

THE ADVOCATES (DISCIPLINARY AND OTHER PROCEEDINGS) RULES

(Section 14)

G.N. No. 135 of 1955

PART I PRELIMINARY PROVISIONS (rules 1-2)

1. Citation

These Rules may be cited as the Advocates (Disciplinary and Other Proceedings) Rules.

2. Omitted

[Omitted. *Vide* s. 4(8) of the Advocates' Act.]

PART II APPLICATIONS AGAINST ADVOCATES (rules 3-10)

3. Advocate's Committee to remove a name from the Roll

An application to the Advocates Committee to remove the name of an advocate from the Roll or to require an advocate to answer allegations shall be in writing under the hand of the applicant in Form I set out in the Schedule and shall be sent to the Secretary to the Committee together with an affidavit by the applicant stating the matters of fact on which he relies in support of his application.

4. Committee to require further information

Before fixing a day for the hearing, the Committee may require the applicant to supply such further information and documents relating to the allegations as it thinks fit.

5. Notice to be served

In any case in which, in the opinion of the Committee, a *prima facie* case is shown, the Committee shall fix a day for hearing (which shall be not less than seven days after service on the advocate of the notice hereinafter mentioned) and the Secretary shall serve notice thereof on the applicant and on the advocate and shall also serve on the advocate a copy of the application and affidavit in support together with copies of any other documents supplied under the provisions of rule 4 of these Rules. The notice to the applicant shall be in Form 2 set out in the Schedule and the notice to the advocate shall be in Form 3 set out in the Schedule.

6. Secretary to be furnished with documents

The notices shall require the applicant and the advocate respectively to furnish the Secretary and to each other a list of all documents on which they respectively propose to rely. Such list shall, unless otherwise ordered by the Committee, be furnished by the applicant and by the

advocate respectively on or before a date mentioned in the notice.

7. Inspection of documents

Upon receipt of the notice served under rule 5 of these Rules either party may inspect the documents included in the list furnished by the other; and a copy of any document mentioned in the list of either party shall, on the application and at the expense of the party requiring it, be furnished to that party by the other within three days of the receipt of such application.

8. Determination of the hearing

If either party fails to appear at the hearing the Committee may, upon proof of service of the notice of hearing, proceed to hear and determine the application in his absence.

9. Issuance of summons

A summons issued under subsection (2) of section 14 of the Act may be either in Form 4 or Form 5 set out in the Schedule with such variations as circumstances may require.

10. Omitted

[Omitted.]

PART III

APPLICATION AT THE INSTANCE OF AN ADVOCATE HIMSELF (rules 11-15)

11. Application to remove a name

An application at the instance of an advocate himself to procure his name to be removed from the Roll shall be in writing in Form 6 set out in the Schedule and shall be verified by an affidavit in Form 7 set out in the Schedule.

12. Application and affidavit to be sent to the Secretary

The application and affidavit shall be sent to the Secretary and, unless the Committee otherwise directs, letters from two practising advocates to whom the applicant is known shall be sent in support thereof.

13. Advocate to give notice of application

The Committee may, if it thinks fit, require the advocate to give notice of his application by advertisement or otherwise, as it may direct, and of the date appointed for the hearing.

14. Notice of objection

If any person desires to object to the application he shall give notice in writing to the advocate and to the Secretary at least seven days before the day fixed for hearing, specifying

the grounds of his objection.

15. Inquiry to take place

If the objector appears on the day fixed for the hearing and if the Committee is of opinion, after considering the notice of objection, and after hearing the advocate, if it thinks fit so to do, that the notice discloses a *prima facie* case for inquiry, it shall direct an inquiry to take place and shall give directions relating thereto, including directions as to the party on whom the burden of proof shall lie. Any such inquiry shall be held in accordance with the rules contained in Part II of these Rules.

PART IV GENERAL PROVISIONS (rules 16-24)

16. Hearing of applications

The Committee shall hear all applications in private.

17. Application not to be withdrawn

No application shall be withdrawn after it has been sent to the Secretary except by leave of the Committee. The Committee may grant such leave subject to such terms as to costs or otherwise as it shall think fit or it may adjourn the matter under rule 18 of these Rules.

18. Adjournment

The Committee may of its own motion, or upon the application of either party, adjourn the hearing upon such terms as to costs, or otherwise, as to the Committee shall appear just.

19. Amendment of applications

If upon the hearing of an application it shall appear to the Committee that the allegations in the affidavit in support of such application require to be amended, or added to, the Committee may permit such amendment or addition, and may require the same to be embodied in a further affidavit, if in the judgment of the Committee such amendment or addition is not within the scope of the original affidavit:

Provided always that if such amendment or addition shall be such as to take the advocate by surprise or prejudice the conduct of his case, the Committee shall grant an adjournment of the hearing upon such terms as to costs or otherwise, as to the Committee shall appear just.

20. Shorthand notes

Shorthand notes of proceedings may be taken by a person appointed by the Committee; and any party who appeared at the proceedings shall be entitled to inspect the transcript thereof. The Secretary shall, if required, supply to any person entitled to be heard upon an appeal against an order of the Committee or upon the consideration of a report of the Committee, and

to the Society, but to no other person, a copy of the transcript of such notes on payment of his charges. If no shorthand notes be taken, the Chairman, or some member of the Committee authorised by him in that behalf, shall take a note of the proceedings, and the provisions of this rule as to inspection and taking of copies shall apply to such note accordingly.

21. Service of notice

Service of any notice or document required by these Rules may be effected by registered letter addressed to the last known place of abode or business of the person to be served, and proof that such letter was so addressed and posted shall be proof of service. Any notice or document required to be given or signed by the Secretary may be given or signed by him or by any other person duly authorised by the Committee in that behalf.

22. Committee may dispense with requirements

The Committee may dispense with any requirements of these Rules respecting notices, affidavits, documents, service, or time, in any case where it appears to the Committee to be just so to do.

23. Extension of time

The Committee may extend the time for doing anything under these Rules.

24. Affidavits to be filed

All affidavits shall be filed with and kept by the Secretary.

SCHEDULE FORMS

FORM 1

FORM OF APPLICATION AGAINST AN ADVOCATE

(Rule 3)

To the Secretary of the Advocates Committee constituted under the Advocates' Act (Cap. 306).

*In the matter of C.D. an advocate
and
In the matter of the Advocates' Act*

I, the undersigned A.B. hereby make application that C.D. 1(1) an advocate, be required to answer the allegations contained in the affidavit which accompanies this application 2(2) and that his name may be removed from the Roll of Advocates 3(3).

Dated this day of 20.....

.....
Secretary to the Committee

(N.B. A copy of the Rules may be inspected at the office of the Secretary.)

FORM 3
FORM OF NOTICE TO ADVOCATE BY THE SECRETARY TO THE ADVOCATES
COMMITTEE

(Rule 5)

In the matter of C.D. an advocate
and
In the matter of the Advocates' Act

To C.D. of Advocate.

Application has been made by A.B. of
to the Advocates Committee constituted under the Advocates' Act, that you be required to
answer the allegations contained in the affidavit, a copy whereof accompanies this notice 1(4)
and that your name be removed from the Roll of Advocates 2(5).

The day of is the day fixed for the hearing of the
application by the Committee. The Committee will sit at
at o'clock. If you fail to appear, the Committee may, in accordance with the
Advocates (Disciplinary and Other Proceedings) Rules, proceed in your absence.

You are required by the Rules to furnish to the said A.B. and to me, at least
days before the said day of, a list of all the documents
on which you propose to rely.

Either party may inspect the documents included in the list furnished by the other, and a
copy of any document mentioned in the list of either party must, on the application and at the
expense of the party requiring it, be furnished to that party by the other within three days after
receipt of the application.

You are requested to acknowledge receipt of this notice without delay.

Dated this day of 20.....

.....
Secretary to the Committee

(N.B. A copy of the Rules may be inspected at the office of the Secretary.)

FORM 4
FORM OF SUMMONS TO GIVE EVIDENCE

(Rule 9)

*In the matter of C.D. an advocate
and
In the matter of the Advocates' Act*

Whereas your attendance is required to give evidence on behalf of
..... in the above matter, you are hereby required to appear before
the Advocates Committee on the day of 20..... at
..... o'clock

1 (6)(and to bring with you the undermentioned document(s))

And herein fail not.

Given under my hand at Dar es Salaam this day of
20.....

.....
Chairman (or Deputy Chairman)
Advocates Committee

FORM 5
FORM OF SUMMONS TO PRODUCE DOCUMENTS

(Rule 9)

LIST OF DOCUMENT(S)

*In the matter of C.D. an advocate
and
In the matter of the Advocates' Act*

You are required in the above matter to—

1(7) (a) attend and produce personally before the Advocates Committee on the day of 20..... at o'clock the undermentioned document(s); or

2 (8)(b) cause to be produced to the Advocate Committee on or before the day of 20..... at o'clock the undermentioned document(s).

And herein fail not.

.....
Chairman (or Deputy Chairman)
Advocates Committee

FORM 6
FORM OF APPLICATION BY AN ADVOCATE FOR REMOVAL
OF NAME FROM ROLL

(Rule 11)

LIST OF DOCUMENT(S)

In the matter of C.D. an advocate
and
In the matter of the Advocates' Act

I, the undersigned C.D., an advocate, hereby make application that my name may be removed from the Roll of Advocates.

I make this application for the following reasons—

(here set out the reasons for the application)

In witness whereof I have hereunto set my hand this day of 20.....

Signature

Address and place of business.....
.....

FORM 7

FORM OF AFFIDAVIT BY AN APPLICANT, BEING AN ADVOCATE

(Rule 11)

*In the matter of C.D. an advocate
and
In the matter of the Advocates' Act*

I, C.D. of make oath and say as follows—

1. I was admitted as an advocate on the day of and practised under certificate from the year to the year
2. The reasons set out in my application that my name be removed from the Roll of Advocates, which application is now produced by me and marked A, are true.
3. I am not aware of, and do not know of any cause for, any other application to the Court or to the Advocates Committee constituted under the Advocates' Act, that my name be removed from the Roll, or that I may be required to answer allegations contained in an affidavit.
4. I do not make this application for the purpose of evading any adverse application, or of defeating or delaying any claim against me as an advocate.

Sworn by the said CD. at on the
day of 20.....

before me

Endnotes

1 (Popup - Popup)

Insert full name and last known place or places of business.

2 (Popup - Popup)

Delete where inappropriate.

3 (Popup - Popup)

Delete where inappropriate.

4 (Popup - Popup)

Delete where inappropriate.

5 (Popup - Popup)

Delete where inappropriate.

6 (Popup - Popup)

Delete where inappropriate.

7 (Popup - Popup)

Delete whichever paragraph is inapplicable.

8 (Popup - Popup)

Delete whichever paragraph is inapplicable.