

IN THE EASTERN CARIBBEAN SUPREME COURT:

**IN THE HIGH COURT OF JUSTICE
CIVIL DIVISION**

SAINT LUCIA

CLAIM NO. SLUHCv2025/ 0100

IN THE MATTER OF Sections 23 & 24 of the Legal
Profession Act Cap. 2.04 of the Laws of Saint Lucia

-and-

IN THE MATTER OF an Application by an Attorney-at-Law
for the Grant of a Practising Certificate

SHONARI NAHEEM LEO CLARKE

Applicant

On Paper:

Before the Honourable Mr. Justice Alvin S. Pariagsingh

Appearances: Mr. Jayde Jean for the Applicant

2025: April, 16

RULING

[1] **PARIAGSINGH, J:** The Applicant seeks an order from this Court pursuant to section 24(1) of the Legal Profession Act, Cap. 2.04 (the LPA) ordering the Registrar of the High Court to issue a practising certificate to him. The ground of the application is that the Applicant requires this order as he has ceased to hold a valid practising certificate for 12 months or more.

THE APPLICATION:

[2] The facts in summary are simple. The Applicant is an attorney-at-law duly admitted to practise law in Saint Lucia. The last time he held a valid practising certificate was for the year 2012. Since then, the Applicant has been employed in two positions which he contends did not require him to hold a valid practising certificate.

[3] The application is supported by the affidavit of the Applicant filed on 11th March 2025. Upon the application being considered on paper, a query notice was issued inviting the Applicant to address the following:

- 1) When was the last law year the Applicant held a practising certificate?
- 2) Was the Applicant exempted from holding a practising certificate by virtue of any of the positions he held?
- 3) Is the Applicant asking the Court to waive any outstanding fees for law years during which he ought to have held a practising certificate but did not? And if so, why?

[4] In compliance with the directions of the Court given on 24th March 2025, the Applicant filed a supplemental affidavit on 4th April 2025. The application was considered on paper today and these are the reasons for my decision.

DISPOSITION:

[5] The Court, having considered the application and the evidence as well as the law, is of the view that the Applicant was required to hold valid practising certificates for the law years 2013 to 2024. Accordingly, the Court orders that the Registrar issue a current practising certificate to the Applicant on the condition that the current annual subscription fee, as well as the outstanding annual subscription fees, are paid.

REASONS:

[6] Section 23 of the LPA requires all attorneys who desire to practise law to apply to the Registrar for a practising certificate. The practice of law is defined in the LPA as:

“practice law” means practice as a barrister or solicitor or an attorney-at-law, or the undertaking or performing of the functions of a barrister or solicitor or attorney-at-law as provided or recognised by any law before or after the coming into force of this Act”

[7] The practice of law is not restricted to practising before the Court but is wide and covers any and all types of practice of law, including instances where attorneys act in an

advisory capacity. In my view, as long as the function being performed is that of a barrister, solicitor or attorney-at-law, the person is practising law for the purposes of the LPA and requires a practising certificate.

[8] Section 24 of the LPA gives the Court a discretion to order the Registrar to issue or refuse an application for a practising certificate, or to issue a practising certificate on such terms and conditions as it may think fit.

[9] The instant application is premised on section 24(2)(a) of the LPA, that is, where the applicant has ceased to hold a valid practising certificate for 12 months. This Applicant, in his application, has not held a valid practising certificate for the last 13 years.

[10] The LPA, by section 27, creates exemptions to the requirement to hold a practising certificate and to be able to practise law in Saint Lucia. The class of persons who benefit from this exemption are law officers and members of Cabinet. Law officers are defined in section 26 as:

“an attorney-at-law who holds office in the Public Service and is appointed by the Judicial and Legal Services Commission, and which office is declared by order of the Attorney General to be a law office.”

[11] From the above, there are two categories of persons who qualify as law officers. The first is an attorney who holds office in the Public Service and who is appointed by the Judicial and Legal Services Commission (JLSC). The second is an attorney who holds an office declared by order of the Attorney General to be a law office.

[12] The evidence before me is that the Applicant last held a practising certificate in 2012. From 2012 to 2017 he held the role in Government service of Senior Foreign Service Officer (Legal) within the Ministry of External Affairs. He deposes that this position subjected him to section 21(3) of the LPA, which imposes a restriction on practice for any attorney who is employed in Government service from acting for any client except the Government.

[13] In my respectful view, the Applicant has conflated two separate things. There is a difference between being a legal officer, that is, an attorney appointed by the JLSC working in the Public Service and an attorney employed by the Government but not appointed by the JLSC. The first is a legal officer who is exempt from holding a practising certificate under section 27 of the LPA; the latter is not. In my view, a reading of the Act imposes an obligation on all attorneys in the employ of the Government who are not legal officers that is, who do not hold office in the Public Service and are not appointed by the JLSC, or who do not occupy an office declared by the Attorney General by order to be a law office, or who are not members of Cabinet, to apply for and hold a valid practising certificate.

[14] The exemption, in my respectful view, does not apply to the Applicant. There was no evidence adduced by the Applicant that the position he held during the period 2013 to 2017 was an office designated by the Attorney General as being a 'law office'. Accordingly, it is my view that the Applicant was under an obligation to apply for and obtain a practising certificate and pay annual subscription fees during the period 2013 to 2017, when he served as Senior Foreign Service Officer (Legal) within the Ministry of External Affairs.

[15] The evidence is further that the Applicant has been employed as a Legal Officer from November 2017 to present with the Organisation of Eastern Caribbean States (OECS). Again, in this role, he is subject to a restraint of trade clause. He deposes that he is considered an "international civil servant" but does not venture the legal basis for this assertion.

[16] The OECS was established under the Treaty of Basseterre 1981 and incorporated into domestic law by the Organisation of Eastern Caribbean States Act, Cap. 19.12. The OECS Treaty and Protocol have the force of law in Saint Lucia. The Eastern Caribbean Supreme Court is a recognised institution of the OECS. There are several areas of legislative competence vested in the organisation, but none of these confer any exemption on legal practitioners. As such, it is my view that the requirement to hold a practising certificate, even if employed with the OECS, remains a matter of domestic law

within each member state. Additionally, I have seen no provision within the OECS legislation or protocols or in the LPA which creates any such exemption. Consequently, I am of the view that the Applicant required a valid practising certificate during the period 2017 to present.

Waiver of outstanding fees:

[17] In the query issued by the Court, I invited the Applicant to indicate whether he was asking the Court to waive any outstanding fees found to be due and owing, and if so, to indicate the reason. The Applicant has indicated that if the Court finds that he needed to have a practising certificate for the law years 2013 to 2024, then these outstanding fees be waived.

[18] The reason advanced is that “the total quantum of fees, if deemed outstanding, from 2013 to 2024 [is] too onerous.” The total outstanding fees are \$300 x 12 years = \$3,600.00. The Applicant’s invitation for the Court to exercise its discretion in his favour must be supported by cogent and compelling evidence. In the instant application, I am unable to find any such evidence to exercise the discretion in the Applicant’s favour.

[19] Additionally, I note that this is not an instance of an attorney not practising or working during the relevant period, in which instance I might have been more inclined to waive the outstanding fees. There are no such dynamics at play in this application. The evidence is to the contrary: during the last 13 years, the Applicant has been employed and engaged in the provision of legal services without a practising certificate. I therefore refuse to waive the outstanding fees.

Conditions:

[20] Section 24 of the LPA allows the Court to order the Registrar to issue a practising certificate on conditions. There is no question about the Applicant’s qualifications or suitability to be issued a practising certificate. The only issue was whether he was liable to pay the fees for the years he did not hold a practising certificate. In my view, a fair

condition to impose on the issue of a valid practising certificate is the liquidation of all outstanding contributions, as well as payment for the current law year.

ORDERS:

[21] For these reasons, I make the following orders:

- 1) Pursuant to section 24(1) of the Legal Profession Act, Cap. 2:04, the Registrar of the High Court is ordered to issue a practising certificate to the Applicant subject to the payment of the sum of \$3,900.00, being the outstanding annual subscription fees for the law years 2013 to 2024 in the total sum of \$3,600.00, and the current year's annual subscription fee in the sum of \$300.00.
- 2) The Applicant shall file this order.



**Alvin S. Pariagsingh
Judge**

By the Court,

Registrar