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ETIQUETTE) RULES, 2020

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IN exercise of the power conferred on the General Legal Council by sections 23 and 53 of the Legal Profession Act, 1960 (Act 32) and with the approval of the Minister responsible for Justice, these Rules are made this 1st day of October, 2020.

General Provisions

Interpretation of these Rules

1. These Rules shall be interpreted in a manner that recognises that
 - (a) a lawyer has a duty in the practice of law to discharge the responsibilities of the lawyer to a client, the Court, the public, and any other lawyer honourably and with integrity;
 - (b) a lawyer has a special responsibility by virtue of the privileges afforded the legal profession and the important role the profession plays in a free and democratic society and in the administration of justice, including a special responsibility to recognise the diversity of the Ghanaian community, to protect the dignity of individuals, and to respect human rights laws in force in the country; and
 - (c) it is the duty of a lawyer at all times to uphold the dignity and standing of the legal profession.

Lawyer in practice

2. (1) A lawyer in practice is a lawyer
 - (a) who is entitled to practise and who represents that that lawyer is ready to practise;
 - (b) who is employed in a whole-time occupation where the lawyer performs legal duties;
 - (c) whose regular occupation is that of an editor or reporter of a series of law reports entirely written and edited by lawyers for use by the legal profession;
 - (d) who, by the terms of employment of that lawyer, is obliged to offer legal advice; or
 - (e) who is engaged in the teaching of law.
- (2) A lawyer in practice shall not
 - (a) be a managing director or executive chairperson of a company;

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- (b) be an active partner in any business other than law practice;
or
- (c) carry on a profession or business which conflicts or involves a risk of conflict with the duties of the lawyer as a lawyer in practice.

(3) Where there is a doubt as to whether a profession or business conflicts or involves a risk of conflict with the duties of a person as a lawyer in practice, the Council may give a ruling on an application made to the Council in writing by the lawyer or any other person.

(4) A lawyer who is not in practice under subrule (1) shall, if employed as a lawyer, file with the Council a copy of the terms of the employment.

Name plates and professional stationery

3. (1) A lawyer shall not permit

- (a) to appear on the name plate of that lawyer, or
- (b) to be printed on the professional stationery of that lawyer the name of a person other than a lawyer who
- (c) holds a valid licence or other authorisation prescribed by law to be obtained before the carrying on of the practice of a lawyer or of a part of the practice of a lawyer; or
- (d) has duly complied with the requirements of a law that requires registration by a lawyer before carrying on the practice of a lawyer.

(2) A lawyer or a law firm shall not use the name of a lawyer who holds public office in the name of the law firm or in communications on behalf of the law firm or professional stationery of the lawyer or firm during the period in which that lawyer is not actively and regularly practising with the firm.

(3) Subrule (1) does not apply to

- (a) the appearance in the style or name of a practice of the name of a predecessor or former partner in that practice;
- (b) the use of a style or firm name in use at the date of the coming into force of these Rules; or
- (c) the use of a style or firm name approved in writing by the Council.

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- (4) The professional stationery of a lawyer shall include
- (a) the name of the law firm;
 - (b) the names of the owners or partners of the law firm;
 - (c) the address of the registered office of the law firm;
 - (d) the digital address of the law firm;
 - (e) the electronic mail address of the law firm; and
 - (f) the telephone numbers of the law firm.
- (5) A lawyer shall not
- (a) indicate on the professional stationery of that lawyer any client review and approval ratings;
 - (b) provide professional stationery to a client;
 - (c) misrepresent the status of incorporation of the law firm on the professional stationery; or
 - (d) use the name of a lawyer who has been disbarred on the professional stationery of that lawyer.

Naming of chambers, naming of law firms and pupillage

4. (1) A chambers shall be
- (a) approved by the Council, and
 - (b) registered with the Council.
- (2) The Council may, from time to time, publish the requirements for approval of a chambers by the Council in media including
- (a) the *Gazette*;
 - (b) the website of the Council; and
 - (c) the website of the Ghana Bar Association.
- (3) The Council shall not grant approval for the name of a chambers if the name is
- (a) misleading or detracts from the dignity of the legal profession; or
 - (b) similar to the name of an existing chambers or entity.
- (4) The head of a chambers who intends to change the name of that chambers shall, submit an application in writing to the Council for approval of the change of name.
- (5) The head of a chambers shall state the name of that chambers in the English language.

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(6) Despite subrule (5), the head of the chambers may with the approval in writing of the Council, state the name of that chambers in any of the local languages spoken in this country.

(7) Where a chambers has offices in more than one jurisdiction, the head of the chambers may use the same name or other professional designation for the chambers in each jurisdiction where that chambers has an office.

(8) Despite subrule (7), identification of the lawyers in an office of the chambers shall indicate the areas of practice of the lawyers in that particular jurisdiction.

(9) In respect of the contents of the name of a law firm, the head of that law firm shall ensure that the name of the law firm,

(a) includes the name or part of the name of an existing sole proprietor or existing partner of the law firm;

(b) includes the name or part of the name of two or more of the existing partners of the law firm;

(c) with the approval of Council, consists wholly or partly of the name or part of the name of a former sole proprietor or former partner of the law firm;

(d) includes the name or part of the name of an existing sole proprietor or existing partner of a law firm which

(i) is to constitute the name of the law firm, and

(ii) has to be in accordance with the name of that sole proprietor or partner that appears on the practising certificate of that sole proprietor or partner at the time of the application under subrule (4);

(e) is not specifically prohibited by any other enactment; and

(f) is not too general or only descriptive.

(10) In respect of the contents of the name of a chambers, the head of that chambers shall ensure that the name of the chambers,

(a) is not descriptive of services provided or the area of practice, but allows the words "A Law Firm" or "Advocates and Solicitors" to appear immediately after the name of the chambers;

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- (b) does not consist of acronyms or solely of initials but,
 - (i) may include the initials or part of the initials of any existing or former sole proprietor or partner of the chambers, or
 - (ii) where a logo is stated in the form of an acronym or initials only, the logo may be allowed;
- (c) does not include
 - (i) language that would imply a connection to a specific geographical location,
 - (ii) language that would imply a connection with a government agency or a public or charitable legal services organisation,
 - (iii) language that would imply a connection with a cultural, racial, ethnic or religious group or organisation,
 - (iv) language that would imply a connection with another entity or organisation that is not already enumerated,
 - (v) language that would imply or connote that the chambers is the best chambers, and
 - (vi) the words "Professional Corporation", "Limited", "Incorporated", "Limited Liability Partnership" or the corresponding abbreviation "Ltd.", "Inc" or "LLP";
- (d) does not imply a comparison between the services provided by that chambers and other chambers;
- (e) does not indicate the existence of a partnership, association or affiliation between a group of lawyers when such a relationship does not exist;
- (f) is not misleading as regards the number of lawyers practising with the chambers or their status in that chambers;
- (g) is not specifically prohibited by any other enactment; and
- (h) is not too general or only descriptive.

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(11) A lawyer shall not practise unless that lawyer is a member of a chambers which is approved and registered by the Council or a pupil of a member of that chambers.

(12) For purposes of this rule, membership of a chambers includes

- (a) a right to have the name of that lawyer exhibited at the chambers;
- (b) a right to use the chambers for the conduct of the practice of that lawyer;
- (c) a right to the services of the clerk of the chambers; and
- (d) being the sole occupier of a chambers.

(13) A lawyer who is a member of a chambers may use a part of the private residence of that lawyer for professional work.

(14) Where a lawyer uses a part of a private residence as a chambers that lawyer shall ensure that the part of the private residence that is used for professional work is clearly separated from the residential part of the residence.

(15) A lawyer shall not receive a pupil into the chambers of that lawyer unless the lawyer has been in practice for a period of not less than seven years and has notified the Council in writing of the proposed pupillage.

Representation by a lawyer

5. (1) A lawyer is a representative of a client, an officer of the legal system and a public citizen with special responsibility for the delivery of quality justice.

(2) A lawyer has a duty to a client

- (a) as an advisor, to provide the client with an informed understanding of the legal rights and obligations of the client and to explain the practical implications of the legal rights and obligations;
- (b) as an advocate, to zealously assert the position of the client under the rules of the adversarial system;
- (c) as a negotiator, to seek a result advantageous to the client but consistent with requirements of honest dealings with others;

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(d) as an evaluator, to examine the legal affairs of the client and report about the affairs to the client; and

(e) to promptly and diligently perform professional functions.

(3) A lawyer shall not represent a group of persons without the knowledge of the members of the group of persons and shall notify the members of the group of persons of the representation by the lawyer.

Competence

6. A lawyer shall provide competent representation to a client in the form of legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Courtesy

7. A lawyer shall, in the course of litigation, be courteous, civil, and act in good faith towards the Court and persons with whom the lawyer deals.

Standard of conduct in the public service

8. (1) A lawyer who holds a public office shall, in the discharge of official duties, adhere to the standard of conduct prescribed by these Rules for a lawyer engaged in the practice of law.

(2) A lawyer who holds public office shall not allow professional or personal interests to conflict with the proper performance of official duties.

Scope of representation

9. (1) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent.

(2) A lawyer may discuss the legal consequences of a proposed course of conduct with a client and may counsel or assist a client to make an effort in good faith to determine the validity, scope, meaning or application of the law.

Diligence

10. A lawyer shall act with reasonable diligence and promptness in representing a client.

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Communication by a Lawyer

Communication with client

11. (1) A lawyer shall

- (a) promptly inform a client of a decision or circumstance with respect to which the informed consent of the client is required by these Rules;
- (b) reasonably consult with a client about the means by which the objectives of the client are to be accomplished;
- (c) promptly comply with reasonable requests for information;
- (d) consult with a client about a relevant limitation on the conduct of that lawyer where the lawyer knows that the client expects assistance not permitted by these Rules; and
- (e) explain a matter to the extent reasonably necessary to permit a client to make an informed decision regarding the representation.

(2) A lawyer shall avoid offensive or provocative language and ensure that correspondence or other communication sent to a client is courteous.

Communication with other person

12. (1) A lawyer shall not in the course of professional practice send correspondence or communicate orally with another lawyer or any other person in a manner that is abusive, offensive, or inconsistent with the proper conduct of a professional communication from a lawyer.

(2) A lawyer shall answer with reasonable promptness a professional letter or communication from another lawyer that requires a response.

Communication with represented person

13. (1) A lawyer shall not

- (a) approach, communicate or deal with a represented person on a matter, or
- (b) attempt to negotiate or compromise a matter directly with a represented person

except through or with the consent of the lawyer of that represented person.

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(2) A lawyer shall not, in the course of representing a client, communicate the subject of the representation to a person that lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorised to do so by law or an order of a Court.

(3) A lawyer who is acting on behalf of a party in a matter other than in relation to a case in Court shall not communicate directly with any other party for whom, to the knowledge of the lawyer, another lawyer is currently acting, unless

(a) a notice of intention to communicate with the other party, has been given to the lawyer representing that party and the lawyer has failed, after a reasonable time, to respond to the notice;

(b) the communication is made for the sole purpose of informing the other party that the lawyer

(i) has been unable to obtain a reply from the lawyer of that party, and

(ii) requests that party to contact the lawyer and the lawyer notifies the other lawyer of the communication;

(c) the other lawyer consents; or

(d) the circumstances are so urgent as to require the lawyer to communicate with the other party;

and the communication would not be unfair to the other party.

Contact with Prospective Clients

Communication relating to the services of a lawyer

14. (1) A lawyer shall not make a false or misleading communication about another lawyer or the services of another lawyer.

(2) A communication is false or misleading if the communication

(a) contains a material misrepresentation of fact or law; or

(b) omits a fact necessary to make the statement considered as a factual whole other than materially misleading.

Solicitation of client

15. (1) A lawyer or a law firm shall not personally or through other means of communication solicit for professional employment from a

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prospective client where the motive for the solicitation is the pecuniary gain of the lawyer or the law firm unless the person contacted

(a) is a lawyer; or

(b) has a family, personal, or prior professional relationship with the lawyer or the law firm.

(2) Despite subrule (1), a lawyer or a law firm shall not personally or through other means of communication solicit for professional employment from a prospective client, where

(a) the prospective client has made it known to the lawyer or the law firm of the desire not to be solicited by that lawyer or the law firm, or

(b) the solicitation involves coercion, duress or harassment.

(3) A lawyer or a law firm shall not

(a) employ agents or runners for the purposes of instigating litigation;

(b) pay or reward directly or indirectly those who bring or influence the bringing of a case to that lawyer or the law firm; or

(c) remunerate a policeman, a court or prison official, a hospital attaché or any other person who may succeed under the guise of giving disinterested friendly advice, in influencing a criminal, a sick or an injured person, an ignorant or any other person to seek the professional services of a lawyer or a law firm.

(4) The creation of a website by a lawyer or a law firm in relation to the practice of the lawyer or the chambers does not contravene subrule (1) where the lawyer or the law firm complies with the requirements specified in subrules (5) to (7).

(5) A lawyer or the head of a law firm shall ensure that the information published on the website of the lawyer or the chambers includes

(a) the full name of the lawyer or the law firm;

(b) the business address and postal address of the lawyer or the law firm;

(c) the telephone numbers of the lawyer or the law firm;

(d) the electronic mail address of the lawyer or the law firm;

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- (e) the passport picture of the lawyer or of the partners, associates and juniors of the law firm;
- (f) the history of the law firm; and
- (g) the profile and areas of practice of the lawyer or of the law firm or of the lawyers of the law firm.

(6) A lawyer or the head of a law firm may, subject to the approval of the clients of that lawyer or law firm, list the names of former and current clients on the website of that lawyer or law firm.

(7) A lawyer or the head of a law firm shall not publish on the website of that lawyer or head of the law firm,

- (a) a description of the lawyer or the law firm that includes language that implies or connotes that the lawyer or the law firm is the best lawyer or law firm or has a high level of expertise;
- (b) a statement that is inaccurate or likely to
 - (i) mislead the public,
 - (ii) diminish public confidence in the legal profession and the administration of justice, or
 - (iii) otherwise bring the legal profession into disrepute;
- (c) a criticism of another lawyer or law firm;
- (d) a statement about the success rate of that lawyer or law firm; or
- (e) a statement that is obtrusive and that may cause annoyance to the person to whom the statement is directed.

(8) For purposes of this rule, the website of a lawyer or a law firm does not include social media.

Fees

Legal fees

16. (1) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses.

(2) A lawyer shall, for purposes of determining the reasonableness or otherwise of a fee, take into consideration the following:

- (a) the time and labour required;
- (b) the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service;

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- (c) the likelihood, if apparent to the client, that the acceptance of the particular employment shall preclude other employment by the lawyer;
- (d) the fee customarily charged in the country for the provision of similar legal services;
- (e) the amount involved and the results obtained;
- (f) the time limitations imposed by the client or by the circumstances;
- (g) the nature and length of the professional relationship with the client;
- (h) the experience, reputation, and ability of the lawyer performing the service;
- (i) whether the fee is fixed or contingent; and
- (j) whether the fee falls within the approved scale of fees.

(3) A lawyer shall communicate in writing, the scope of the representation and the basis or rate of the fee and expenses for which the client is responsible to the client, before or within a reasonable time after commencing the representation.

(4) Subrule (3) does not apply where the lawyer charges a regularly represented client on the same basis or rate.

(5) A lawyer shall communicate a change in the basis or rate of the fee or expenses to the client.

Contingent fee

17. (1) A fee may be contingent on the outcome of the matter for which the service is rendered.

(2) A lawyer may contract with a client for a reasonable contingent fee in a civil case.

(3) A contingent fee agreement shall be in writing, signed by the client and shall state

- (a) the method by which the fee is to be determined, including the percentage that will accrue to the lawyer in the event of settlement, trial or appeal;
- (b) the expenses to be deducted from the recovery; and
- (c) whether the expenses are to be deducted before or after the contingent fee is calculated.

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(4) The contingent fee agreement shall clearly specify the expenses for which the client is liable whether or not the client is the prevailing party.

(5) A lawyer shall, upon conclusion of a contingent fee matter, provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method for the determination.

Sharing of legal fees

18. A lawyer or law firm shall not share legal fees with a non-lawyer except where

- (a) an agreement between the lawyer and the firm of the lawyer, partner or associate provides for the payment of money over a reasonable period of time after the death of the lawyer to the estate of the lawyer or to other persons specified in the agreement;
- (b) the lawyer or law firm includes an employee who is not a lawyer in a compensation or retirement plan even though the plan is based in whole or in part on a profit-sharing arrangement; or
- (c) the lawyer shares legal fees awarded by the court with a non-profit organisation that employed, retained or recommended employment of the lawyer in the matter.

Confidentiality and Conflict of Interest

Confidentiality of information

19. (1) A lawyer shall not reveal information relating to the representation of a client unless

- (a) the client consents to the disclosure;
- (b) the disclosure is necessary in order to carry out the representation; or
- (c) the disclosure is permitted under these Rules or any other law.

(2) Despite subrule (1), a lawyer may reveal information relating to the representation of a client where the lawyer reasonably believes that the disclosure is necessary

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- (a) to prevent reasonably certain death or substantial bodily harm;
- (b) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interest or property of another person and in furtherance of which the client has used or is using the services of the lawyer;
- (c) to prevent, mitigate or rectify substantial injury to the financial interest or property of another person that is reasonably certain to result or has resulted from the commission of a crime or fraud by the client and in furtherance of which the client has used the services of the lawyer;
- (d) to secure legal advice about the compliance of the lawyer with these Rules;
- (e) to establish a claim or defence on behalf of the lawyer
 - (i) in a controversy between the lawyer and the client,
 - (ii) in respect of a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or
 - (iii) to respond to allegations in any proceeding concerning the lawyer's representation of the client;or
- (f) to comply with a law or an order of a Court.

(3) Subrule (1) continues to apply after the relationship of lawyer and client has ceased.

Conflict of interest

20. (1) A lawyer shall not, in respect of a dispute, represent both a plaintiff and a defendant.

(2) A lawyer shall not act in a matter when there is or is likely to be a conflicting interest unless, after disclosure adequate to make an informed decision, the client or prospective client consents.

(3) A lawyer shall not

- (a) enter into a business transaction with a client, or
- (b) knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client,

unless

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- (c) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and reduced in writing in a manner that can be reasonably understood by the client;
 - (d) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of an independent legal counsel on the transaction; and
 - (e) the client gives an informed consent, in writing signed by the client, to the essential terms of the transaction and the role of the lawyer in the transaction, including whether the lawyer is representing the client in the transaction.
- (4) Subject to these Rules, a lawyer shall not use information relating to the representation of a client to the disadvantage of the client unless the client gives informed consent.
- (5) A lawyer shall not solicit a gift from a client, including a testamentary gift, or prepare on behalf of a client an instrument giving the lawyer or a person related to the lawyer a gift unless the lawyer or other recipient of the gift is related to the client.
- (6) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that
- (a) a lawyer may advance Court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the litigation; and
 - (b) a lawyer representing an indigent client may pay Court costs and expenses of litigation on behalf of the client.
- (7) A lawyer shall not accept compensation for representing a client from a person other than the client unless
- (a) the client consents to the lawyer receiving the compensation; and
 - (b) there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship.
- (8) A lawyer shall not
- (a) enter into an agreement with a client to limit the liability of the lawyer to the client for malpractice unless the client is independently represented in making the agreement;

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(b) settle a claim or potential claim in respect of the liability of the lawyer for malpractice with an unrepresented client or former client unless

(i) the client is advised in writing of the desirability of seeking independent legal counsel in connection with the claim, and

(ii) is given a reasonable opportunity to seek the advice of an independent legal counsel in connection with the claim; or

(c) acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client.

(9) Subrule (8) does not affect the right of lawyer to a lien to secure the fee or expenses of the lawyer.

(10) A lawyer shall not have amorous relations with a client of that lawyer unless the amorous relationship existed between the lawyer and the client of the lawyer before the commencement of the client-lawyer relationship.

(11) A lawyer shall not have amorous relations with a client of the lawyer on the opposing side.

(12) Where an amorous relation commences between the lawyer and

(a) the client of the lawyer, or
(b) the client of the lawyer on the opposing side,
the lawyer shall cease to act for that client immediately.

(13) Subrules (10), (11) and (12) apply to lawyers who are associated in a firm.

(14) For purposes of this rule,
“conflict of interest” means an interest
(a) that would be likely to adversely affect the judgment of the lawyer on behalf of, or loyalty to, a client or prospective client; or
(b) that a lawyer might prefer to the interest of a client or prospective client; and

“related persons” include a spouse, child, niece, nephew, grandchild, parent, grandparent or other relative or individual with whom the lawyer or the client maintains a close, familial relationship.

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Duty to former client

21. (1) A lawyer who has formerly represented a client in a matter shall not represent another person in the same or a substantially related matter in which the interest of that person is materially adverse to the interest of the client.

(2) A lawyer shall not represent a person in the same or a substantially related matter in which a firm with which the lawyer was associated had, to the knowledge of the lawyer, previously represented a client

(a) whose interest is materially adverse to the interest of that person; and

(b) about whom the lawyer had acquired information protected by these Rules that is material to the matter.

(3) A lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not

(a) use information relating to the representation to the disadvantage of the former client except as permitted by these Rules with respect to the client, or when the information has become generally known; or

(b) reveal information relating to the representation of the client except as permitted by these Rules.

Acting for more than one party

22. (1) A lawyer or the firm of a lawyer shall not act as a lawyer for two parties in the same transaction.

(2) Without limiting subrule (1), a lawyer or the firm of a lawyer shall not act

(a) for both vendor and purchaser in connection with a contract for the sale of land or a transfer of land for value at arm's length;

(b) for both vendor and purchaser in connection with a contract for the sale of a business at arm's length;

(c) for both lessor and lessee in connection with a lease of land or an agreement for a lease of land for value at arm's length;

(d) for both financier and borrower in connection with a loan of money or provision of finance or an agreement to lend money or provide finance; or

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(e) for both the purchaser of land and the lender of money or provider of finance intended to be secured by a mortgage of land.

(3) A lawyer shall not act for a guarantor in connection with the loan of money or the provision of finance or an agreement to lend money or provide finance where the lawyer or the firm of the lawyer is also acting in the same transaction for the borrower or the financier.

(4) Subrule (3) does not prohibit the lawyer from acting for a borrower and a guarantor if in the same transaction, the guarantor is

(a) a borrower;

(b) a director of a borrower;

(c) a shareholder of a borrower;

(d) a beneficiary in a trust of which the borrower is the trustee;

(e) a party holding a beneficial interest in the borrower;

(f) a body corporate related to a borrower within the meaning of the Companies Act, 2019 (Act 992);

(g) a director of a related body corporate;

(h) a shareholder of a related body corporate; or

(i) a party holding a beneficial interest in a related body corporate.

(5) A lawyer shall not act for a person or interest carrying on business as a builder, developer or subdivider in any matter or transaction for value at arm's length relating to land and any other party contracting with that person or entity in the course of that business.

Conflict of interest in relation to government officers and employees

23. (1) A lawyer who served as a public officer or employee of the government shall not represent a client in connection with a matter in which that lawyer was involved as a public officer or employee.

(2) Subrule (1) applies to a lawyer who works in a firm with which the lawyer referred to in subrule (1) is associated.

(3) A lawyer who acquires confidential government information about a person in the course of employment as a public officer may not represent a client in a matter in respect of which the information may be used to the material disadvantage of that person.

(4) For purposes of subrule (3), "confidential government information" means information that has been obtained under governmental authority

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and which, at the time this rule is applied, the government is prohibited by law from disclosing to the public or has a legal privilege not to disclose and which is not otherwise available to the public.

- (5) A lawyer who is employed as a public officer shall not
- (a) participate in a matter in which the lawyer was involved before the employment of the lawyer as a public officer; or
 - (b) negotiate for employment with a person who is involved as a party or as lawyer for a party in a matter in which the lawyer is involved.

(6) Where a member of a law firm takes up a public office, that member shall not practise privately.

(7) Despite subrule (6), where the public office taken up by the member of a law firm is that of a

- (a) Minister of State,
- (b) Deputy Minister, or
- (c) Member of Parliament,

the Minister of State, Deputy Minister or Member of Parliament may practise subject to the permission of the Speaker.

(8) Despite subrule (6), where the public office taken up by the member of a law firm is that of a lecturer in law, the lecturer in law may practise.

Former judge, arbitrator, mediator or other third-party neutral

24. (1) A lawyer shall not represent a person in respect of a matter in which the lawyer has been previously involved as a judge, an adjudicative officer, a law clerk, an arbitrator, mediator or third-party neutral.

(2) A lawyer shall not negotiate for employment with a person who is involved as a party or as lawyer for a party in a matter in which the lawyer is involved as a judge, an adjudicative officer, an arbitrator, a mediator or a third-party neutral.

(3) This rule applies to a lawyer who works in a firm with which the lawyer referred to in subrules (1) and (2) is associated.

Representation

Client with diminished capacity

25. (1) Where the capacity of a client to make adequately considered decisions in respect of a representation is diminished on

- (a) the grounds of mental impairment, or
- (b) for any other reason,

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the lawyer shall, as far as is reasonably possible, maintain a normal client-lawyer relationship with the client.

(2) Where a lawyer reasonably believes that a client

(a) has diminished capacity,

(b) is at risk of substantial physical, financial or other harm,
and

(c) cannot adequately act in the interest of the client,

the lawyer shall take the reasonably necessary protective action, including consulting with an individual or an entity that has the ability to take action, to protect the client and, in appropriate cases, seek the appointment of a guardian-ad-litem, conservator or guardian for the client.

Safekeeping of property

26. (1) A lawyer shall hold the property of a client or a third party that is in the possession of the lawyer in respect of a representation separate from the property of that lawyer.

(2) A lawyer shall keep money belonging to a client in a separate account.

(3) A lawyer may deposit money belonging to the lawyer in a trust account of a client for the sole purpose of paying bank service charges on that account, but only in an amount necessary for that purpose.

(4) Where a lawyer receives moneys or other property in which a client or a third party has an interest, the lawyer shall promptly notify the client or third party.

(5) Subject to an agreement with the client or to an enactment, a lawyer shall promptly deliver to a client or a third party moneys or other property that the client or third party is entitled to receive and promptly render a full account regarding the moneys or property upon request by the client or third party.

(6) Where in the course of a representation, a lawyer comes to be in possession of property in which two or more persons claim an interest, the lawyer shall

(a) despite any personal interest in that property, keep the property separate from other properties of the lawyer until the dispute is resolved, and

(b) promptly distribute the portions of the property in respect of which there is no dispute.

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Accounts of lawyers

27. (1) A lawyer shall

- (a) give a receipt for each payment made to the lawyer, and
- (b) specify in the receipt, the purpose for which the payment was made.

(2) A lawyer shall keep books of account and proper records in relation to the accounts that may be necessary

- (a) to show the dealings of the lawyer with
 - (i) moneys of a client held, received or paid by the lawyer, and
 - (ii) any other moneys dealt with by the lawyer through an account of a client; and
- (b) to distinguish

- (i) moneys held, received or paid by the lawyer on account of each client, and
- (ii) moneys of clients from other moneys held, received or paid by the lawyer on any other account.

(3) A lawyer shall record the matters specified in paragraph (a) of subrule (2) in a form including in

- (a) a cash book of clients, or a client's column of a cash book; and
- (b) a ledger of clients, or a client's column of a ledger.

(4) A lawyer shall record other dealings of the lawyer in relation to the practice of that lawyer in a form including in a cash book, ledger or a column of a cash book or ledger that the lawyer may choose to maintain.

(5) A lawyer shall preserve the books, accounts and records kept by the lawyer under this rule for a period of not less than six years from the date of the last entry.

(6) This rule does not affect the right of a lawyer to recover moneys due to that lawyer, whether by way of lien, set-off, counter-claim, charge or otherwise, from moneys standing to the credit of a client account.

(7) In this rule the expressions "book", "ledger" and "record" include a loose-leaf book and a card or other permanent document that is necessary for the operation of a mechanical or computerised system of book-keeping.

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Sale or Purchase of Law Practice and Goodwill

Sale or purchase of law practice

28. (1) A lawyer or a law firm may sell or purchase a law practice, or an area of law practice, including good will, if the following conditions are satisfied:

- (a) the seller ceases to engage in the private practice of law, or in the area of practice that has been sold;
- (b) the entire practice, or the entire area of practice, is sold to one or more lawyers or law firms; and
- (c) the seller gives written notice to each of the clients of the seller regarding
 - (i) the proposed sale;
 - (ii) the right of the client to engage the purchaser as counsel or to take possession of the file; and
 - (iii) the fact that the consent of the client to the transfer of the files of the client shall be presumed if the client does not take any action or does not otherwise object to the transfer within ninety days of receipt of the notice.

(2) Where a client cannot be given notice, the representation of that client may be transferred to the purchaser only upon an order of a competent court authorising the transfer.

(3) The fees charged a client shall not be increased by reason of the sale.

Responsibilities of a Lawyer

Duty to client

29. (1) A lawyer shall, where appropriate, inform the client about reasonably available alternatives to fully contested adjudication of the case unless the lawyer believes on reasonable grounds that the client already has an understanding of those alternatives to enable the client make decisions about the best interests of the client in relation to the case.

(2) A lawyer shall not stand surety to secure bail for a client.

(3) A lawyer shall, at the appropriate time in the hearing of the case and if the court has not yet been so informed, inform the court of

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- (a) a binding authority,
 - (b) an authority decided by the Superior Courts,
 - (c) an authority on the same or materially similar legislation as that in question in the case, including any authority decided at first instance in the High Court, which has not been disapproved, or
 - (d) an applicable legislation,
- which the lawyer has reasonable grounds to believe to be directly in point, against the client.

Improper relationships and contacts

30. (1) A lawyer shall not

- (a) join or act in association with an organisation or a person who is not a practising lawyer and whose business or a part of whose business is to make, support or prosecute a claim arising as a result of death or personal injury, including claims under the Workmen's Compensation Act, 1987 (PNDCL 187) where that person or organisation solicits or receives a payment, gift or benefit in respect of the claim; or
- (b) act in respect of the claim for a client introduced to that lawyer by that person or organisation.

(2) A lawyer shall not knowingly act for a client introduced or referred to the lawyer by a person or organisation whose connection with the client arises from solicitation in respect of a cause or claim referred to in subrule (1).

(3) A lawyer shall, for the purpose of ascertaining whether the acceptance of an instruction shall involve a contravention of subrule (1) or (2), make reasonable enquiries before accepting instructions in respect of a claim.

Lawyer as counselor

31. A lawyer shall, for the purpose of rendering advice to a client, exercise independent professional judgment.

Lawyer serving as third-party neutral

32. (1) A lawyer serving as a third-party neutral shall

- (a) inform an unrepresented party that the lawyer is not representing that party, and

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(b) explain the difference between the role of the lawyer as a third-party neutral and the role of a lawyer as a person who represents a client,

when the lawyer knows or reasonably ought to know that a party does not understand the role of the lawyer in the matter.

(2) A lawyer is a third-party neutral when the lawyer assists two or more persons who are not clients of the lawyer to reach a resolution of a dispute or other matter that has arisen between them including service as an arbitrator, a mediator or in any other capacity that will enable the lawyer to assist the parties to resolve the matter.

Lawyer as advocate

33. (1) A lawyer shall not bring or defend a proceeding, or assert or controvert an issue in a proceeding, unless there is a basis in law and fact for bringing or defending the proceeding, or asserting or controverting an issue in a proceeding that is not patently frivolous and which includes a good faith argument for an extension, modification or reversal of existing law.

(2) Despite subrule (1), a lawyer for a defendant in a criminal proceeding, or a respondent in a proceeding that could result in incarceration, shall defend the proceeding to the extent necessary for every element of the case to be established.

Expediting litigation

34. A lawyer shall make reasonable efforts to expedite litigation consistent with the interest of the client.

Candour toward the Court or tribunal

35. (1) A lawyer shall not knowingly

- (a) make a false statement of fact or law to a Court or tribunal or fail to correct a false statement of material fact or law previously made to the Court or tribunal by the lawyer;
- (b) fail to disclose to the Court or tribunal legal authority known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or
- (c) offer evidence that the lawyer knows to be false.

(2) Where a lawyer, the client of the lawyer, or a witness called by the lawyer offers material evidence and the lawyer becomes aware of the

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inaccuracy of the material evidence, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the Court or tribunal.

(3) A lawyer may refuse to offer evidence that the lawyer reasonably believes is false, other than the testimony of an accused in a criminal matter.

(4) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the Court or tribunal.

(5) The duties stated in this rule continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by law.

(6) A lawyer shall, in an *ex parte* proceeding, inform the Court or tribunal of a material fact known to the lawyer that shall enable the tribunal to make an informed decision, whether or not the fact is adverse to the case of the lawyer.

Fairness to opposing party and counsel

36. A lawyer shall not

- (a) unlawfully obstruct the access of another party to evidence or unlawfully alter, destroy or conceal a document or other material that has potential evidentiary value;
- (b) counsel or assist another person to unlawfully alter, destroy or conceal a document or other material that has potential evidentiary value;
- (c) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;
- (d) knowingly breach an obligation under the rules of court or a tribunal;
- (e) in a pre-trial procedure, make a frivolous discovery request or fail to make a reasonably diligent effort to comply with a legitimate discovery request by an opposing party;
- (f) in a trial,

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- (i) assert personal knowledge of a fact in issue except when testifying as a witness, or
 - (ii) state a personal opinion on facts that are not before the Court as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused; or
- (g) request a person other than a client to refrain from voluntarily giving relevant information to another party unless
- (i) the person is a relative or an employee or other agent of a client; and
 - (ii) the lawyer reasonably believes that the interest of that person shall not be adversely affected by refraining from giving the information.

Impartiality and decorum of the Court or tribunal

37. A lawyer shall not

- (a) seek to influence a judge, juror, prospective juror or other officer of the Court by means prohibited by law;
- (b) communicate with a judge, juror, prospective juror or other officer of the Court during the proceeding unless authorised by law or Court order;
- (c) communicate with a juror or prospective juror after discharge of the jury if
 - (i) the communication is prohibited by law or Court order;
 - (ii) the juror has made known to the lawyer a desire not to communicate; or
 - (iii) the communication involves misrepresentation, coercion, duress or harassment; or
- (d) engage in conduct intended to disrupt a Court or tribunal.

Commenting on pending matter

38. A lawyer who is participating or has participated in the investigation or litigation of a matter that is still pending before a Court shall not make an out of Court statement or grant an interview to the media on the matter.

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Lawyer as witness

39. (1) A lawyer shall not act as an advocate at a trial in which the lawyer is likely to be a necessary witness.

(2) A lawyer may act as advocate in a trial in which another lawyer in the firm of that lawyer is likely to be called as a witness.

Special responsibilities of a prosecutor

40. (1) Where a lawyer acts as a prosecutor, the lawyer shall act resolutely and honourably within the limits of the law and shall treat the Court or tribunal with candour, fairness, courtesy, and respect.

(2) A prosecutor in a criminal case shall

(a) refrain from prosecuting a charge that the prosecutor knows is not supported by facts;

(b) make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for obtaining counsel and has been given reasonable opportunity to obtain counsel;

(c) not seek to obtain from an unrepresented accused a waiver of important pre-trial rights, such as the right to a preliminary hearing;

(d) make timely disclosure to the defence of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offence;

(e) in connection with sentencing, disclose to the defence and to the tribunal all unprivileged mitigating information known to the prosecutor, except where the prosecutor is relieved of this responsibility by a protective order of the Court or tribunal;

(f) except for statements that are necessary to inform the public of the nature and extent of the action of the prosecutor and that serve a legitimate law enforcement purpose,

(i) refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused, and

(ii) exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a

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criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under this rule; and

(g) except for a reference of a client to the Legal Aid Commission, refrain from referring a client to a specific chamber.

(3) Where a prosecutor knows of new, credible and material evidence creating a reasonable likelihood that a convicted accused did not commit an offence of which the accused was convicted, the prosecutor shall

(a) promptly disclose that evidence to an appropriate Court or authority, and if the conviction was obtained as a result of the prosecutor's submission, promptly disclose that evidence to the accused unless a Court authorises delay, and

(b) undertake further investigation, or make reasonable efforts to cause an investigation, to determine whether the accused was convicted of an offence that the accused did not commit.

(4) Where a prosecutor knows of clear and convincing evidence establishing that an accused in the Court or tribunal of the prosecutor has been convicted of an offence that the accused did not commit, the prosecutor shall take steps to have the conviction reversed.

Transactions with Persons other than Clients

Truthfulness with others

41. A lawyer shall not, in the course of representing a client, knowingly

(a) make a false statement of material fact or law to a third person; or

(b) fail to disclose a material fact to a third person where disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless where the disclosure is prohibited by these Rules.

Dealing with unrepresented person

42. A lawyer shall not deal with an unrepresented person in an unfair manner.

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Respect for rights of third party

43. (1) A lawyer shall not, in the course of representing a client, employ any means to embarrass, delay, or burden a third party, or use a method of obtaining evidence that violates the legal rights of a third party.

(2) A lawyer who receives a document relating to the representation of a client of that lawyer and who knows or reasonably ought to know that the document was inadvertently sent to that lawyer shall promptly notify the sender.

Law Firms and Associations

Responsibility of a partner and manager of a firm

44. A partner in a law firm or a lawyer who individually or together with another lawyer possesses comparable managerial authority in the law firm shall ensure that a lawyer in that firm conforms to these Rules.

Supervisory authority

45. (1) A lawyer who has direct supervisory authority over another lawyer shall ensure that that other lawyer conforms to these Rules.

(2) A lawyer is responsible for the violation of the rules of professional conduct by another lawyer or a person who is employed, retained or associated with the lawyer where

- (a) the lawyer orders or with knowledge of the specific conduct, ratifies the conduct involved;
- (b) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practises; or
- (c) the lawyer has direct supervisory authority over the other lawyer, and knows of the conduct at a time when the consequences of the conduct could have been avoided or mitigated but failed to take reasonable remedial action.

Responsibility regarding non-lawyer assistants

46. The following persons who employ, retain or associate with a non-lawyer shall ensure that measures have been put in place to ensure that the conduct of the non-lawyer is compatible with the professional obligations of a lawyer:

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- (a) a partner of a firm;
- (b) a lawyer who individually or together with other lawyers possesses comparable managerial authority in a firm that employs, retains or associates with the non-lawyer; or
- (c) a lawyer who has direct supervisory authority over the non-lawyer.

Professional independence of a lawyer

47. (1) A lawyer shall not form a partnership with a non-lawyer where any of the activities of the intended partnership involves the practice of law.

(2) A lawyer shall not permit a person who recommends, employs, or pays the lawyer for rendering a legal service to direct or regulate the professional judgment of the lawyer in rendering the required legal service.

Unauthorised practice of law

48. (1) A lawyer shall not practise or assist another person to practise law in violation of the laws of the legal profession.

(2) Except as authorised by these Rules or any other law, a lawyer who is not admitted to practise in this jurisdiction shall not

- (a) establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or
- (b) hold out to the public or otherwise represent that that lawyer is admitted to practise law in this jurisdiction.

(3) A person who is not qualified to practise law in this jurisdiction shall not practise law in this jurisdiction.

Public Service

Appointment by Court

49. A lawyer shall accept an appointment made by a Court to represent a person except where

- (a) representation of that person is likely to result in a contravention of these Rules or any other law;
- (b) representation of that person is likely to result in an unreasonable financial burden on the lawyer; or
- (c) the acceptance of the appointment is repugnant in that it is likely to impair the client-lawyer relationship or the ability of the lawyer to represent the client.

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Membership of a legal service organisation

50. (1) A lawyer may serve as a director, officer or member of a legal service organisation, apart from the law firm in which the lawyer practises despite the fact that the legal service organisation serves a person who has an adverse interest to a client of the lawyer.

(2) A lawyer shall not knowingly participate in a decision or action of the legal service organisation where

(a) the participation of the lawyer in the decision or action of the organisation is incompatible with the obligation of the lawyer to a client of that lawyer; or

(b) the decision or action is likely to have a material adverse effect on the representation of a client of the organisation whose interest is adverse to that of a client of the lawyer.

(3) Where the lawyer

(a) participates in a decision or action of a legal service organisation, and

(b) subsequently acquires knowledge that the decision or action taken may materially benefit the interest of a client of the lawyer,

that lawyer shall disclose the fact with or without disclosing the identity of the client.

Law reform activity affecting interest of client

51. A lawyer may serve as a director, officer or member of an organisation involved in the reform or administration of the law despite the fact that the reform may affect the interests of a client of the lawyer.

Statement about judicial and legal officials

52. A lawyer shall not make a statement which the lawyer knows to be false or with reckless disregard for its truth or falsity concerning the qualification or integrity of

(a) a judge;

(b) an adjudicative officer;

(c) a public legal officer; or

(d) a candidate for election or appointment to a judicial or legal office.

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Privileged Information

Use of privileged information

53. (1) A lawyer shall not draw or settle any Court document alleging criminality, fraud or other misconduct unless the lawyer believes on reasonable grounds that

- (a) the factual material already available to the lawyer provides a proper basis for the allegation;
- (b) the evidence by which the allegation is made is admissible provided the evidence is in written form; or
- (c) the client wishes the allegation to be made, after having been advised of the seriousness of the allegation and of the possible consequences for the client and the case if the allegation is not made.

(2) A lawyer shall not open as a fact an allegation which the lawyer does not on reasonable grounds believe can be substantiated by the evidence available to support the case of the client.

(3) A lawyer shall not cross-examine a witness in a manner that suggests criminality, fraud or other serious misconduct on the part of any person unless

- (a) the lawyer believes on reasonable grounds that the material already available to the lawyer provides a proper basis for the suggestion; and
- (b) in cross-examining the witness with respect to the credibility of that witness, the lawyer believes on reasonable grounds that an affirmative answer to the suggestion diminishes the credibility of the witness.

Integrity of evidence

54. (1) A lawyer shall not advise or suggest to a witness to give false evidence.

(2) A lawyer shall not

(a) suggest, or

(b) condone a client or another person suggesting

to a prospective witness, the content of any particular evidence which the witness should give at any stage in a proceeding.

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- (3) Subrules (1) and (2) do not apply where the lawyer
- (a) expresses a general admonition to tell the truth;
 - (b) questions and tests in conference the version of evidence to be given by the prospective witness; or
 - (c) draws the attention of a witness to an inconsistency or difficulty with evidence given by that witness.
- (4) Despite paragraph (c) of subrule (3), a lawyer shall not coach or encourage a witness to give evidence which that witness believes to be false.

Integrity of hearing

55. (1) A lawyer shall not publish or cause to be published a material concerning current proceedings for which the lawyer is engaged, unless the lawyer is supplying

- (a) a copy of pleadings or court process in their current form which have been filed and served in accordance with the requirements of a Court;
- (b) a copy of an affidavit or witness statement which has been read, tendered or verified in open Court and clearly marked in a manner that shows a part which has not been read, tendered or verified;
- (c) a copy of an affidavit or witness statement which has been disallowed on objection;
- (d) a copy of the transcript of evidence given in open court if permitted by the Court and clearly marked in a manner that shows any correction directed by the Court or agreed by the other party ;
- (e) a copy of an exhibit admitted in open Court and without restriction on access;
- (f) a copy of a written submission which has been given to a Court and served on the relevant parties; or
- (g) objective information as to the status of the proceedings.

(2) A lawyer shall not publish or cause to be published a material concerning current or potential proceedings including proceedings for which the lawyer is engaged or seeks to be engaged which

- (a) is inaccurate or has received comment or unnecessary description;

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- (b) identifies the lawyer as a lawyer and appears to express an opinion of the lawyer on a matter relevant to the case other than in an article or case note in a publication circulated primarily to other lawyers or legal academicians; or
- (c) is calculated or is likely, to a material degree, to diminish or be prejudicial to the public confidence in the administration of justice.

Duties of a Prosecutor

Duty to assist Court

56. (1) A prosecutor shall

- (a) assist the Court to arrive at the truth;
- (b) seek to have the whole of the relevant evidence placed intelligibly before the Court; and
- (c) seek to assist the Court with a submission of law to enable the proper application of the law to the facts.

(2) A prosecutor shall not

- (a) press the case of the prosecution for a conviction beyond a full and firm presentation of that case;
- (b) by language or other conduct seek to influence the Court to be biased against the accused;
- (c) argue a proposition of fact or law which the prosecutor does not believe on reasonable grounds to carry weight or contribute to the guilt of the accused; or
- (d) confer with or interview an accused person.

Duty to disclose information

57. (1) A prosecutor shall, as soon as practicable, disclose to the opposing party every material available to the prosecutor, including

- (a) the name and means of finding a prospective witness in connection with the material, and
- (b) any other information that the prosecutor becomes aware of which may constitute evidence relevant to the guilt or innocence of the accused.

(2) Subrule (1) does not apply where a partial or full disclosure threatens the integrity of the administration of justice in the proceedings or the safety of a person.

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- (3) A prosecutor who has reasonable grounds to believe that a material available to the prosecution may have been unlawfully or improperly obtained shall promptly
- (a) inform the opposing party if the prosecutor intends to use the information;
 - (b) make available to the opposing party a copy of the information if the information is in a documentary form; and
 - (c) inform the opposing party of the grounds for believing that the material was unlawfully or improperly obtained.

Rules Governing Undertaking by Lawyer

Undertaking by lawyer

- 58.** (1) A lawyer shall fulfill an undertaking given by that lawyer.
- (2) A lawyer who, in the course of practice communicates with another lawyer in terms which expressly or by necessary implication, constitute an undertaking by the lawyer personally to ensure the performance of an action or obligation, in circumstances where it is reasonably expected that the other lawyer will rely on the undertaking, shall honour the undertaking in accordance with its terms, and within the time promised, or, if a time is not specified, within a reasonable time.
- (3) A lawyer shall not give to another lawyer an undertaking
- (a) the compliance of which requires the co-operation of a third party who is not a party to the undertaking, and
 - (b) whose co-operation cannot be guaranteed by the lawyer.
- (4) A lawyer shall not, in the course of practice, seek from another lawyer or the employee of that lawyer, an undertaking
- (a) the compliance of which requires the co-operation of a third party who is not a party to the undertaking, and
 - (b) whose co-operation cannot be guaranteed by the lawyer or the employee requested to give the undertaking.

Rules Governing Replacement of Lawyer

Replacement of lawyer

- 59.** (1) Where the engagement of a lawyer is terminated before the completion of a matter, and the client instructs another lawyer to take

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over the conduct of the matter the first lawyer shall promptly, on receipt of a direction in writing from the client, deliver to the second lawyer, all relevant documents to which the client is entitled and any information which is necessary for the proper conduct of the matter.

(2) Where the client terminates the engagement, the first lawyer may retain possession of the documents until all costs owed by the client are paid, or the payment is secured by the lawyer.

(3) Where the first lawyer terminates the engagement and the documents of the client are essential to the defence or prosecution of current proceedings which are continuing before a Court, the lawyer shall surrender possession of the documents to

(a) the client, on receipt of satisfactory security for the unpaid costs; or

(b) to the second lawyer, if so directed by the client, and the second lawyer shall

(i) hold the documents subject to the lien of the first lawyer, if practicable, and provide reasonable security for the payment of the cost of the first lawyer; or

(ii) enter into an agreement with the client and the first lawyer to ensure the payment of the cost of the first lawyer upon completion of the relevant proceedings.

(4) A lawyer who receives the documents of a client from another lawyer pursuant to an agreement between the client and both lawyers which provides for the payment of the fees of the first lawyer from moneys recovered on behalf of the client in respect of the matter to which the documents relate, shall comply with the terms of the agreement.

(5) This rule is subject to any order which may be made by a court of competent jurisdiction in respect of the delivery of the documents of the client.

Relation of Lawyer with Mercantile Agency

Debt collection or mercantile agency

60. (1) A lawyer shall not use or cause to be used the business name or stationery of that lawyer by a debt collection agency or mercantile agency in a manner that is likely to mislead the public.

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- (2) A lawyer, who receives instructions from a debt collection agent or a mercantile agent, to act for a client creditor, shall ensure that
- (a) the relationship of that lawyer to the agent is fully disclosed to the client;
 - (b) the information required to be disclosed to the client by any relevant legislation and these Rules are communicated to the client;
 - (c) that lawyer maintains direct control and supervision of any proceedings on behalf of the client; and
 - (d) that any money recovered on behalf of the client is accounted for by that lawyer.

Law Practice

Standard of conduct

61. A lawyer shall not engage in conduct whether in the course of practice or otherwise, which is

- (a) dishonest; or
- (b) calculated, or likely to a material degree to
 - (i) be prejudicial to the administration of justice;
 - (ii) diminish public confidence in the administration of justice; or
 - (iii) adversely prejudice the ability of the lawyer to practise in accordance with these Rules.

Offer of legal service

62. A lawyer, in the offer of legal services, shall not use means

- (a) that are false or misleading;
- (b) that amount to coercion, duress or harassment;
- (c) that take advantage of a person who is vulnerable or who has suffered a traumatic experience and has not yet had a chance to recover;
- (d) that are intended to influence a person who has retained another lawyer for a particular matter to change the lawyer for that matter, unless the change is initiated by the person or the other lawyer; or
- (e) that bring the profession or the administration of justice into disrepute.

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Advocacy

- 63.** (1) Where a lawyer acts as an advocate, the lawyer shall represent the client resolutely and honourably within the limits of the law while treating the Court with candour, fairness, courtesy, and respect.
- (2) Where a lawyer acts as an advocate, that lawyer shall not
- (a) knowingly abuse the process of the Court by instituting or prosecuting proceedings which is motivated by malice on the part of the client and is brought solely for the purpose of injuring the other party;
 - (b) knowingly assist or permit the client to act in a manner that the lawyer considers to be dishonest or dishonourable;
 - (c) appear before a judicial officer if the lawyer, an associate of the lawyer or the client has a business or personal relationship with the judicial officer that gives rise to or is likely to give rise to pressure, influence, or inducement affecting the impartiality of the officer;
 - (d) endeavour, directly or indirectly, to influence the decision or action of a Court or an official of the Court in a case or matter by any means other than open persuasion as an advocate;
 - (e) knowingly attempt to deceive a Court or influence the course of justice by offering false evidence, misstating a fact or law, presenting or relying on a false or deceptive affidavit, suppressing what ought to be disclosed, or otherwise assisting in a criminal or an illegal conduct;
 - (f) knowingly misstate the content of a document, the testimony of a witness, the substance of an argument, or the provision of an enactment or like authority;
 - (g) knowingly assert a fact as true when the truth of the fact cannot reasonably be supported by the evidence or as a matter of which notice may be taken by the Court;
 - (h) deliberately refrain from informing the Court of a binding authority that the lawyer considers to be directly on point and that has not been mentioned by the party on the other side;
 - (i) dissuade a witness from giving evidence or advise a witness to be absent;

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- (j) knowingly permit a witness or party to be presented in a false or misleading way or to impersonate another person;
- (k) needlessly abuse or harass a witness;
- (l) when representing a complainant or potential complainant, attempt to gain a benefit for the complainant by threatening to lay a criminal charge or by offering to seek or to procure the withdrawal of a criminal charge; or
- (m) inconvenience a witness.

Appeal by lawyer who is a witness

64. A lawyer who is a witness in proceedings shall not appear as an advocate in an appeal from the decision in respect of those proceedings.

Briefs and pleadings

65. (1) A lawyer in practice is bound to accept any brief in the Court in which the lawyer professes to practise at a proper professional fee depending on the length and complexity of the case.

(2) Special circumstances may justify a refusal to accept a particular brief.

(3) A lawyer shall be separately instructed and separately remunerated by fees for each piece of work done and shall not undertake to represent a person, an authority or a corporation in all the court work of the person, authority or corporation for a fixed annual salary.

(4) Subrule (3) does not apply to a retainer for advice.

Encouraging compromise or settlement

66. (1) A lawyer shall

- (a) advise and encourage a client to compromise or settle a dispute where it is possible to compromise or settle the issue on a reasonable basis, and
- (b) discourage the client from commencing frivolous legal proceedings.

(2) A lawyer shall

- (a) consider the use of an alternative dispute resolution mechanism for the resolution of a dispute, and
- (b) where appropriate, inform the client of alternative dispute resolution options.

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(3) Where a client opts for an alternative dispute resolution option, the lawyer shall pursue that option.

Dishonest, fraudulent or illegal conduct

67. (1) Where a lawyer is employed or retained by a person to act in a matter and the lawyer has knowledge that the person intends to act dishonestly, fraudulently, or illegally with respect to that matter, the lawyer shall advise the person from whom the lawyer takes instructions that the proposed conduct is dishonest, fraudulent or illegal.

(2) Where the person from whom the lawyer takes instructions refuses to cause the proposed wrongful conduct to be abandoned, the lawyer shall advise the chief legal officer or the chief executive officer of the organisation, that the proposed conduct is dishonest, fraudulent, criminal or illegal.

(3) Where the chief legal officer or the chief executive officer of the organisation refuses to cause the proposed conduct to be abandoned, the lawyer shall advise the board of directors that the proposed conduct is dishonest, fraudulent, criminal or illegal.

(4) Where the organisation, in the light of the advice of the lawyer, persists in the proposed course of conduct, the lawyer shall withdraw from acting in the matter in accordance with these Rules.

Joint retainer

68. (1) Except as otherwise provided in these Rules, where a lawyer accepts a retainer from more than one client in a matter, the lawyer shall advise the clients that

- (a) the lawyer has been asked to act for all the parties involved,
- (b) information received in connection with the matter from one party cannot be treated as confidential so far as any of the others are concerned, and
- (c) where a conflict arises that cannot be resolved, the lawyer cannot continue to act for all the parties involved and shall withdraw appropriately.

(2) Except as otherwise provided in these Rules, where a lawyer has a continuing relationship with a client for whom the lawyer acts regularly, before the lawyer accepts joint retainer for that client and another client in a matter, the lawyer shall advise the other client of the continuing

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relationship and recommend that the client obtain independent legal advice about the joint retainer.

(3) Except as otherwise provided, where a lawyer has advised the clients in accordance with subrule (2) and the parties consent to the lawyer acting on behalf of all parties, the lawyer shall obtain the consent of the parties in writing.

Unrepresented persons

69. Where a lawyer deals on behalf of a client with an unrepresented person, that lawyer shall

- (a) advise the unrepresented person to obtain independent legal representation,
- (b) ensure that the unrepresented person is not proceeding under the impression that the interest of the unrepresented person is protected by the lawyer, and
- (c) inform the unrepresented person that the lawyer is acting exclusively in the interests of the client and accordingly the comments of the lawyer may be partisan.

Borrowing from a client

70. (1) A lawyer shall not borrow money from a client unless that client is an institution whose business includes lending money to members of the public.

(2) Where there is a pre-existing debt between the lawyer and the third party, the lawyer shall not act for that third party.

Guarantee by a lawyer

71. (1) A lawyer shall not guarantee personally, or provide security for, any indebtedness in respect of which a client is a borrower or lender.

(2) Despite subrule (1), a lawyer may give a personal guarantee where

- (a) the lender is an institution whose business includes lending money to members of the public, and the lender is directly or indirectly providing funds solely for the lawyer, the spouse, the parent or a child of the lawyer;
- (b) the transaction is for the benefit of a non-profit or charitable institution, where the lawyer as a member or supporter is asked, either individually or together with other members or supporters of the institution, to provide a guarantee; or

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- (c) the lawyer has entered into a business venture with a client and the lender requires a personal guarantee from all parties in the joint venture as a matter of course, and
 - (i) the lawyer has complied with the rules dealing with the avoidance of conflicts of interest and the conduct of business with a client, and
 - (ii) the lender and parties in the venture who are or were clients of the lawyer have received independent legal representation.

Communication with witness giving evidence

72. (1) Subject to the direction of the Court, a lawyer shall observe the following rules in respect of communication with a witness who is giving evidence:

- (a) during examination-in-chief, the examining lawyer may discuss with the witness any matter that has not been covered in the examination up to that point;
- (b) during examination-in-chief by another lawyer of a witness who is adverse to the lawyer's cause, the lawyer who is not conducting the examination-in-chief may discuss the evidence with the lawyer's own witness;
- (c) between the completion of examination-in-chief and commencement of cross-examination of the lawyer's own witness, the lawyer shall not discuss the evidence given in chief or relating to any matter introduced or touched on during the examination-in-chief;
- (d) during cross-examination by an opposing lawyer, the lawyer of a witness shall not have any conversation with the witness about the evidence of the witness or any issue in the proceeding;
- (e) between completion of cross-examination and commencement of re-examination, the lawyer who is going to re-examine the witness shall not have any discussion about evidence that will be dealt with in re-examination;
- (f) during cross-examination by the lawyer of a witness unsympathetic to the cause of the cross-examiner, the lawyer may discuss the evidence of the witness with the witness;

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(g) during cross-examination by the lawyer of a witness who is sympathetic to the cause of that lawyer, any conversation shall be restricted in the same manner as communications during examination-in-chief of the witness of the lawyer; and

(h) during re-examination of a witness called by an opposing lawyer, if the witness is sympathetic to the cause of the lawyer, the lawyer shall not discuss the evidence to be given by that witness during re-examination.

(2) A lawyer may discuss the evidence with a witness who is adverse to the interest of the lawyer.

Communication with juror

73. (1) Where a lawyer acts as an advocate, before the trial of a case, the lawyer shall not communicate with or cause another person to communicate with any other person that the lawyer knows to be a juror for that trial.

(2) A lawyer shall promptly disclose to the Court any information that the lawyer has knowledge of on the improper conduct by a juror towards another juror or to a member of family of the juror.

(3) A lawyer who is not connected with a case before the Court shall not communicate with or cause another person to communicate with a juror about the case.

Direct supervision

74. A lawyer shall

(a) assume complete professional responsibility for the practice of that lawyer, and

(b) directly supervise non-lawyers to whom a duty is assigned.

Prohibition of sexual harassment

75. (1) A lawyer shall not sexually harass a colleague, a member of staff or a client.

(2) For the purposes of this rule, sexual harassment is one incident or a series of incidents which involves unwelcome sexual advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature, where

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- (a) the conduct is reasonably expected to cause insecurity, discomfort, offence or humiliation to the recipient of the conduct;
- (b) submission to the conduct is made, implicitly or explicitly, a condition for the provision of a professional service;
- (c) submission to the conduct is made, implicitly or explicitly a condition of employment;
- (d) submission to or rejection of the conduct is used as a basis for any employment decision including the allocation of files, matters of promotion, raise in salary, job security, and benefits affecting the employee; or
- (e) the conduct has the effect of interfering with the work performance of the person or creation of a work environment which is intimidating, hostile, or offensive.

Courtesy and good faith

76. (1) A lawyer shall be courteous, civil, and act in good faith with all persons with whom the lawyer has dealings in the course of practice.

(2) A lawyer shall not

(a) engage in unethical behaviour; or

(b) take advantage of or act without fair warning on a slip, irregularity or mistake on the part of another lawyer without going into the merits of the case or which involve the sacrifice of a right of a client.

(3) A lawyer shall not record a conversation between the lawyer and a client or another lawyer without the prior approval of that client or that other lawyer.

Appearance before an official body

77. Where a lawyer, a partner or associate of the lawyer is a member of an official body, that lawyer shall not appear professionally before that official body.

Conduct after leaving public office

78. A lawyer, who has left public office, shall not act for a client in connection with a matter for which the lawyer had substantial responsibility before leaving public office.

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Prevention of unauthorised practice

79. A lawyer shall assist in the prevention of the unauthorised practice of law.

Engagement of unauthorised person

80. Without the express approval of the Council, a lawyer shall not retain, occupy office space with, use the services of, or partner or associate with or employ in any capacity having to do with the practice of law, a lawyer

- (a) who has been disbarred or struck off the Roll of Lawyers,
- (b) whose licence to practise law has expired, been revoked or suspended, or
- (c) who has been involved in disciplinary action and has been permitted to resign or to surrender the licence to practise law and has not had the licence restored.

Appearance by judge as counsel

81. (1) A judge who has retired, resigned or been removed from office shall

- (a) not join a firm,
- (b) not appear as counsel or advocate before the Court in which the judge served or any lower Court, or
- (c) not appear as counsel or advocate before an administrative board or tribunal over which the Court, in which the judge served, exercised an appellate or judicial review jurisdiction for a period of two years from the date of the retirement, resignation, or removal,

without the express approval of the Council.

(2) The Council may grant the approval in exceptional circumstances and on conditions that the Council considers necessary.

Contact with a witness

82. A lawyer shall not

- (a) coach a witness in relation to the evidence of the witness;
- (b) encourage a witness to give evidence which is untruthful or which is not the whole truth;
- (c) communicate directly or indirectly about a case with a witness, once that witness has begun to give evidence and until the evidence of that witness has been concluded, except with the consent of the representative of the opposing party or of the Court.

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Conduct in Court

83. (1) A lawyer, who conducts proceedings in Court,
- (a) is personally responsible for the conduct and presentation of the case;
 - (b) shall exercise personal judgment upon the substance and purpose of statements made and questions asked;
 - (c) shall not assert a personal opinion of the facts or the law, unless invited by the Court or it is the duty of the lawyer to do so;
 - (d) shall not make a submission which is deliberately misleading;
 - (e) shall not make a statement or ask a question which is scandalous or intended to vilify or insult a witness or any other person;
 - (f) shall, if possible, avoid the naming in open Court of a third party whose character is likely to be impugned; and
 - (g) shall not suggest that a victim, witness or other person is guilty of a crime or misconduct or make a defamatory aspersion on the conduct of any other person or attribute to another person the crime or conduct of which the client is accused.
- (2) Paragraph (g) of subrule (1) does not apply where the allegation
- (a) is in relation to a matter in issue,
 - (b) is material to the case of the client, and
 - (c) appears to the lawyer to be supported on reasonable grounds.

Continuing professional development

84. (1) A lawyer who holds a practising certificate issued by the Council shall
- (a) complete a minimum of twelve hours of continuing professional development in a calendar year, and
 - (b) submit details of the continuing professional development undertaken to the Council in the form prescribed, and at the time specified, by the Council.
- (2) The Council may, by resolution, specify the nature, content and format of courses and other activities which may be undertaken by a lawyer or a category of lawyers in order to satisfy the requirement of continuing professional development.

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(3) The Council may, by resolution and following consultation with other bodies as appropriate, increase the minimum number of hours of continuing professional development.

Withdrawal of Representation

Conditions for withdrawal of representation

85. (1) A lawyer shall not withdraw from representing a client except for good cause.

(2) Where a lawyer withdraws representation, the lawyer shall give notice of the withdrawal to the client.

Optional withdrawal

86. Subject to these Rules and the direction of the Court, a lawyer may withdraw from a matter if

(a) the client has lost confidence in the ability of the lawyer to represent the client; or

(b) after reasonable notice, the client fails to provide funds on account of disbursements or fees.

Declining or terminating representation and mandatory withdrawal

87. (1) Except as stated in this rule, a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if

(a) the representation will result in a violation of these Rules or any other law;

(b) the physical or mental condition of the lawyer materially impairs the ability of the lawyer to represent the client; or

(c) the lawyer is discharged.

(2) Except as stated in these Rules, a lawyer may withdraw from representing a client if

(a) the withdrawal does not materially affect the interest of the client;

(b) the client persists in a course of action involving the services of that lawyer which the lawyer reasonably believes is criminal or fraudulent;

(c) the client has used the services of the lawyer to perpetrate a crime or fraud;

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- (d) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;
 - (e) the client fails substantially to fulfill an obligation to the lawyer regarding the services of the lawyer and the lawyer has given reasonable notice to the client of withdrawal unless the obligation is fulfilled;
 - (f) the representation shall result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or
 - (g) any other good cause for withdrawal exists.
- (3) A lawyer shall comply with the requirement of law in relation to the termination of a representation.
- (4) A lawyer shall continue to represent a client if ordered to continue to represent the client by a Court.
- (5) Where a lawyer terminates representation of a client, the lawyer shall take reasonable steps to protect the interest of the client including
- (a) giving of reasonable notice to the client,
 - (b) affording the client time to employ another counsel,
 - (c) surrendering papers and property to which the client is entitled, and
 - (d) refunding an advance payment of fee or expense that has not been earned or incurred.
- (6) A lawyer may retain papers relating to the client to the extent permitted by law.
- (7) Subject to these Rules and the direction of the Court, a lawyer shall withdraw from a case where
- (a) the lawyer is discharged by the client;
 - (b) the lawyer is instructed by the client to act in a manner that is inconsistent with the duty of the lawyer to the Court and, after further explanation by the lawyer, the client insists on the instructions;
 - (c) the client, during the course of proceedings, acts in a dishonourable manner or takes a position solely to harass or maliciously injure another person; or
 - (d) the lawyer realises that the continued representation of the client will result in a breach of these Rules.

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Withdrawal on non-payment of fees or other cause

88. (1) Where a lawyer has agreed to act in a case and the interval between a withdrawal and the conduct of the case is insufficient to enable the client to engage the services of another lawyer and to allow the lawyer adequate time to prepare for the case, the lawyer who has agreed to act may withdraw due to the inability of the client to pay the agreed fee or for other adequate cause if that lawyer

- (a) gives notice to the client in writing of the withdrawal due to non-payment of fees or for other adequate cause,
- (b) gives an account to the client of moneys received on account of fees and disbursements, and
- (c) gives notice in writing of the withdrawal to the clerk or registrar of the appropriate Court in writing that the lawyer is no longer acting if the name of the lawyer appears on the records of the court as acting for the party.

(2) Where a lawyer agrees to act in a case and the date set for the conduct of the case is inadequate to enable the client obtain the services of another lawyer or to enable the other lawyer prepare adequately for the conduct of the case and an adjournment of the case cannot be obtained without adversely affecting the interest of the client, the lawyer shall not withdraw due to non-payment of fees.

(3) Where

- (a) a lawyer is justified in withdrawing from a case for reasons other than the non-payment of fees, and
- (b) the interval between a notice to the client of the intention of the lawyer to withdraw and the date when the case is to be tried to enable the client to obtain the services of another lawyer and to enable the other lawyer request for the trial date to be adjourned is in sufficient,

the lawyer may withdraw from the case only with the permission of the Court before which the case is to be tried.

Professional Misconduct

General acts of professional misconduct

89. A lawyer commits professional misconduct, where the lawyer

- (a) violates the rules of professional conduct, or knowingly assists or induces another lawyer to do so;

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- (b) engages in a conduct which involves dishonesty, fraud, deceit or misrepresentation;
- (c) engages in a conduct that is prejudicial to the administration of justice; or
- (d) states or implies an ability to improperly influence a government agency or official or to achieve results by means that violate the rules of professional conduct or other law.

Improper communication

90. A lawyer commits professional misconduct if the lawyer, in the course of practice, communicates to a client, another lawyer or any other person, in a manner which is abusive, offensive or otherwise inconsistent with the proper ethics of the professional communication from a lawyer.

Deception of Court or Disciplinary Committee

- 91.** A lawyer commits professional misconduct where the lawyer
- (a) deliberately deceives a Court;
 - (b) knowingly permits a client to attempt to deceive a Court;
 - (c) attempts to or deliberately deceives or makes a false representation to the Disciplinary Committee or in any other manner misleads the Disciplinary Committee; or
 - (d) acts contrary to an undertaking given to a Court or to the Disciplinary Committee.

Signing of documents

92. A lawyer commits professional misconduct if the lawyer signs a document not prepared by or under the supervision of that lawyer.

Agreements and undertakings

- 93.** (1) A lawyer commits professional misconduct if that lawyer
- (a) fails to honour a written undertaking given by that lawyer or the firm of that lawyer to any person, unless on the face of the undertaking it is clear beyond doubt that that lawyer was not accepting personal responsibility;
 - (b) issues a cheque either on behalf of that lawyer or on behalf of the firm, and the cheque is not honoured due to lack of funds; or
 - (c) makes an oral agreement on behalf of that lawyer or the law firm of that lawyer and fails without reasonable cause to honour that oral agreement, even at financial cost to that lawyer.

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(2) For the purposes of paragraph (c) of subrule (1), a lawyer has a duty in so far as is reasonably practicable having regard to the circumstances, to honour an oral agreement that affects the rights of a client although that agreement is legally unenforceable unless reduced to writing.

Staff supervision

94. A lawyer commits professional misconduct if that lawyer fails to exercise proper supervision of the members of staff of that lawyer to the detriment of a client of that lawyer.

Negligence and delay

95. A lawyer commits professional misconduct if that lawyer conducts the business of a client with negligence or delays as to

- (a) damage the interest of the client; or
- (b) bring the legal profession into disrepute or discredit.

Settlement of dispute

96. (1) A lawyer has a duty to advise a client to avoid or to terminate litigation where the dispute will admit of fair settlement.

(2) A lawyer commits professional misconduct if that lawyer

- (a) fails to communicate to a client the terms and effect of a settlement that is offered to the client; or
- (b) declines to take an available opportunity in the interest of the client to resolve the dispute by settlement out of court instead of engaging in legal proceedings.

Acting as witness

97. (1) A lawyer commits professional misconduct if that lawyer acts on behalf of a client in proceedings in which the lawyer is likely to be called as a witness.

(2) Subrule (1) does not apply where the lawyer acts as a witness for the purposes of giving formal proof in evidence.

(3) Where a lawyer is a necessary witness to other matters in the proceedings, that lawyer shall entrust the conduct of the case to another lawyer.

Failure to attend Court

98. A lawyer commits professional misconduct if without reasonable excuse that lawyer does not

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- (a) personally attend Court proceedings in relation to a matter,
or
 - (b) arrange for another lawyer or a representative of the firm of
that lawyer or an agent of that lawyer to be present
throughout in Court proceedings
- in relation to a matter in which that lawyer is acting.

Miscellaneous Provisions

Extension of time

99. (1) A lawyer may apply to the Council to extend the time within which that lawyer is required to complete any of the mandatory requirements of these Rules.

(2) An application under subrule (1) shall be in writing and set out all mitigating circumstances relied on and supported by the relevant documentary evidence.

(3) The Council shall consider the application within sixty days and may grant the extension of time.

Report of professional misconduct

100. (1) A lawyer who knows that another lawyer has committed a violation of the rules of professional conduct that raises a substantial question as to the honesty, trustworthiness or fitness of that other lawyer as a lawyer in other respects, shall inform the Disciplinary Committee.

(2) A lawyer who knows that a judge has committed a violation of the rules of judicial conduct that raises a substantial question as to the fitness of the judge for office shall inform the appropriate authority.

Disciplinary authority

101. (1) A lawyer who is admitted to practise law in this jurisdiction is subject to the disciplinary authority of this jurisdiction regardless of where the professional misconduct occurs.

(2) A lawyer who is not admitted to practise law in this jurisdiction is subject to the disciplinary authority of this jurisdiction if that lawyer provides or offers to provide any legal services in this jurisdiction.

(3) A lawyer may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction for the same misconduct.

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Interpretation

102. In these Rules, unless the context otherwise requires,

“active partner” means a lawyer who has an investment in a firm and who is involved in the daily affairs of that firm;

“adjudicative officer” includes an arbitrator, a mediator, a disciplinary committee and a person who conducts a quasi-judicial process;

“board of directors” includes a board of trustees;

“chambers” means a registered room or office used by a lawyer or group of lawyers for professional work;

“chief executive officer” means a person who is assigned the day-to-day administration of an organisation;

“Court” includes a court of competent jurisdiction, a tribunal and any other adjudicating body;

“debt collection agent” means a person authorised by a company or an agency that is in the business of recovering money that is owed by an individual or business on behalf of a creditor;

“discharge” includes suspension and disbarment;

“Disciplinary Committee” means a committee of the General Legal Council charged with

(a) examining an alleged breach of discipline by a lawyer,

(b) adjudicating on the alleged breach of discipline, and

(c) imposing the appropriate sanction;

“judicial office” means

(a) the office of a person presiding over a lower court or tribunal howsoever described;

(b) the office of the Judicial Secretary or Registrar of the Superior Courts; and

(c) such other offices connected with any court as may be prescribed by constitutional instrument made by the Chief Justice acting in accordance with the advice of the Judicial Council and with the approval of the President;

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- “judicial officer” means the holder of a judicial office;
- “law firm” means a legal entity which is formed by one or more lawyers to engage in the practice of law;
- “mercantile agent” means a commercial agent who has authority to either sell goods, to consign goods or money on the security of goods or to raise money on the security of goods on behalf of the principal of the commercial agent;
- “professional stationery” includes a letterhead, an order form, a receipt and an invoice;
- “pupillage year” is any calendar year in which a lawyer is at any time a pupil;
- “related person” means a person or individual who is related in a way to the initial party;
- “retainer” means a fee paid to a lawyer or a professional adviser for advice or services or for a claim on services when needed;
- “social media” means an internet tool that affords the opportunity for a subscriber of the tool to communicate with the contacts, friends and peers of that subscriber about issues of interest and may be in the nature of Facebook, LinkedIn, My Space, WhatsApp, Del.cio.us, Dig, Simpy and Twitter, among others; and
- “subdivider” means an individual who is responsible for dividing usually large parcels of land into smaller plots with the intent to sell.

Revocation

103. The Legal Profession (Professional Conduct and Etiquette) Rules, 1969 (L.I. 613) is revoked.

.....
His Lordship Justice Anin Yeboah
Chief Justice

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ETIQUETTE) RULES, 2020*

.....
His Lordship Justice Julius Ansah
Justice of the Supreme Court

.....
His Lordship Justice Victor Dotse
Justice of the Supreme Court

.....
His Lordship Justice Paul Baffoe-Bonnie
Justice of the Supreme Court

.....
Hon. Gloria Afua Akuffo (Miss)
Attorney-General and Minister for Justice

.....
Hon. Joseph Dindiok Kpemka
*Deputy Attorney-General
and Deputy Minister for Justice*

.....
Prof. Raymond Atuguba
Dean, University of Ghana School of Law

.....
Mr. Anthony Forson Jr.
President, Ghana Bar Association

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ETIQUETTE) RULES, 2020

.....
Mr. William Oduro

Vice President, Ghana Bar Association

.....
Mr. Yaw Acheampong Bofo

National Secretary, Ghana Bar Association

.....
Mr. K. Amoako-Adjei

President, Eastern Region Bar

.....
Mr. Peter Kornor

Legal Practitioner

.....
Mr. Justin Amenuvor

Legal Practitioner

Date of *Gazette* notification: 6th October, 2020.

Entry into force: