

DOCUMENTS/WRITINGS – S.163-177

1. Only original writing is admissible (except otherwise provided either by Evidence Act or any other enactment. (**Best Evidence Rule**) S.165 NRCD 323. Here the content must be in issue.
2. Best Evidence rule – enunciated by Lord Hendricks in *Onychund v Barker* [1745] 1 AIK 21.
3. "The judges and sages of the law have laid it down that there is but one general rule of evidence the best that the nature of the case will allow".
4. Document. *R v Darye* [1908]
5. "Any written thing capable of being evidence" 'Document is not restricted to paper with inscription on it..
6. Writing – The evidence Act does not talk about document. Rather it defines writing in Section 179(1). Writing is the inscription on an object – such as a photograph, alphabets, words, numbers, drawing etc.
7. Hence in court room practice normally the dispute or objection is about the content of the document i.e. the writing on the object and not the object per se".
8. The object on which the writing is made may also become on issue in appropriate cases but normally the question is about the writing and not the object.
9. The first consideration to the reception of a document/writing in evidence is **Relevance** S. 51(3) NRCD 323.
10. Another consideration is whether the person seeking to give that evidence (tender the document/writing) has personal knowledge of the document/writing S.60 (1). **Rep. v Selormey** [2001-2002] SCGLR 848 @ 852-853.
11. **Admissibility** -Reception into evidence. The process of a Material being allowed to form part of evidence.

6. Original evidence can't be moved. Is immovable S. 172.
7. Where the opponent has in writing admitted the evidence or the admission has been made by viva voce evidence in the action. S.173.
8. Where the copy has been compared with the original S.174.
9. Copies of official writing S.175. S.162
If (a) the original is kept at a designated place for such documents to be kept eg. National Achieves/Museum and

(b) Copy is certified and authenticated by institution.
10. Sealed official documents Order 38 rule 9 of CI 47. This must be read together with S.159 of NCRD 323.
11. Bankers Book S.176
Copy is admitted if
 - (a) Document made in the regular course of the bank's business
 - (b) Copy has been compared with the original and found to be accurate copy of the original.
(b*) Extrinsic/Parole Evidence Rule – S.177
That no evidence made before or contemporaneous to a document may be admitted to contradict the terms of a written document except as provided by rules of equity..S.177.

Terms of a document may be explained or supplemented by
 - (a) Evidence of consistent additional terms
 - (b) Course of dealing
Wills and Conveyances excepted. As far as Wills and Conveyances are concerned the exceptions to the Parole evidence rule do not apply.
 - **Wilson v Brobbey [1974] 1 GLR 250**
 - **Mongarine v Yamoh [1977] 1 GLR 163@166**
- (c*) Documentary evidence normally prevails over oral conflicting evidence.

(g*) Again my one may want to look at section 8 of NRCD 323 which gives power to the suomotu to exchange in admissible evidence together with s.178(2)(4)

- **Juxon-Smith v KLM Dutch Airlines [2005]/2006] SCGLR 438.**
- **Edward Nasser & Co.Ltd vs. Mcgroom [1996/97] SCGLR 464.**
- **Amoah v Arthur [1987/88] 2 GLR 87 CA.**