

# FREE STATE PROVINCIAL OFFICE

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## NATIONAL OFFICE

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### REQUIREMENTS FOR THE REGISTRATION OF A PRACTICAL VOCATIONAL TRAINING CONTRACT (Candidate Attorney)

The Legal Practice Act, No 28 of 2014, Rules and Regulations.

#### 1. Documents/information to be submitted to the Legal Practice Council

- The original, signed practical vocational training contract and two copies thereof;
- Certified copy of identity document / proof of date of birth;
- Certified copy of LLB degree / proof of compliance with the requirements for the LLB degree obtained at a South African University  
or  
Certified copy of law degree obtained at a foreign university and certification by SAQA that the degree is equivalent to the LLB degree;
- Payment of the registration fee in the amount of R345;
- Proof to the satisfaction of the Council that he/she is a fit and proper person to serve as a candidate attorney under a practical vocational training contract. (Two written character references, not older than six months, by persons in a position of authority);
- A written request by the principal that a certificate of right of appearance be issued to the candidate attorney in terms of section 25(5)(a) or 25(5)(b), if applicable;
- A certified copy of the report/certificate confirming completion of the programme of structured course work of at least 400 notional hours over a period of not more than six months (if applicable);
- Registration application form, completed by the principal and the candidate attorney;
- If the candidate attorney has a criminal conviction, an affidavit must be submitted setting out the details and sentence (notwithstanding the fact that such conviction may have been expunged or pardoned or that the pupil may have been indemnified from prosecution therefore). A copy of the Court record is also required;
- If there are pending criminal charges or disciplinary enquiries against the pupil, an affidavit must be submitted setting out the details.

#### Regulation 22.1.2

Submit the contract and documents to the Legal Practice Council within 2 months from the date of the contract.

#### Regulation 22.1.2.4

If the contract is not lodged for registration within 2 months, the effective date will be the date of registration.

#### 2. Practical vocational training contract

##### Rule 22.1.2.1

The contract must be substantially in the form set out in Schedule 2 of the rules.

Note:

- The training contract is entered into between the principal (not the attorneys firm) and the prospective candidate attorney and should be signed by both parties.

- The effective date/commencement date of the agreement cannot precede the date when the agreement was signed.

3. **Degree requirements**

Section 26(1)(a) &(b)

LLB obtained at a university registered in South Africa.

or

a law degree obtained in a foreign country, which is recognised by SAQA as equivalent to the LLB degree.

4. **Duration of service under a practical vocational training contract**

Regulation 6(1)

After having satisfied the degree requirements, the candidate attorney must serve under a practical vocational training contract for an uninterrupted period of:

- **2 years** and, during the service under the contract or within 1 year after the termination of the contract, complete a programme of structural course work of at least 150 notional hours;
- **1 year** if, prior to the registration of a practical vocational training contract, he/she has completed a programme of structured course work of at least 400 notional hours over a period of not more than six months.

Regulation 6(4)

Service done before the candidate attorney has satisfied the requirements of the LLB degree is not good or sufficient service in terms of a practical vocational training contract.

5. **Requirements relating to the principal – who may engage a candidate attorney**

Who qualifies to engage a candidate attorney

Regulation 6(5)

An attorney:

- practising for own account [Reg 6(5)(a)]
- practising as a partner in a firm of attorneys [Reg 6(5)(b)]
- practising as a member of a juristic entity [Reg 6(5)(c)]
- practising as a state attorney [Reg 6(5)(d)]
- who has practised as a professional assistant in a firm of attorneys for 5 years within the preceding 6 years [Reg 6(5)(e)]
- in the full time employ/a member of:
  - Legal Aid South Africa
  - a legal aid institution responsible for supervising the training of candidate attorneys
  - any other institution approved by the Council [Reg 6(5)(f)]

Experience

Regulation 6(6)

An attorney referred to in Regulation 6(5)(a)-(d) who engages a candidate attorney must have practised at least 3 years, or a period of 3 years in the preceding 4 years.

An attorney referred to in 6(5)(f) must have practised for at least 3 years or for 3 years during the preceding 4 years prior to being engaged by Legal Aid South Africa or the institution concerned.

Limitation on the number of candidate attorneys

Regulation 6(8)

An attorney referred to in Regulation 6(5)(a)-(e) may at no time have more than 3 candidate attorneys.

A legal practitioner in the full time employment of a law clinic may not engage more than 6 candidate legal practitioners at any one time.

Regulation 6(9)

If the attorney dies or retires or is struck, the remaining partners or members of juristic entity, or any other attorney

employed full time by Legal Aid South Africa or an approved institution may take cession of the contract, even if he/she then has more than 3 or more than 6 candidate attorneys respectively, as a result.

6. **Supervision over candidate attorney**

**Rule 22.1.3**

The candidate attorney must:

- serve under the direct supervision of the principal or a partner of the principal or another admitted attorney in the office of the principal
- serve at the State attorney or any branch thereof, under the direct supervision of the State Attorney or a practising attorney employed by him/her
- at Legal Aid South Africa – serve under the direct supervision of a legal practitioner who is employed full time at the law clinic or the office of LASA.

7. **Absence of candidate attorney**

**Rule 22.1.4**

Absence may not exceed 30 working days in any one year of the contract. The Court may issue an order authorising absence. The Court can authorise absence before, during or after the absence.

The period in excess of 30 days must be added to the contact period.

8. **Restriction of pecuniary interests of a candidate attorney**

**Rule 22.1.5**

A candidate attorney may not have a pecuniary interest in the practice of an attorney.

The prior written consent of the Legal Practice Council is required by a candidate attorney to hold any office or engage in any business in respect of which he/she receives remuneration.

Non-compliance with Rule 22.1.5.1 will result in the contract being invalid, unless the Court directs otherwise.

9. **Right of appearance**

**Section 25(5)(a)**

A candidate attorney can appear in any Court, but not the High Court, Supreme Court of Appeal or Constitutional Court and before any board or tribunal.

A candidate attorney may only appear in the Regional Court if he/she previously practised as an advocate for at least one year or completed one year practical vocational training.

10. **Cession of articles**

**Rule 22.1.6**

The following must be submitted to the Legal Practice Council, within 2 months of the date on which the services of the candidate were terminated with the cedent:

- The original cession agreement and a copy thereof
- an affidavit by the cedent confirming compliance with the Act and the rules and the date on which the candidate attorney's service was terminated
- an affidavit by the cessionary stating the date on which the candidate attorney assumed duty with the cessionary
- payment of the prescribed fee of R345.

The Court may order late lodgement/registration.

In a Rule 22.1.6.2 cession, the cessionary can have more than 3 candidate attorneys as a result.

11. **Termination of a practical vocational training contract**

**Rule 22.1.7**

The principal must notify the Legal Practice Council forthwith in writing.

If the contract is cancelled before completion, the Court may recognise any period served under the contract.

12. **Registration of a practical vocational training contract by an advocate**

**Rule 22.1.8**

An advocate cannot register a contract with a candidate attorney unless his/her enrolment as an advocate has been converted to that of an attorney.

13. **Criminal conviction of candidate attorney**

SAPS Clearance Certificate (SAPS 365) required.

If the candidate attorney has a criminal conviction, an affidavit explaining the circumstances and sentence should be submitted as well as a copy of the Court record.

An investigation will be done by the Legal Practice Council and the candidate attorney will be requested to appear before the relevant Committee of the Council who will make a recommendation to the Council on the question whether the candidate attorney can be regarded as fit and proper to enter into the profession by way of the registration of a practical vocational training contract.

A final decision on whether the contract will be registered, will be taken by the Council.

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