

**THE ADVOCATES (ACCOUNTANT'S CERTIFICATE) RULES**

[Legal Notice 80 of 1968, Legal Notice 287 of 1968, Legal Notice 224 of 1984]

1. These Rules may be cited as the Advocates (Accountant's Certificate) Rules and shall come into force on the 1st January.

2. In these Rules—

“accountant's certificate” means the certificate provided for by rule 3;

“advocate” means any person whose name is duly entered upon the roll of advocates but does not mean any person whose name is duly entered upon the roll of advocates having the rank of Queen's Counsel;

“the Council” means the Council of the Law Society of Kenya;

“the secretary” means the Secretary of the Law Society of Kenya and includes any person appointed temporarily to perform the duties of the office;

the expressions “client”, “client account”, and “client money”, have the meanings assigned to them in the Advocates (Accounts) Rules.

3. Subject to these Rules every advocate shall once in every practice year deliver to the Council a certificate signed by an accountant and complying with these Rules.

4. (1) An accountant is qualified to give an accountant's certificate if—

- (a) he has neither been at any time during the accounting period, nor subsequently, before giving the certificate, become a partner, clerk or servant of such advocate or any partner of his; and
- (b) he is not subject to notice of disqualification under paragraph (2).

(2) In either of the following cases, that is to say, where—

- (a) the accountant has been found guilty by the Disciplinary Tribunal of his professional body of professional misconduct or discreditable conduct; or
- (b) the Council is satisfied that an advocate has not complied with the provisions of the Advocates (Accounts) Rules in respect of matters not specified in an accountant's certificate and that the accountant was negligent in giving such certificate,

the Council may at its discretion at any time notify the accountant concerned, that he is not qualified to give an accountant's certificate, and it may give notice of that fact to any advocate on whose behalf he has given an accountant's certificate, and after the accountant has been so notified, unless and until the notice is withdrawn by the Council, he is not qualified to give an accountant's certificate. In coming to its decision the Council shall take into consideration any observations or explanations made by the accountant or by any professional body of which he is a member.

5. (1) With a view to the signing of an accountant's certificate an accountant is not required to do more than—

- (a) make a general test examination of the books of account of the advocate;
- (b) ascertain whether a client account is kept;
- (c) make a general test examination of the bank pass books and statements kept in relation to the advocate's practice;
- (d) make a comparison, as at not fewer than two dates selected by the accountant, between—
  - (i) the liabilities of the advocate to his clients as shown by his books of account;
  - (ii) the balance standing to the credit of the client account; and
- (e) ask for such information and explanations as he may require arising out of (a) to (d) above.

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[Subsidiary]

- (2) If after making the investigation prescribed by paragraph (1), it appears to the accountant that there is evidence that the Advocates (Accounts) Rules have not been complied with, he shall make such further investigations as may be necessary to enable him to sign the accountant's certificate.

**6.** An accountant's certificate delivered by an advocate shall be in the form set out in the Schedule or in a form to the like effect approved by the Council.

**7.** The Council will in each practice year be satisfied that the delivery of an accountant's certificate is unnecessary, and shall not require evidence of that fact, in the case of an advocate who—

- (a) holds his first current practising certificate; or
- (b) after having for twelve months or more ceased to hold a current practising certificate, holds his next current practising certificate; or
- (c) delivers to the Council a statutory declaration stating that the Advocates (Accounts) Rules did not apply to him because he had not, during the period to which the declaration refers, practised on his own account either alone or in partnership or held or received client's money; or
- (d) has ceased to hold a current practising certificate and, if he has at any time after the 31st December 1967 held or received client's money, has delivered an accountant's certificate covering an accounting period ending on the date upon which he ceased to hold or receive client's money; or
- (e) has at no time since the 31st December 1967, held a current practising certificate or held or received client's money.

**7A.** A statutory declaration delivered under rule 7 by an Advocate in the employment of an unqualified person or body shall state whether such advocate has complied with rule 4A of the Advocates (Practice) Rules.

[L.N. 224/1984.]

**8.** Subject to rules 9, 10 and 11 the accounting period specified in an accountant's certificate shall—

- (a) begin at the expiry of the last preceding accounting period for which an accountant's certificate has been delivered;
- (b) cover not less than twelve months;
- (c) terminate not more than nine months before the date of the delivery of the certificate to the Council; and
- (d) where possible, consistently with paragraphs (a), (b) and (c) correspond to a period or consecutive periods for which the accounts of the advocate or his firm are ordinarily made up.

[L.N. 287/1968.]

**9.** The accounting period specified in an accountant's certificate delivered during the practice year beginning on the 1st January 1968 shall begin on—

- (a) the date to which the advocate's books were last made up before the 1st January 1968; or
- (b) if the books were not made up during the practice year beginning on the 1st January 1967, either on the 1st January 1967 or on the day upon which the advocate first began or began again to hold or receive client's money, whichever be the later; or
- (c) in the case of an advocate retiring from practice who has ceased to hold or receive client's money after the 1st January 1967, the period up to the date upon which he so ceased.

**10.** In any practice year beginning on or after the 1st January, 1969—

- (a) in the case of an advocate who -

- (i) becomes under an obligation to deliver his first accountant's certificate; or
- (ii) having been exempt under rule 7 from delivering an accountant's certificate in the previous practice year, becomes under an obligation to deliver an accountant's certificate,

the accounting period shall begin on the date upon which he first held or received client's money or, after such exemption, began again to hold or receive client's money, and may cover less than twelve months, and shall in all other respects comply with rule 8; and

- (b) in the case of an advocate retiring from practice who, having ceased to hold or receive client's money, is under an obligation to deliver his final accountant's certificate, the accounting period shall end on the date upon which he ceased to hold or receive client's money, and may cover less than twelve months, and shall in all other respects comply with rule 8.

**11.(1)** In any practice year beginning on or after the 1st January 1969, in the case of an advocate who—

- (a) was not exempt under rule 7 from delivering an accountant's certificate in the preceding practice year; and
- (b) since the expiry of the accounting period covered by such accountant's certificate has become, or ceased to be, a member of a firm of advocates,

the accounting period may cover less than twelve months and shall in all other respects comply with rule 8.

**(2)** In the case of an advocate who has two or more places of business—

- (a) separate accounting periods, covered by separate accountant's certificates, may be adopted in respect of each such place of business provided that the accounting periods comply with rule 8; and
- (b) the accountant's certificate or accountant's certificates delivered by him to the Council in each practice year shall cover all client's money held or received by him.

**12.** If any advocate fails to comply with these Rules a complaint in respect of such failure may be made by or on behalf of the Council to the Disciplinary Committee.

**13.** On receipt either of an accountant's certificate or of a declaration under rule 7(3) the Secretary will forward to the advocate a certificate under his hand stating that an accountant's certificate for a specified period has been received or that no accountant's certificate is required for a specified period, as the case may be.

**14.** A certificate under the hand of the Secretary is, until the contrary is proved, evidence that an advocate has or has not, as the case may be, delivered to the Council an accountant's certificate or supplied any evidence required under these Rules.

**15.** Every notice to be given by the Council under these Rules to an advocate shall be in writing under the hand of the Secretary and sent by registered post to the last address of the advocate appearing in the roll of advocates kept by the Registrar under section 20 of the Act and when so given and sent, is taken to have been received by the advocate within seven days after the date of posting.

**16.** Every notice given by the Council under these Rules to an accountant shall be in writing under the hand of the Secretary and sent by registered post to the address of the accountant shown on an accountant's certificate or appearing in the records of the accountancy body of which the accountant is a member, and where so given and sent, is taken to have been received by the accountant within seven days after the date of posting.

*Advocates*

[Subsidiary]

## Schedule

[r. 6]

## FORM OF ACCOUNTANT'S CERTIFICATE

Note.—In the case of a firm with a number of partners, carbon copies of the Certificate may be delivered provided section 1 below is completed on each Certificate with the name of the individual advocate.

1. Advocate's full name .....

2. Firm(s) Name(s) and Address(es) .....

Note.— All addresses at which the advocate(s) practice(s) must be covered by an Accountant's Certificate or Certificates.

3. State whether practising alone or in partnership .....

4. Accounting Period(s) .....

Note.—The period(s) must comply with the Advocates (Accountant's Certificate) Rules, 1967.

## ACCOUNTANT'S CERTIFICATE

In compliance with the Advocates (Accountant's Certificates) Rules, 1967.

I, ..... have examined the books, accounts and documents of the above-named advocate relating to the above practice(s) produced to me and I hereby certify that from my examination pursuant to rule 5 of the Advocates (Accountant's Certificate) Rules, 1967, and from explanations and information given to me, I am satisfied that—

\*(1) during the above-mentioned period(s) he has complied with the provisions of the Advocates (Accounts) Rules except so far as concerns—

(a) certain trivial breaches due to clerical errors or mistakes in book-keeping, all of which were rectified on discovery: I am satisfied that none of such breaches resulted in any loss to any client;

(b) the matters set out on the back hereof;

\*(2) having retired from active practice as an advocate he ceased to hold client's money on theParticulars of the AccountantFull nameQualifications (if any)Firm nameAddressSignatureDate

\* Delete clause not applicable.

To

the Secretary

The Law Society of Kenya,

P.O. Box 12219,

Professional Center,

Nairobi.

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