

## **THE ADVOCATES ACT.**

Statutory Instrument 267—3.

### **The Advocates (Accountant's Certificate) Regulations.**

#### **Arrangement of Regulations.**

##### Regulation

1. Citation.
2. Interpretation.
3. Accountant's qualifications.
4. Accounts and books to be examined by the accountant.
5. Advocate's right not to produce certain documents.
6. Practising certificate not to be issued or renewed where advocate's certificate qualified.
7. Form of accountant's certificate.
8. Cases where accountant's certificate is unnecessary.
9. Cases where accounting period may be less than twelve months.
10. Cases where advocates may have different accounting periods.
11. Notice to be in writing.
12. Power of Law Council to waive.

#### **Schedule**

*Schedule*            Form of accountant's certificate.

## **THE ADVOCATES ACT.**

Statutory Instrument 267—3.

### **The Advocates (Accountant's Certificate) Regulations.**

*(Under section 77(1)(d) of the Act.)*

#### **1. Citation.**

These Regulations may be cited as the Advocates (Accountant's Certificate) Regulations.

#### **2. Interpretation.**

In these Regulations, unless the context otherwise requires—

- (a) “accounting period” means a period of twelve months ending on the 30th June in any year preceding the year for which application for a practising certificate or renewal of a practising certificate is made;
- (b) “business associate” includes a partner in a firm and a shareholder in a private company;
- (c) “relative” means a parent, brother, sister, grandparent, grandchild, uncle, first cousin, wife or husband; and
- (d) the expressions “advocate”, “client”, “client account”, “client's money” and “trust money” shall have the meanings respectively assigned to them in the Advocates Accounts Rules set out in the First Schedule to the Act, and the expression “trust bank account” shall have the meaning assigned to it by the Advocates Trust Accounts Rules set out in the Second Schedule to the Act.

#### **3. Accountant's qualifications.**

(1) An accountant shall be qualified to give a certificate, hereafter to be called an “accountant's certificate”, that he or she has examined the books, accounts and documents of an advocate, if—

- (a) he or she is entitled to practise as such in Uganda under the law for the time being in force;
- (b) he or she has not been, during the accounting period to which the accountant's certificate relates, nor has he or she prior to giving the certificate become, a business associate or employee of the

- advocate; and
- (c) he or she is not a relative of the advocate, or if the accountant's certificate relates to a firm of advocates, the accountant shall not be a partner of the firm.
- (2) In any of the following cases, that is to say, where—
- (a) an accountant has been duly found guilty of professional misconduct by the relevant disciplinary tribunal or body;
  - (b) the Law Council is satisfied that an accountant was negligent in giving an accountant's certificate,

the Law Council may, in its discretion, at any time, notify the accountant concerned that he or she is not qualified to give an accountant's certificate, and it may give notice of that fact to any advocate in respect of whom the accountant may have given an accountant's certificate, or who may appear to the Law Council to be likely to employ the accountant for the purpose of giving an accountant's certificate; and after the accountant shall have been so notified, unless the notice of disqualification shall have been withdrawn by the Law Council, he or she shall not be qualified to give an accountant's certificate.

(3) Before coming to its decision, the Law Council shall take into consideration any observations or explanation made or given by the accountant, or on his or her behalf, by the professional body of which he or she is a member or by the advocate concerned.

#### **4. Accounts and books to be examined by the accountant.**

(1) For the purpose of giving an accountant's certificate, an accountant shall ascertain from the advocate particulars of all bank accounts (excluding trust bank accounts) kept, maintained or operated by the advocate in connection with his or her practice at any time during the accounting period to which his or her certificate relates and—

- (a) so examine the bookkeeping system in every office of the advocate as to enable the accountant to verify that the system complies with the Advocates Accounts Rules set out in the First Schedule to the Act and is so designed that—
  - (i) an appropriate ledger account, hereafter to be called the "client ledger account", is kept for each client;
  - (ii) the client ledger account shows, separately from other information, particulars of all client's money received, held or paid on account of each client;

- (iii) transactions relating to a client's money and any other money dealt with through a client account are recorded in the advocate's books so as to distinguish those transactions from transactions relating to any other money received, held or paid by the advocate;
- (b) make test checks of postings to a client ledger account from records or receipts and payments of the client's money and make test checks of the cost of such accounts and records;
- (c) compare a sample of lodgments into, and payment from, the client account as shown in a bank statement with the advocate's records of receipts and payments of the client's money;
- (d) inquire into and test-check the system of recording costs and of making transfers in respect of costs from the client account;
- (e) make a test examination of such documents as he or she shall request the advocate to produce to him or her with the object of ascertaining and confirming—
  - (i) that the financial transactions (including those giving rise to transfers from one ledger account to another) evidenced by those documents, are in accordance with the Advocates Accounts Rules; and
  - (ii) that the entries in the client ledger account reflect those transactions in a manner complying with the Advocates Accounts Rules;
- (f) extract (or check extractions of) balances on the client ledger account during the accounting period under review at not fewer than two dates selected by the accountant (one of which may be the last day of the accounting period) and at each such date—
  - (i) compare the total as shown by the ledger account of the liabilities to the clients, including those for whom trust money is held in the client account; and
  - (ii) reconcile each cashbook balance with the client account balance as confirmed directly to the accountant by the bank;
- (g) make a test examination of the client ledger account in order to ascertain whether payments from the client account have been made on any individual account in excess of money held on behalf of that client;
- (h) peruse such office ledger and cash accounts and bank statements as the advocate maintains with a view to ascertaining whether any client's money has not been paid into a client account and ask for such information and explanations as he or she may

require arising out of this subregulation.

(2) If after making an investigation in accordance with subregulation (1) of this regulation, it appears to the accountant that there is evidence that the Advocates Accounts Rules have not been complied with, he or she shall make such further examination as he or she considers necessary in order to complete his or her certificate with or without qualification.

**5. Advocate's right not to produce certain documents.**

Nothing in these Regulations shall deprive an advocate of the right, on the grounds of privilege as between advocate and client, to decline to produce to the accountant any document which the accountant may consider necessary to inspect for the purpose of his or her examination in accordance with regulation 4 of these Regulations; and where the advocate so declines, the accountant shall qualify his or her certificate to that effect.

**6. Practising certificate not to be issued or renewed where advocate's certificate qualified.**

Where an accountant's certificate in respect of an advocate is qualified under regulation 4(2) or 5 of these Regulations, the chief registrar shall not issue or renew the practising certificate of the advocate without the approval of the Law Council.

**7. Form of accountant's certificate.**

An accountant's certificate shall be in the form set out in the Schedule to these Regulations or in a form to the like effect approved by the Law Council.

**8. Cases where accountant's certificate is unnecessary.**

- (1) In any of the following cases, that is to say, where an advocate—
  - (a) does not hold a practising certificate and—
    - (i) has never held one;
    - (ii) having held one has delivered an accountant's certificate covering the accounting period ending on the date upon which he or she ceased to practise or hold or receive client's money, whichever is the later; or
    - (iii) is exempt from complying with the Advocates Accounts

Rules, by holding one of the offices to which section 6 of the Advocates Act, is applicable;

- (b) applies for a practising certificate—
  - (i) for the first time;
  - (ii) for the first time, after having for twelve months or more ceased to practise or hold or receive client's money; or
  - (iii) has satisfied the chief registrar that the Advocates Accounts Rules are not applicable to him or her because he or she is employed as advocate by another advocate and has not, during the accounting period, practised alone or in partnership or been held out to the public as a partner or held or received client's money,

it shall not be necessary to produce an accountant's certificate to the chief registrar before a practising certificate is issued to him or her.

(2) The chief registrar shall, before issuing or renewing a practising certificate required, obtain proof by way of affidavit and be satisfied that the submission of an accountant's certificate is unnecessary for any of the reasons set out in subregulation (1) of this regulation.

#### **9. Cases where accounting period may be less than twelve months.**

- (1) In the case of an advocate who—
  - (a) becomes liable to submit his or her first accountant's certificate;
  - or
  - (b) having been exempt under regulation 8 of these Regulations from submitting an accountant's certificate becomes, at any time during the preceding accounting period, liable to submit an accountant's certificate,

the accounting period shall begin on the date upon which he or she first held or received client's money or, after the exemption, began again to hold or receive client's money, and may cover less than twelve months.

(2) In the case of an advocate retiring from practice who, having ceased to hold or receive client's money, is under an obligation to deliver his or her final accountant's certificate, the accounting period shall end on the date upon which he or she ceased to hold or receive client's money, and may cover less than twelve months.

- (3) In the case of an advocate who—
  - (a) was not exempt under regulation 8 of these Regulations from

submitting an accountant's certificate in the preceding accounting period; and

(b) since the expiry of the accounting period covered by that accountant's certificate has become, or ceased to be, a member of a firm of advocates,

the accounting period may cover less than twelve months.

**10. Cases where advocates may have different accounting periods.**

In the case of an advocate or firm of advocates who has two or more places of business—

- (a) separate accounting periods covered by separate accountant's certificates may be adopted in respect of each such place of business; and
- (b) the accountant's certificate or the accountant's certificates submitted by him or her or the firm to the chief registrar shall cover all client's money held or received by him or her or the firm.

**11. Notice to be in writing.**

(1) Every notice to be given by the Law Council under these Regulations to an advocate shall be in writing under the hand of the secretary of the Law Council or any person acting in his or her place for the time being and sent by registered post or the recorded delivery service to the last address of the advocate appearing on the roll.

(2) Every notice to be given by the Law Council under these Regulations to an accountant shall be in writing under the hand of the secretary of the Law Council or any person acting in his or her place for the time being and sent by registered post or the recorded delivery service to the address of the accountant as shown on the accountant's certificate or appearing in the records of the professional body of which the accountant is a member.

**12. Power of Law Council to waive.**

The Law Council may, by order in writing, waive in any particular case any of the provisions of these Regulations.

—



*Schedule.*

reg. 7.

**Form of Accountant's Certificate.<sup>1</sup>**

1. Advocate's full name<sup>2</sup> \_\_\_\_\_
  
2. Firm(s) names and address(es)<sup>3</sup> \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
3. Whether practising alone or in partnership \_\_\_\_\_
  
4. Accounting period <sup>4</sup>  
Beginning \_\_\_\_\_ ending \_\_\_\_\_  
Beginning \_\_\_\_\_ ending \_\_\_\_\_

---

<sup>1</sup>In the case of a firm with a number of partners, carbon copies of the certificate may be delivered provided item 1 is completed on each certificate with the name of the individual advocate.

<sup>2</sup>Write in block letters.

<sup>3</sup>All addresses at which the advocate(s) practise(s) must be covered by an accountant's certificate or certificates. If an address is not so covered, the reason must be stated.

<sup>4</sup>The period must comply with these Regulations.

Accountant's Certificate.

In compliance with section 12(1)(d) of the Advocates Act, and the Advocates (Accountant's Certificate) Regulations made under the Act, I have examined to the extent required by regulation 4 of those Regulations, the books, accounts and documents produced to me in respect of the above practice of the above-named advocate.

(1) Insofar as an opinion can be based on this limited examination, I am satisfied that during the above-mentioned period the above advocate has complied with the Advocates Accounts Rules set out in the First Schedule to the Advocates Act except so far as concerns<sup>5</sup>—

- (a) certain trivial breaches due to clerical errors or mistakes in bookkeeping, all of which were rectified on discovery and none of which, I am satisfied, resulted in any loss to any client;
- (b) the matters set out in the first section on the back of this certificate, in respect of which I have not been able to satisfy myself for the reasons stated there;
- (c) the matters set out in the second section on the back of this certificate, in respect of which it appears to me that the advocate has not complied with the Advocates Accounts Rules.

(2) The results of the comparisons required under regulation 4(1)(f) of the Advocates (Accountant's Certificate) Regulations, at the dates selected by me were as follows<sup>6</sup>—

- (a) at \_\_\_\_\_
  - (i) the figures were in agreement;
  - (ii) there was a difference computed as follows—

Shs.

Liabilities to clients as shown by clients' ledger accounts

Cash held in client account after allowance for outstanding cheques and lodgments cleared after date

Shs. \_\_\_\_\_  
=====

---

<sup>5</sup>Delete subitems not applicable.

<sup>6</sup>Delete (i) or (ii) as appropriate.

- (b) at \_\_\_\_\_  
(i) the figures were in agreement;  
(ii) there was a difference computed as follows—

Shs.

Liabilities to clients as shown by clients'  
ledger accounts

Cash held in client account after allowance  
for outstanding cheques and lodgments  
cleared after date

Shs. \_\_\_\_\_  
\_\_\_\_\_

(3) (a) Having retired from active practice as an advocate, \_\_\_\_\_  
\_\_\_\_\_ ceased to  
hold client's money on \_\_\_\_\_.

(b) Having ceased to practise under the style of  
\_\_\_\_\_,  
ceased to hold client's money under that style on \_\_\_\_\_.

Particulars of the accountant.

Full name<sup>7</sup> \_\_\_\_\_

Qualifications \_\_\_\_\_

Firm name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

To: The Secretary  
The Law Council  
P.O. Box 7538, Kampala

c.c. The Chief Registrar  
High Court of Uganda  
P.O. Box 7085, Kampala

---

<sup>7</sup>Write in block letters.

First Section.<sup>8</sup>

Matters in respect of which the accountant has been unable to satisfy himself or herself and the reasons for that inability.

Second Section.<sup>8</sup>

Matters (other than trivial breaches) in respect of which it appears to the accountant that the advocate has not complied with the Advocates Accounts Rules.

---

**History:** S.I. 80/1977.

**Cross References**

Advocates Accounts Rules, Cap. 267, First Schedule.  
Advocates Trust Accounts Rules, Cap. 267, Second Schedule.

---

---

<sup>8</sup>To be printed on the reverse of the certificate.