

THE ADVOCATES (PRACTICE) RULES

[Legal Notice 19 of 1967, Legal Notice 223 of 1984]

1. These Rules may be cited as the Advocates (Practice) Rules.
2. No advocate may directly or indirectly apply for or seek instructions for professional business, or do or permit in the carrying on of his practice any act or thing which can be reasonably regarded as touting or advertising or as calculated to attract business unfairly.
3. No advocate may hold himself out of or allow himself to be held out directly or indirectly and whether or not by name as being prepared to do professional business at less than the scales laid down by the Advocates (Remuneration) Order for the time being in force.
4. No advocate may agree to share with any person not being an advocate or other duly qualified legal Agent practising in another country his profit costs in respect of any business whether contentious or non-contentious:

Provided always that—

- (i) an advocate carrying on practice on his own account may agree to pay an annuity or other sum out of profits to a retired partner or predecessor or the dependants or legal personal representative of a deceased partner or predecessor;
- (ii) an advocate who has agreed in consideration of a salary to do the legal work of an employer who is not an advocate may agree with such employer to set off his profit costs received in respect of contentious business from the opponents of such employer or the costs paid to him as the advocate for employer by third parties in respect of non-contentious business against—
 - (a) the salary so paid or payable to him; and
 - (b) the reasonable office expenses incurred by such employer in connexion with such advocate (and to the extent of such salary and expenses).

4A. No advocate employed by an unqualified person shall draw documents or render other legal service to his employer for which fees are charged directly or indirectly by his employer to any other person and retained by that employer.

[L.N. 223/1984, s. 2.]

5. (1) No advocate may join or act in association with any organization or person (not being a practising advocate) whose business or any part of whose business is to make, support or prosecute (whether by action or otherwise and whether by an advocate or agent or otherwise) claims as a result of death or personal injury, including claims under the Work Injury Benefits Act (Cap. 236), in such circumstances that such person or organization solicits or receives any payment, gift or benefit in respect of such claims, nor may an advocate act in respect of any such claim for any client introduced to him by such person or organization.

(2) No advocate may with regard to any such claim knowingly act for any client introduced or referred to him by any person or organization whose connexion with such client arises from solicitation in respect of the cause of any such claim.

(3) It is the duty of an advocate to make reasonable inquiry before accepting instructions in respect of any such claim for the purpose of ascertaining whether the acceptance of such instructions would involve a contravention of subrule (1) or (2).

6. (1) An advocate may act for a client in a matter in which he knows or has reason to believe that another advocate is then acting for that client only with the consent of that other advocate.

(2) An advocate may act for a client in a matter in which he knows or has reason to believe that another advocate was acting for that client, if either—

- (a) that other advocate has refused to act further; or

[Subsidiary]

- (b) the client has withdrawn instructions from that other advocate upon proper notice to him.

7. (1) Subject to specific agreement, an advocate who briefs, instructs or consults another advocate is personally responsible for the payment to such other advocate of his proper professional remuneration in respect thereof.

(2) Subject to specific agreement, an advocate who consults, instructs or calls as a witness any architect, engineer, doctor, surgeon or other professional or technical person is personally responsible for the payment to that person of his proper remuneration in respect thereof.

8. No advocate may appear as such before any court or tribunal in any matter in which he has reason to believe that he may be required as a witness to give evidence, whether verbally or by declaration or affidavit; and if, while appearing in any matter, it becomes apparent that he will be required as a witness to give evidence whether verbally or by declaration or affidavit, he shall not continue to appear:

Provided that this rule does not prevent an advocate from giving evidence whether verbally or by declaration or affidavit on formal or non-contentious matter of fact in any matter in which he acts or appears.

9. (1) No advocate may coach or permit the coaching of any witness in the evidence he will or may give before any court, tribunal or arbitrator.

(2) No advocate may call to give evidence before any court, tribunal or arbitrator a witness whom he knows to have been coached in the evidence he is to give without first informing the court, tribunal or arbitrator of the full circumstances.

10. No advocate or firm of advocates shall, in connexion with the practice of the advocate or firm, cause or permit himself or firm name to be described otherwise than as "Advocate" or "Advocates", as the case may be, whether by means of printed headings on business notepaper or legal forms, or by means of printed insertions therein, or by writing or typescript or similar means on such notepaper or forms, or on any name-plate, or in any public advertisement, or in any other manner whatsoever:

Provided that—

- (i) where an advocate, whether a member of a firm of advocates or not, holds the office of Notary Public or Commissioner for Oaths, he may add the words "Notary Public" or "Commissioners for Oaths", whichever is appropriate, to the description "Advocates", as the case may be;
- (ii) where more than one member of a firm of advocates holds such office, the firm may add the words "Notaries Public" or "Commissioner for Oaths", whichever is appropriate, to the description "Advocates";
- (iii) where an advocate, whether a member of a firm of advocates or not, possesses an academic distinction, or a professional qualification additional to that by virtue of which he was admitted as an advocate he may indicate, in the manner and style commonly adopted, that he possesses such distinction or qualification personally.

10A. No advocate shall practise under any name other than his own name or the name of a past or present member or members of the firm.

[L.N. 223/1984, s. 2.]

11. No advocate may request in a letter of demand before action payment from any person other than his client of any costs chargeable by him to his client in respect of such demand before action, or in respect of professional services connected with the demand.

12. The Council of the Law Society of Kenya shall have power to waive in writing any of the provisions of these Rules in any particular case.

13. *Spent*
