

TANGAZO LA SERIKALI Na. 602 la tarehe 14/10/2022

THE TANGANYIKA LAW SOCIETY ACT,
(CAP. 307)

REGULATIONS

(Made under section 31)

THE TANGANYIKA LAW SOCIETY (ETHICS) REGULATIONS, 2022

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THE TANGANYIKA LAW SOCIETY ACT,
(CAP. 307)

REGULATIONS

(Made under section 31)

THE TANGANYIKA LAW SOCIETY (ETHICS) REGULATIONS, 2022

PART I
PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Tanganyika Law Society (Ethics) Regulations, 2022.
- Interpretation 2. In these regulations unless the context otherwise requires;
- Cap. 307 "Act" means the Tanganyika Law Society Act;
- Cap 341 "Advocate" shall have the meaning ascribed to it by the Advocates Act;
- "Advocate Committee" means the Advocates Committee established under section 4 of the Advocates Act;
- "Committee" means the National Ethics Committee as provided under these Regulations;
- "Council" means the Council of the Tanganyika Law Society;
- "member" means a member of the Tanganyika Law Society as provided under the Act;
- "member in good standing" means a member who has renewed membership by complying with requisite conditions for renewal of membership of a particular year and who has not been suspended on any disciplinary matter;
- "office bearers" includes members of the Council; members of the Chapter Executive

Committee, elected and appointed Chapter leaders and Chapters' AGM representatives; members of the Association of Young Lawyers (which also known by its acronym as AYL), Executive Committee; Zonal leader, members of Zonal Executive Committee and Chapter Zones' Annual General Meeting (which also known by its acronym as AGM) representatives; elected and appointed Committees' members; National Ethics Chairperson, Trustees of the DATF and Wakili Trust and the Tanganyika Law Society representatives in various bodies;

"practising certificate" shall have the meaning ascribed to it by the Advocates Act;

"Society" means the Tanganyika Law Society which is also known by its acronym "TLS";

"Society's organs" includes General Meeting, Annual General Meeting, Council, Chapter Zone, Chapter, Association of Young Lawyer, Committees, or any other temporary committee or team established pursuant to the powers under any law.

PART II

MEMBERS' OBLIGATIONS

Obligation of members

3. Every member is obliged:

- (a) to conduct himself or herself in such a way that will ensure smooth management of the affairs of the Society and maintenance of respect and foster public confidence in the Society;
- (b) to promote values, principles and integrity of the Society, and not to tarnish the image of the Society;
- (c) to participate in fulfillment of the Society's objectives as set out in the Act or any other written laws;

- (d) to maintain acceptable standards of conduct towards fellow members, management of the Society, persons who have dealings and business with the Society and the general public;
- (e) to be ready to represent or act for and on behalf of the Society when required to do so by any organ of the Society;
- (f) to render assistance and guidance to other members particularly members with disabilities, young lawyers, and elderly;
- (g) to avoid any discriminatory and disrespectful conduct towards fellow members;
- (h) to pursue claims, complaints, disputes or dissatisfaction through mechanisms established within the Society;
- (i) to comply with the decisions and directives of the Society's organs;
- (j) to use skills, knowledge, and competence whenever representing the Society in other organizations and prepare and submit a report to the Council within the required time;
- (k) not to act for and on behalf of the Society when the interest of the Society and his or her personal interest are in conflict; and
- (l) to observe and comply with the Advocates (Professional Conduct and Etiquette) Regulations, 2018 and other Society's rules, regulations, guidelines and policies.

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Obligation of the
Society office
bearers

4. Every office bearer of the Society shall be obliged:

- (a) to ensure that his or her conduct is consistent with upholding the Society's good image, maintain cohesion, public confidence in the Society and expectation

- of the Society;
- (b) not to act for and on behalf of the Society when the interest of the Society and his or her personal interest are in conflict;
- (c) to timely prepare and submit a written report in any official assignment for the Society; and
- (d) to comply with the relevant laws and policies when discharging his or her duties.

PART III
DISCIPLINARY AUTHORITIES

Disciplinary
authorities of
Society

5.-(1) The disciplinary authorities for the Society shall be the Chapter Ethics Committees and National Ethics Committee established under these Regulations.

Conflict of interest

6. A member of the National Ethics Committee and Chapter Ethics committee shall not take part in any proceedings in which he has any pecuniary or personal interest.

Oath of office

7. Members of the National Ethics Committee and Chapter Ethics Committee shall take oath before assuming their offices administered by the most senior member available at national level for the Committee members and at their respective chapter for members of the Chapter Ethics Committee.

Report by Ethics
committees

8.-(1) The Chapter Ethics Committee shall report to the Committee on quarterly basis.

(2) The Committee shall compile reports of all Chapter Ethics Committees and submit the same together with the Committee national report to Council on quarterly basis.

(3) The Committee shall prepare annual report of its activities to the Council for submission

before the General meeting and the Annual General Meeting.

PART IV

CHAPTER ETHICS COMMITTEE

Establishment of Chapter Ethics

9. There is established a Chapter Ethics Committee in each Chapter of the Society whose jurisdiction and powers shall be as provided for by these regulations.

Composition of Chapter Ethics Committee

10.-(1) The Chapter Ethics Committee shall consist of:

- (a) Chairperson who shall be appointed by the Chapter Executive Committee from amongst the senior and reputable members of the Chapter; and
- (b) Four other members appointed by the Chapter Executive Committee from amongst the members of the Chapter with integrity and two of whom shall be women.

(2) The Chapter Executive Committee shall appoint one of the members of TLS Secretariat to be Secretary of the Chapter Ethics Committee but shall not have the right to vote or participate in the enquiry and decision-making.

Quorum for hearing session of Chapter Ethics Committee

11. Quorum for hearing sessions of the Committee shall be three members.

(2) Where the quorum is not constituted in a partly heard complaint, the matter shall either be adjourned or proceed with the consent of the parties.

(3) Where there is consent of the parties to proceed with the matter as provided under sub regulation (2) of the regulation, the absent member shall not participate in the decision of the matter.

Quorum for meeting session of Chapter Ethics Committee

12.-(1) The quorum of the meeting of the Committee shall be three members.

(2) In absence of the Chairperson, the most

senior member of the Committee available shall preside over the meeting.

Jurisdiction of
Chapter Ethics
Committee
GN No.
524 of 2020
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118 of 2018

13. The Chapter Ethics Committees shall have jurisdiction-

- (a) to enforce code of conduct for the Chapters and Chapter zones as provided for under Schedule to the Tanganyika Law Society (Chapter and Chapter Zone) Regulations, 2020; and the Advocates (Professional Conduct and Etiquette) Regulations, 2018;
 - (b) to deal with any matter of misconduct of a member of the Chapter referred to it by any relevant authority or member of the public other than serious and grave complaints;
 - (c) to hear and determine any complaint on misconduct of the member of the chapter other than serious and grave complaints; and
 - (d) to advise Council on matters relating to ethics of members at Chapter level.
- (2) Serious and grave complaints referred under subregulations (1) shall include but not limited to complaints relating to-
- (a) acts that cause serious damage and prejudice to the government, parliament and judiciary;
 - (b) acts of harassment or abuse of the national public leaders;
 - (c) capital corrupt transactions by member in relation to the cases handled by him; or
 - (d) sexual abuse or harassment to client, fellow advocate or any officer of the Court committed by member when discharging his professional duties.

Procedure at
Chapter Ethics
Committee

14. Any complaint against a member shall be submitted to the Chapter and the same be forwarded

to the Chairperson of the Chapter Ethics Committee.

(2) Chairperson shall send a copy of the complaint received to the member complained against requiring him or her to respond to it within seven days and the member shall comply with the order within the specified time unless the time is extended upon application to be made before the expiring of the time given.

(3) Chapter Ethics Committee may require further information, details or particulars from either party and may do whatever is necessary to obtain the same, and the parties or either party should comply with the requirements.

(4) If the member does not respond to the complaint or either party fails to provide further information the Chapter Ethics Committee may remind the party concerned or extend the time for submitting the response or submit further information and details.

(5) Where the member fails to respond to the complaint even after reminder and does not attend the hearing, or the complainant does not attend the hearing of the complaint after being duly notified, the Chapter Ethics Committee shall hear and determine complaint ex parte.

(6) Parties shall be notified of the date and time of the hearing of the complaint and the decision shall be made within thirty days from the conclusion of the hearing.

(7) The decision shall be communicated to the parties and the report sent to the Executive Director who shall forward to the Chairperson of the National Ethics Committee.

Tenure of members

15. Tenure of the members of the Chapter Ethics Committee shall be three years and shall be eligible for re-election.

(2) The Chapter Executive Committee shall fill any vacancy of the members of the Chapter Ethics Committee.

Sanctions to be imposed by Chapter Ethics Committee

16. The Chapter Ethics Committee shall have power to order:

- (a) the advocate to return the property to the complainant;
- (b) the advocate to specifically perform his or her duty or do anything as an advocate under advocate client relationship;
- (c) the advocate to refund money paid to him by the client for which work done was not commensurate with the fees;
- (d) to offer an oral, written or published apology; or
- (e) to admonish the advocate.

Enforcement of orders of chapter Ethics Committee

17. Decisions of the Chapter Ethics Committee may be registered and enforced as the decree of the district court.

Referral

18.-(1) Where the Chapter Ethics Committee lacks jurisdiction; the matter shall be referred to the Committee for determination with reasons thereof.

(2) Where the Chapter Ethics Committee is satisfied that the appropriate sanctions in particular case are those provided for under regulation 16(a), (b), and (c) of these Regulations, the Chapter Ethics Committee shall refer the matter to the National Ethics Committee together with the recommendation for confirmation.

(3) The National Ethics Committee may, upon consideration of the matter referred to under subregulation (2) of this regulation, require more information from the parties, and may impose an additional or alternative sanction.

(4) Where the Chapter Ethics Committee receives a complaint in respect of Part II of these regulations, the Chapter Ethics Committee shall refer the matter to the National Ethics Committee for determination.

PART V
NATIONAL ETHICS COMMITTEE

Establishment of
National Ethics
Committee

19. There is hereby established the National Ethics Committee of the Society whose jurisdiction and powers shall be as provided for by these regulations and any other written law.

Jurisdiction of
National Ethics
Committee

20. The National Ethics Committee shall have the jurisdiction:

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- (a) to enforce these regulations and the Advocates (Professional Conduct and Etiquette) Regulations, 2018 and any other relevant law, regulations and policy of the Society;
- (b) to determine any matter referred to it by a member of the public, any authority, tribunal or court;
- (c) to hear and determine complaint relating to the misconduct of a member of the Society;
- (d) to deal with any matter referred to it by any organ of the Society;
- (e) to determine any reference from the Chapter Ethics Committee;
- (f) to refer a matter to the Chapter Ethics committee for determination; and
- (g) to advice Council on matters relating to ethics of members of the Society.

Limitations

21.-(1) The National Ethics Committee shall not entertain a dispute or complaint which is reserved by written law to any other body, or which is pending in Courts, tribunals or committees with competent jurisdiction.

(2) Notwithstanding sub-regulation (1), the National Ethics Committee shall entertain a complaint which has been referred or transferred to it by the body which has power to determine it or by

the body in which the matter was pending.

Composition of
National Ethics
Committee

22. The National Ethics Committee shall consist of the following who shall be appointed by the Council-

- (a) the Chairperson, who is a judge or retired judge and a member of the Society in good standing;
- (b) the Vice Chairperson; and
- (c) seven members.

(2) The Vice Chairperson and other seven members of the Committee shall be appointed from amongst senior members of the Society with good standing, provided that the following shall not be eligible to be appointed to the Committee:

- (i) a member who is elected to hold any other office within the Society;
- (ii) a member of the electoral committee; and
- (iii) a public servant, a member of the Parliament, a ward councilor or holding a leadership position in a registered political party.

Quorum for
hearing session of
National Ethics
Committee

23.-(1) Coram for hearing sessions of the Committee shall be three members and the Committee may hold more than one session at a time.

(2) Where, in a partly heard complaint the panel is unable to meet the minimum number of three, the matter shall either be adjourned or proceed with the consent of the parties.

(3) Where there is a consent of the parties to proceed with the matter as provided under sub regulation (2) of the regulation, the absent member shall not participate in the decision of the matter.

Quorum for
meeting session of

24.-(1) The quorum of the meeting of the Committee shall be five members.

National Ethics
Committee

(2) In absence of the Chairperson the Vice Chairperson shall preside over the meeting and in absent of both Chairperson and Vice Chairperson, the most senior member of the Committee available shall preside over the meeting.

Tenure of the
committee
members

25.-(1) Tenure of the members of the National Ethics Committee shall be three years and shall be eligible for re-appointed for one further term.

(2) The Council shall fill any vacancy of the members of the National Ethics Committee and on recommendation of the Chairperson, appoint acting member or members to replace a member who have disqualified from hearing a particular complaint, and such appointment shall cease after the particular complaint has been determined.

Sanctions

26. The Committee shall have power to:

- (a) recommend to the Chief Justice that a member be barred from renewing practicing certificate for specified period of time not exceeding two years;
- (b) expel a member from the Society;
- (c) suspend a member from the Society for the specified period;
- (d) order compensation to the victim of misconduct;
- (e) order the return of property to the complainant;
- (f) order payment of fine for the misconduct committed provided that the fine shall not exceed ten million;
- (g) order specific performance or to do anything as advocate under advocate client relationship;
- (h) order refund of money paid to him or her by the client for which work done was not commensurate with the fees;
- (i) direct a member to make oral or written

- apology;
- (j) admonish;
- (k) impose any other sanctions provided by the Advocates Act or any other written law; or
- (l) make any other order which Committee shall deem fit to make in the circumstances of the case.

Termination of ethics proceedings

27. The Committee shall make an order to terminate the proceedings where:

- (a) complainant withdraws a complaint;
- (b) the parties executes a lawful agreement or compromise to end the complaint;
- (c) upon the death of a member involved in a complaint; or
- (d) the complainant has satisfied the claims constituting the complaint.

Enforcement of orders of committee

28. The decisions of the National Ethics Committee may be registered and enforced as the decree of the High Court.

Communication of decision

29. Where the member is barred from renewing practicing certificate, expelled or suspended, the Executive Director shall, after expiration of thirty days, notify the Registrar of the High Court and shall publish on the notice board of the Society head office, Chapters, Chapters zones and the Society's website, and after expiration of the period of the sanction, the registrar of the High Court shall be notified, and publish on the notice board of Society head office Chapters, Chapter zones and the Society's website.

PART VI RESIGNATION OF MEMBERSHIP

Resignation

30. A member may apply to the Council to resign as member of the Society upon filling a form

prescribed in the Schedule, stating reasons for resignation and other information to be prescribed by the Council. Provided that any matter of resignation of a member shall apply *mutatis mutandis* with section 12 of the Act.

Acceptance of resignation

31. The Council may accept the application for resignation with or without conditions or reject it and shall give reasons for the rejection.

(2) Without prejudice to the foregoing, the resignation shall not be accepted in the following circumstances:

- (a) when the member has pending disciplinary proceedings or complaint against him or her, including proceedings of execution or judicial review;
- (b) where the member has not paid all outstanding fees or debts to the Registrar in respect of his or her practicing certificate, his membership to the Society and the deceased advocates trust fund (DATF);
- (c) when he or she is serving any sanction imposed by the Chapter Ethics Committee, the National Ethics Committee, the Advocates Committee or the judge in exercise of the powers under the Advocates Act;
- (d) unless he or she has filled a clearance in a form prescribed in the Schedule; and
- (e) there is objection or objection to his application has not been resolved in his favour.

Effective date of resignation

32.-(1) The resignation shall not be effective until it is accepted by the Council in the prescribed form and upon such acceptance he will be relieved from all obligations of the Society and shall cease to have rights of the membership of the Society.

(2) Once accepted by the Council, the resignation of a practicing member shall take effect upon expiry of the member's practicing certificate currently in force.

Objections to resignation

33.-(1) After receiving the required documents, the notification of the application has to be published on the notice board of the Chapters and Chapters zones, Society's head office and Society website inviting for objection if any.

(2) Where there is any objection the Council shall determine it after giving the applicant an opportunity to respond to the objection.

Reviving membership

34. A member who has resigned may apply to the Council to revive his or her membership.

PART VII SUSPENSION FROM MEMBERSHIP

Suspension

35. A member may be suspended on a sanction or pending the proceedings in the Chapter Ethics Committee or National Ethics Committee.

Effect of suspension

36.-(1) A suspended member due to pending proceedings shall not be entitled to participate in any election of the Society and to practice as an advocate, commissioner for oaths or notary public during the suspension period.

(2) A member who has been suspended as a sanction after the conclusion of the proceedings shall cease to practice as an advocate, commissioner for oaths or notary public during the suspension period.

PART VIII EXPULSION FROM MEMBERSHIP

Expulsion

37. A member may be expelled from membership of the Society as sanction imposed by

the National Ethics Committee.

Effect of expulsion 38. Expelled member shall cease to have all rights of a member of the Society and shall not be entitled to practice law.

PART IX
GENERAL PROVISIONS ON ETHICS COMMITTEES

Appeal 39. A person who is aggrieved with the decision of the National Ethics Committee or the Council may apply for judicial review to the High Court.

(2) A party aggrieved by the decision of the Chapter Ethics Committee may refer the matter to the National Ethics Committee.

Review 40. The National Ethics Committee may review its own decision on the following grounds:

- (a) the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within its knowledge or could not be produced by it at the time when the decision was made; or
- (b) mistake or error apparent on the face of the record material to the merits.

Extension of time 41. The National Ethics Committee, the Chapter Ethics Committee and the Council may, upon sufficient reasons shown, extend the time limited by these Regulations for the doing of any act authorized or required by these Regulations in matters before such committee or Council, whether before or after the expiration of that time.

Power to regulate procedure 42. The National Ethics Committee and the Chapter Ethics Committee shall have power to regulate their own procedures that will ensure fair proceedings:

Provided that where there is no procedure on a matter before it provided by these Regulations, the Committee and the Chapter Ethics Committee may adopt the practice from the Civil Procedure Code or the Criminal Procedure Act.

Protection of members of Committees

43.-(1) A member of the Committee and the Chapter Ethics Committee shall not be held liable in civil or criminal proceedings for anything done or said in execution of his functions performed in good faith, and shall not be called upon to explain or give evidence for anything done or said in course of executing his function or duties.

(2) In exercising their powers and functions under these Regulations, the National Ethics Committee and the Chapter Ethics Committee shall be free and shall not be interfered by any person.

Power to give general directions and recommendations

44. The National Ethics Committee shall have power to give the Chapter Ethics Committee directions for better carrying out its functions and ensure fair execution of its functions or powers.

(2) The National Ethics Committee may make recommendations to any organ of the Society which is connected to its function or powers and such organ shall be entitled to observe such recommendations.

Forms

45. Forms prescribed in the Schedule shall be used in connection with matters provided in these Regulations.

SCHEDULE

FORMS

(Made under regulation 30, 31(2) (d) an 45)

FORM "A"

APPLICATION FORM FOR RESIGNATION FROM MEMBERSHIP

This Application Form shall be submitted to the Council of the Tanganyika Law Society for Consideration.

Application No.

1. Name of the Applicant: Roll No:

Postal address:

Physical address:

Telephone / Mobile No.:

Email:

2. Avail a firm reasoned written undertaking for Resignation(Attach proof where available):

.....

3. Attach a filled Clearance Form as prescribed in Form to this Schedule, indicating that the Applicant has no pending issues with the Society and public as far as his/her membership is concerned.

Signature of the Applicant:

Signed this Day of..... 20.....

FORM "B"

CLEARANCE FORM DURING APPLICATION FOR RESIGNATION OF MEMBERSHIP

The Applicant shall cause this form to be filled by head of mentioned units of the Society to confirm that the Applicant has no pending issues with the Society as far as his/her membership is concerned.

1. Name of the Applicant:
 Roll No:
 Mobile No.:
 Email Address:

2. Whether the Applicant has Ethics issues pending before the Ethics Committees of the Society:

 ...

 Name, Signature and the date of the head of the unit:

3. Whether the Applicant has Ethics issues pending before the Advocates Committee:

 Name, Signature and the date of the head of the unit:

4. Whether the Applicant has paid all outstanding fees or debts to the Registrar in respect of his or her practicing certificate, his membership to the Society and any other imposed membership fees of the Society:

.....

.....

Name, Signature and the date of the head of the unit:

.....

.....

.....

- 5. Whether there is any objections made by any member of the Society or the public and the said objection has been entertained by Council:

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.....

.....

Name, Signature and the date of the President:

.....

.....

.....

- 6. Whether the Applicant has discharge duties assigned to him or her by the Council or any Committee of the Society:

From Council:

Name, Signature and the date of the President/Vice President:

.....

.....

.....

From Committees (to be filled by Chairperson of the Committee with his/her signature):

i.

.....

ii.

iii.

.....

iv.

v.

.....

vi.

vii.

.....

viii.

ix.

.....

x.

This is to confirm that relevant authorities of the Society have filled this Clearance Form.

.....

.....

PRESIDENT

EXECUTIVE DIRECTOR

OFFICAL SEAL

FORM "C"

ACCEPTANCE FORM

Application No:
(To be completed by the Council and returned to the Applicant)

The Council of the Tanganyika Law Society hereby accepts application for resignation submitted by / accepts the application for resignation submitted by with a condition(s) that:

- (a)
- (b)
- (c)

The Applicant resignation shall take effect upon expiry of the Applicant's practicing certificate currently in force.

The application is Accepted this.....day of.....20.....

.....
PRESIDENT

OFFICAL SEAL

FORM "D"

REJECTION FORM

Application No: _____

(To be completed by the Council and returned to the Applicant)

The Council of the Tanganyika Law Society hereby Rejects application for resignation submitted by with reason(s) that:

- (a)
-
- (b)
-
- (c)
-
- (d)
-
- (e)
-
- (f)
-

The application is Rejected this.....day of.....20.....

.....

PRESIDENT

OFFICAL SEAL

FORM "E"

REINSTATEMENT FORM

1. Name of the Member:.....
 Roll No.
 Contact:
2. Reasons for being Expelled by the Committee:

3. Reinstatement Decision made by the High Court or Court of Appeal in respect of the expelled member:

4. Comments from the National Ethics Committee:

The Reinstatement made thisday of.....20.....

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CHAIRPERSON OF THE NATIONAL ETHICS COMMITTEE

OFFICAL SEAL

Dar es Salaam,
....., 2022

EDWARD G. HOSEA,
*President of the
Tanganyika Law Society*