



## ADVOCATES ACT 1976 TO 1995

### THE ADVOCATES DISCIPLINARY RULES 2009

Coming into operation: 27<sup>th</sup> February 2009

The Advocates Disciplinary Tribunal makes these Rules under section 16(2) of the Advocates Act 1976, and of all other powers enabling it in that behalf, the following Rules are hereby made:-

1. **Title**  
The title of these rules is The Advocates Disciplinary Rules 2009.
2. In these Rules -  
"the Act" means the Advocates Act 1976 as amended;  
"Advocate" shall include a Registered Legal Practitioner;  
"Chairman" means the Chairman of the Tribunal;  
"Complaint" means a Complaint or application to the Tribunal under section 4, 6 or 17 of the Act;  
"Tribunal" means the Advocates Disciplinary Tribunal established under section 15A of the Act.
3. Any person wishing to make a Complaint against an Advocate in respect of that Advocate's professional conduct shall make that Complaint in writing to the Tribunal. The Complaint shall be signed by the complainant and sent to the Clerk to the Tribunal.  
  
Every such Complaint and any supporting documents shall be accompanied by a copy of such Complaint and a copy of any supporting documents.
4. Within 6 weeks of receiving the Complaint referred to in Rule 3, the Tribunal shall consider such Complaint and the documents in support thereof. Where, in the opinion of the Tribunal, no prima facie case in favour of the applicant

or complainant is shown in the Complaint, the Tribunal may make an order refusing or dismissing the Complaint without requiring the Advocate to whom it relates to answer the allegations and without hearing the applicant or complainant. The Tribunal shall send notice in writing of its decision to the complainant and at the same time to the said Advocate and the Secretary of the Isle of Man Law Society and shall take no further action in relation to the Complaint. A copy of the Complaint and any supporting documents shall be forwarded to the Advocate in respect of whom the Complaint has been made.

5. If, on consideration of the Complaint and documents in support thereof, the Tribunal determines that the same discloses a prima facie case in favour of the applicant or complainant, then and in such case the Tribunal shall within 4 weeks send to the Advocate to whom the Complaint relates, a copy of the Complaint and a copy of the documents submitted in support thereof and, at the same time, shall send to the said Advocate a notice requiring him to send to the Tribunal within the time specified in the notice, not being less than ten days from the date of the service of the said notice, an answer to the Complaint together also with a copy of such answer and a copy of all such documents as he may rely on in support of the answer to the Complaint.
6. Either party may inspect at the office of the Clerk of the Tribunal all such documents so furnished by the other, and either party may obtain a further copy of any such document upon applying for same and upon payment of the costs thereof. Neither the complainant nor the said Advocate shall be entitled to furnish any further evidence without the leave of the Tribunal or unless required by the Tribunal to do so.
7. If, upon reading the Complaint, answer and supporting documents, (if any), the Tribunal finds:
  - (i) There is no prima facie case for inquiry, the complaint shall be dismissed. A copy of the answer and supporting documents shall be forwarded to the complainant; or
  - (ii) If appropriate, that the answer and supporting documents (if any) should be referred back to the complainant for reply (if any); or
  - (iii) There is prima facie case for inquiry, it shall fix a day for the hearing and shall proceed to make inquiry into the case in the manner set out in Rules 8 to 11 hereof inclusive.
8. The Tribunal shall give to the complainant and to the Advocate at least ten days notice of the hearing, and shall furnish to the complainant a copy of the answer made by the Advocate to the complainant and a copy of the documents furnished by him.
9. Any party to any proceedings before the Tribunal relating to the Complaint made to the Tribunal under these Rules shall be entitled to appear and be heard by the Tribunal either in person or by an Advocate.

10. If any party fails to appear at the hearing, the Tribunal may, upon proof of service of the notice of hearing, proceed to hear and determine the Complaint in his absence though not represented.
11. In any case in which the said advocate -
  - (i) does not appear; or
  - (ii) gives his written consent,the Tribunal may proceed in his absence and may, either as to the whole case or as to any particular fact or facts, proceed and act upon evidence given by affidavit.
12. The Tribunal may permit or direct such amendment of, or addition to, any Complaint as at the hearing they may think necessary and desirable, and may direct that an affidavit or further affidavits be submitted.
13. Witnesses, including any party offering himself as a witness, shall be subject to examination, cross-examination and re-examination as nearly as may be as if they were witnesses in a civil action.
14. All decisions made by the Tribunal shall be signed by the Chairman and retained by the Clerk of the Tribunal and shall not be open for public inspection.
15. Parties to an inquiry shall, upon request, be entitled to obtain a copy of the decision.
16. The Tribunal shall hold its meetings at such place and at such times as it may fix, and may adjourn the consideration of any case from time to time. The meetings of the Tribunal shall be open only to such persons, in addition to the parties summoned to attend, as the Tribunal may direct.
17. Save in so far as the same is provided by the Act, the Tribunal may dispense with any requirement of these rules respecting notices, affidavits, documents, service, or time, in any case where it appears to the Tribunal to be just so to do.
18. Any notice or document required to be given or signed on behalf of the Tribunal may be signed by the Chairman.
19. The forms in the Schedule to these Rules shall be used in all cases as far as practicable, but a deviation from those forms shall not, by reason only of such deviation, render any Complaint or other document or proceedings invalid.
20. When a Complaint against an Advocate has once been lodged it shall not be withdrawn before a final determination has been made except by the leave of the Tribunal. Once a final determination has been made the complaint may not be withdrawn except by direction of the Governor.

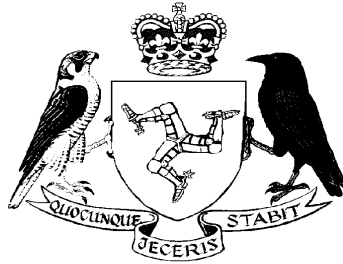
21. The originals of all Complaints, answers, documents and affidavits used upon behalf of a complainant or an Advocate in proceedings under these Rules shall be retained by the Clerk to the Tribunal.
22. The Tribunal may in any particular case relax or dispense with any time limit imposed by these Rules, either unconditionally or subject to compliance with such conditions as it thinks fit, if it is satisfied that to do so will not cause injustice to any person concerned.
23. Any matter arising following the lodging of a complaint that is not covered by these Rules is to be determined by the Tribunal at its sole discretion so as to ensure that there is a fair and proper determination of the issues involved.
24. The Advocates (Disciplinary) Rules 1997 (Statutory Document 1/97) as amended as at 20 July 2000 (Statutory Document 472/00) and 2<sup>nd</sup> December 2002 (Statutory Document 841/02) are hereby revoked.

MADE at a meeting of the Tribunal this 27<sup>th</sup> day of February 2009.

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Chairman

Tribunal Reference  
247( )



## FORM I

### ADVOCATES DISCIPLINARY TRIBUNAL

#### FORM OF NOTICE TO ADVOCATE/REGISTERED LEGAL PRACTITIONER

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I enclose a copy of a Complaint made by A.B., to the Advocates Disciplinary Tribunal, together with supporting documents.

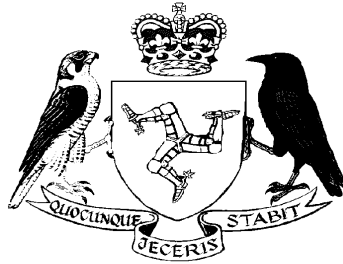
You are required by the Act and the Rules made thereunder to furnish the Tribunal with a copy of your answer to the Complaint of A.B. within xx days from the date of this notice, and you are, at the same time, to furnish a copy of such documents as you may rely upon in support of your answer.

Neither your personal attendance, nor attendance upon your behalf, is required before the Tribunal without further notice, but in the event of your failing to furnish, within xx days from the date of this notice, your answer or with evidence of your inability to do so, the Tribunal may proceed with the consideration of the Complaint in the absence of such answer or evidence.

Dated the            day of

Chairman

Tribunal Ref  
247( )



## FORM II

### ADVOCATES DISCIPLINARY TRIBUNAL FORM OF NOTICE TO COMPLAINANT

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IN THE MATTER OF CD AN ADVOCATE/REGISTERED LEGAL PRACTITIONER

To: A.B.

The     day of                     , is the day fixed for a hearing of your Complaint in the matter of C.D, Advocate/Registered Legal Practitioner, by the Advocates Disciplinary Tribunal.

The Tribunal will sit in                     at                     and you may appear in person or be represented by an Advocate of your own choice.

I enclose a copy of the answer of the said C.D. and of any supporting documents.

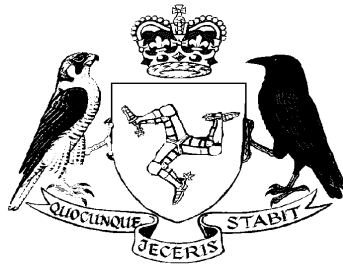
If you fail to appear or be represented, the Tribunal may, in accordance with the Rules made under the Act, proceed with the consideration of the case in your absence.

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

Dated this     day of

Chairman

Tribunal Ref  
247( )



**FORM III**

**ADVOCATES DISCIPLINARY TRIBUNAL**

**FORM OF NOTICE TO ADVOCATE/REGISTERED LEGAL PRACTITIONER**

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IN THE MATTER OF C.D., AN ADVOCATE/REGISTERED LEGAL PRACTITIONER

To: CD

The day of \_\_\_\_\_, is the day fixed for the hearing of the Complaint by \_\_\_\_\_ against you.

The Tribunal will sit in \_\_\_\_\_ at \_\_\_\_\_ and you may appear in person or be represented by an Advocate.

If you fail to appear or be represented, the Tribunal may, in accordance with the Rules made under the Act, proceed with the consideration of the case in your absence.

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_

Chairman