

LEGAL NOTICES SUPPLEMENT

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Legal Notice No. 7 of 2019.

**THE CONSTITUTION (RECUSAL OF JUDICIAL OFFICERS)
(PRACTICE) DIRECTIONS, 2019**

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**The Constitution (Recusal of Judicial Officers) (Practice)
Directions, 2019**

(Under Article 133(1)(b) of the Constitution)

IN EXERCISE of the powers conferred upon the Chief Justice by Article 133(1)(b) of the Constitution, these Practice Directions are issued this 25th day of January, 2019.

PART I – PRELIMINARY

1. Title.

These Practice Directions may be cited as the Constitution (Recusal of Judicial Officers) (Practice) Directions, 2019.

2. Application.

These Practice Directions apply to all courts of judicature.

3. Objectives of these Practice Directions.

The objectives of these Practice Directions are—

- (a) to promote adherence to Article 28 of the Constitution which enjoins the right to an independent and impartial hearing;
- (b) to promote the application of all cardinal principles of natural justice;
- (c) to promote uniformity and consistency on recusal among judicial officers;
- (d) to promote harmony between the Bar and the Bench, even where a member of the Bar alleges bias against a member of the Bench;
- (e) to avoid confrontations between counsel and judicial officers; and
- (f) to give guidance on recusal to judicial officers, counsel and unrepresented litigants.

4. Interpretation.

In these Practice Directions, unless the context otherwise requires—

“actual bias” means the existence of a state of mind that leads to an inference that a person will not act with impartiality;

“apparent bias” means a scenario where a judicial officer is not a party to a matter and does not have an interest in its outcome, but through his or her conduct or behaviour, gives rise to suspicion that he or she is not impartial;

“bias” means inclination or prejudice for or against one person or a group of persons especially in a way considered to be unfair; whether actual, imputed or apparent;

“imputed bias” refers to a situation where a judicial officer has a pecuniary (monetary) or proprietary (property related) interest in the decision he or she is charged to adjudicate, and includes a situation where a judicial officer has personal or non-pecuniary interests in a decision;

“judicial officer” means a Judge, Registrar or Magistrate;

“recusal” means the act of abstaining from participation in an official action such as a legal proceeding due to conflict of interest of the presiding judicial officer.

PART II—RECUSAL

5. Recusal.

A judicial officer may, on application by any of the parties or on his or her own motion, recuse himself or herself from any proceedings in which his or her impartiality will reasonably be in question.

6. Circumstances for recusal by a judicial officer on his or her own motion.

(1) A judicial officer shall refrain from participating in any proceedings in which the impartiality of the judicial officer may reasonably be questioned.

(2) Without limiting the generality of subparagraph (1), a judicial officer shall disqualify himself or herself from participating in any proceedings where—

- (a) the judicial officer has personal knowledge of the disputed facts concerning the proceedings; or
- (b) a member of the judicial officer's family is representing a litigant, is a party, or has an interest in the outcome of the matter in dispute which is the subject of the proceedings.

(3) A judicial officer shall, on his or her own motion, recuse himself or herself in the following circumstances—

- (a) where it comes to the knowledge of the judicial officer before the date of the hearing that, for any reasonable cause, he or she cannot handle the matter, the judicial officer shall recuse him or herself and shall notify the parties and the matter shall be reallocated to another judicial officer; or
- (b) where it comes to the knowledge of the judicial officer during the course of the hearing that for any reasonable cause he or she cannot continue handling the matter, the judicial officer shall state, on record, the reasons for recusal, notify the parties, and return the file for reallocation to another judicial officer.

7. Recusal at instance of parties.

(1) Any party to the proceedings may apply to court for a judicial officer to recuse himself or herself under the following circumstances—

- (a) where the judicial officer has an interest in the subject matter or has a relationship with any person who is interested in the matter;
- (b) where a judicial officer has background information or experience, such as the judicial officers prior work as a lawyer;
- (c) where a judicial officer has personal knowledge about the parties or the facts of the case;
- (d) where a judicial officer has ex parte communications with lawyers or parties to the case;
- (e) where a judicial officer makes inappropriate comments or exhibits unacceptable conduct in the course of the hearing;
or
- (f) where a judicial officer has exhibited actual, imputed or apparent bias.

8. Procedure for recusal at instance of parties.

(1) A party who seeks the recusal of a judicial officer under paragraph 7 shall, by letter copied to all the parties and the Registrar of the court or orally in open court in the presence of the parties, request the judicial officer to recuse himself or herself.

(2) A judicial officer against whom recusal is sought under subparagraph (1), shall be given an opportunity to respond to the concerns raised by the party.

(3) Where a judicial officer recuses him or herself, the parties shall be notified and an entry shall be made on the record and the file returned to the registry for reallocation to another judicial officer.

(4) Where a judicial officer declines to recuse himself or herself, the reasons for declining shall be noted on the record and the matter shall proceed for hearing.

(5) Where a party is dissatisfied with the decision of a judicial officer not to recuse himself or herself, the party shall state the reason(s) and the hearing shall continue.

9. Appeal.

Any appeal arising out of the failure to grant an application for recusal shall be made after the matter has been determined.

BART.M.KATUREEBE,
Chief Justice and Chairperson, Rules Committee.

Cross References

The Constitution of the Republic of Uganda

The Civil Procedure Act, Cap.71

The Civil Procedure Rules, SI 71-1.

The Judicature Act, Cap.13

The Judicial Code of Conduct.