

**CHAPTER 61:01 - LEGAL PRACTITIONERS: SUBSIDIARY LEGISLATION  
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**LEGAL PRACTITIONERS (SYLLABUS FOR EXAMINATION FOR CANDIDATES  
FOR ADMISSION AS NOTARIES PUBLIC) REGULATIONS**

*(section 9(d)(i))  
(8th March, 1991)*

S.I. 27, 1991.

**SYLLABUS FOR EXAMINATION**

The elementary history of the office of notary public functions of a notary public with particular reference to the Wills Act, Cap. 31:04, Succession (Rights of Surviving Spouse and Inheritance Family Provisions) Act, Cap. 31:03; Administration of Estates Act, Cap. 31:01; Marriage Act, Cap. 29:01; Bills of Exchange Act, Cap. 46:02; Deeds Registry Act, Cap. 33:02; Insolvency Act, Cap. 42:02; Prescriptions Act, Cap. 13:01; Authentication of Documents Act, Cap. 14:02; the preparation of wills, antenuptial contracts, surety bonds, deeds of donations, deeds of separation *a mensa et thoro*.

**LEGAL PRACTITIONERS (SYLLABUS FOR EXAMINATION FOR CANDIDATES FOR  
ADMISSION AS CONVEYANCERS) REGULATIONS**

*(section 9(d)(ii))  
(8th March, 1991)*

S.I. 28, 1991.

**SYLLABUS FOR EXAMINATION**

History of land and deeds registration in Southern Africa; Deeds Registry Act, Cap. 33:02, and the regulations made thereunder; preparation of deeds, powers of attorney and other documents lodged for execution, registration of record.

**LEGAL PRACTITIONERS (EXAMINATIONS AND QUALIFICATIONS FOR ADMISSION)  
REGULATIONS**

*(section 54)  
(13th November, 1981)*

**ARRANGEMENT OF REGULATIONS**

REGULATION

1. Citation
2. Prescribed degrees and additional qualifications
3. ....
4. Qualification for admission as notary public
5. Qualification for admission as conveyancer
6. Examinations and syllabuses

**1. Citation**

These Regulations may be cited as the Legal Practitioners (Examinations and Qualifications for Admission) Regulations.

**2. Prescribed degrees and additional qualifications**

For the purposes of section 4(b)(ii) of the Act-

- (a) a degree in law from any of the universities specified in the Schedule hereto shall be a prescribed degree; and
- (b) the additional qualification prescribed shall be that a candidate must pass a local examination covering the following subjects-
  - (i) practice and procedure in the High Court, and the magistrates' courts; and the constitution and jurisdiction of the customary courts;
  - (ii) the elementary principles of Roman-Dutch law:  
Provided that where the degree in question includes Roman-Dutch law as a subject, this subparagraph shall not apply; and
  - (iii) the statutory law of Botswana:  
Provided that the provisions of this paragraph shall not apply to a candidate who has passed examinations in the subjects specified therein at the University of Botswana prior to obtaining a law degree at any of the universities specified in the Schedule.

**3. ....**

**4. Qualification for admission as notary public**

For the purposes of section 11(a)(ii) of the Act, a candidate for admission as a notary public must-

- (a) pass a local examination covering the following subjects-
  - (i) elementary history of the office of notary public;
  - (ii) the Acts listed below, with particular reference to the function of a notary public-  
Wills Act, Cap. 31:04  
Succession (Rights of Surviving Spouse and Inheritance Family Provisions) Act, Cap. 31:03  
Administration of Estates Act, Cap. 31:01  
Marriage Act, Cap. 29:01  
Bills of Exchange Act, Cap. 46:02  
Deeds Registry Act, Cap. 33:02  
Insolvency Act, Cap. 42:02  
Prescriptions Act, Cap. 13:01  
Authentication of Documents Act, Cap. 14:02; and
- (b) pass a local practical examination in the preparation of-
  - Wills
  - Trust Deeds
  - Ante-Nuptial Contracts
  - Surety Bonds
  - Deeds of Donation
  - Deeds of Separation *a mensa et thoro*.

**5. Qualification for admission as conveyancer**

For the purposes of section 9(d)(ii) of the Act, a candidate for admission as a conveyancer must pass a local examination covering the following subjects-

- (a) history of land and deeds registration in Southern Africa;
- (b) Deeds Registry Act, Cap. 33:02, and the regulations made there under;
- (c) preparation of deeds, powers of attorney and other documents lodged for execution, registration or record.

## **6. Examinations and syllabuses**

(1) Subject to the provisions of rules 4 and 5, the Legal Practitioners' Committee (hereinafter referred to as "the Committee") established under section 25 of the Act shall be responsible for the determination of syllabuses for the examinations.

(2) The Committee shall, as soon as may be, cause to be drawn up and published in the *Gazette*, syllabuses for the examinations referred to in these Regulations. The Committee may appoint one or more persons to draw up syllabuses for its approval.

(3) All examinations shall be held in June of each year and entries for the examinations must reach the Committee on or before 30th April of the year in which it is proposed to take the examination.

(4) The Committee may appoint an examiner or examiners to set examinations and examine candidates. For the purposes of the examination in statutory law candidates will be permitted during such examination to consult the relevant statutes, and for the purposes of the examination in civil procedure candidates will be permitted during such examination to consult precedents of pleading.

(5) The minimum required for a pass in any examination paper shall be 50 per cent.

(6) All subjects shall be offered simultaneously and in the event of failure in any subject the whole examination shall be repeated except in respect of subjects in which the candidate has obtained 66 per cent of the total marks for that subject:

Provided that if a candidate has failed in any paper relating to civil or criminal procedure the whole examination shall be repeated.

## **SCHEDULE**

Universities in the United Kingdom of Great Britain and Northern Ireland

Universities in the Republic of Ireland

Universities in the Republic of South Africa

American University, Washington D.C., USA

Syracuse University, Syracuse, New York, USA

University of Zambia

University of Ghana

Universities in Australia.

## **LEGAL PRACTITIONERS (MISCONDUCT) REGULATIONS**

*(section 54)*

*(17th April, 1970)*

### ARRANGEMENT OF REGULATIONS

#### REGULATION

1. Citation
2. Acts of misconduct by an advocate
3. Acts of misconduct by an attorney, notary or conveyancer

S.I. 38, 1970.

#### **1. Citation**

These Regulations may be cited as the Legal Practitioners (Misconduct) Regulations.

#### **2. Acts of misconduct by an advocate**

The following acts are prescribed as misconduct on the part of an advocate-

- (a) wilfully misleading any court of law or any officer of the court in relation to his duties;
- (b) wilfully making any false declaration for the purpose of his admission to practise;

(c) doing any act unbefitting an advocate.

**3. Acts of misconduct by an attorney, notary or conveyancer**

The following acts are prescribed as misconduct on the part of an attorney, notary or conveyancer-

- (a) wilfully misleading any court of law or any officer of the court in relation to his duties;
- (b) wilfully making a false declaration for the purpose of his admission to practise;
- (c) failing to comply with any statutory provisions relating to trust accounts or to protocol registers;
- (d) having or retaining any pupil contrary to Part III of the Act;
- (e) charging exorbitant fees;
- (f) doing any act unbefitting an attorney, notary or conveyancer as the case may be.

**LEGAL PRACTITIONERS (APPLICATION FORM FOR ATTORNEY'S PRACTISING CERTIFICATE) REGULATIONS**

(section 54)

(2nd October, 1970)

ARRANGEMENT OF REGULATIONS

REGULATION

- 1. Citation
- 2. Application for practising certificate

Schedule

S.I. 86, 1970.

**1. Citation**

These Regulations may be cited as the Legal Practitioners (Form for Attorney's Practising Certificate) Regulations.

**2. Application for practising certificate**

An application by an attorney for a practising certificate under section 29(1) of the Act shall be in Form A in the Schedule hereto.

**SCHEDULE**

(Jud. 39)

**Form A**

**APPLICATION BY AN ATTORNEY FOR PRACTISING CERTIFICATE**

IN THE HIGH COURT OF BOTSWANA .....

LEGAL PRACTITIONERS ACT

(Chapter 61:01)

To the Registrar:

I, .....  
of .....  
hereby apply for a practising certificate for the year 20..... and enclose the sum of P ..... in payment of the fee.

In terms of section 13(2) of the Act, I give the following information:

- Name of firm .....
- Place or places of business .....
- Date of Admission and Enrolment as an Attorney of the High Court .....
- Date ..... (Signature) .....

**LEGAL PRACTITIONERS (EXEMPTION FROM NOTARY PUBLIC OR CONVEYANCING EXAMINATIONS) REGULATIONS**

(section 54)

(13th September, 1996)  
ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Exemption from Examination

S.I. 72, 1996.

**1. Citation**

These Regulations may be cited as the Legal Practitioners (Exemption from Notary Public or Conveyancing Examinations) Regulations.

**2. Exemption from Examination**

Any person who has passed an examination in notary public or conveyancing, or both, as part of the subjects in obtaining the LL.B. degree from the University of Botswana shall be exempted from sitting for the examination specified either in rule 4 or 5, or both, of the Legal Practitioners (Examination and Qualifications for Admission) Regulations, in relation to the qualification for admission as notary public or as conveyancer.

**CONTRIBUTION TO FIDELITY FUND REGULATIONS**

(section 38(1))

(Published on 16th January, 1998)

S.I. 2, 1998.

IN EXERCISE of the powers conferred on the Chief Justice by section 38(1) of the Legal Practitioners Act as read with section 54 of the said Act, it is hereby prescribed that the annual contribution to the Fidelity Fund payable by each Attorney shall be the sum of P750.

**LEGAL PRACTITIONERS (EXEMPTION FROM PUPILLAGE) REGULATIONS**

(section 54(a))

(17th April, 1998)

S.I. 26, 1998.

**1. Citation**

These Regulations may be cited as the Legal Practitioners (Exemption from Pupillage) Regulations.

**2. Exemption from pupillage**

Any person who holds the degree of LL.B. conferred on him by the University of Botswana immediately before 31st December, 1997, and has been admitted and enrolled as a legal practitioner shall be exempted from entering into a contract of pupillage in terms of section 18 of the Act.

**LEGAL PRACTITIONERS (SYLLABUSES) REGULATIONS**

(rule 6)

(17th June, 1985)

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Syllabuses for legal practitioners

Schedule

S.I. 75, 1985,

S.I. 76, 1985,

**1. Citation**

These Regulations may be cited as the Legal Practitioners (Syllabuses) Regulations.

**2. Syllabuses for legal practitioners**

The syllabus for the examination to be taken to qualify to practise as an attorney, a notary or conveyancer, as the case may be, shall-

- (a) in the case of an attorney, be the list of subjects specified in Form A of the Schedule;
- (b) in the case of a notary public, be the list of subjects specified in Form B of the Schedule; and
- (c) in the case of a conveyancer, be the list of subjects specified in Form C of the Schedule.

**SCHEDULE  
Form A  
SYLLABUSES FOR EXAMINATIONS**

***Criminal Law***

The criminal act and its punishment. The general principles of criminal responsibility. *Actus reus* and *mens rea*. The defences to a criminal charge; insanity, intoxication, error, automatism, etc. Attempt, specific offences against property, person and the community, Penal Code.

***Criminal Procedure***

Sources of Criminal Procedure and Evidence in Botswana. Trial in the High Court, magistrates' courts, trial court procedure, judgment, sentences imposed, trial in juvenile courts, appeals and review by the High Court, appeals to the Court of Appeal.

***Civil Law***

Sources of Civil Procedure and Evidence in Botswana, jurisdiction of the courts. Summons, proceedings, functions and rules of pleadings, judgment, costs and execution of judgment, provisional sentence, review and appeal.

***Law of Evidence***

Definitions and sources, relevance and admissibility, character, opinion. The rule against hearsay. Admissions and confessions, privilege, public policy. The parol evidence rule, estoppel, witnesses, documentary and real evidence. The rules of trial. The burden of proof. Presumptions, corroboration, cogency and proof.

**RELEVANT STATUTES AND COURTS RULES**

**THE STATUTORY LAW OF BOTSWANA**

**Constitution of Botswana**

01:04	Interpretation Act
46:02	Bills of Exchange
01:01	Citizenship
42:01	Companies
55:03	Exchange Control
52:01	Income Tax
42:02	Insolvency
61:01	Legal Practitioners

**Customary Law**

The origin and development of law in Botswana, recognition of customary law, repugnancy and inconsistency clause, the structure and jurisdiction of customary courts, the problem of choice of law in matters related to customary law marriage and succession, judicial ascertainment of customary law, as modified by relevant statutes.

**Roman-Dutch Law**

***Law of persons***

The nature of legal personality, its beginning and termination,  
Status and capacity  
Domicile, adoption, illegitimacy  
Marriage, formalities and legal implications

Divorce and separation  
Parent and child  
Minority and its implications

All as modified by relevant statutes.

### **Law of Contract**

The nature of contractual obligations, capacity to contract, the formation of contracts, warranties, conditions, offer and acceptance, termination of offer. Contracts *contra bonos mores*. Breach of contract, remedies for breach, void, voidable contracts. The transfer and extinction of contractual obligations. Special contracts-Sale, landlord and tenant, master and servant, letting and hiring, agency, partnership. Mortgage and pledge, suretyship, *senatus Consultum Velleianum* and the *Authentica si qua mulier*.

Interpretation of contracts, misrepresentation, fraud, duress, mistake, illegality. Advertisement and ticket cases.

### **Law of Property**

The meaning of ownership, how it is acquired. The incidents and kinds of ownership.

Classification of things. Possession of servitudes.

All as modified by relevant statutes.

### **Law of Succession**

Succession in general. Administration of estates

Law of inheritance. Wills

As modified by relevant statutes.

### **Law of Delict**

The nature of delictual obligations. The main forms of delictual actions. The Aquilian action and the *Actio injuriarum*. Liability under the Aquilian action, the wrongfulness of the act, defences, determining *culpa*, remoteness of damages and causation.

Quantum of damages

### **Book-Keeping and Trust Accounts**

The essential requirements of modern double-entry book-keeping and sufficient practical knowledge of book-keeping to keep books of account required in an attorney's office.

#### **Form B**

#### **SYLLABUS FOR EXAMINATION**

The elementary history of the office of notary public; functions of a notary public with particular reference to the Wills Act, Cap. 31:04; Succession (Rights of Surviving Spouse and Inheritance Family Provisions) Act, Cap. 31:03; Administration of Estates Act, Cap. 31:01; Marriage Act, Cap. 29:01; Bills of Exchange Act, Cap. 46:02; Deeds Registry Act, Cap. 33:02; Insolvency Act, Cap. 42:02; Prescriptions Act, Cap. 13:01; Authentication of Documents Act, Cap. 14:02; the preparation of wills, antenuptial contracts, surety bonds, deeds of donations, deeds of separation *a mensa et thoro*.

#### **Form C**

#### **SYLLABUS FOR EXAMINATION**

History of land and deeds registration in Southern Africa; Deeds Registry Act, Cap. 33:02, and the regulations made thereunder; preparation of deeds, powers of attorney and other documents lodged for execution, registration or record.