

Statutory Instrument 137 of 1999

Legal Practitioners (General) Regulations, 1999

ARRANGEMENT OF REGULATIONS

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SCHEDULES

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IT is hereby notified that the Minister of Justice, Legal and Parliamentary Affairs, in terms of section 87 of the Legal Practitioners Act [Chapter 27:07] and after consultation with the Chief Justice and the president of the Law Society of Zimbabwe, has made the following regulations:—

1. Title

These regulations may be cited as the Legal Practitioners (General) Regulations, 1999.

2. Application for registration

(1) Notice of intention to apply for registration as a legal practitioner, notary public or conveyancer shall be given to the secretary of the Society not later than thirty days before the application is made, and such notice shall be accompanied by copies of all documents referred to in paragraphs (a) to (d) of subsection (3), together with a fee of fifty dollars, which shall be paid to the Society.

(2) An application for registration as a legal practitioner, notary public or conveyancer shall set forth the grounds upon which the applicant relies for registration.

(3) An application referred to in subsection (2) shall be accompanied by—

- (a) documentary evidence that the applicant possesses the qualifications for registration prescribed in rules made by the Council for Legal Education in terms of section 49 of the Act; and
- (b) where the applicant has been exempted by the Council for Legal Education from passing any examination in terms of the Legal Practitioners (Council for Legal Education) Rules, 1992, documentary evidence of such exemption; and
- (c) the applicant's birth certificate or, in default thereof, such other documentary proof as he can produce to show that he is of, or above, the age of twenty-one years; and
- (d) documentary evidence that the applicant satisfies the requirements of paragraphs (c), (e), (f) of subsection (1) of section 5 of the Act; and
- (e) a certificate from the secretary of the Society stating that the applicant has given the notice required by subsection (1); and
- (f) a fee of fifty dollars, which shall be payable to the Registrar.

(4) Upon the hearing of an application for registration, any registered legal practitioner may request the leave of the High Court to appear as *amicus curiae* to oppose the granting of the application.

3. Registration

(1) Where the High Court grants an application for registration, the Registrar shall enter in the Register—

- (a) the full name and address of the applicant; and
- (b) the applicant's qualifications for registration; and
- (c) the date on which the application was granted; and
- (d) the capacity, whether as a legal practitioner, notary public or conveyancer, in which the applicant is registered.

(2) The certificate of registration issued to a person whose name is entered in the register shall be in the appropriate form set out in the First Schedule.

4. Practical legal training after registration

(1) Subject to this section, a legal practitioner shall not commence to practise as a principal, whether on his own account or in partnership or association with any other person, unless he has been employed as a legal assistant for not less than thirty-six months after registration with a legal practitioner who has himself—

- (a) been in practice in Zimbabwe for at least forty-eight months; and
- (b) been approved by the Minister after consultation with the Council for Legal Education and the Council of the Society.

(2) Subject to this section, on and after such date as the Minister may specify in the Gazette after consultation with the Council for Legal Education, a legal practitioner shall not commence to practise as a principal, whether on his own account or in partnership or association with any other person, unless, in addition to satisfying the requirements of subsection (1)—

- (a) he satisfies the Council for Legal Education that, while he was employed as a legal assistant as provided in subsection (1), he attended a full course of seminars for continuous legal education that were organized by the Council; and
- (b) he has passed written examinations set by—
 - (i) the Council for Legal Education; or
 - (ii) the Council of the Society with the approval of the Council for Legal Education;

in the following subjects—

- A. trust accounting; and
- B. practice management and administration; and
- C. ethics and professional conduct of legal practitioners; and
- D. where applicable, any other subject specified by the Council for Legal Education in terms of subsection (2).

(3) The Council for Legal Education, having regard to a legal practitioner's ability or experience or any other relevant factor, may—

- (a) exempt him from attendance at any seminar and additionally, or alternatively, excuse his failure to attend any seminar referred to in paragraph (a) of subsection (2);
- (b) in special circumstances, specify that a legal practitioner shall pass one or more additional examinations for the purpose of paragraph (b) of subsection (2).

(4) Subsection (1) shall not apply to a legal practitioner who—

- (a) has been granted a residential exemption certificate in terms of section 7 of the Act, in respect of the matter to which the certificate relates; or
- (b) is normally resident in a reciprocating country and has been in practice as an advocate, barrister, attorney or solicitor, or in a capacity equivalent to that of a legal practitioner in Zimbabwe, for at least forty-eight months.

(5) Subsection (2) shall not apply to a legal practitioner who—

- (a) has been granted a residential exemption certificate in terms of section 7 of the Act, in respect of the matter to which the certificate relates; or
- (b) was registered before the date specified by the Minister in terms of that subsection:

Provided that such a legal practitioner shall comply with any provisions of the Act or any regulations made thereunder that were applicable to him when he was registered.

5. Trust accounts

(1) A trust account, kept by a legal practitioner in terms of subsection (2) of section 13 of the Act, shall be such as to allow the withdrawal of funds therefrom on not more than seven days' notice.

(2) A curator bonis appointed in terms of subsection (2) of section 16 of the Act to control and administer a trust account may be vested with any one or more of the following rights, duties and powers—

- (a) to take possession of all books, records and documents relating to the trust account;
- (b) to advertise, in such manner as the Master of the High Court may direct, for the lodging of claims in respect of the trust account;
- (c) to record any claims in respect of the trust account lodged in response to any advertisement;
- (d) to settle, in such manner as the Master of the High Court may direct or approve, the amount of any claims in respect of the trust account;
- (e) to bring or defend proceedings in any court arising out of any claim in respect of the trust account;
- (f) to draw up and lodge with the Master of the High Court an account reflecting the assets and liabilities of the trust account, and allocation of the assets to the persons who have claims in respect of the trust account;
- (g) subject to the directions of the Master of the High Court, to distribute the assets of the trust account among the persons who have claims in respect of the trust account;

- (h) to pay any balance in the trust account, after all claims have been satisfied, to such person as the Master of the High Court may direct;
- (i) to do such other things to ensure the proper distribution of the trust account as the Master of the High Court may specify.

(3) A curator bonis appointed in terms of subsection (2) of section 16 of the Act to control and administer a trust account may receive from the trust account such remuneration as the Master of the High Court may fix.

6. *Protocols and registers*

(1) Every notary public who effects any transaction pertaining to his practice as such shall record the transaction in the appropriate protocol and register which he shall keep and maintain for the purpose.

(2) At least once in each calendar year, when required by the Council of the Society to do so, every notary public practising as such in Zimbabwe shall submit to the secretary of the Society a certificate signed by himself to the effect that the protocol and register kept by him have been properly kept in accordance with the obligations of a notary public.

(3) The Council of the Society shall have the right, without notice, and at all reasonable times, through its duly authorised agents, to inspect the protocol and register of any notary public in Zimbabwe, for the purpose of ascertaining whether or not the protocol and register are being properly kept in accordance with the obligations of a notary public.

(4) The Council of the Society may give directions as to the disposal and custody of protocols and registers of deceased or retired notaries public or of notaries public who have been struck off the register or suspended from practice.

7. *Duplicate or corrected registration certificates*

(1) The Registrar shall, on payment of a fee of fifty dollars, issue to a registered legal practitioner, notary public or conveyancer a duplicate copy of any certificate of registration issued by him to that legal practitioner, notary public or conveyancer in terms of section 3 of the Act.

(2) A duplicate copy of a registration certificate issued in terms of subsection (1) shall be in the same form as an original registration certificate, but shall bear the words "Duplicate copy" written prominently on its face.

(3) The Registrar may, on payment of a fee of fifty dollars and on being satisfied that the particulars specified in the original are, or have become, incorrect, issue to a registered legal practitioner, notary public or conveyancer a corrected copy of any certificate of registration issued by him to that legal practitioner, notary public or conveyancer in terms of section 3 of the Act.

(4) The Registrar shall record in the Register the date on which he issues any duplicate or corrected copy of a certificate of registration in terms of this section.

8. *Inspection of Register*

Any person may, during ordinary office hours, inspect the Register at the office of the Registrar, and may make copies of any entry in it.

9. *Notice of deletion from Register*

A registered legal practitioner, notary public or conveyancer who applies in terms of subsection (1) of section 6 of the Act for the deletion of his name from the Register shall give not less than twenty-one days' notice of the application to the secretary of the Society.

10. *Repeals and savings*

(1) The regulations set out in the Second Schedule are repealed.

(2) Anything done or commenced in terms of the regulations set out in the Second Schedule shall, if it had effect or was capable of acquiring effect immediately before the date of commencement of these regulations, continue to have or to be capable of acquiring, as the case may be, the same effect on and after that date as if it had been done or commenced, as the case may be, in terms of the equivalent provisions of these regulations.

FIRST SCHEDULE (Sections 3 and 7)

FORM OF REGISTRATION CERTIFICATES

PART I

CERTIFICATE OF REGISTRATION OF LEGAL PRACTITIONER

THIS IS TO CERTIFY THATwas, on the
..... day of 19, registered as
a legal practitioner in terms of the Legal Practitioners Act [*Chapter 27:07*] and
is accordingly entitled to all the rights and privileges and is charged with all the
responsibilities attaching to the practice of the profession of a legal practitioner.

.....
Registrar of the High Court of Zimbabwe

Date:

[*Seal of the High Court*]

PART II

CERTIFICATE OF REGISTRATION OF NOTARY PUBLIC

THIS IS TO CERTIFY THAT was, on the
..... day of 19, registered as
a notary public in terms of the Legal Practitioners Act [*Chapter 27:07*] and is
accordingly entitled to all the rights and privileges and is charged with all the
responsibilities attaching to the practice of the profession of a notary public.

.....
Registrar of the High Court of Zimbabwe

Date:

[*Seal of the High Court*]

PART III

CERTIFICATE OF REGISTRATION OF CONVEYANCER

THIS IS TO CERTIFY THAT was, on the
..... day of 19, registered as
a conveyancer in terms of the Legal Practitioners Act [*Chapter 27:07*] and is
accordingly entitled to all the rights and privileges and is charged with all the
responsibilities attaching to the practice of the profession of a conveyancer.

.....
Registrar of the High Court of Zimbabwe

Date:

[*Seal of the High Court*]

SECOND SCHEDULE (Section 10)

REPEALS

<i>Title</i>		<i>Statutory Instrument No.</i>
Legal Practitioners (General) Regulations, 1983		124 of 1983
Legal Practitioners (General) (Amendment) Regulations, 1988 (No. 4)		4 of 1988
Legal Practitioners (General) (Amendment) Regulations, 1992 (No. 5)		445 of 1992
Legal Practitioners (General) (Amendment) Regulations, 1998 (No. 6)		275 of 1998