

**THE ADVOCATES (SENIOR COUNSEL  
CONFERMENT AND PRIVILEGES) RULES**

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## THE ADVOCATES (SENIOR COUNSEL CONFERMENT AND PRIVILEGES) RULES

[Legal Notice 155 of 2011, Legal Notice 36 of 2012, Legal Notice 147 of 2014]

### 1. Citation

These Rules may be cited as the Advocates (Senior Counsel Conferment and Privileges) Rules.

### 2. Interpretation

In these Rules, unless the context otherwise requires—

"Council" means the Council of the Law Society of Kenya constituted under section 13 of the Law Society of Kenya Act (Cap. 18);

"Committee" means the Committee on Senior Counsel constituted under rule 3;

"Secretary" means the Secretary of the Society appointed under section 17 of the Law Society of Kenya Act;

"Senior Counsel" has the meaning assigned to it under the Act;

"Society" means the Law Society of Kenya established under section 3 of the Law Society of Kenya Act.

[L.N. 36/2012, r. 2.]

## PART II – THE COMMITTEE ON SENIOR COUNSEL

### 3. Composition of Committee

(1) The Committee on Senior Counsel referred to under section 17(3) of the Act shall consist of —

- (a) a Judge of the Supreme Court nominated by the Chief Justice;
- (b) a Judge of the Court of Appeal nominated by the Judges of the Court of Appeal;
- (c) a Judge of the High Court nominated by the Kenya Magistrates and Judges Association;
- (d) the Attorney General;
- (e) the chairperson of the Society;
- (f) three Senior Counsel nominated at a meeting of Senior Counsel; and
- (g) two Advocates not being senior counsel who shall have at least ten years experience in practice, elected by the Society.

(2) *Deleted by L.N. 36/2012, r. 3(2)(b).*

(3) Notwithstanding paragraph (2), where the first Committee under these Rules is constituted before the Society holds its elections, the Council shall nominate persons under paragraph (1)(f) and (g) to the Committee.

(4) The persons nominated under paragraph (1)(a), (b), (c), (f) and (g) shall serve for a non-renewable term of two years and upon expiry, the nominating body shall nominate a different person to serve in the Committee.

[L.N. 36/2012, r. 3.]

### 4. Functions of the Committee

The Committee on Senior Counsel shall—

- (a) consider the applications submitted to it under rule 6(1);
- (b) make recommendations to the President for the conferment on a person of the rank of Senior Counsel; and

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[Subsidiary]

- (c) consider any application for the removal of a person from the Roll of Senior Counsel and make recommendations to the President.

#### PART III – APPLICATION FOR CONFERMENT OF RANK OF SENIOR COUNSEL

### 5. Notice inviting applications

The Committee shall, at least thirty days before the thirty-first day of March in each year or on such date as the Committee shall determine, send to the members of the Society, a notice inviting applications from persons who qualify for conferment of the rank of Senior Counsel.

[L.N. 36/2012, r. 4.]

### 6. Application

(1) A person who meets the criteria for conferment of the rank of Senior Counsel under rule 7 may submit an application to the Committee in accordance with this rule.

(2) An application under paragraph (1) shall be submitted to the Secretary on or before the thirty-first day of March or on such date as the Committee shall stipulate.

(3) An applicant under paragraph (1) shall submit, together with his application, such information or evidence necessary to ascertain that he meets the criteria specified under rule 7.

### 7. Criteria for conferment

A person qualifies for conferment of the rank of Senior Counsel if that person—

- (a) meets the requirements specified under section 17(2) of the Act;
- (b) is an active legal practitioner and undertakes training of other members in the legal profession;
- (c) holds a valid practicing certificate or is entitled to act as an advocate under section 10 of the Act, at the time of making the application;
- (d) has not been found guilty of professional misconduct by the Disciplinary Committee established under the Act;
- (e) possesses sound knowledge of law and professional competence;
- (f) has argued a substantive matter before a superior, regional or international court;
- (g) is a person of integrity, irreproachable professional conduct and good character;
- (h) has actively served the Society or other regional or international bar association to which the Society is a member or has undertaken community service; and
- (i) has contributed to the development of the legal profession through scholarly writings and presentations.

[L.N. 36/2012, r. 5.]

### 8. List of applicants

The Committee shall publish in the minutes of the Society, in at least one newspaper of nationwide circulation and in the electronic media, a list of persons who have submitted an application under rule 6(1).

[L.N. 36/2012, r. 6.]

**9.**

[Deleted by L.N. 36/2012, r. 7.]

**10. Consideration of application**

(1) The Committee shall, subject to rule 11, consider the applications submitted under rule 6 and any comments or objections submitted under rule 9 and may request for such additional information from the applicant or from any other person, which it considers necessary for the determination of an application under these Rules.

(2) In considering and making a recommendation for conferment of rank of Senior Counsel on an applicant, the Committee shall not be influenced by the age, tribe, gender, race, political belief or association of the applicant or any other factor constituting discrimination within the meaning of the Constitution.

[L.N. 36/2012, r. 8.]

**11. Time period for considering applications**

(1) The Committee shall consider the applications submitted within six months from the date of the deadline for receiving applications under rule 6(2).

(2) The Committee shall, upon consideration of the applications under paragraph (1), communicate its decision to the applicants in writing and submit copies of its decision to the council.

(3) A person whose application is declined may reapply for conferment of the rank of Senior Counsel for consideration by the Committee in accordance with these Rules.

(4) *Deleted by LN 36 of 2012, r. 9.*

(5) *Deleted by LN 36 of 2012, r. 9.*

[LN 36 of 2012, r. 9.]

**12. Letters of conferment**

(1) The Committee shall submit a list of the names of the persons it recommends for conferment of the rank of Senior Counsel to the Chief Justice within a period of thirty days from the date of its decision.

(2) The Chief Justice shall, on receipt of the list of names submitted to him under paragraph (1), submit the names to the President.

(3) The President shall, upon receipt of the names submitted to him under paragraph (2), grant a letter of conferment to each person whose name is contained in the list.

[LN 36 of 2012, r. 10.]

**13. Signing the Roll of Senior Counsel**

A person upon whom the rank of Senior Counsel conferred under rule 12 shall sign the Roll of Senior Counsel in accordance with section 18 (3) of the Act.

**14. Restrictions on the use of title of Senior Counsel**

(1) A person shall not use the designation "**Senior Counsel**" or the abbreviation "**SC**" purporting to be a Senior Counsel under the Act unless the rank of Senior Counsel has been conferred on him in accordance with these Rules.

(2) A person who contravenes the provisions of paragraph (1) commits professional misconduct.

**15. Removal from Roll of Senior Counsel**

(1) The Committee may, either on its own motion or on the application of a member of the Society, remove the name of a person from the Roll of Senior Counsel if the person ceases to meet the qualifications prescribed under rule 7.

(2) A member of the Society who applies for the removal of a person from the Roll of Senior Counsel under paragraph (1) shall submit a written petition to the Committee and submit a copy of the petition to the Council.

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[Subsidiary]

(3) The Committee shall inform the Senior Counsel of its intention or, of receipt of an application, to remove his name from the Roll of Senior Counsel.

(4) The Committee shall conduct an inquiry on the removal of the Senior Counsel and shall give the Counsel an opportunity to be heard on the petition.

(5) The Committee shall, where it determines that the name of the Senior Counsel should be removed from the Roll of Senior Counsel, submit its decision to the Chief Justice and the Senior Counsel and give reasons for its decision.

(6) The Chief Justice shall transmit the decision of the Committee to the President and the President shall revoke the grant of conferment of the rank of Senior Counsel.

(7) The Chief Justice shall cause to be removed from the Roll of Senior Counsel, the name of the Senior Counsel and cause to be published in the *Gazette*, a notice revoking the conferment of the Rank of Senior Counsel.

(8) The Committee shall determine its own rules and procedures for holding an inquiry under this rule.

## **16. Procedures of the Committee**

The Committee shall regulate its own procedures for meetings held under these Rules.

## **17. Secretariat**

The secretariat of the Society shall facilitate the conduct of the affairs of the Committee.

### **PART IV – PRIVILEGES OF SENIOR COUNSEL**

## **18. Use of designation of Senior Counsel**

(1) Subject to paragraph (3), a person upon whom the rank of Senior Counsel is conferred may use the designation of "Senior Counsel" or abbreviation of "SC".

(2) *Deleted by LN 36 of 2012, r. 11.*

(3) A person whose name is struck off the roll of Senior Counsel or whose practicing certificate has been cancelled or suspended shall cease to hold the title of Senior Counsel and shall not use the designation of Senior Counsel.

[LN 36 of 2012, r. 11, LN 147 of 2014, r. 2.]

## **19. Duties, powers and privileges of Senior Counsel**

A person upon whom the rank of Senior Counsel is conferred shall enjoy the following privileges:

- (a) precedence in having his matters mentioned when appearing in Court or in a Tribunal.
- (b) when appearing robed in Court or in a Tribunal of wearing the gown and court sleeved waistcoat as worn by a judge of the Court of Appeal.
- (c) the exclusive right to sit within the Bar in all Courts in which there is a Bar separating the area for Senior Counsel from the general area of the Court. In all other courts to sit on the front bench.
- (d) such other privileges as the Council may consider appropriate.

[LN 36 of 2012, r. 3.]

## **20. Transition**

A person who has been conferred the title of Senior Counsel before the commencement of these Rules shall be deemed to be Senior Counsel under these Rules.

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