
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 898

30 SEPTEMBER 2015

ATTORNEYS ACT, 1979 (ACT No. 53 OF 1979): AMENDMENT OF REGULATIONS

The Minister of Justice and Correctional Services has, under section 81(2) of the Attorneys Act, 1979 (Act No. 53 of 1979), with the concurrence of the Chief Justice and after consultation with the presidents of the several societies, made the regulations in the Schedule.

SCHEDULE***Definition***

1. In this Schedule "the Regulations" means the regulations published under Government Notice No. 1581 of 7 November 1941, as amended by Government Notices Nos. 2691 of 31 December 1942, 2144 of 26 November 1943, 1476 of 16 July 1948, 1264 of 25 May 1951, 354 of 25 February 1955, 1785 of 9 September 1955, 731 of 24 May 1957, R. 508 of 30 March 1972, R. 1458 of 13 July 1984, R. 47 of 2 January 1987, R. 347 of 22 February 1991, R. 1708 of 18 November 1994, R. 1746 of 31 December 1997, R. 41 of 19 January 2001, R. 354 of 20 April 2004 and R. 580 of 15 July 2011.

Substitution of Annexure A to the Regulations

2. The following Annexure is hereby substituted for Annexure A to the Regulations:

"ANNEXURE A**APPLICATION FOR FIDELITY FUND CERTIFICATE IN TERMS OF THE
ATTORNEYS ACT, 1979 (ACT No. 53 OF 1979)****FOR THE YEAR ENDING 31 DECEMBER 20__***PLEASE COMPLETE IN BLOCK LETTERS IN BLUE OR BLACK INK***GENERAL INFORMATION**

1. Full names of the applicant: _____
Identity number: _____
2. Name under which practice will be carried on ("the firm"). If the practice is incorporated give the full name and registration number:

Registration number: _____
3. Physical address at which practice will be carried on (i.e. your principle place of practice)

Province: _____
4. Contact details:
Postal address: _____
Residential address: _____
Docex address (if applicable): _____
Telephone (business): _____ (home): _____
(fax): _____ (e-mail): _____
5. (a) Any other physical address at which practice will be carried on, including province:

Province: _____
(b) Name of practitioner in control: _____
6. Full names of partners or co-directors, if any: _____

7. If no Fidelity Fund Certificate was obtained for the current year, state date on which the applicant will begin to practise for own account or in partnership or as a member of an incorporated practice:

8. Name of Law Society of which applicant is a member in terms of section 57 of the Attorneys Act, No. 53 of 1979:

9. If applicant ceased to practise for own account, or in partnership or as member of an incorporated practice and intends to resume practising, state:

(a) Name and address of former practice: _____

_____ Province: _____

(b) When applicant ceased to practise: _____

ADDITIONAL INFORMATION REQUIRED BY THE FUND FOR RISK MANAGEMENT AND ANALYSIS

10. Registration number with the Financial Intelligence Centre (attach proof): _____

11. Appointed auditor: _____ Registration number: _____

Firm name: _____

Physical address: _____

Postal address: _____

Telephone (business): _____ (fax): _____

E-mail address: _____

12. The firm participated / did not participate in the automated monthly transfer system for the period from _____ 20__ to _____ 20__.

13. The firm provides bridging finance to clients: YES / NO.

14. The firm carried on the business of an investment practice during the year: YES / NO.

If yes, the investment practice registration in terms of the Financial Advisory and Intermediary Services Act, No. 37 of 2002, with the Financial Services Board is: _____

15. The practice purchased / did not purchase insurance cover to protect against the possibility of misappropriation of trust money and property to the value of R _____ per annum from _____ (insurance company), policy number _____

FINANCIAL INFORMATION

16. I / We as the practitioner / partner / directors is / are responsible for ensuring that the attorneys' trust accounts are maintained in compliance with the provisions of the Attorneys Act, No. 53 of 1979, and the rules of the Law Society. The practitioner / partner / directors is / are responsible for the design, implementation and monitoring of accounting and internal control systems and the completion of the risk assessment of the firm.

(a) I / We, confirm that I / we have maintained the necessary accounting records as required in terms of sections 78(4) and 78(6) of the Attorneys Act, No. 53 of 1979, and the rules of the Law Society for the accounting period from 1 October 20__ to 30 September 20__.

(b) I / We certify that:

- I. The accounting records, to the best of my / our knowledge and belief, are in accordance with the terms of the Attorneys Act, No. 53 of 1979, and the Law Society rules.
- II. Any trust deficit was reported to the Law Society.
- III. The interest earned annually up to the last day of February in each year on section 78(1) and section 78(2)(a) were paid to the Law Society before the 31st May __.
- IV. The annual membership fees are fully paid up.

(c) State the amount (as per the bank statement) standing to the credit of the firm's trust banking account(s) and the amount of trust monies invested by the applicant's firm at the end of each quarter of this year, per financial institution:

Balance standing to the credit of the firm's trust banking account(s)	(A) Section 78(1)	(B) Section 78(2)(a)	(C) Section 78(2A)	(D) Investments	(E) Estates	(F) Property	Total
Currency							
31 December 20__							
31 March 20__							
30 June 20__							
30 September 20__							
TOTAL TRUST FUNDS							

Trust banking account details	(A) Section 78(1)	(B) Section 78(2)(a)	(C) Section 78(2A)	(D) Investments	(E) Estates
Bank:					
Branch:					
Branch code:					
Account number:					
Credit interest rate:					
- at 31 March					
- at 30 Sept					

Balance standing to the credit of the firm's trust banking account(s)	(A) Section 78(1)	(B) Section 78(2)(a)	(C) Section 78(2A)	(D) Investments	(E) Estates	(F) Property	Total
Bank service fee formula:							

(d) Analysis of section 78(2A) investments by category at 30 September 20__:

Category	Distribution	Duration (average number of months)
Conveyancing	%	months
Commercial	%	months
Litigation	%	months
Road Accident Fund	%	months
Investments	%	months
Estates	%	months
Other: (Specify)		
	%	months
	%	months
	%	months
	%	months
TOTAL	100 %	

(e) I hereby authorise the above bank/s to provide the Attorneys Fidelity Fund with changes and to certify the above information, from time to time, as requested by the Fund.

(f) I hereby authorise the Attorneys Fidelity Fund to negotiate with my bankers the terms relating to interest accruing on, and bank charges levied against, my trust current banking account(s).

SIGNED ON THIS ____ DAY OF _____ 20__ AT _____,

IN THE PRESENCE OF THE UNDERSIGNED WITNESSES:

AS WITNESSES:

1. _____

2. _____

SIGNATURE OF APPLICANT

GUIDELINES FOR COMPLETING THIS FORM

This form must be completed in advance for the coming year.

The form should be submitted by 15 October of each year for a certificate in respect of the following year.

If commencing practice for the first time the application will be in respect of the current year.

The information requested in this application form will, inter alia, be used by the Attorneys Fidelity Fund to provide statistics for risk management, risk profiling and reinsurance programmes.

Item 16(c): The amount (as per bank statements) standing to the credit of the firm's trust banking account, the amount of trust moneys invested by the applicant's firm, estate accounts and other entrusted property.

A – Insert the balance standing to the credit of the trust current banking account as per the bank statement as at the end of each quarter. If there is more than one trust current account, add the balances together and enter the result in A for each quarter.

B – Insert the total of the amounts invested in terms of section 78(2)(a) in B for each quarter.

C – Insert the total of the amounts invested in terms of section 78(2A) in C for each quarter. On this type of investment the interest generated is payable to the practitioner's client(s).

D – Insert the total of the amounts invested in terms of the Law Societies investment rules in D for each of quarter.

E – Insert the total amount held in respect of estates in terms of section 78(6)(c) of the Act in E for each quarter.

F – Insert the value of any other entrusted property in terms of section 26 of the Act, in F for each quarter.

Use annexures if there is more than one account and financial institution.

For trust funds denominated in any foreign currency, provide a separate annexure in the same format noting the currency.

Trust current banking account details:

- I. Enter name of bank.
- II. Enter name of branch.
- III. Enter branch code.
- IV. Enter bank account number.
- V. Enter the credit interest rate applied to the account as at the dates specified. These dates relate to the current year. If the rates are not shown on the bank statements, practitioners should contact their bank managers to get the correct information. If the rate fluctuates depending on the size of the balance in the account, indicate the rate on balances in excess of R 100,000.
- VI. The bank service fee formula must be entered as at 30 September of the current year. The service fee formula is normally printed on the bank statement in the following way:

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The first 3 digits are the charge for the first R100 of each cheque issued, expressed in cents.

The next 3 digits are the charge for each additional R100 of each cheque issued.

The last 3 or 4 digits are the maximum charge per cheque issued.

Use annexures if space is insufficient and for information on multiple accounts.

Item 16(d): You are required to provide your own assessment of the nature of section 78(2A) trust investments at 30 September, expressed as a percentage, and the average duration of each type of investment.

Insert percentages to indicate the nature of section 78(2A) trust investments.

Also insert the average duration of each investment type."