

PRO BONO RULES

1. Every member of the Cape Bar of more than three years standing (including associate members but excluding associate academic members) is required as from 1 January 2004 to render a minimum of twenty hours *pro bono* service each calendar year.
2. Where a member is reserved for a day in court, such day shall equate to ten hours' service.
3. *Pro bono* service may be provided as follows:
 - 3.1 on referral from attorneys in non-governmental institutions;
 - 3.2 on nomination by the Cape Bar Council to act *in forma pauperis* in a matter in which an attorney is acting on the same basis;
 - 3.3 on referral by an attorney who is providing *pro bono* services through "recognised structures" as defined in the Rules of the Law Society of the Cape of Good Hope;
 - 3.4 upon request to serve without remuneration in public institutions in an acting adjudicatory capacity (whether as judge, magistrate, small claims court commissioner or otherwise) or in the capacity of acting prosecutor or acting family advocate;
 - 3.5 on referral by an attorney on behalf of a client who is unable to pay for legal services in a particular matter or where there is a public interest in the outcome of the litigation;
 - 3.6 upon request by a judge or a magistrate;
 - 3.7 by doing advocacy skills training (not pupil mentoring) as part of the Cape Bar's formal training programme.
 - 3.8 by assisting the chairperson of the Cape Bar Council, at the request of the latter, to perform his/her duties in his/her capacity as chairperson of the Parliamentary Committee of the General Council of the Bar of South Africa.
 - 3.9 by representing the Cape Bar in applications for striking-off of advocates or in opposition of applications for admission as advocates.
 - 3.10 by participating in a project run by the Pro Bono Committee which has the sanction of the Cape Bar Council as being a Pro Bono initiative.¹
4. Members may notify the *Pro Bono* Committee ("the Committee") of their specific areas of interest for purposes of *pro bono* work.

¹ Clause 3.10 added in terms of a resolution of the Cape Bar Council on 22 September 2016.

5. A directory of members (indicating specific areas of interest notified to the Committee as aforesaid) will be made available to each of the following, so that they can approach members directly to seek their services:
 - 5.1. the institutions referred to in paragraph three above;
 - 5.2. the person administering *in forma pauperis* nominations on behalf of the Cape Bar Council;
 - 5.3. the Law Society of the Cape of Good Hope.
6. The institutions and persons referred to in paragraph five above will be notified that they may refer to the Committee cases in which problems are encountered in obtaining the *pro bono* services of members.
7. Once a member has been appointed or has accepted a brief to act *pro bono* in accordance with these rules, such member:
 - 7.1 shall disclose this fact to the member's opponent, if applicable;
 - 7.2 may not relinquish the appointment or brief without the prior consent of the Committee, which may dispose of the request, or *mero motu* or on request of the member refer same to the Cape Bar Council.
8. By the end of February each member is required, in respect of the preceding calendar year, to file with the Council's Administrative Officer a certificate in the form annexed hereto marked "A" signed by the member and indicating the nature of the work done and the number of hours of *pro bono* service rendered.
9. Where such certificate discloses that the member has rendered fewer than 20 hours *pro bono* service, the certificate shall in addition include an explanation by the member for the member's failure to have rendered the prescribed minimum service.
10. Where such certificate discloses that the member has rendered more than 20 hours of *pro bono* service, the hours of service in excess of 20 hours may be carried forward for a maximum of two succeeding years and thus be claimed in each such succeeding year in reduction of such member's prescribed minimum service in such succeeding year.
11. Where a member does not timeously file the said certificate with the Council or the certificate discloses that the member has rendered less than 20 hours of *pro bono* service and no satisfactory explanation for the failure to render such services has been provided, disciplinary action may be taken against the member.
12. Members are entitled to enter into contingency fee arrangements which have been sanctioned in accordance with clause 5.12.4.3 of the Uniform Rules of Professional Ethics in respect of *pro bono* work. If a member ultimately receives payment pursuant to such an arrangement, such

member will not be precluded from claiming the time spent as *pro bono* service for purposes of these rules.

13. The chairperson, the secretary and the member of the Bar Council responsible for disciplinary matters, as well as the chairs of the finance and staff and the housing committees of the Bar Council shall be exempt from the obligation to render pro bono services during their respective terms of office, such period of exemption to include the months preceding the commencement of such office in a particular year and the months succeeding the termination of such office in a particular year. The Cape Bar Council shall, in addition, be entitled each year to exempt other members, from the obligation to render pro bono services in a particular year in circumstances considered by the Bar Council to be sufficiently exceptional to warrant such exemption.

Clause 3.7 added in terms of a resolution of the Cape Bar Council on 22 November 2007.

Clause 3.8 added in terms of a resolution of the Cape Bar Council on 21 August 2008.

Clause 3.9 added in terms of a resolution of the Cape Bar Council on 29 January 2009.

Clause 13 amended at Cape Bar AGM held on 22 April 2008.

Clauses 1, 10, and 13 amended in terms of a resolution of the Cape Bar Council on 17 December 2014.

Clause 3.10 added in terms of a resolution of the Cape Bar Council on 22 September 2016