

Namibia

Legal Practitioners Act, 1995

Regulations under the Legal Practitioners' Fidelity Fund Act, 1990

Government Notice 136 of 1993

Legislation as at 15 November 2017

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Regulations under the Legal Practitioners' Fidelity Fund Act, 1990

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Republic of Namibia
Annotated Statutes

Legal Practitioners Act, 1995

**Regulations under the Legal
Practitioners' Fidelity Fund Act, 1990**
Government Notice 136 of 1993

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[Note: The version of this legislation as at 15 November 2017 was revised and consolidated by the Legal Assistance Centre and the Government of the Republic of Namibia. All subsequent amendments have been researched and applied by Laws.Africa for NamibLII.]

These regulations were issued in terms of section 30 of the Legal Practitioners' Fidelity Fund Act 22 of 1990 (GG 117), which was repealed by the Legal Practitioners Act 15 of 1995. They remain in force pursuant to section 94(4) of the Legal Practitioners Act 15 of 1995. This position is confirmed in *Van der Merwe v Director of the Law Society of Namibia & Others* 2013 (1) NR 98 at paragraph 26, although the case erroneously refers to GN 135/1993 instead of GN 136/1993.

1.

In these regulations, unless the context otherwise indicates, words and phrases shall have the meaning assigned thereto in the Act, and-

"**board**" means the board of control referred to in section 4 of the Act;

"**secretary**" means the secretary of the society and includes any person temporarily acting in that capacity;

"**the Act**" means the Legal Practitioners' Fidelity Fund Act, 1990 (Act 22 of 1990).

2.

An application for a fidelity fund certificate shall be substantially in the form as set out in Annexure "A".

3.

- (1) In order to facilitate the annual applications of practitioners for fidelity fund certificates in terms of section 19 of the Act, the secretary shall not later than the first day of November of every year send by post or deliver or cause to be delivered to every practising attorney-
 - (a) an application form referred to in regulation 2; and
 - (b) a statement showing the amount of the contribution, if any, which the practitioner concerned is liable to pay in accordance with the provisions of section 20 of the Act to obtain a fidelity fund certificate in respect of the ensuing year.
- (2) Every practitioner shall return the application form, duly completed, together with the amount of the said contribution, if any, to the secretary not later than the first day of December of the year within which such application form was sent or delivered to him or her in terms of subregulation (1).
- (3) Subregulation (1) shall not be so construed as to exempt any practitioner, who in terms of the Act is required to obtain a fidelity fund certificate, from the obligation to apply for such a certificate in a case where such a practitioner has not received (irrespective of the reason therefor) an application form and statement pursuant to the provisions of the said subregulation.

4.

An application for a fidelity fund certificate may be made on behalf of a practitioner by any other practitioner who qualifies to be issued with such a certificate in terms of the Act.

5.

The secretary may require any applicant for a fidelity fund certificate to furnish, in addition to the information disclosed in his or her application, such further information as the secretary may consider to be relevant in relation to the applicant's application.

6.

A fidelity fund certificate shall be substantially in the form as set out in Annexure "B" and shall be signed by the secretary.

7.

The secretary may on application and payment of the amount of N\$1 issue to any practitioner a duplicate of his or her fidelity fund certificate.

8.

- (1) The board may for the purpose of considering any claim against the fund require affidavits sworn to by the claimant or other persons in support of the claim, to be submitted to it.

9.

- (1) The board or any committee of the board may by notice summon any person (including the claimant) who in its opinion may be able to furnish it with information regarding any claim submitted against the fund, or who it suspects has any book or document relating to the claim in his or her possession or under his or her control, to appear before it at the time and the place specified in the notice to be questioned or to produce such book or document.

- (2) A notice referred to in subregulation (1) shall be signed by any two members of the board and shall be served in a manner prescribed for the service of a subpoena issued in terms of the Rules of the High Court.
- (3) The person presiding at the meeting of the board or committee may administer an oath or accept an affirmation from any person appearing before the board or committee.
- (4) In any proceedings before the board or a committee for the questioning of any person appearing before it the rules of law relating to privilege as applicable to a witness subpoenaed to give evidence or to produce a book or document before a court of law, shall apply.
- (5) Any person appearing before the board or a committee may be examined by any member thereof or an advocate or attorney appointed by the board or such committee for that purpose.
- (6) The evidence given by a person before the board or a committee shall be recorded in writing, typescript or shorthand or by mechanical means and the person recording such evidence shall, before doing so, make an oath that he or she will truly and faithfully record such evidence.

10.

The board may appoint such persons as it may deem necessary to assist it in the performance of its functions and determine their conditions of employment, including conditions as to remuneration and other benefits.

11.

- (1) The board may establish offices at such place or places as it may deem necessary.
- (2) The office of the secretary for the time being of the board shall be the office of the board.

12.

All agreements, deeds and documents, including documents requiring signature in legal actions or proceedings by or against the board, and all drafts, cheques or orders drawn on banks or building societies against any account of the board in any bank or building society, shall be signed by any two members of the board or by any member of the board and countersigned by the secretary or treasurer of the board and all cheques, drafts or orders made payable to the board may be endorsed by the secretary or treasurer of the board for credit of a banking account of the board.

13.

Government Notice R.1581 of 1941 and all amendments thereof, are hereby repealed.

[These previous regulations, which were issued in terms of the SA Attorneys' Admission Amendment and Legal Practitioners' Fidelity Fund Act 19 of 1941, are contained in SA GG 2960.]

Annexures A - B

Forms

[Editorial note: The forms have not been reproduced]