REPUBLIC OF VANUATU

THE LEGAL PRACTITIONERS (DISCIPLINARY PROCEDURE RULES) ORDER NO. 52 OF 1985

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REPUBLIC OF VANUATU

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CONSTRUCTION BY THE COURTER

In exercise of the powers contained in section 15(2) of The Legal Practitioners Regulation No. 26 of 1980, the Law Council hereby makes the following Rules:- par 15 halls on our vriops to the plant of vaspended

INTERPRETATION

การเก็บของ และ เลยการเลวกัจอุทธ อุสการเลย<mark>ชนองราโดการศิลษ์ได้เกร</mark>ลาใหม่ เกราะเลยรู้ตาวิทูณ์

In this Order unless the context otherwise requires "Council" means the Law Council established in accordance with section 2 of the Regulation;

in accordance with the provisions of Rule 2.

"Committee" means the Disciplinary Committee established in accordance with section 7 of the Regulation;

"employee" means a person employed by a legal practicioner in his professional practice in any capacity or a person serving a qualifying period of apprenticeship or training with a legal practitioner in accordance with any order made under section 15 of Lion the Regulation; Committee of the state of

> "legal practitioner" means, a person who is registered as a legal practitioner in accordance with the provisions of the Regulation;

> "Regulation" means the Legal Practitioners Regulation No. 26 of 1980;

> "Secretary" means, the Secretary to the Council appointed in accordance with section 4 of the Regulation.

- DISCIPLINARY COMMITTEE PROCEDURE RULES

COMPLAINTS AGAINST LEGAL PRACTITIONERS OR EMPLOYEES

An application or complaint to the Secretary making any allegation of professional misconduct or unprofessional conduct on the part of a legal practitioner or an employee shall be in writing under the hand of the applicant in the form numbered 1 in the Schedule or to the like effect, and shall be sent to the Secretary together with an affidavit in support thereof by the applicant in the form numbered 2 in the Schedule or as near thereto as the circumstances will permit stating the matters of fact on which he relies in support of his application or complaint:

Provided that where the complaint is made by or on behalf of the Council the complaint may be signed and the affidavit sworn on behalf of the Council by the Chairman of the Council or by such other person as may from time to time be authorised by the Council.

Every such application or complaint shall contain an address for service.

(3) Upon receipt of an application or complaint the Secretary shall in the first instance refer such application or complaint to the Council.

CONSIDERATION BY THE COUNCIL

3. Professional Processing an application or complaint which, in the opinion of the Council, is not made in accordance with the provisions of Rule 2, the Council, if it seems to it desirable, may direct the Secretary to make further inquiry into the matter and the Secretary may require the applicant to resubmit the application or complaint in accordance with the provisions of Rule 2.

REFERRAL OF APPLCIATION OR COMPLAINT TO THE COMMITTEE

400 Confreceiving an application which, in the opinion of the Council, is made in accordance with the provisions of Rule 2, the Council shall refer such application or complaint to the Committee.

art begrille in, COMMITTEE TO REQUIRE FURTHER REPRESENTATIONS FROM LEGAL PRACTITIONERS, ETC.

- (1) The Committee may in the first instance cause the substance of any aid at assapplication or complaint to be conveyed to the legal practitioner a passwing or employee to whom the same refers and may take into account any representations he may wish to make in deciding whether or not to 30 (1) post proceed with a formal hearing.
- (2) All such representations shall be accompanied by an address for ingol a se service gar in we practice and there it in a length
- (3) The Committee may require the Secretary to investigate and report on an application or complaint before it considers such application or complaint further.

B.SUMMARY DISMISSAL OF APPLICATIONS OR COMPLAINTS

- (1) Where, upon the examination of an application or complaint, and of any representatiosn and report made with respect thereto, the Committee considers that such application or complaint does not reveal a prima facte case of misconduct, the Committee may summarily dismiss such application or complaint and inform all parties thereto.
- (2) Where the Committee summarily dismisses an application or comto long and plaint, the Committee shall, on the request of the person making the application or complaint, furnish him with its reasons for such and the saladay summary dismissal in writing: The white of the wife was a great the thing to profit the point of the contract of
- Provided that nothing in this connection shall affect the no amplifier exerciseable by any court, or any judge or magistrate thereof, over a legal practitioner or an employee thereof.

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COMMITTEE TO FIX DATE(S) FOR HEARING
11.7. (1) Where, upon the examination of an application or complaint, and of there we we any representations and report made with respect thereto, the if memory of Committee considers that there is a prima facie case of misconduct. the Committee shall proceed and conduct a hearing.

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- (2) The Secretary shall fix a day for the hearing of the application or complaint and shall serve notice thereof upon the parties to the proceedings, and shall serve on each party other than the applicant a copy of the application or complaint and the affidavit in support thereof, and shall likewise serve a copy of any representations made by the legal practitioner or employee concerned on each party except him.
- (3) There shall be at least 14 days between the service of such notice and the day fixed therein for the hearing.

PERIOD AND TERM OF NOTICE, LIST OF ALL DOCUMENTS, ETC.

- 8. (1) A notice under Rule 7 shall be in such one of the forms set out in the Schedule and numbered 3 and 4 as shall be appropriate, or as near thereto as the circumstances will permit and shall require the party to whom it is addressed to furnish the Secretary and to every other party at least seven days before the date fixed for the hearing, unless the Committee shall direct otherwise, a distinct including full description, sufficient for identification) of all documents, affidavits, books, papers and other written materials on which he intends to rely.
 - (2) Subject to any directions by the Committee, any party may inspect the written material included in the list furnished by any other party and require such other party to furnish him with a copy of such written material on payment therefor at the rate of forty vatu per page or part thereof.

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HEARINGS TO BE CONDUCTED IN PRIVATE

9. The Committee shall hear all applications or complaints in private.

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FAILURE TO ATTEND HEARING

10. If any party fails to appear at the hearing, the Committee, may, upon proof of service on such party of the notice of hearing, or without such proof if the Committee considers his attendance unnecessary, proceed to hear and determine the application or complaint in his absence.

WITNESSES MAY BE REQUIRED TO ATTEND AND GIVE EVIDENCE

Joseph Robert Roll.

11. The Committee, by subpoena signed by its Chairman or Secretary, may require any person to attend and give evidence before it at the hearing of any application or complaint, and to produce all books and documents in that persons custody or under his control relating to the subject matter of any such application or complaint.

WITNESSES REQUIRED BY PERSON MAKING APPLICATION OR COMPLAINTS AND BY PERSON AGAINST WHOM SUCH APPLICATION OR COMPLAINT MADE

12. Where in respect of an application or complaint any party thereto requires the attendance of a witness at the hearing of such application or complaint, such party shall notify the Committee of the name and address of such witness at least seven days before the date set for the hearing.

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PARTIES MAY APPEAR BY COUNSEL THE WAY THE WHAT THE THE THE MAY APPEAR BY COUNSEL

13. The strict At the hearing of any application or complaint, any party thereto where may be represented by a legal practitioner or an agent nominated by Francis Continues as well and the survey of the second of

IMMUNITY OF WITNESSES AND COUNSEL

Witnesses and counsel shall have the same privileges and immunities The relation to applications and complaints made in accordance with the Regulation as if they were proceedings in a court of law.

WITNESSES' EXPENSES

with the contributations and a transfer of the contribution of the 15. Every witness giving evidence of attending to give evidence at the hearing of any application or complaint shall be entitled in the discretion of the Committee to such sum for his expenses and loss · Variable Of officials the Committee may determine. At the most reserve and and bear the object the bear deposit the parties of the first that

THE COMMITTEE MAY PROCEED AND ACTOUPON EVIDENCE GIVEN BY AFFIDAVITORS

16.14 30 The Committee may, in its discretion, either as to the whole case and addition and act upon evidence given by affidavit. In a property of the contract of the state

* * * * * Provided * that * any * party * to * the * proceedings * may * require * the the and affidavit for the purposes of giving oral evidence, unless the Committee is PROVENIENT Satisfied that the affidavit is purely formal or that the content thereof may be disregarded, or that the requirement of the attendance of the deponent is made with the sole object of causing 古紫色群 舒永 一进一切深刻的影响中的 铺设 医室门的复数性原产物 The supplier of the specience Track Strate Commencer

CHAIRMAN OF THE COMMITTEE TO PRESIDE AT MEETINGS

- 17. (1) Subject to paragraph (2) the Chairman of the Committee shall to aviable to preside at all meetings of the Committee 100 of trag year to the committee of the contract year to the contract the committee of the contract year to the contract to combined to reduce the home many their an exercise by the terms
 - (2) Notwithstanding the provisions of paragraph (1) where the Chairman " is absent the members of the Committee present shall elect one of them to act as Chairman for that meeting or hearing and a

ORDERS AND DECISIONS OF THE COMMITTEE DEFINE OF THE ARCHITECT OF THE ARCHITECT

- 18. (1) Every order or decision made by the Committee in exercise of its fill be powers funder subsections (3), (4) and (5) of section 9 shall be sidered it signed by the person acting as Chairman of the Committee at the 301 70 () meeting when the order or decision was made or, wife he is not available, by some other member of the Committee present at the meeting when the order or decision was made.
- "Will (2) "Every such order or decision shall contain a record of the proceedings including the evidence given thereat Tand the statement of the findings of the Committee in relation to the case. doubt the product of the committee in respective to the concentration of the product of the contribution o

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- (3) Every document purporting to be an order or decision of the Committee and to be signed by the Chairman or any other member of the Committee shall, in the absence of proof to the contrary be deemed to be an order or decision of the Committee duly made, without proof of the making thereof, or proof of signature, or proof that the person signing the order was in fact the Chairman or a member of the Committee entitled to sign the order or decision.
- (4) An order made by the Committee in respect of its powers under section 9 of the Regulation shall in the form set out in the Schedule and numbered 5 as shall be appropriate, or as near thereto as the circumstances will permit.

NOTIFICATION OF ORDERS AND DECISIONS OF THE COMMITTEE TO PARTIES CONCERNED

19. The Committee shall cause a copy of any order or decision of the Committee to be sent to each party affected thereby or interested therein and to the Attorney General and the Chief Registrar of the Supreme Court within four days after it shall have been drawn up and signed in accordance with Rule 18.

WITHDRAWAL OF APPLICATIONS OR COMPLAINTS

- 20. (1) No application or complaint shall be withdrawn after a Disciplinary

 Committee has been appointed to investigate and hear such
 application or complaint except with the leave of the Committee.
 - (2) The Committee may exercise its powers under this Rule upon such terms as to costs or otherwise as it shall think fit.

ADJOURNMENT OF HEARING

21. The Committee may of its own motion, or upon the application of any party, adjourn any hearing upon such terms as to costs or otherwise as the Committee shall think fit.

AMENDMENTS MADE TO APPLICATIONS OR COMPLAINTS

22. If, at any stage of the proceedings, the Committee considers that any allegation ought to be amended, or added to, or replaced by some other allegation, the Committee may permit such amendment, addition or replacement, and if in its opinion such amendment, addition or replacement is not within the scope of the affidavit referred to in Rule 2 may require the same to be embodied in a further affidavit:

Provided that if such amendment, addition or replacement shall be such as, in the opinion of the Committee, to be likely to take any party by surprise or to prejudice the conduct of his case, the Committee shall grant an adjournment of the hearing upon such terms as to costs or otherwise as it shall think fit.

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RECORD OF PROCEEDINGS

- 23. (1) A shorthand or other note of proceedings may be taken by the Secretary or by a person appointed by the Committee; and any party who appeared at the proceedings shall be entitled to inspect the transcript thereof.
- The Secretary shall, if required, supply to any person entitled to be heard upon an appeal against an order of the Committee and to the Council, but (except on the direction of the Council) to no other person, a copy of the transcript of such notes on payment therefor of such charges, not exceeding forty vatu per page, as the Chairman of the Committee may direct.

SERVICE OF NOTICES ETC.

- 24. (1) Service of any notice or document may be effected under these Rules

 (1) By registered letter and such service shall be deemed to be

 (1) Company to the time when the letter would be delivered in the continuous of post. The continuous of post.
- Service shall be effected at the address for service (if any) furnished by the person to be served. If no address for service has been furnished, service shall be effected -
- (a) in the case of a legal practitioner at his principal office as the continuous them is notified to the Council, or at his last known postal address or place of abode;
 - the case of an employee at the principal office of his employer, or at his last known postal address or place of abode;
 - abode of the person to be served: The server to the server of the server

Provided that every subpoena shall be personally served.

25. Despite The Committee may make orders for substituting service of any document; and shall have full power to re-open and re-hear any matter in which it is proved or alleged that service was not offected.

NON-COMPLIANCE WITH RULES

Non-compliance with any of these Rules shall not render any proceedings void unless the Committee shall so direct, but the proceedings may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with, in such manner and on such terms as the Committee thinks fit.

DISCRITION OF THE COMMITTEE TO ADOPT FURTHER PROCEDURES

The Committee may extend the time for doing anything under these Rules and, subject to the provisions of this Order, where no procedure is laid down with respect to any matter, the Committee may adopt such procedure as it thinks fit.

AFFIDAVITS, ETC. TO BE FILED BY THE SECRETARY

- 28. (1) All affidavits shall be filed and kept by the Secretary.

 - The Committee may order that any books, papers, or other exhibits, produced or used at any hearing, shall be retained by the Secretary for such time as the Council or the Committee may require. Was 1983

FORM OF SUBPOENA COLORS OF THE STATE OF THE A subpoena issued in accordance with Rule 11 shall be in such one of the forms set out in the Schedule and numbered 6 and 7 as appropriate.

COSTS AND RECOVERY OF PENALTIES AND COSTS

- 30. (1) The Committee may make such orders as to costs on any matter relating to applications or complaints made thereto as it thinks fit.
- (2) Any sum ordered by the Committee to be paid by way of penalty or costs or expenses under these Rules shall be deemed to be a debt due by the person ordered to pay it to the person to whom it is ordered to be paid, and shall be recoverable accordingly in any court of competent jurisdiction.

PART 2 RESTORATION OF LEGAL PRACTITIONERS TO THE REGISTER OF LEGAL PRACTITIONERS, CANCELLATION OF ORDERS AND DECISIONS OF THE COMMITTEE

APPLICATION FOR RESTORATION

- 31. (1) An application in accordance with section 11(1) of the Regulation for restoration to the Register of Legal Practitioners shall be made to the Council in the first instance and shall be in writing in the form set out in the Schedule and numbered 8 as shall be appropriate, or as near thereto as the circumstances will permit.
 - (2) An application in accordance with section 11(2) of the Regulation shall be made to the Council in the first instance and shall be in writing in the form set out in the Schedule and numbered 9 as shall be appropriate, or as near thereto as the circumstances will permit.
- (3) The contents of any application made under this Rule shall be verified by affidavit. 117433 200-7
 - (4) The application and the affidavit in support together with two copies of each, shall be lodged with the Secretary.

REFERRAL OF APPLICATION TO THE COMMITTEE

On receiving an application pursuant to Rule 31 which, in the 32. opinion of the Council, is made in accordance with the provisions of that Rule, the Council shall refer such application together with its comments thereon to the Committee or, if there is no Committee for the time being in existence, the Council shall appoint a Committee and refer such application thereto.

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APPLICATION TO BE HEARD BY THE COMMITTEE

Any application made in accordance with Rule 31 shall be heard by the Committee in private not less than one month after the lodging And the such application with the Secretary.

SERVICE OF NOTICE, ETC.

The Secretary shall, not less than 14 days before the date fixed for the hearing of an application made under Rule 31, serve upon the Attorney General and the Chief Registrar one copy of each of has a line the application and the affidavit in support thereof.

NOTICE OF HEARING

35. An applicant who applies in accordance with Rule 31 shall, not less the form set out in the Scheule and numbered 10 as shall be appropriate, or as near thereto as the circumstances will permit to to a transbe advertised in two consecutive issues of the Gazette and of such state a mother newspaper published and circulating in Vanuatu as may be directed by the Council. directed by the Council. Note to the de-

OPPOSITION TO APPLICATION

Any person who wishes to oppose an application made under this Part shall set out in writing the grounds upon which he relies and shall within seven days of the date of the last publication of the notice referred to in Rule 35, lodge such written grounds with the Secretary and send a copy thereof by registered post to the applicant at the address for service given by him in his application.

PROCEDURE AT HEARING

- 37. (1). At the hearing of an application made under this Part, after the MARKET OF APPLICANT and the Attorney General or his representative has been the chard, any other person who has lodged grounds of objection under Rule 36 will be entitled to be heard either personally or by a legal practitioner.
- (2) Unless otherwise directed by the Committee evidence may be given on Made an eaffidavit as provided by rules of court.

PUBLICATION OF TERMS OF RESTORATION

If the Committee shall order that the name of the applicant who applies under this Part be restored to the Register of Legal Practitioners, the applicant shall cause to be published in one copy of the Gazette and in one copy of such newspaper published and circulating in Vanuatu as may be directed by the Committee, details of the terms upon which order of restoration has been made.

COSTS, EXPENSES, ETC...

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39. The Committee may make an order for the payment of costs by any party to the proceedings.

RESTRICTIONS ON SUBSEQUENT APPLICATIONS

140 p. 12 No. further application for restoration to the Register of Legal Practitioners may be made by the applicant within six months after the date of any refusal of a previous application to restore his name to the Register of Legal Practitioners.

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GENERAL PROVISIONS

This Order shall come into force on the day of its signature.

MADE at Port Vila this

day of November, 1985.

M. A. de PREVILLE, Legal Practitioner,

Member

S.C. HAKWA, Attorney General,

Member

THE HON. F.G. COOKE,

Chief Justice, Chairman

CHEDULE

Form (Rule

FORM OF APPLICATION OR COMPLAINT AGAINST A LEGAL PRACTITIONER OR AN EMPLOYEE

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To the Law Council

we produce the second second In the matter of C.D., a Legal Practitioner

and

In the matter of the Legal Practitioners Regulation No. 26 of 1980 and the Legal Practitioners (Disciplinary Procedure Rules) Order

	No. of 1985.		
I, "	the undersigned A. B., her	eby make application -	
1.		the allegations contained in the affidavit	
	(b) that such order may	be made as the circumstances may require.	
2.	my address for service is	a follows:-	
În w	vitness whereof I have her	eunto set my hand this day	of
	of		
	the second of th	Signature:	
j. (A MALL SOLD LICE STATE OF THE SOLD STATE OF THE	Address:	
		Business of Profession:	

Form 2 (Rule 2)

FORM OF AFFIDAVIT BY APPLICANT

la the matter of D.C., a Legal Practitioner ong Albertain and the property of p.C., a Legal .

and

In the matter of the Legal Practitioners Regulation No. 26 of 1980 and the Legal Practitioners (Disciplinary Procedure Rules) Order No. of 1985.

1, A.B. (Insert full name, address and description) make oath and say as follows:

1. (Here state the facts consisely in numbered paragraphs and show deponent's means of knowledge).

Sworn, etc... The state of the s and the property of the contract of the contract of the contract of Form 3 (Rule 8) and agree to the angle of the con-Disciplinary Committee Cause No. of 19 In the matter of C.D., a Legal Practitioner and In the matter of the Legal Practitioners Regulation No. 26 of 1980 and the Legal Practitioners (Disciplinary Procedure Rules) Order No. 1985. To' A. B. of The day of 19.... is the day fixed by the Disciplinary Committee for the formal investigation or hearing of your application or complaint in respect of C.D., a legal practitioner. 2. The Disciplinary Committee will sit at at O'clock in the noon. You are required to furnish to every other party to the application or complaint and to me at least seven days before the said

propose to rely.

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the Disciplinary Commappearing must be pr	appear, any party appearing the proceeding in the appear to prove service, documents and any other the application or complain	ng and being desirous of absence of the party not in accordance with the notice or correspondence
6. You are requested to a	The description and the rest constraints of	
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	Secretary of the	Disciplinary Committee
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(Note: "Documents" inclumaterial)	ides attidavits, books, p	apers and other written
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	Form 4	
	(Rule 8)	
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Disciplinary Committee Gaus	se No of	19
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	In the matter of the Leg tion No. 26 of 1980 and	the Legal Practitioners
	(Disciplinary Procedure R	ules) Order No. of 1985.

.../4.

To C.D., of Logal Practitioner.
1. Application or complaint has been made by A.B., of
2. A Disciplinary Committee has been duly appointed to conduct formal hearing thereof.
3. The first day of
4. You are required to furnish to every other party to the application or complaint and to me at least seven days before the said
day of
5. Subject to any directions of the Disciplinary Committee, any party may inspect the documents included in the list furnished by any other party and required to be supplied with copies thereof on payment of the proper charges.6. Unless and until you inform me in writing to the contrary, stating an
alternative address for service, your address will be taken to be:

being the address of your principal office as registered with the Law Council.
7. You are requested to acknowledge the receipt of this notice without delay.
Dated at this day of
Secretary of the Disciplinary Committee
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OLLOWING OFFERS	Form 3	NOW THEKEFORE TAL
	(Rule 18)	
	and the second s	
FORM OF DISCIPLINARY	ORDER	
		· · · · · · · · · · · · · · · · · · ·
Disciplinary Committee	c Cause No of 19	
i Ospikan jagolos olitasis osa ol O	In the matter of C.D., a Legal	Practitioner
	and	
	In the matter of the Legal Ption No. 26 of 1980 and the (Disciplinary Procedure Rules)	Legal Practitioners
WHEREAS:		
to the Secretar	s made by	
2. A Disciplinary C	ommittee, consisting of the followin	g persons:-
	(Chairman)	

	• • • • • • • • • • • • • • •	
	••••••••••••••••••••••••••••••••••••••	
**********	******	

3. The Disciplinary Committee having heard and investigated the complaint (there being annexed hereto, as part of this Order, a record of the proceedings including the evidence given thereat);

19....., to hear and investigate the complaint;

Burgara (Barana)

3.00

was appointed by the Law Council on the day of

4. Upon such hearing and investigation the Disciplinary Committee finds the complaint proved (or not proved)(delete where not appropriate),

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In the matter of the Legal Practitioners Regulation No. 26 of 1980 and the Legal Practitioners (Disciplinary Rules) Order No. of 1985.

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You are hereby required to attend before a Disciplinary Committee constituted
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	linary Procedure Rules) Order	. no. of 1903,
	and	
$\mathcal{X}_{i}^{(t)}$, $\mathcal{X}_{i}^{(t)}$	In the matter of an applicati	
	Roll of the Supreme Court by	(Applicant)

TO THE SECRETARY OF THE	LAW COUNCIL OF VANUATU	
The application by the	applicant says as follows:-	
1. The applicant was	on the day of	::
duly registered ar the provisions of	nd admitted as in accordance with the Legal Practitioners Regulation No. 26 of 1980.	l .
2. The name of the ap	plicant was on the day of, 19	
struck of the Re Supreme Court.	egister of legal practitioners and the Roll of the	:
3. The applicant seek	s to have his name restored to such Register and Roll.	,
	applicant's name was struck off the Register and Roll d in the following activities -	•
(liere set out	dates and particulars of employment and activities in	1
5. References as to c	haracter may be made to the following persons -	
(Here set out the	names of at least three character referecs).	
6. The applicants add	tress for service is:	
DATED at	this	ı
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an Chrone Art Talkydegens (Applicant's Name and Signature	
saan oo ah	Form 9 (Rule 31(2))	
COMMITTEE IN EXERCISE	LATION OF VARIATION OF ORDERS MADE BY THE DISCIPLINARY OF ITS POWERS UNDER SECTION 9(3)(b) OR SECTION 9(4) OF REGULATION NO. 26 OF 1980.	
	In the matter of	
	new mineral community and and	
587 - L1	In the matter of the Legal Practitioners Regula- tion No. 26 of 1980,	-
	and	

In the matter of an application for cancellation
or variation of orders by(Applicant)
TO THE SECRETARY OF THE LAW COUNCIL OF VANUATU
The application by the applicant says as follows:- " " " " " " " " " " " " " " " " " " "
1. (a) The applicant was on the day of 19
duly registerd and admitted as in accordance with the provisions of the Legal Practitioners Regulation No. 26 of 1980.
*(b) The applicant was during the period commencing on the
day of
firm of (* delete if not appropriate)
2. On the, day of
3. Since the date on which such order(s) was made, the applicant has been engaged in the following activities -
(Here set out dates and particulars of employment and activities in the period).
4. References as to character may be made to the following persons -
(Here set out the names of at least three character referees).
5. The applicant seeks to have such order(s) cancelled or revoked or varied as the Disciplinary Committee shall consider just.
6. The applicant's address for scrvice is:
DATED at this day of
The restriction of the manufaction of MILLIAM is Africa in the mean corposition of the reason of the
Applicant's Name and Signature