
LAW SOCIETY OF KWAZULU-NATAL

KWAZULU-NATAL LAW SOCIETY

AMENDMENT OF THE RULES

It is hereby notified that the following amendments to the Rules framed in terms of Section 74(1) of Act 53 of 1979, as published in Government Gazette No. 6316 dated 2 March 1979 and, as amended by

GG 6848 dated 15.2.1980
GG 7924 dated 20.11.1981
GG 9316 dated 13.7.1984
GG 10100 dated 21.2.1986
GG 10679 dated 3.4.1987
GG 12300 dated 23.2.1990
GG 13933 dated 24.4.1992
GG 14823 dated 28.5.1993
GG 15575 dated 25.3.1994
GG 16227 dated 27.1.1995
GG 16704 dated 6.10.1995
GG 17042 dated 22.3.1996
GG 17669 dated 20.12.1996
GG 18952 dated 12.6.1998
GG 19245 dated 18.9.1998
GG 22011 dated 2.2.2001
GG 23407 dated 17.5.2002
GG 24093 dated 29.11.2002
GG 25217 dated 25.7.2003
GG 25778 dated 5.12.2003
GG 27370 dated 18.03.2005
GG 29173 dated 8.09.2006
GG 29669 dated 9.03.2007
GG 32872 dated 22.01.2010
GG 34478 dated 29.07.2011

were agreed to unanimously by the members of the Society present or represented at the Annual General Meeting of the Society held on 29 October 2010, and have in terms of Section 74(2) of Act 53 of 1979, after consultation with the Judge President of the Natal Provincial Division of the High Court, been approved by the Chief Justice of South Africa.


JOHN
DIRECTOR

Explanatory Note -

- [] Words in bold type in square brackets indicate proposed deletions from the existing Rules.
- _____ Words underlined with a solid line indicate proposed insertions in the existing Rules.

RULE 27: PRO BONO SERVICES

Amend Rules 27.2, 27.2.1, 27.2.2 and 27.14 as follows to make it mandatory:

27. Pro Bono Services**27.1 Definitions**

- (a) **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 for those who cannot afford to pay, through recognised structures, approved in terms of sub-rule 27.3 and identified in terms of subrule 27.4.
- (b) **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 clinics, non-government organisations, the office of the Inspectorate of Prisons, Circle and specialist Committees of the Society, and others approved in terms of sub-rule 27.7 and identified in terms of sub-rule 27.8.
- (c) **Those who cannot afford to pay** shall be those who ordinarily qualify for assistance through recognised structures.

27.2 Practising members who have practised for less than 40 years and who are less than 60 years of age, shall **[be encouraged to]** perform pro bono services of not less than 24 hours per calendar year, save that:

27.2.1 a member who becomes a practising member during the course of a year shall **[be encouraged to]** 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;

- 27.2.2 in the year of publication of this Rule, practising members shall **[be encouraged to]** 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.
- 27.3 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.
- 27.4 The Society shall, within 30 days of publication of this Rule and from time to time, publish, through its Circular, a 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.
- 27.5 Pro bono services shall be delivered through recognised structures only to those who cannot afford to pay for professional services.
- 27.6 Members may refer to the Society, for approval by Council as a recognised structure, a written description of a structure proposed for recognition.
- 27.7 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 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.
- 27.8 The Society shall, within 30 days of publication of this Rule and from time to time, publish, in a Circular, 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.
- 27.9 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.
- 27.10 The Society shall, within 30 days of the publication of this Rule, publish, in a Circular, 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 a Circular.

- 27.11 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.
- 27.12 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.
- 27.13 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.
- 27.14 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. Payment shall be made at the sole discretion of the Society.
- 27.15 Disbursements incurred, save for travel expenses referred to in 27.14, in respect of pro bono services shall be borne by the client.
- 27.16 It shall be unprofessional conduct for a practising member who still has to perform pro bono service hours to refuse, with no good cause, to deliver pro bono services.

27.17 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 80 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.

27.18 Professional standards applicable to services rendered by members shall apply to pro bono services.

[inserted by GG 27370 dated 18/03/2005.]
