

Rwanda

Ministerial Instructions determining the Code of Conduct of Professional Bailiffs

Ministerial Instructions 4 of 2015

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Ministerial Instructions determining the Code of Conduct of Professional Bailiffs

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The Minister of Justice/Attorney General;

Pursuant to Law n° 12/2013 of 22/03/2013 governing the Bailiff Function, especially in Articles 27, 31, 38, 39, 42, 43, 44, 46 and 71;

Pursuant to Ministerial Order n° 003/08.11 of 11/02/2014 determining the scale of fees for the professional bailiffs;

After consideration and approval by the Cabinet, in its session of 04/05/2015;

ISSUES THE FOLLOWING INSTRUCTIONS:

Chapter One General provisions

Article One – Purpose of these instructions

These instructions determine ethical standards of professional bailiffs.

Article 2 – Definition of a client

For the purpose of these instructions, a «client» means a person who requests for the services of a professional bailiff or who gives a mandate to him/her.

Chapter II Obligations of professional bailiffs

Section One – General obligations

Article 3 – Professional characteristics

A professional bailiff shall:

- 1° act in a manner that is objective, respectful, moderate and dignified;
- 2° refrain from using any method or attitude likely to adversely deteriorate the honor and dignity of the profession;
- 3° refrain from acting in a manner that may embarrass, humiliate or offend any person;
- 4° abstain from giving inappropriate advice or which are not related to his/her profession;

- 5° have a dress code consistent with his/her profession;
- 6° act in a lawful, dignified and courteous manner;
- 7° have self confidence and act with fairness;
- 8° execute voluntarily the court decision and in which h/she lost at the request of the winning party.

Article 4 – Integrity

A professional bailiff must:

- 1° carry out his/her professional activities with integrity;
- 2° not accept any gratuity for the performance or non-performance of any activity in connection with his/her obligations;
- 3° not accept any additional remuneration during the course of his/her function.

Article 5 – Capacity building

A professional bailiff must practice his/her profession according to the law and generally recognized standards and practices, For this purpose, a professional bailiff must continue to update his/her knowledge and take the necessary means to upgrade and develop the knowledge.

In the practice of his/her profession, the professional bailiff must consult his/her peers or any qualified person before performing any act for which he/she is not sufficiently knowledgeable.

Article 6 – Availability and diligence

A professional bailiff must be available and diligent in all matters entrusted to him/her and related to his/her function.

A professional bailiff must give his/her client or litigant all explanations to understand and assess the professional services rendered.

Article 7 – Avoiding conflict of interest

Subject to provisions of Article 63 of the Law n° 12/2013 of 22/03/2013 governing the bailiff function, a professional bailiff must avoid any conflict of interest.

Conflict of interest arises if:

- 1 ° the professional bailiff advances personal interests or another person's interests against those of his/her client;
- 2 ° the professional bailiff is required to perform professional activities to a partner or a shareholder of a company in which the bailiff carries out a professional activity.

In case a professional bailiff recognizes any conflict of interest, he/she shall immediately notify the client in writing with a copy to the President of the Bailiff Association and the Minister of Justice.

Section 2 – Obligations to the profession

Article 8 – Customer care

A professional bailiff must refrain from practising his/her profession under conditions that may impair the quality of his/her services.

A professional bailiff must inform in writing his/her client of the services he/she believes that may be efficiently provided by another person, with a copy to the President of the Bailiff Association and the Minister of Justice.

Article 9 – Development of the profession

A professional bailiff must contribute to the development of the profession by exchanging knowledge and expertise with his/her peers, training interneers and by participating in regular educational courses and training programs.

Article 10 – Collaboration in compliance with the Law

Professional bailiffs who practice in partnership must ensure that the partnership collaborates with other colleagues to comply with provisions of the Law governing the bailiff function as well as provisions of this code of conduct.

Article 11 – Obligation to wear a badge

A professional bailiff who is on duty must wear an identification badge.

Article 12 – Obligation to communicate the reason of the visit

A professional bailiff who is on duty must explain in a polite manner and without any intimidation the reason of his/her visit. He/she is prohibited from intentionally providing misleading explanation to the public.

Section 3 – Obligations of the professional bailiff towards clients

Article 13 – Obligation to enter into a written contract

A professional bailiff and the client shall, regarding their working relationship, enter into a written contract.

The written contract mentioned in Paragraph One of this Article must indicate the obligations of each party and the remuneration agreed upon.

Article 14 – Execution of the contract

A professional bailiff has an obligation to provide services to a client as agreed upon in their contract unless the bailiff is unable to do so for justifiable grounds.

If the professional bailiff decides not to provide services to a client as agreed in the contract, the bailiff must give a written notice of three (3) days to the client. In this case, the contract he/she signed with the client shall be terminated, and if the professional bailiff was paid extra money on the services rendered, the bailiff shall refund the extra money together with the file.

The professional bailiff must also provide grounds in writing as to rejection of provision of services to the client.

Article 15 – Avoiding causing loss to the client

A professional bailiff shall take necessary measures to prevent any foreseeable loss to the client.

Article 16 – Respecting the client's right to examine or obtain a copy of documents

Without prejudice to provisions of other laws, a professional bailiff must respect the client's right to examine or obtain any copy of documents.

A professional bailiff shall respond to the client's request in a period of three (3) days from the day of request of the copy of the document.

Subject to any other legal provisions, any client who requests for a copy of any document shall have access to it without pay.

Article 17 – Bailiff's right to seek services of another bailiff

A professional bailiff may seek services of his/her colleague in the performance of his/her responsibilities.

Article 18 – Minutes of the judgment execution

The Professional Bailiff shall prepare minutes of judgment execution which shall include:

- 1 ° names and signature of the professional court bailiff;
- 2 ° names and signature of the winning party;
- 3 ° names and signature of the losing party;
- 4 ° names and signatures of two (2) witnesses.

In case of absence of parties, it shall be mentioned in the minutes of judgment execution

Chapter III Prohibitions

Article 19 – Prohibited advertising acts

A professional bailiff is prohibited from engaging in or causing any false, deceitful or incomplete act of advertising or one which is likely to mislead the public.

Article 20 – Prohibition to use the logo of the Ministry of Justice

A professional bailiff shall not use the logo of the Ministry of Justice in any form or for any purpose, except on the badge mentioned in Article 11 of these Instructions.

Chapter IV Miscellaneous and final provisions

Article 21 – Contents of a statement or advertisement

A statement or advertisement act of a professional bailiff shall include the following:

- 1° names of the professional bailiff;
- 2° the title of the professional bailiff;
- 3° the name of the association within which the bailiff practices, if applicable;
- 4° case number;
- 5° the court which rendered the judgment;
- 6° names of the parties;
- 7° location of the subject matter to the statement or advertisement;

8° any other indication which may clarify the statement or advertisement.

Article 22 – Sanctions

Without prejudice to civil or penal liability, any professional bailiff who contravenes provisions of this code of conduct shall be punished in accordance with the provisions of the Law governing the bailiff function and those of the internal regulations on the Professional Bailiffs Association.

Article 23 – Authorities responsible for implementation of these instructions

The Executive Council of the Professional Bailiffs Association is entrusted with the implementation of these instructions.

Article 24 – Commencement

These Instructions shall come into force on the date of their publication in the Official *Gazette* of the Republic of Rwanda.