

RESOLUTION No. 94/IX/2015
of the National Council of Attorneys at Law
on the By-laws on Practicing as an Attorney at Law
of 13 June 2015

Pursuant to Article 60(8)(f) of the Act of 6 July 1982 on Attorneys at Law (Dz. U. of 2005 item 507), be it resolved as follows:

§ 1.

The Bylaws on Practicing as an Attorney at Law are adopted in the wording contained in the annex hereto.

§ 2.

Resolution No. 140/VIII/2012 of the National Council of Attorneys at Law of 7 December 2012 on Informational Plaques Indicating Practice as an Attorney at Law loses its binding force.

§ 3.

The resolution comes into force on 1 July 2015.

Secretary
of the National Council of Attorneys at law

Barbara Kras

Vice President
of the National Council of Attorneys at law

Zbigniew Pawlak

**By-laws
on Practicing as an Attorney at Law**

**Section 1
Preliminary Provisions**

§ 1.

1. The By-laws lay down detailed rules for practicing as an attorney at law.
2. The provisions hereof shall apply *mutatis mutandis* to trainee attorneys at law, as well as foreign lawyers providing legal assistance in the Republic of Poland within the scope corresponding to the professional duties of an attorney at law.

§ 2.

Any reference in the Bylaws to:

- 1) "Attorneys at Law Act" – shall mean the Attorneys at Law Act of 6 July 1982 (Dz. U. of 2015, item 507);
- 2) "Attorney at Law's Code of Professional Conduct" – shall mean the Attorney at Law's Code of Professional Conduct adopted by Resolution No. 3/2014 of the Extraordinary National Congress of Attorneys at Law on the Attorney at Law's Code of Professional Conduct of 22 November 2014;
- 3) "client" – shall mean the entity set out in Article 5(4) of the Attorney at Law's Code of Professional Conduct;
- 4) "law partnership" – shall mean the partnership referred to in Article 8(1) of the Attorneys at Law Act;
- 5) "attorney at law's office" – shall mean the legal form of practicing the profession under one's own name and on one's own behalf by an attorney at law carrying out business activity;
- 6) "office premises" – shall mean premises intended for regular servicing of clients by a law partnership or an attorney at law's office;

- 7) “attorney at law providing legal assistance within the framework of a law partnership” – shall mean a partner in the partnership as well as an attorney at law employed by the partnership or cooperating with the partnership under a civil-law contract;
- 8) “documents connected with handling a case” – shall mean all information carriers of particular legal significance gathered by an attorney at law in connection with providing legal assistance in a given case, in particular documents handed over by a client, pleadings, judicial writs, and official letters.

Section 2

Common Rules for Practicing the Profession

§ 3.

1. An attorney at law shall provide legal assistance on the basis of a contract. A contract for the provision of legal assistance shall set out, in particular, the scope of legal assistance, the conditions for the provision thereof, and the remuneration.
2. An attorney at law shall strive to ensure that a contract is made in writing unless the contract concerns *ad hoc* legal assistance.
3. The provisions of subparagraphs 1 and 2 shall not prejudice the provisions on employment contracts, the provisions governing the appointment of an *ex officio* attorney or defense counsel, or a substitute for an attorney at law, or the provisions governing attorneys at law’ *pro bono* activity.

§ 4.

1. In any matter that could be – in an attorney at law’s assessment – adjusted amicably, the attorney at law shall be obliged to inform the client about the possibility of an out-of-court resolution or settlement of the dispute, in particular through arbitration or mediation, as well as about the possibility of motioning for a summons to a conciliation hearing.
2. Prior to deciding on the use of an out-of-court method of dispute resolution or settlement, an attorney at law shall be obliged to obtain the consent of the client.

§ 5.

1. The office premises shall be appropriate for the dignity of the profession of attorney at law and shall meet conditions that ensure proper practice as an attorney at law, in particular compliance with the obligation of maintaining professional secrecy, and preserving the

confidentiality and secure storage of documents connected with the provision of legal assistance.

2. The office premises shall be identified by the placement of a plaque with information indicating practice as an attorney at law.
3. A plaque shall display:
 - 1) where the profession is practiced in an attorney at law's office – the designation “Kancelaria Radcy Prawnego” [*Attorney at Law's Office*] along with the attorney at law's first name (middle name) and surname;
 - 2) where the profession is practiced in a civil-law partnership – the name of the partnership along with indication of the profession or professions practiced by the partners within the framework of the civil-law partnership, whereas displaying information about practicing as attorney at law shall be mandatory;
 - 3) where the profession is practiced in the legal form of a commercial partnership referred to in Article 8(1) of the Attorneys at Law Act – the company's business name along with indication of the profession or professions practiced within the framework of the partnership, whereas displaying information about practicing as attorney at law shall be mandatory.
4. A plaque may also display additional information including the first names and surnames of partners who are not mentioned in the business names of partnerships referred to in Article 8(1) of the Attorneys at Law Act, academic degrees and titles in the area of legal sciences, other professional titles awarded, contact details, and the logo of the attorney at law's office or the partnership.
5. Any information referred to in subparagraphs 3–4 shall be expressed in Polish; additional placement of a translation into a foreign language shall also be permitted.
6. The placement of the logo of the National Council of Attorneys at Law on informational plaques shall also be recommended in accordance with the rules laid down in separate provisions.

§ 6.

1. An attorney at law shall be obliged to take all necessary steps to ensure that the prohibition against disclosure of information covered by professional secrecy of attorneys at law is complied with by persons not bound by such professional secrecy under law, with whose assistance the attorney at law discharges his or her professional duties connected with providing legal assistance.

2. Prior to allowing persons referred to in subparagraph 1 to participate in discharging duties connected with the provision of legal assistance, an attorney at law shall be obliged to require such persons to submit a written declaration of commitment to comply with the obligation to maintain the secrecy of any facts that come to their knowledge in the course of discharging duties. The declaration may be submitted using the sample template annexed hereto.

§ 7.

1. Upon a client's request, an attorney at law shall deposit the funds the attorney at law received from the client toward future expenditures in a separate bank account.
2. An attorney at law may have one separate bank account for all his or her clients' funds, unless a contract with a client provides otherwise.
3. An attorney at law may undertake to hold a client's assets if the attorney at law is able to provide appropriate conditions and safeguards for the holding thereof.

§ 8.

1. No client's funds earmarked for expenditures and fees may be subject to deductions or transferred to an attorney at law's personal account to cover the latter's fee without the client's consent.

§ 9.

1. Attorneys at law who practice the profession outside the framework of employment in offices that provide support for state government authorities and in local government units shall comply with the obligations arising under the Counteracting Money Laundering and Terrorism Financing Act.

§ 10.

1. An attorney at law shall provide proper conditions for the storage of documents connected with handling a case, protecting them against destruction, loss, and unauthorized access.
2. The procedure for the treatment of documents connected with handling a case after completion thereof shall be agreed upon with the client. In the absence of such an agreement and in the event that after a case's completion a client fails to request the return of the documents entrusted to the attorney at law and connected with handling the case, the

attorney at law shall call on the client to collect such documents and may retain a copy thereof.

3. The retention period for documents connected with handling a case may not be shorter than the limitation period for potential civil-law claims arising out of attorney at law liability associated with the provision of legal assistance, the limitation period for instituting criminal proceedings, or the limitation period for instituting disciplinary proceedings referred to in Article 70 of the Attorneys at Law Act.
4. The documents connected with handling a case which constitute archival materials comprising the national archival resources within the meaning of the National Archival Resources and Archives Act of 14 July 1983 shall be governed by the provisions thereof.

Section 3

Rules for Specific Forms of Practicing the Profession

Chapter 1

Rules Governing Employment

§ 11.

1. An attorney at law practicing the profession within the framework of employment in an organizational unit other than a law partnership or an attorney at law's office shall strive to arrange a schedule for working time at the premises of the organizational unit with the attorney at law's employer pursuant to Article 18 of the Attorneys at Law Act. In the event that an attorney at law is unable to be present at the premises of the organizational unit at the time scheduled, the attorney at law shall inform the employer in accordance with the applicable rules of the place of employment.
2. An attorney at law employed with a state budget unit and the attorney at law's employer shall agree under a civil-law contract on the rules for the payment of additional remuneration for legal representation in litigation.

§ 12.

1. An attorney at law occupying the position of a coordinator of attorneys at law shall organize the work of the attorney at law team. The actions of the coordinator may not infringe upon the attorneys at law' independence in carrying out the tasks assigned.
2. An attorney at law occupying the position of a coordinator shall, in particular:

- 1) agree with the cooperating attorneys at law upon a system of caseload distribution and see to the allocation of the professional tasks as agreed,
 - 2) see to a proper working time schedule for the attorneys at law that takes the needs of the organizational unit and the provisions of the Attorneys at Law Act into consideration,
 - 3) see to establishing a leave schedule that takes the needs of the attorneys at law and the organizational unit into consideration.
3. The provisions of subparagraphs 1 and 2 shall apply *mutatis mutandis* to attorneys at law providing legal assistance as part of an attorney at law team within a framework other than that of employment.

Chapter 2

Rules for Practicing the Profession in Law Partnerships and Attorney at law's Offices

§ 13.

The business of any law office and law partnership whose partners are attorneys at law and advocates shall be limited to the provision of legal assistance and the provision of services by persons permitted to carry out joint operation under law.

§ 14.

An attorney at law who is a partner in a law partnership shall strive to ensure that the articles of incorporation [*statut*] stipulate that a breach by other partners of the Attorneys at Law Act, the Attorney at Law's Code of Professional Conduct, or other provisions of the self-government of attorneys at law constitutes grounds for the attorney at law to exit the partnership or terminate the articles of incorporation.

§ 15.

1. An attorney at law engaged in a joint practice of the profession within the framework of a law partnership who holds a position related to managing the law partnership's affairs or representing the law partnership shall see to the law partnership's compliance with the provisions of the Attorneys at Law Act, the Attorney at law's Code of Professional Conduct, and other provisions of the self-government of attorneys at law, and shall address any questions concerning the application thereof at the law partnership.
2. In the event that the internal regulations of the law partnership conflict with or are contrary to the provisions of the Attorneys at Law Act, the Attorney at law's Code of Professional

Conduct, or other provisions of the self-government of attorneys at law, an attorney at law holding a position related to managing the law partnership's affairs or representing the law partnership shall strive to ensure that the internal regulations of the law partnership are brought in line with applicable provisions as soon as possible.

§ 16.

A law partnership and an attorney at law providing legal assistance within the framework of the law partnership shall agree upon the rules for the provision of legal assistance.

§ 17.

Persons jointly practicing the profession within the framework of a law partnership shall have access to the register of clients and cases maintained by the law partnership. The register may also be accessed by persons cooperating in the provision of legal assistance at the law partnership, however prior to gaining access to the register such persons shall be informed about the rules governing the use thereof in writing.

§ 18.

1. Practices specializing in specific fields of law may be set up within a law partnership.
2. An attorney at law charged with running a specific practice may:
 - 1) lay down internal rules for the provision of legal assistance for such practice;
 - 2) oblige a person belonging to a given practice to seek prior consultation on the content of his or her legal advice from the attorney at law in charge;
 - 3) conduct training for persons belonging to a given practice.

§ 19.

1. The provisions hereof governing law partnerships and attorneys at law holding positions related to managing a law partnership's affairs or representing a law partnership shall apply *mutatis mutandis* to attorneys at law practicing the profession in an attorney at law's office.
2. In particular, the mutual rights and obligations of an attorney at law practicing the profession in an attorney at law's office and the persons who cooperate with or are employed by the attorney at law shall be governed by the provisions of § 15, 17, and 18, applied *mutatis mutandis*.

Section 4

Rules for Discharging the Obligations of an *Ex-officio* Attorney and Defense Counsel

§ 20.

Upon being appointed an *ex officio* attorney or defense counsel an attorney at law shall, without delay:

- 1) get acquainted with the case files – in particular in order to verify whether any time limits to undertake procedural actions in the case have started running – and determine whether any circumstances arise that justify the filing of a motion for release from the obligation to handle the case;
- 2) notify the person for whom the attorney at law was appointed an *ex officio* attorney or defense counsel of his or her appointment and contact that person.

§ 21.

1. In the event of circumstances that justify release from the obligation to provide *ex officio* legal assistance, an attorney at law shall without delay move the competent authority for release and shall simultaneously notify the person for whom the *ex officio* attorney or defense counsel has been appointed of such a moving, while indicating in the notification that the attorney at law shall undertake urgent actions concerning the case until the release is granted.
2. An attorney at law moving for a release from the obligation to provide *ex officio* legal assistance shall be obliged to undertake urgent procedural actions and – when the release is granted – to hand over to another appointed attorney at law the case along with reference files and information about actions undertaken and deadlines for any procedural actions.

§ 22.

In the course of providing *ex officio* legal assistance, an attorney at law shall be obliged to ensure that the person for whom the attorney at law was appointed an *ex officio* attorney or defense counsel is able to contact him or her, including personally, by indicating a telephone number and time when the attorney at law can usually be reached and by enabling personal contact at a location that ensures maintaining confidentiality.

§ 23.

1. An attorney at law appointed in civil proceedings in connection with proceedings before a common court shall be obliged to represent a party until the final and binding disposal of

the proceedings, unless a court order provides that the obligation to represent ceases at an earlier date.

2. An attorney at law appointed in civil proceedings in connection with cassation proceedings or proceedings instituted by a petition for declaring a final and binding decision unlawful shall be obliged to represent a party until the disposal of the proceedings instituted upon cassation appeal or petition, subject to subparagraph 3–5.
3. Where an attorney at law appointed in civil proceedings in connection with cassation proceedings or proceedings instituted by a petition for declaring a final and binding decision unlawful finds no grounds for the filing thereof, the attorney at law shall be obliged to notify the party and the court of the absence of grounds in writing without delay but no later than two weeks from having been notified of his or her appointment.
4. The notification referred to in subparagraph 3 shall be accompanied by the attorney at law's opinion on the absence of grounds for filing a cassation appeal or a petition drawn up with due diligence.
5. Upon undertaking the actions referred to in subparagraph 3 and 4 the obligation to handle the case imposed on the attorney at law appointed in connection with cassation proceedings or proceedings instituted by a petition for declaring a final and binding decision unlawful shall cease.
6. The provisions of subparagraph 1–5 shall apply *mutatis mutandis* to the appointment of attorneys at law in proceedings other than civil proceedings, subject to the provisions governing the relevant proceedings.

§ 24.

In the event that a person for whom an attorney at law has been appointed an *ex officio* attorney or a defense counsel revokes the authorization to represent or act as defense counsel, the attorney at law shall be obliged to inform the court and the appointing authority thereof without delay.

§ 25.

Rules for Discharging the Obligations of an Attorney at Law Substitute

1. Upon the service of the dean's decision, a substitute for an attorney at law appointed by the dean pursuant to Article 21(2) of the Attorneys at Law Act shall without delay undertake actions with a view to determining the progress of the cases handled by the attorney at law substituted.

2. A substitute attorney at law shall also undertake all necessary actions in relevant proceedings with a view to protecting the interests of the person represented.
3. A substitute attorney at law shall take necessary steps to contact the person represented. A substitute attorney at law shall inform the person represented of the reasons for appointing a substitute attorney at law. Further actions may be undertaken by the substitute attorney at law on behalf of the person represented provided that such a person does not revoke the substitute attorney at law's authorization to act.

SAMPLE TEMPLATE

DECLARATION

I, the undersigned, hereby undertake to comply with the obligation to maintain the secrecy, not limited in time, of any and all facts that come to my knowledge in the course of discharging duties in connection with providing legal assistance by (attorney at law/law partnership). I further represent that I have been duly instructed about the legal responsibility arising out of violating the aforementioned obligation and I am aware of the legal consequences of such conduct.