

The Law Society of Zimbabwe By-laws, 1982, were published in SI 314 of 1982 and have been amended by:

Statutory Instruments 191/1986, 24/1990, 155/1990, 461/1992, 209/2003 and 2/2005

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IT is hereby notified that the Minister of Justice has, in terms of section 47 of the Legal Practitioners Act, 1981, approved the following by-laws adopted by a majority of members present at a general meeting of the Law Society of Zimbabwe:—

Title

- 1. These by-laws may be cited as the Law Society of Zimbabwe By-laws, 1982.

PART I
INTERPRETATION

Definitions

- 2. In these by-laws—
 - “auditor” means a person or firm appointed by the Society to act as its auditors for the time being, and includes any qualified representative of that person or firm;
 - “Compensation Fund” means the Law Society Compensation Fund referred to in section 48 of the Act;
 - “firm’s auditor” means an accountant registered in terms of the Accountants Act [*Chapter 215*] and engaged by a legal practitioner to provide an audit certificate referred to in section 71C;
 - [*Definition inserted by by-law 2 of SI 24/1990*]
 - “form” means the appropriate form set out in the First Schedule;
 - “legal assistant” means an articulated clerk as defined in section 2 of the repealed Attorneys, Notaries and Conveyancers Act [*Chapter 218*] or [a] person who is undergoing, or has undergone, any practical training prescribed as a qualification for registration as a legal practitioner, but who has not yet been registered as a legal practitioner;
 - “legal practitioner” means a person duly registered in terms of the Act;
 - “president” means the president for the time being of the Society, and includes any deputy or person temporarily fulfilling the duties of that office;
 - “private practice” means the practice of law by a legal practitioner on his own account or in partnership with one or more legal practitioners or in the employ of a legal practitioner in private practice;

“Secretary” means the secretary or any assistant secretary for the time being of the Society, and includes any deputy or person temporarily fulfilling the duties of that office;

“vice-president” means the vice-president for the time being of the Society, and includes any deputy or person temporarily fulfilling the duties of that office.

Rules for interpretation

3.(1) In case of doubt as to the meaning of any of these by-laws, the interpretation of the Council shall be binding on all legal practitioners.

(2) The Council may decide and act as it may think proper in any matter not provided for in these by-laws.

(3) Where any duties are placed upon the president in terms of these by-laws, in the event of his absence or incapacity to act, the same shall be discharged by the vice-president or, should he also be absent or unable to act, by a councillor appointed by the Council.

...

PART VII

LEGAL PRACTITIONERS

Register of legal practitioners to be kept

56. A register of legal practitioners, in such form as may be determined by the Council, shall be kept by the Secretary at the office of the Society, in which shall be maintained, in the first part thereof, the hereinafter prescribed particulars of legal practitioners who are members of the Society, and, in the second part thereof, the hereinafter prescribed particulars of all legal practitioners who are not members of the Society.

Particulars of register

57.(1) The Secretary shall enter and maintain in the register, kept in terms of by-law 56, in respect of each legal practitioner—

- (a) his full name and any changes thereof; and
- (b) the firm name under which he practises, whether on his own account or in partnership, or by whom he is employed, and its address and any changes in respect of the firm or his employment; and
- (c) the names of his partners, if any, and any changes therein; and
- (d) his business address, if not in private practice, and any changes thereof; and
- (e) the date of his registration as a legal practitioner; and
- (f) the date and circumstances under which he may have ceased to practise, or may have been suspended from practice, or otherwise disciplined by the Disciplinary Tribunal (with the particulars thereof), or may have had his name deleted from the Register kept in terms of section 3 of the Act; and
- (g) the date upon which, and circumstances under which, he has been admonished or otherwise dealt with by the Council in terms of paragraph (b) of sub-by-law (4) of by-law 63; and
- (h) the date upon which, and circumstances under which, he may have resumed practice, or may have had his name restored to the Register kept in terms of section 3 of the Act; and
- (i) such further particulars as the Council may from time to time consider necessary.

(2) In respect of members of the Society, the Secretary shall further enter and maintain in the register in respect of each member—

- (a) the date of his admission as a member; and
- (b) the date upon and circumstances under which he may have ceased to be a member; and

- (c) the date upon which, and circumstances under which, he may have been readmitted to membership; and
- (d) the subscription, and any changes in the amount thereof, payable by him from time to time, and the date upon which each subscription or change in the amount thereof for which he is liable is paid.

Particulars to be provided by legal practitioners

58. (1) Every person registered as a legal practitioner shall, within twenty-one days from the date of registration—

- (a) lodge with the Secretary a certified copy of the original certificate of registration issued in terms of subsection (3) of section 3 of the Act; and
- (b) furnish to the Secretary the particulars specified in by-law 57 as may be relevant.

(2) Every legal practitioner shall, within twenty-one days of the event, notify the Secretary—

- (a) of any changes in the particulars previously furnished to the Secretary as required by this by-law; and
- (b) when he ceases to practise or, having ceased to practise, when he resumes practice, of the date and circumstances thereof.

(3) Every legal practitioner, if requested by the Secretary, shall furnish, within twenty-one days of the date of such request, such information and produce such documents as may be required for the purpose of completing, amending or updating the register prescribed in by-law 56.

Penalties for failure to comply with by-law 58

59. In the event of any practitioner failing to comply with any provision of by-law 58 within the time-limits prescribed, he shall be liable to pay a penalty of ten dollars for each week in which he remains in default, and proceedings for recovery may be taken by the Council. All penalties recovered shall form part of the funds of the Society.

PART VIII

COMPLAINTS AND INVESTIGATIONS

Composition of disciplinary committee

60. (1) There shall be a standing committee of the Council, to be known as the “disciplinary committee”, consisting of three councillors appointed from time to time by the Council.

(2) It shall be the duty of the disciplinary committee to take such action in terms of this Part as may seem to it to be proper if it has reason to suspect that a legal practitioner or legal assistant may have been guilty of conduct described in section 23 or in subsections (1) or (2) of section 28 of the Act (hereinafter, in this Part, called “unprofessional conduct”).

(3) Two members of the disciplinary committee shall form a quorum.

Complaints

61. (1) A complaint against a legal practitioner or legal assistant shall be submitted to the Secretary, who may—

- (a) require the complaint to be reduced to writing by the complainant;
- (b) require the complainant to provide such further or additional particulars or evidence as he considers necessary or desirable;
- (c) upon informing the legal practitioner or legal assistant concerned, in writing, of the nature of the complaint, require him to reply thereto, in writing, within fourteen days.

(2) If the Secretary considers that the complaint is without substance, he shall advise the complainant that he intends to take no further action unless required by the complainant to do so.

(3) If the Secretary considers that the complaint may have substance, or is required by the complainant to take further action in terms of sub-by-law (2), he shall submit the complaint and any further or additional particulars or evidence in his possession relating thereto, and any reply received from the legal practitioner or legal assistant to the disciplinary committee for consideration.

(4) If, without a formal complaint having been received, it appears that a legal practitioner or legal assistant may have been guilty of unprofessional conduct, the Secretary may write to the legal practitioner or legal assistant concerned, informing him of the nature of the conduct suspected and requiring him to reply thereto, in writing, within fourteen days.

(5) Upon the expiry of the said period of fourteen days, and whether or not a reply has been received to his letter, the Secretary shall submit the matter to the disciplinary committee for consideration.

Action by disciplinary committee

62. (1) Upon receipt of any matter referred to it by the Secretary in terms of by-law 61, the disciplinary committee shall cause such further investigation to be made in the matter as it deems fit, and, by notice written and dispatched by the Secretary, on its instructions, to the complainant, legal practitioner or legal assistant, as the case may be, may—

(a) require the person addressed—

(i) to make or provide affidavits, by a specified date, supporting the facts and circumstances alleged by him;

(ii) to produce, by a specified date, any book, deed, document, paper or other writing in his possession or under his control which in any way relates to or concerns the matter in question;

(b) invite the legal practitioner or legal assistant concerned to make written representations, by a specified date, on the substance of the complaint and such other matters as it may direct.

(2) Upon proof of the dispatch of any notice referred to in sub-by-law (1), and after the expiry of any date specified therein, and on completion of its investigations, the disciplinary committee shall proceed to consider whether a *prima facie* case of unprofessional conduct is disclosed, and shall thereafter refer the matter to the Council, with its findings and recommendations.

Action by Council

63. (1) When any matter is referred to it by the disciplinary committee in terms of by-law 62, the Council shall consider the matter and the disciplinary committee's findings and recommendations, and shall proceed as hereinafter in this by-law set out.

(2) If the Council considers that further investigation is necessary before a decision can be taken, it shall refer the matter back to the disciplinary committee for further action in terms of by-law 62, with such directions as it thinks fit.

(3) If the Council considers that a *prima facie* case of unprofessional conduct is not disclosed, it shall direct the Secretary to advise the complainant and the legal practitioner or legal assistant concerned accordingly.

(4) If the Council considers that a *prima facie* case of unprofessional conduct is disclosed, and has satisfied itself that the legal practitioner or legal assistant concerned has been afforded a reasonable opportunity to reply to the substance of the complaint, it may—

(a) refer the matter to the Disciplinary Tribunal for inquiry; or

(b) decide to adjudicate itself upon the matter, where for any other reason it considers that the matter should not be the subject of inquiry by the Disciplinary Tribunal, and shall thereupon take such action, including admonishing the legal practitioner or legal assistant, as it thinks fit.

Disqualification of councillors

64. (1) No councillor shall sit as a member of the disciplinary committee or of the Council in any investigation or inquiry in which the complainant or the legal practitioner or legal assistant whose conduct is the subject of investigation is a partner or employee of the councillor or of the firm of which that councillor is a partner or employee.

(2) Where a councillor is disqualified in terms of sub-by-law (1) from sitting as a member of the disciplinary committee, the Council may appoint some other councillor to act in his stead as a member of the disciplinary committee for the purposes of the inquiry concerned.

Powers of Council where its communications are ignored

65. If a complainant, legal practitioner or legal assistant unreasonably neglects or wilfully refuses to furnish to the Secretary, the disciplinary committee or the Council, in connection with any proceedings under this Part, any statement, affidavit, particulars, book, deed, document, paper or other writing required of him—

- (a) in the case of a complainant, the Secretary, disciplinary committee or Council, as the case may be, may refuse to proceed further with the investigation or inquiry;
- (b) in the case of the legal practitioner or legal assistant, he shall, *ipso facto*, be guilty of unprofessional conduct, and the Council shall refer the papers to the Disciplinary Tribunal for inquiry.

Legal assistant's employer to be informed of any complaint or investigation

66. In any inquiry or investigation into the conduct of a legal assistant in terms of these by-laws, copies of all communications addressed to such legal assistant shall be sent in the same manner to his principal or employer, who will be entitled to make such representations on behalf of his legal assistant as he may see fit.

Council's right to apply for Disciplinary Tribunal inquiry without investigation

67. The Council shall have the right to apply to the Disciplinary Tribunal for an order against a legal practitioner or legal assistant in terms of subsection (1) or (2) of section 28 of the Act without following the procedure provided for in this Part, and without any notice to the legal practitioner or legal assistant, other than such notice as may be required in terms of the Legal Practitioners (Disciplinary Tribunal) Regulations, 1981, if—

- (a) the member has been convicted of an offence of the kind referred to in subsection (3) of section 28 of the Act; or
- (b) the Council is of the opinion that delay in making the application might be prejudicial to the public or any member thereof, or to the administration of justice, or to the reputation of the profession.

Duty of legal practitioners to notify Secretary of special orders of costs made against them

67A. (1) Where a court has—

- (a) ordered a legal practitioner to pay the costs of any proceedings *de bonis propriis*; or
- (b) directed that no costs be recovered by a legal practitioner from his client;

the legal practitioner shall notify the Secretary of the order or direction within seven days of his becoming aware of it, and any failure to do so shall constitute unprofessional, dishonourable or unworthy conduct on the part of that legal practitioner.

[By-law inserted by by-law 2 of SI 461 of 1992]

PART IX
CHARGES AND COMMISSIONS FOR PROFESSIONAL SERVICES

Charges to be fair and reasonable

68.(1) In regard to all professional services in matters not provided for by the rules of any competent court of law or by the Council under by-law 70, legal practitioners shall charge such sum as may be fair and reasonable, having regard to all the circumstances of the case and, in particular, the following matters—

- (a) the complexity of the matter or the difficulty or novelty of the questions raised;
- (b) the skill, labour, specialised knowledge and responsibility involved on the part of the legal practitioner;
- (c) the number and importance of the documents prepared or perused, without regard to length;
- (d) the place where, and the circumstances in which, the business or any part thereof is transacted;
- (e) the time expended by the legal practitioner;
- (f) where money or property is involved, its amount or value;
- (g) the importance of the matter to the client;
- (h) any tariff of recommended charges issued by the Council.

(2) On the taxation of any bill of costs, it shall be the duty of the legal practitioner to satisfy the taxing officer as to the fairness and reasonableness of the charge or charges made.

Tariffs

69. The Council may from time to time fix, prescribe or recommend tariffs of charges and commissions or minimum or maximum charges and commissions for services rendered by legal practitioners in matters not provided for by the rules of any competent court of law, and no legal practitioner shall charge fees other than so fixed or less than any minimum prescribed or more than any maximum fee prescribed:

Provided that—

- (i) no tariff so fixed or prescribed shall prohibit any legal practitioner from acting in any proper case or matter without making any charge therefor;
- (ii) until tariffs are so fixed or prescribed by the Council, legal practitioners shall not charge less than the minimum fees for conveyancing and for non-litigious work other than conveyancing set out in the Second and Third Schedules, respectively, to the Law Society of Southern Rhodesia By-laws, 1939.

Commission on collection of debts

70.(1) In this by-law—

“payment or instalment collected” includes—

- (a) any payment made by, or on behalf of, any debtor direct to the client, whether in cash or in kind, or by way of novation or set-off, after the matter has been handed to the legal practitioner for collection:

Provided that—

- (i) at the time when the payment is arranged or made, the matter is still in the hands of the legal practitioner for collection;
 - (ii) the debtor has received a demand from the legal practitioner;
- and

- (b) the value of movables finally recovered or repossessed by the client in terms of hire-purchase or suspensive sale agreement, leases of movables or agreements of a like nature, which value shall be any value fixed upon the movables by the court, failing which the value fixed upon the movables by a sworn appraiser:

Provided that—

- (i) where the total unpaid amounts owing under the agreement are less than the value of the movables, the charge shall be calculated upon such total unpaid amounts, and not on the value of the movables;
- (ii) where no value has been fixed upon the movables, the charge shall be calculated upon the total unpaid amounts owing under the agreements;

and

- (c) all or any legal costs payable by the debtor to the client and collected from the debtor, but shall not, in the case of claims made by a banker against a customer or guarantor for the recovery of moneys advanced upon overdraft, include any sums paid by the debtor directly to the banker;

[Definition as amended by by-law 3 of SI 155 of 1990]

“trade debt” means a liquidated claim for money or for the delivery of movable property against a debtor in default which arises directly or indirectly from any trade, business, profession, calling or other gainful occupation publicly carried on by the creditor, or which is claimed by the State or any statutory or local authority, but shall not include—

- (a) any claim, other than a claim for arrear instalments only, for the recovery of moneys due under a mortgage bond hypothecating immovable property; or
- (b) any claim, other than a claim for arrear instalments only, for the payment of the purchase-price of immovable property in terms of any agreement of sale;

“uncontested claim” includes—

- (a) any claim not involving the issue of any court process; and
- (b) any claim commenced by the issue of a summons where the defendant does not enter an appearance to defend; and
- (c) any judgment debt, not the subject of a pending appeal, which has not been paid in full within seven days after demand, or such longer period after demand as may have been stipulated in the demand; and
- (d) any claim which, after an appearance to defend has been entered but prior to judgment, is settled upon terms providing for payment in instalments, or for a single payment which is not, in fact, paid in terms of the settlement:

Provided that a settlement which envisages payment of the capital sum plus costs to be taxed or agreed shall not be regarded as providing for payment in instalments merely because capital and costs are paid separately.

(2) A legal practitioner instructed to collect an uncontested claim for trade debt shall be entitled and obliged, in lieu of any other fees and charges, save for disbursements, and save as is hereinafter provided, to charge his client a collection commission at the rate of—

- (a) ten *per centum* on the first two hundred thousand dollars; and
- (b) five *per centum* on the next six hundred thousand dollars; and
- (c) two comma five *per centum* on the balance;

of any payment or instalment collected:

[Sub-by-law as amended by by-law 3 of SI 155 of 1990]

Provided that—

- (i) whenever payment in full is recovered in one lump sum in response to a letter of demand only, the maximum commission payable shall be the sum of five hundred dollars;

[Proviso (i) as amended by by-law 3 of SI 155 of 1990]

- (ii) in the collection of a claim falling within the jurisdiction of the magistrates courts, the legal practitioner shall be entitled and obliged, in addition, to charge his client with appropriate fees for any services rendered (whether or not recoverable from the debtor) referred to in Table A of the Second Schedule to the Magistrates Court (Civil) Rules, 1980;
 - (iii) in the collection of a claim falling outside the jurisdiction of the magistrates courts, the legal practitioner shall, in addition to collection charges, be entitled and obliged to charge his client with fees for professional services rendered in regard to the obtaining of judgment against the debtor, and in regard to all forms of execution proceedings, including garnishee and civil imprisonment proceedings, instituted against the debtor on the client's instructions;
 - (iv) a legal practitioner who is not obliged in terms of this by-law to charge collection commission on moneys collected by him shall be entitled, by agreement with his client, to charge collection commission on such moneys on the scale herein provided, or on some lower scale, and, in the absence of any such agreement, shall be entitled to receive a fair and reasonable remuneration for work actually done by him on his client's instructions.
- (3) The Council of the Society may, on the written application of a member, but only in exceptional circumstances, authorise such member to depart from the provisions of this by-law.

PART IXA

BOOKKEEPING

[Part inserted by by-law 3 of SI 191 of 1986]

Interpretation in Part IXA

70A. In this Part—

“auditor” ...

[Definition repealed by by-law 3 of SI 24 of 1990]

“bank trust account” means a current account kept by a legal practitioner at a bank in terms of subsection (1) of section 13 of the Act;

“firm” means—

- (a) a legal practitioner in private practice on his own account; or
- (b) a partnership of legal practitioners in private practice;

but does not include a legal practitioner who is not obliged to open a trust account in terms of subsection (3) of section 13 of the Act;

“trust investment account” means an account kept by a legal practitioner in terms of subsection (2) or (3) of section 13 of the Act.

Monthly trust account balances

70B.(1) At least once in respect of every calendar month, within thirty days after the end of the calendar month concerned, every firm shall—

- (a) extract a list of the credit balances shown in respect of each client in each trust account; and
- (b) note each balance listed in terms of paragraph (a) in some permanent and prominent manner in the ledger account from which such balance was extracted, by means of a mark approved by the firm's auditor:

Provided that no such mark shall be required where the ledger account is recorded electronically by a computer and the list of credit balances has been produced automatically.

(2) Every firm shall preserve the list of balances extracted in terms of subsection (1) for a period of not less than three years from the date on which the list was extracted.

Balancing of books of account

70C. Every firm shall ensure that the books of account that are required to be kept in terms of section 14 of the Act are written up at least once in each month and are balanced within three months after the last date upon which the lists referred to in by-law 70B are required to be extracted.

Notification to Council of details re trust accounts

70D.(1) Immediately after opening a trust account in terms of subsection (1), (2) or (3) of section 13 of the Act, a firm shall notify the Council and the firm's auditor of the name and address of the bank, building society or other institution at which the trust account is being kept.

(2) Every firm which, on the date of commencement of the Law Society of Zimbabwe (Amendment) By-laws, 1986 (No. 1) keeps a trust account in terms of section 13 of the Act, which was opened on or before that date shall, within six weeks after that date, notify the council and the firm's auditor, if he has not already been notified, of the name and address of the bank, building society or other institution at which the trust account is being kept.

(3) Within ten days after being required to do so by the Council, a firm shall furnish the Council with signed statements issued by each bank, building society or other institution at which the firm keeps a trust account, certifying the amount standing to the credit or debit, as the case may be, of the account at such date as may be specified by the Council.

Accounting to clients

70E. (1) Within a reasonable time after the performance or earlier termination of its mandate, every firm shall deliver to the client concerned a written statement setting out with reasonable clarity—

- (a) details of all amounts received by the firm in connection with the matter concerned, with appropriate and adequate explanatory narrative; and
- (b) particulars of all disbursements and payments made by the firm in connection with the matter; and
- (c) all fees and other charges raised against or charged to the client and, where any fee represents an agreed fee, a statement that it was agreed and the amount so agreed; and
- (d) the amount payable to or by the client.

(2) Unless otherwise instructed, every firm shall pay any amount due to its client within a reasonable time.

Deposits into and payments from trust accounts to be made promptly

70F.(1) Whenever a firm receives money on account of any person, the firm shall deposit the money promptly in its trust bank account, either on the same day that it receives the money or on the first banking day thereafter on which it can reasonably be expected to do so.

(2) Whenever any money deposited in a trust account of a firm becomes payable to any person, the firm shall pay the money promptly to the person entitled to it.

Fees and disbursements to be debited promptly

70G. Either before or within a reasonable time after claiming payment of any fee due to it or in respect of any disbursement made by it, a firm shall pass a corresponding debit in its books of account.

Trust cheques

70H. Every firm shall ensure that each cheque drawn upon its bank trust account—

- (a) is not made payable to "cash" or "bearer" or to "cash or order" but is made payable to or to the order of a specific payee named or designated on the cheque; and

- (b) indicates the name of the firm and bears the words “trust account”.

Trust shortfalls

70I. The total of the trust credit balances shown on the trust account in the ledgers of any firm shall not at any time exceed the total amount of the moneys in the firm’s bank trust account and any trust investment accounts, together with the trust cash in hand.

Transfers from trust to other accounts

- 70J. Every firm shall employ and maintain an adequate accounting system which ensures that—
- (a) notwithstanding the payment of any money into a special trust investment account, the client concerned is still reflected as a trust creditor; and
 - (b) generally, the requirements of this Part are complied with whenever money is transferred from the firm’s trust bank account to any other account.

[Part inserted by by-law 3 of SI 191 of 1986]

PART IXB

PRACTISING CERTIFICATES

[Part inserted by by-law 4 of SI 24 of 1990]

Applications for practising certificates

71A.(1) An application in terms of section 58A of the Act for a practising certificate shall be—

- (a) made to the Secretary—
 - (i) in the case of an applicant who intends to commence practice as a legal practitioner, not less than thirty days before he intends to commence such practice; or
 - (ii) in the case of an applicant who is practising as a legal practitioner and is in possession of a practising certificate, not less than thirty days before such certificate expires:

Provided that, subject to section 58B of the Act, nothing contained in this paragraph shall be construed as permitting the Secretary to refuse to consider any application made after the periods specified in subparagraph (i) or (ii); and

- (b) made in Form D with such variations as the circumstances may require; and
- (c) accompanied by—
 - (i) the appropriate contribution to the Society specified in by-law 71B; and
 - (ii) such contribution to the Compensation Fund as may be prescribed in rules made in terms of section 58 of the Act; and
 - (iii) any audit certificate which may be required in terms of section 59A of the Act.

(2) The Secretary may require an applicant for a practising certificate to furnish him with such further information and particulars as may be reasonably required in respect of that application before issuing a certificate to the applicant.

Contributions

71B. There shall be submitted with every application for a practising certificate in terms of section 58A of the Act a contribution of one million five hundred thousand dollars payable to the Society:

Provided that, where such application is made—

- (a) by a person who intends to commence practice as a legal practitioner on or after the first day of July in any year, the contribution shall be seven hundred and fifty thousand dollars;
- (b) by a person who has never previously held a practising certificate, the contribution shall be one million dollars;

- (c) by a person who is applying for a limited practising certificate, the contribution shall be one million dollars.

[By-law as amended by by-law 2 of SI 2 of 2005]

Audit certificate

71C. (1) Save in the case of a legal practitioner who is to be employed by or to enter into partnership with a legal practitioner who has submitted an audit certificate in terms of subsection (2), a person who intends to commence practice as a legal practitioner and is required to open and keep a separate trust account in terms of section 13 of the Act shall, before doing so, submit to the Secretary an audit certificate in form E signed by the firm's auditor.

(2) A person who is practising as a legal practitioner and is required to open and keep a separate trust account in terms of section 13 of the Act shall at least once in each calendar year submit to the Secretary an audit certificate in form F signed by a firm's auditor—

- (a) within two months of the annual audit, if any, of the trust books of account of the practice of the legal practitioner or firm of legal practitioners with which the legal practitioner is associated, whether as a partner, employee or otherwise; or
- (b) within six months of the annual closing of the trust books account of the practice; or
- (c) at the same time as application is made for a practising certificate;

whichever is the earlier.

(3) One audit certificate submitted by a firm of legal practitioners shall constitute compliance with subsection (2) by all the legal practitioners associated with such firm, whether as partners, employees or otherwise.

(4) Where in any year a legal practitioner—

- (a) retires from partnership and thereafter practises on his own account or in partnership with other legal practitioners; or
- (b) who has formerly practised on his own account commences to practise in partnership;

he shall submit an audit certificate covering all relevant periods both before and after the change or changes.

(5) Where a legal practitioner who has practised on his own account retires from practice, he shall submit an audit certificate covering the period up to the date of his retirement.

(6) Should an audit certificate submitted to the Secretary reveal a shortfall in trust funds or other irregularity on the part of the legal practitioner or legal practitioners concerned, the Secretary shall forward such audit certificate, together with any explanation tendered by the legal practitioner or legal practitioners concerned, to the disciplinary committee established in terms of Part VIII.

Form of practising certificates

71D. A practising certificate issued by the Secretary in terms of subsection (1) or (2) of section 58B of the Act shall be in form G, while a limited practising certificate referred to in subsection (4) of section 58B of the Act shall be in form H.

[Part inserted by by-law 4 of SI 24 of 1990]

PART X

MISCELLANEOUS

Office of the Society

71. The office of the Secretary and the headquarters of the Council shall be at such place in Zimbabwe as the Council may from time to time decide, and such office shall be the office of the Society where the records, books and documents of the Society shall be kept.

Staff

72.(1) The Council may appoint, on such conditions of service as it thinks fit, and remove a Secretary, treasurer, librarian and such clerks, officers and servants as it may from time to time think fit. It may further employ one of the Society's members or his firm as a legal practitioner or legal practitioners for the Society.

(2) The Council may pay to such Secretary, treasurer, librarian and other officers and servants of the Society such salaries, fees or wages, or give them or any of them remuneration, as it may from time to time think advisable.

Legal proceedings

73. Whenever the Council has decided to appear in any legal proceedings, it may, by resolution, delegate to the president, vice-president or other councillor or councillors the authority, with power of substitution, to employ legal practitioners and to do any act or sign any document on behalf of the Society in the course of such proceedings.

Use of Society's property

74. The Council may from time to time make such rules respecting the use by the members and others of the property of the Society as it shall deem fit, and may rescind or alter such rules.

Power of Council to investigate a contravention of section 23(1)(i) of the Act

75. Where the Council has reason to believe that a contravention of any of the provisions of paragraph (i) of subsection (1) of section 23 of the Act is taking place, it may call upon the legal practitioner concerned to furnish it with an affidavit explaining the position of the employee in the legal practitioner's business and the amount and manner of his remuneration. The Council shall have the same power where a person, not being a legal practitioner, is continuously occupied in or about the premises of a legal practitioner under such circumstances as warrants the Council in concluding that a contravention of the Act is taking place.

Notices

76. Any letter, notice, voting-paper or other document in connection with any business affecting the Society which, in accordance with these by-laws, is required to be sent by the Council or by the Secretary or otherwise to any member, if sent to him at his business address as entered in the register kept by the Secretary in terms of by-law 56, shall be considered to have been duly and properly sent, and, if such letter, notice, voting-paper or other document be sent by post, notice of the contents thereof shall be deemed to have been received by such member at the time when it would have reached him in the ordinary course of post.

Interest on trust money

77. That portion of the interest accruing during the period covered by the audit certificate referred to in by-law 71C on money deposited in an account opened in terms of subsection (1) or (2) of section 13 of the Act which is payable to the Compensation Fund shall be paid at the same time as application is made in terms of section 58A of the Act for a practising certificate.

Repeals

78. [Omitted]

FIRST SCHEDULE (*By-law 2*)

FORMS

[Forms A – C are omitted]

Form D

LAW SOCIETY OF ZIMBABWE
APPLICATION FOR PRACTISING CERTIFICATE

1. Name of firm
2. Period (*delete inapplicable*):
 - (a) year ending on 31 December 19 ...
 - or
 - (b) from 19 ... to 31 December 19 ...
3. Full names of applicant(s)—
 - (a) partners or principals
 - (b) qualified assistants
4. Address at which business will be carried out
5. Other place(s) of business with name of person in charge
6. If any applicant(s) had ceased to practise and now intend(s) to resume practice—
 - (a) former business address and name of firm
 - (b) when applicant(s) ceased to practise
7. Whether applicant(s) is/are a person(s) who is/are required by section 13 of the Act to keep a trust account (*see note 3*): YES/NO.

I/WE being the above-named applicant(s), do hereby certify that the facts set out above are, to the best of my/our knowledge and belief, true and correct.

Dated at this ... day of 19 ...

(Signatures of all applicants)

NOTES:

- (1) This application must be accompanied by—
 - (a) the prescribed contribution for each applicant;
 - (b) an audit certificate or certificates in form E or form F, if the same have not previously been submitted;

or the declaration in note 3 below duly signed.

(2) If the answer to paragraph is no and the applicant has not submitted an audit certificate, the following declaration must be signed:

I/WE, the above-named applicant(s), do hereby certify that in my/our capacity as legal practitioner(s) or as executor(s), administrator(s) or trustee(s), I/we have not held or received any moneys for or on behalf of another person during the period of validity of any practising certificate which has been issued to me/us and which is about to expire, nor will I/we during the period of validity of the practising certificate for which I am / we are now applying, hold or receive any such moneys before having produced an audit certificate satisfactory to the Secretary.

Dated at this ... day of 19 ...

(Signatures of all applicants)

(4) If the answer to paragraph 9 is yes, the following declaration must be signed:

I, the above-named applicant, do hereby certify that if I am issued with a limited practising certificate, no fees will be raised or charged by me or any other person in respect of any work carried out under the authority of such certificate.

Dated at this ... day of 19 ...

(Applicant)

[Form inserted by By-law 6 of SI 24 of 1990]

Form E

AUDIT CERTIFICATE FOR THE LAW SOCIETY OF ZIMBABWE

In terms of section 81 of the Legal Practitioners Act [*Chapter 27:07*], in respect of Legal Practitioner/s who is/are intending to commence practice.

We, , public auditors registered in terms of the Public Accountants and Auditors Act [*Chapter 27:12*], hereby certify that in respect of the above-mentioned legal practitioner(s) who intend(s) to commence practice and is/are required to open and keep a separate trust account in terms of section 13 of the Legal Practitioners Act, we have explained a system of bookkeeping which is adequate to enable the legal practitioner(s) to comply fully with the provisions of sections 13 and 14 of the Act and Part IXA of the Law Society of Zimbabwe By-laws.

Dated at this ... day of 19 ...

Public Auditors

[Form inserted by By-law 6 of SI 24 of 1990. References in the form to chartered accountants and to statutory provisions have been up-dated.]

Form F

AUDIT CERTIFICATE FOR THE LAW SOCIETY OF ZIMBABWE

ISSUED IN TERMS OF SECTION 81 OF THE LEGAL PRACTITIONERS ACT [*Chapter 27:07*]
IN RESPECT OF LEGAL PRACTITIONERS

We, , Public Auditors registered in terms of the Public Accountants and Auditors Act [*Chapter 27:12*], certify:

1. That we have examined the system of bookkeeping employed by the above-named firm for a period of ... months ending on the ... day of 19 ... (*being a date not more than six months prior to the date of this certificate*).

2. That from such examination we are satisfied that the system is adequate to enable the firm to comply with the provisions of sections 13 and 14 of the Legal Practitioners Act [*Chapter 27:07*] and Part IXA of the Law Society of Zimbabwe By-laws, 1982, as inserted by SI 191 of 1986.

3. That we have prepared/checked a list of the balances shown on the trust account of the firm at the closing date of the period covered, as specified in paragraph (1) and at the ... day of 19... being one other date during that period selected by us.

4. That the total of funds kept by the firm in its trust accounts together with trust funds on hand in cash or in the form of unpresented or uncleared cheques on each of the said dates did/did not fall short of the total of the balances shown on the trust account of the firm on those dates according to the said list. *(In the event of there being a shortfall, describe the extent and nature thereof and whether at the date of signing the certificate the position has been rectified to the satisfaction of the auditor).*

5. That the firm has/has not during the period in question kept a trust account opened in terms of subsection (1) or (2) of section 13 of the Legal Practitioners Act [*Chapter 27:07*].

6. That the total amount of interest accrued during the period in question in respect of each of the accounts opened in terms of subsection (1) or (2) of section 13 of the Legal Practitioners Act [*Chapter 27:07*] amounted to \$.

7. That the firm has during the period in question prepared and retained a list of the credit balances in respect of each client shown in its trust account each month during the period in question.

Dated at this ... day of 19 ...

Public Auditors

[Form inserted by By-law 6 of SI 24 of 1990. References in the form to chartered accountants and to statutory provisions have been up-dated.]

Form G

THE LAW SOCIETY OF ZIMBABWE
PRACTISING CERTIFICATE

is registered as a legal practitioner and is entitled to practise as such during the year ending 31 December 19 ...

(See reverse for any applicable conditions)

Secretary

[Form inserted by By-law 6 of SI 24 of 1990]

Form H

THE LAW SOCIETY OF ZIMBABWE
LIMITED PRACTISING CERTIFICATE

is registered as a legal practitioner and is entitled to practise as such during the year ending 31 December 19 ... subject to the condition that

Secretary

[Form inserted by By-law 6 of SI 24 of 1990]