
THE LAW SOCIETY OF THE NORTHERN PROVINCES

THE LAW SOCIETY OF THE NORTHERN PROVINCES (INCORPORATED AS THE LAW SOCIETY OF THE TRANSVAAL)

AMENDMENT OF RULES

It is hereby notified that the following amendments to the Rules framed in terms of Section 74(1) of Act No. 53 of 1979 and which have been approved by the Chief Justice of South Africa in consultation with the Judge President of the Transvaal in terms of Section 74(2) of Act No. 53 of 1979, are promulgated by the Council of the Law Society of the Northern Provinces (incorporated as the Law Society of the Transvaal):

Rule 79A: Pro Bono Services

79A.1 For purposes of this rule:-

79A.1.1 *pro bono* services shall include, but not be limited to the delivery of advice, opinion or assistance in matters, falling within the professional competence of a member, to facilitate access to justice:

79A.1.1.1 of a benevolent nature having regard to the needs, interest and wellbeing of the general public;

79A.1.1.2 in the public interest according to the spirit, purport and objects of the Bill of Rights;

79A.1.1.3 performed on a gratuitous basis with an altruistic or philanthropic intent;

79A.1.1.4 on behalf of:

(a) non-governmental, or non-profit, or community-based, or public benefit, corporate or unincorporated bodies, trusts, foundations or charities working for the public interest or working to secure or to protect human rights, which are mainly funded by donations; or

(b) individuals or groups who cannot afford to pay for legal assistance and who would otherwise be denied access to justice;

79A.1.1.5 primarily designed to address the needs of persons of limited means or on behalf of the aforesaid organisations where the payment of legal fees would deplete the organisation's economic resources and adversely affect their ability to carry out their charitable or public interest work.

79.1.2 recognised structures shall include, but not be limited to, the office of the Registrars of the High Court when issuing *in forma pauperis* instructions, Small Claims Courts, community (non commercial) advice offices, university law clinics, non-government organisations, the office of the Inspectorate of Prisons and others approved in terms of rule 79A.7 and identified in terms of rule 79A.8.

79A.2 Practising members who have practised for less than 40 years and who are less than 60 years of age, shall, subject to being asked to do so, perform *pro bono* services of not less than 24 hours per calendar year.

79A.3 The rendering by practising members of *pro bono* legal services shall be required to be performed only within the professional competence of a member.

- 79A.4 A firm with more than one member shall comply with the requirements of rule 79A if such firm executes *pro bono* work which will cumulatively be equal to the number of members multiplied by 24 hours per member, notwithstanding the fact that only one or more of the members in the firm executes *pro bono* work.
- 79A.5 Members may refer to the Society, for approval by the Council as *pro bono* services, a written description of areas of professional work proposed for recognition as *pro bono* services.
- 79A.6 The Society shall, within 30 days of publication of this rule and from time to time thereafter, publish in a circular, a non-exclusive list of services which, when performed by members at no charge for those who cannot afford to pay, shall be recognised as *pro bono* services capable of being delivered in compliance with the provisions of this rule.
- 79A.7 *Pro bono* services may be delivered through or approved by recognised structures or may be delivered directly to those described in rule 79A.1.1.
- 79A.8 Members may refer to the Society, for approval by the Council as a recognised structure, a written description of a structure proposed for recognition.
- 79A.9 The Society is mandated by members to enter into partnership and joint venture agreements with recognised structures, the effect of which is that only matters that fall within the professional competence of members are referred to practising members for advice, opinion or assistance, that briefs addressed to practising members are reasonably well formulated, and that potential language and cultural barriers are overcome. The Society shall, within 30 days of publication of this rule and from time to time thereafter, publish in a circular, a non-exclusive list of recognised structures, including structures with which the Society has concluded partnership, or joint venture, agreements for the delivery of *pro bono* services.
- 79A.10 Members shall submit to the Society, a certificate providing full particulars of *pro bono* services delivered, within 60 days of the conclusion of the matter or the end of each year. The Society shall, within 30 days of the publication of this rule and from time to time thereafter, publish in a circular, the form of the certificate to be submitted by practising members.
- 79A.11 The Society shall keep a record of services delivered by each member, which record shall be prepared from members' certificates. A report of all services rendered shall be extracted annually and shall be retained by the Society, but individual members' records substantiating the report shall be expunged. On 1 January of each year, all individual members' records shall be refreshed to show an availability of hours for the succeeding new year. The record of hours served or not served in the previous year, shall then be expunged. The Society shall report to its members annually at the general meeting and shall make such report generally available on the total delivery of *pro bono* services by members.
- 79A.12 Members who travel a distance of more than 50km from their offices in order to deliver *pro bono* services may make written application to the Society to recover the actual cost of travel, excluding the first 100km.
- 79A.13 Disbursements incurred by a member, save for travel expenses referred to in 79A.12 in respect of *pro bono* services, may be charged to the client.
- 79A.14 It shall be unprofessional or dishonourable or unworthy conduct for a practising member who still has to perform *pro bono* service hours to refuse, without good cause, to provide such services.

- 79A.15 In the event of the Society receiving a complaint of refusal to render pro bono services and it is alleged by the member concerned that the required number of hours for a specific year has already been served but this is not reflected in the records of the Society, the member shall be afforded an opportunity of providing the Society with certificates relating to the unrecorded services within a reasonable time after receipt by the Society of the complaint. If the member fails to provide the Society with proof of such additional services, then those services will not be recognised by the Society for purposes of investigating the complaint.
- 79A.16 Professional standards applicable to services rendered by members, shall apply to pro bono services.

Date of Commencement

The effective date of this rule will be the date of publication thereof in the Government Gazette.