



# Law Society of Kenya

THE NATIONAL ASSEMBLY		PAPERS LAID	
DATE:	23 APR 2019	DAY:	TUESDAY
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THE CLERK  
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Our Ref: A/20.

Your Ref: TBA

Date: 3<sup>rd</sup> April 2019.

*① LSP*  
*8/24/19*  
PARLIAMEN  
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ATTN: MR.JEREMIAH M. NYEGENYE

Dear Sir,

RE: LAW SOCIETY OF KENYA (GENERAL) REGULATIONS 2019

*② Hand, table note for registration and tabling, and forwarding to committee for review*

Pursuant to Section 41 of the Law Society of Kenya Act, the Council with the approval by resolution of members has drafted Regulations to operationalize the Law Society of Kenya Act, 2014.

We hereby forward for your attention and action the following:

1. Explanatory Memorandum
2. Law Society of Kenya (General) Regulations, 2019

This is to request you to fast track the submission of the Regulations to the National Assembly in order to operationalize the Regulations.

We undertake to provide any clarification and/or information as shall be necessary.

Yours Faithfully,

ALLEN WAIYAKI GICHUHI, C. Arb  
PRESIDENT, LAW SOCIETY OF KENYA

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04 APR 2019  
CLERK'S OFFICE

Allen Waiyaki Gichuhi (President), Harriette Chiggai (Vice-President)  
Herine Kabita, Maria Mbeneka, Roseline Odede (General Membership Representatives)  
Borniface Akusala, Carolyne Kamende, Aluso Ingati (Nairobi Representatives)  
Damaris Kinyili, Bernhard Ngetich, David Njoroge, Jane Masai (Upcountry Representatives)  
Eric Nyongesa (Coast Representative)

## SCHEDULE

### EXPLANATORY MEMORANDUM

to

#### THE LAW SOCIETY OF KENYA (GENERAL) REGULATIONS, 2019

##### PART I

<b>Name of Statutory Instrument:</b>	The Law Society of Kenya (General) Regulations, 2019
<b>Name of the Parent Act:</b>	The Law Society of Kenya Act, No. 21 of 2014
<b>Enacted Pursuant to:</b>	Section 41 of the Law Society of Kenya Act, No. 21 of 2014
<b>Name of the Ministry/Department:</b>	The Law Society of Kenya
<b>Gazetted on:</b>	
<b>Tabled on:</b>	

##### PART II

#### 1. Purpose of the Statutory Instrument

The Law Society of Kenya (General) Regulations, 2019 are made by the Council with the approval of members pursuant to section 41 of the Law Society of Kenya Act.<sup>1</sup> The general purpose of the Regulations is to operationalise the Act by making more detailed rules for certain processes. Specifically, the Regulations are intended to-

- a) make provision for different types of members of the Society and setting out differential levels of responsibilities or obligations;
- b) provide for the keeping of detailed registers of different categories of members and law firms;
- c) define the circumstances under which members may be called upon to contribute funds for activities of the Society;

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<sup>1</sup> Act No. 21 of 2014

- d) provide for appointment of a member to be administrator of a law firm where a sole practitioner ceases to have capacity to practise;
- e) describe the procedures for meetings of the Council, creation of committees, elections of members of Council and filling of casual vacancies, as well as settlement of election disputes by alternative dispute resolution mechanisms. A new feature introduced is the creation of an independent *ad hoc* elections board to oversee elections of Council members and resolve any disputes;
- f) set up a compliance monitoring unit which shall be responsible for monitoring adherence to the Regulations and collecting information on illegal practice and submitting the findings to relevant investigatory or enforcement agency;
- g) introduce funding of branches using a formula to be determined by the Council in consultation with branches, with input of revenue allocation expert;
- h) require the secretary to prepare annual estimates each year with input of the Budget and Finance Committee and approved by the Council;
- i) make provisions on governance of branches, their functions and powers, as well as creation of chapters falling under branches;
- j) provides for meetings of the Society, the manner of calling for meetings, special resolutions of the Society and keeping by the secretary of the resolutions passed in such meetings;
- k) provide for a fair, competitive and equitable procedure for nominating members to represent the Society on statutory/public bodies, accountability of such representation and the procedure for recall of a representative;
- l) provides for mediation and other dispute resolution mechanisms;
- m) introduce the use of information and communication technology in the processes of the Society, including carrying out elections of members of the Council;
- n) provide for collaboration of the Society or branches with other bar associations;
- o) incorporate, by reference, a code of ethics and conduct for members;
- p) provide for publications of the Society;
- q) create forms for use to meet certain requirements of the Act and the Regulations.

## 2. LEGISLATIVE CONTEXT

In historical context, the Law Society of Kenya Ordinance<sup>2</sup> and the Advocates Act (1949) were enacted. In terms of governance, the Law Society of Kenya Ordinance provided for representation of the Mombasa practitioners and the “upcountry” practitioners in the Council, a position that persists even in the current legal framework (s. 17(2) of the Law Society of Kenya Act 2014.

The Law Society of Kenya Ordinance was re-enacted in 1962 as the Law Society of Kenya Act.<sup>3</sup> The 1962 Act remained in force with incremental but few amendments over the years till the year 2014 when the Law Society of Kenya Act was enacted by Parliament. The Act took effect on 14<sup>th</sup> January 2015. The Act repealed the Law Society of Kenya Act which had been in existence since 1962.

For a long time, there has not been a comprehensive review of the Regulations and it was increasingly becoming difficult for the Society to operate efficiently. The new Constitution of Kenya 2010 introduced norms that hitherto were only aspirations. One of the issues emphasised under the Constitution are the principles and values under Article 10.

The Act makes some radical departures from the then existing law by-

- Entrenching the office of chief executive officer in the Act;
- Creating structures that were necessary to make the secretariat effective in managing the affairs of the Society, tacitly applying best practices in corporate governance;
- Providing for creation of branches and further units or structures of governance in the spirit of devolution;
- Establishing the *Budget and Finance Committee*, mainly made up of members of the Society;
- Referring to constitutional principles, values and objects to be applied in managing the affairs of the Society.
- Requiring that members of the Council meet the requirements of Chapter Six of the Constitution of Kenya 2010.

The development of the Regulations was guided by the need to achieve the purpose of the Act which is to ensure that the Society is accountable, effective and focused on ensuring that the rule of law, constitutionalism, welfare of members are paramount, and delivery of services to the public is professional.

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<sup>2</sup> No. 10 of 1949

<sup>3</sup> No. 30 of 1962, Chapter 18 of the Laws of Kenya

The Regulations define the scope of the powers of the Council, the branches and chapters, and provide for the place of the member in the affairs of the Society, by requiring that any major decision or act of the Council must be approved by members through special or ordinary resolutions as the circumstances require.

These Regulations revoke and replace legal notices numbers 546/62, 127/84, 279/95 & 141/97.

### **3. CONSULTATION OUTCOME**

The development of the Regulations was member-driven:

- a) The Council invited members of the Society to volunteer to serve in the Regulations Committee.
- b) The Committee worked closely with the Consultant to come up with the initial draft of the Regulations and to review it in line with the views of members.
- c) The Committee held a consultative meeting with officials of the Canadian Bar Association who also provided useful insights.
- d) The Consultant together with the Committee visited branches to collect views of members on what should be contained in the Regulations. For a period of about one month, views were collected in Kisumu, Eldoret, Nairobi, and Mombasa.
- e) Other stakeholders invited to make input were the Office of Attorney-General, the Parliament, the Law Reform Commission, the Judiciary and the Office of the Director of Public Prosecutions.
- f) The Consultant referred to and compared the rules and regulations governing the General Council of the Bar of South Africa, the Nigerian Bar Association and the South Australian Bar Association Inc. to compare best practices in some of the regulated aspects.
- g) Additionally, the draft was widely circulated to members through electronic mails and even social media inviting members and stakeholders to submit their views. Members were sent the first draft for the March 2017 annual general meeting (AGM). The AGM did not discuss the Regulations due to time constraints. The Regulations were also tabled on 24<sup>th</sup> March, 2018 for discussion at the Annual general Meeting but a motion to adjourn the same was passed. In every case, members were sent copies in advance and had hard copies printed for them. These Regulations have been circulated and discussed more than any other document submitted to members in the recent past for discussion.

- h) All the views were analysed for their propriety, practicality and consistency with our legal system, the Constitution and relevant legislation. In coming up with the Regulations, the views were considered and rationalised to produce what is considered to be the *general will* of the members. So the overall effect of the Regulation is to prescribe what is best within the many divergent and sometimes conflicting needs of members.
- i) The Council, the branch chairs and the Regulations Committee of the Society met in various places to agree on issues, including in Nairobi, Nyahururu and Mombasa.
- j) In the Special Meeting of the Society called on the **15<sup>th</sup> September 2018**, the Draft Regulations were discussed clause by clause and it took a record 12 hours to complete the amendments to the draft. The draft was finally passed by members subject to the amendments as proposed. These Regulations have incorporated the recommendations of the Special General Meeting held on 15<sup>th</sup> September 2018, and the meeting represents the supreme organ of the Society.

The following were as the result of consultations in various meetings with members as the main stakeholders in these Regulations:

- The members eligible to join the Society were agreed upon;
- The use of electronic voting was adopted;
- Register for members and law firms to be kept;
- Corporate governance practices introduced into the Council as the organ of the Society that runs day to day affairs of the Society;
- Monitoring unit was established to deal with quacks who practice law in certain hide-outs;
- Elections board established to oversee the elections and dispute resolution;
- The Regulations establishes Devolution and Regional Integration Fund to strengthen the branches and make more resources reach them. Under the new arrangement, branches would get a total of shillings 38,000,000/= annually, up from mere shillings 8,000,000/=.
- The Regulations have extensive provisions on branches, branch members and management of the affairs of branches applying the best practices.
- Branches are now given major autonomy to run their affairs without interference from the Council.

- One of the most important innovation is making regulations to guide representation of the Society on Constitutional and statutory bodies to be fair and available to members.

#### **4. Monitoring and Review**

- a) The Law Society of Kenya (General) Regulations 1962 have been in force for more than 50 years. They were amended only about 4 times. The amendments essentially introduced additional requirements without changing the existing Regulations. The manner of drafting was also very classic with long legislative sentences and traditional drafting language that required an overhaul to be more responsive to the modern dictates of clarity. It had taken too long to review the 1962 Regulations.
- b) Section 41 of the (new) Act gives the Council powers to prescribe Regulations to promote the objects of the Society. Therefore, these Regulations may be amended or revoked all together in future if the Society in a general meeting considers them not serving the purposes for which they were prescribed. There is no limit on the number of times or the frequency the Regulations may be reviewed. All depend on the needs and dynamism of the legal profession and the Society as the professional organization of members.

Amendments require a resolution by members of the Society in general meeting.

#### **5. Contact**

[mercy.wambua@lsk.or.ke](mailto:mercy.wambua@lsk.or.ke) (Chief Executive Officer, Law Society of Kenya)  
[allen@wamaeallen.com](mailto:allen@wamaeallen.com) (President, Law Society of Kenya)

**LAW SOCIETY OF KENYA (GENERAL) REGULATIONS, 2019**

**ARRANGEMENT OF REGULATIONS**

*Regulation*

**PART I – PRELIMINARY**

1. Citation and commencement
2. Interpretation

**PART II-MEMBERSHIP OF SOCIETY**

3. Categories of members
4. Register of members
5. Register of law firms
6. Special member
7. Non-practising member
8. Honorary member
9. Annual subscription fee
10. Introduction of levy
11. Obligations of a member
12. Branch membership
13. Cessation of membership
14. Firm administrator
15. Re-admission of a member

**PART III-THE COUNCIL**

16. Committees of the Council
17. Budget & Finance Committee
18. Council meetings & venue
19. Quorum and conflict of interests
20. Decisions of the Council
21. Extra-ordinary meeting of Council
22. Suspension and removal of Council member
23. Filling of casual vacancy in the Council



24. Content of Annual Report

**PART IV-ELECTIONS OF COUNCIL**

25. Electoral system
26. Approval of electoral body
27. Elections board
28. Notice of vacancies in the Council
29. Qualification for nomination
30. Content of nomination paper
31. Submission of nomination paper
32. Scrutiny of nomination papers
33. Agents and observers
34. Election without ballot
35. Publication of list of voters
36. Voting centres
37. Ballot paper
38. Procedure for voting
39. Spoilt ballot paper
40. Counting of ballot papers
41. Form of declaration of results
42. Recount of ballot papers
43. Tallying & certification of results
44. Settlement of election disputes

**PART V- THE SECRETARIAT**

45. Appointment of Secretary
46. Monitoring of unlawful practice

**PART VI-FUNDS OF THE SOCIETY, ACCOUNTS & AUDIT**

47. Sources of funds of the Society
48. Bank accounts and expenditures
49. Annual estimates and procurement plan
50. Devolution and Regional Integration Fund

51. Policies, procedures and guidelines
52. Appointment of auditor
53. Audit of Council and branch executives
54. Tenure of auditor

**PART VII-MEMBERSHIP, FUNCTIONS AND GOVERNANCE OF  
BRANCHES**

55. Membership of a branch
56. Rights and obligations of member
57. Branch executive
58. Procedure for elections at branch
59. Term of office of branch executive
60. Functions and powers of branch executive
61. Status of branch & relation with Council
62. Branch charter
63. Collaboration with other branches
64. Chapter of a branch
65. Procedure of meetings
66. Branch annual budget estimates
67. Bank accounts and reports
68. Accounts and audit
69. Employment of staff
70. Governance of a chapter
71. Functions and powers of a chapter committee
72. Accounts and audit of a chapter
73. Elections, removal, etc. of chapter committee

**PART VIII-GENERAL MEETINGS OF THE SOCIETY**

74. General and special meetings
75. Notice of a meeting
76. Notice of motion
77. Special general meeting

- 78 Presiding at a meeting
- 79 Quorum
- 80 Power of president to adjourn
- 81 Rules of debate
- 82 Manner of decision-making
- 83 Procedure for a poll
- 84 Resolutions of the Society
- 85 Record of general meetings

**PART IX-REPRESENTATION OF SOCIETY ON OTHER BODIES**

- 86 Register of public bodies
- 87 Notification of vacancy and appointment
- 88 Term and procedure for recall
- 89 Resignation and filling of vacancy

**PART X-MISCELLANEOUS**

- 90 Publications
- 91 Reimbursement of expenses
- 92 Use of official seal
- 93 Collaboration with other bar associations
- 94 Codes of conduct and etiquette
- 95 Negotiation, conciliation & mediation
- 96 Arbitration
- 97 Information and communication technology
- 98 Revocation of legal notices
- 99 Savings and transition

FIRST SCHEDULE-*forms*

SECOND SCHEDULE-*annual subscription fees*

THIRD SCHEDULE-*sharing formula*

LEGAL NOTICE NO.....

THE LAW SOCIETY OF KENYA ACT

(No. 21 of 2014)

IN EXERCISE of the powers conferred by section 41 of the Law Society of Kenya Act, the Council of the Law Society of Kenya with the approval of general meeting of members of the Society makes the following Regulations—

THE LAW SOCIETY OF KENYA (GENERAL) REGULATIONS, 2019

PART I - PRELIMINARY

1 (1) These Regulations may be cited as the Law Society of Kenya (General) Regulations, 2019

Citation and  
commencement

(2) These Regulations shall come into operation immediately after the date on which they are published in the *Gazette*

2 In these Regulations, unless the context otherwise requires—

Interpretation

“advocate” has the meaning assigned to it under the Advocates Act,

“annual grant” means a fraction of the amount collected from members of the Society as annual subscription fee which is disbursed annually from the Devolution and Regional Integration Fund to a branch to support the functions and activities of the branch in accordance with regulation 50,

“auditor” means the auditor appointed by the Council under regulation 52,

“bar association” includes any association of legal professionals, whether recognised as a voluntary association or as a statutory body,

“branch” means a branch of the Society as provided under the Schedule to the Act,

“candidate” means a member who has been validly nominated to contest in an election and whose nomination has been received by the secretary

“chapter” means a unit of a branch that is recognised under the Act  
these Regulations,



“copy” includes an electronic document;

“Devolution and Regional Integration Fund” means the fund established under regulation 50(1);

“document” includes an electronically-generated document;

“election material” as used under regulation 43(5) includes nomination paper, voters register, voters list, used and unused ballot papers together with their counterfoils, declaration of results forms and any other document or item used to facilitate an election;

“election official” means a tallying officer, a presiding officer or a clerk employed by an electoral body involved in an election under the Act or these Regulations;

“electoral body” means a body or organisation appointed by the Council and approved by general meeting of the Society to conduct elections under Part IV;

“extra-ordinary meeting” means a meeting of the Council convened by the president under regulation 21;

“general membership” means members of the Society who are not serving in any office of the Society, including in branches, chapters or committees;

“legally incapacitated” includes the state of being unable to practise on account of bankruptcy, medical condition certified by a medical practitioner as defined under legislation regulating medical practitioners, or the inability to practise law on account of a lawful court process or order;

“list of voters” means a list of members who are entitled to vote, containing details of a member including the branch and ordinary place of practice, prepared by the secretary under regulation 35.

“member” means a person whose name is for the time being on a register of members of the Society;

“non-practising member” means a member who does not practise;

“notice” includes a notice in electronic form sent or delivered to the address given by the recipient;

**LAW SOCIETY OF KENYA (GENERAL) REGULATIONS, 2019**

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“general membership” means members of the Society who are not serving in any office of the Society, including in branches, chapters or committees,

“legally incapacitated” includes the state of being unable to practise on account of bankruptcy, medical condition certified by a medical practitioner as defined under legislation regulating medical practitioners, or the inability to practise law on account of a lawful court process or order,

“list of voters” means a list of members who are entitled to vote, containing details of a member including the branch and ordinary place of practice, prepared by the secretary under regulation 35

“member” means a person whose name is for the time being on a register of members of the Society,

“non-practising member” means a member who does not practise,

“notice” includes a notice in electronic form sent or delivered to the address given by the recipient,

“polling register” means a register used by an electoral body as the official register of voters for purposes of under Part IV;

“practice” means the act or process of undertaking legal work in ones capacity as a legal expert or legal professional and includes giving legal advice, drafting legal documents, representing clients in legal negotiations or in judicial proceedings;

“register” includes any of the registers kept by the secretary under regulation 4;

“reporting period” as used in regulations 67 (4) and 72(2) means the half-yearly period between January to June and July to December, inclusive;

“secretariat” means the secretariat established under section 27(1) of the Act;

“senior counsel” means senior counsel as defined under the Advocates Act;

“sole practitioner” means an advocate who does not carry on business in partnership with any other advocate, whether or not such business is under a registered business name;

“spoilt ballot paper” as used in regulation 39 (1) means a ballot paper that is torn, damaged or marked by the voter in such a way as not to be capable of communicating the intention of the voter as to the candidate being voted for;

“tallying officer” means the officer responsible for tallying and certifying the final results of an election under Part IV;

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

“unrestricted funds” means total annual subscription fee, practising certificate fee, income from investments of the Society and other income of the Society, that are available for purposes of determining the amount provided under regulation 50 (3), but excludes funds received by the Society for a particular purpose or project, including project funds, annual conference income, building levy, library fund, subscription to a bar association, donations for particular projects or purpose, continuing

professional development fees, and any other money charged by the Society to meet cost of an activity,

“unqualified person” has the meaning assigned to it under the Advocates Act

## **PART II - MEMBERSHIP OF SOCIETY**

3 (1) A member of the Society may be—

Categories of  
members

- (a) an ordinary member,
- (b) a special member,
- (c) a non-practising member, or
- (d) an honorary member

(2) Except for an honorary member, a member of the Society must be an advocate of the High Court of Kenya as determined by criteria set out in legislation regulating the practice of law

4 (1) A person who is admitted as an advocate in Kenya is a member of the Society from the date the name of the person is entered on the Roll of Advocates kept under the Advocates Act, and the secretary shall enter into a register of members of the Society every person who has been admitted as an advocate

Register of  
members

(2) The secretary shall keep and maintain a register for different categories of members of the Society and a register shall be open for inspection by a member at all reasonable time upon request by the member

(3) A register shall contain particulars of a member's—

- (i) name as entered on the Roll of Advocates,
- (ii) date of admission,
- (iii) admission number,
- (iv) firm or organisation where the member works, where applicable,
- (v) the branch, and where applicable, a chapter to which the member belongs,
- (vi) last known physical and postal address,
- (vii) e-mail and telephone contacts,

(viii) any other detail that the Council may consider necessary

(4) The secretary shall keep different registers of members who have—

(a) been struck off the Roll of Advocates,

(b) been suspended from membership,

(c) been expelled,

(d) died, or

(e) in any other manner ceased to be members of the Society

(5) A register kept under sub-regulation (4) shall, in addition to the particulars under sub-regulation (3), contain—

(a) the date when the member ceased to be a member, and

(b) the reason why the member ceased to be a member of the Society

(6) A register may be in electronic format

(7) A member who has a principal place of practice but operates another office based in another branch is entitled to be a member of the branch where the member so practices and shall, in that latter capacity, be eligible to participate in the activities of the branch at that level

(8) A member whose name has been struck off the Roll of Advocates shall cease to be a member of the Society, but without prejudice to the right of the Society to enforce any outstanding obligation of such member to the Society

5 (1) A proprietor of a law firm shall, within 30 days of registering a law firm or within 30 days of the coming into force of these Regulations, submit to the secretary a copy of the firm's registration certificate and provide details of the firm in *Form LSK-01* in the First Schedule

(2) The secretary shall keep and maintain a register of all law firms operating in Kenya

(3) Where there is a change in any of the particulars required under this regulation, including where the firm has ceased to exist, the proprietor of the firm or a person in charge of the firm, shall immediately notify the secretary to update the register accordingly

(4) The secretary shall avail or give access to a branch the particulars in the register of law firms relating to the branch, and shall-

Register of  
law firms

- (a) upon request by the branch clarify any entry in the register, and
- (b) communicate to the branch any change of particulars in the register

6 (1) For the purpose of section 8 of the Act, a person qualifies to be recognised as a special member of the Society if the person is on the Roll of Advocates and is employed in any of the following offices

Special  
member

- (a) office of the Attorney-General,
- (b) office of the Director of Public Prosecutions,
- (c) office of Chief Land Registrar,
- (d) County government,
- (e) any other office in the public service to which section 10 of the Advocates Act applies

(2) An ordinary member who becomes a special member by reason of being employed in any of the offices under sub-regulation (1) shall within 30 days notify the Society in *Form LSK-02* in the First Schedule

(3) Subject to sub-regulation (5), a special member is entitled to all the rights, privileges and is subject to obligations of an ordinary member

(4) A special member who becomes an ordinary member by reason of leaving employment in any of the offices under sub-regulation (1) shall within 30 days notify the Society in *Form LSK-03* in the First Schedule

(5) The scope of participation by a special member in the activities of the Society may be subject to legislation applicable to the member's employment or to the terms of engagement between the member and the employer

7 (1) A member who ceases to practise shall, within 30 days, give notice to the secretary in *Form LSK-04* in the First Schedule and the secretary shall enter the member's name in the appropriate register

Non-practising  
member

(2) A member who fails to give notice as required under this regulation shall not enjoy the rights or privileges of a non-practising member, but shall be required to comply with all obligations of an ordinary member

(3) A non-practising member who wishes to practise shall give notice to the Society in *Form LSK-05* in the First Schedule and the secretary shall



enter the member's name in appropriate register upon the member satisfying the secretary that the member has complied with all the requirements for practice

8 (1) The Council may admit a person as an honorary member if the Council is satisfied that the person has contributed to the advancement of the objects and principles of the Society

Honorary  
member

(2) A branch executive may recommend to the Council a person to be considered for conferment of the status of honorary membership

(3) Where the Council has selected a person and conferred upon the person the status of honorary member under section 9 of the Act, no application shall be required but the secretary shall enter in the register the name of the honorary member

(4) The Council may for sufficient cause, revoke the status of an honorary member and the name of the member shall forthwith be deleted from the register of honorary members

9 (1) Subject to this regulation, a member of the Society shall pay to the Society annual subscription fee as provided in the Second Schedule

Annual  
subscription  
fee

(2) An honorary member is not required to pay annual subscription fee to the Society

(3) If, when—

(a) annual subscription fee is due and payable by a member, and

(b) at the same time other fee or levy is due and payable by the member to the Society,

the member shall pay such other fee or levy together with the annual subscription

(4) The Council may, by special resolution of members in a general meeting, vary the amount of annual subscription fee payable by a member

(5) A member who has paid annual subscription fee to the Society is not required to pay further subscription fee to a branch or chapter, but a branch or chapter may, by special resolution of members of that branch

or chapter, provide for further subscription fee to support branch or chapter activities

10 (1) The Council may, with approval of members by special resolution, introduce a levy or monetary contribution upon members as may be necessary to enable the Society to perform its functions, carry out such projects as may be necessary, or to meet a lawful obligation of the Society

Introduction of  
levy

(2) A motion seeking the approval of the members shall specify—

- (a) the purpose of the levy or monetary contribution,
- (b) the amount to be paid by a member or category of members,
- (c) the time, manner and duration during which a member is required to contribute, and
- (d) the benefit to be derived

(3) The Council shall not offer as collateral any asset of the Society including subscriptions or levies for the purpose of securing a loan as principal or as guarantor unless the members have approved such action by a special resolution in a general meeting

11 (1) A member shall—

Obligations of  
a member

- (a) promote and help the Society to realise the objectives of the Society as set out in section 4 of the Act,
- (b) promote and assist the respective branch to achieve the functions of the branch set out in section 24 of the Act,
- (c) pay annual subscription fee and any other lawful levy within time unless the member is exempted from paying the annual subscription or levy under the Act or these Regulations,
- (d) observe and adhere to the requirements of a code of conduct that has been approved by the Society,
- (e) uphold the highest professional standards in delivering legal services,
- (f) inform the Society of any change in the member's physical address, electronic mail address or postal address, the member's firm name and the branch where applicable, within 14 days of the change,

(2) A member who does not adhere to the provisions of paragraph (d) may be liable for disciplinary action

12 (1) A member whose name is in a register of members of the Society shall automatically be a member of the branch of the Society where the member ordinarily practises

Branch membership

(2) A member may belong to more than one branch at a time, subject to regulation 55(2)

(3) Where a member of the firm in which the member practises has more than one office in more than one branch of the Society, the member shall elect at the time of applying for a practising certificate, the principal place of practice and any other place of practice will be deemed to be secondary place of practice for the purpose of this regulation

(4) Where a member fails to elect as provided under this regulation, the secretary shall designate a member's ordinary place of practice and the designation shall be as effective as if the member has voluntarily chosen the branch

(5) The secretary shall on request by a branch avail details in the register of the members and firms falling within the geographical jurisdiction of the branch

13 (1) A member of the Society shall cease to be a member if the member—

Cessation of membership

(a) is struck off the Roll of Advocates for whatever reason, or

(b) dies

(2) A member who ceases to be a member of the Society ceases to be a member of a branch or a chapter where the member belongs

14 (1) A sole practitioner shall, within 60 days of establishing a law firm, nominate a member or members in *Form LSK-06* in the First Schedule to be administrator of the member's legal practice in the event that the sole practitioner—

Firm administrator

(a) dies,

(b) is suspended from practising under the Advocates Act,

- (c) is struck off the Roll of Advocates; or
  - (d) is adjudged bankrupt by a court of competent jurisdiction; or
  - (e) otherwise becomes legally incapacitated.
- (2) Nomination under this regulation shall be made once but a member so nominating shall notify the secretary on any change in the name or particulars of the nominee.
- (3) A member who is nominated to administer a law firm or practice of another member shall be known as administrator.
- (4) The secretary shall not accept nomination unless the nominee has consented to act as administrator, in *Form LSK-07* in the First Schedule.
- (5) This regulation does not override the right of a member to appoint by Will a qualified executor to act as administrator of the law practice in any of the circumstances contemplated under sub-regulation (1).

15. (1) A member who has been struck off the Roll of Advocates may apply in writing to the Council to be re-admitted as a member if the name of the member has been restored to the Roll of Advocates in accordance with the legislation for the time being regulating the practice of law.

Re-admission  
of a member

- (2) A member who has ceased to be a member of the Society may apply to the Council for re-admission.
- (3) An application for re-admission to membership shall be in *Form LSK-08* in the First Schedule.
- (4) The application shall be accompanied by relevant facts in support of the application.
- (5) Subject to sub-regulation (6) the Council may re-admit a member-
- (a) if the Council is satisfied that the member who ceased to be a member by being struck off the Roll of Advocates is ready and willing to abide by the relevant laws and rules of the Society or any other condition as the Council may be impose; or
  - (b) if, in the case where a member ceased to be a member without any default on the member's part, the member is willing to abide by the Act and the Regulations.

(6) The Council may impose such conditions as may be necessary to ensure that a member who is re-admitted adheres to the relevant laws, regulations or a code of conduct for members

(7) The secretary shall in writing communicate the decision on re-admission within 30 days from the date of the decision of the Society

### PART III - THE COUNCIL

16 (1) The Council may, subject to the Act, by resolution generally or in any particular case, delegate in writing the exercise of any of the powers or the performance of any function or duty of the Council—

Committees of  
Council

- a) to a committee of the Council,
- b) to a member of the Council,
- c) to a branch executive,
- d) to a member of the Society, or
- e) to any other person as the Council may lawfully determine

(2) The Council may establish a standing or ad hoc committee for any purpose within the mandate of the Council or of the Society, but the Council remains responsible for the acts or omissions of such committee

(3) A committee shall consist of at least 5 members and members of a committee may be drawn from general membership of the Society, but the branches may jointly nominate one person to each of the committees to represent the branches

(4) A committee shall serve for the duration of the Council in office and shall be reconstituted after every election of a new Council, save for any particular committee which the Council resolves that it shall not automatically stand dissolved upon election of a new Council

(5) Without prejudice to the generality of sub-regulation (2) and in addition to the Budget and Finance Committee established under section 40(2) of the Act, there shall be established committees to deal with the following matters

- (a) practice standards & ethics,
- (b) members & staff welfare,

- (c) young lawyers,
  - (d) legal practice, including litigation and conveyancing,
  - (e) devolution,
  - (f) public interest, legal aid & human rights,
  - (g) continuing professional development of members,
  - (h) law reform and legislation,
  - (i) in-house counsel,
  - (j) information and communication technology,
  - (k) immigration law,
  - (l) internal audit
- (6) The Council shall determine in writing the terms of reference of a committee
- (7) The Council shall designate a member of a committee as the chairperson and may be deputised by one of the committee members, nominated by the members of the committee at its first sitting
- (8) A committee shall appoint its secretary from amongst—
- (a) its members,
  - (b) the members of staff of the Society, or
  - (c) members of the Society
- (9) The Council may establish a task force to undertake a specific task falling within the mandate of the Council or the Society generally
- (10) A committee of the Council shall meet quarterly, unless for a good cause more frequent meetings are justified, and the committee shall report to the Council on quarterly basis
- (11) The procedure for a meeting of the Council, including the manner of recording conflict of interests, shall apply to a meeting of its committees with any necessary modifications
- (12) The quorum of a committee—
- (a) where the committee consists of 10 members or less, shall be 4 members, excluding its secretary, and
  - (b) where the committee consists of more than 10 members, shall be one-third of its members, excluding its secretary

(13) The chairperson of a committee shall preside at all meetings of the committee and in the absence of the chairperson, the deputy chairperson shall preside

(14) If the chairperson and the vice chairperson are absent, the committee shall nominate one of its members to preside

(15) The secretary to a committee shall keep, with respect to the proceedings of that committee—

(a) record of the proceedings,

(b) minutes,

(c) register of attendance, and

(d) a register of conflict of interests signed by members in attendance

17 (1) The Budget and Finance Committee established under section 40

(2) of the Act shall consist of—

(a) six persons from the general membership of the Society, nominated by the Council upon a competitive process and appointed by members in a general meeting,

(b) a member of the Council, appointed by the Council, and

(c) the secretary, who shall be the secretary to the committee

(2) The chairperson of the committee shall be appointed by its members at the first meeting of the committee from amongst members appointed under paragraph (a) of sub-regulation (1)

(3) The manner of appointing chairperson of a committee under regulation 16 (7) does not apply to the Budget and Finance Committee

(4) The function of the committee shall be—

(a) to consider annual or supplementary budget estimates and the accounts of the Society and to recommend to the Council for approval,

(b) to undertake such other functions as may be delegated to it by the general meeting of the Society or by the Council

18 (1) The Council may meet for the dispatch of business, adjourn, and, subject as expressly provided by the Act or these Regulations, otherwise regulate its meetings and proceedings as it thinks fit

Budget &  
Finance  
Committee

Council  
Meetings &  
venue

(2) The secretary is responsible, in consultation with the president, to call for a meeting of the Council by issuing not less than 7 days' notice to the members of the Council accompanied with the agenda of the meeting

(3) All meetings of the Council shall be held in Nairobi, unless the Council considers it appropriate for a good cause to hold a meeting outside Nairobi

(4) The Council shall meet quarterly but may meet more frequently as may be necessary

19 (1) The quorum for a meeting of the Council shall be five members, excluding the secretary

(2) Before transacting business at a meeting, each member of the Council present shall declare and register conflict of interests, if any, in relation to a matter on the agenda

(3) A Council member who has declared conflict of interests in a matter on the agenda shall not participate in deliberations on that agenda or vote in relation to the agenda

Quorum of meetings & conflict of interests

20 (1) A question or issue arising during a meeting of the Council upon which a decision is required to be made shall be decided by a majority of votes of Council members present and voting, except in the case of a special resolution

(2) Where there is equality of votes, the president shall have a second or casting vote

(3) Despite sub-regulation (1) the Council shall endeavour to resolve a question or issue by consensus but if it becomes necessary to put any question to a vote, then it shall be decided by a vote of the members present and voting by a show of hands

(4) Members of the Council are collectively responsible for a decision or resolution made by the Council or by the majority of the Council members

(5) A member of the Council owes fiduciary duty to the Society

Decisions of the Council



(6) The proceedings, resolution or decision of the Council shall not be invalid merely because a person who is not a member of the Council is in attendance

21 (1) The president may convene an extra-ordinary meeting of the Council by issuing or causing to be issued a 24-hour notice to each of the members of the Council

Extra-ordinary  
meeting of  
Council

(2) The notice shall specify the date, the time, the venue and the agenda of the meeting

(3) A notice for an extra-ordinary meeting may be sent to members by electronic mail addressed to the electronic mail address of a member of the Council

22 (1) The Council may, on the basis of any of the grounds set out under section 22(1) of the Act, recommend the suspension or removal from office of a member of the Council

Suspension &  
removal of  
Council  
member

(2) A notice recommending the suspension or removal shall be given forthwith to the member, and to every other member of the Council setting out the grounds for the recommendation

(3) The Council shall convene a general meeting of the Society to be held within 60 days of the recommendation for the purpose of suspending, removing or otherwise dealing with the affected member and the notice to members shall contain a summary of the ground in support of the recommendation

(4) A member of the Council who is proposed to be suspended or removed from office is entitled to be present, in person or by a legal representative, to make representations at the general meeting where the suspension or removal is to be considered

(5) Subject to section 22(1) of the Act, a general meeting of the Society has the power-

- (a) to suspend a member of the Council from office for a certain duration,
- (b) to remove from office a member of the Council, or
- (c) to take such other action as the Society considers proper

23. (1) If a vacancy occurs in the office of president, vice-president or any other member of the Council the secretary shall declare a vacancy and the election to fill the vacancy shall be held within 90 days from the date of the declaration of the vacancy, and the procedure provided for elections shall apply with necessary modifications.

Filling of  
casual vacancy  
in Council

(2) The proceedings, decision or act of the Council shall not be invalid merely because the proceedings, decision or act takes place when there is a vacancy in the office of member of Council provided there is quorum.

(3) For the purpose of section 21(2) of the Act, a person who assumes office as president under sub-regulation (1) (a) shall be regarded as having served a term if the remainder of term which the person serves is more than a year.

24. (1) The annual report prepared by the Council pursuant to section 30 (2) of the Act shall contain details of the activities undertaken by the Council in the year and the reports submitted to the Council by each of the branches of the Society.

Content of  
annual report

(2) The annual report shall include, either separately or as part of the annual report, a report on how the Council, branches and chapters have utilised or managed funds.

#### PART IV- ELECTION OF COUNCIL

25. (1) An election under this Part shall be conducted by use of—

Electoral  
system

(a) a manual or physical system of voting as provided in this Part; or

(b) an electronic voting system.

(2) A system that is adopted for election shall be—

(a) transparent;

(b) secure and free from improper influence;

(c) conducted by an independent electoral body;

(d) administered in an impartial, neutral, efficient, accurate and accountable manner; and

(e) auditable.

(3) The electronic voting system shall relate to—

- (a) registration of members as voters;
- (b) identification of the voter;
- (b) voting;
- (c) collating and tallying of the votes; and
- (d) transmitting the results of elections.

(4) Where electronic voting system is adopted, the Society shall, unless an external service provider is engaged to facilitate the process, internally operate an electronic voting system.

(5) Despite sub-regulation (3) an electronic voting system may provide for the necessary mechanisms to electronically carry out any of the steps or processes from the nomination of candidates up to the final release of the results of the election.

(6) Where electronic system is to be used the Council shall satisfy members of the Society that the system meets the minimum requirements under this regulation, and the Council shall ensure that voting instructions are sent to eligible voters at least 14 days before the date set for election.

(7) The society shall not adopt an electronic voting system unless the system has mechanisms for off-site back-up and the system is approved by members in a general meeting.

(8) If the electronic voting system fails either before the voting begins, or during the voting process and the failure is not rectified within three hours, or the continued accuracy and reliability of the system cannot be reasonably assured, the returning officer shall make and communicate a decision on the way forward, after consulting with the candidates or their authorised representatives generally, including extending the voting period, postponing the elections or reverting to the other election system under this Part.

26. (1) The Council shall consider and nominate an electoral body to conduct election of the president, vice-president and members of the Council.

Approval of  
electoral body

(2) The name of the electoral body that is approved by the Council to conduct an election shall be submitted to the members of the Society in a general meeting for approval prior to the election.

(3) Before the name of an electoral body is presented to the Society for approval, the Council shall obtain from the electoral body a written commitment on its willingness to conduct the relevant election.

(4) Where a body other than the Independent Electoral & Boundaries Commission is to conduct an election, the Council may propose two or more names of suitable bodies or organizations and members of the Society shall approve one for the purpose of conducting the elections.

(5) An electoral body may not be necessary if the electronic system used under regulation 25 is sufficiently automated, is approved by members and can be monitored by the elections board during its use.

27. (1) There shall be established for every election under this Part an *ad hoc* elections board consisting of—

Elections  
Board

(a) a senior counsel appointed by the Senior Counsel Committee, to be the chairperson; and

(b) six other members appointed and approved by members in a general meeting.

(2) The members of the board shall appoint one of their numbers to be secretary.

(3) A member shall not qualify to be appointed or to continue acting as a member of the elections board if the member—

(a) holds an office in the Council;

(b) is a candidate or nominates a candidate in the relevant election; or

(b) has contested in an election under this Part in the immediately preceding two years.

(4) The elections board shall be established in a general meeting prior to the date set for elections which shall be at least two weeks before the deadline set for submission by candidates of nomination papers.

(5) The functions of the elections board are to—

(a) scrutinise the nomination papers submitted by applicants;

- (b) determine whether a person has validly been nominated;
- (c) resolve disputes or complaints relating to the elections;
- (d) deal with an election for the purpose of filling a vacancy in the Council arising within the period before the establishment of a new ad hoc elections board.
- (e) ensure that the electoral system, including electronic system of voting, and electoral processes are in accordance with the principles and requirements under this Part.
- (6) The quorum of the board for the purpose of transacting any business shall be five members.
- (7) Subject to regulation 44, the elections board shall regulate its own proceedings.

28. (1) At least three months before the 15<sup>th</sup> day of March in the year when election of the Council is scheduled to be held, the secretary shall issue notice of the vacancies available in the Council—

Notice of  
vacancies in  
the Council

- (a) to each member of the Society; or
- (b) through publishing it in a newspaper of national circulation.
- (2) The notice shall invite interested qualified members to submit nomination papers for election to those offices.
- (3) The notice shall be issued pursuant to this regulation and shall-
  - (a) specify the office that is vacant on the given date;
  - (b) contain the requirements on eligibility to be elected to a vacant office;
  - (c) indicate the date and the manner by which the nomination paper must be submitted to the secretary;
  - (d) require that nomination of a candidate be by at least two practising members of the Society.
- (4) The notice may specify the date and time when elections are to be conducted.
- (5) The secretary shall, in addition to the requirements in sub-regulation (1), upload the notice to the website of the Society in such manner as to be easily accessed by members.

29. A member may be nominated as a candidate in an election under this Part only if that member—

Qualification  
for nomination

- (a) is qualified to be elected to the relevant office as at the date set for close of nominations;
- (b) is nominated by two members of the Society who are qualified to be elected to the office to which the nomination relates; and
- (c) consents in writing to serve in the office to which the member is nominated.

30. (1) A person shall be nominated as a candidate in an election under this Part shall by way of a nomination paper that specifies—

Content of  
nomination  
paper

- (a) the name and address of the candidate;
  - (b) the name of the organisation where the candidate works, if any;
  - (c) the year of admission to the Bar in Kenya;
  - (d) the year and office in the Council previously held by the candidate, if any;
  - (e) the place where the candidate ordinarily practises, or where the member does not practice, the place where the member ordinarily resides;
  - (f) the office for which the candidate is nominated; and
  - (g) a description or profile of the candidate in not more than 100 words.
- (2) The nomination paper shall contain, or be accompanied by, a written consent of the candidate by which the candidate agrees to serve in the proposed office if elected.
- (3) A nomination paper includes an electronic nomination paper or an electronically-generated nomination paper with the required content.

31. (1) Before the expiry of the time fixed for submitting nomination papers, a candidate shall, subject to regulation 30(3), personally or by an agent deliver to the secretary the candidate's nomination paper.

Submission of  
nomination  
paper

- (2) The secretary shall keep a register of names of candidates who have submitted nomination papers.
- (3) The register shall contain—
  - (a) the name of the candidate;

- (b) the office to which the candidate seeks to be elected;
- (c) the date and time when the nomination paper was delivered to the secretary.
- (4) The person delivering the nomination paper and the person receiving the paper shall both sign the register.
- (5) The secretary shall upload on the website of the Society the list of names of candidates who have submitted nomination papers not later than three days after the deadline set for submitting the nomination papers.

32. (1) An elections board shall, within 7 days after the deadline set for submitting nomination papers, scrutinise the nomination papers and determine the applicants who qualify to contest for various positions in the relevant election.

Scrutiny of  
nomination  
paper

(2) The elections board shall immediately issue notice, for publication on the website of the Society, specifying the names of the candidates who have been validly nominated to various offices together with such other details as the board shall consider necessary.

33. (1) A candidate may nominate not more than two agents to represent the candidate at a polling stream, polling station or tallying centre.

Agents &  
observers

(2) An elections board may, on prior request in writing, allow observers during the election process.

34. If the number of candidates nominated to fill vacancies announced does not exceed the number of vacancies in the respective offices, the persons nominated for those offices shall be declared to be elected to the respective offices.

Election  
without a  
ballot

35. (1) The secretary shall, at least 45 days before the date set for elections, publish to the members a list of voters—

Publication of  
list of voters

- (a) directly to each member through electronic or postal mail;
- (b) by uploading the list of voters on the Society's website;
- (c) by use of both procedures in (a) and (b); or
- (d) by such other method as the Council may approve.

(2) For the purpose of election to an office at national level, a member shall only be registered as a voter and shall only vote at the member's designated principal place of practice.

(3) A person who is entered on the Roll of Advocates at least sixty days prior to the date of a scheduled election and who has taken out a practising certificate is entitled to vote.

(4) The secretary shall prepare a supplementary list of voters for the purpose of enabling a person referred to in sub-regulation (3) to participate in the election.

(5) The list of voters shall contain details or particulars of members who are eligible to vote and a member is entitled to verify the details in the list of voters before the date set for election.

(6) The secretary shall submit the list of voters to the electoral body, where applicable, immediately upon expiry of the period limited for verification of the register by members, for preparation of polling register.

36. (1) For the purpose of voting, selected High Court stations across the country shall be polling centres.

Voting centres

(2) The Council may recommend creation of more polling centres in areas where the nearest High Court station is too far away or is not easily accessible by members for purposes of voting.

37. (1) A ballot paper for use in an election shall have—

Ballot paper

- (a) the name of the candidate;
- (b) a coloured passport photograph of the candidate;
- (d) a serial number printed on the front side; and
- (e) a counterfoil with the same serial number.

(2) For the purposes of this regulation, a ballot paper includes an electronic ballot paper adopted to contain all the details required.



38. (1) Voting shall be conducted between 8.00am and 5.00pm but the presiding officer or tallying officer may extend the period for not more than 2 hours for a good cause to be recorded, or in accordance with direction given by the returning officer under regulation 25(8).

Procedure for  
voting

(2) A voter shall present a national identity card or a valid passport to an elections official before being allowed to vote.

(3) The electoral body or the person overseeing elections shall ensure that there are mechanisms to ensure that the right person votes and that there is no possibility of a person voting more than once.

(4) If, by reason of being unable to read or write, or otherwise unable to vote in the manner prescribed in these Regulations due to a disability, a voter requests a presiding officer for assistance, the presiding officer shall permit the voter to be assisted or supported to the extent necessary by a person of the voter's own free choice.

39. (1) A voter who has inadvertently spoiled a ballot paper before it is cast is entitled to return it to the presiding officer and to be issued with a fresh one.

Spoilt ballot  
paper

(2) A voter shall not, on account of spoilt paper, be entitled to receive a ballot paper more than twice in relation to the same office for which the vote is cast.

(3) All spoilt ballot papers and all records relating to the voting shall be preserved as provided under regulation 43(5).

40. (1) A presiding officer shall count votes for the respective offices in an open and transparent manner in the following order:

Counting of  
ballot papers

(a) president;

(b) vice-president;

(c) member of Council; and

(d) representative to the Judicial Service Commission or the Disciplinary Tribunal, where applicable.

(2) A presiding officer shall admit to the counting venue a candidate or an agent of a candidate, a member of the elections board, and may admit other person as the presiding officer may think proper.

41. (1) The presiding officer and the candidates or their agents shall sign a declaration in respect of the elections.

Form of  
declaration of  
results

(2) The declaration for election results for president, vice-president, member of Council, member Judicial Service Commission and member of the Disciplinary Tribunal shall be in *Forms LSK-09, LSK-10, LSK-11, LSK-12, and LSK-13* respectively in the First Schedule.

(3) The presiding officer shall—

(a) request each of the candidates or agent then present to append their signature; and

(b) provide each candidate, or their agent with a copy of the declaration of the results.

(4) Where a candidate or agent refuses or otherwise fails to sign the declaration form, the candidate or agent shall be required to record the reasons for the refusal or failure to sign.

(5) If a candidate or agent refuses or fails to record the reasons for refusal or failure to sign the declaration form, the presiding officer shall record the fact of their refusal or failure to sign, but the refusal or failure shall not by itself invalidate the results announced.

(6) Where a candidate or agent of a candidate is absent, the presiding officer shall record the fact of their absence.

42. (1) A candidate or agent, if present when the counting is completed, may require the presiding officer to have the ballots re-checked or recounted.

Recount of  
ballot papers

(2) A presiding officer may, on own initiative, cause the ballots to be recounted.

(3) A recount of ballots under this regulation shall not take place more than once.

43. (1) The tallying officer shall be the overall person in charge of elections on behalf of an electoral body.

Tallying &  
certification of  
results

(2) Immediately after the results from each polling centre have been received by the tallying officer, the tallying officer shall, in the presence of candidates or their agents, members of the elections board and observers, if present, tally the results from the polling centres in respect of each candidate, without recounting the ballots, and the final tally shall be in *Form LSK-14* in the First Schedule.

(3) The tallying officer shall formally announce the results of an election as soon as the tallying is complete.

(4) The results as certified by the tallying officer shall constitute the official results of the elections.

(5) The secretary shall keep and preserve the results and election materials until all disputes, if any, relating to the election have been decided or the time within which the results may be challenged has expired.

44. (1) A person who is aggrieved by the results of an election may, within 7 days of the announcement of the results, lodge a complaint in writing to the elections board.

Determination  
of election  
disputes

(2) A complaint shall contain all the facts and evidence intended to be relied upon and shall set out the legal provision alleged to have been contravened.

(3) An applicant shall serve the complaint to the respondent within 3 days of lodging the complaint.

(4) The secretary to the elections board shall, within 3 days, set a date for hearing the complaint and shall notify all the parties.

(5) The elections board shall expeditiously hear and determine all disputes or complaints referred to it, regard being had to the timelines set out under these Regulations.

(6) The elections board shall determine within not more than 14 days from the date of lodging the complaint.

- (7) The elections board shall deliver a written decision which shall contain reasons for the decision and delivered on a date and time duly notified to the parties prior to the decision.
- (8) The elections board shall have power to —
- (a) cancel or nullify the nomination of a person;
  - (b) impose conditions on a candidate;
  - (c) nullify an election; or
  - (d) declare a candidate to be duly elected; or
  - (e) make such other orders as it may consider just in the circumstances.
- (9) The elections board, for sufficient cause, allow a person to be enjoined to a proceeding before it.
- (10) The decision of the majority of the members of the elections board shall be the decision of the board.
- (11) A person who is dissatisfied with the decision of the elections board may appeal to the High Court within 14 days of the decision, and the law for the time being applicable to civil appeals shall, with necessary modifications, apply to the appeal.
- (12) Where an election is nullified, fresh election shall be held for the affected office, within 90 days.

#### **PART V-THE SECRETARIAT**

45. (1) The Council shall recruit the secretary from amongst qualified members of the Society and the secretary shall serve in accordance with section 26 of the Act and on such further terms as the Council shall determine.
- (2) Where the office of secretary becomes vacant, the Council shall cause the vacancy to be notified to members through appropriate advertisement inviting qualified members to apply to fill the vacancy.
- (3) The Council shall appoint the most qualified person as secretary, taking into account the need for gender equity and national diversity.
- (4) The recruitment of the secretary or other member of staff of the Council may be outsourced wholly or partially to a professional body.

Recruitment of  
secretary

(5) The Council shall develop policies to guide the Society on human resource, administration and related matters.

46. (1) The Council may establish within the secretariat a compliance monitoring unit for the purpose of ensuring that no unqualified person practices.

Monitoring of  
unlawful  
practice

(2) The Council may appoint an officer, or designate a staff member of the Society, to be known as surveillance officer for the purposes of this regulation.

(3) A surveillance officer may carry out investigation where there is evidence or allegation that an unqualified person is engaging in practice.

(4) The surveillance officer shall compile a report which shall include any evidence collected during the investigation and shall submit the report to the secretary for the purpose of taking necessary action, including referring the matter to an investigatory or enforcement agency.

(5) Nothing in this regulation authorises a surveillance officer—

(a) to interrogate, investigate or enter premises of, an advocate who holds a practising certificate;

(b) to act in contravention of a person's Constitutional rights, including the right against self-incrimination and the right to privacy; or

(c) to enter premises without giving reasonable notice to the owner or occupier before such entry, unless the issuing of a notice would defeat the purpose of such entry.

#### **PART VI- FUNDS OF THE SOCIETY, ACCOUNTS AND AUDIT**

47. (1) The sources of the funds of the Society are—

Sources of  
funds of the  
Society

(a) annual subscription fees payable by members;

(b) levies;

(c) grants;

(d) gifts or donations;

(e) endowment fund;

(f) income from investment, programme or project;

(g) any other source as shall be approved by the Council.

(2) Except as provided under the Act or these Regulation, the Council shall not impose on members a levy or other monetary contribution, or create an endowment or other fund using the Society's money, without approval of the members by a special resolution.

48. (1) The Society shall operate such bank accounts with reputable bankers as the Council shall determine.

Bank accounts  
& expenditure

(2) The secretariat may hold on imprest such amount of money as may be approved and allowed by the Council from time to time.

(3) No expenditure shall be incurred for any purpose unless such expenditure has been specifically approved by the Council in an annual or supplementary budget estimate of the Society.

(4) A person who contravenes sub-regulation (3) shall be liable to be surcharged, upon being given opportunity to be heard, for the amount improperly spent.

49. (1) At least three months before the commencement of a year, the secretary shall prepare estimates of the revenue and expenditure of the Society for that year.

Budget  
estimates &  
procurement  
plan

(2) The annual estimates shall make provisions for all the estimated expenditure of the Council for the coming year and in particular, the estimates shall provide for—

(a) the payment of the salaries, allowances or other charges in respect to the staff of the Council;

(b) the payment of pensions, gratuities or other charges in respect of the retirement benefits which are payable out of the funds of the Society.

(c) the maintenance of the buildings and grounds of the Society;

(d) the annual grants to branches and contribution to the Devolution and Regional Integration Fund;

(e) the maintenance, repair and replacement of the equipment and other property of the Society;

- (f) the reimbursement of reasonable expenses incurred by Council members, committee members or other persons exercising delegated authority of the Council;
- (g) expenses in respect of other matters as the Council may consider appropriate.
- (3) The secretary shall, together with the annual estimates, prepare an annual procurement plan and work plan for the year.
- (4) The annual procurement plan and annual work plan shall be approved by the Council.
- (5) The annual estimates shall be reviewed by the Budget and Finance Committee and tabled before the Council for approval.
- (6) The secretary shall implement the approved budget in accordance with the annual procurement plan and work plan under the specific direction of the Council.
- (7) The Council may approve adjustment of items within the budget or supplementary budget on the recommendation of the secretary through the Budget and Finance Committee.

50. (1) There is hereby established a fund to be known as Devolution and Regional Integration Fund which shall be managed by the Council on behalf of the Society.

Devolution &  
Regional  
Integration  
Fund

- (2) The Fund shall be used to support branches, other devolved units and other bar associations as the Society may, by resolution of members, resolve to be party to, in accordance with these Regulations or any written law.
- (3) The Council shall in each year disburse out of the unrestricted funds of the Society, not less than the amount of money provided in Part IA of the *Third Schedule* as a contribution to the Devolution and Regional Integration Fund.
- (4) The minimum amount to be apportioned to each branch and amongst branches under Part 1(B) of the Third Schedule shall be in accordance with the percentages in Part 2 of the Third Schedule.

(5) The Council may, in consultation with chairpersons of the branch executives, with advice of a revenue allocation expert where necessary, recommend for approval by members, a review or amendment of the formula or the amounts in the Third Schedule.

(6) A branch executive shall equitably apportion to a chapter or chapters within the branch a fraction of the amount allocated to the branch in each year.

(7) Subscription fee payable by a member to a regional bar association to which the Society is a party may be deposited into the Fund and shall be disbursed in accordance with relevant procedures.

51. (1) The Council shall cause to be developed, and shall approve, policies, procedures and guidelines for the management of the funds and assets of the Society in a transparent, accountable and prudent manner.

Policies,  
procedures &  
guidelines

(2) The Council shall develop guidelines and procedures requiring that the outgoing president, deputy president, member of the Council or member of a committee, or other person, to prepare a report and to hand over office to an incoming leader in such manner and timelines as will ensure accountability, effective continuity and operation of the relevant office.

(3) The policies, procedures and guidelines developed and approved under this regulation shall extend and apply to a branch executive and other devolved units with necessary modifications.

52. (1) The Council shall recommend to the Society an external auditor for approval by members for the purpose of auditing the accounts of the Society, the branches and the chapters for the following year.

Appointment  
of auditor

(2) An auditor may be appointed to serve for more than one year at a time, subject to regulation 54.

53. (1) The auditor appointed under regulation 52 shall audit the accounts of the Council, those of the branches and chapters, but the audit report shall show the audit results for each of the branches or chapters.

Audit of  
Council &  
branch  
executives



(2) The secretary shall forward the audited accounts to members of the Society by electronic mail or otherwise not later than 7 days before the time set for the meeting to discuss the accounts.

54. (1) An auditor appointed under regulation 52 may not serve as auditor of the Society, branches or chapters for more than six consecutive years.

Tenure of  
auditor

(2) The Council may not remove an auditor before expiry of the period for which the auditor was appointed—

(a) unless the removal is in accordance with the recommendations of the Audit Committee for good cause; and

(b) the recommendation for the removal is approved by a simple majority of members present and voting in a general meeting.

(3) An auditor may resign in writing addressed to the secretary.

#### **PART VII- MEMBERSHIP, FUNCTIONS & GOVERNANCE OF BRANCHES**

55. (1) Subject to sub-regulation (2) a member who ordinarily practises in a region falling within one of the branches shall be entitled to be a member of that branch.

Membership  
of a branch

(2) Where a member owns or operates an office in one or more of the regions falling under different branches, the member may have membership to those branches but for the purpose of participating in an election for a national office or branch executive, the member is deemed to only belong to the branch which the member, or in default, the secretary, has designated as the member's principal place of practice.

(3) A branch secretary shall keep a register of members of the branch and the law firms operating within the branch, but where there is a conflict between the entries in a register kept under this regulation and a register kept by the secretary, the register kept by the secretary shall take precedence.

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(4) A branch secretary shall indicate in the register of the members of the relevant branch whether a member is registered at the branch as principal place of practice or as a secondary place of practice.

(5) A branch secretary may, from time to time, liaise with the secretary for the purpose of updating particulars in the branch register or a register kept by the secretary.

56. A member of a branch shall, in relation to that branch, be entitled to the rights set out under section 12 of the Act and shall be subject to—

(a) the obligations in regulation 11, with any necessary modifications; and

(b) the limitations on elections as provided under regulation 55(2).

57. (1) There shall be established a branch executive for each branch.

(2) A branch executive shall consist of—

(a) chairperson;

(b) branch secretary;

(c) treasurer; and

(d) at least five and not more than twelve other members.

(3) The composition of the branch executive shall embrace equity in gender and geographical diversity of the branch.

(4) The chairperson shall preside at all meetings of the branch executive but in the absence of the chairperson, the members of the branch executive shall appoint one of their numbers, not being the secretary, to preside.

(5) A branch executive may establish such committees as may be necessary to discharge its functions and membership to a committee may include members of the branch who are not members of the branch executive.

(6) Except as provided under this Part, a branch executive shall determine the manner of conducting its meetings and of making resolutions.

Rights and  
obligations of  
member

Branch  
executive

58. (1) A branch may by resolution of members in a general meeting adopt a procedure for election of chairperson, secretary, treasurer or other member of branch executive.

Procedure for  
elections at  
branch

(2) The procedure adopted for elections by the branch shall be—

- (a) transparent;
- (b) fair; and
- (c) by secret ballot.

(3) Subject to this regulation, a branch may adopt with necessary modifications the procedure for election of the Council.

59. (1) A chairperson or secretary of a branch executive shall not serve for more than two consecutive terms of two years each.

Term of office  
of branch  
executive

(2) Except as provided under sub-regulation (1), there is no restriction on the number of terms a member of the branch executive may be elected into office.

60. (1) Subject to regulation 61, a branch executive shall—

Functions &  
powers of  
branch  
executive

(a) represent, protect and assist members who ordinarily practise within the branch, chapters or centres within the branch on matters relating to practice and welfare;

(b) collaborate with government entities or other institutions or offices, falling within the jurisdiction of the branch, for purposes of improving the conditions of practice or welfare of members of the branch;

(c) administer the funds of the branch in accordance with these Regulations, principles and policies established by the Council;

(d) establish mechanisms to promote and improve the welfare of members of the branch;

(e) receive or resolve, through alternative dispute resolution mechanisms, complaints or disputes within the meaning of regulations 95 or 96;

(f) inform the Council of any matter that requires the Council to engage a relevant stakeholder at a higher level on behalf of the branch;

(g) enter into association with other persons or organisations in Kenya, or outside Kenya with the approval of the Council;

(h) consider and approve the creation of a chapter within the geographical jurisdiction of the branch;

(i) convene general meetings of the branch as provided under regulation 64;

(j) prepare and send to the Council reports relating to the exercise of the powers and functions of the branch under these Regulations, or such reports as may be required by the Council.

(2) A branch executive may with the approval of members of the branch by special resolution-

(a) raise funds by introducing a levy or otherwise to finance its activities or projects;

(b) establish a voluntary annual subscription system for branch members and fix the amount payable by each member who has subscribed.

61. (1) For the purpose of section 24 (2) of the Act—

(a) a function or power of a branch executive shall not extend to a function or power that is specifically conferred upon the Council under the Act;

(b) a function that is not expressly conferred on the branch executive is a function of the Council.

(2) In exercising their respective functions and powers, the Council and the branch executive shall mutually consult from time to time as may be necessary to ensure that the delivery of services to the members or the public is efficient and effective.

62. (1) Subject to the Act and these Regulations, a branch may, by resolution of its members in a general meeting, adopt a branch charter—

(a) to make further provisions on the function, role and operation of the branch, its branch executive and other branch organs;

(b) to provide for the structure of the branch executive and other organs;

Status of  
branch &  
relation with  
Council

Branch charter

(c) to recognise and provide for operations of any chapter or association of members under the branch;

(d) to provide for the rights and obligations of its members; and

(e) to set out any other matter in connection with the above paragraphs.

(2) A branch charter shall take effect upon adoption by the general meeting of the branch and upon being submitted to the Secretary.

(3) The Society may by resolution upon giving the affected branch executive notice of at least 21 days, amend or alter any provision of a branch charter, and such amendment or alteration shall take effect as a protected provision for 24 months, unless sooner altered by the Society in a general meeting.

(4) A branch may, by resolution of its members in a general meeting, amend, repeal or replace a branch charter.

(5) Subject to regulation 60, a branch executive may establish, recognize, deal with, promote, or participate in the activities of, a bar association comprising its members if the bar association has as its object the promotion of the practice or welfare of members of the branch.

63. (1) A branch executive may enter into collaboration with one or more other branches or chapters if the branch considers it necessary to further the objectives of the branch.

Collaboration  
with other  
branches

(2) For the purpose of coordinating or facilitating common or mutual interests, the branch chairpersons may form a caucus of chairpersons.

(3) The caucus may elect or appoint one of its own members to be the chairperson of the caucus for such duration as the caucus may determine.

64. (1) A branch executive may establish or recognise a chapter within a region or centre falling under the branch to carry out any of the functions of the branch.

(2) A member of the Society may requisition a branch executive for recognition of a chapter falling within the branch.

(3) A chapter may be recognised if—

(a) it has at least 50 members who ordinarily practise in the chapter;

(b) the person requisitioning satisfies the branch executive that there is need to recognise the chapter to enhance the practice and welfare of the members of the proposed chapter; and

(c) the requisition is in writing, signed by the member and at least one third of the members who ordinarily practise in the geographical region of the proposed chapter.

(4) An application for recognition of a chapter shall be accompanied by the names of the proposed chairperson and chapter secretary.

(5) The branch executive shall consider the application within 60 days and shall—

(a) if it resolves to approve the application, inform the applicant of its decision within 15 days of making the decision; and

(b) forward a report to the Council which shall include—

(i) the name of the proposed chapter;

(ii) the names of the interim officials;

(iii) the proposed head office;

(iv) the number and names of members ordinarily practising in the proposed chapter;

(v) the approximate geographical area; and

(vi) any relevant information that may help the Council to understand the proposed chapter.

(6) A person who applies for recognition of a chapter and is aggrieved by a decision of the branch executive under this regulation may within 21 days from the date of receipt of notification of the decision, appeal in writing to the Council.

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(7) The Council shall review the decision of the branch executive, and communicate its decision in writing to the person who has appealed, within 60 days from the date of lodging the appeal.

(8) A member of a chapter is entitled, as regards the particular chapter, to all the rights of a member and is subject to the obligations to that chapter, consistent with the Act and these Regulations.

65. (1) The procedure of the Council and the Society relating to the following matters shall, with necessary modifications, extend and apply to a branch executive or branch meetings respectively:

- (a) meetings of the Council;
- (b) general meetings of the Society;
- (c) resolutions;
- (d) suspension or removal from office;
- (e) filling of casual vacancy in the branch executive.

(2) Save as provided under sub-regulation (1) a branch executive shall regulate its meetings and those of the branch membership.

(3) Where the Council has scheduled a meeting or other activity of the Society involving all members, a branch or chapter shall not organise any other activity at the same time that is likely to interfere with a meeting or activity planned by the Council.

66. (1) At least one month before the commencement of a financial year, each branch executive shall cause to be prepared estimates of the revenue and expenditure for the following year.

(2) The annual estimates shall make provision for all estimated expenditure of the branch executive for the relevant financial year, and in particular shall provide for the payment of the salaries, allowances and other disbursements in respect of the members and the staff of the branch and the maintenance of building and grounds of payment of rent.

(3) The annual estimates shall be submitted to the Council for consideration before the Council disburses annual grant.

Procedure for  
meetings of  
branch  
executive

Branch annual  
budget  
estimates

(4) The Council may make recommendations as it deems appropriate regarding proposed annual estimates of a branch and shall communicate to the relevant branch executive.

(5) A branch executive may, if it thinks appropriate, take into account the recommendations of the Council on the proposed annual estimates.

67. (1) A branch executive shall—

Bank accounts  
& reports

(a) open and operate one or more bank account or accounts into which revenue that is not immediately required shall be deposited;

(b) for effective management, operate separate bank accounts for the Society's annual grant and other funds.

(2) The signatories to a branch account shall not be less than two and must include the chairperson of the branch executive.

(3) A branch executive shall, within 15 days of opening a bank account, send to the Council details of—

(i) the name and branch of the bank, and the account number;

(ii) the signatories to the account;

(iii) the type of account; and

(iv) the purpose of the account.

(4) A branch executive shall, on half-yearly basis, and within 45 days after the end of the relevant reporting period, cause to be prepared and submitted to the secretary a management report that includes a statement of income and expenditure of the branch.

(5) A statement of income and expenditure in sub-regulation (4) shall include a summary of income and expenditure by a chapter falling under the branch.

68. (1) A branch executive shall cause proper books and records of accounts to be kept of all funds, assets and liabilities of the branch to be kept, and to be audited as of the 31st December in each year.

Branch  
accounts and  
audit

(2) Within a period of two months after the end of each year, a branch executive shall submit to the auditor the accounts of the branch together with-

- (a) a statement of income and expenditure during that year; and  
(b) a statement of the assets and liabilities of the branch executive as at 31st December of the immediate preceding year.
- (3) The accounts of a branch shall be audited by an auditor appointed by the Council under regulation 52.

69. (1) A branch executive may employ such members of staff as it considers necessary for the discharge of its functions under the Act and these Regulations upon such terms and conditions as it may determine.

(2) The Council may second an employee of the Council to work with a branch executive generally or for a specified task or period.

Employment  
of staff

70. The membership of a chapter committee shall consist of—

- (a) chairperson;  
(b) chapter secretary; and  
(c) not more than 7 other members.

Governance of  
a chapter

71. (1) Subject to this regulation, and with the approval of a branch executive, a chapter committee shall exercise, in relation to the region falling under the chapter, the powers and functions exercisable by a branch executive.

Functions &  
powers of a  
chapter

(2) Nothing in this regulation shall authorise a chapter committee to exercise any powers in relation to formation of a further unit under it or in relation to the powers or functions that are expressly reserved for the Council under the Act, other legislation or under these Regulations.

(3) A chapter committee may employ such members of staff on such terms as the chapter committee considers appropriate to enable discharge of its functions.

72. (1) A chapter committee shall cause proper books and records of accounts of all funds, property, assets and liabilities of the branch to be kept, and to be audited as of the 31st December in each year.

Accounts and  
audit

(2) A chapter secretary shall keep minutes of all meetings of the chapter committee and shall make half-yearly reports, including a statement of

income and expenditure, to the branch executive within 21 days after the end of the reporting period in such manner as the branch executive shall require from time to time.

(3) A chapter may operate one or more bank accounts with the chairperson and one or more other chapter officials as signatories.

(4) A chapter committee shall notify the branch executive for onward transmission to the Council, details of a bank account and the names of signatories to the account within 15 days of opening the account.

(5) A chapter committee shall prepare and submit an annual report to the branch executive within 15 days of the end of the year.

(6) The accounts of a chapter shall be audited by an auditor appointed by the Council under regulation 52.

73. The procedure adopted by a branch executive and approved by members of the branch in a general meeting, for election, suspension, removal, general meetings, and filling of casual vacancy shall extend and apply to a chapter falling within the branch, with any necessary modifications.

Election,  
suspension,  
etc. of chapter  
committee

#### **PART VIII: GENERAL MEETINGS OF THE SOCIETY**

74. (1) A general meeting may either be an ordinary general meeting or a special general meeting.

General &  
special  
meetings

(2) A general meeting of the Society shall be held in Nairobi or at such other place as the Council may determine.

75. (1) The secretary shall send notice of a general meeting to members of the Society at least 28 days before the date set for the meeting, setting out the date, time and venue of the meeting.

Notice of  
meeting

(2) A notice for a general meeting may be given to a member—

(a) by sending an electronic version through the e-mail address given by the member in the member's application for practising certificate or latest particulars given by the member;

(b) by sending it by post to the member;

(c) by delivering the notice at the member's usual or last known business address; or

(d) by personal delivery.

(3) The secretary may publish in a newspaper of national circulation an advance notice of a scheduled general meeting.

(4) Not later than 14 days before a scheduled meeting, the secretary shall send to members-

(a) the agenda of the meeting; and

(b) any notice of motion issued pursuant to regulation 76.

(5) The Secretary may, in consultation with the president, send any other information or document to members for purposes of a meeting.

(6) The accidental omission to give notice of a meeting to a member or the non-receipt of the notice by a member, or non-receipt of a matter under sub-regulation (4) or (5) shall not invalidate the proceedings or a resolution made at a general meeting.

76. (1) A member who desires to move a motion on an issue during an ordinary general meeting of the Society shall give notice to the secretary of the intention to move the motion and the notice shall set out the exact form in which the motion shall be presented at the meeting.

(2) A notice of motion shall be signed by the mover and the seconder of the motion and must be delivered to the secretary at least 21 days before the date set for the meeting where the motion is intended to be moved or discussed.

(3) A notice of motion may be delivered to the secretary by sending a signed scanned copy to the official electronic mail address provided by the secretary and the delivery of the notice is deemed to be made at the end of the day on which the notice was dispatched.

Notice of  
motion

(4) Where a member sends a notice under sub-regulation (3) the member shall deliver the original notice of motion to the secretary at least 15 days before the date on which the motion is to be discussed.

(5) A notice of motion may be issued or moved by the Council through a member of the Council.

(6) A motion must not be in contravention of the Constitution or legislation unless the motion seeks to recommend amendment of the Constitution or that legislation.

(7) Where a motion directly refers to, or affects a member, the mover of the motion shall, upon lodging the notice of motion, serve upon the member, in person or by electronic mail, a copy of the notice of motion, at least 14 days before the date set for hearing the motion, and the member shall have priority to respond during the debate.

77. For the purpose of section 31(2) of the Act, notice requisitioning a special general meeting shall be in *Form LSK-15* in the First Schedule and shall be submitted to the secretary.

Special  
general  
meeting

78. (1) For the purpose of section 16 (7) of the Act, in the absence of—

(a) both the president and the vice-president; or

(b) a member of Council, or if a member of the Council present is not willing to preside,

the members of the Society present shall nominate the senior-most member of the Society present to preside at the meeting.

(2) For the purpose of this Part, the power or discretion conferred upon the president regarding conduct of a general meeting shall be exercisable by a person for the time being lawfully presiding at a meeting in the absence of the president.

Presiding at  
general  
meeting

79. (1) No business shall be transacted at a general meeting unless a quorum is present at the time when the meeting proceeds to business.

(2) If within fifteen minutes from the time appointed for the meeting a quorum of members is not present, the meeting-

(a) if convened on the requisition of members, shall be dissolved; and

Quorum

(b) in any other case, shall stand adjourned to the same day in the following week, at the same time and place.

(3) If at the adjourned meeting a quorum of members is not present within fifteen minutes from the time appointed for the meeting, the members then present shall constitute a quorum.

(4) A member present at a general meeting shall have one vote.

(5) The president or a person presiding at a general meeting shall have a deliberative as well as a casting vote.

80. The president may, with the consent of the meeting by a majority of the members present, adjourn the meeting from time to time and place to place, but no business, other than the business left unfinished at the meeting from which the adjournment took place shall, without consent of the president, be transacted at an adjourned meeting.

Power of  
president to  
adjourn  
meeting

81. The following rules of debate shall be observed:

Rules of  
debate

(a) in case of debate on any matter, no member shall be permitted to speak more than once on the same question, except that the mover of a motion or resolution shall be allowed to speak in reply after which the debate shall be closed;

(b) a member who has spoken may, by permission of the president, be again heard in explanation; but the member shall not introduce new matter or interrupt a member who is speaking;

(c) the mover of an original motion shall not, against the evident sense of the meeting as expressed by the president, speak for more than ten minutes; and no other speaker shall, nor shall the mover in reply, as against such evident sense expressed as aforesaid, speak for more than ten minutes;

(d) a member desiring to move that the meeting proceeds to take a decision upon either an original motion or an amended motion may do so by moving that the question be now put;

(e) the mover of a motion—

(i) that the question be now put;

- (ii) that either the meeting or debate be adjourned; or
- (iii) that the meeting do proceed to the next business, may speak for not more than five minutes, and any such motion shall be seconded without a speech; and a member (the mover of the motion or amendment under discussion to have the preference) may speak for not more than five minutes in opposition to any such motion, which shall then be put by the president without debate;
- (f) whenever an amendment to an original motion has been moved and seconded, no second or subsequent amendment to the motion shall be moved until the first amendment has been disposed of;
- (g) if an amendment is carried, the motion as amended shall take the place of the original motion, and shall become the motion of which any further amendment may be moved;
- (h) no member shall move more than once that any one motion be amended;
- (i) the president may call the attention of the meeting to continued irrelevance, repetition, improper use of language, or any breach of order on the part of a member, and may direct such member to discontinue speech or to leave the meeting;
- (j) the president may, where no procedure or guideline is provided under these Regulations, give guidance on the proceedings of a meeting.

82. (1) During a general meeting every issue on which a decision is required shall be decided in the first instance by a show of hands, when every member present in person shall be entitled to one vote.

(2) Unless a poll is directed by the president or demanded by at least three members—

(a) a declaration by the president that a resolution or decision has been adopted or not adopted or adopted or not adopted by a particular majority; and

(b) an entry to that effect in the minutes of the meeting, shall be conclusive evidence of the facts without proof of the number or proportion of the votes recorded for or against such resolution or decision.

Manner of  
decision-  
making



(3) A direction or demand for a poll may be withdrawn at any time before the adjournment of the meeting and shall not be given or made in respect of the question of adjournment of a meeting.

83. (1) A poll that is allowed in accordance with the provisions of regulation 81 (2) may be undertaken and concluded during the same meeting by—

Procedure for  
a poll

(a) causing a division; or

(b) where appropriate, be administered electronically according to an established system.

(2) Subject to sub-regulation (1), a poll may be taken by means of voting papers in accordance with the following provisions—

(a) the president shall appoint not less than three scrutineers from amongst the members of the Society to receive and examine the voting papers and certify the result of the poll;

(b) two scrutineers shall be a quorum and the death of one or more of the scrutineers shall not affect the poll;

(c) if by death, refusal or incapacity to act, the number of scrutineers is reduced below two, a member to fill each vacancy shall forthwith be nominated by the president or, if the president is for any reason prevented from doing so, by the vice-president;

(d) the president shall then fix a day to which the meeting, at the conclusion of the other business, shall stand adjourned;

(e) the secretary shall as soon as possible after the poll has been granted send a voting paper by post to each member with a specially marked envelope for return;

(f) the voting paper shall be in such form as the Council may direct and shall include—

(i) a statement of the question on which the poll has been directed or demanded; and

(ii) the day on or before which the voting paper must be returned;

(g) a voting paper shall be returned on or before the specified time or date to the secretary sealed in a specially marked envelope, or in an envelope

endorsed "voting paper" in the top left-hand corner thereof, and the secretary shall place all such envelopes unopened in a box and shall deliver them to the scrutineers for opening and examination;

(h) a voting paper which is unsigned or is received by the secretary after the prescribed time or date, or one that shows that a member has voted more than once shall be rejected by the scrutineers;

(i) as soon as the voting papers have been examined and the result of the poll ascertained, the scrutineers shall prepare a written report, and the voting papers shall be closed up under the seal of the scrutineers and shall be retained by them for one month after the date of the adjourned meeting and may then be destroyed;

(j) the report of the scrutineers shall be signed by them and shall contain the following particulars—

(i) the total number of valid votes cast in favour of the question;

(ii) the total number of valid votes cast against the question;

(iii) the total number of voting papers received; and

(iv) the number of voting papers, if any, rejected and the grounds of rejection;

(k) the report of the scrutineers shall be read to the adjourned meeting and the president shall declare that the question has been decided by the meeting either in the affirmative or negative accordingly;

(l) in the case of an equality of votes the president shall have a casting vote.

(3) In all cases of dispute, doubt or difficulty respecting or arising out of matters of procedure or order, the decision of the president shall be final and conclusive.

(4) If any irregularity occurs in the convening or holding of a general meeting, or in any election or other proceeding taking place at or prior to any such meeting, and it is not objected to at that meeting, then that general meeting, election or proceeding shall be of the same force and validity as if no irregularity had occurred; but if any irregularity is

objected to, the president shall decide thereon and the decision shall be final and conclusive.

84. (1) A notice of intention to propose a special resolution as defined under section 33 (2) of the Act shall be given at least 21 days before the date proposed for the resolution.

(2) Where the Council or a member of the Society proposes to have a resolution or special resolution made in a general meeting altered or rescinded, the Council or the member shall give notice of intention to propose an alteration or rescission in the same manner as a motion.

(3) A resolution of the Society may be as a consequence of a motion moved by a member, or the Council, or may arise from a proposal made on the floor on an agenda approved for the day.

(4) The secretary shall keep and maintain a register of all resolutions made by the Society and a member shall have access to the resolutions at all reasonable hours.

Resolutions of  
the Society

85. (1) The secretary shall, in addition to the minutes kept under section 36 of the Act, keep record of the proceedings, decisions and resolutions of a general meeting.

(2) Minutes of the proceedings of a general meeting shall be kept in a book to be provided for that purpose, and, if approved by the next succeeding general meeting, shall be signed by the president thereof; and any minutes so signed shall be conclusive and binding on all members of the Society.

Records of  
general  
meetings

#### **PART IX-REPRESENTATION OF THE SOCIETY ON OTHER BODIES**

86. (1) The secretary shall keep and maintain a register of all Constitutional, statutory and other public bodies where the Society is required by legislation or otherwise to nominate or elect representative to sit on their organs.

(2) The register shall contain—

Register of  
bodies

- (a) the name of the body;
  - (b) the position in which the Society is represented;
  - (c) the name of the member for the time being in office;
  - (d) the commencement and projected end of the tenure of the member;
- and
- (e) a statement on whether the representative is eligible for further appointment or election.
- (3) The register shall be available for inspection by a member at all reasonable times upon notice.

87. (1) If the Society is required by legislation or otherwise to nominate a member to serve on an organ of a Constitutional, statutory or other public body, the secretary shall issue notice of the vacancy and shall at the same time invite interested qualified members to apply to be considered for that position.

(2) The Council shall consider all applications received and shall make a decision on the qualified person for nomination to a relevant office.

(3) The qualification for nomination to a Constitutional, statutory or other public body shall include—

- (a) the requirements under the relevant provisions of the Constitution, legislation or requirements of the particular institution to which the member is to be nominated or appointed;
- (b) the relevant experience and competence of the applicant; and
- (c) the academic qualification commensurate with the office to which the member is to be nominated or appointed.

(4) Despite this regulation, the Council may appoint a qualified member to a public body where—

- (a) a request for nomination to the body requires the Society to nominate a person within 21 days or less; or
- (b) where the appointment is of temporary nature or for a short period.

(5) (a) Despite sub-regulations (1) and (2), a representative of the Society to the Judicial Service Commission or the Disciplinary Tribunal shall be elected by members either during the election of the Council or separately

Notification of  
vacancy &  
appointment

and the process shall be competitive, transparent and allows members to exercise their right to secret ballot.

(b) Subject to any written law, where the election of a representative of the Society to the Judicial Service Commission or to the Disciplinary Tribunal is required within a period not exceeding three months after the date scheduled for election of the Council, such election may be done in advance at the same time as the election of the Council.

88. (1) A member who is nominated or elected to serve on a Constitutional, statutory or other public body is subject to the Constitution or the legislation for the time being regulating the relevant body.

Term &  
procedure for  
recall

(2) A member who represents the Society on a Constitutional, statutory or other public body shall not—

(a) represent the Society on more than one body at a time; or

(b) serve on that body for more than two terms.

(3) A member who is so nominated or elected shall, in addition to the responsibilities pursuant to the Constitutional or legal instrument under which the member serves, articulate and represent the interests of the Society in accordance with the objectives set out under sections 4 and 6 of the Act.

(4) Despite sub-regulation (1), a member who represents the Society shall make quarterly reports to the Council in *Form LSK-16* in the First Schedule.

(5) Subject to the Constitution and any applicable legislation, a member who represents the Society may at any time be recalled by the Society—

(a) if the member is liable to be recalled by virtue of the law under which the member has been nominated or elected, if the requirements under that law have been met;

(b) if the member ceases to be a member of the Society;

(c) if it is shown that the member has failed to articulate or is incapable of articulating the interests of the Society, or has failed without

reasonable cause to follow lawful guidance or directions given by the Council;

(d) if it is shown that the member has acted in a manner not befitting the office in which the member serves and the conduct has brought, or is likely to bring, the Society into disrepute; or

(e) if the member fails to submit quarterly report to the Society for two consecutive quarters.

(6) A member of the Society may initiate the process of recall by lodging an application in writing setting out the grounds for recall and the facts in support of the application and the Council shall consider the application and make a resolution accordingly.

(7) The Council may by resolution, recommend to members the recall of a representative of the Society.

(8) A member may not be recalled unless the Council resolution to recall the member is approved by members in a general meeting.

(9) Before the Society recalls a member, the member shall be given opportunity to show cause, or make representations, at the meeting where the issue is discussed on why the member's representation of the Society should not be recalled.

89. (1) A representative of the Society on a Constitutional, statutory or other public body may at any time, and subject to any law, resign in writing addressed to the secretary.

(2) Where a vacancy occurs in the representation of the Society for whatever reason, the vacancy may be filled by the Council for the unexpired term and the procedure for nomination to a Constitutional, statutory or other public body shall apply in filling the vacancy.

Resignation  
and filling of  
vacancy

#### PART X-MISCELLANEOUS

90. (1) The Council may cause to be published a journal, magazine, book or other publication for the purpose of promoting the objects or principles of the Society and such publication shall include electronic publication.

Publications &  
library fund

(2) Without prejudice to the generality of sub-regulation (1) the Council shall periodically produce a publication to be known as “The Advocate” to be the official journal of the Society and shall collect from each member of the Society an annual levy as may be determined by the Council and approved by members in a general meeting.

(3) The Council shall, with the approval of members in a general meeting, establish a fund to be known as “Library Fund” and shall collect an annual levy from each member of the Society.

91. (1) A member of the Council, or of a committee or a task force appointed or approved by the Council is entitled to be paid an allowance from the funds of the Society, as well as to be reimbursed traveling and other expenses reasonably incurred by the member in attending a meeting or doing something on behalf of the Council, committee or task force.

Reimbursement  
of expenses

(2) A member of a branch executive or chapter committee is entitled to be paid an allowance from the funds of the branch or chapter, as well as to be reimbursed traveling and other expenses reasonably incurred by the member in attending a meeting or doing something on behalf of the branch or chapter.

(3) The allowances payable under this regulation shall be reviewed by the Budget and Finance Committee and approved by the Council.

92. (1) The common seal of the Society shall be kept in the custody of the secretary, and shall not be affixed to a document otherwise than pursuant to authority of the Council.

Use of official  
seal

(2) Except as provided under sub-regulation (1) a document made by the Council need only be executed, and a decision of the Council shall be signified, under the hand of the secretary.

93. (1) The Council may within or outside Kenya, for the purpose of better carrying out its mandate and meeting the objectives of the Society-

(a) enter into collaboration or mutual recognition with another bar association; or

Collaboration  
with other bar  
associations

- (b) join with a regional or international bar association to form another bar association or body.
- (2) Where the Council proposes to enter into association or collaboration with another bar association, the Council shall do so by resolution and shall sign a memorandum of association or other instrument that clearly defines the terms of association or collaboration, including the objectives and the duration of such collaboration.
- (3) Without prejudice to the generality of sub-regulations (1) and (2), the Council shall only enter a collaboration with another bar association if—
- (a) the constitution of the other bar association allows such collaboration;
  - (b) the arrangement has potential to benefit members of the Society by improving the practice of law, welfare of members of the Society, the promotion of the rule of law, justice or constitutionalism.
- (4) A branch or a chapter may enter into a collaboration with a foreign bar association upon written approval by the Council, which approval shall not be unreasonably withheld.
- (5) Where a branch or a chapter wishes to enter into collaboration with a foreign bar association, it shall write to the Council setting out—
- (a) the name of the bar association;
  - (b) the country where the bar association is based;
  - (c) evidence that the bar association is a lawful entity in the country where it is based and that it is empowered by its constitutive instrument to enter into such collaboration;
  - (d) a summary of the objects of the foreign bar association;
  - (e) the benefits expected to be derived from the collaboration; and
  - (f) the rights and obligation of the respective parties to the collaboration.
- (6) The Council shall consider the application and communicate its decision within 60 days, and may—
- (a) accept;
  - (b) reject; or
  - (c) seek more information before making the decision, in which case the decision must be made and communicated within a further 60 days.



(7) The affected branch executive or a member of the branch may move a motion in a general meeting of the Society as provided under these Regulations for the purpose of altering, reviewing or reversing a decision of the Council under this regulation.

94. (1) A member of the Society shall at all times adhere to and be subject to a code of conduct, ethics or etiquette proposed by the Council and approved by members in a general meeting.

Codes of  
conduct and  
etiquette

(2) A code of conduct shall contain rules of conduct that are generally accepted by members as reflecting best practices.

(3) The Council shall upon approval of a code of conduct, ethics or etiquette, publish it in the *Gazette*.

95. (1) Parties to a dispute referred to in regulation 96(1) may attempt to reach settlement by—

Negotiation,  
conciliation &  
mediation

(a) negotiation;

(b) conciliation; or

(c) mediation.

(2) The procedure for negotiation, conciliation or mediation shall be simple and the process shall be guided by the international best practices or any law for the time being regulating negotiation, conciliation and mediation.

(3) A decision or settlement by the use of any of the methods under paragraphs (a), (b) or (c) of sub-regulation (1) shall be concluded within 28 days from the date of lodging the dispute.

(4) A decision or settlement by the use of any of the methods under paragraphs (a), (b) or (c) of sub-regulation (1) shall immediately be filed with the secretary and shall, subject to the Act and these Regulations, be binding on the parties to the dispute.

96. (1) Where a dispute arises—

Arbitration

(a) relating to the exercise of the mandate or the management of the affairs, of the Society, of a branch or chapter; or

(b) relating to the rights of a member against any other member or the Council, branch executive or chapter committee, the aggrieved party shall-

(i) refer the dispute in writing to the secretary, where the dispute concerns the national office of the Society; or

(ii) refer the dispute in writing to the secretary-general of the relevant branch where the dispute involves an issue or a party at the branch level.

(2) A dispute may exist between or amongst one or more of the parties listed in sub-regulation (1).

(3) Where a dispute has been lodged with a branch secretary and the dispute cannot be resolved within 30 days, the branch secretary shall, within 7 days, forward the dispute to the secretary and the procedure for hearing and disposal of the dispute provided under this regulation shall thereafter apply.

(4) The secretary or a branch secretary shall, within 14 days upon receiving notification of a dispute from an aggrieved party, or upon the secretary receiving notification of a dispute from a branch under sub-regulation (3), refer the dispute to an arbitrator or arbitrators appointed by the parties to such dispute for determination.

(5) The number of arbitrators so appointed shall not in relation to any one dispute exceed three.

(6) Where a dispute is between—

(a) a member; or

(b) a branch executive or chapter committee,

and the parties to the dispute cannot agree on an arbitrator within 14 days, the president shall appoint an arbitrator to hear and determine the dispute.

(7) Where a dispute involves—

(a) the Council; or

(b) a member of the Council and any other party,

and the parties cannot agree on an arbitrator within 14 days of lodging of the dispute, the arbitrator shall be appointed by the Chairperson of the Chartered Institute of Arbitrators, Kenya Chapter.

(8) The arbitrator or arbitrators shall hear and determine a dispute in accordance with the law for the time being regulating arbitration, and the decision shall be final and binding on all parties to such dispute.

(9) The time provided under this regulation for lodging or taking other step in dispute resolution process is subject to regulation 45 where the dispute concerns elections.

97. The Society may, in the exercise of powers and the performance of its functions under the Act or these Regulations, employ such information and communication technology as may be appropriate.

Information  
communication  
technology

98. Legal notices numbers 546/62, 127/84, 279/95 & 141/97 are revoked.

Revocation of  
legal notices

100 (1) Despite the revocation of legal notices numbers 546/62, 127/84, 279/95 & 141/97—

Savings &  
transition

a) an act or thing done;

b) a power or function; or

c) a resolution made,

pursuant to a provision in the repealed regulations shall be as valid as if the act or thing was done, or power or function exercised or undertaken, under these Regulations.

(2) A person who has been elected, nominated or appointed in accordance with a provision in the Act or the repealed Regulations shall continue to hold office and to perform the functions of that office for the remainder of the term and any appointment or election to fill the position shall subsequently be in accordance with these Regulations.

(3) A committee established by the Council for any particular purpose or function shall continue to exercise the function for which the committee was established until it is reconstituted under these Regulations.

(4) The amount of annual subscription fee or other levy payable by a member immediately before the commencement of these Regulations shall continue to be the amount payable by the member under these Regulations until varied in accordance with these Regulations.

(5) A member who has, immediately before the commencement of these Regulations, paid annual subscription fee or other levy under the repealed Regulations shall be deemed to have paid the subscription or levy under these Regulations.

(6) A bar association or chapter that has been created or registered under any legislation or otherwise recognised by the Society immediately before the publication of these Regulations shall, within six months from the date of publication of these Regulations, apply to the relevant branch for recognition in accordance with these Regulations.

(7) A bar association or chapter existing at the commencement of these Regulations shall, on application to be recognised as a chapter, be recognised as such despite the bar association or chapter not meeting the requirement of Regulation 64(3) (a).

(8) The sum of money previously payable by a member to the East Africa Law Society and which amount the Society resolved at the Annual General Meeting of 24th March 2018 to cease remitting to the East Africa Law Society, is deemed to be a levy under regulation 10(1) and is payable annually by each member applying for a practising certificate as a contribution to the Devolution & Regional Integration Fund.

(9) The amount of money payable to the East Africa Law Society by virtue of the resolution of the Law Society of Kenya Annual General Meeting of 24th March 2018 is part of the funds of the Devolution and Regional Integration Fund, and may be disbursed from the Fund accordingly.

(10) A member of staff of the Council or of a branch who is employed under the authority of the repealed Regulations shall be deemed to be a member of staff of the Council or branch under these Regulations in accordance with the terms of employment.

Dated this 27<sup>th</sup> day of February, 2019

Mr. Allen Waiyaki Gichuhi  
**PRESIDENT, LAW SOCIETY OF KENYA**

**FIRST SCHEDULE****Form LSK-01***(r. 5(1))***PARTICULARS OF LAW FIRM**

1. Name of law firm:	
2. Date of registration of firm:	
3. Physical and postal address of firm/principal place of practice:	
4. Telephone contacts:	
5. E-mail address:	
6. Type of proprietorship (sole, LLP or otherwise):	
7. Number of partners (where applicable):	
8. Number of associates:	
9. Branch offices of the firm & contacts (list them here):	
Signed by proprietor/authorised person:	
Date:	

## FIRST SCHEDULE FORM LSK-02-continued

**Form LSK-02**

(r. 6(2))

**NOTICE OF CHANGE OF MEMBERSHIP STATUS: ORDINARY TO  
SPECIAL MEMBER**

Name of member as entered on the Roll of Advocates:	Admission number (P.105 No.):
CURRENT PARTICULARS	
Name of new employer:	Date of commencement of new employment:
Physical & postal details:	E-mail address:
Telephone contacts:	Name of branch:
Signature of member:	Date:

## FIRST SCHEDULE FORM LSK-03-continued

**Form LSK-03**

(r. 6(4))

**NOTICE OF CHANGE OF MEMBERSHIP STATUS: SPECIAL  
MEMBER TO ORDINARY MEMBER**

Name of member as entered on the Roll of Advocates:	Admission number (P.105 No.):
Name of immediate past employer:	Date of cessation of immediate past employment:
NEW PARTICULARS	
Physical, postal details & E-mail addresses:	
Telephone contacts:	Name of branch:
Signature of member:	Date

## FIRST SCHEDULE FORM LSK-04-continued

## Form LSK-04

(r.7 (1))

## NOTICE OF CESSATION OF PRACTICE

Name of member as entered on the Roll of Advocates:	Admission number (P.105 No.):
Reason, if any, for cessation of practice:	
CURRENT PARTICULARS	
Physical, postal details & E-mail addresses:	Telephone contacts:
<p>Take notice that I have with effect from ..... day of .....20..... ceased from practising. I declare that I will not, from this date, offer professional service to any person in a matter of law.</p> <p>Signature:</p> <p>Date:</p>	



## FIRST SCHEDULE FORM LSK-05-continued

## Form LSK-05

(r.7 (3))

NOTICE BY A NON-PRACTISING MEMBER OF INTENTION TO  
RESUME PRACTICE

Name of member as entered on the Roll of Advocates:	Admission number (P.105 No.):
Year when last took out a practising certificate:	
CURRENT PARTICULARS	
Name of firm/employer (if any):	Physical, postal & E-mail addresses:
Telephone contacts:	Name of branch:
<p>Take notice that I shall, with effect from (date) .....day of .....20..... commence practising. I confirm that I have complied with all the requirements for practice in accordance with the provisions of the Advocates Act and the Law Society of Kenya Act.</p> <p>Signature:</p> <p>Date:</p>	

## FIRST SCHEDULE FORM LSK-06-continued

## Form LSK-06

(r.14 (1))

## NOMINATION OF ADMINISTRATOR OF LAW FIRM

Name of member as entered on the Roll of Advocates:	Admission number (P.105 No.):
Name of firm:	Physical, postal and E-mail addresses:
Take notice that I have nominated the member(s) whose particulars are provided hereunder as my administrator(s) in the event that I am unable to continue practising for any of the reasons provided under the Act or the Regulations.	
Signature of sole proprietor:	
Date:	
PARTICULARS OF NOMINEE(S)	
Name(s) as on the Roll of Advocates: (1)..... P.105..... (2)..... P.105.....  Name of firm of nominee(s):	Physical, postal & E-mail addresses:
Telephone contacts:	Name of branch:

## FIRST SCHEDULE FORM LSK-07-continued

**Form LSK-07**

(r.14(4))

**NOMINEE'S CONSENT TO ACT AS ADMINISTRATOR**

Name of nominee as entered on the Roll of Advocates:	Admission number (P.105 No.):
Name of firm:	Physical, postal and E-mail addresses:
I hereby consent to be the administrator of the law firm whose particulars are specified below in the event that the sole proprietor of the firm shall cease to practise for any reason as provided under the Regulations.	
Signature of nominee:.....	
Date:	
PARTICULARS OF SOLE PROPRIETOR	
Name of sole proprietor as appears on the Roll of Advocates: ..... P.105.....	Physical, postal & E-mail addresses:
Name of firm of sole proprietor:	Name of branch:
Signature:	Telephone contacts:
Date:	

## FIRST SCHEDULE FORM LSK-08-continued

**Form LSK-08**

(r.15(3))

**APPLICATION FOR RE-ADMISSION AS MEMBER**

Name of member (applicant) as entered on the Roll of Advocates:	Admission number (P.105 No.):
Year when the applicant ceased to be a member:	Reason the applicant ceased to be member:
Summary of the facts showing qualification to be re-admitted:	
CURRENT PARTICULARS	
Name of new firm/employer (if any):	Physical, postal & E-mail addresses:
Telephone contacts:	Name of branch:
<p>I hereby apply to the Council to be re-admitted to the Society. I am ready to abide by the rules of the Society as set out in the Law Society of Kenya Act and the Regulations.</p> <p>Signature:</p> <p>Date:</p>	

FIRST SCHEDULE FORM LSK-09-continued

(r.41 (2))

**Form LSK-09**

**DECLARATION OF RESULTS FOR ELECTION OF PRESIDENT AT A**

**POLLING CENTRE**

SERIAL NUMBER OF FORM.....  
NAME OF POLLING CENTRE..... CODE..... BRANCH.....

1	Total number of voters in the register at polling centre	
2	Number of spoilt ballot papers	
3	Total number of votes cast	
4	Number of rejected votes	
5	Total number of valid votes cast	

**NUMBER OF VALID VOTES IN FAVOUR OF EACH CANDIDATE:**

Name of candidate	
1	
2	
3	
Number of valid votes cast	

**DECLARATION:**

We, the undersigned, being present when the results of the count were announced, do hereby declare that the results shown above are true and accurate count of the ballots at .....polling centre.

Name of presiding officer..... Signature..... Date.....  
Candidates or their agents:

1. ....
  2. ....
  3. ....
- Reason for refusing to sign.....

## FIRST SCHEDULE FORM LSK-10-continued

**Form LSK-10**

(r.41 (2))

**DECLARATION OF RESULTS FOR ELECTION OF VICE-PRESIDENT  
AT A POLLING CENTRE**SERIAL NUMBER OF FORM.....  
NAME OF POLLING CENTRE.....CODE.....BRANCH.....

1	Total number of voters in the register at polling centre	
2	Number of spoilt ballot papers	
3	Total number of votes cast	
4	Number of rejected votes	
5	Total number of valid votes cast	

**NUMBER OF VALID VOTES IN FAVOUR OF EACH CANDIDATE**

	Name of candidate	Number of valid votes cast
1		
2		
3		

**DECLARATION:**

We, the undersigned, being present when the results of the count were announced, do hereby declare that the results shown above are true and accurate count of the ballots at .....polling centre.

Name of presiding officer:.....Signature.....Date.....

Candidates or their agents:

1. ....
2. ....
3. ....

Reason for refusing to sign.....

## FIRST SCHEDULE FORM LSK-11-continued

## Form LSK-11

(r.41 (2))

DECLARATION OF RESULTS FOR ELECTION OF COUNCIL  
MEMBER AT A POLLING CENTRESERIAL NUMBER OF FORM.....  
NAME OF POLLING CENTRE.....CODE.....BRANCH.....

1	Total number of voters in the register at polling centre	
2	Number of spoilt ballot papers	
3	Total number of votes cast	
4	Number of rejected votes	
5	Total number of valid votes cast	

NUMBER OF VALID VOTES IN FAVOUR OF EACH CANDIDATE:

	Name of candidate	Number of valid votes cast
1		
2		
3		

## DECLARATION:

We, the undersigned, being present when the results of the count were announced, do hereby declare that the results shown above are true and accurate count of the ballots at .....polling centre.

NAME OF PRESIDING OFFICER:.....SIGNATURE.....DATE.....

CANDIDATES OR THEIR AGENTS:

1. ....
2. ....
3. ....

Reason for refusing to sign.....

12

10

10



FIRST SCHEDULE FORM LSK-12-continued

**Form LSK-12**

(r.41 (2))

**DECLARATION OF RESULTS FOR ELECTION OF REPRESENTATIVE TO THE JSC, AT A POLLING CENTRE**

SERIAL NUMBER OF FORM.....

NAME OF POLLING CENTRE.....CODE.....BRANCH.....

1	Total number of voters in the register at polling centre	
2	Number of spoilt ballot papers	
3	Total number of votes cast	
4	Number of rejected votes	
5	Total number of valid votes cast	

NUMBER OF VALID VOTES IN FAVOUR OF EACH CANDIDATE:

	Name of candidate	Number of valid votes cast
1		
2		
3		

DECLARATION:

We, the undersigned, being present when the results of the count were announced, do hereby declare that the results shown above are true and accurate count of the ballots at .....polling centre.

Name of presiding officer:.....Signature.....Date.....

Candidates or their agents:

1. ....
2. ....
3. ....

Reason for refusing to sign.....

FIRST SCHEDULE FORM LSK-13-continued

**Form LSK-13**

(r.41(2))

**DECLARATION OF RESULTS FOR ELECTION OF MEMBER TO  
THE DISCIPLINARY TRIBUNAL, AT A POLLING CENTRE**

SERIAL NUMBER OF THE FORM.....

NAME OF POLLING CENTRE.....CODE.....BRANCH.....

1	Total number of voters in the register at polling centre	
2	Number of spoilt ballot papers	
3	Total number of votes cast	
4	Number of rejected votes	
5	Total number of valid votes cast	

NUMBER OF VALID VOTES IN FAVOUR OF EACH CANDIDATE:

	Name of candidate	Number of valid votes cast
1		
2		
3		

DECLARATION:

We, the undersigned, being present when the results of the count were announced, do hereby declare that the results shown above are true and accurate count of the ballots at .....polling centre.

Name of presiding officer:.....Signature.....Date.....

Candidates or their agents:

1. ....
2. ....
3. ....

Reason for refusing to sign.....

11

12

13

## FIRST SCHEDULE FORM LSK-14-continued

## Form LSK-14

(r.43 (2))

## DECLARATION OF FINAL RESULTS OF ELECTIONS

SERIAL NUMBER OF THE FORM.....

NAME OF TALLYING CENTRE.....

1	Total number of voters in the register	
2	Number of spoilt ballot papers	
3	Total number of votes cast	
4	Number of rejected votes	
5	Total number of valid votes cast	
6	Number of polling centres	

NUMBER OF VALID VOTES IN FAVOUR OF EACH CANDIDATE:

OFFICE OF PRESIDENT		
	Name of candidate	Number of valid votes cast
1		
2		
3		

OFFICE OF VICE-PRESIDENT		
	Name of candidate	Number of valid votes cast
1		
2		
3		

COAST REPRESENTATIVE		
	Name of candidate	Number of valid votes cast
1		
2		
3		

UPCOUNTRY REPRESENTATIVE		
	Name of candidate	Number of valid votes cast
1		
2		
3		

NAIROBI REPRESENTATIVE		
	Name of candidate	Number of valid votes cast
1		
2		
3		

REPRESENTATIVE OF GENERAL MEMBERSHIP		
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	Name of candidate	Number of valid votes cast
1		
2		
3		

**CERTIFICATE BY TALLYING OFFICER:**

I,....., certify and declare that the results shown above are true and accurate tallying of the results received from all polling centres.  
Signature.....date.....

FIRST SCHEDULE FORM LSK-15-continued

**Form LSK-15**

(r.77)

**NOTICE REQUISITIONING SPECIAL GENERAL MEETING**

To: The Secretary, Law Society of Kenya.

We, the undersigned members of the Society, hereby requisition for a special general meeting of the Society in accordance with the provisions of section 31(1) (a) of the Law Society of Kenya Act, No. 21 of 2014.

The object/agenda of the meeting shall be:

- 1.....
- 2.....

We confirm that at least 5% of the members of each branch have appended their signatures upon this notice in support of the requisition.

Signed by:

NO.	NAME	P.105 NUMBER	TEL. NO.	SIGNATURE	DATE
COAST BRANCH					
1.					
2.					
NORTH RIFT BRANCH					
1.					
2.					
3.					
4.					
MOUNT KENYA BRANCH					
1.					
2.					

Received by the Secretary this ..... day of .....20.....  
Signed:.....



## FIRST SCHEDULE FORM LSK-16-continued

**Form LSK-16**

(r.88 (4))

**QUARTERLY REPORT BY A REPRESENTATIVE ON PUBLIC BODY**

REPORT FOR MONTHS OF.....TO:..... YEAR: .....	
Name of member:	P.105 No.
Name of Constitutional, statutory of other body:	Capacity in which the member represents the Society:
Date of commencement of term:	Date of end of term:
Eligible/Not eligible for re-appointment (tick one)	Appointing authority:
Number of sittings/sessions had in the quarter:	
Summary of important issues touching on the objects and principles of the Society:	
Recommendation(s) to Council:	
Signature of the representative:	
Date:	



**SECOND SCHEDULE****ANNUAL SUBSCRIPTION FEES**

(r. 9 (1))

NO.	CATEGORY OF MEMBER	ANNUAL SUBSCRIPTION FEE (KSHS)
A.	A member who has practised for a period of more than 5 years	7,300/=
B.	A member who has practised for a period of 5 years or less	4,500/=
C.	A member who is over 70 years of age or is a non-practising member	2,250/=

**THIRD SCHEDULE****SHARING FORMULA**

(r. 50 (3) (4))

<b>PART 1: AMOUNT TO BE APPORTIONED TO BRANCHES</b>		
<b>NO.</b>	<b>NARATIVE</b>	<b>AMOUNT (KSHS.)</b>
<b>A</b>	Amount of unrestricted funds to be allocated to each of the branches, through the Devolution and Regional Integration Fund.	1,000,000/=
<b>B</b>	The aggregate of the amount paid by each member taking out annual practising certificate, in the sum of shillings 3,000/= per such member, to be deposited in the Devolution and Regional Integration Fund and to be shared in accordance with the formula in Part 2 of this Schedule.	
<b>PART 2: SHARING AMONGST BRANCHES</b>		
<b>NO.</b>	<b>PARAMETER</b>	<b>PERCENTAGE</b>
a)	<b>Basic equal share</b> - the total sharable amount is shared equally amongst all the branches.	60%
b)	<b>Member-based share</b> - shared proportionately according to the number of members in each branch as determined by the records kept by the Secretary of those who have paid annual subscription fees to the Society.	30%
c)	<b>Distance to courts</b> – cumulative distance measured and added up from the branch headquarters to the various centres in the branch where there is a High Court station.	5%
d)	<b>Equalization fund:</b> Administered by the Council upon criteria to be determined by the Council in consultation with the branches.	5%
<b>TOTAL</b>		100%

## FOURTH SCHEDULE

## EXPLANATORY MEMORANDUM

to

## THE LAW SOCIETY OF KENYA (GENERAL) REGULATIONS, 2019

## PART I

<b>Name of Statutory Instrument:</b>	The Law Society of Kenya (General) Regulations, 2019
<b>Name of the Parent Act:</b>	The Law Society of Kenya Act, No. 21 of 2014
<b>Enacted Pursuant to:</b>	Section 41 of the Law Society of Kenya Act, No. 21 of 2014
<b>Name of the Ministry/Department:</b>	Law Society of Kenya
<b>Gazetted on:</b>	
<b>Tabled on:</b>	

## PART II

## 1. Purpose of the Statutory Instrument

The Law Society of Kenya (General) Regulations, 2019 are made by the Council with the approval of members pursuant to section 41 of the Law Society of Kenya Act.<sup>1</sup> The general purpose of the Regulations is to operationalise the Act by making more detailed rules for certain processes. Specifically, the Regulations are intended to-

- a) make provision for different types of members of the Society and setting out differential levels of responsibilities or obligations;
- b) provide for the keeping of detailed registers of different categories of members and law firms;
- c) define the circumstances under which members may be called upon to contribute funds for activities of the Society;
- d) provide for appointment of a member to be administrator of a law firm where a sole practitioner ceases to have capacity to practise;

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<sup>1</sup> No. 21 of 2014

- e) describe the procedures for meetings of the Council, creation of committees, elections of members of Council and filling of casual vacancies, as well as settlement of election disputes by alternative dispute resolution mechanisms. A new feature introduced is the creation of an independent *ad hoc* elections board to oversee elections of Council members and resolve any disputes;
- f) set up a compliance monitoring unit which shall be responsible for monitoring adherence with these Regulations, the rules of practice set out under legislation, guidelines or a code of conduct adopted by the Society under the Act;
- g) introduce funding of branches using a formula to be determined by the Council in consultation with branches, with input of revenue allocation expert;
- h) require the secretary to prepare annual estimates each year with input of the Budget and Finance Committee and approved by the Council;
- i) make provisions on governance of branches, their functions and powers, as well as creation of chapters falling under branches;
- j) provides for meetings of the Society, the manner of calling for meetings, special resolutions of the Society and keeping by the secretary of the resolutions passed in such meetings;
- k) provide for a fair, competitive and equitable procedure for nominating members to represent the Society on statutory/public bodies, accountability of such representation and the procedure for recall of a representative;
- l) provides for mediation and other dispute resolution mechanisms;
- m) introduce the use of information and communication technology in the processes of the Society, including carrying out elections of members of the Council;
- n) provide for collaboration of the Society with other bar associations;
- o) incorporate, by reference, a code of ethics and conduct for members;
- p) provide for publications of the Society;
- q) create forms for use to meet certain requirements of the Act and the Regulations.

## 2. LEGISLATIVE CONTEXT

In historical context, the Law Society of Kenya Ordinance<sup>2</sup> and the Advocates Act (1949) were enacted. In terms of governance, the Law Society of Kenya Ordinance provided for representation of the Mombasa

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<sup>2</sup> No. 10 of 1949

practitioners and the “upcountry” practitioners in the Council, a position that persists even in the current legal framework (s. 17(2) of the Law Society of Kenya Act 2014.

The Law Society of Kenya Ordinance was re-enacted in 1962 as the Law Society of Kenya Act.<sup>3</sup> The 1962 Act remained in force with incremental but few amendments over the years till the year 2014 when the Law Society of Kenya Act was enacted by Parliament. The Act took effect on 14<sup>th</sup> January 2015. The Act repealed the Law Society of Kenya Act which had been in existence since 1962.

For a long time, there has not been a comprehensive review of the Regulations and it was increasingly becoming difficult for the Society to operate efficiently. The new Constitution of Kenya 2010 introduced norms that hitherto were only aspirations. One of the issues emphasised under the Constitution are the principles and values under Article 10.

The Act makes some radical departures from the then existing law by-

- Entrenching the office of chief executive officer in the Act;
- Creating structures that were necessary to make the secretariat effective in managing the affairs of the Society, tacitly applying best practices in corporate governance;
- Providing for creation of branches and further units or structures of governance in the spirit of devolution;
- Establishing the *Budget and Finance Committee*, mainly made up of members of the Society;
- Referring to constitutional principles, values and objects to be applied in managing the affairs of the Society.
- Requiring that members of the Council meet the requirements of Chapter Six of the Constitution of Kenya 2010.

The development of the Regulations was guided by the need to achieve the purpose of the Act which is to ensure that the Society is accountable, effective and focused on ensuring that the rule of law, constitutionalism, welfare of members are paramount, and delivery of services to the public is professional.

The Regulations define the scope of the powers of the Council, the branches and chapters, and provide for the place of the member in the affairs of the Society, by requiring that any major decision or act of the Council must be

<sup>3</sup> No. 30 of 1962, Chapter 18 of the Laws of Kenya

approved by members through special or ordinary resolutions as the circumstances require.

These Regulations revoke and replace legal notices numbers 546/62, 127/84, 279/95 & 141/97.

### 3. CONSULTATION OUTCOME

The development of the Regulations was member-driven:

- a) The Council invited members of the Society to volunteer to serve in the Regulations Committee.
- b) The Committee worked closely with the Consultant to come up with the initial draft of the Regulations and to review it in line with the views of members.
- c) The Committee held a consultative meeting with officials of the Canadian Bar Association who also provided useful insights.
- d) The Consultant together with the Committee visited branches to collect views of members on what should be contained in the Regulations. For a period of about one month, views were collected in Kisumu, Eldoret, Nairobi, and Mombasa.
- e) Other stakeholders invited to make input were the Office of Attorney-General, the Parliament, the Law Reform Commission, the Judiciary and the Office of the Director of Public Prosecutions.
- f) The Consultant referred to and compared the rules and regulations governing the General Council of the Bar of South Africa, the Nigerian Bar Association and the South Australian Bar Association Inc. to compare best practices in some of the regulated aspects.
- g) Additionally, the draft was widely circulated to members through electronic mails and even social media inviting members and stakeholders to submit their views. Members were sent the first draft for the March 2017 annual general meeting (AGM). The AGM did not discuss the Regulations due to time constraints. The Regulations were also tabled on 24<sup>th</sup> March 2018 for discussion but a motion to adjourn the same was passed. In every case, members were sent copies in advance and had hard copies printed for them. These Regulations have been circulated and discussed more than any other document submitted to members in the recent past for discussion.
- h) All the views were analysed for their propriety, practicality and consistency with our legal system, the Constitution and relevant legislation. In coming up with the Regulations, the views were considered and rationalised to produce what is considered to be the *general will* of the members. So the overall effect of the Regulation is

to prescribe what is best within the many divergent and sometimes conflicting needs of members.

- i) In the Special Meeting of the Society called on the 15<sup>th</sup> September 2018, the draft regulations were discussed clause by clause and it took a record 12 hours to complete the amendments to the draft. The draft was finally passed by members subject to the amendments proposed. These regulations have incorporated the recommendations of the Special General Meeting.

The following were as the result of consultations in various meetings with members as the main stakeholders in these Regulations:

- The members eligible to join the society were agreed upon;
- The use of electronic voting was adopted;
- Register for members and law firms will be kept;
- Corporate governance practices introduced into the Council as the organ of the Society that runs day to day affairs of the Society;
- Monitoring unit was established to weed out quacks who practice law in certain hide-outs;
- Elections board established to oversee the elections and dispute resolution;
- The Regulations establishes Devolution and Regional Integration Fund to strengthen the branches and make more resources reach them. Under the new arrangement, branches would get a total of shillings 38,000,000/= annually, up from mere shillings 8,000,000/=.
- The Regulations have extensive provisions on branches, branch members and management of the affairs of branches applying the best practices.
- Branches are now given major autonomy to run their affairs without interference from the Council.
- One of the most important innovation is making regulations to guide representation of the Society on Constitutional and statutory bodies to be fair and available to members.

#### **4. Monitoring and Review**

- a) The Law Society of Kenya (General) Regulations 1962 have been in force for more than 50 years. They were amended only about 4 times. The amendments essentially introduced additional requirements without changing the existing Regulations. The manner of drafting was also very classic with long legislative sentences and traditional

