

Unvalidated References:
Lawyers Act

This reprint of this Statutory Instrument incorporates all amendments, if any, made before 25 November 2006 and in force at 1 July 2001.

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Legislative Counsel
Dated 25 November 2006

INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. 8 of 1989.

Professional Conduct Rules 1989

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Professional Conduct Rules 1989

MADE by Council of the Law Society under the *Lawyers Act 1986*.

1. INTERPRETATION.

In these Rules unless the contrary intention appears—

“**client**” means any person from whom a lawyer accepts instruction;

“**Committee**” means the *Lawyers Statutory Committee* established by the Act;

“**Council**” means the council of the Law Society established under the Act;

“**Rules**” means these rules and any schedules hereto;

“**Counsel**” means a lawyer who appears or who has been instructed to appear as an advocate before a Court;

“**Court**” includes a tribunal or any person or body of persons before whom a lawyer appears as an advocate;

“**lawyer**” means a person who has been admitted to practice as a lawyer under the Act;

“**President**” means the President of the Papua New Guinea Law Society;

“**Society**” means the Papua New Guinea Law Society as established under the Act;

2. LAWYER MAY SEEK ADVICE ON CONDUCT FROM THE COMMITTEE.

Where a lawyer is in doubt in any matter of professional conduct, he may apply in writing to the Committee who may advise him on the matter.

3. DUTY OF EVERY LAWYER.

It is the duty of a lawyer—

- (a) not to engage in conduct (whether in pursuit of his profession or otherwise) which—
 - (i) is illegal; or
 - (ii) is dishonest; or
 - (iii) is unprofessional; or
 - (iv) is prejudicial to the administration of justice; or
 - (v) may otherwise bring the legal profession into disrepute; and
- (b) to observe the ethics and etiquette of the legal profession; and
- (c) to be competent in all his professional activities; and
- (d) to respond within a reasonable time and in any event within 21 days (or such extended time of the Committee may allow) to any requirement of the Committee for comments or information on a complaint and in doing so he shall furnish in writing a full and accurate account of his conduct—
 - (i) in relation to the matter the subject of the complaint; or
 - (ii) in relation to any other matter the subject of an investigation or enquiry by the Committee; and

- (e) to respond within the time and in the matter required by the Committee to any requirement of the Committee for comments or information on a complaint; and
- (f) to comply with the Act and these Rules and the common law.

4. MAINTAINING PROFESSIONAL INTEGRITY.

(1) A lawyer shall not—

- (a) attempt to further his client’s case by unfair or dishonest means; or
- (b) knowingly—
 - (i) assist; or
 - (ii) seek to induce,

a breach of these Rules by another lawyer.

(2) A lawyer shall take reasonable care to ensure that his partners, associates or employees do not commit an act or omission which would be a breach of these Rules if committed by him.

(3) A lawyer shall properly supervise all professional work carried out for him and on his behalf by a non-lawyer.

(4) Where a lawyer becomes aware of—

- (a) a breach of any provision of the Act; or
- (b) a breach of these Rules,

by another lawyer he shall in accordance with his duty to the public and to the legal profession report the matter to the Committee.

5. ADVERTISING.

(1) For the purposes of this section—

“publication” means a book, pamphlet, brochure, newspaper, magazine, periodical, journal, gazette, directory or other printed material but not information in booklet form or other written form, concerning the firm or the partner of the firm provided to established clients of the firm.

(2) Subject to this section, a lawyer may advertise in connection with his practice, whenever he thinks fit, by means of a transmission or publication provided that such advertising—

- (a) is not false in any material particular; or
- (b) is not misleading or deceptive or likely to mislead or deceive; or
- (c) is not vulgar, sensational, of such frequency or otherwise such as would or would be likely to adversely affect the reputation or standing of the lawyer or any other lawyer or of the legal profession; or

- (d) does not claim or imply superiority of the lawyer over any or all other lawyers; or
- (e) does not contain any testimonials or endorsements concerning the lawyer.

(3) An advertisement shall not contain any claim or words to the effect or imply that the lawyer is—

- (a) a specialist, expert or leader; or
- (b) an established or experienced lawyer,

in a particular field of practice or in any field of practice generally although it may contain a statement of the fields of practice in which he will or will not accept instructions.

(4) In a case of publication, the publication shall not exceed 10cm by 6cm.

(5) A lawyer may use a business card upon which is stated his name and, if desired—

- (a) his degrees and other qualifications (if any); and
- (b) his address, telephone, telex and facsimile numbers; and
- (c) the description “Lawyer”, “Commissioner for Oaths”, “Legal Practitioner” or “Notary” (as the case may be); and
- (d) the name of his firm,

provided that such use is discreet and is confined to those occasions when it is proper that he should establish his professional identity.

(6) Subject to this section, a lawyer shall not—

- (a) advertise; or
- (b) cause or permit an advertisement to be disseminated,

in connection with his practice.

(7) A lawyer shall cause a true and correct copy or recording of any advertisement so published pursuant to these Rules to be produced to the Council for inspection forthwith upon being requested so to do.

(8) Subject to this section, a lawyer may in any lecture, talk, public appearance, or publication on any subject be identified therein by his name, firm, academic qualifications and the fact that he is a lawyer.

(9) Where the subject matter or part of the subject matter of a lecture, talk, public appearance or publication referred to in Subsection (3) concerns a matter in which the lawyer is or has been professionally engaged—

- (a) the lawyer shall confine himself to an objective account of the matter without giving undue publicity to his own part in the matter; and
- (b) the lawyer shall not in cases where he has—

- (i) appeared in Court; or
- (ii) acted in relation to proceedings in Court,

in giving an account of the matter or commenting thereon in relation to any proposed news report of the proceedings allow himself to be identified in relation to such account or comments in such report although his name may appear as a subscription to a newspaper report of the proceedings.

(10) A lawyer shall not participate in any matters referred to in Subsection (4) unless he has the express consent of his client and it is not contrary to the interests of his client so to do.

(11) Where the subject matter thereof concerns a legal or related professional subject the lawyer—

- (a) shall not (except in the context of a lecture or talk given by the lawyer in relation to the education of law students) claim or imply in relation thereto that he is a specialist, expert, leader or an established or experienced lawyer in that or any other legal subject; or
- (b) shall not therein profess to be representing the Society or the legal profession or representing the views of the Society or the legal profession unless he has been expressly authorized by the Council or its delegate so to do.

(12) A lawyer shall not participate in the matters referred to in Subsection (6) to the extent that he—

- (a) receives excessive publicity; or
- (b) claims or implies superiority over any or all other lawyers.

(13) The Council or its delegate may, by notice in writing to a lawyer, order him to cease or limit the—

- (a) lectures or talks; or
- (b) public appearances; or
- (c) publications,

in which he participates if, in the opinion of the Council or its delegate, the lawyer is thereby receiving excessive publicity.

6. A LAWYER SHALL NOT TOUT BUSINESS.

Except as provided by these Rules, a lawyer shall not, directly or indirectly—

- (a) apply to a person who is not then or who has not been his client for instructions for professional business; or
- (b) do or permit in the carrying on of his practice any act or thing,

that may reasonably be regarded as touting or as calculated to attract professional business unfairly.

7. DISPLAY OF SIGN.

(1) Subsection to Section 5(2) and (3), a lawyer may display or permit to be displayed on or adjacent to his place of practice such signs indicating—

- (a) that he is a lawyer; and
- (b) where his office is to be found; and
- (c) such other information concerning his practice as he may think fit.

(2) The Council or its delegate may, by notice in writing to a lawyer, order—

- (a) the alteration, withdrawal or discontinuance of an advertisement; or
- (b) the removal or alteration of a sign; or
- (c) the alteration or discontinuance of the use of a business card,

by the lawyer where the Council or its delegate is of the opinion that the advertisement, sign or business card, contravenes the provisions of these Rules.

(3) The lawyer to whom an order has been given as referred to in Subsection (2) and (3) shall forthwith comply with the order given by the Council or its delegate.

8. DILIGENCE.

(1) A lawyer shall treat a client fairly and in good faith, giving due regard to—

- (a) the dependence by the client upon him and his special training and experience; and
- (b) the high degree of trust which the client is entitled to place in him.

(2) A lawyer shall always be frank and open with his client and with all others so far as his client's interest may permit and shall at all times give his client a candid opinion on any professional matter in which he represents that client.

(3) A lawyer shall take such legal action consistent with his retainer as is necessary and reasonably available to protect and advance his client's interests.

(4) A lawyer shall at all times use his best endeavours to complete any work on behalf of his client as soon as is reasonably possible.

(5) If a lawyer receives instructions from a client and it is or becomes apparent to him that he cannot do the work within a reasonable time, he shall so inform his client.

(6) A lawyer shall not—

- (a) take unnecessary steps or do his work in such a manner as to increase his proper costs to his client; or
- (b) accept instructions which are beyond his competence.

(7) A lawyer shall, when in his client's best interests, seek his client's instructions to endeavour to reach a solution by settlement out of court rather than commence or continue legal proceedings.

9. CONFIDENTIALITY.

(1) A lawyer shall at all times strive to establish and maintain a relationship of trust and confidence with his client.

(2) A lawyer shall impress upon his client that he can not serve him adequately without knowing everything that might be relevant to the client's case and that the client should not withhold information which the client might think is embarrassing or harmful to his interests.

(3) A lawyer shall not, without the consent of his client, directly or indirectly—

- (a) reveal the client's confidence; or
- (b) use the client's confidence in any way detrimental to the interests of that client; or
- (c) lend or reveal the contents of the papers in any brief, advice or instructions to any person,

except to the extent—

- (d) required by law, rule of court or court order, provided that where there are reasonable grounds for questioning the validity of the law, rule or order he shall first take all reasonable steps to test the validity of the same; or
- (e) necessary for replying to or defending any charge or complaint of criminal or unprofessional conduct or professional misconduct brought against him or his partners, associates or employees or to respond to a requirement under Section 3(d) and (e).

10. CONFLICT OF INTEREST.

(1) Subject to the duty of a lawyer to the court, a lawyer shall give undivided fidelity to his client's interests, unaffected by—

- (a) any interest of the lawyer; or
- (b) any interest of any other person; or
- (c) the lawyer's perception of the public interest.

(2) If a lawyer has any interest in a matter which—

- (a) may conflict with; or
- (b) is adverse to,

the interests of his client, he shall decline to represent or shall withdraw from representing that client.

(3) If a lawyer has or acquires any interest in a matter and he—

- (a) wishes to accept; or
- (b) has accepted,

instructions from a client, touching on that matter, he shall—

- (a) decline to represent; or
- (b) withdraw from representing,

that client, unless the client is fully informed in writing of the lawyer's interest in the matter and the client voluntarily assents in writing to the lawyer acting or continuing to act on his behalf.

(4) A lawyer or a firm of lawyers shall not represent or continue to represent conflicting interests in litigation.

(5) A lawyer or a firm of lawyers shall only represent or continue to represent two or more parties in any matters, other than litigation if—

- (a) to do so is not likely to prejudice the interests of the client; and
- (b) the client is fully informed of the nature and implications of the conflict; and
- (c) the client voluntarily assents in writing to the lawyer or firm of lawyers acting or continuing to act; and
- (d) in the case of any town in which there are two or more firms of lawyers practising, the client has declined to place his instructions with another firm.

(6) A lawyer shall not give advice, other than the advice to secure the services of another lawyer, to a person who is not his client, where he knows the interests of that person are in conflict with or likely to be in conflict with the interests represented by him of his client.

(7) Where a lawyer has accepted instructions from two clients in a matter and a conflict develops between the interests of those clients, the lawyer shall immediately inform each of the clients that he has forthwith ceased to act for them and that they each must instruct other lawyers.

(8) Where—

- (a) a lawyer has represented a client; or
- (b) because of a lawyer's association with a law firm he has had access to a client's confidences,

that lawyer shall not thereafter use such information against that client's interest or for the benefits of any other person.

(9) If Counsel forms the view that there is a conflict of interest between his client and his instructing lawyer, he shall advise that it would be in the client's interest to instruct another lawyer and such advice shall be given either in writing to the lawyer or at a conference at which both the lawyer and the client are present.

11. BORROWING FROM CLIENT.

(1) Except where it is the whole or part of the client's normal business to lend money a lawyer shall not advise or knowingly permit a client to lend money with or without security—

- (a) to the lawyer or a member of the lawyer's family; or
- (b) to a partner of the lawyer or a member of that partner's family; or
- (c) to a company (other than a company the shares in which are listed on any stock exchange approved by the Council) in which any of the parties referred to in Paragraphs (a) and (b) has a significant beneficial interest.

12. INDEPENDENCE.

(1) A lawyer shall not appear in any Court or in any matter where by reason of his connection with the client, whether that connection be blood relationship, relationship by matrimony or personal relationship, it will be difficult for him to maintain his professional independence.

(2) A lawyer shall not appear in any court or in any matter where by reason of—

- (a) his connection with the Court or a member thereof; or
- (b) blood relationship; or
- (c) relationship by matrimony; or
- (d) personal relationship,

the impartial administration of justice might appear to be prejudiced.

13. KEEPING THE CLIENT INFORMED.

(1) A lawyer shall inform his client fully of his rights and possible courses of conduct regarding issues of substantial importance and shall keep his client apprised of all significant developments and generally informed in the matter entrusted to him by that client unless he has been instructed to do otherwise.

(2) A lawyer shall—

- (a) notify his client promptly of the receipt by him of moneys or securities on behalf of that client; and
- (b) as soon as possible inform a client in writing of the basis of calculation of his costs; and
- (c) advise each of his clients of his intention to close his office or to cease to practice.

(3) During the course of a retainer the lawyer shall advise his client promptly in writing of any circumstances likely to have a substantial effect on the amount, or basis of calculation, of such costs or any disbursements.

(4) A lawyer shall inform his client promptly of any circumstances of conflict of interest and the consequences following therefrom in accordance with the provisions of Section 10.

(5) If, during the conduct of a matter, a lawyer fails to conduct the matter in the interests of the client, he shall inform the client of the facts of the act or omission and advise the client of the consequences and the remedial action which may be taken.

14. CONDUCT OF CLIENTS.

(1) A lawyer shall not advise his client to engage in conduct which the lawyer considers may be illegal, except in good faith to test the validity or scope of the law and provided that prior to so doing—

- (a) he informs the client of the consequences and likelihood of the conduct being found to be illegal; and
- (b) the client is given complete freedom of choice whether or not so to act.

(2) A lawyer shall draw his client's attention to the possible effect of any proposed course of action which may adversely affect his client's credit or honour.

(3) A lawyer, whose client behaves in an offensive or improper manner, shall nevertheless continue to act for him unless—

- (a) the lawyer is justified in assuming that his instructions have been withdrawn; or
- (b) the lawyer finds that his professional standing is being or is likely to be impugned and he can withdraw from the case or matter at that stage without jeopardising his client's interests.

15. COURT PROCEEDINGS.

(1) Subject to these Rules, a lawyer shall conduct each case in such manner as he considers will be most advantageous to his client.

(2) A lawyer shall not knowingly deceive or mislead the Court.

(3) If, at any time before judgement is delivered in a civil case, a lawyer is informed by his client that the client has—

- (a) committed perjury; or
- (b) otherwise been guilty of fraud upon the Court,

the lawyer shall not inform the Court of that fact without his client's consent, but he shall not take any further part in the case unless his client authorizes him to inform the Court of the perjured statement or other fraudulent conduct and he has so informed the Court.

(4) A lawyer shall—

- (a) act with due courtesy to the Court before which he is appearing; and

- (b) use his best endeavours to avoid unnecessary expenses and waste of the Court's time; and
- (c) when requested, inform the Court of the probable length of a case; and
- (d) inform the Court of the possibility of a settlement provided that he can do so without revealing the existence or the content of "without prejudice" communications; and
- (e) subject to these Rules, inform the Court of any development which affects the information already before the Court; and
- (f) not delay proceedings that have been set down for trial only for the reason that he does not hold money on account of his costs; and
- (g) appear in court wearing a long-sleeved clean ironed opaque white shirt or blouse with collar closed at the throat and dark trousers or rami, laplap or a skirt and business shoes and—
 - (i) if appearing as Counsel, properly gowned with bib (tabs) and wig; and
 - (ii) if appearing as instructing lawyer, a tie in the case of a male.

(5) A lawyer shall ensure that the Court is informed of any relevant decision on a point of law or any legislative provision of which he is aware and which he considers to be relevant, whether it be for or against his contention.

(6) In cross-examination which goes to a matter in issue, a lawyer may put questions suggesting fraud, misconduct or the commission of a crime provided that—

- (a) the matters suggested are part of his client's case; and
- (b) he has no reason to believe that the matter are only put forward for the purpose of impugning the witness's character.

(7) Questions which affect the credibility of a witness by attacking his character, but which are otherwise not relevant to the actual inquiry, shall not be put in cross-examination unless there are reasonable grounds to support the imputation conveyed by the questions.

(8) For the purposes of Subsections (6) and (7), Counsel may regard instructions from his instructing lawyer that the imputation is well-founded as reasonable grounds to support the imputation conveyed by such questions.

(9) A lawyer instructed to prepare or settle a pleading shall not make any allegation unsupported by his instructions and, in particular—

- (a) he shall not allege fraud unless he—
 - (i) has express instructions to plead fraud; and
 - (ii) has before him credible material which establishes an apparent case of fraud; and
- (b) he shall not plead justification unless he—
 - (i) has express instructions to plead justification; and

(ii) has before him credible material which in his independent judgement supports that pleading.

(10) In all cases it is the duty of a lawyer—

- (a) to guard against being made the channel for questions or statements which are only intended to insult or annoy either the witness or any other person or otherwise are an abuse of a lawyer's function; and
- (b) to exercise his own judgement both as to the substance and the form of the questions put or statements made.

(11) A lawyer shall not communicate with a witness under cross-examination without the leave of the Court.

(12) A lawyer representing an interested party in a Court shall not initiate communication with the Court about the facts or issues in a case that the lawyer knows is pending or likely to be pending before the Court unless he has first informed the lawyer for the other interested party of the nature of the matters he wishes to discuss with the Court and has given that other lawyer and the interested party an opportunity to be present.

(13) If a lawyer has a discussion with the Court regarding an issue in a case in the absence of the opposing lawyer, he shall fully inform the opposing lawyer of such discussion at the earliest opportunity.

(14) A lawyer shall not accept instructions in a case in which he has reason to believe that he is or is likely to be a witness.

(15) A lawyer shall withdraw from representing a client if—

- (a) it becomes apparent to him that he is or is likely to be a witness on a material question of fact; and
- (b) he can withdraw without jeopardizing his client's interests.

(16) Where a lawyer—

- (a) does not accept instructions under Subsection (14); or
- (b) withdraws from representing a client under Subsection (15),

another lawyer in the same firm as that lawyer may accept the instructions of the client provided that the conduct of the firm or a lawyer in the firm is not likely to become a material issue in the case.

(17) A lawyer shall not settle a case before the Court without first obtaining his client's specific instructions.

16. DEFENDING A PERSON ACCUSED OF CRIME.

(1) Subject to these Rules, a lawyer shall defend any person on whose behalf he has accepted instructions on a criminal charge irrespective of any opinion which he may have formed as to the guilt or innocence of that person.

(2) When defending a client on a criminal charge, a lawyer shall endeavour to protect his client from being convicted except by a competent tribunal and upon legally admissible evidence sufficient to support a conviction for the offence with which his client is charged.

(3) A lawyer shall not attribute to another person the crime with which his client is charged unless—

- (a) he can properly do so in accordance with facts or circumstances; or
- (b) there are facts or circumstances,

which reasonably suggest the possibility that the crime may have been committed by the person to whom the guilt is imputed.

(4) A lawyer, to whom a client has made a clear confession of guilt in respect of a charge—

- (a) may, if the confession is made before the proceedings have commenced; or
- (b) shall, if the confession is made during the proceedings,

continue to act for him, but shall not set up an affirmative case inconsistent with the confession by the client, in particular—

- (a) asserting or suggesting that some other person committed the offence charged; or
- (b) calling evidence in support of an alibi.

(5) A lawyer may advise his client as to the plea to a criminal charge, if necessary in strong terms, but the client must be allowed complete freedom of choice as to the plea he wishes to make.

(6) A defending lawyer shall not absent himself from a trial unless—

- (a) there are exceptional circumstances which he could not reasonably have foreseen; and
- (b) he obtains the consent of the instructing lawyer or his representative or of his client; and
- (c) a competent deputy who is well informed about the case and able to deal with any question which might reasonably be expected to arise takes his place.

(7) A defending lawyer in a criminal case is entitled to withdraw from the case if—

- (a) during the course of the trial and prior to final sentence, the defendant absconds; or
- (b) prior to or during the course of the trial, the defendant refuses to accept the jurisdiction of the Court.

(8) If a procedural irregularity comes to the knowledge of a defending lawyer before the verdict in a trial is returned, he shall inform the Court as soon as practicable and shall not wait with a view to raising the matter later on appeal.

(9) If, in a case, the Court has been led by the prosecution to believe that the accused person has no previous convictions, the defending lawyer is under no duty to—

- (a) disclose facts to the contrary which are known to him; or
- (b) correct any information given by the prosecution, if such disclosure or correction would be to his client's detriment, provided that the lawyer shall not—
 - (i) lend himself to any assertion that his client has no convictions; or
 - (ii) ask a prosecution witness whether there are previous convictions against his client in the hope that he will receive a negative answer.

(10) A lawyer may advise his client about giving evidence in his own defence, but the client must be allowed complete freedom of choice as to whether to give evidence or not.

(11) A defending lawyer in a case shall not, in a plea in mitigation, make any allegation that is merely scandalous or calculated to vilify or insult any person.

(12) Unless there is good reason not to do so, a defending lawyer in a case shall attend his client after conviction and sentence or ensure that his instructing lawyer or a representative of that lawyer does so.

17. PROSECUTING A PERSON ACCUSED OF CRIME.

(1) A prosecuting lawyer in a case shall not seek to obtain a conviction by any improper means, and it is his duty to present before the Court the case for the prosecution fairly, impartially and in a competent manner.

(2) If a prosecuting lawyer in a case knows of the identity or existence of—

- (a) a person who may be able to give evidence relevant to the case, but who is not proposed to be called before the Court by the prosecution; or
- (b) documentary evidence relevant to the case, but which it is not proposed the prosecution will produce,

he shall inform the defence of the identity or existence (if known) of that person or of that documentary evidence prior to the trial.

(3) Where a witness called by the prosecution gives evidence on a material issue in substantial conflict with a prior statement made by him, the prosecuting lawyer shall inform the defence accordingly.

(4) A prosecuting lawyer in a case shall assist the Court at all times before the verdict is returned, by drawing attention to—

- (a) any apparent errors or omissions of fact or law; or

- (b) procedural irregularities which, in his opinion—
 - (i) ought to be corrected; or
 - (ii) may affect the outcome of the trial.

(5) If an accused person is unrepresented, it is proper for a prosecuting lawyer to inform the Court of any mitigating circumstances in respect of which he is instructed.

18. FEES AND TRUST ACCOUNTS.

(1) A lawyer shall comply with the provisions of the Act with respect to costs and to the operation and maintenance of trust accounts.

(2) A lawyer shall not claim his costs in a letter of demand for debt or damages or other relief written on behalf of a client unless his client has a right to recover such costs.

(3) A lawyer shall not in the course of his practice—

- (a) give or agree to give an allowance in the nature of an introduction fee or spotter's fee to any person for introducing professional business to him; or
- (b) receive or agree to receive any such allowances referred to in Paragraph (a) from any person for introducing or recommending clients to that person.

(4) A lawyer shall, within a reasonable time after being requested by his client, render a bill of costs covering all work performed for that client to which the request relates.

(5) A lawyer shall charge no more than is reasonable by way of costs for his services having regard to—

- (a) the complexity of the matter, the time and skill involved; and
- (b) any scale of costs that might be applicable; and
- (c) any agreement as to costs between the lawyer and his client.

19. TERMINATION OF RETAINER.

(1) A lawyer shall recognise that a client is entitled to change his legal adviser at any time without giving any reason for the change and shall, subject to the satisfaction of any lien the lawyer may have, take all reasonable steps to facilitate such a change should his client so request.

(2) If a client engages another lawyer in a matter and the latter lawyer is of the opinion that the conduct of his predecessor in the matter warrants the making of a complaint to the Council or the Committee, he shall advise the client accordingly.

(3) Subject to Section 14(3) and Section 18(4), and to the National Court Rules and Practice Directions, a lawyer may withdraw from representing a client—

- (a) at any time and for any reason if the withdrawal will cause no significant harm to the client's interests and the client is fully informed of the consequences of withdrawal and he voluntarily assents to it; or
- (b) if the lawyer reasonably believes that continued engagement in the case or matter would be likely to have seriously adverse effect upon his health; or
- (c) if the client commits a significant violation of a written agreement regarding fees or expenses; or
- (d) if the client made material misrepresentations about the facts of the case or matter to the lawyer; or
- (e) if the lawyer has an interest in any case or matter in which he is concerned for the client which is adverse to that of the client; or
- (f) where such action is necessary to avoid commission by him of a breach of these Rules; or
- (g) where the client fails or neglects to instruct the lawyer; or
- (h) by leave of the Court,

provided that the lawyer shall take reasonable care to avoid foreseeable harm to his client, including—

- (i) giving due notice to the client; and
- (j) allowing reasonable time for substitution of a new lawyer; and
- (k) co-operating with the new lawyer; and
- (l) subject to the satisfaction of any lien the lawyer may have, promptly turning over all papers and property and paying to the client any moneys to which the client is entitled.

(4) Only in the most exceptional circumstances shall a brief for the defence of a person charged with a serious criminal offence be returned and then only if sufficient time remains for another lawyer to master the case.

(5) Where, through conflict of interest, a lawyer has recommended to a client that the client seeks alternative legal representation, the lawyer shall charge only for those items which it is clear a second lawyer will not need to duplicate.

20. PROFESSIONAL COURTESY.

(1) A lawyer shall treat his professional colleagues with the utmost courtesy and fairness.

(2) If a lawyer observes that another lawyer is making or is likely to make a mistake or oversight which may involve the other lawyer's client in unnecessary expense or delay, he shall not do or say anything to induce or foster that mistake or oversight and shall, except where so doing might prejudice his own client, draw the attention of the other lawyer to that mistake or oversight.

(3) A lawyer shall not communicate regarding a legal matter in which he is acting with a person whom he knows is represented in that matter by another lawyer.

(4) A lawyer who, on receiving instructions, finds that acceptance of the instructions would amount to his replacing another lawyer who has previously been instructed in the same matter, shall inform that other lawyer that the instructions have been given to him.

(5) A lawyer shall not discriminate against another lawyer by reason of the colour, race, ethnic or national origins, sex, marital status or religious beliefs of that other lawyer.

21. CONDUCT OF PRACTICE.

(1) A lawyer shall ensure that his practice is efficiently and properly administered and shall take all reasonable and practicable steps to ensure that professional engagements are fulfilled or that early notice is given if they cannot be fulfilled.

(2) A lawyer shall conduct his practice from a proper office and shall inform the Registrar of the National Court and the Secretary of the Law Society promptly of his address of practice or any change in the address.

(3) A lawyer shall ensure that at his main place of practice he or another lawyer is in charge at that place and gives substantial attendance thereat during the normal hours of his practice at that place.

(4) Where a lawyer has a place of practice which is a branch of his practice he shall ensure that he or another lawyer is in charge of that branch of his practice and provides adequate and regular supervision of all professional business conducted thereat.

22. CONDUCT OF OTHER BUSINESSES.

(1) A lawyer may carry on another business in addition to his legal practice provided that—

- (a) the other business does not derogate from the dignity of the legal profession; and
- (b) he keeps the conduct of that business entirely separate from his legal practice in so far as correspondence, accounts and presentation to the public are concerned; and
- (c) the carrying on of that business is not calculated to attract professional business to him or likely to lead to any other infringement of the Act or of these Rules.

(2) For the purpose of this section, a lawyer shall be deemed to be carrying on another business if that business, being conducted by a company, is carried on substantially under his direction or control.

23. FIRMS.

- (1) A lawyer shall not—
 - (a) hold a person out as; or
 - (b) represent that a person is,

his partner or former partner unless that person is or was his partner.

(2) A lawyer shall not permit to appear on any sign in relation to his practice or his professional stationery the name of any other person unless—

- (a) the name forms part of the firm name under which he practises; or
- (b) the person whose name so appears is a lawyer and—
 - (i) his partner; or
 - (ii) a consultant or is employed as his associate and the word “Consultant” or “Associate” appears in conjunction with the name of that person.

(3) The name of all partners, consultants and associates shall appear on the letterhead and no name of a person other than a partner, consultant or associate shall appear on a lawyers letterhead.

24. AGENT’S FEES.

(1) In this Section, “lawyer” includes a person practising as a lawyer in any other jurisdiction outside Papua New Guinea, notwithstanding that the person is not qualified to practice as a lawyer in Papua New Guinea.

(2) Except where otherwise agreed, a lawyer who instructs another lawyer to advise on or to assist in a matter is responsible for the payment of the latter’s fee.

(3) A lawyer who directs a client to another lawyer is not responsible for the payment of the latter’s fee.

25. UNDERTAKINGS.

A lawyer shall honour any personal undertaking given by him when he is acting professionally for the client whether such undertaking is to his client, a third person or to a court.

Professional Conduct Rules 1989

DATED this 16th day of March, 1989.