

**THE LAW SOCIETY OF THE CAPE OF GOOD HOPE
DIE WETGENOOTSAP VAN DIE KAAP DIE GOEIE HOOP**

AMENDMENT OF RULES

It is hereby notified, in terms of section 74 (1) of Act No.53 of 1979, that a new Rule 21, as agreed by the majority of members present or represented at the Annual General Meeting of the Society held at East London on 1 & 2 November 2002, is inserted by the Council of the Law Society of the Cape of Good Hope, which Rule has, in terms of section 74 (2) of Act No. 53 of 1979, been approved by the Chief Justice after consultation by Council, in terms of section 74 (3) of Act No. 53 of 1979, with the Judge President of the Divisions of the Cape of Good Hope, Eastern Cape, Northern Cape, Ciskei and Transkei of the High Court of South Africa.

T PAPIER
President

21. *Pro Bono Services*

21.1 Definitions

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 an attorney, to facilitate access to justice for those who cannot afford to pay, through recognised structures, approved in terms of sub-rule 21.3 and identified in terms of sub-rule 21.4.

Recognised structures shall include, but not be limited to, the office of the Registrars of the High Court when issuing *in forma pauperis* instructions, *Legal i*, small claims courts, community (non-commercial) advice offices, university clinics, non-government organisations, the office of the Inspectorate of Prisons, Circle and specialist committees of the Society, etc., approved in terms of sub-rule 21.6 and identified in terms of sub-rule 21.8.

Those who cannot afford to pay shall be those who ordinarily qualify for assistance through recognised structures.

21.2 Practising members who have practiced 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, save that –

21.2.1 an attorney who becomes a practising member during the course of a year shall perform *pro bono* services equal to not less than 2 hours per month, or part thereof, of practising member status acquired in the first year of practice;

21.2.2 in the year of publication of this Rule, practising members shall perform *pro bono* services equal to not less than 2 hours per month, or part thereof, from the month of publication to the end of that year.

21.3 Members may refer to the Society, for approval by Council as *pro bono* services, a written description of areas of professional work proposed for recognition as *pro bono* services.

- 21.4 The Society shall, within 30 days of publication of this Rule and from time to time, publish, through *The Cape Attorney*, a list of services which, when performed by attorneys 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.
- 21.5 *Pro bono* services shall be delivered through recognised structures only to those who cannot afford to pay for professional services.
- 21.6 Members may refer to the Society, for approval by Council as a recognised structure, a written description of a structure proposed for recognition.
- 21.7 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 attorneys 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.
- 21.8 The Society shall, within 30 days of publication of this Rule and from time to time, publish, in *The Cape Attorney*, a list of recognised structures, including structures with which the Society has concluded partnership, or joint venture, agreements for the delivery of *pro bono* services.
- 21.9 Members shall submit to the Society a certificate providing full particulars of *pro bono* services delivered, within 60 days of delivery thereof, failing which, the service shall be treated as not having been rendered in terms of this Rule.
- 21.10 The Society shall, within 30 days of the publication of this Rule, publish, in *The Cape Attorney*, the form of the certificate to be submitted by practising members. Any amendments introduced to the certificate, by Council, shall be published, from time to time in *The Cape Attorney*.
- 21.11 The Society shall keep a record of services delivered per member, which record shall be raised from member certificates. A report of all services rendered shall be extracted annually and shall be retained by the Society but individual member records substantiating the report shall be expunged. On 1 January of each year, all individual member records shall be refreshed to show an availability of hours for the 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 and at the Annual General Meeting, and shall make such report generally available, on the total delivery of *pro bono* services by members.
- 21.12 The Society shall cause particulars of *pro bono* hours still to be served by members in a calendar year to be published on its website and for reduced hours to be displayed against submission by members of certificates. This information will also be available from the Society, on request. It shall be the responsibility of practising members to ensure that the Society's records as to *pro bono* services rendered are complete so that correct information is published on the website and generally made available.
- 21.13 Members may elect to deliver *pro bono* services through a single recognised structure. The Society shall cause a member's election of the recognised structure through which he/ she chooses to deliver his/ her *pro bono* services to be

published on its website. This information will also be available from the Society, on request. Members who make such an election may properly refuse calls through other recognised structures for the delivery of *pro bono* services. It shall be the responsibility of the practising member to notify the Society of his/ her election so that this information is published on the website and generally made available.

- 21.14 Members who travel a distance of more than 50km from their office in order to deliver *pro bono* services may, in special circumstances, make written application to the Society to recover the actual cost of travel, excluding the first 100km.
- 21.15 Disbursements incurred, save for travel expenses referred to in 21.14, in respect of *pro bono* services shall be borne by the client.
- 21.16 It shall be unprofessional conduct for a practising member who has still to perform *pro bono* service hours to refuse, with no good cause, to deliver *pro bono* services.
- 21.17 In the event of the Society receiving a complaint of refusal to deliver *pro bono* services, with no good cause, it shall be entitled to treat its record of services rendered as complete, save only for services rendered within 60 days of the complaint that are not on record. The member against whom the complaint is made shall be responsible to provide the Society with certificates, relating to such additional services, within 21 days of receipt by the Society of the complaint, failing which, services alleged to have been rendered, but not on record, will be treated as not having been rendered for the purpose of investigating the complaint. Pending investigation of the complaint, the Society shall refer the complainant to another practising member, for assistance.
- 21.18 Professional standards applicable to services rendered by attorneys shall apply to *pro bono* services.