

GOVERNMENT NOTICE NO. 48

LEGAL EDUCATION AND LEGAL PRACTITIONERS ACT
(No. 31 OF 2018)

MALAWI LAW SOCIETY (HONOURS SUB-COMMITTEE) RULES, 2021
ARRANGEMENT OF RULES

RULE

1. Citation
2. Interpretation
3. Establishment and composition of the Honours Sub-Committee
4. Functions of the Sub-Committee
5. Meetings of the Sub-Committee
6. Power to exercise functions

IN EXERCISE of the powers conferred upon the Malawi Law Society by section 73 of the Legal Education and Legal Practitioners' Act, and with the approval of the Annual General Meeting, the Society hereby make the following Rules—

1. These Rules may be cited as the Legal Education and Legal Practitioners (Malawi Law Society) (Honours Sub-Committee) Rules, 2021. Citation
2. In these Rules, unless the context otherwise requires— Interpretation

“Chairperson” means the Chairperson of the Society;

“Code” means the Malawi Law Society Code of Ethics (2006);

“previous chairperson” means a person who has previously served a full term as a chairperson of the Society; and

“sub-committee” means the Honours Sub-Committee of the Society established under rule 3(1).
- 3.— (1) There shall be an Honours Sub-Committee of the Society (hereinafter referred to as the “sub-committee”) which shall consist of— Establishment and composition of the Honours Sub-Committee
 - (a) three previous chairpersons of the Society, counting in reverse chronological order from the last serving chairperson;
 - (b) two respected legal practitioners with at least ten years standing at the bar appointed by the Executive Committee of the Society; and
 - (c) two respected legal practitioners appointed by the Executive Committee of the Society to represent relevant interest groups within the profession.

(2) The members of the sub-committee appointed under paragraphs (b) and (c) of subrule (1) shall hold office for a term of two years and shall be eligible for reappointment for one further term.

(3) The earliest person to hold office of chairperson of the Society on the sub-committee shall be chairperson of the sub-committee.

Functions of the sub-committee

- 4.— (1) The sub-committee shall perform the following functions—
- (a) conduct due diligence and make recommendations to the Society on nominees and categories of legal practitioners proposed for award of special recognition or periodic awards for highest professional standards;
 - (b) conduct due diligence and make recommendations to the Society of legal practitioners suitable for conferment of the honour of Senior Counsel or appointment as Judges of the High Court;
 - (c) conduct due diligence and make recommendations to the Society for certification of a legal practitioner as a specialist or an expert in a specific field or area of practice in accordance with chapter 5 rule 1 of the Code;
 - (d) act as an advisory body to the Executive Committee of the Society on professional and regulatory matters; and
 - (e) perform any other function as requested by the Honours Committee of the Society.

Meetings of the sub-committee

5. The provisions of sections 59, 60 and 61 of the Act relating to meetings of the Honours Committee shall apply *mutatis mutandis* to meetings of the sub-committee.

Power to exercise functions

6. The sub-committee shall, in the exercise of its functions, have all the powers vested in the Society necessary for the effective carrying out of the functions:

Provided that such powers shall be under the written authority of the Chairperson from time to time.

Made this 31st th day of August, 2021.

C. C. NGUNDE
Secretary

P. G. MPAKA
Chairperson

GOVERNMENT NOTICE No. 49

LEGAL EDUCATION AND LEGAL PRACTITIONERS ACT

(ACT No. 31 OF 2018)

MALAWI LAW SOCIETY (CONTINUING LEGAL EDUCATION) RULES, 2021

ARRANGEMENT OF RULES

RULE

1. Citation
2. Interpretation
3. Application of these Rules
4. Requirement to undertake continuing legal education

5. Provision of continuing legal education
6. Accreditation of CPD programmes offered by other institutions
7. Award of participation certificates
8. Maintenance of records
9. Proof of compliance
10. Modification of CPD requirements
11. Fees for CPDs
12. Breach of rules to be misconduct
13. Modification of rules in exceptional circumstances

IN EXERCISE of the powers conferred upon the Malawi Law Society by section 73 of the Legal Education and Legal Practitioners' Act, and with the approval of the Annual General Meeting, the Society hereby make the following Rules—

1. These Rules may be cited as the Malawi Law Society (Continuing Legal Education) Rules, 2021. Citation
2. In these Rules, unless the context otherwise requires— Interpretation
 - “accounting and anti-money laundering compliance” means compliance with the Legal Practitioners' Accounts Rules and the Financial Crimes Act; Cap. 7:07
 - “anti-money laundering compliance partner” means a partner in a law practice designated, from time to time, by the members of the partnership and notified in writing to the Society as the partner responsible for ensuring compliance with requirements of the Financial Crimes Act, provided that where the Society has not been notified of such nomination, “anti-money laundering compliance partner” means each and every partner in such law practice; Cap. 7:07
 - “compliance partner” means a partner in a law practice who is designated, from time to time, by the members of the partnership and notified in writing to the Society as the partner responsible for compliance with the Legal Practitioners' Accounts Regulations, provided that where the Society has not been so notified “compliance partner” means each and every partner in the law practice;
 - “continuing professional development or CPD” means further education or training undertaken by a legal practitioner, whether relating to law, management or skills development in professional or regulatory matters intended to develop the legal practitioner's professional knowledge, skills and abilities;
 - “e-learning” means the provision of education or training that is generated, communicated, processed, recorded, stored or displayed by electronic means or in electronic format;
 - “group study” means a continuing professional development programme undertaken in a group of three or more persons;
 - “management and professional development skills” includes education or training in any one or more of the following areas—

- (a) financial and business management;
- (b) practice management;
- (c) personal career development;
- (d) client care;
- (e) regulatory matters;
- (f) communication skills as it relates to the practice of law; and
- (g) foreign language enhancement as it relates to the practice of law, as may be more particularly defined and specified in the scheme;

“newly admitted practitioner” means a legal practitioner who has been admitted to the Roll for a period of less than twelve months prior to the commencement of a practice year;

“practice year” means the period beginning on 1st February in a calendar year and ending on 31st January in the next calendar year;

“regulatory matters” means matters relating to the regulation of legal practice including—

- (a) Legal Education and Legal Practitioners Act, and rules or regulations made thereunder;
- (b) accounting and anti-money laundering compliance;
- (c) the Society’s Guidance Notes for Legal Practitioners on Anti-Money Laundering Obligations;
- (d) risk management;
- (e) professional ethics and the maintenance of standards of best practice in complying with regulatory obligations;
- (f) the processing of disciplinary matters against legal practitioners by the Society or the High Court;

“senior practitioner” means a legal practitioner who has been admitted to the Roll for at least thirty-five years as at the beginning of a practice year;

“scheme” means the scheme of continuing professional development of the Society as provided for under rule 5; and

“written relevant material” means written material of a legal nature that is published in a legal periodical, textbook or other source as may be more particularly defined and specified in the scheme.

Application
of Rules

3. These Rules shall apply to all legal practitioners.

Requirement
to undertake
continuing
legal
education

4.— (1) A legal practitioner shall undertake a continuing professional development programme (hereinafter referred to as “CPD”) during each practice year.

(2) The CPD undertaken under subrule (1) shall comply with the scheme prescribed under rule 5.

5.— (1) The Society shall provide, from time to time, a scheme of CPD (“the scheme”) to be undertaken by a legal practitioner during each practice year.

Provision of continuing legal education

(2) The CPD programme under subrule (1) shall comprise a minimum of twenty hours out of which—

(a) a minimum of three hours shall be on management and professional development skills; and

(b) a minimum of two hours shall be on regulatory matters:

Provided that a legal practitioner who is a sole practitioner, a compliance partner or an anti-money laundering compliance partner shall be required to accumulate at least three hours on regulatory matters of which at least two hours shall be on accounting and anti-money laundering compliance.

(3) A CPD programme may be completed by means of e-learning, group study or production of written relevant material, as may be more particularly prescribed in the scheme.

6.—(1) The Society may accredit any institution to offer a CPD programme or award CPD hours for courses offered by the institution.

Accreditation of CPD programmes offered by other institutions

(2) An application under subrule (1) shall be in writing and shall be filed by—

(a) the institution intending to offer the course, prior to registering participants; or

(b) a legal practitioner before attending the course or before the expiry of two months from the date the course ended.

(3) An application under subrule (2) shall contain particulars of the course content, copies of relevant course materials, mode of delivery and any other information or supporting documents as would allow the Society to decide on the application.

(4) The Society shall approve or reject the application based on the following factors—

(a) whether the programme is an educational programme;

(b) whether the objective of the programme is to improve the professional competence of legal practitioners or, if open to various professions, whether the programme deals with a subject matter that is directly relevant to the practice of law;

(c) whether the duration of the course and the mode of delivery meet the minimum standards set out in the scheme under rule 5;

(d) if the course is examinable, whether the applicant passed the examinations or not;

(e) the course content and quality of course materials delivered;

(f) qualifications and expertise of course facilitators;

(g) whether the institution applying for accreditation has the expertise and resources necessary for achieving the goals of the CPD programme;

(h) whether the method of content delivery sought to be utilised or utilised is appropriate for dissemination of the relevant skills and knowledge to participants;

(i) whether the infrastructure to be used or used is appropriate and conducive for delivery of the CPD programme;

(j) whether the institution applying for accreditation has complied with terms and conditions of previous accreditations; and

(k) any other matter as may appear relevant to the Society.

(5) The Society shall issue a letter of accreditation upon approval of any CPD programme and shall allocate CPD hours to the programme.

Award of participation certificates

7. The Society or accredited institution shall issue a certificate of participation to every participant who successfully completes a CPD programme.

Maintenance of records

8.—(1) The Society and every accredited CPD programme provider shall keep a record of participants in a CPD programme showing, for each participant, whether the participant successfully completed the programme.

(2) The Society shall maintain a register of CPD programmes accredited in each practice year and the institution that delivered each programme.

(3) An accredited CPD programme provider shall, within thirty days of completing an accredited CPD programme, file a return with the Society containing such details as the Society may prescribe.

Proof of compliance

9.— (1) A legal practitioner shall maintain a written record of the CPD hours undertaken by him or her (including written verification thereof) in such format as shall be prescribed by the scheme.

(2) A legal practitioner shall, upon being requested by an officer of the Society, produce a record of his or her CPD hours and the appropriate supporting documents for verification.

(3) Every application for an annual legal practitioner's licence shall be accompanied by proof that the applicant complied with these Rules during the previous practice year.

Modification of CPD requirements

10. The requirements in rule 5 (2) shall be modified in the manner provided in this rule with respect to the specified categories of legal practitioners—

(a) a newly admitted legal practitioner, the prescribed period shall be reduced *pro-rata* as specified in the scheme;

(b) a senior practitioner, the prescribed period shall be reduced to three hours in each practice year;

(c) a legal practitioner who, on health grounds or any other justifiable grounds, is unable to attend CPD sessions or practice for any period in excess of one month, the prescribed period shall be reduced *pro-rata* as specified in the scheme;

(d) a legal practitioner who holds a licence for part only of a practice year, the fact of which is certified by the Society, the prescribed period shall be reduced *pro-rata* as specified in the scheme; and

(e) a legal practitioner who engages in part-time practice in the course of a practice year, the fact of which is certified by the Society, the prescribed period shall be reduced *pro-rata* as specified in the scheme.

11. The Society may prescribe a fee payable by participants in a CPD programme and, in the case of a CPD programme conducted by an accredited CPD programme provider, the Society shall approve the fees levied by the provider.

Fees for CPDs

12.—(1) A breach of these Rules shall be a misconduct within the meaning of section 89 (2) (r) of the Act.

Breach of Rules to be misconduct

(2) The Executive Committee of the Society may investigate a breach of these Rules by a legal practitioner and in so doing shall have power to—

(a) require the legal practitioner to submit a written explanation of his conduct;

(b) call the legal practitioner to a meeting to discuss the alleged breach;

(c) give directions to the legal practitioner on how to remedy the breach; or

(d) direct that the matter be referred to the Disciplinary Committee of the Society.

(3) Where a legal practitioner under investigation refuses, neglects or otherwise fails, without reasonable cause, to respond or respond appropriately and in a timely manner to directions of the Executive Committee of the Society under paragraphs (a), (b) or (c) of subrule (2) and the Society incurs costs consequent upon the refusal, neglect or failure, the Society may require the legal practitioner to pay to the Society a sum of money not exceeding K500,000 as a contribution towards the cost of the proceedings.

(4) A determination under subrule (3) shall not be made by the Society unless the legal practitioner has been duly notified by the Executive Committee of the Society in writing that such a determination might subsequently be made if the legal practitioner continues to refuse, neglect or otherwise fail, without reasonable cause, to respond appropriately and in a timely manner to the written request or direction of the Executive Committee of the Society.

(5) The Society may recover from the legal practitioner any sum determined under subrule (3) as a liquidated debt payable to the Society.

13.— (1) The Society may, in exceptional circumstances and subject to such conditions as the Executive Committee of the Society shall deem appropriate, modify any requirement or provision of these Rules.

Modification of Rules in exceptional circumstances

(2) Where the Executive Committee of the Society determines that exceptional circumstances exist justifying application of subrule (1), the Executive Committee of the Society shall, by notice under the hand of the

Secretary of the Committee, waive any requirement prescribed under these Rules other than rule 4 (1).

Made on the 31st day of August, 2021.

C. C. NGUNDE
Secretary

P. G. MPAKA
Chairperson

GOVERNMENT NOTICE NO. 50

LEGAL EDUCATION AND LEGAL PRACTITIONERS ACT

(No. 31 OF 2018)

MALAWI LAW SOCIETY (ELECTIONS) RULES, 2021

ARRANGEMENT OF RULES

RULE

1. Citation
2. Interpretation
3. Elections sub-committee
4. Functions of the elections sub-committee
5. Meetings and procedure of the elections sub-committee
6. Elective offices
7. Eligibility for election
8. Nomination of candidates
9. Withdrawal of nomination
10. Voters' roll
11. Campaign
12. Election of office bearers

IN EXERCISE of the powers conferred upon the Malawi Law Society by section 73 of the Legal Education and Legal Practitioners' Act, and with the approval of the Annual General Meeting, the Society hereby make the following Rules—

Citation **1.** These Rules may be cited as the Malawi Law Society (Elections) Rules, 2021.

Interpretation **2.** In these Rules, unless the context otherwise requires—

“disciplinary proceedings before the Disciplinary Committee of the Society” means disciplinary proceedings which have gone beyond the conduct meeting stage of the disciplinary process; and

“previous chairperson” means a person who has previously served a full term as a chairperson of the Society.

3.—(1) There shall be an elections sub-committee of the Society (hereinafter referred to as the “sub-committee”) which shall be responsible for the conduct of elections of the Society.

Elections sub-committee

(2) The sub-committee shall consist of—

- (a) one previous chairperson of the Society; and
- (b) four respected legal practitioners of which, two shall be of either gender.

(3) The membership of the sub-committee shall consist of at least one member from each chapter of the Society.

(4) Members of the sub-committee shall be appointed by the Executive Committee of the Society.

(5) A person shall qualify to be appointed a member of the sub-committee if he has been a member of the Society for at least five years.

(6) The members of the sub-committee shall elect, from amongst their number, a chairperson and vice-chairperson of the sub-committee.

(7) A member of the sub-committee shall hold office for a period of two years, unless he earlier resigns, ceases to hold office or is removed from office in accordance with subrule (9).

(8) A member shall serve a maximum of two terms at a time.

(9) A member of the sub-committee shall cease to hold office upon—

- (a) expiry of his term of office;
- (b) resignation by giving one-month notice, in writing, to the Chairperson of the Executive Committee of the Society;
- (c) becoming mentally or physically ill, where upon the member is no longer, by reason of the illness, capable of performing his duties as a member of the sub-committee;
- (d) being removed from office by a resolution of the Society at an Annual General Meeting;
- (e) being suspended or barred from legal practice; or
- (f) being removed from a position of trust by a court of law.

(10) A member of the sub-committee shall not be eligible to contest for any elective office of the Society.

4.—(1) The sub-committee shall conduct and supervise the conduct of every election of the Society.

Functions of the sub-committee

(2) Without prejudice to the generality of subrule (1), the sub-committee shall—

- (a) call for, receive, scrutinize and approve nominations for election of office bearers;
- (b) verify with appropriate committees of the Society or other authorities the suitability of a candidate for election;

- (c) organize, conduct and determine the outcome of the elections;
- (d) monitor election campaign by candidates and their agents;
- (e) receive and resolve complaints that may arise in the course of nomination, campaign, casting of votes or determination of results; and
- (f) perform any other duties in relation to elections as the Annual General Meeting may direct, from time to time.

(3) A decision of the sub-committee under paragraph (e) of subrule (2) shall be final.

(4) In exercise of any of its functions, the sub-committee shall have all the powers vested in the Society necessary for the effective carrying out of the functions in subrule (1).

(5) Subject to compliance with these Rules, the Act and any other rules made thereunder, the sub-committee shall exercise its powers, functions and duties independent of any direction or interference by any authority or person.

Meetings and
procedure of
the sub-
committee

5. The provisions of sections 59, 60 and 61 of the Act relating to meetings of the Honours Committee shall apply *mutatis mutandis* to meetings of the sub-committee.

Elective
offices

6.—(1) The elective offices of the Executive Committee of the Society are—

- (a) Chairperson;
- (b) Deputy Chairperson;
- (c) Treasurer;
- (d) Secretary;
- (e) one chapter representative from each chapter of the Society; and
- (f) such number of committee members, not less than three, as the Society may determine.

(2) Committee members elected under paragraph (f) of subrule (1) shall include representatives of interest groups within the profession as designated by the Executive Committee of the Society from time to time.

Eligibility for
election

7.—(1) A person shall not be eligible for election as Chairperson or Deputy Chairperson of the Society unless that person—

- (a) is a member of the Society with a valid annual legal practitioner's licence;
- (b) is a legal practitioner of at least ten years standing at the Bar;
- (c) is duly nominated for election in accordance with rule 8;
- (d) is not subject to ongoing or pending disciplinary proceedings before the High Court or Disciplinary Committee of the Society;
- (e) has not been found liable for professional misconduct by the High Court or Disciplinary Committee of the Society in the five years preceding the election;

(f) has not been removed from a position of trust by a court of law in the five years preceding the election; and

(g) is not employed in the public service.

(2) A person shall not be eligible for election as secretary, treasurer, chapter representative or committee member unless that person—

(a) is a member of the Society with a valid annual legal practitioner’s licence;

(b) is a legal practitioner of at least five years standing at the Bar;

(c) is duly nominated for election in accordance with rule 8;

(d) is not subject to ongoing or pending disciplinary proceedings before the High Court or Disciplinary Committee of the Society;

(e) has not been found liable for professional misconduct by the High Court or Disciplinary Committee in the five years preceding the election; and

(f) has not been removed from a position of trust by a court of law in the five years preceding the election.

8.—(1) A person wishing to be a candidate in an election shall complete and deliver or cause to be delivered to the sub-committee a nomination form prescribed by the sub-committee.

Nomination
of candidates

(2) Where a candidate is nominated by another member of the Society, the nominee shall sign the nomination form to signify his or her consent to the nomination.

(3) A nomination form under subrule (1) or (2) shall be signed by two nominators who are members of the Society and entitled to vote at the election.

(4) The nomination period shall be a period of twenty-one days and shall close seven days before the date of the election.

(5) The sub-committee shall verify whether a nominee is eligible for nomination and whether his or her nomination has complied with subrules (1), (2), (3) and (4) before declaring the nominee duly nominated for election.

(6) The sub-committee shall publish, on the Society’s website and any other suitable media, names of duly nominated candidates for each elective office at least five days before the date of the election.

(7) Where the subcommittee determines that no candidate has been duly nominated to any position, the subcommittee shall, in respect of that position, call for further nominations.

(8) Nominations under subrule (7) shall close at least twenty-four hours before the election time.

(9) Where no candidate is duly nominated under subrule (7) the subcommittee shall invite nominations for the position during the elections.

Withdrawal of nomination

9.—(1) A candidate may withdraw a nomination at any time not later than three days before the date of the election by giving written notice of the withdrawal to the sub-committee.

(2) The sub-committee shall immediately publish a withdrawal of nomination under subrule (1) on the Society’s website and other media where the nomination was published under rule 8 (6).

Voters’ roll

10.—(1) The sub-committee shall cause to be prepared and kept, in respect of each election, a voters’ roll consisting of members who are entitled to vote.

(2) The voters’ roll shall be displayed on the Society’s website at least two days before the election date.

Campaign

11.—(1) A duly nominated candidate may campaign for election in accordance with any guidelines issued by the sub-committee.

(2) A candidate shall direct his or her campaign at members of the Society and not the general public.

(3) A candidate shall not campaign on any sectarian ground including tribe, nationality, age, gender, religion, political party or other organization affiliation.

Election of office bearers

12.—(1) The polls for any elective office shall be conducted at the Annual General Meeting and shall constitute part of the business of the Annual General Meeting.

(2) The sub-committee shall prescribe the voting procedure for an election at least three days before the election day.

(3) The election procedure prescribed under subrule (2) shall be published on the Society’s website at least two days before the election day.

(4) Where only one candidate is duly nominated for a elective office the sub-committee shall declare the candidate duly elected for that office.

(5) Where two or more candidates have been duly nominated for election to a particular elective office, the sub-committee shall conduct an election for that office.

(6) Each member of the Society on the voters’ roll may cast one vote for every elective office to be filled.

(7) A candidate or his agent shall be entitled to be present and observe the counting of votes cast.

(8) The sub-committee shall, as soon as the tallying and verification of the number of votes cast in favour of each candidate is ascertained, announce the results of the election.

(9) A candidate who obtains the greatest number of valid votes cast shall be declared a winner.

(10) For purposes of determining the winning candidate, the results as determined under subrule (8), shall be conclusive.

(11) Where there is a tie of votes of the leading candidates on any elective office, the subcommittee shall conduct a second round of voting in which the leading candidates whose votes are tied shall be the only candidates.

(12) Where there is a tie of votes after the second round of voting, the sub-committee shall conduct further rounds of voting until a winner is declared.

13. The Malawi Law Society Rules are amended by revoking rule 12. Amendment of Cap. 3:04 sub.leg. p22a
Made on the 31st day of August, 2021.

C. C. NGUNDE
Secretary

P. G. MPAKA
Chairperson

GOVERNMENT NOTICE NO. 51

LEGAL EDUCATION AND LEGAL PRACTITIONERS ACT

(No. 31 OF 2018)

MALAWI LAW SOCIETY (*PRO BONO SERVICES*) RULES, 2021

ARRANGEMENT OF RULES

RULE

1. Citation
2. Interpretation
3. Provision of *pro bono* legal services
4. Recognized *pro bono* services
5. Standard and quality of work
6. Payment in lieu of *pro bono* work
7. Expenses and costs
8. Report on *pro bono* legal services
9. Affidavit in support of application for licence

IN EXERCISE of the powers conferred upon the Malawi Law Society by section 73 of the Legal Education and Legal Practitioners’ Act, and with the approval of the Annual General Meeting, the Society hereby make the following Rules—

1. These Rules may be cited as the Legal Education and Legal Practitioners (Malawi Law Society) (*Pro Bono Services*) Rules, 2021. Citation
2. In these Rules, unless the context otherwise requires— Interpretation

“Bureau” means the Legal Aid Bureau established under section 3 of the Legal Aid Act; Cap. 4:01

“charitable organization” means a charitable, religious, civic, community, scientific, medical or educational organization or institution;

“disadvantaged individual” means an individual who is disadvantaged in obtaining access to justice due to the individual’s financial circumstances, physical or intellectual disability, physical or mental illness or lack of education;

“*pro bono* legal service” means any legal service which a legal practitioner may perform under section 42 of the Act without expectation of earning a fee, gain or reward and includes—

- (a) providing legal advice;
- (b) providing legal representation in a dispute;
- (c) providing any assistance in connection with the application of the law;
- (d) providing any service the provision of which requires legal knowledge;
- (e) drafting any legal document or any other document intended to have legal effect; and
- (f) conducting awareness campaign on any law and its application;

“practice year” means the period beginning on 1st February in each calendar year and ending on 31st January in the next calendar year;

“relevant legal assistance scheme” means any of the following schemes—

- (a) a legal aid scheme provided under the Legal Aid Act;
- (b) a legal aid scheme provided by the Society; and
- (c) any other scheme for matters of public interest as approved by the Society from time to time;

“relevant matter” means—

- (a) any matter relating to—
 - (i) law reform;
 - (ii) law awareness;
 - (iii) the administration of justice;
 - (iv) access to justice;
 - (v) legal education;
 - (vi) the advancement of the legal profession, including professional conduct and discipline;
 - (vii) alternative dispute resolution; or
 - (viii) any other matter requiring legal expertise.

Provision of
pro bono
legal services

3.— (1) A legal practitioner shall provide *pro bono* legal services for at least twenty four hours in each practice year.

(2) The period prescribed under subrule (1) may be reduced *pro rata* where—

(a) a legal practitioner is unable to practice on health grounds or any other justifiable ground for a period in excess of one month; or

(b) a legal practitioner holds a practicing licence for part of a practice year.

(3) A legal practitioner who exceeds the period prescribed under subrule (1) in a practice year may apply to the Society for approval to transfer the excess hours to the following practice year.

(4) The Society may, upon verification of contents of a report filed under rule 8, approve the application under subrule (3), but the transfer shall not extend beyond one practice year.

(5) A legal practitioner who is appointed or accepts a brief to act *pro bono* in accordance with these Rules, may not relinquish the appointment or brief without the prior approval of the Society or the Director of the Bureau, as the case may require.

(6) A matter shall qualify for *Pro bono* legal service under section 42 of the Act and these Rules if it benefits—

(a) a disadvantaged individual;

(b) a charitable organisation; or

(c) the general public.

4. The following services shall be recognized as *pro bono* legal services for purposes of rule 3—

Recognized
pro bono
services

(a) providing any relevant law-related service to any individual who is reasonably perceived, by the legal practitioner providing the service, to be a disadvantaged individual;

(b) providing any relevant law-related service for the benefit of a charitable organization, disadvantaged person or group of persons under the auspices of a Government Ministry, Department or Agency;

(c) participating in an activity under any relevant legal assistance scheme;

(d) serving as a member of a committee established under the Act or any of its sub-committees;

(e) representing the Society in any legal proceeding including application for striking-off the Roll of a legal practitioner or admission to practice;

(f) serving, without remuneration, on a panel established by a public body to adjudicate or inquire into any matter;

(g) participating in any relevant matter under the auspices of the Society, a charitable organization or a Government Ministry, Department or Agency; and

(h) doing anything, approved by the Society, which significantly and evidently contributes to the attainment of the objects of the Society under section 64 of the Act.

Standard and quality of work

5. The professional standards applicable to services rendered by a legal practitioner in his or her normal course of duty shall apply to *pro bono* legal services.

Payment in lieu of *pro bono* work

6.— (1) The amount of money to be paid by a legal practitioner under section 42 (3) of the Act for failure to perform *pro bono* legal services shall be the equivalent of the prescribed hours for *pro bono* legal services in the practice year as a multiplicand and the prevailing party and party costs rate under the Legal Practitioners (Hourly Expense Rates for Purposes of Taxing Party and Party Costs) Rules as at the time of payment.

(2) Where a legal practitioner performs less than the prescribed *pro bono* legal service hours in a practice year, the shortfall may be covered through payment to the Society of an amount of money calculated in accordance with the formula in sub-rule (1).

Expenses and costs

7.— (1) Subject to section 22 of the Legal Aid Act, the Society or the Bureau, as the case may be, may reimburse to a legal practitioner the total cost of proved expenses incurred in the course of providing *pro bono* legal services.

(2) Except for *pro bono* work assigned by the Bureau, where a court awards costs to a legally aided person who is represented by a legal practitioner under a *pro bono* service scheme, the costs shall accrue to the Society and be dealt with in accordance with funds generated under rule 6 (1).

Report on *pro bono* legal service

8.— (1) A legal practitioner may, at any time irrespective of whether the matter has been finalized, submit to the Society a report providing full particulars of *pro bono* legal services performed during a practice year.

(2) A submitted report under subrule (1) shall be in a format as may be prescribed by the Executive Committee of the Society from time to time.

(3) The report shall contain, at a minimum, the following information—

(a) the charitable organisation, Government Ministry, Department or Agency to which, or under whose auspices the *pro bono* legal service was provided;

(b) the name of the disadvantaged individual or group of persons who received the *pro bono* legal service;

(c) the designation, if any, used by the legal practitioner in providing the *pro bono* legal service;

(d) a description of the *pro bono* service provided;

(e) estimated amount of time (in hours) spent providing the *pro bono* legal service;

(f) the date(s) on which, or the period over which, the *pro bono* legal service was provided; and

(g) the amount of honorarium, if any, offered for the *pro bono* legal service and whether or not the honorarium was accepted.

(4) The Society shall keep a record of *pro bono* legal services rendered by its members in each practice year.

(5) A legal practitioner who provides false information in a report submitted under sub-rule (1) commits a misconduct and shall be dealt with in accordance with section 91 of the Act.

9. For the purposes of section 30(5)(b) of the Act, an application for an annual legal practitioner’s licence shall be accompanied by a sworn declaration stating that the legal practitioner complied with the requirement under rule 3 in the previous practice year or that the legal practitioner was exempted from the requirement to perform *pro bono* legal services under section 42(5) of the Act.

Affidavit in support of application for licence

Made on the 31st day of August, 2021.

C. C. NGUNDE
Secretary

P. G. MPAKA
Chairperson