

## **LEGAL PROFESSION (PROFESSIONAL CONDUCT AND ETIQUETTE) RULES, 1969 (LI 613)**

IN exercise of the powers conferred on the General Legal Council by section 23 and 53 of the Legal Profession Act, 1960 (Act 32) these rules are made by the General Legal Council this 26th day of October, 1968.

### *Rule 1—Legal Practice.*

(1) A lawyer in practice is—

(a) a lawyer who is entitled to practise and who holds himself out as ready to do so, or is employed in a whole-time occupation where he performs legal duties; or

(b) a lawyer whose regular occupation is that of editor or reporter of any series of Law Reports entirely written and edited by lawyers for use by the legal profession.

(2) A practising lawyer shall not—

(a) be a managing director or executive chairman in any company or an active partner in any business,

(b) carry on any other profession or business which conflicts or involves a serious risk of conflict with his duties as a practising lawyer;

Provided that the General Legal Council may for the avoidance of doubt give a ruling on an application made to it in writing in any particular case as whether a profession or business conflicts or involves a serious risk of conflict with the duties of a person as a practising lawyer.

(3) A lawyer who is not in practice under sub-rules (1) and (2) above shall, if employed, file with the General Legal Council a copy of the terms of his employment; and where by the terms of his employment such lawyer is obliged to offer his employers legal advice or to perform such services as are normally performed by a lawyer in practice, he should be deemed to be a practising lawyer.

### *Rule 2—Advertising Touting and Publicity.*

(1) A lawyer shall not 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 reasonably be regarded as touting or advertising or as calculated to attract business unfairly.

(2) It is the duty of every lawyer at all times to uphold the dignity and high standing of his profession and his own dignity and high standing as a member of it.

(3) It is contrary to professional etiquette for a lawyer to do or cause or allow to be done anything for the purpose of touting directly or indirectly, or which is calculated to suggest that it is done for that purpose.

(4) While a lawyer is entitled to such personal advertisement as is a necessary consequence of the proper exercise of his profession, or of any act otherwise properly done by him, it is contrary to professional etiquette for a lawyer to do or cause or allow to be done anything with the primary motive of personal advertisement or anything calculated to suggest that it is so motivated.

(5) A lawyer shall not volunteer advice to bring a lawsuit except in the exceptional cases where ties of blood relationship or trust make it his duty to do so. Accordingly, a practising lawyer shall not employ agents or runners for the purposes of instigating litigation or pay or reward directly or indirectly those who bring or influence the bringing of such case to his chambers or remunerate Policemen, Court or Prison officials, hospital attaches or others who may succeed under the guise of giving disinterested friendly advice in influencing the criminal, the sick and the injured, the ignorant or others to seek a lawyer's professional services. Every lawyer having knowledge of any such practices on the part of another lawyer owes a duty to the public and to the profession immediately to inform thereof to the end that the offender may be disbarred or otherwise dealt with by the appropriate authority.

*Rule 3—Name Plates, Etc.*

A lawyer shall not permit to appear on his name plate or to be printed on his professional stationery the name of any person other than a lawyer who holds a valid licence or other authorisation for the time being prescribed by law to be obtained before the carrying on of the practice of a lawyer or of any part of such practice or who has duly complied with any law requiring registration by a lawyer before carrying on any such practice:

Provided that this rule shall not preclude:

(a) the appearance in the style or name of a lawyer's practice of the name of a predecessor or former partner in that practice; or

(b) the use of a style or firm-name in use at the date of the coming into operation of these rules or approved in writing by the Council.

*Rule 4—Chambers and Pupillage.*

(1) A lawyer shall not practise unless he is a member of professional chambers or the pupil of such a member.

(2) Membership of professional chambers under these rule means:—

(a) having the lawyer's name exhibited at the chamber (unless he is a pupil) and that lawyer having the rights to use the chambers for the conduct of his practice, and

(b) that lawyer having the services of the clerk who is the clerk of the chambers.

(3) Membership of chambers includes being sole occupier of chambers.

(4) All professional chambers shall be registered with the General Legal Council.

(5) A lawyer who is a member of professional chambers may use his private residence for professional work. But a part of a private residence shall not be eligible to be regarded as professional chambers for the purposes of these rules unless that part is clearly separated from the purely residential part or parts of the premises.

(6) A lawyer shall not receive a pupil into his chambers unless that 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.

*Rule 5—Briefs and Pleadings.*

(1) A lawyer in practice is bound to accept any briefs in the Court in which he professes to practise at a proper professional fee depending on the length and difficulty of the case. Special circumstances may justify his refusal at his discretion to accept a particular brief.

(2) A lawyer should be separately instructed and separately remunerated by fees for each piece of work done, and he shall not undertake to represent any person, authority or corporation in all their court work for a fixed annual salary. But a lawyer may accept a retainer for advice.

(3) Where a lawyer withdraws from a case and returns the client's brief, it is his duty to hand it back to the client from whom he received it. A lawyer who accepts a brief is in a confidential position, and he shall not communicate to any other person the information which has been confided to him as such lawyer; and he shall not use either such information or his position as a lawyer to his client's detriment. The duties here stated continue after the relation of lawyer and client has ceased.

(4) The papers in a brief delivered to a lawyer are the property of the client, and the lawyer has no right to lend them to any person without the consent of the client.

(5) A lawyer shall not accept a brief limiting his ordinary authority, or take a subordinate position in the conduct of a case or share such conduct with the client even if the litigant is himself a lawyer; and he shall not accept a brief on the condition that his discretion as to offering no evidence is fettered.

(6) A lawyer who finds on receiving a brief that another lawyer has previously been retained shall not accept the brief without—

(a) communicating in the first instance with the lawyer who first handled it; and

(b) enquiring whether he has any objection to his accepting the brief.

Such communication shall be by the latter lawyer to the former one direct, and not through his clerk.

(7) If the first lawyer does indicate any objection to the brief being taken away from him, the second one ought, where practicable, to ascertain from the client what are the exact reasons why the brief has been taken away from the first lawyer; and unless a satisfactory explanation is given shall refuse or return the brief.

(8) A lawyer is, in all his practice, but especially with regard to settling and signing of pleadings, under responsibilities to the Court as well as to his client. He shall not put into a pleading any allegation which is not supported by the facts which are laid before him by his client. If on the material before him there is no cause of action or no defence in law, he may ask for further instructions to find if more material can be obtained; and if it cannot, he may advise his client accordingly. In particular, where a lawyer is instructed to allege fraud, he shall not subscribe to such an allegation without having before him clear instructions that the client does wish to allege fraud and will support the allegation in the witness-box. In addition the lawyer must have before him material which, as it stands, establishes a prima facie case of fraud. If the material before him is not sufficient in his view to warrant the allegation, he shall advise his client that this is his view and that he cannot put his signature to the pleadings if it is to contain that charge.

(9) A lawyer shall not offer evidence which he knows the Court should not admit. He should not, either in argument to the Court or in address to the jury, assert his personal belief in his client's innocence, or in the justice of his cause, or as to any of the facts involved in the matter under investigation.

(10) A lawyer shall at the time of retainer disclose to the client all the circumstances of his relationship to the parties and his interest in or connection with the controversy, if any, which might influence the client in selection of counsel. He shall avoid representing conflicting interests.

*Rule 6—Lawyers' Accounts.*

(1) Every lawyer shall give a receipt for each and every payment made to him, and shall specify therein the purpose for which such payment was made.

(2) Every lawyer shall at all times keep properly written up such books and accounts as may be necessary—

(a) to show all his dealings with

(i) clients' moneys held, received or paid by them; and

(ii) any other moneys dealt with by him through a client account; and

(b) to distinguish such moneys held, received or paid by him on account of each separate client and to distinguish such moneys from other moneys held, received or paid by him on any other account.

(3) (a) All dealings referred to in sub-rule (2) (a) of this rule shall be recorded in—

(i) a clients' cash book, or a clients' column on the credit side or debit side (as may be appropriate) of a cash book; and

(ii) a clients' ledger, or a clients' column on the credit side or the debit side (as may be appropriate) of a ledger;

and no other dealings shall be recorded in such clients' cash book and ledger, or, as the case may be, in such clients' columns; and

(b) all dealings of the lawyer relating to his practice as such lawyer other than those referred to in sub-rule (2) (a) of this rule shall be recorded (as may be appropriate) in such other cash book and ledger (if any) or such other columns of a cash book and ledger (if any) as the lawyer may choose to maintain.

(4) Every lawyer shall preserve for at least six years from the date of the last entry therein all books, accounts and records kept by him under this rule.

(5) Nothing in these rules shall deprive a lawyer of any recourse or right, whether by way of lien, set-off, counter-claim, charge or otherwise, against moneys standing to the credit of a client account.

(6) In this rule each of the expressions "book", "ledger", and "record" shall be deemed to include a loose-leaf book and such cards or other permanent documents as are necessary for the operation of a mechanical system of book-keeping.

*Rule 7—Conduct of Proceedings in Court and at Other Tribunals.*

(1) It is the duty of a lawyer, whilst acting with all due courtesy to the Court or Tribunal before which he is practising, fearlessly to uphold the interests of his client without regard to any unpleasant consequences either to himself or to any other person. In particular, no lawyer is bound to withdraw any charge which is the necessary outcome of material facts sworn to by or on behalf of his client unless expressly instructed so to do by his client. A lawyer shall not however deceive the Court or Tribunal before which he is appearing in any circumstances whatsoever.

(2) A lawyer shall not appear as witness for his own client except as to merely formal matters such as the attestation or custody of an instrument, or the like, or when it is essential to the ends of justice. If he is a necessary witness with respect to other matters, the conducting of the case should be entrusted to another lawyer.

(3) Once a lawyer has accepted a brief he shall not relinquish it to the detriment of his client without good and sufficient cause.

Rule 8—Certain Improper Relationships and Contacts.

(1) A lawyer shall not join or act in association with any organisation or person (not being a practising lawyer) whose business or any part of whose business is to make, support or prosecute (whether by action or otherwise and whether by another lawyer or agent or otherwise) claims arising as a result of death or personal injury, including claims under the Workmen's Compensation Act, 1963 (Act 174), or any statutory modification or re-enactment thereof, in such circumstances that such person or organisation solicits or receives any payment, gift or benefit in respect of such claims; nor shall a lawyer act in respect of any such claim for any client introduced to him by such person or organisation.

(2) A lawyer shall not, with regard to any such claim, knowingly act for any client introduced or referred to him by any person or organisation whose connection with such client arises from solicitation in respect of the cause of any such claim.

(3) It shall be the duty of a lawyer to make reasonable enquiry before accepting instructions in respect of any such claim for the purpose of ascertaining whether the acceptance of such instructions will involve a contravention of the provisions of sub-rule (1) or (2) of this rule.

*Rule 9—Others Professional Misconduct.*

(1) The conviction of a lawyer for a criminal offence involving dishonesty or moral turpitude makes him prima facie unfit to continue on the Roll of Lawyers.

(2) The Disciplinary Committee may, however, take into consideration the nature of the offence of which the lawyer was convicted. In particular, if the offence is not of such a character as to make the person guilty of it unfit to remain an officer of the court and a member of an honourable profession, then the Disciplinary Committee may make such order as it thinks fit instead of striking the name of such person off the Roll of Lawyers.

(3) The failure on the part of any lawyer to comply with an order of the court is a professional misconduct except where such non-compliance was in connection with a court order made against a lawyer in a purely personal capacity completely unconnected with his practice.

(4) Any deliberate deception of the court on the part of a lawyer is a professional misconduct. Equally a lawyer is guilty of such misconduct if he knowingly permits a client to attempt to deceive the court.

(5) It is professional misconduct to attempt deliberately to deceive or make a false representation to the Disciplinary Committee of the General Legal Council which shall for the purposes of this rule be deemed to be in the same position as the court. Similarly the duty of a lawyer as an officer of the court to honour undertakings given to the court applies equally to undertakings given to the Disciplinary Committee.

(6) A lawyer who neither attends in court himself nor makes arrangements for a responsible member of his firm or staff or agent or some other lawyer to be present throughout in court proceedings in which he or his firm is acting is guilty of a breach of duty to the court, his client and his profession.

(7) A lawyer in his dealings with the client must behave with the utmost honesty and with frankness; and any breach of this rule constitutes professional misconduct.

(8) Any conduct towards a member of the public which is fraudulent or contains an element of fraud is a professional offence. It is immaterial for purposes of this rule that the lawyer concerned may not have been convicted of that fraud by a court of criminal jurisdiction.

(9) A lawyer is entitled to reasonable compensation for his services, but he shall avoid charges which either overestimate or undervalue the service rendered. When possible he shall adhere to established tariffs. The client's ability to pay cannot justify a charge in excess of the value of the service, though his poverty may require a less charge or even none at all.

(10) A lawyer shall give no undertaking he cannot fulfil, and he shall fulfil every undertaking he gives. He should never in any way communicate upon the subject in controversy, or attempt to negotiate or compromise the matter directly with any party represented by a lawyer except through such lawyer.

(11) It is the duty of a lawyer to maintain the honour and integrity of his profession, and to expose without fear or favour before the proper Tribunal unprofessional or dishonest conduct by any member of the profession, and to accept without hesitation a retainer against any member of the profession who is alleged to have wronged his client.

(12) No client is entitled to receive—and no lawyer shall render any service or advice involving disloyalty to the State or disrespect for the judicial office or the corruption of any persons exercising a public or private trust or deception or betrayal of the public.

E. AKUFO-ADDO

Chairman

E. S. AIDOO

Secretary

Date of Gazette Notification: 17th January, 1969.