

## Rules of the Supreme Court of the State of Hawaii, Admission Rule 14

### Rule 14. LICENSING OF FOREIGN LAW CONSULTANTS.

A person who is admitted to practice in a foreign country as an attorney or counselor at law or the equivalent and who complies with the provisions in this rule for licensing of foreign law consultants may render legal services in the State of Hawai`i to the extent allowed by this rule.

**14.1. Eligibility.** In its discretion the court may license to practice as a foreign law consultant, without examination, an applicant who:

(a) for a period of not less than 5 of the 7 years immediately preceding the date of application:

(1) has been admitted to practice and has been in good standing as an attorney or counselor at law or the equivalent in a foreign country, and

(2) has engaged either (A) in the practice of law in such country or (B) in a profession or occupation that requires admission to practice and good standing as an attorney or counselor at law or the equivalent in such country;

(b) possesses the good moral character required for admission to practice in this court;

(c) intends to practice as a foreign law consultant in the State of Hawai`i; and

(d) is over 26 years of age.

### 14.2. Applications.

(a) Every applicant for a license as a foreign law consultant shall file with the clerk of this court, a verified typewritten application in duplicate on the form provided by the clerk of this court. At minimum, the application form shall require each applicant to set forth:

(i) the applicant's name, age, and last place of residence,

(ii) the character and term of the applicant's law study,

(iii) the name of each institution of law the applicant attended and graduated from, and with what degree,

(iv) the names of all courts or other licensing authorities to which the applicant has made applications to practice,

(v) the dates the applicant has taken examinations, and

(vi) the dates the applicant was admitted to practice as an attorney or counselor at law or equivalent or as a foreign law consultant,

(vii) whether the applicant has been the subject of any investigation or proceeding for professional misconduct or whether the applicant has ever been rejected upon an application to practice before any court or other licensing authority, and

(viii) such other information as the Board of Examiners requires to make recommendations to this court about the character and fitness of the applicant.

A filing fee in such amount as shall be prescribed by the court shall accompany each application. The cost of a character report or investigation shall be borne by the applicant.

(b) The application shall be accompanied by the following documents, together with duly authenticated English translations if they are not in English:

(1) A certificate from the authority having final jurisdiction over professional discipline in the foreign country in which the applicant was admitted to practice, which shall be signed by a responsible official or one of the members of the executive body of such authority and which shall be accompanied by the official seal, if any, of such authority and which shall certify:

(A) as to the authority's jurisdiction in such matters,

(B) as to the applicant's admission to practice in such foreign country and the date thereof and as to the applicant's good standing as an attorney or counselor at law or the equivalent therein, and

(C) as to whether any charge or complaint has ever been filed against the applicant with such authority, and, if so, the substance of each such charge or complaint and the adjudication or resolution thereof.

(2) A letter of recommendation from one of the members of the executive body of such authority or from one of the judges of the highest law court or court of general original jurisdiction of such foreign country, certifying to the applicant's professional qualifications, together with a certificate from the clerk of such authority or of such court, as the case may be, attesting to the office held by the person signing the letter and the genuineness of the person's signature.

(3) A letter of recommendation of at least two attorneys or counselors at law or the equivalent admitted in and practicing in such foreign country, setting forth the length of time, when, and under what circumstances they have known the applicant, and their appraisal of the applicant's moral character.

(4) A letter of recommendation of at least two attorneys of this court, setting forth the length of time, when, and under what circumstances they have known the applicant, and their appraisal of the applicant's moral character.

(5) Such other relevant documents or information as may be called for by the court or by the board of examiners.

(c) The statements contained in the application and supporting documents shall be investigated by the board of examiners, who shall report the results of their investigation to the court, together with their recommendations thereon. Prior to the grant of any license, the court shall be satisfied of the good moral character of the applicant.

(d) In considering whether to license an applicant as a foreign law consultant under these rules, the court may in its discretion take into account whether a Hawai'i attorney would have a reasonable and practical opportunity to establish an office for the giving of legal advice to clients in the applicant's country of admission, if there is pending with the court a request to take this factor into account from a Hawai'i attorney actively seeking to establish such an office in that country which raises a serious question as to the adequacy of the opportunity for such a Hawai'i attorney to establish such an office.

(Amended September 28, 1990, effective September 28, 1990; further amended February 7, 1992, effective February 7, 1992; further amended June 5, 1992, effective June 5, 1992; further amended December 27, 1996, effective December 27, 1996.)

14.3. Hardship Waiver. Upon a showing that strict compliance with the provisions of subsection 14.1(a) or 14.2(b) of this rule would cause the applicant unnecessary hardship, or upon a showing of exceptional professional qualifications to practice as a foreign law consultant, the Board may in its discretion waive or vary the application of such provisions and permit the applicant to make such other showing as is satisfactory to the Board.

**14.4. Scope of Practice.** A person licensed as a foreign law consultant under this rule may render legal services in the State of Hawai'i, subject, however, to the limitations that such person shall not:

(a) appear for another person as attorney in any court or before any magistrate or other judicial officer in the State of Hawai'i, or prepare pleadings or any other papers in any action or proceeding brought in any such court or before any such judicial officer, except as authorized in Rule 1(d) relating to admission pro hac vice; or

(b) prepare any deed, mortgage, assignment, discharge, lease, agreement of sale or any other instrument affecting title to real estate located in the United States of America; or

(c) prepare:

(1) any will of trust instrument effecting the disposition of any property located in the United States of America and owned by a resident thereof; or

(2) any instrument relating to the administration of a decedent's estate in the United States of America; or

(d) prepare any instrument in respect of the marital relations, rights or duties of a resident of the United States of America or the custody or care of the children of such a resident; or

(e) render professional legal advice on the law of the State of Hawai`i or the United States of America or any other state or territory of the United States of America or the District of Columbia or any foreign country other than the country of admission as an attorney or counselor at law or the equivalent (whether rendered incident to the preparation of legal instruments or otherwise) except on the basis of advice from a person admitted to the practice of law as an attorney in the State of Hawai`i or such other state or territory or the District of Columbia or as an attorney or counselor at law or the equivalent in such other foreign country who has been consulted by the foreign law consultant in the particular matter at hand and who has been identified to the client by name; or

(f) in any way represent that such person is licensed as an attorney in the State of Hawai`i, or as an attorney or foreign law consultant in another state or territory or the District of Columbia, or as an attorney or counselor at law or the equivalent in a foreign country, unless so licensed; or

(g) use any title other than "foreign law consultant;" provided that such person's authorized title and firm name in the foreign country in which such person is admitted to practice as an attorney or counselor at law or the equivalent may be used if the title, firm name, and the name of such foreign country are stated together with the title "foreign law consultant."

#### **14.5. Jurisdiction and Requirements.**

(a) Each person licensed to practice as a foreign law consultant under these rules is subject to Rules 2, 10, 11, 14, 16, and 17 of these rules, including the Hawai`i Rules of Professional Conduct, and shall be subject to the exclusive disciplinary jurisdiction of this court and the Disciplinary Board.

(b) Each person licensed to practice as a foreign law consultant under these rules shall execute and file with the Executive Director, in such form and manner as the court may prescribe:

(1) a statement that the foreign law consultant has read, and a commitment to observe Rules 2, 10, 11, and 14 of these rules, including the Hawai`i Rules of Professional Conduct, as referred to in subsection 14.5(a) of this rule;

(2) an undertaking or appropriate evidence of professional liability insurance, in such amount as the court may prescribe, to assure such foreign law consultant's proper professional conduct and responsibility;

(3) a duly acknowledged instrument in writing setting forth such foreign law consultant's address within the State of Hawai`i and designating the clerk of this court as such consultant's agent upon whom process may be served, with like effect as if served personally upon such consultant, in any-action or proceeding thereafter brought against such consultant arising out of or based upon any legal services rendered or offered to be rendered by such consultant within or to residents of

the State of Hawai`i, whenever after due diligence service cannot be made upon such consultant at such address; and

(4) a commitment to notify the Executive Director and the court of any resignation or revocation of such foreign law consultant's admission to practice in the foreign country of admission, or of any censure, suspension, or expulsion in respect of such admission.

(Added May 12, 1986, effective July 1, 1986; amended October 27, 1989, effective November 1, 1989, subject to transitional orders; further amended February 7, 1992, effective February 7, 1992; further amended December 6, 1993, effective January 1, 1994; further amended December 27, 1996, effective December 27, 1996.)