

Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 537

Pretoria, 25 March
Maart 2010

No. 33050

IMPORTANT NOTICE

The Government Printing Works will not be held responsible for faxed documents not received due to errors on the fax machine or faxes received which are unclear or incomplete. Please be advised that an "OK" slip, received from a fax machine, will not be accepted as proof that documents were received by the GPW for printing. If documents are faxed to the GPW it will be the sender's responsibility to phone and confirm that the documents were received in good order.

Furthermore the Government Printing Works will also not be held responsible for cancellations and amendments which have not been done on original documents received from clients.

CONTENTS**INHOUD**

<i>No.</i>	<i>Page No.</i>	<i>Gazette No.</i>	<i>No.</i>	<i>Bladsy No.</i>	<i>Koerant No.</i>
THE LAW SOCIETY OF NORTHERN PROVINCES			DIE PROKUREURSORDE VAN DIE NOORDELIKE PROVINSIES		
Act 53 of 1979: Amendment of Rules	3	33050	Wet 53 van 1979: Wysiging van Reëls ...	6	33050

THE LAW SOCIETY OF THE NORTHERN PROVINCES DIE PROKUREURSORDE VAN DIE NOORDELIKE PROVINSIES

THE LAW SOCIETY OF THE NORTHERN PROVINCES (INCORPORATED AS THE LAW SOCIETY OF THE TRANSVAAL)

AMENDMENT OF RULES

It is hereby notified that the following amendments to the Rules framed in terms of Section 74(1) of Act No. 53 of 1979 and which have been approved by the Chief Justice of South Africa in consultation with the Judge President of the Transvaal in terms of Section 74(2) of Act No. 53 of 1979, are promulgated by the Council of the Law Society of the Northern Provinces (incorporated as the Law Society of the Transvaal):

Rule 79A: Pro Bono Services

- 79A.1 For purposes of this rule:-
- 79A.1.1 *pro bono* services shall include, but not be limited to the delivery of advice, opinion or assistance in matters, falling within the professional competence of a member, to facilitate access to justice:
- 79A.1.1.1 of a benevolent nature having regard to the needs, interest and wellbeing of the general public;
- 79A.1.1.2 in the public interest according to the spirit, purport and objects of the Bill of Rights;
- 79A.1.1.3 performed on a gratuitous basis with an altruistic or philanthropic intent;
- 79A.1.1.4 on behalf of:
- (a) non-governmental, or non-profit, or community-based, or public benefit, corporate or unincorporated bodies, trusts, foundations or charities working for the public interest or working to secure or to protect human rights, which are mainly funded by donations; or
- (b) individuals or groups who cannot afford to pay for legal assistance and who would otherwise be denied access to justice;
- 79A.1.1.5 primarily designed to address the needs of persons of limited means or on behalf of the aforesaid organisations where the payment of legal fees would deplete the organisation's economic resources and adversely affect their ability to carry out their charitable or public interest work.
- 79.1.2 recognised structures shall include, but not be limited to, the office of the Registrars of the High Court when issuing *in forma pauperis* instructions, Small Claims Courts, community (non commercial) advice offices, university law clinics, non-government organisations, the office of the Inspectorate of Prisons and others approved in terms of rule 79A.7 and identified in terms of rule 79A.8.
- 79A.2 Practising members who have practised for less than 40 years and who are less than 60 years of age, shall, subject to being asked to do so, perform *pro bono* services of not less than 24 hours per calendar year.
- 79A.3 The rendering by practising members of *pro bono* legal services shall be required to be performed only within the professional competence of a member.

- 79A.4 A firm with more than one member shall comply with the requirements of rule 79A if such firm executes *pro bono* work which will cumulatively be equal to the number of members multiplied by 24 hours per member, notwithstanding the fact that only one or more of the members in the firm executes *pro bono* work.
- 79A.5 Members may refer to the Society, for approval by the Council as *pro bono* services, a written description of areas of professional work proposed for recognition as *pro bono* services.
- 79A.6 The Society shall, within 30 days of publication of this rule and from time to time thereafter, publish in a circular, a non-exclusive list of services which, when performed by members at no charge for those who cannot afford to pay, shall be recognised as *pro bono* services capable of being delivered in compliance with the provisions of this rule.
- 79A.7 *Pro bono* services may be delivered through or approved by recognised structures or may be delivered directly to those described in rule 79A.1.1.
- 79A.8 Members may refer to the Society, for approval by the Council as a recognised structure, a written description of a structure proposed for recognition.
- 79A.9 The Society is mandated by members to enter into partnership and joint venture agreements with recognised structures, the effect of which is that only matters that fall within the professional competence of members are referred to practising members for advice, opinion or assistance, that briefs addressed to practising members are reasonably well formulated, and that potential language and cultural barriers are overcome. The Society shall, within 30 days of publication of this rule and from time to time thereafter, publish in a circular, a non-exclusive list of recognised structures, including structures with which the Society has concluded partnership, or joint venture, agreements for the delivery of *pro bono* services.
- 79A.10 Members shall submit to the Society, a certificate providing full particulars of *pro bono* services delivered, within 60 days of the conclusion of the matter or the end of each year. The Society shall, within 30 days of the publication of this rule and from time to time thereafter, publish in a circular, the form of the certificate to be submitted by practising members.
- 79A.11 The Society shall keep a record of services delivered by each member, which record shall be prepared from members' certificates. A report of all services rendered shall be extracted annually and shall be retained by the Society, but individual members' records substantiating the report shall be expunged. On 1 January of each year, all individual members' records shall be refreshed to show an availability of hours for the succeeding new year. The record of hours served or not served in the previous year, shall then be expunged. The Society shall report to its members annually at the general meeting and shall make such report generally available on the total delivery of *pro bono* services by members.
- 79A.12 Members who travel a distance of more than 50km from their offices in order to deliver *pro bono* services may make written application to the Society to recover the actual cost of travel, excluding the first 100km.
- 79A.13 Disbursements incurred by a member, save for travel expenses referred to in 79A.12 in respect of *pro bono* services, may be charged to the client.
- 79A.14 It shall be unprofessional or dishonourable or unworthy conduct for a practising member who still has to perform *pro bono* service hours to refuse, without good cause, to provide such services.

- 79A.15 In the event of the Society receiving a complaint of refusal to render pro bono services and it is alleged by the member concerned that the required number of hours for a specific year has already been served but this is not reflected in the records of the Society, the member shall be afforded an opportunity of providing the Society with certificates relating to the unrecorded services within a reasonable time after receipt by the Society of the complaint. If the member fails to provide the Society with proof of such additional services, then those services will not be recognised by the Society for purposes of investigating the complaint.
- 79A.16 Professional standards applicable to services rendered by members, shall apply to pro bono services.

Date of Commencement

The effective date of this rule will be the date of publication thereof in the Government Gazette.

**DIE PROKUREURSORDE VAN DIE NOORDELIKE PROVINSIES
(INGELYF AS DIE PROKUREURSORDE VAN TRANSVAAL)**

WYSIGING VAN REËLS

Hiermee word kennis gegee dat die volgende wysigings in die Reëls opgestel kragtens Artikel 74(1) van Wet Nr. 53 van 1979 en wat deur die Hoofregter van Suid-Afrika in oorleg met die Regter-President van Transvaal goedgekeur is ingevolge Artikel 74(2) van Wet Nr. 53 van 1979, deur die Raad van die Prokureursorde van die Noordelike Provinsies (ingelyf as die Prokureursorde van Transvaal) uitgevaardig word:

Rêel 79A: Pro Bono Dienste

- 79A.1 Vir doeleindes van hierdie reël:-
- 79A.1.1 sal *pro bono* dienste insluit, maar nie beperk wees tot die lewering van advies, opinie of bystand in aangeleenthede wat binne 'n lid se professionele bekwaamheid val nie, ten einde toegang tot die regspleging te fasiliteer:
- 79A.1.1.1 van 'n welwillendheids-aard met inagneming van die behoeftes, belange en welsyn van die algemene publiek;
- 79A.1.1.2 in die openbare belang ooreenkomstig die gees, bedoeling en doelstellings van die Menseregte Handves;
- 79A.1.1.3 uitgevoer op 'n kostelose basis met 'n onbaatsugtige of filantropiese bedoeling;
- 79A.1.1.4 namens:
- (a) nie-regerings of nie-winsgewende of gemeenskaps- gebaseerde of openbare voordeel, korporatiewe of oningelyfde liggame, trusts, stigtings of liefdadigheidsorganisasies wat hoofsaaklik deur donasies befonds word en wat dienste lewer in die openbare belang of dienste lewer ten einde menseregte te verseker en te beskerm; of
- (b) individue of groepe wat nie kan bekostig om vir regsbystand te betaal nie en wat andersins toegang tot die regspleging misken sal word;
- 79A.1.1.5 hoofsaaklik daarop gerig om die behoeftes van persone met beperkte vermoëns aan te spreek of namens bogemelde organisasies, waar betaling ten aansien van regsfooie die organisasies se ekonomiese bronne sal uitput en hulle vermoë om hulle liefdadigheidswerk en werk in die openbare belang te verrig nadelig sal beïnvloed.
- 79A.1.2 goedgekeurde strukture sal insluit, maar nie beperk wees nie tot die kantoor van die Griffiers van die Hooggeregshof wanneer *in forma pauperis* instruksies uitgereik word, die Howe vir Klein Eise, gemeenskaps-advieskantore (nie kommersieël), universiteitsregklinieke, nie-regerings organisasies, die kantoor van die Inspektoraat van die Gevangenis en ander instansies goedgekeur ingevolge reël 79A.7 en geïdentifiseer ingevolge reël 79A.8.
- 79A.2 Praktiserende lede wat vir minder as 40 jaar gepraktiseer het en wat onder 60 jaar oud is sal, onderhewig aan 'n versoek dat hulle dit doen, *pro bono* dienste lewer van nie minder as 24 uur per kalenderjaar nie.

- 79A.3 Die lewering van *pro bono* dienste deur praktiserende lede sal slegs vereis word indien dit binne die professionele bekwaamheid van 'n lid val.
- 79A.4 'n Firma met meer as een lid, sal aan die vereistes van reël 79A voldoen indien die firma *pro bono* werk verrig wat gesamentlik gelykstaande is aan die getal lede vermenigvuldig met 24 uur per lid, nieteenstaande die feit dat slegs een of meer van die lede van die firma *pro bono* dienste verrig.
- 79A.5 Lede mag 'n skriftelike beskrywing van areas van professionele werk wat voorgestel word vir erkenning as *pro bono* dienste na die Orde verwys vir goedkeuring deur die Raad as *pro bono* dienste.
- 79A.6 Die Orde sal, binne 30 dae vanaf publikasie van hierdie reël en van tyd tot tyd daarna, 'n nie-uitsluitende lys van dienste in 'n omsendbrief publiseer wat, wanneer dit kosteloos deur lede gelewer word aan persone wat nie kan bekostig om te betaal nie, erken sal word as *pro bono* dienste wat moontlik is om gelewer te word ter nakoming van die bepalings van hierdie reël.
- 79A.7 *Pro bono* dienste mag gelewer word deur of goedgekeur deur goedgekeurde strukture of mag gelewer word direk aan dié wat in reël 79A.1.1 vermeld word.
- 79A.8 Lede mag 'n skriftelike beskrywing van 'n voorgestelde struktuur na die Prokureursorde verwys vir goedkeuring deur die Raad as 'n erkende struktuur.
- 79A.9 Die Orde word deur lede gemagtig om vennootskappe en samewerkings-ooreenkomste met erkende strukture te sluit, die effek waarvan sal wees dat slegs aangeleenthede wat binne die professionele bekwaamheid van lede val verwys sal word na praktiserende lede vir advies, opinie of bystand, dat opdragte wat verwys word na praktiserende lede redelik goed geformuleer is en dat potensiële taal en kultuur hindernisse oorkom word. Die Orde sal, binne 30 dae na publikasie van hierdie reël en van tyd tot tyd daarna, 'n nie-uitsluitende lys van erkende strukture insluitende strukture waarmee die Orde vennootskappe of gesamentlike ondernemings of samewerkingsooreenkomste gesluit het vir die lewering van *pro bono* dienste, in 'n omsendbrief publiseer.
- 79A.10 Lede sal 'n sertifikaat by die Prokureursorde indien wat volledige besonderhede bevat van *pro bono* dienste wat gelewer is binne 60 dae na voltooiing van die saak of na die einde van elke jaar. Die Orde sal binne 30 dae na publikasie van hierdie reël en van tyd tot tyd daarna, die vorm van die sertifikaat wat deur praktiserende lede ingedien moet word, in 'n omsendbrief publiseer.
- 79A.11 Die Orde sal rekord hou van dienste wat deur elke lid gelewer word, welke rekord saamgestel sal word uit lede se sertifikate. 'n Verslag van alle dienste wat gelewer is sal jaarliks saamgestel en bewaar word deur die Orde, maar individuele lidrekords wat die verslag onderlê sal uitgewis word. Op 1 Januarie van elke jaar sal alle individuele lederekords opgedateer word ten einde die beskikbare ure vir die daaropvolgende nuwe jaar aan te toon. Die rekord van ure wat gedien is of nie gedien is gedurende die voorgaande jaar nie sal dan uitgewis word. Die Orde sal jaarliks aan sy lede verslag doen tydens die algemene vergadering en sal die verslag ten aansien van die totale lewering van *pro bono* dienste deur lede algemeen beskikbaar stel.
- 79A.12 Lede wat 'n afstand van meer as 50 km van hulle kantore reis ten einde *pro bono* dienste te lewer, mag 'n skriftelike aansoek aan die Orde rig ten einde hulle ware reiskoste te eis, die eerste 100km uitgesluit.
- 79A.13 Uitgawes wat deur 'n lid aangegaan is, benewens vir reisuittgawes waarna in reël 79A.12 verwys word ten aansien van *pro bono* dienste, mag van die kliënt verhaal word.

- 79A.14 Dit sal onprofessionele of oneerbare of onbetaamlike gedrag wees van 'n praktiserende lid wat nog *pro bono* dienste moet lewer om sonder goeie rede te weier om *pro bono* dienste te verrig.
- 79A.15 Indien die Orde 'n klagte ontvang met betrekking tot die weiering om *pro bono* dienste te lewer en dit beweer word deur die betrokke lid dat die vereiste hoeveelheid ure vir 'n spesifieke jaar reeds gedien is, maar dit nie in die Prokureursorde se rekord gereflekteer word nie, sal die lid 'n geleentheid gebied word om die Prokureursorde met sertifikate ten opsigte van die dienste wat nie op rekord is nie, te voorsien binne 'n redelike tyd na ontvangs van die klagte deur die Prokureursorde. Indien die lid versuim om die Prokureursorde te voorsien met bewys van sodanige bykomende dienste, sal sodanige bykomende dienste nie erken word deur die Orde vir doeleindes van die ondersoek van die klagte nie.
- 79A.16 Professionele standaarde van toepassing op dienste wat deur lede gelewer word sal op *pro bono* dienste van toepassing wees.

Datum van Inwerkingtreding

Hierdie reël tree in werking op die datum waarop dit in die Staatskoerant gepubliseer word.
