

CIRCULAR NO. 7 OF 1999

TO ALL MEMBERS OF THE LEGAL PROFESSIONS

Copies AG
 CR
 Legal Adviser BSP

ACCEPTANCE OF INSTRUCTIOS

The general principles are set out in Part II of the Advocates (Practice and Etiquette) Rules, which were published as GN No. S27 on 7th November 1999.

This Part is in these terms:-

PART II

ACCEPTANCE OF BRIEF

4. (1) An advocate is not obliged to act as adviser or advocate for every person who may wish to become his client.

Advocate
obliged to
act for every
person

(2) An advocate may accept any brief in the courts in which he professes to practise, at a proper professional fee, dependant on the length and difficulty of the case and upon his own skill and experience.

(3) Special circumstances may justify the refusal, at his discretion, of an advocate to accept a particular brief, even if the conditions set out in these rules are otherwise met.

5. (1) An advocate shall not accept a brief if he is or might be not embarrassed thereby.

Advocate

to accept brief
if embarrassed.

(2) An embarrassment arises:-

(a) Where the advocate finds he is in possession of confidential information as a result of having previously advised another person in regard to the same matter; or

(b) Where there is some personal relationship

between him and a party or a witness in the proceedings.

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| <p>6. An advocate shall refuse a brief in a case in which he knows , or has reason to believe, that his own professional conduct is likely to be impugned.</p> | <p>When advocate Impugned.</p> |
| <p>7. (1) An advocate shall not accept a brief if such acceptance renders, or would render, it difficult for him to maintain his professional independence or it incompatible with the best interests of the administration of justice.</p> <p>(2) An advocate who has at any time advised or drawn pleadings or acted for a party in connection with the institution or prosecution or defence of any suit, or other proceedings connected therewith shall not act, appear or plead for the opposite party in the suit, or such other proceedings.</p> | <p>Professional independence.</p> |
| <p>8. (1) An advocate shall not accept any brief unless he is reasonably certain of being able to appear and represent the client on the required day.</p> <p>(2) An advocate shall not ordinarily withdraw from engagement once accepted, without sufficient cause and unless reasonable and sufficient notice is given to the client.</p> | <p>When an advocate shall not accept brief</p> |
| <p>9. Subject to any other law, an advocate assigned as counsel in any civil or criminal matter shall only ask to be excused in exceptional circumstances.</p> | <p>Release from assignment.</p> |
- These general principles are subject to Rules 27 and 28, which are in these terms:-
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| <p>27. (1) An advocate shall not appear as such in court or in chambers in any case in which he has reason to believe that he will be a witness on any disputed question of fact. If while appearing in a case it becomes apparent that he will be such a witness, he shall retire from it if he can do so without jeopardising his client's interests.</p> <p>(2) An advocate shall not appear before an appellate tribunal if in the case under appeal he has been witness on a material and disputed question of fact in the court below.</p> | <p>Advocate not to appear as such if he is a witness.</p> |
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3) This rule does not prevent an advocate from swearing or affirming an affidavit as to formal or undisputed facts in matters in which he acts or appears.

4) This rule does not apply to the case of an advocate appearing himself to tax his own costs.

28. Except when essential to the ends of justice or as to merely formal matters, an advocate appearing in any cause shall not testify in court on behalf of his client in that cause.

Advocate not
to testify.

I have been asked to send out circular about the principles involved.

If any advocate and solicitor is in doubt as to whether or not he should accept instructions, he should refer the matter to me, in the absence of a Law Society.

24th May, 1999.

(ORIGINAL SIGNED)
[DATO SIR DENYS ROBERT]
Chief Justice