

Excerpt from the Rules of the Law Society of Namibia

[Section 21 of General Notice 340/2002 (GG 2848), as amended by General Notice 385/2007 (GG 3948).
General Notice 308/2008 (GG 4120) and General Notice 376/2017 (GG 6410).]

21. Professional standards

(1) The Council may from time to time publish to its members guidelines in the form of rulings concerning the professional standards to which it expects members to adhere.

(1A) The professional standards set out in this rule in no way deviate or detract from the standards and obligations stipulated in the Act.

(2) A member acting in his/her professional capacity shall be regarded not to comply with the required professional standards, *inter alia*, if he or she is guilty of a contravention of any of these Rules or of conduct in any of the following respects:

- (a) A breach of faith or trust in relation to his or her client or any estate of which he or she is the executor, administrator, trustee, liquidator, receiver, or curator.
- (b) Withholding the payment of trust money without lawful excuse.
- (c) Failing within a reasonable time to respond to an enquiry from a person to whom he or she owes a duty to reply.
- (d) Failing within a reasonable time to render to his or her client a detailed statement of account after being called upon to do so.
- (e) Failing without good cause to wind up a deceased estate without undue delay.
- (f) [deleted by General Notice 376 of 2017]
- (g) Carrying on practice at an office, including a branch office, which is not under the direct and personal supervision of a duly qualified legal practitioner: Provided that –
 - (i) such requirement of continuous, direct and personal supervision may be relaxed or waived by the Council on such conditions as it may determine;
 - (ii) the Council may also revoke such relaxation or waiver referred to in item (i);

[substituted by General Notice 385 of 2007]

- (h) Giving or taking allowances in contravention of these Rules.
- (i) [deleted by General Notice 376 of 2017]
- (j) Failing to pay within a reasonable time the reasonable fees and disbursements of any legal practitioner, notary or conveyancer in respect of work entrusted to such practitioner by him or her, unless –

- (i) at the time of giving initial instructions in regard to such work, he or she advised that practitioner that he or she will not be responsible for the payment of such fees and disbursements; or
 - (ii) payment is withheld for a reason which the Council deems good and sufficient.
- (k) Claiming in a letter of demand payment of costs of demand or collection commission unless the debtor is under a legal obligation to pay such costs or commission.
- (l)
 - (i) Seeking to recover by reason of an agreement from a third party fees in an amount greater than the normal and usual fees which would have been reasonably recoverable from his or her own client if there had been no such agreement;
 - (ii) overreaching a client or overreaching the debtor of a client; or charging of a fee which in the view of the Council is unreasonably high, having regard to the circumstances of the matter.
- (m) accepting or agreeing to accept or offering to accept remuneration for professional work at less than the rate or scale of charges fixed by statute or regulation or rule or by resolution of the Council, or does any work gratuitously for any person for the sole reason that such person is a shareholder, partner, director, owner or employee of any firm, business, company or institution: Provided that a legal practitioner is not precluded from acting *pro amico* for any of his or her own employees.
- (n) **[deleted by General Notice 376 of 2017]**
- (o) By conduct directly or indirectly holding himself or herself out or allowing himself or herself to be held out as being prepared to do professional work at less than any prescribed rate or scale of charges.
- (p) Acting on the instructions of any organisation or person, not being a legal practitioner or an assessor acting for a registered insurance company, whose business or part of whose business is to make, support or prosecute claims resulting from death or personal injury or who solicits instructions to make, support or prosecute any such claim in expectation of any payment, gift or benefit in respect thereof, unless the relationship between the member and the person on whose behalf instructions are given to him or her is properly a relationship of legal practitioner and client and –
 - (i) instructions are thereafter received directly from such client; and
 - (ii) the legal practitioner's cost and charges are payable by such client; and
 - (iii) the member's independent professional judgement is exercised on behalf of such client without outside interference or control.
- (q) Keeping the accounts of his or her business as a practicing member in the books of account utilised in connection with any other business in which he or she may be interested jointly with a person not being a practitioner.
- (r) Practising contrary to any condition on which an exemption from holding a fidelity fund certificate was granted to him or her.

- (s) Any material breach of the provisions of the Act or of these Rules.
- (t) **[deleted by General Notice 376 of 2017]**
- (u) Failing or refusing to –
 - (i) keep the Society informed of the current postal and physical address at which a member can be reached;
 - (ii) pay annual subscription timeously.

[substituted by General Notice 385 of 2007]

- (v) A breach of attorney and client privilege.
- (w) Allowing a person who is not a legal practitioner and who is employed at a firm to present himself or herself as a professional assistant of that firm.

[substituted by General Notice 385 of 2007]

- (x) **[deleted by General Notice 376 of 2017]**
- (y) Entering into any agreement, arrangement or scheme of operation express or tacit, direct or indirect, the result of which is knowingly in any way assisting, allowing or enabling an unqualified person to charge recover or receive any fee, or derive any remuneration for, in respect of, or in connection with the preparation or execution of any document or the performance of any professional work which only a legal practitioner is qualified by law to prepare, sign, execute, attest or perform, or in any way conniving at any arrangement, agreement or understanding whatsoever whereby any such fee or remuneration as aforesaid is, or shall be, charged, recovered or receiving by any such unqualified person; provided that it will not be unprofessional conduct if a practicing legal practitioner grants to an unqualified person in his or her employ a sharing of earning from auctioneering, the sale and letting of immovable property, insurance agency work and building society agency work.

[substituted by General Notice 376 of 2017]

[No paragraph (z) is contained in the original rules in or any of the amendments.]

- (aa) Entering into or continuing to be a party to any contract or arrangement with a person not being a practitioner the effect whereof is to place the practicing member under such control on the part of such unqualified person as may interfere with his or her independence as an officer of the Court.
- (bb) The practising under any other name other than a name approved by the Law Society which name shall not be offensive or be in contravention of any applicable laws with regard to the naming of partnership, companies or other legal entities. Legal practitioners shall on their letterhead, website and emails show the words authorised and regulated by the Law Society of Namibia and shall contain the relevant name and number if it is a company or if

the firm is a partnership or a recognised sole practice, the name under which it is authorised to practice by the Law Society.

[amended by General Notice 308 of 2008 and substituted by General Notice 376 of 2017]

- (cc) Failing whenever so required, or when called upon by Council within fourteen (14) days of receipt of such request, to furnish to Council full information concerning the name, style or firm title under which his or her or their practice is conducted, including the grounds upon which any name or names appearing in the name, style or firm title of the said practice are used.
- (dd) Failing to disclose on the letterheads of his or her practice or a practice in which he or she is a partner, his or her name or the names of all partners if the practice is conducted in partnership.
- (ee) **[deleted by General Notice 376 of 2017]**
- (ff) **[deleted by General Notice 376 of 2017]**
- (gg) On the detection of a shortfall on the trust account not immediately informing the Society of the amount of the shortfall, the reasons for such shortfall and the steps taken to rectify such shortfall.

[inserted by General Notice 385 of 2007]

- (3) Legal practitioners shall -
 - (a) be entitled to market or advertise their services provided that such advertising or marketing is accurate, truthful and not misleading and is sufficiently informative to ensure that clients and others can make informed choices; and
 - (b) act in accordance with Annexure “A” to these rules which provides guidelines on the general advertising standards applicable.

[substituted by General Notice 376 of 2017]
