



Republic of Namibia  
Annotated Statutes

## RULES

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RULES MADE IN TERMS OF

# **Legal Practitioners Act 15 of 1995**

section 39(1)

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## **Rules governing the Disciplinary Committee**

General Notice 54 of 1996

(GG 1270)

came into force on date of publication: 1 March 1996

The General Notice that publishes these rules notes that they were made by the Minister of Justice and on the recommendation of the Disciplinary Committee established by section 34 of the Act, for regulating the making, hearing and determination of applications to the Disciplinary Committee in terms of section 35(1) of the Act.

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## **ARRANGEMENT OF RULES**

[These rules have no headings.]

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1. In these rules, unless the context indicates otherwise -

“Disciplinary Committee” means the Disciplinary Committee established by section 34 of the Act;

“member” means a member of the Law Society of Namibia by virtue of the section 43(1) of the Act;

“Secretary” means the Secretary of the Disciplinary Committee;

“the Act” means the Legal Practitioners Act, 1995 (Act 15 of 1995).

2. Subject to the provisions of part IV of the Act, the Disciplinary Committee shall have the following powers:

**RULES**  
**Legal Practitioners Act 15 of 1995**  
**Rules governing the Disciplinary Committee**

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- 2.1 To determine the information to be furnished by the Secretary to an applicant who intends to lodge an application and the assistance to be given by the Secretary to an applicant who for good cause cannot lodge an application unaided;
- 2.2 before it investigates any application, to require an applicant to make his or her complaint formally in writing and to verify it by affidavit;
- 2.3 to require the applicant to furnish such further evidence, written or oral, documentary or otherwise, as it may require;
- 2.4 to furnish the member in respect of whom an application has been received with such particulars of the application as may be necessary to enable him or her to reply;
- 2.5 to direct the member against whom an application has been made to reply in writing to the Secretary within a stipulated time, should he or she so wish;
- 2.6 to direct the member against whom the application is made to furnish such further evidence, written or oral, documentary or otherwise, as it may require;
- 2.7 to require the member to appear before it;
- 2.8 to dismiss an application which in its opinion does not *prima facie* or on consideration of the member's reply disclose unprofessional, dishonourable, or unworthy conduct.

3. If after consideration of an application and the member's reply the Disciplinary Committee is of the opinion that the application discloses a *prima facie* case of unprofessional or dishonourable or unworthy conduct, the Committee shall cause a hearing to be held in accordance with the provisions of the Act.

4. If the Disciplinary Committee decides to hold a hearing:

- 4.1 the Committee shall, subject to the provisions of the Act and these Rules, determine the manner in which the committee shall discharge its duties and all other matters relating to procedure;
- 4.2 the Disciplinary Committee shall cause a written summons under the hand of the Secretary to be served upon the member complained against requiring him or her to appear before the Committee at the time and place and on the date specified in the summons;
- 4.3 the summons shall set out the specific charge or charges of unprofessional or dishonourable or unworthy conduct made against the member concerned;
- 4.4 if during the course of a hearing it should appear to the Committee that the member may have been guilty of unprofessional, dishonourable or unworthy conduct in respects other than those alleged in the summons, the Committee may amend or add to the charges contained in the summons in which event it shall inform the member of the amended charges and grant such adjournment, if any, as may be necessary to enable the member to prepare his or her defence;

**RULES**  
**Legal Practitioners Act 15 of 1995**  
**Rules governing the Disciplinary Committee**

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- 4.5 the Disciplinary Committee may appoint a legal practitioner to lead evidence, to cross-examine the member complained against and witnesses, and to present argument;
- 4.6 the Disciplinary Committee may also cause any person to be summoned to appear at the hearing in the manner provided in section 39(2) of the Act;
- 4.7 should the member complained against or any other person required to appear fail to appear pursuant to any summons, the Disciplinary Committee may, after 15 minutes have elapsed since the time fixed for the hearing, proceed with the enquiry in his or her absence. This power is in addition to and not in substitution for the penalties provided for in section 39(4) of the Act;
- 4.8 if the Chairperson is absent from any meeting of the Disciplinary Committee the remaining members of the Committee shall appoint an acting Chairperson from amongst their number and any reference in these Rules to the Chairperson of the Committee shall be deemed to include a reference to an acting Chairperson.
5. Upon finding a member guilty, the Disciplinary Committee shall act in accordance with the provisions of section 35(8) or 35(9) of the Act.
6. The Disciplinary Committee shall keep a proper record of the proceedings before it as well as of all rulings given by the Committee.
7. The Disciplinary Committee shall inform the applicant of its decision as well as members of the public, if so requested.
8. The costs referred to in section 35(11) of the Act shall be payable by the member forthwith upon the receipt by him or her of the Disciplinary Committee's bill of costs certified under the hand of the Secretary. A member dissatisfied with any item in such bill of costs, shall have the right to appeal to the Taxing Master of the High Court of Namibia, whose decision shall be final.
9. Subject to the provisions of the Act, these Rules shall apply, mutatis mutandis, to any proceedings against a candidate legal practitioner.