (b) You must ensure that clients receive the best possible information about how their matter will be priced and, both at the time of engagement and when appropriate as their matter progresses, about the likely overall cost of the matter and any costs incurred.
- (c) You must ensure that any publicity in relation to your practice is accurate and not misleading, including that relating to your charges and the circumstances in which interest is payable by or to clients.
- (d) You must not make unsolicited approaches to members of the public, with the exception of current or former clients, in order to advertise legal services provided by you, or your business or employer.
- (e) You must not permit any person to make unsolicited approaches to members of the public, whether individuals or a group of persons, on your behalf and if you become aware of any such approaches you must report these immediately to the Chief Justice.
- (f) You must ensure that clients understand whether and how the services you provide are regulated.
- (g) You must ensure that clients understand the regulatory protections available to them and that they can complain about you to the Chief Justice.

8. Practising Certificates and Continuing Professional Development

Practising Certificate

- 8.1.** If you practise primarily in another jurisdiction then you must maintain at all times a practising certificate (or equivalent) entitling you to practise in that jurisdiction.
- 8.2.** If there are any restrictions attached to your practising certificate (or equivalent) you must notify the Chief Justice.

Continuing Professional Development

- 8.3.** If you practise primarily in another jurisdiction then you must comply with any requirements imposed upon you in that jurisdiction as regards continuing professional development.

EXPLANATORY NOTE

(This note is not part of the Rules)

These rules regulate the right of practising before the Supreme Court and Magistrates' Court of St Helena and the representation of persons concerned in any proceedings in those courts. They provide that all those who practice before the courts or represent persons in proceedings before the courts must be enrolled or licensed, and must comply with the Basic Principles and Code of Practice as set out in the Schedule.