



SUPPLEMENT No. 3
TO
THE SOVEREIGN BASE AREAS GAZETTE
No. 1629 of 10th October 2011
SUBSIDIARY LEGISLATION

CONTENTS:

*The following SUBSIDIARY LEGISLATION is published in this
Supplement which forms part of this Gazette : –*

	No.
Advocates (Code of Conduct and Disciplinary Procedure) Rules 2011	28

ADVOCATES (CODE OF CONDUCT AND DISCIPLINARY PROCEDURE) RULES 2011

The Administrator, having consulted the Presiding Judge, makes the following Rules in exercise of the powers under section 17 of the Advocates Ordinance 2011(a).

Citation, commencement and interpretation

1. (1) These Rules may be cited as the Advocates (Code of Conduct and Disciplinary Procedure) Rules 2011.

(2) These Rules come into force on 17 October 2011.

(3) In these Rules—

- (a) “Code of Conduct” means the Code of Conduct of Advocates Regulations 2002 of the Republic which came into force in the Republic on 17 May 2002;
- (b) “disciplinary proceedings” means disciplinary proceedings under Part 4 of the Ordinance; and
- (c) “Ordinance” means the Advocates Ordinance 2011.

Adoption of Code of Conduct

2. (1) Subject to paragraph (2), the Code of Conduct is to continue to have effect.

(2) The Code of Conduct is only to have effect in relation to a person (an “advocate”) referred to in—

- (a) section 3(2)(c) of the Ordinance (a qualified person who is a member of Her Majesty’s Forces);
- (b) section 3(3)(a) of the Ordinance (a Republican advocate);
- (c) section 3(3)(b) of the Ordinance (a Member State advocate);
- (d) section 3(3)(c) of the Ordinance (a qualified person); or
- (e) section 3(3)(d) of the Ordinance (a pupil).

Investigation into the conduct of an advocate

3. The Attorney General and Legal Advisor may of his or her own motion, or at the direction of a Judge, investigate whether the conduct of an advocate referred to in rule 2(2) is such as to make that advocate subject to disciplinary proceedings.

Procedure for investigating the conduct of an advocate

4. (1) If the Attorney General and Legal Advisor is investigating the conduct of an advocate under rule 3, the Attorney General and Legal Advisor is to notify the advocate in writing—

- (a) that the conduct of the advocate is under investigation to determine if the advocate is to be subject to disciplinary proceedings;
- (b) of the reasons why the investigation is being carried out, including particulars of any allegation made by any person concerning the advocate’s conduct;
- (c) of the period of time within which the advocate is to give a response in writing to those particulars;

- (d) that at the end of the period referred to in paragraph (c) the Attorney General and Legal Advisor will review all of the circumstances of the case, including any written response from the advocate and will decide whether there are sufficient grounds for initiating disciplinary proceedings.

(2) It is not necessary for the Attorney General and Legal Advisor to provide all of the notifications referred to in paragraph (1) at the same time.

(3) The period referred to in paragraph (1)(c)—

- (a) must be reasonable in all of the circumstances of the case and may not be less than 14 days;
- (b) may not commence until the notifications in paragraphs 1(a) and (b) have been provided; and
- (c) may be extended by the Attorney General and Legal Advisor on the application of the advocate in question.

Convening disciplinary proceedings

5. If the Attorney General and Legal Advisor decides to start disciplinary proceedings against an advocate following an investigation under rules 3 and 4, the Attorney General and Legal Advisor is to notify the Presiding Judge, who may convene a disciplinary committee in accordance with section 9 of the Ordinance.

Revocation

6. The Advocates (Code of Conduct and Disciplinary Procedure) Rules 2006**(b)** are revoked.

Dated this 20th day of September 2011.

By the Administrator's Command,

J. S. Wright,

Chief Officer,

Sovereign Base Areas.

(SBA/AG/2/CT/185/3)

Notes

(a) Ordinance 11/11.

(b) Public Instrument 80/06.

EXPLANATORY NOTE

(This note does not form part of the Rules)

Introduction

1. This explanatory note relates to the Advocates (Code of Conduct and Disciplinary Procedure) Rules (the “Rules”). It has been prepared by the Office of the Attorney General and Legal Adviser in order to assist the reader of the Rules. It does not form part of the Rules.
2. This note should be read in conjunction with the Rules. It is not, and is not meant to be, a comprehensive description of the Rules. So when a rule or part of a rule does not seem to require any explanation or comment, none is given.
3. The Rules are made under section 17 of the Advocates Ordinance 2011 (the “Ordinance”) and come into force on 17 October 2011 (the same day on which the Ordinance comes into force).
4. Rule 2 applies the Republican Code of Conduct of Advocates Regulations 2002 to most persons practising as advocates in the Areas. The Code of Conduct does not apply to certain persons who may practise as advocates, namely:
 - a Law Officer of the Areas;
 - a Law Officer of the Republic;
 - a United Nations advocate;
 - an officer of the Administration acting with the written authority of the Attorney General and Legal Adviser in proceedings to which the Crown, the Administrator, or any officer of the Administration in that capacity is a party.
5. Rule 3 provides that the Attorney General and Legal Adviser may, of his or her own motion or at the direction of a Judge investigate whether the conduct of an advocate is such as to make that advocate subject to disciplinary proceedings.
6. Rule 4 specifies the information to be provided to an advocate whose conduct is the subject of an investigation. It also provides for an advocate who is the subject of an investigation to have at least 14 days to respond to allegations made about his or her conduct before the Attorney General and Legal Adviser decides whether or not to bring disciplinary proceedings.
7. Under rule 5, the Attorney General and Legal Adviser is to notify the Presiding Judge if disciplinary proceedings are to be commenced against an advocate. The Presiding Judge may then convene a disciplinary committee in accordance with the Ordinance.