



THE
SARAWAK GOVERNMENT GAZETTE
PART II

Published by Authority

Vol. LXIX

16th January, 2014

No. 1

Swk. L. N. (F) 1

THE ADVOCATES ORDINANCE
ADVOCATES (INQUIRY COMMITTEE) RULES, 2014

ARRANGEMENT OF RULES

Part I
Preliminary

Rule

1. Citation and commencement
2. Interpretation

Part II
Lodgment of Complaint

3. Lodgment of Complaint

Part III
Inquiry Committee

Rule

- 4. Establishment and Appointment
- 5. Quorum
- 6. Duty to Hold Inquiry
- 7. Power to Administer Oath or Affirmations
- 8. Frivolous and Vexatious Complaint or Otherwise

Part IV
Panel of Investigation

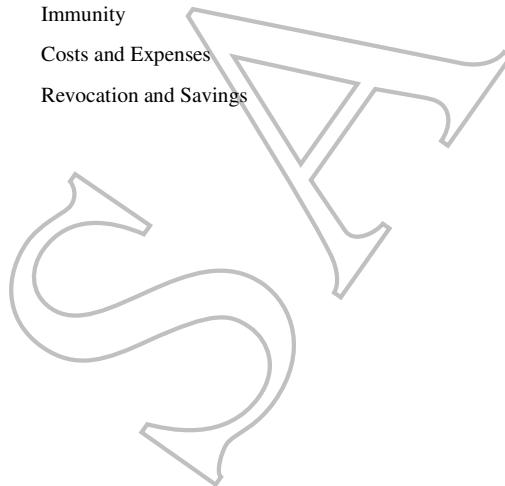
- 9. Appointment of Panel
- 10. Investigation by Panel
- 11. Report by Panel

Part V
Decision of Inquiry Committee

- 12. Consideration by Committee of Panel's Report

Part VI
Miscellaneous

- 13. Immunity
- 14. Costs and Expenses
- 15. Revocation and Savings



THE ADVOCATES ORDINANCE
ADVOCATES (INQUIRY COMMITTEE) RULES, 2014
(Made under section 17(ccc))

In exercise of the powers conferred by section 17(ccc) of the Advocates Ordinance [*Cap. 110 (1958 Ed.)*], the Chief Judge with the concurrence of the State Attorney-General has made the following Rules:—

Part I
Preliminary

Citation and commencement

1. These Rules may be cited as the **Advocates (Inquiry Committee) Rules, 2014**, and shall come into force on the 17th day of January, 2014.

Interpretation

2. In these Rules:—

“advocate” means an advocate whose name has been entered on the Roll of Advocates for Sarawak and includes an advocate to whom a licence to practise has been granted by the Chief Judge under section 10 of the Ordinance but shall not include a legal officer as defined in section 2 of the Government Proceedings Act 1956 [*Act 359*];

“Association” means the Central Committee of the Advocates’ Association of Sarawak;

“Chief Judge” means the Chief Judge of the High Court in Sabah and Sarawak;

“Court” means the High Court in Sabah and in Sarawak or a Judge thereof when sitting in open court;

“Committee” means the Inquiry Committee established under rule 4;

“Judge” means a Judge of the High Court in Sabah and Sarawak sitting in Chambers;

“misconduct” means any of the causes specified in section 12 of the Ordinance;

“Ordinance” means the Advocates Ordinance [*Cap 110 (1958 Ed.)*];

“Panel” means the Panel established under rule 9;

“State Attorney-General” means the State Attorney-General of Sarawak and includes his Deputy or any legally qualified member of his Chambers authorised in writing to act or appear on his behalf;

“Statutory Declaration” means a statutory declaration made pursuant to the Statutory Declarations Act 1960 [*Act 13*].

Part II

Lodgment of Complaint

Lodgment of Complaint

3. Any complaint against an advocate shall be lodged with the Secretary of the Committee in such form and on payment of such fee as may be determined from time to time by the Chief Judge and accompanied by a Statutory Declaration, with a copy of such documents to be delivered to the State Attorney-General.

Part III

Inquiry Committee

Establishment and Appointment

4.—(1) There shall be established a Committee to be known as the Inquiry Committee whose members shall be appointed by the Chief Judge and consist of the following;

(a) a Chairman;

(b) a Secretary;

(c) the President of the Association; and

(d) twelve other members recommended by the Association from among the advocates of not less than fifteen (15) years standing and having valid practicing certificates and such other persons with legal background or qualified to be admitted to the Rolls of Advocates.

(2) A member of the Committee shall hold office for a term of not exceeding two years and is eligible for reappointment:

Provided that no member referred to in subrule (1)(a), (b) and (d) shall hold office for more than two consecutive terms.

(3) The Chief Judge may at any time revoke the appointment of any member specified under subrule (1)(a) and (b) and, in respect of any member specified under subrule (1)(d), on the recommendation of the Association.

(4) During the temporary incapacity from illness or any other cause or during the temporary absence from the State of the Chairman or the Secretary, the Chief Judge may appoint from amongst members of the Committee a temporary Chairman or Secretary, as the case may be.

Quorum

5. The Chairman and any five other members present at a meeting of the Committee shall constitute a quorum.

Duty to Hold Inquiry

6.—(1) It shall be the duty of the Committee to hold an inquiry into any complaint made by any person concerning the conduct of any advocate.

(2) The Committee may hold its inquiry at such place as it may determine from time to time and shall, subject to these Rules, have power to regulate its own procedure including the appointment of a Panel to assist the Committee in carrying out its duties.

Power to Administer Oaths or Affirmations

7. The Committee may administer oaths and affirmations and shall have all the powers of a Court for the summoning and examination of witnesses and for compelling the production of documents. Provided that no person shall be compelled to produce any document which he could not be compelled to produce at the trial of an action.

Frivolous and Vexatious Complaint or Otherwise

8.—(1) Where a complaint is lodged in accordance with Rule 3, the Committee may, if it is satisfied that the complaint is frivolous or vexatious, dismiss the complaint and notify the complainant and State Attorney-General forthwith.

(2) Where the Committee is satisfied that the complaint is not frivolous or vexatious, the Committee shall forward to the advocate who is the subject of the complaint, an opportunity to make written representation within fourteen days thereof why an application should not be made against him pursuant to section 13 of the Ordinance.

(3) Upon receipt of his written representation or if he fails to make any written representation within the stipulated period, the Committee may;

- (a) dismiss the complaint; or
- (b) proceed to form a Panel to further investigate the complaint.

Part IV

Panel of Investigation

Appointment of Panel

9.—(1) The Chairman of the Committee shall appoint a Panel of Investigation consisting of three members, one of whom shall be a member of the Committee who shall be the chairman.

(2) Where a member of the Panel has an interest in any matter of the investigation, he shall, as soon as he is aware of his interest, disclose the fact and nature thereof and shall take no part or further part in the investigation. In such circumstances, the Chairman of the Committee shall appoint a replacement member.

(3) Notwithstanding subrule (2), a replacement member may be appointed by the Chairman of the Committee upon receipt of information that a member of the Panel is likely to have interest in any matter of the investigation, or upon application being made to recuse such member.

Investigation by Panel

10.—(1) The Panel shall give not less than seven days' notice in writing to all parties in respect of the investigation. Such notice may be served personally or by prepaid acknowledged receipt (A.R.) registered letter delivered to the parties at the last known addresses.

(2) The Panel may proceed with the investigation notwithstanding the absence of any party if it is proved to the satisfaction of the Panel that a notice under subrule (1) has been duly served.

(3) The Panel may or may not permit a party to an investigation to be represented by an advocate.

Report by Panel

11. After investigating any matter referred to it, the Panel shall submit a report thereof to the Committee.

Part V

Decision of Inquiry Committee

Consideration by Committee of Panel's Report

12.—(1) Upon receipt of the report of the Panel, the Committee shall forthwith convene a meeting to consider and decide on the report, and

(a) if it finds that the complaint is proved, proceed to make an application under section 13 of the Ordinance; or

(b) if it finds that the complaint is not proved, dismiss the complaint.

(2) The decision in subrule (1) shall be made by members present by a majority vote and in the event of an equality of votes the Chairman shall have a casting vote.

(3) The Committee shall forthwith notify its decision to all parties involved in the complaint.

(4) The Committee shall deliver to the State Attorney-General a report of the Panel and the Committee's decision under subrule (1).

Part VI

Miscellaneous

Immunity

13. No action or suit shall be instituted against the Committee, the Panel or any member thereof or any person acting for or on behalf of the Committee and the Panel, for any act or omission done in good faith under these Rules.

Costs and Expenses

14. The costs and expenses incurred by the Committee and the Panel in the discharge of their functions under these Rules, including any costs which the Court or Judge may award against the Committee, shall be paid out of moneys appropriated for the purpose by the Association.

Revocation and Savings

15.—(1) The Advocates (Inquiry Committee) Rules 1988 [*Swk. L.N. (F) 70/88*] is revoked.

(2) Nothing in subrule (1) shall affect the validity of anything lawfully done under and in accordance with the revoked Rules.

(3) All inquiries and proceedings conducted by and all decisions made by the Inquiry Committee established under the revoked Rules shall notwithstanding the revocation be proceeded with and be continued and acted upon by the Committee established under these Rules as if they have been so made, conducted or decided under these Rules.

(4) Any person who immediately before the commencement of these Rules is appointed the Chairman, Secretary and a member of the Inquiry Committee established under the revoked Rules shall continue in that office and be deemed for the purpose of these Rules to have been so appointed until the expiry of the term.

Made this 9th day of January, 2014.

TAN SRI DATUK SERI PANGLIMA RICHARD MALANJUM
Chief Judge of the High Court in Sabah and Sarawak

With the concurrence of the State Attorney-General Sarawak this 13th day of January, 2014.

DATU HAJI ABDUL RAZAK TREADY
State Attorney-General Sarawak