Republic of Latvia

Cabinet

Regulation No. 270

Adopted 27 April 2021

**Regulations Regarding the Examination and Qualification Test of a Sworn Advocate**

*Issued pursuant to*

*Section 41.2, Paragraphs one and two and Section 73, Paragraph three of the Advocacy Law of the Republic of Latvia*

**I. General Provisions**

1. The Regulation prescribes:

1.1. the procedures for the examination of a sworn advocate (hereinafter – the examination) and the fields in which the knowledge and skills of the candidate for the position of a sworn advocate (hereinafter – the candidate) are examined, also if the person is partly exempted from taking the examination, and also the procedures for the evaluation of the examination;

1.2. the amount of the fee for the examination, also if the person is partly exempted from taking the examination;

1.3. the content and procedures of the qualification test of a sworn advocate (hereinafter – the qualification test), and also the evaluation procedures and the amount of the fee.

2. The Latvian Council of Sworn Advocates (hereinafter – the Council) shall be responsible for the organisation of the examination and the qualification test and the technical provision thereof.

**II. Organisation of the Examination**

3. The candidate who wishes to take the examination shall submit the application specified in Section 39 of the Advocacy Law of the Republic of Latvia to the Council, indicating the electronic mail address therein. If the application is submitted in person, a personal identification document shall be presented. The following documents shall be appended to the application:

3.1. a curriculum vitae (CV), reflecting also information on the legal work experience acquired (including a description of the work carried out);

3.2. a copy of the document attesting the acquisition of higher education in accordance with the requirements laid down in Section 14 of the Advocacy Law of the Republic of Latvia if the application and documents are sent by post or electronically. If the application and documents are submitted in person, the original copy of the abovementioned document shall be presented;

3.3. a copy of the certificate of the proficiency in the official language of Grade 2 of the highest level (C) or a copy of such document which attests the acquisition of basic, secondary, or higher education in the Latvian language if the application and documents are sent electronically or by post. If the application and documents are submitted in person, the original copies of the abovementioned documents shall be presented;

3.4. a statement issued by a merchant or institution or another document which attests the acquiring of work experience (in accordance with the requirements laid down in Section 14 of the Advocacy Law of the Republic of Latvia) in the relevant period;

3.5. a reference attesting that the candidate has a faultless reputation.

4. The examination shall be graded by the examination commission (hereinafter – the commission) established in accordance with Section 41.1 of the Advocacy Law of the Republic of Latvia. The chairperson of the commission shall chair the meetings of the commission and shall be responsible for the course of the examination process and conformity of the determination of the results with the requirements of this Regulation. The duties of the secretary of the commission shall be fulfilled by a person appointed by the Council.

5. The meetings of the commission shall be closed. The right to get acquainted with the information related to the evaluation of the examination works shall be granted by a written permission of the chairperson of the commission in conformity with the procedures laid down in the Freedom of Information Law.

6. The examination may be commenced and it shall be deemed valid if not less than six members of the commission are participating in the work of the commission (including the chairperson of the commission). In the case referred to in Section 32 of this Regulation, a deviation from the number of the members of the commission referred to in this Paragraph shall be permissible in relation to the evaluation of a particular candidate, but it shall not be less than four. The chairperson of the commission shall ensure that at least four members of the commission are evaluating the relevant candidate in the case referred to in Paragraph 32 of this Regulation.

7. The place and time of the examination shall be determined by the Council and the candidate shall be informed thereof at least seven working days before the examination by sending a notification to the electronic mail address indicated by the candidate.

8. The knowledge and skills of the candidate in the following fields shall be examined in the examination:

8.1. constitutional law;

8.2. theory of law;

8.3. criminal law and criminal procedure law;

8.4. civil law and civil procedure law;

8.5. administrative law and administrative procedure law;

8.6. labour law;

8.7. commercial law;

8.8. financial and tax law;

8.9. international law and international legal cooperation in criminal proceedings and criminal proceedings;

8.10. the Advocacy Law of the Republic of Latvia and the laws and regulations arising from it;

8.11. the ethics of an advocate;

8.12. the international regulation of the activity of an advocate;

8.13. the record-keeping of an advocate;

8.14. communication and reasoning.

9. The Council shall assess the conformity of the programme of the examination with the laws and regulations and shall approve it. The programme of the examination shall consist of sections the content of which conforms to the fields referred to in Sub-paragraphs 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, 8.9, 8.10, 8.11, 8.12, and 8.13 of this Regulation. The sections of the programme of the examination shall include general questions providing a guidance in relation to the content of the questions of the examination papers. Specific questions of the examination papers shall be formed on the basis of the abovementioned questions. The candidate may become acquainted with the programme of the examination at least five working days before the examination.

10. The commission shall, before each examination, prepare the examination papers and they shall be approved by the chairperson of the commission. The examination papers shall not be available to the candidate, their confidentiality shall be ensured by the chairperson of the commission.

11. The papers of the written part of the examination shall include a practical assignment (case) the content of which conforms to the questions included in the sections of the programme of the examination in the fields referred to in Sub-paragraphs 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, 8.9, 8.10, 8.11, 8.12, and 8.13 of this Regulation. The papers of the oral part of the examination shall include five theoretical questions of which four questions are related to the questions included in the sections of the programme of the examination in the fields referred to in Sub-paragraphs 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, and 8.9 of this Regulation and one question is related to the questions included in the sections of the programme of the examination in the fields referred to in Sub-paragraphs 8.10, 8.11, 8.12, and 8.13 of this Regulation.

**III. Examination Procedure**

12. The examination has two parts:

12.1. the written part shall examine the knowledge and reasoning skills of the candidate – the candidate shall be tasked to solve a practical assignment (case), to prepare a legal opinion or a draft procedural document and a draft office document (hereinafter – the draft document) of an advocate;

12.2. the oral part shall examine the theoretical knowledge and also the communication and reasoning skills of the candidate by asking five theoretical questions to the candidate.

13. An assistant to a sworn advocate who has fulfilled the requirements laid down in Sections 94, 95, and 96 of the Advocacy Law of the Republic of Latvia and a Doctor of Law shall only take the written part of the examination.

14. If the candidate misses the beginning of the examination, he or she has the right to take the examination with the permission of the chairperson of the commission but the time for the performance of the work of the examination shall not be extended and it is indicated in the minutes.

15. If the candidate does not arrive to the examination due to justified reasons, he or she has the right to take examination at another time indicated by the Council and not pay repeatedly the fee for the examination. The candidate shall inform the commission of non-arrival and the reasons for non-arrival until the beginning of the examination. The commission shall decide whether the reasons for non-arrival should be recognised as justified and it is indicated in the minutes.

16. If the candidate does not arrive to the examination due to unjustified reasons or reasons unknown to the commission, the fee for the examination paid shall not be refunded.

17. Before commencement of the examination, the candidate shall present a personal identification document to the commission.

18. The chairperson of the commission shall announce the composition of the commission prior to the beginning of the examination.

19. The candidates, the chairperson of the commission, the members of the commission, and the secretary of the commission shall be allowed to be present in the examination room. Not more than five candidates may be simultaneously present in the examination room during the oral part of the examination.

20. The secretary of the commission shall take minutes on the course of the examination process. The place, time of the course of the examination, the composition of the commission, the time for discussions of the commission and the decisions taken, the candidates (given name, surname) who take the examination, and also the candidates (given name, surname) who have not arrived, the number of the examination paper selected, the questions orally asked by the commission, the answers provided to them, the evaluation for each part of the examination, and the final evaluation shall be indicated in the minutes. The evaluation sheets of the written part and the oral part of the examination filled in by the members of the commission and also the fair copies of the written works of the candidates shall be appended in the annex to the minutes. The minutes shall be signed by the chairperson of the commission, the members of the commission who participated in the evaluation of the examination, and the secretary of the commission.

21. The Council shall store the original copy of the minutes and its annexes for five years from the day of the examination.

22. The candidate has the right to use all the texts of laws and regulations (in printed form) without commentary taken with him or her or issued by the commission in the written part of the examination. The candidate does not have the right to use the texts of laws and regulations, legal literature, or other aids in the oral part of the examination.

23. If the candidate uses means of communication (for example, means of telecommunication, electronic notebooks), uses aids (for example, texts of laws and regulations, legal literature) without authorisation, disturbs other candidates, or does not work independently during the examination, the chairperson of the commission shall remove the candidate from the room where the examination is taking place. In such case, the commission shall prohibit the candidate from subsequent participation in the examination and shall make a note in the minutes that the examination has not been passed, indicating the evaluation 1 (one point).

24. In an exceptional case, the chairperson of the commission may, during the course of the examination, allow not more than one candidate to leave the room simultaneously. In such case, the candidate shall hand over his or her work to the chairperson of the commission and the chairperson of the commission shall note the fact and time of absence on it. The time period for completing the examination shall not be extended to the candidate.

25. In the written part of the examination, the commission shall invite the candidate to select an examination paper. The candidate shall present the number of the paper to the chairperson of the commission and the secretary of the commission shall enter it in the minutes. The assignment (case) of the written part of the examination shall be issued to the candidate according to the number of the selected paper and the candidate shall prepare the draft document in writing.

26. Two hours shall be intended for the preparation of the draft document in the written part of the examination. After preparation of the draft document, the candidate shall submit it to the chairperson of the commission and leave the room where the examination is taking place.

27. After the end of the written part of the examination, the chairperson of the commission shall declare a break during which the commission shall assess the works of the written part of the examination.

28. If the commission does not determine other procedures, the commission shall, in the oral part of the examination, invite the candidates one by one in alphabetic order by surnames in the room where the examination is taking place and shall invite to choose an examination paper. The candidate shall present the number of the paper to the chairperson of the commission and the secretary of the commission shall enter it in the minutes. Five theoretical questions shall be issued to the candidate according to the number of the examination paper selected.

29. 50 minutes shall be provided for the reflection and development of the response plan in the oral part of the examination. 10 minutes for each question shall be provided for the provision of an oral answer.

30. After listening to the answer of the candidate, the members of the commission have the right to ask questions in order to clarify the quality of the answer. The candidate who has completed the oral part of the examination shall leave the room where the examination is taking place.

**IV. Evaluation of the Knowledge and Skills of the Candidate**

31. The commission shall evaluate the knowledge and skills of the candidate in the 10 point grading system in accordance with the evaluation criteria referred to in Annex 1 to this Regulation.

32. A member of the commission shall not participate in the evaluation of the knowledge and skills of the candidate if the relevant candidate is the spouse of the member of the commission, a relative of the member of the commission or his or her spouse in direct line to all degrees, in collateral line up to the fourth degree, or affinity relations up to the third degree, or also has been under the guardianship or trusteeship of the member of the commission or his or her spouse. The member of the commission shall also not participate in the evaluation of the knowledge and skills of the candidate if he or she is personally directly or indirectly interested in the outcome of the case or there are other circumstances which raise reasonable doubts about his or her impartiality. In such cases, the member of the commission shall notify the commission of such circumstances and the commission shall take the decision that the relevant member of the commission shall not participate in the evaluation of the particular candidate.

33. During the break after the written part of the examination, each member of the commission shall evaluate the draft document prepared by each candidate and shall enter the evaluation in the evaluation sheet of the written part of the examination (Annex 2), if necessary, attaching a brief justification for the evaluation, and sign the evaluation sheet.

34. After evaluation of the works of the written part of the examination, the secretary of the commission shall aggregate the results entered in the evaluation sheets of the written part of the examination. The average grade of the written part of the examination of the candidate shall be obtained by adding up the evaluations provided by the members of the commission and dividing by the number of the members of the commission who participated in evaluating the work of the written part of the examination of the candidate. The arithmetic result obtained, if necessary, shall be rounded to an integer (a decimal number followed by the decimal point “5” or greater is rounded up). If the arithmetic result obtained does not reach four points, it shall not be rounded and in such case the result shall be one, two, or three points respectively (unsatisfactory evaluation).

35. If the candidate has received the average evaluation in the written part of the examination which is below four points, he or she does not have the right to participate in the oral part of the examination. The results of the written part of the examination shall be entered in the minutes and the chairperson of the commission shall notify that the evaluation of the written part of the examination has been completed.

36. Each member of the commission shall evaluate the answers of each candidate to each question of the oral part of the examination, the evaluation of each answer shall be entered in the evaluation sheet of the oral part of the examination (Annex 3), and, if necessary, attaching a brief justification for the evaluation. After evaluating all the answers, a member of the commission shall enter the total evaluation of all the answers which is obtained by adding up all five answer evaluations and dividing it by five. The arithmetic result obtained, if necessary, shall be rounded to an integer (a decimal number followed by the decimal point “5” or greater is rounded up) and the evaluation sheet shall be signed. If the arithmetic result obtained does not reach four points, it shall not be rounded and in such case the result shall be one, two, or three points respectively (unsatisfactory evaluation).

37. After evaluation of the oral part of the examination, the secretary of the commission shall aggregate the results entered in the evaluation sheets of the oral part of the examination. The average grade of the oral part of the examination of the candidate shall be obtained by adding up the total evaluations of all answers provided by the members of the commission and dividing by the number of the members of the commission who participated in evaluating the answers of the oral part of the examination of the candidate. The arithmetic result obtained, if necessary, shall be rounded to an integer (a decimal number followed by the decimal point “5” or greater is rounded up). If the arithmetic result obtained does not reach four points, it shall not be rounded and in such case the result shall be one, two, or three points respectively (unsatisfactory evaluation).

38. The final grade of the examination shall be determined by adding up the evaluations of both parts of the examination of the candidate and dividing by two (a decimal number followed by the decimal point “5” or greater is rounded up). If the arithmetic result obtained does not reach seven points, it shall not be rounded. The final evaluation of the examination of the candidate shall be entered in the minutes.

39. If, in accordance with Paragraph 13 of this Regulation, an assistant to a sworn auditor or a Doctor of Law takes only the written part of the examination, the average evaluation of the written part of the examination shall be the final grade of the examination.

40. The examination shall be passed if the final evaluation of both parts of the examination taken which has been determined in accordance with Paragraphs 38 and 39 of this Regulation is not lower than seven points.

41. After the end of the examination, the members of the commission have the right to enter their special opinion on the evaluation and the course of the examination in the minutes.

42. After the chairperson of the commission, the members of the commission who participated in the examination, and the secretary of the commission have signed the minutes, the chairperson of the commission shall prepare and sign the decision on the results of the examination. The decision shall enter into effect in accordance with the procedures laid down in the Administrative Procedure Law.

**V. Notification of the Results of the Examination**

43. The results of each part of the examination shall be notified to the candidate after the chairperson of the commission has notified that the evaluation of the relevant part of the examination has been completed.

44. The commission shall notify the final evaluation of the examination to the candidate in writing by sending an extract from the decision on the results of the examination to the electronic mail address indicated by the candidate not later than on the following working day after taking the decision referred to in Paragraph 42 of this Regulation.

45. By submitting a justified submission to the Ministry of Justice, the candidate may, within a month after notification of the decision referred to in Paragraph 42 of this Regulation, contest it in accordance with the procedures laid down in the Administrative Procedure Law in relation to the violations of the order of the examination committed during the examination which could have affected the evaluation of the part of the examination or the evaluation at large.

46. The decision by the State Secretary of the Ministry of Justice may be appealed to a court in accordance with the procedures laid down in the Administrative Procedure Law.

**VI. Course of the Qualification Test and Evaluation of Knowledge**

47. The requirements referred to in Chapters II, III, IV, and V of this Regulation for the organisation of the examination (except for the requirements referred to in Paragraph 3 of this Regulation), the course of the oral part of the examination, the evaluation of the knowledge and skills, and also the notification and contesting of results shall also apply to the organisation and course of the qualification test, the evaluation of the knowledge and skills, and also the notification and contesting of results insofar as it has not been laid down otherwise in this Chapter.

48. The qualification test shall have one part in which the theoretical knowledge and also communication and reasoning skills of a sworn advocate are tested orally by asking five theoretical questions to the sworn lawyer. The papers of the qualification test shall include five theoretical questions of which four questions are related to the fields referred to in Sub-paragraphs 8.1, 8.2, 8.3, 8.4, 8.5, 8.6, 8.7, 8.8, and 8.9 of this Regulation and one question is related to the fields referred to in Sub-paragraphs 8.10, 8.11, 8.12, and 8.13 of this Regulation.

49. The commission shall evaluate the knowledge and skills of a sworn advocate in the qualification test in the 10 point grading system in accordance with the evaluation criteria referred to in Annex 1 to this Regulation and shall enter the evaluation in the evaluation sheet of the qualification test (Annex 3).

**VII. Fee for the Examination and the Qualification Test**

50. The amount of the fee for the examination shall be as follows:

50.1. EUR 100 – for assistants to a sworn advocate and Doctors of Law;

50.2. EUR 350 – for other candidates.

51. The amount of the fee for the qualification test shall be EUR 250.

**VIII. Closing Provisions**

52. The following shall be repealed:

52.1. Cabinet Regulation No. 227 of 10 March 2009, Procedures for the Examination of a Sworn Advocate (*Latvijas Vēstnesis*, 2009, No. 41; 2017, No. 114);

52.2. Cabinet Regulation No. 609 of 20 July 2004, Regulations Regarding the Fee for the Examination of an Advocate (*Latvijas Vēstnesis*, 2004, No. 116; 2013, No. 169; 2014, No. 160; 2017, No. 114).

53. The Regulation shall come into force on 30 April 2021.

Prime Minister A. K. Kariņš

Deputy Prime Minister, Minister for Justice J. Bordāns

**Annex 1**

Cabinet Regulation No. 270

27 April 2021

**Evaluation Criteria of the Examination and the Qualification Test of a Sworn Advocate**

|  |  |  |  |
| --- | --- | --- | --- |
| No. | Evaluation (marks) | Explanation | Level of acquisition |
| 1. | 10 | Knowledge exceeds the required amount of knowledge and suggests an independent, in-depth knowledge acquisition and a deep understanding of the issues related to the professional activity of a sworn advocate and the regulatory norms governing the activity | With distinction |
| 2. | 9 | Full understanding of the laws and regulations required in the professional activity of a sworn advocate, the ethical standards, the principles and methods of professional activity. Is able to use the acquired knowledge and skills fully or almost always. Has skills to use the acquired knowledge independently | Excellent |
| 3. | 8 | Has mastered the laws and regulations required in the professional activity of a sworn advocate, the ethical standards, the principles and methods of professional activity. Is able to use the acquired knowledge and skills in standard situations but an insufficient understanding of some complex issues has been identified | Very good |
| 4. | 7 | Has mastered the laws and regulations required in the professional activity of a sworn advocate, the ethical standards, the principles and methods of professional activity. Is able to use the acquired knowledge and skills but an insufficiently deep understanding of individual issues has been identified | Good |
| 5. | 6 | Satisfactory understanding of the laws and regulations required in the professional activity of a sworn advocate, the ethical standards, the principles and methods of professional activity but an insufficiently deep understanding of individual issues and inability to use the acquired knowledge to address individual issues have been identified | Almost good |
| 6. | 5 | Generally, satisfactory understanding of the laws and regulations required in the professional activity of a sworn advocate, the ethical standards, the principles and methods of professional activity but significant deficiencies in the ability to use the acquired knowledge in practice have been identified | Satisfactory |
| 7. | 4 | Superficial knowledge of the laws and regulations required in the professional activity of a sworn advocate, the ethical standards, the principles and methods of professional activity has been acquired but is unable to use the acquired knowledge and skills | Almost satisfactory |
| 8. | 3 | Superficial knowledge of the most frequently used laws and regulations required in the professional activity of a sworn advocate, the ethical standards, the principles and methods of professional activity has been acquired but has no skills in the practical use thereof | Poor |
| 9. | 2 | Very poor knowledge of the most frequently used laws and regulations required in the professional activity of a sworn advocate, the ethical standards, the principles and methods of professional activity has been acquired, has no skills in the practical use thereof | Very poor |
| 10. | 1 | Has no understanding of the most frequently used laws and regulations required in the professional activity of a sworn advocate, the ethical standards, the principles and methods of professional activity. No knowledge and skills required in the professional activity of a sworn advocate | Unsatisfactory |

Deputy Prime Minister, Minister for Justice J. Bordāns

**Annex 2**

Cabinet Regulation No. 270

27 April 2021

**Evaluation Sheet of the Written Part of the Examination of a Sworn Advocate**

|  |  |  |
| --- | --- | --- |
|   |   |   |
| (place of examination) |   | (date and time) |

|  |  |
| --- | --- |
| Evaluator |   |
|   | (given name, surname of the member of the commission) |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| No. | Given name, surname of the candidate | Number of the examination paper | Evaluation (1–10) | Notes |
|   |   |   |   |   |
|   |   |   |   |   |
|   |   |   |   |   |
|   |   |   |   |   |
|   |   |   |   |   |

|  |  |  |
| --- | --- | --- |
| Signature of the evaluator |   |   |

Deputy Prime Minister, Minister for Justice J. Bordāns

**Annex 3**

Cabinet Regulation No. 270

27 April 2021

**Evaluation Sheet of the Oral Part of the Examination and the Qualification Test of a Sworn Advocate**

|  |  |  |
| --- | --- | --- |
|   |   |   |
| (place of examination) |   | (date and time) |

|  |  |
| --- | --- |
| Evaluator |   |
|   | (given name, surname of the member of the commission) |

|  |  |
| --- | --- |
| Candidate/sworn advocate |   |
|   | (given name, surname) |

|  |  |  |
| --- | --- | --- |
| Number of the examination paper |   |   |

|  |  |  |
| --- | --- | --- |
| Question number | Evaluation(1–10) | Notes |
|   |   |   |
|   |   |   |
|   |   |   |
|   |   |   |
|   |   |   |
| **Total evaluation (1–10)** |   |   |

|  |  |  |
| --- | --- | --- |
| Signature of the evaluator |   |   |

Deputy Prime Minister, Minister for Justice J. Bordāns