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For purposes of reference, all Proclamations, Government Notices, General Notices and Board Notices published are included in the following table of contents which thus forms a weekly index. Let yourself be guided by the gazette numbers in the righthand column:

Alle Proklamasies, Goewermentskennisgewings, Algemene Kennisgewings en Raadskennisgewings gepubliseer, word vir verwysingsdoeleindes in die volgende Inhoudopgawe ingesluit wat dus weeklikse indeks voorstel. Laat uself deur die Koerantnommers in die regterhandse kolom lei:

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**COMMENCEMENT: 1 APRIL 2018**

## NATIONAL AND PROVINCIAL

Notice sizes for National, Provincial & Tender gazettes 1/4, 2/4, 3/4, 4/4 per page. Notices submitted will be charged at R1008.80 per full page, pro-rated based on the above categories.

Pricing for National, Provincial - Variable Priced Notices		
Notice Type	Page Space	New Price (R)
Ordinary National, Provincial	1/4 - Quarter Page	252.20
Ordinary National, Provincial	2/4 - Half Page	504.40
Ordinary National, Provincial	3/4 - Three Quarter Page	756.60
Ordinary National, Provincial	4/4 - Full Page	1008.80

## EXTRA-ORDINARY

All Extra-ordinary National and Provincial gazette notices are non-standard notices and attract a variable price based on the number of pages submitted.

The pricing structure for National and Provincial notices which are submitted as **Extra ordinary submissions** will be charged at **R3026.32** per page.

## GOVERNMENT PRINTING WORKS - BUSINESS RULES

The **Government Printing Works (GPW)** has established rules for submitting notices in line with its electronic notice processing system, which requires the use of electronic *Adobe Forms*. Please ensure that you adhere to these guidelines when completing and submitting your notice submission.

### CLOSING TIMES FOR ACCEPTANCE OF NOTICES

1. The *Government Gazette* and *Government Tender Bulletin* are weekly publications that are published on Fridays and the closing time for the acceptance of notices is strictly applied according to the scheduled time for each gazette.
2. Please refer to the Submission Notice Deadline schedule in the table below. This schedule is also published online on the Government Printing works website [www.gpwnonline.co.za](http://www.gpwnonline.co.za)

All re-submissions will be subject to the standard cut-off times.

**All notices received after the closing time will be rejected.**

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
National Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Regulation Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Petrol Price Gazette	Monthly	Tuesday before 1st Wednesday of the month	One day before publication	1 working day prior to publication
Road Carrier Permits	Weekly	Friday	Thursday 15h00 for next Friday	3 working days prior to publication
Unclaimed Monies (Justice, Labour or Lawyers)	January / September 2 per year	Last Friday	One week before publication	3 working days prior to publication
Parliament (Acts, White Paper, Green Paper)	As required	Any		3 working days prior to publication
Manuals	Bi- Monthly	2nd and last Thursday of the month	One week before publication	3 working days prior to publication
State of Budget (National Treasury)	Monthly	30th or last Friday of the month	One week before publication	3 working days prior to publication
Legal Gazettes A, B and C	Weekly	Friday	One week before publication	Tuesday, 15h00 - 3 working days prior to publication
Tender Bulletin	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Gauteng	Weekly	Wednesday	Two weeks before publication	3 days <b>after</b> submission deadline
Eastern Cape	Weekly	Monday	One week before publication	3 working days prior to publication
Northern Cape	Weekly	Monday	One week before publication	3 working days prior to publication
North West	Weekly	Tuesday	One week before publication	3 working days prior to publication
KwaZulu-Natal	Weekly	Thursday	One week before publication	3 working days prior to publication
Limpopo	Weekly	Friday	One week before publication	3 working days prior to publication
Mpumalanga	Weekly	Friday	One week before publication	3 working days prior to publication
Gauteng Liquor License Gazette	Monthly	Wednesday before the First Friday of the month	Two weeks before publication	3 working days <b>after</b> submission deadline
Northern Cape Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 working days <b>after</b> submission deadline
National Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 working days <b>after</b> submission deadline
Mpumalanga Liquor License Gazette	Bi-Monthly	Second & Fourth Friday	One week before publication	3 working days prior to publication

## GOVERNMENT PRINTING WORKS - BUSINESS RULES

### EXTRAORDINARY GAZETTES

3. *Extraordinary Gazettes* can have only one publication date. If multiple publications of an *Extraordinary Gazette* are required, a separate Z95/Z95Prov *Adobe* Forms for each publication date must be submitted.

### NOTICE SUBMISSION PROCESS

4. Download the latest *Adobe* form, for the relevant notice to be placed, from the **Government Printing Works** website [www.gpwonline.co.za](http://www.gpwonline.co.za).
5. The *Adobe* form needs to be completed electronically using *Adobe Acrobat / Acrobat Reader*. Only electronically completed *Adobe* forms will be accepted. No printed, handwritten and/or scanned *Adobe* forms will be accepted.
6. The completed electronic *Adobe* form has to be submitted via email to [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za). The form needs to be submitted in its original electronic *Adobe* format to enable the system to extract the completed information from the form for placement in the publication.
7. Every notice submitted **must** be accompanied by an official **GPW** quotation. This must be obtained from the *eGazette* Contact Centre.
8. Each notice submission should be sent as a single email. The email **must** contain **all documentation relating to a particular notice submission**.
  - 8.1. Each of the following documents must be attached to the email as a separate attachment:
    - 8.1.1. An electronically completed *Adobe* form, specific to the type of notice that is to be placed.
      - 8.1.1.1. For *National Government Gazette* or *Provincial Gazette* notices, the notices must be accompanied by an electronic Z95 or Z95Prov *Adobe* form
      - 8.1.1.2. The notice content (body copy) **MUST** be a separate attachment.
    - 8.1.2. A copy of the official **Government Printing Works** quotation you received for your notice .  
(Please see *Quotation* section below for further details)
    - 8.1.3. A valid and legible Proof of Payment / Purchase Order: **Government Printing Works** account customer must include a copy of their Purchase Order. **Non-Government Printing Works** account customer needs to submit the proof of payment for the notice
    - 8.1.4. Where separate notice content is applicable (Z95, Z95 Prov and TForm 3, it should **also** be attached as a separate attachment. (Please see the *Copy Section* below, for the specifications).
    - 8.1.5. Any additional notice information if applicable.
9. The electronic *Adobe* form will be taken as the primary source for the notice information to be published. Instructions that are on the email body or covering letter that contradicts the notice form content will not be considered. The information submitted on the electronic *Adobe* form will be published as-is.
10. To avoid duplicated publication of the same notice and double billing, Please submit your notice **ONLY ONCE**.
11. Notices brought to **GPW** by "walk-in" customers on electronic media can only be submitted in *Adobe* electronic form format. All "walk-in" customers with notices that are not on electronic *Adobe* forms will be routed to the Contact Centre where they will be assisted to complete the forms in the required format.
12. Should a customer submit a bulk submission of hard copy notices delivered by a messenger on behalf of any organisation e.g. newspaper publisher, the messenger will be referred back to the sender as the submission does not adhere to the submission rules.

**GOVERNMENT PRINTING WORKS - BUSINESS RULES****QUOTATIONS**

13. Quotations are valid until the next tariff change.
  - 13.1. **Take note:** GPW's annual tariff increase takes place on **1 April** therefore any quotations issued, accepted and submitted for publication up to **31 March** will keep the old tariff. For notices to be published from 1 April, a quotation must be obtained from **GPW** with the new tariffs. Where a tariff increase is implemented during the year, **GPW** endeavours to provide customers with 30 days' notice of such changes.
14. Each quotation has a unique number.
15. Form Content notices must be emailed to the *eGazette* Contact Centre for a quotation.
  - 15.1. The *Adobe* form supplied is uploaded by the Contact Centre Agent and the system automatically calculates the cost of your notice based on the layout/format of the content supplied.
  - 15.2. It is critical that these *Adobe* Forms are completed correctly and adhere to the guidelines as stipulated by **GPW**.
16. **APPLICABLE ONLY TO GPW ACCOUNT HOLDERS:**
  - 16.1. **GPW** Account Customers must provide a valid **GPW** account number to obtain a quotation.
  - 16.2. Accounts for **GPW** account customers **must** be active with sufficient credit to transact with **GPW** to submit notices.
    - 16.2.1. If you are unsure about or need to resolve the status of your account, please contact the **GPW** Finance Department prior to submitting your notices. (If the account status is not resolved prior to submission of your notice, the notice will be failed during the process).
17. **APPLICABLE ONLY TO CASH CUSTOMERS:**
  - 17.1. Cash customers doing **bulk payments** must use a **single email address** in order to use the **same proof of payment** for submitting multiple notices.
18. The responsibility lies with you, the customer, to ensure that the payment made for your notice(s) to be published is sufficient to cover the cost of the notice(s).
19. Each quotation will be associated with one proof of payment / purchase order / cash receipt.
  - 19.1. This means that **the quotation number can only be used once to make a payment.**

**GOVERNMENT PRINTING WORKS - BUSINESS RULES****COPY (SEPARATE NOTICE CONTENT DOCUMENT)**

20. Where the copy is part of a separate attachment document for Z95, Z95Prov and TForm03
- 20.1. Copy of notices must be supplied in a separate document and may not constitute part of any covering letter, purchase order, proof of payment or other attached documents.
- The content document should contain only one notice. (You may include the different translations of the same notice in the same document).
- 20.2. The notice should be set on an A4 page, with margins and fonts set as follows:
- Page size = A4 Portrait with page margins: Top = 40mm, LH/RH = 16mm, Bottom = 40mm;  
Use font size: Arial or Helvetica 10pt with 11pt line spacing;
- Page size = A4 Landscape with page margins: Top = 16mm, LH/RH = 40mm, Bottom = 16mm;  
Use font size: Arial or Helvetica 10pt with 11pt line spacing;

**CANCELLATIONS**

21. Cancellation of notice submissions are accepted by **GPW** according to the deadlines stated in the table above in point 2. Non-compliance to these deadlines will result in your request being failed. Please pay special attention to the different deadlines for each gazette. Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.
22. Requests for cancellation must be sent by the original sender of the notice and must be accompanied by the relevant notice reference number (N-) in the email body.

**AMENDMENTS TO NOTICES**

23. With effect from 01 October 2015, **GPW** will not longer accept amendments to notices. The cancellation process will need to be followed according to the deadline and a new notice submitted thereafter for the next available publication date.

**REJECTIONS**

24. All notices not meeting the submission rules will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za)). Reasons for rejections include the following:
- 24.1. Incorrectly completed forms and notices submitted in the wrong format, will be rejected.
- 24.2. Any notice submissions not on the correct *Adobe* electronic form, will be rejected.
- 24.3. Any notice submissions not accompanied by the proof of payment / purchase order will be rejected and the notice will not be processed.
- 24.4. Any submissions or re-submissions that miss the submission cut-off times will be rejected to the customer. The Notice needs to be re-submitted with a new publication date.

**GOVERNMENT PRINTING WORKS - BUSINESS RULES****APPROVAL OF NOTICES**

25. Any notices other than legal notices are subject to the approval of the Government Printer, who may refuse acceptance or further publication of any notice.
26. No amendments will be accepted in respect to separate notice content that was sent with a Z95 or Z95Prov notice submissions. The copy of notice in layout format (previously known as proof-out) is only provided where requested, for Advertiser to see the notice in final Gazette layout. Should they find that the information submitted was incorrect, they should request for a notice cancellation and resubmit the corrected notice, subject to standard submission deadlines. The cancellation is also subject to the stages in the publishing process, i.e. If cancellation is received when production (printing process) has commenced, then the notice cannot be cancelled.

**GOVERNMENT PRINTER INDEMNIFIED AGAINST LIABILITY**

27. The Government Printer will assume no liability in respect of—
  - 27.1. any delay in the publication of a notice or publication of such notice on any date other than that stipulated by the advertiser;
  - 27.2. erroneous classification of a notice, or the placement of such notice in any section or under any heading other than the section or heading stipulated by the advertiser;
  - 27.3. any editing, revision, omission, typographical errors or errors resulting from faint or indistinct copy.

**LIABILITY OF ADVERTISER**

28. Advertisers will be held liable for any compensation and costs arising from any action which may be instituted against the Government Printer in consequence of the publication of any notice.

**CUSTOMER INQUIRIES**

Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While **GPW** deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.

**GPW** has a 2-working day turnaround time for processing notices received according to the business rules and deadline submissions.

Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

29. Requests for information, quotations and inquiries must be sent to the Contact Centre **ONLY**.
30. Requests for Quotations (RFQs) should be received by the Contact Centre at least **2 working days** before the submission deadline for that specific publication.

## GOVERNMENT PRINTING WORKS - BUSINESS RULES

### PAYMENT OF COST

31. The Request for Quotation for placement of the notice should be sent to the Gazette Contact Centre as indicated above, prior to submission of notice for advertising.
32. Payment should then be made, or Purchase Order prepared based on the received quotation, prior to the submission of the notice for advertising as these documents i.e. proof of payment or Purchase order will be required as part of the notice submission, as indicated earlier.
33. Every proof of payment must have a valid **GPW** quotation number as a reference on the proof of payment document.
34. Where there is any doubt about the cost of publication of a notice, and in the case of copy, an enquiry, accompanied by the relevant copy, should be addressed to the Gazette Contact Centre, **Government Printing Works**, Private Bag X85, Pretoria, 0001 email: [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za) before publication.
35. Overpayment resulting from miscalculation on the part of the advertiser of the cost of publication of a notice will not be refunded, unless the advertiser furnishes adequate reasons why such miscalculation occurred. In the event of underpayments, the difference will be recovered from the advertiser, and future notice(s) will not be published until such time as the full cost of such publication has been duly paid in cash or electronic funds transfer into the **Government Printing Works** banking account.
36. In the event of a notice being cancelled, a refund will be made only if no cost regarding the placing of the notice has been incurred by the **Government Printing Works**.
37. The **Government Printing Works** reserves the right to levy an additional charge in cases where notices, the cost of which has been calculated in accordance with the List of Fixed Tariff Rates, are subsequently found to be excessively lengthy or to contain overmuch or complicated tabulation.

### PROOF OF PUBLICATION

38. Copies of any of the *Government Gazette* or *Provincial Gazette* can be downloaded from the **Government Printing Works** website [www.gpwonline.co.za](http://www.gpwonline.co.za) free of charge, should a proof of publication be required.
39. Printed copies may be ordered from the Publications department at the ruling price. The **Government Printing Works** will assume no liability for any failure to post or for any delay in despatching of such *Government Gazette*(s).

## GOVERNMENT PRINTING WORKS CONTACT INFORMATION

**Physical Address:**
**Government Printing Works**

149 Bosman Street

Pretoria

**Postal Address:**

Private Bag X85

Pretoria

0001

**GPW Banking Details:**
**Bank:** ABSA Bosman Street

**Account No.:** 405 7114 016

**Branch Code:** 632-005

**For Gazette and Notice submissions:** Gazette Submissions:

**For queries and quotations, contact:** Gazette Contact Centre:

**E-mail:** [submit.egazette@gpw.gov.za](mailto:submit.egazette@gpw.gov.za)
**E-mail:** [info.egazette@gpw.gov.za](mailto:info.egazette@gpw.gov.za)
**Tel:** 012-748 6200

**Contact person for subscribers:** Mrs M. Toka:

**E-mail:** [subscriptions@gpw.gov.za](mailto:subscriptions@gpw.gov.za)
**Tel:** 012-748-6066 / 6060 / 6058

**Fax:** 012-323-9574

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**GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS**

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**DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES**

NO. 717

20 JULY 2018

**AGRICULTURAL PRODUCT STANDARDS ACT, 1990  
(ACT No. 119 OF 1990)****DEVELOPMENT OF THE NEW REGULATIONS RELATING TO THE GRADING,  
PACKING AND MARKING OF PULSES INTENDED FOR SALE IN THE REPUBLIC  
OF SOUTH AFRICA****INVITATION FOR PUBLIC COMMENTS:**

I, Senzeni Zokwana, Minister of Agriculture, Forestry and Fisheries has, under section 15 of the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990) hereby--

- (a) make known that I intend to make regulation in the Schedule;
- (b) invite all interested parties to submit comments and any representations concerning the proposed development of the new regulations in writing within (5) five weeks from the date of publication of this Notice to the following address:

Executive Officer: Agricultural Product Standards  
Department of Agriculture, Forestry and Fisheries  
Private Bag X343, Pretoria, 0001,  
30 Hamilton Street, Harvest House Building, Room 152  
**Tel. no. 012 319 6291 or 6171 Fax no. 012 319 6265**  
**Email: [CarolineL@daff.gov.za](mailto:CarolineL@daff.gov.za) or [VictorMa@daff.gov.za](mailto:VictorMa@daff.gov.za)**

- (c) regulation may be obtained from the Department's website at the following link <http://www.daff.gov.za/daffweb3/Branches/Agricultural-Production-Health-Food-Safety/Food-Safety-Quality-Assurance/Draft-Legislation-for-Comments> or can be send through electronic mail or posted by mail to any person upon request.

Mr. Senzeni Zokwana  
Minister of Agriculture, Forestry and Fisheries

## DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

NO. 718

20 JULY 2018

**Marine Living Resources Act, 1998 (Act No. 18 of 1998)****COMMENCEMENT OF 2020 FISHING RIGHTS ALLOCATION PROCESS (“FRAP2020”) FOR GRANTING OF COMMERCIAL FISHING RIGHTS IN TERMS OF SECTION 18 OF THE MARINE LIVING RESOURCES ACT, 1998 (ACT NO 18 OF 1998) AS AMENDED (“THE ACT”)**

I, Belemane Semoli, Deputy Director-General: Fisheries Management (Acting), hereby inform interested and/or affected parties that the Department of Agriculture, Forestry and Fisheries will soon embark in a process to review the application forms for the allocation of fishing rights (“the application forms”).

In addition, the Department will review the General Policy on the Allocation and Management of Commercial Fishing Rights: 2013, the Policy on Transfer of Commercial Fishing Rights: 2009, the Policy on the Allocation and Management of Rights to operate Fish Processing Establishments: 2015 and the Policy for the Allocation and Management of Fishing Rights in the following fishing sectors: Hake Deepsea Trawl, Small Pelagics, South Coast Rock Lobster, Hake Longline, Squid, Demersal Shark, Traditional Linefish, KwaZulu-Natal Prawn Trawl, Tuna Pole-Line, Hake Handline, Oyster and White Mussels (“the Policies”).

The review of the application forms and policies referred herein is in preparation for the allocation of fishing rights in terms of section 18 of the Act, in all the fishing sectors that are due for re-allocation on/or before 31 December 2020. Interested and/or affected parties will be required to submit comments/inputs to the draft policies, draft application

forms for fishing rights and proposed fees which will be published through a *Government Gazette Notice* followed by a series of public consultative meetings.



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**Belemane Semoli**  
**Deputy Director-General (Acting)**  
**Fisheries Management**

## DEPARTMENT OF HEALTH

NO. 719

20 JULY 2018

**National Health Act, 2003 (Act No. 61 of 2003)****Material Transfer Agreement of Human Biological Materials**

**Material Transfer Agreement of Human Biological Materials is hereby published for public notice. All the providers and recipients of the biological material for use in research or clinical trials under the auspices of the Health Research Ethics Committees shall use the Material Transfer Agreement of Human Biological Materials.**



**Dr Aaron Motsoaledi, MP  
Minister of Health**

**Date:** 21/8/2018

**MATERIAL TRANSFER AGREEMENT FOR HUMAN BIOLOGICAL MATERIALS**  
(hereinafter referred to as, "the Agreement")

**Entered into and between**

**The Providing Institution**  
(hereinafter referred to as, "the Provider")

**and**

**The Recipient Institution**  
(hereinafter referred to as, "the Recipient")

**and**

**The Human Research Ethics Committee**  
(hereinafter referred to as, "the HREC")

**THE PARTIES AGREE AS FOLLOWS****1. OBJECTIVE**

The objective of this Agreement<sup>1</sup> is to set out a framework within which the Parties will engage in the transfer, use and other processing of the Materials.

**2. DEFINITIONS**

- 2.1 Agreement: - means this Agreement and all annexures and amendments thereto;
- 2.2 Benefit: - means, amongst others, the sharing of information; use of research results; royalties; acknowledgement of the Provider as the source of the Materials; publication rights; transfer of technology or Materials; and capacity building;
- 2.3 Benefit sharing: - means the process or act of sharing in the benefits that derive from the Project in a manner that is fair and equitable;
- 2.4 Biobank: - an institution or unit thereof that safeguards an organised collection of Human Biological Material and associated data from different individuals, which are usually kept for an unlimited period of time, for the purposes of health research;
- 2.5 Country: - means the Republic of South Africa;
- 2.6 Custodian: - means a person or entity entrusted by the Donor with safeguarding and protecting the Materials;

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<sup>1</sup>A Material Transfer Agreement is a contract governing the transfer of materials between organisations and/or institutions, which sets out: what will be done with any material supplied; whether the material will be used in humans or not; the quality of the material; the terms and conditions under which the materials will be used; any modifications to the material; third party transfers; benefit sharing arrangements; intellectual property rights; and other legal requirements and/or regulatory guidelines or policies.

- 2.7 Data - means any information, including personal information in any form derived directly or indirectly during the conduct of research or clinical care;
- 2.8 Donor - means a person who has donated Materials to be used for health research purposes and / or teaching;
- 2.9 Human Biological Materials - means Material from a human being including but not limited to Deoxyribonucleic Acid (DNA), Ribonucleic Acid (RNA), blastomeres, polar bodies, cultured cells, embryos, gametes, progenitor stem cells, tissues and growth factors and any modifications or derivatives thereof;
- 2.10 Health Research Ethics Committee means a Health Research Ethics Committee<sup>2</sup> which is registered with the South African National Health Research Ethics Council;
- 2.11 Intellectual Property Rights: - means statutory and other proprietary rights resulting from creation of the human mind such as copyright, patents, scientific works, discoveries and trademarks;
- 2.12 Informed Consent: - means a formal agreement that a Donor (with legal capacity to do so) signs to give permission for donation of Materials, after being informed about the project and includes an on-going information sharing process which allows a Donor to consent to participate and determine whether and how their Materials will be utilised in the Project, as approved by the HREC from time to time;

<sup>2</sup> Section 73(1)&(2) of the NHA stipulates that:

“(1) Every institution, health agency and health establishment at which health research is conducted, must establish or have access to a health research ethics committee, which is registered with the National Health Research Ethics Council.

(2) A health research ethics committee must-

(a) review research proposals and protocols in order to ensure that research conducted by the relevant institution, agency or establishment will promote health, contribute to the prevention of communicable or non-communicable diseases or disability or result in cures for communicable or non-communicable diseases; and

(b) grant approval for research by the relevant institution, agency or establishment in instances where research proposals and protocol meet the ethical standards of that health research ethics committee.”

- 2.13 Materials - means Human Biological Materials and Data;
- 2.14 Parties: - means the Provider, the Recipient and the HREC;
- 2.15 Project: - means the health research project for which the Materials will be used;
- 2.16 Research Results: - means all products of the research, whether tangible or intangible;
- 2.17 Secondary Use<sup>3</sup> - means use of the Materials for health research purposes other than the uses determined in the approved protocol; and
- 2.18 Termination Report: - means a report prepared by the Recipient and submitted to the Provider on termination of the Project.

### 3. AGREEMENT

- 3.1 The Provider hereby transfers the Materials to the Recipient, and the Recipient accepts the Materials from the Provider as fully described in **Annexure A**.
- 3.2 The Parties agree to conduct themselves hereunder in compliance with South African laws and policies, that no Materials shall be transferred for purposes of a health research<sup>4</sup> project that has not been approved by an HREC.

<sup>3</sup> As secondary uses of Materials include health research as contemplated by section 1 of the NHA (footnote 2) and as all health research ethics committees are required to review and approve health research proposals and protocols (footnote 3), approval of secondary uses of Material must be obtained from a health research ethics committee.

<sup>4</sup> According to section 1 of the National Health Act 61 of 2003 (NHA):

“health research includes: any research which contributes to knowledge of –

- (a) The biological, clinical, psychological or social processes in human beings;
- (b) Improved methods for the provision of health services;
- (c) Human pathology;
- (d) The causes of disease;
- (e) The effects of the environment on the human body;
- (f) The development or new application of pharmaceuticals, medicines and related substances; and
- (g) The development of new applications of health technology.”

- 3.3 The Provider remains custodian of the Materials; and the donor remains the owner of the material until such materials are destroyed.
- 3.4 Each Party undertakes to engage with the other in the utmost good faith and to conduct itself with the highest ethical standards and comply with all applicable legislation, including but not limited to, the legislative ban on the sale of or trade in tissues, gametes, blood or blood products.
- 3.5 This Agreement is subject to the suspensive condition that, and is of no force or effect unless and until, the HREC has approved the Project of which this Agreement forms a part and the HREC has approved this Agreement.

#### **4. OBLIGATIONS OF THE PROVIDER**

- 4.1 The Provider must obtain the necessary permits and authorisations for export of Materials.
- 4.2 The Provider shall inform the HREC and the relevant Donor(s) should the Provider be informed that the Materials have become identifiable for any reason whatsoever.
- 4.3 The Provider must obtain informed consent from the Donor(s), where reasonably possible, and approval from the HREC, for any further uses of the Material.

#### **5. OBLIGATIONS OF THE RECIPIENT**

- 5.1 The Recipient may only carry out research according to the protocol approved by the HREC.
- 5.2 The Recipient shall protect and keep the Material confidential.
- 5.3 The Recipient may not transfer or otherwise provide the Material to any party, other than those parties listed in **Annexure A**, without approval of the HREC.
- 5.4 Should the Materials become identifiable for any reason whatsoever, the Recipient must inform the Provider without delay.

5.5 The Recipient shall deliver feedback to the Provider on the development and progress made with regard to the Project by supplying the Provider with updated information where relevant and in terms of applicable ethical and legal requirements.

5.6 The Recipient agrees that the Material will be located at:

(entity details)

## 6. OBLIGATIONS OF THE HREC

6.1 The obligations of the HREC are to:

- 6.1.1 review and approve research proposals and protocols that require the transfer of Materials;
- 6.1.2 review and grant approval of this Agreement to ensure that it adequately safeguards the Material and the ethical requirements set out herein; and
- 6.1.3 review and approve all Secondary Userresearch of the Material transferred.

6.2 The HREC will be the last party to sign this Agreement and will only do so, after all the provisions set out herein, have been satisfied.

## 7. BENEFIT SHARING

7.1 The sharing of benefits should be discussed and negotiated between the Provider and Recipient before Materials are transferred to the Recipient.

7.2 The Parties agree to Benefit Sharing as detailed in **Annexure B**.

## 8. DURATION OF AGREEMENT

This Agreement will commence and become effective on the date it is signed by the HREC and shall continue until the Project terminates.

## 9. TERMINATION OF PROJECT

- 9.1 When the Project terminates, for any reason whatsoever, the Recipient shall provide the Provider and the HREC with a Termination Report.
- 9.2 The Termination Report will include, *inter alia*, reasons for termination, the status of the Project as at termination and the current status of the Materials.
- 9.3 Termination of the Project may occur under one or more of the following circumstances:
- 9.3.1 the Project reaches completion;
  - 9.3.2 the Project cannot be carried out by the Recipient for the following reasons:
    - 9.3.2.1 the Donors withdraw consent for use as contemplated hereunder and in such numbers as to render continuation of the Project impracticable or impossible;
    - 9.3.2.2 the Recipient entity dissolves, winds-up or ceases to continue operating for any reason whatsoever;
    - 9.3.2.3 the HREC withdraws approval for the Project in its entirety;
    - 9.3.2.4 either Party terminates the Agreement on reasonable notice; or
    - 9.3.2.5 a *force majeure* makes continuance of the Project impracticable or impossible.
- 9.4 The Recipient will, on termination of the project, immediately discontinue using the Material for any purpose whatsoever.
- 9.5 Destruction, return to the Provider or transfer of Materials will be undertaken by the recipient, or any other arrangements made, with the express approval of the HREC.

## 10. INFORMED CONSENT

- 10.1 The Provider must obtain an informed consent from the Donor(s) to provide Materials to the Recipient to undertake the Project as contemplated.
- 10.2 The Provider must furnish the completed consent form from the donors together with the project protocol to the HREC for approval.
- 10.3 The Provider must submit the informed consent form for Secondary Uses of the Material to the HREC should the need arise for Secondary Use.

10.4 The Provider must inform the donors of developments or progress made by the Recipient in the Project and which is relevant to the Donor(s) Informed Consent.

## **11. DISPUTE SETTLEMENT**

11.1 Should a dispute arise between the Parties in connection with this Agreement, the Parties must, within a period of fourteen (14) days after the date on which the dispute arose (the Dispute Date) meet to discuss the dispute and endeavour to resolve the dispute amicably, by mutual agreement.

11.2 If the Parties are unable to resolve the dispute in terms of 11.1 within thirty (30) days from the Dispute Date, the dispute will be referred to the senior management of the respective Parties for resolution. Senior management will use their best endeavours to resolve the dispute and their determination will be final and binding and will be carried into effect by the Parties.

11.3 If senior management of the respective Parties are unable to resolve the dispute within a period of thirty (30) days after it has been referred to them, either Party may institute action in accordance with South African laws, in a South African court, unless the Parties agree to resolve such dispute by arbitration in terms of a separate arbitration agreement.

## **12. INTELLECTUAL PROPERTY**

Intellectual property will be dealt with through relevant laws related to the applicable protocol and underlying third party agreements, as far as there are any.

## **13. CONFIDENTIALITY**

13.1 The Recipient shall keep the identity of the Donor(s) and the Materials secure and confidential at all times.

13.2 Confidentiality includes, but is not limited to the properties; characteristics; content; composition; potential secondary uses; and methods of use of the Material.

13.3 The Provider and the Recipient shall treat all information relating to the nature and processes of the research in whatever form confidential.

#### **14. PUBLICATIONS & PUBLICITY**

14.1 Authorship of publications emanating from the use of the Materials hereunder must be in keeping with the International Committee of Medical Journal Editors Authorship Guidelines (<http://www.icmje.org/icmje-recommendations.pdf>) as amended from time to time.

14.2 Where the Recipient wishes to publish any information concerning the Project (in either oral or written form), the Provider must be notified and provided with a copy of the publication at least ten(10) days prior to submission of the proposed publication.

14.3 The Provider must inform the Recipient whether any information related to the publication must be removed or included and provide reasons to substantiate the removal or addition of such information.

14.4 The Provider must be supplied with a final copy of the publication before publication by the Recipient. The Recipient must acknowledge the Provider's contribution of the Material unless otherwise requested by the Provider.

14.5 Neither Party shall use the name of the other Party or its employees in any advertisement, press release or other publicity without prior written approval of the other Party.

14.6 Notwithstanding the above, and where relevant, publications must be subjected to the applicable protocol and relevant third party agreements.

#### **15. INDEMNITY**

15.1 The Provider gives no warranty that the Materials are fit for the use and purpose for which they are transferred hereunder, or that they have any particular qualities or characteristics.

15.2 The Provider will not be liable to the Recipient for any claims or damages arising from the Recipient's use of the Material.

## 16. DOMICILIA AND NOTICES

16.1 The Provider choose as its *domicilium citandi et executandi* for all purposes arising from this Agreement, the addresses specified below:

**Attention:**

Physical:

Postal:

Telefax:

Email:

16.2 The Recipient choose as its *domicilium citandi et executandi* for all purposes arising from this Agreement, the addresses specified below:

**Attention:**

Physical:

Postal:

Telefax:

Email:

16.3 The HREC choose as its *domicilium citandi et executandi* for all purposes arising from this Agreement, the addresses specified below:

**Attention:**

Physical:

Postal:

Telefax:

Email:

16.4 Either Party may amend its *domicilium citandi et executandi* by means of written notice to the other Party.

- 16.5 Any notice, request, consent or communication made between Parties pursuant to this Agreement shall be in writing and shall be delivered by hand, or sent by prepaid registered post or by fax or email.
- 16.6 A notice, request, consent or communication is presumed unless the contrary is proven, to have been given:
- 16.6.1 if hand delivered during business hours on a business day, on the day of delivery;
- 16.6.2 if posted by prepaid registered post, five (5) business days after the date of posting thereof; or
- 16.6.3 if sent by email, on the first business day following the day of sending of such email.
- 16.7 Notwithstanding anything to the contrary contained or implied in this Agreement, a written notice or communication actually received by one of the Parties from another including by way of facsimile transmission, shall be adequate written notice or communication to such party.

## **17. GENERAL**

- 17.1 This Agreement embodies the entire agreement between the Parties and no provision hereof may be altered or amended without the written mutual consent of the Parties.
- 17.2 Neither Party may assign or cede any benefit, obligation or interest it may have in this Agreement to any other person without the prior written consent of the other Party and the approval of the HREC.
- 17.3 Neither Party is regarded as having waived, or is precluded in any way from exercising any right under or arising out of this Agreement by reason of such Party having at any time extended any extension of time for, or having shown any indulgency to, the other Party with reference to any performance of any obligation under this Agreement, or having failed to enforce, or delayed in enforcing any right of action against the other Party.
- 17.4 This Agreement constitutes the sole record of the Agreement between the Parties in regard to the subject matter hereof and replaces any prior Agreement, which may exist between the Parties.

- 17.5 No Party will be bound by any representation, express or implied term, warranty, promise or the like not recorded in this Agreement.
- 17.6 Any amendments to this contract are of no force and effect unless reduced to writing and signed by the Parties.
- 17.7 No extension of time or indulgence by any Party will be deemed in any way to affect, prejudice or derogate from the rights of the Party in any respect under this Agreement nor will it in any way be regarded as a waiver of any rights hereunder or a novation of this Agreement.
- 17.8 The rule that an Agreement will be interpreted against the Party that drafted it shall not apply to this Agreement.
- 17.9 In the event of any one or more of the provisions of this Agreement being held for any reason to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provision of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision was not a part of this Agreement, and the Agreement shall be carried out as nearly as possible in accordance with its original terms and intent.
- 17.10 The Recipient receives only the rights as set out in this agreement and these rights are not exclusive to the Recipient.

## **18. AUTHORITY**

Each Party signing this Agreement and on behalf of a Party hereto, hereby warrants in his or her official capacity that he or she is duly authorised by such Party to do so.

## **19. COUNTERPART SIGNING OF THIS AGREEMENT**

- 19.1 The Parties agree that this Agreement may be signed at different times and in different places, and in copy provided the content of the Agreement and signatures are exact replicas (counterparts) of the originals when put together.
- 19.2 The signed Agreements when put together shall constitute a binding agreement between

the Parties.

**THUS DONE AND SIGNED** on behalf of the **PARTIES** by their duly authorised representatives, in the presence of the undersigned witnesses, at the places appearing in the appropriate spaces below, on the dates as specified.

<b>Duly authorised and on behalf of the Providing Institution</b>
Full name:
Tel:
Designation:
Signature:
Signed at _____ on this the ____ day of _____ 2018.
Witness 1: _____ Witness 2: _____

<b>Duly authorised and on behalf of the Recipient Institution</b>
Full name:
Tel:
Designation:
Signature:
Signed at _____ on this the ____ day of _____ 2018.
Witness 1: _____ Witness 2: _____

<b>Duly authorised and on behalf of the Human Research Ethics Committee</b>
Full name: _____
Tel: _____
Designation: _____
_____
Signature: _____
Signed at _____ on this the _____ day of _____ 2018.
Witness 1: _____ Witness 2: _____

**Annexure A****To be completed by the Provider and/or Recipient**

The Responsible Party who will obtain the necessary permits and authorisations and arrange appropriate transport for the Material to be transferred is:

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Description of health research project under which the Materials will be used on transfer:

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---

Specific experimental tests that the Materials will be subjected to on transfer:

---

---

Parties other than the Recipient to whom the Materials might be transferred as required by the Project:

---

Quantity of Materials required to be transferred:

---

Preferred method of transfer of Materials:

---

Period within which Materials will be transferred:

---

Frequency of exporting of Materials:

---

Process of destruction of Materials:

---

How confidentiality will be maintained should Materials be released into the public domain:

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## DEPARTMENT OF HEALTH

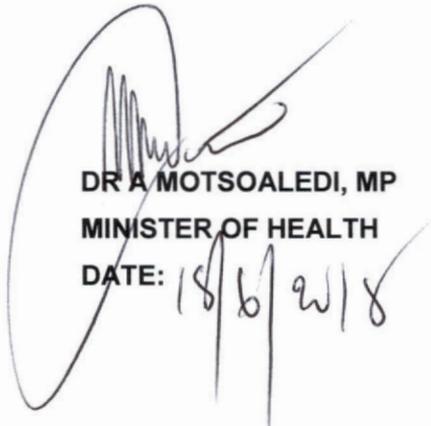
NO. 720

20 JULY 2018

**NURSING ACT, 2005 (Act No. 33 of 2005)****REGULATIONS REGARDING THE REGISTER FOR LEARNER/STUDENT NURSES AND LEARNER/STUDENT MIDWIVES**

The Minister of Health intends, in terms of section 58(1)(s) of the Nursing Act, 2005 (Act No.33 of 2005), and after consultation with the South African Nursing Council, to make the Regulations in the Schedule.

Interested persons are invited to submit any substantiated comments or representations in writing on the proposed regulations to the Director-General of Health, Private Bag 828, Pretoria, 0001 (for the attention of the Director: Public Entities Governance: Ms M Mushwana, MushwM@health.gov.za), within three (3) months of the date of publication of this notice.



**DR A MOTSOLEDI, MP**  
**MINISTER OF HEALTH**

DATE: 18/6/2018

*VISION: Excellence in professionalism and advocacy for health care users*

## SCHEDULE

### Definitions

1. In this schedule **“the Act”** means the Nursing Act, 2005 (Act No.33 of 2005), and any word or expression to which a meaning has been assigned in the Act shall bear such meaning and, unless the context indicates otherwise-

**“applicant”** means a person who is applying to be registered as a learner/student in terms of section 32 of the Act;

**“deferment”** means official permission to postpone or delay studies;

**“learner/student”** means a ‘learner/student nurse’, a ‘learner/student midwife’ or a ‘learner/student’ who is enrolled with a nursing education institution to undergo a nursing programme, and is registered with the South African Nursing Council in terms of section 32 of the Act;

**“programme”** means a purposeful and structured set of learning experiences that leads to registration in the category ‘midwife’;

**“registration fee”** means the registration fee prescribed in terms of the Regulations Regarding Fees and Fines Payable to the South African Nursing Council, published by Government Notice Number R.170 of 08 March 2013, as amended; and

### Particulars to be entered into the Register

2. The following particulars shall be entered into the Register in respect of each learner/student:

The learners/student’s -

- (a) full names;
- (b) South African identity number or, in the case of a foreign person who does not have a South African identity number, the passport number, country of issue and expiry date;
- (c) physical (residential) address;
- (d) postal address;

- (e) telephone numbers, e-mail address, and other contact details;
- (f) date of birth;
- (g) programme;
- (h) date of commencement or resumption of the programme;
- (i) nursing education institution; and
- (j) other personal details or particulars of the programme that the Council may require from time to time.

### **Admission to Register**

3. (1) An application for registration as a learner/student in a form determined by the Council must be lodged with the Council within the 30 days timeframe specified in section 32(3) of the Act.
- (2) An application referred to in sub-regulation (1) must be accompanied by-
- (a) a certified copy of the relevant page in the applicant's South Africa identity document or; in the case of a foreign applicant, a certified copy of the relevant page in the applicant's passport;
  - (b) where applicable, a certified copy of the applicant's marriage certificate or an affidavit attesting to the name change due to marriage or any other reasons;
  - (c) in the case of a foreign applicant, a certified copy of the South African Qualifications Authority (SAQA) evaluation certification for the applicant's existing qualification(s), a certified copy of the study permit issued by the Department of Home Affairs or; in case of a refugee/asylum seeker, a certified copy of the refugee/asylum seeker permit issued by the Department of Home Affairs; and
  - (d) proof of payment of the prescribed annual registration fee for learners/students in terms of Regulation (2)(1)(u) of the *Regulations Regarding Fees and Fines Payable to the South African Nursing Council* published under Government Notice No. R170 of 08 March 2013, as amended.
- (3) In case of an application for a programme leading to the registration of an additional qualification, the applicant must, at the time of application, be registered as a practitioner in terms of section 31(1) of the Act (this registration must be maintained for the complete duration of the programme).

- (4) It is the responsibility of the person in charge of the Nursing Education Institution to ensure that-
- (a) The application referred to in sub-regulation (1) is complete;
  - (b) the documents referred to in sub-regulation (2) are authentic, and
  - (c) the application is submitted within the required timeframe.
- (5) If an application referred to in sub-regulation (1) is lodged after expiry of the period specified in section 32 of the Act for furnishing the South African Nursing Council with the required particulars for the registration of a learner/student, the period of training will be nullified and the duration of training shall be extended by the period in excess of the specified period.
- (6) The student must be enrolled at an accredited Nursing Education Institution and the application can be submitted by the Nursing Education Institution by electronic or other means on behalf of the applicant, provided that the requirements of sub-regulations (2), (3) and (4) are complied with.
- (7) A certificate of registration as learner/student shall be issued in a form determined by the South African Nursing Council.
- (8) Education and training acquired whilst the learner/student is not registered with the South African Nursing Council will be rendered null and void.

#### **Removal from the Register**

4. The name of a learner/student shall be removed from the Register-
- (a) On completion of the programme. The person in charge of the nursing education institution shall lodge a notice of completion in a form determined by the Council within the timeframe permitted in terms of section 32(3) of the Act;
  - (b) On termination of the programme for any reason before completion, including a transfer to another nursing education institution, or death. The person in charge of the nursing education institution shall lodge a notice of termination in a form determined by the South African Nursing Council within the 30 days timeframe referred to in section 32(3) of the Act;
  - (c) on the failure of the learner/student to pay the prescribed annual registration fee for learners/students in terms of Regulation (2)(1)(u) of the Regulations Regarding Fees

and Fines Payable to the South African Nursing Council published under Government Notice No. R. 170 of 08 March 2013, as amended;

- (d) on failure of the learner/student engaged in the programme leading to the registration of an additional qualification to maintain registration as a practitioner during the complete duration of training, and;
- (e) by resolution of the Council in terms of the Act.

#### **Deferment of training**

- 5. (1) An application for deferment of studies can be lodged to the Council in a form prescribed by the Council not exceeding one (1) month after the deferment has commenced.
- (2) The application must clearly substantiate the reason for the requested deferment.
- (3) The application can be submitted by the nursing education institution by electronic or other means on behalf of the applicant, provided that the requirements of sub-regulations (1) and (2) are complied with.

#### **Resumption of training**

- 6. (1) An application for resumption as a learner/student, following a break in education and training or a transfer from one nursing education institution to another, can be submitted in a form determined by the Council and within the 30 days timeframe referred to in section 32(3) of the Act.
- (2) An application referred to in subregulation (1) must be accompanied by-
  - (a) A certified copy of the relevant page in the applicant's South African identity document, or in the case of a foreign applicant a certified copy of the relevant page in the applicant's passport;
  - (b) Where applicable, a certified copy of the applicant's marriage certificate or an affidavit attesting to the name change due to marriage or any other reasons;
  - (c) In the case of a foreign applicant, a certified copy of the South African Qualification Authority (SAQA) evaluation certification for the applicant's existing qualifications, a certified copy of the study permit issued by the Department of Home Affairs, or in case of a refugee/asylum seeker, a certified

- copy of the refugee/asylum seeker permit issued by the Department of Home Affairs;
- (d) Payment or proof of payment of the prescribed annual registration fee for learners/students in terms of Regulation (2)(1)(u) of the Regulations Regarding Fees and Fines Payable to the South African Nursing Council published under Government Notice No.R170 of 08 March 2013 as amended; and
  - (e) A certified copy of the application for deferment where relevant.
- (3) In the case of an applicant for a programme leading to the registration of an additional qualification, the applicant must, at the time of the application, be registered as a practitioner in terms of section 31 of the Act (this registration must be maintained for the complete duration of the programme).
- (4) The person in charge of the nursing education institution must ensure that-
- (a) The application referred to in subregulation (1) is complete;
  - (b) The documents referred to in subregulation (2) are authentic; and
  - (c) The application is submitted within the required timeframe.
- (5) If an application referred to in subregulation (1) is lodged after expiry of the 30 days period referred to in subregulation (1), the period of training will be nullified and the duration of training shall be extended by the period in excess of the specified period.
- (6) The application can be submitted by the nursing education institution by electronic or other means on behalf of the applicant, provided that the requirements of sub-regulations (2), (3) and (4) are complied with.
- (7) A certificate of registration as learner/student shall be issued in a form determined by the Council.

### **Suspension as a learner/student**

7. (1) The name of a learner/student in the Register shall be marked as 'suspended from continuing with the programme' for a period of time as specified by resolution of the Council in terms of the Act.

- (2) The name of a learner/student in the Register shall be marked as 'having the required period of training extended' for a period of time as specified by resolution of the Council in terms of the Act.

### **Registration fees**

8. (1) The person in charge of a Nursing Education Institution may, on behalf of learners/students, submit to the South African Nursing Council the registration fees. This can be done via electronic or other means, provided that the requirements of sub-regulations (2) and (3) are complied with.
- (2) The person in charge of a nursing education institution shall submit to the Council a list of learners/students, in a form determined by the Council, twelve (12) months after the commencement of the programme and every twelve(12) months thereafter until the completion of the programme.
- (3) The information referred to in sub-regulation (3) must, in respect of each registered learner/student for a programme, provide details regarding the progress achieved by the learner/student during the preceding twelve (12) months.

### **Change of particulars**

9. (1) A learner/student shall notify the Council in writing, of a change of personal or contact details within thirty (30) days of the relevant change.
- (2) In the case of a change of name by marriage or other process of law, the learner must submit documentary or other proof of the change.
- (3) In the case of marriage, certified copies of the relevant page in the learner's/student's identity document or passport and the marriage certificate must be submitted.
- (4) If the learner/student does not have a marriage certificate, an affidavit attesting to the name change due to marriage must be submitted. Original documents must not be submitted.

### Short Title and Commencement of regulations

10. These Regulations shall be called Regulations Regarding The Register for Learner/Student Nurses And Learner/Student Midwives and shall come into operation on the date of final publication in the Government Gazette.

### Repeal of Regulations

11. The Regulations in the table below are hereby repealed to the extent shown in the second column:

Description of Regulations	Extent of Repeal
<i>Regulations Regarding Rolls for Pupil Nursing Auxiliaries</i> published by Government Notice No. R. 1833 of 20 October 1972, as amended.	In its entirety.
<i>Regulations Regarding Rolls of Pupils</i> published by Government Notice No. R. 3736 of 14 November 1969, as amended.	In its entirety.
<i>Regulations Regarding Registers for Students</i> published by Government Notice No. R. 3735 of 14 November 1969, as amended.	In its entirety.

## DEPARTMENT OF HIGHER EDUCATION AND TRAINING

NO. 721

20 JULY 2018

## DEPARTMENT OF HIGHER EDUCATION AND TRAINING

## NATIONAL QUALIFICATIONS FRAMEWORK ACT, 2008 (NO 67 OF 2008)

## APPOINTMENT OF THE RECOGNITION OF PRIOR LEARNING (RPL) REFERENCE GROUP

I, Grace Naledi Mandisa Pandor, Minister of Higher Education and Training, in terms of section 8(2)(b) and 8(3)(a) of the National Qualifications Framework Act, 2008 (Act 67 of 2008), read with paragraph 2.2 of the Recognition of Prior Learning (RPL) Coordination Policy published in Government Notice No. 381, Government Gazette No. 39876 dated 31 March 2016, appoint the Recognition of Prior Learning Reference Group. The Terms of Reference were published in SCHEDULE 1 of Government Notice No. 780, Government Gazette No. 40110 dated 1 July 2016. Members of the RPL Reference Group are hereby published in the Schedule attached hereto.

*G. N. M. Pandor*  
Mrs GNM Pandor, MP

Minister of Higher Education and Training

Date: 8-6-2018

## SCHEDULE 1

### Members of Recognition of Prior Learning Reference Group to implement Phase 1 of the Recognition of Prior Learning (RPL) Coordination Policy

NO	NAMES	CONSTITUENCY
1.	Professor Ahmed Bawa (Chairperson)	Education and Training
2.	Advocate Eben Boshoff	Education and Training
3.	Ms Gerda Magnus	Education and Training
4.	Mr Neil Makhaga	Education and Training
5.	Mr Tsela Moloji	Education and Training
6.	Ms Vuyokazi Patuleni	Education and Training
7.	Mr Mogamat Shaafiq Fredericks	Education and Training
8.	Ms Elsie Potgieter	Education and Training
9.	Professor Benjamin Anderson	Private Higher Education
10.	Mr Joe Samuels	South African Qualifications Authority
11.	Dr Amani Saidi	Quality Council
12.	Ms Busisiwe Langa	Quality Council
13.	Dr Eva Sujee	Quality Council
14.	Professor Alan Tait	International RPL Expert
15.	Dr Joy Van Kleef	International RPL Expert
16.	Dr Shirley Lloyd	National RPL Expert
17.	Dr James Keevy	National RPL Expert
18.	Ms Conti Magdeline Matlakala	Community
19.	Mr Ernest Lebuso Monyatsi	Government
20.	Ms Lazelle Van Kramberg	Organised Labour
21.	Mr Ashley Benjamin	Organised Labour
22.	Mr Bhabhali Ka Maphikela Nhlapo	Organised Labour
23.	Ms Desiree Vardhan	Professional Body

## DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

NO. 722

20 JULY 2018

**GENERAL NOTICE IN TERMS OF THE RESTITUTION OF LAND RIGHTS ACT,  
1994 (ACT NO.22 OF 1994)**

Notice is hereby given in terms of section 11 (1) of the Restitution of Land Rights Act, 1994 (Act No.22 of 1994 as amended) that a claim for restitution of land rights on:

REFERENCE : 6/2/2/D/1011/0/0/1

CLAIMANT : Joseph Ditshwanelo Tsitsa (On behalf of Tsitsa Family)

PROPERTY DESCRIPTION : Tsitsa Village, Ntabankulu under Matatiele Local Municipality, Alfred Nzo District Municipality  
In the Eastern Cape Province

EXTENT OF LAND : 811 Hectares

TITLE DEED : N/A

DATE SUBMITTED : 30<sup>th</sup> December 1998

CURRENT OWNER : Department of Rural Development and Land Reform

Has been submitted to the Regional Land Claims Commissioner for the Eastern Cape Province and that the Commission on Restitution of Land Rights will investigate the claim in terms of the provisions of the Act in due course.

Any person who has an interest in the above-mentioned land is hereby invited to submit, within thirty (30) days from the publication of this notice, any comments/information to

**Office of the Regional Land Claims Commissioner : Eastern Cape**  
**Department of Rural Development and Land Reform**  
**PO Box 1375**  
**East London**  
**5200**  
**Tel : 043 700 6000**  
**Fax : 043 743 3687**

  
**Mr. L.H. Maphutha**  
**Regional Land Claims Commissioner**  
**(Eastern Cape Province)**

Date: 2018/06/22

## DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM

NO. 723

20 JULY 2018

**GENERAL NOTICE IN TERMS OF THE RESTITUTION OF LAND RIGHTS ACT,  
1994 (ACT NO.22 OF 1994)**

Notice is hereby given in terms of section 11 (1) of the Restitution of Land Rights Act, 1994 (Act No.22 of 1994 as amended) that a claim for restitution of land rights on:

REFERENCE : 6/2/2/D/1014/0/0/7

CLAIMANT : Gcinilizwe Londile and Mongezi Sopazi  
(On behalf of Ncembu Community)

PROPERTY DESCRIPTION : Ncembu Location no.18 in Tsolo, under Mhlontlo  
Local Municipality, OR Tambo District Municipality  
in the Eastern Cape Province

EXTENT OF LAND : 4 844.7251 Hectares

TITLE DEED : N/A

DATE SUBMITTED : 22<sup>nd</sup> December 1998

CURRENT OWNER : Mhlontlo Local Municipality

Has been submitted to the Regional Land Claims Commissioner for the Eastern Cape Province and that the Commission on Restitution of Land Rights will investigate the claim in terms of the provisions of the Act in due course.

Any person who has an interest in the above-mentioned land is hereby invited to submit, within thirty (30) days from the publication of this notice, any comments/information to

**Office of the Regional Land Claims Commissioner : Eastern Cape**  
**Department of Rural Development and Land Reform**  
**PO Box 1375**  
**East London**  
**5200**  
**Tel : 043 700 6000**  
**Fax : 043 743 3687**



**Mr. L.H. Maphutha**  
**Regional Land Claims Commissioner**  
**(Eastern Cape Province)**

Date: 2018/06/22

## DEPARTMENT OF TRADE AND INDUSTRY

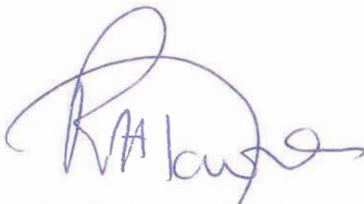
NO. 724

20 JULY 2018

**NATIONAL REGULATOR FOR COMPULSORY SPECIFICATIONS ACT  
(ACT 5 OF 2008) AS AMENDED THROUGH THE LEGAL METROLOGY ACT  
(ACT 9 OF 2014)****COMPULSORY SPECIFICATION FOR PROCESSED MEAT PRODUCTS**

It is hereby made known under section 13(4) of the National Regulator for Compulsory Specifications Act (Act 5 of 2008) as amended, that I, Dr Rob Davies, Minister of Trade and Industry, on the recommendation of the NRCS, intends to declare the new Compulsory Specification for processed meat products as set out in the attached schedule.

Any person who wishes to comment of the intention to introduce the new Compulsory Specification concerned may submit their comments in writing to the Chief Executive Officer, National Regulator for Compulsory Specifications, Private Bag X25, Brooklyn, 0075, on or before the date, two (2) months from the date of publication of this notice.



**Dr Rob Davies, MP**  
**Minister of Trade and Industry**

**DRAFT FOR COMMENT****VC 9100****COMPULSORY SPECIFICATION FOR PROCESSED MEAT PRODUCTS****SCHEDULE****1 SCOPE**

**1.1** This Compulsory Specification applies to the handling, preparation, processing, packaging, refrigeration, freezing, chilling, labeling, marking and storage of high risk processed meat products covered in the scope of SANS 885, *processed meats products*; and it includes the microbiological and compositional requirements of these products. The high risk classes of processed meats products are identified as heat treated and ready to eat (RTE) categorized in classes 1,2,6,10,12 and unspecified RTE products listed in clause 5.3 of SANS 885, which are as follows:

- a) Class 1 — Whole muscle, cured, heat treated products
- b) Class 2 — Whole muscle, uncured, heat treated or partial heat treated products;
- c) Class 6 — Comminuted, cured, heat treated products;
- d) Class 10 — Comminuted, uncured and heat treated products;
- e) Class 12 — Reformulated, cured, heat treated.; and
- f) Class 14 — Unspecified class i.e. Any other unspecified RTE processed meats product.

**1.2** The requirements for canned meats, raw boerewors, species sausages, mixed species sausages, poultry meat and red meat (cattle, sheep, goat and pig) which are untreated or treated in such a way that the product still looks like a normal raw carcass, cut, portion or pieces (whether fresh or frozen), all of which are governed by other relevant national legislation, are excluded from this Compulsory Specification. The compositional requirements covered under the scope of the regulations published under the Agricultural Product Standards Act, 1990 (Act No 119 of 1990) processed meat are excluded from this Compulsory Specification.

**1.3** Shops, hotels, boarding houses, restaurants or other eating establishments that do not manufacture processed meat products other than for inclusion in prepared cooked meals served from the establishment are excluded from the scope of this Compulsory Specification.

**Note:** A shop or butchery involved in the manufacturing of processed meat products for sale is regarded as a factory/processing facility (see 2.2.6 of this Compulsory Specification).

## 2 DEFINITIONS

**2.1** For the purposes of this Compulsory Specification the definitions in SANS 885: '*Processed meat products*', shall apply.

**2.2** Any word or expression mentioned in this Compulsory Specification to which a meaning has been assigned in the National Regulator for Compulsory Specifications Act (Act No. 5 of 2008), as amended through Legal Metrology Act (Act No. 9 of 2014), shall have that meaning, unless the context otherwise indicates. In addition, the following definitions shall apply:

**2.2.1 applicant:** a producer, processor, packer, importer or exporter applying for approval of the product, or for conformity of production as per the contents of the application. The producer, packer, importer or exporter shall be established within the Republic of South Africa.

**2.2.2 approval:** confirmation by the NRCS that the product and/or facility satisfies the requirements of this Compulsory Specification.

**2.2.3 compulsory specification:** a technical regulation document published in terms of Section 13(1) (a), (b) or (c) of the NRCS Act of 2008, (Act No.5 of 2008) as amended. A Compulsory Specification lays down product characteristics and/or their related processes and production methods, including the applicable administrative provisions, with which compliance is mandatory.

**2.2.4 conformity of production:** satisfactory evidence of compliance of the handling, preparation, processing, or packaging of product for heating, drying, chilling, or freezing (or a combination thereof) in the course of being or having been heated, dried, chilled or frozen, including the process of suitable storage, as indicated by the context of this Compulsory Specification.

**2.2.5 DAFF:** the Department of Agriculture, Forestry and Fisheries.

**2.2.6 factory/processing facilities:** premises preparing, handling, treating, processing, producing or packaging processed meat products covered by this Compulsory Specification, and includes a shop or butchery involved in the manufacturing of processed meat products for commercial purposes.

**2.2.7 HACCP (Hazard Analysis and Critical Control Point):** a system which identifies, evaluates, and controls hazards that are significant to food safety particular to a specific product or product type.

**2.2.8 NRCS:** the National Regulator for Compulsory Specifications as established by the National Regulator for Compulsory Specifications Act, 2008 (Act No. 5 of 2008).

**2.2.9 product safety management system:** a food safety management system implemented by a factory based on the principles of HACCP as recommended by the Codex Alimentarius Commission.

**2.2.10 relevant national legislation:** means the following Acts; Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No 54 of 1972); NRCS Act 2008 (Act No.5 of 2008); Legal Metrology Act 2014 (Act No. 9 of 2014); Meat Safety Act, 2000 (Act No 40 of 2000), and applicable regulations, as amended from time to time.

### **3 GENERAL ADMINISTRATIVE REQUIREMENTS**

**3.1** All processed meat products to be offered for sale shall comply with the requirements of this Compulsory Specification.

**3.2** The factory/processing facility for processed meat products in the Republic of South Africa shall be pre-approved by the NRCS for conformity of production requirements as prescribed in Annex A - A.1. Such approval shall be reviewed annually or more frequently as determined by the NRCS.

**3.3** The factory/processing facility shall not dispatch or sell a processed meat product from the facility without a valid NRCS approvals certificate for the factory/processing facility.

**3.4** Application for approval of the product(s) shall be made to the NRCS for every consignment of processed meat products which are imported into South Africa in accordance with the requirements of Annex A - A.2.

**3.5** Application for approval required for export as required by the applicant, shall be made in accordance with the requirements of Annex A - A.3.

**3.6** The factory/processing facility shall provide the NRCS with satisfactory evidence of conformity of production on request.

**3.7** The factory/processing facility shall inform the NRCS of any change in process of production affecting any mandatory requirement of this Compulsory Specification. In the event of such change/s the NRCS may, at its discretion, demand the submission of fresh evidence of conformity or a new application for approval.

**3.8** The factory/processing facility shall immediately report any failure, of whatever nature, to conform to the requirements of this Compulsory Specification to the NRCS.

**3.9** Approval granted by the NRCS to a factory/processing facilities in accordance with 3.2 of this Compulsory Specification, may be suspended and/or ultimately

withdrawn upon detection of non-compliance to the provisions of this Compulsory Specification or if the applicant fails to re-apply as required. Reasons of such suspension or withdrawal will be provided to the applicant in writing and the facility shall not sell the identified products. No new batch(es)/production(s) shall be produced after the suspension of the facility, until new approval is granted by the NRCS or corrective actions are concluded.

**3.10** A factory / establishment which is suspended must re-apply to the NRCS within three months of the date of suspension for a reassessment; otherwise approval for the establishment to operate in terms of this Compulsory Specification will be withdrawn: Provided that in the case of failure of compositional requirements including safety of a specific product, individual products will be evaluated per product or product grouping.

**3.11** A factory / establishment shall notify the NRCS when closing down.

**3.12** The testing of processed meat products against the requirements of this Compulsory Specification shall be done by microbiological and chemical test facilities that are accredited to use the referenced test methods or any other accredited method validated against the reference method, and giving results that are better, or at least equal, to the accuracy of the reference method. In the case where there are no test facilities available in the Republic of South Africa that are in conformance with the foregoing, the NRCS shall determine which facilities may be used in terms of its Conformity Assessment Policy.

**3.13** The NRCS may for the purposes of inspection and verification of products, sample products according to the regulatory risk based sampling plans.

**3.14** There will be fees applicable as prescribed in the regulation R924 of 15 October 2010, published under the NRCS Act.

#### **4 SPECIFIC REQUIREMENTS**

**4.1** The following shall comply with the requirements of the latest edition of SANS 885:

- a) The structure of the factory/processing facility and of equipment;
- b) The handling, preparing, processing, producing, packaging, marking, labelling and storage of the product;
- c) The product ingredients and composition;
- d) The test methods specified;

- e) The hygiene requirements for the factory/processing facility, equipment and for employees; and
- f) Microbiological requirements for the product.

**Note:** The labeling requirements in SANS 885 mainly reference the relevant national regulations under the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act 54 of 1972).

**4.2** The principles of HACCP, as recommended by the Codex Alimentarius Commission shall, as a minimum, be used for the implementation of a product safety management system.

**4.3** In the event of an amendment or revision of the SANS 885 standard, the factory / processing facility shall be in compliance with the amended or revised requirements within six months of publication of the amended or revised standard unless otherwise declared by a special notice by the Minister. If evidence of compliance to such amendments or revisions cannot be provided, the approval of the factory / processing facility may be withdrawn. Reason/s of such withdrawal will be provided to the applicant in writing and the facility shall not sell the identified products. No new batch(es)/production(s) shall be produced after the withdrawal of the approval, until new approval is granted by the NRCS or corrective actions are concluded.

**Note:** The required World Trade Organization (WTO) transparency provision will also be considered in this period.

## **5 MARKINGS AND LABELLING REQUIREMENTS**

**5.1** Packed processed meat products shall be marked in accordance with the requirements of SANS 885.

**5.2** In the case where the name and street address on the product is not that of the processor, manufacturer or packer ("the operator"), the allocated NRCS number must be reflected in the following manner: "EST NR: XYZ", where XYZ is the number allocated by the NRCS. For imported processed meat products, a traceable form of the establishment registration number of the processor, manufacturer or packer ("operator") must be indicated. The letter sizes shall comply with the labelling regulations as per national legislation.

**ANNEX A**

(Normative)

**A.1 APPLICATION FOR APPROVAL OF THE FACTORY/PROCESSING FACILITY AND APPROVAL OF PROCESSED MEAT PRODUCTS IN THE REPUBLIC OF SOUTH AFRICA**

The applicant shall apply to the NRCS for approval of the facility. The application shall be accompanied by the following:

**A.1.1** Details of the facility for which approval is sought;

**A.1.2** Records and documentation as evidence of implementation of a product safety management system as required by clause 4.1 of this compulsory specification and SANS 885 (documented procedures and methods for Factory construction, layout and conditions);

**A.1.3** Test results for the processed meat products as prescribed in SANS 885 for a minimum period of three months preceding the application. The experimental permit will be issued to new facilities that have not been in production before the application will be given 3 to 6 months to provide documentation for A.1.2 and A.1.3;

**A.1.4** Details of the markings used on the packed product(s);

**A.1.5** Where required by the NRCS, guarantees that the product(s) complies with the prescribed testing requirements as per SANS 885. The NRCS may also request that specific testing be performed;

**A.1.6** Any reasonable additional information to clarify the application as requested by the NRCS;

**A.1.7** Information to the satisfaction of the NRCS regarding the measures taken by the applicant to ensure ongoing conformity with the requirements of this Compulsory Specification; and

**A.1.8** The NRCS shall issue an official factory / processing facility number on approval of the factory / processing facility.

## **A.2 APPLICATION FOR APPROVAL OF IMPORTED PROCESSED MEAT PRODUCTS**

**A.2.1** Imported processed meat products must originate from a facility approved for export in the country of origin and be approved by DAFF. The applicable permits as required by DAFF (including OIE Directives).

**A.2.2** The applicant shall apply to the nearest NRCS regional office for approval of the product(s). The application shall be made at least **10 working days** prior to the date on which it is needed.

**A.2.3** Applicants shall supply details of the processed meat products per consignment by providing the following information:

- a) Details of the imported product, bill of entry number (SARS release), quantity, batch codes and number of product per batch code(s), code list and bill of lading;
- b) Where relevant, the applicable certificates as required by DAFF;
- c) Evidence that the products come from the facility approved for export in the country of origin;
- (d) Applicable evidence and/or certificate of analysis that product complies to the technical requirements set out in SANS 885;
- e) The date and place where it will be available for sampling;
- f) Name and contact details of a contact person;
- g) The number(s) of the bill(s) of entry and the date authorized by Customs Officials; and
- h) The voyage number of the cargo carrier (vessel, aircraft or registration number of vehicle).

## **A.3 APPLICATION FOR EXPORT OF PROCESSED MEAT PRODUCTS**

**A.3.1** For locally produced products, where applicants require approval for export, applicants shall supply evidence of NRCS approval required in Annex - A.1 (clause 3.3) to DAFF.

**A.3.2** Processed meat products for export shall be approved by DAFF according to the Veterinary Procedural Notices (VPN).

**A.4 GRANTING OF APPROVAL**

**A.4.1** The NRCS shall issue an approval certificate, to the applicant when all the requirements of this Compulsory Specification have been met.

**A.4.2** The NRCS shall assign a unique number to each approval certificate.

**A.4.3** An approvals certificate shall be the sole proof of approval by the NRCS.

**A.4.4** Once a factory/processing facility is approved, the NRCS will issue an establishment number.

**A.4 WITHDRAWAL OF APPROVAL**

Any approval granted in respect of processed meat products or the facility pursuant to this Compulsory Specification may be withdrawn if compliance with the requirements of this Compulsory Specification has not been maintained. Re-application will be treated as new applications.

## DEPARTMENT OF TRADE AND INDUSTRY

NO. 725

20 JULY 2018

**CO-OPERATIVES THAT HAVE BEEN REMOVED FROM THE REGISTER**

1. HEALTH WINNERS CO-OP LTD
2. UMHLATHUZE CO-OP LTD
3. SAKHA ISIZWE CO-OP LTD
4. SIYATOTOBA AGRICULTURAL CO-OP LTD
5. PAMBU CO-OP LTD
6. UNAKHO CO-OP LTD
7. SIYAPHAMBILI AGRICULTURAL CO-OP LTD
8. VUKAWENZE CO-OP LTD
9. IMBOKODO ZOKHAHLAMBA CO-OP LTD
10. THUBALETHU MULTI-PURPOSE CO-OP LTD
11. IPHELELIMPILO CO-OP LTD
12. KARABO CO-OP LTD
13. HLUMA CATERING SERVICES CO-OP LTD
14. SIYAKHUULAR CO-OP LTD
15. BAMBANANI ENVIRONMENTAL CO-OP LTD
16. MASIDONSEKANYEKANYE CO-OP LTD
17. SENZAKAHLE ART AND CRAFT CO-OP LTD
18. MATHONGWANE POULTRY CO-OP LTD
19. IGEJA MULTI-FARMING CO-OP LTD
20. ENDLOVINI GARDEN CO-OP LTD
21. SIYASUKUMA CO-OP LTD
22. IMISEBE SEWING CO-OP LTD
23. MALULEKA CO-OP LTD
24. SINGADLALA AMADODA CO-OP LTD
25. CEBOLETHU CO-OP LTD
26. DURBAN AND DISTRICT ZENZELE CO-OP LTD
27. TOKOLOGO TOURISM CO-OP ENTERPRISE LTD
28. LUBABALO CO-OP LTD
29. MIGCOBO CO-OP LTD
30. SIYENZA SIYAKHA CO-OP LTD
31. IZOKUSETHA CO-OP LTD
32. SIBAYA CLOTHING CO-OP LTD
33. MNDENI BLOCK MAKING CO-OP LTD
34. SILETHOKUHLE CO-OP LTD
35. ZUYOLE CO-OP LTD
36. NAGLEDAM BROAD BASED CO-OP LTD
37. NOKWINDLA MULTI-PURPOSE CO-OP LTD
38. KHUTHALANE PRIMARY ORGANIC FARMING CO-OP LTD

Notice is hereby given that the names of the abovementioned co-operatives have been removed from the register in terms of the provisions of section 73(1) of the Co-operatives Act, 2005.

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## DEPARTMENT OF TRADE AND INDUSTRY

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1. THUTHUKANI EZINKETHENI GARDEN CO-OP LTD
2. PHAHAMISANG CO-OP LTD
3. TSHEDIMISITSO GOAT CO-OP LTD
4. SIYANQOBA EDUCATORS CO-OP LTD
5. UMTHENTE MTHANTI VILLAGE TRADING CO-OP LTD
6. GQWABANE CO-OP LTD
7. FINGQUMKHONO CO-OP LTD
8. HLUMANI CATERING AND NUTRITIONAL CO-OP LTD
9. MALEKHALONYANA CO-OP LTD
10. ULUVO LWABANTU MULTI-PURPOSE CO-OP LTD
11. ZINIKELE CLOTHING CO-OP LTD
12. SIZAKALA TEAM CO-OP LTD
13. MASITHEMBE CATERING SERVICES CO-OP LTD
14. YASIZA AMANZI AYATHUTHUKISA CO-OP LTD
15. UMTSHEZI IMBABAZANE FARMERS CO-OP LTD
16. MASIKHULE CATERING SERVICES CO-OP LTD
17. KHANYISO VEGETABLE PROJECT CO-OP LTD
18. SIMUNYE POULTRY AND OTHERS TRADING CO-OP LTD
19. KUSILE KUBATHEMBU BAKWADALINDYEBO MULTI-PURPOSE CO-OP LTD
20. KWENZOKUHLE CO-OP LTD
21. KHWELA CO-OP LTD
22. IHAWU HOTEL AND RESTAURANT CO-OP LTD
23. SIKHANYISILE POULTRY CO-OP LTD
24. TENENKO CO-OP LTD
25. NTSIKA YETHU SIYAZAMA CO-OP LTD
26. ABAFAZI CO-OP LTD
27. KHULANINANDE CO-OP LTD
28. PHAPHAMA COMMUNITY DEVELOPMENT AGRICULTURAL CO-OP LTD
29. ISANDLA SETHU SEWING CO-OP LTD
30. LINOHLE CO-OP LTD
31. INHLANZEKO CLEANING CO-OP LTD
32. MASIQUME CO-OP LTD
33. MAMOSEDIAME MULTI-PURPOSE CO-OP LTD
34. INGELOSI CATERING CO-OP LTD
35. RIEBEEK EAST WOMEN MAKANA WARD THREE CO-OP LTD
36. SEBENZA CO-OP LTD
37. KGOKANARE GENERAL CO-OP LTD

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## DEPARTMENT OF TRADE AND INDUSTRY

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**CO-OPERATIVES THAT HAVE BEEN REMOVED FROM THE REGISTER**

1. SIYADLISA MULTI-PURPOSE CO-OP LTD
2. REABETSOE CO-OP LTD
3. S.J.Q.M CONSTRUCTION CO-OP LTD
4. MFUMFU CO-OP LTD
5. S'NQOBILE CO-OP LTD
6. QINDOLO CO-OP LTD
7. NKIDIKITLANA CO-OP LTD
8. SOMELELE MULTI-PURPOSE CO-OP LTD
9. MOHAU CO-OP LTD
10. IMBONISWANO CO-OP LTD
11. NOMPONJWANE COMMUNITY GARDEN CO-OP LTD
12. LISAKHANYA CO-OP LTD
13. MPUMELELO INVESTMENT CO-OP LTD
14. LATHITHA CRADOCK CO-OP LTD
15. LOSILUSIA CO-OP LTD
16. MASIKHULE EMTHONJENI CO-OP LTD
17. KWASA MULTI-PURPOSE CO-OP LTD
18. A RE AGANENG BEAT ARTS AND ACHAAR MANUFACTURING CO-OP LTD
19. TOSS N HOUSING CO-OP LTD
20. CLUB TEN CARPENTERS CO-OP LTD
21. MQENI SIYAZAMA HEMP CO-OP LTD
22. AGISANANG BURIAL SOCIETY CO-OP LTD
23. S'PHELELE CO-OP LTD
24. UTSHINTSHO CO-OP LTD
25. LADUMA THUTHUKA CO-OP LTD
26. SINETEMBA TEMBALETHU CO-OP LTD
27. AHLUME CO-OP LTD
28. MIZAMO CO-OP LTD
29. BATHO LE MATLA A BONA CO-OP LTD
30. NDLELAMBILI CO-OP LTD
31. TLHABOLOGO BRICKS CO-OP LTD
32. LIMILE CO-OP LTD
33. OKUMNANDI CO-OP LTD
34. NORTH WEST LIVESTOCK CO-OP LTD
35. HLABUMKHOSI CO-OP LTD
36. ZANOBUHLE NUTRITION CO-OP LTD
37. JULUKA CO-OP LTD

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1. UMZAMO-OMHLE CATERING CO-OP LTD
2. AMATIKWE ART CO-OP LTD
3. PMD FOOD SERVICES AND CATERING CO-OP LTD
4. ABAZALWANE CO-OP LTD
5. IKAGENG MALOKELA COMMUNITY VEGETABLE GARDEN CO-OP LTD
6. PEGMA 38 CO-OP LTD
7. IBEKEZELA CO-OP LTD
8. VUMANI CO-OP LTD
9. FUKUZANI CO-OP LTD
10. NEW CREATION CO-OP LTD
11. THE ROBIN WORKERS' CO-OP LTD
12. SIPHEMBOKUHLE TRADING CO-OP LTD
13. VUKUBHEKE CO-OP LTD
14. THUTHUKANI FASHIONS WORKER CO-OP LTD
15. OLD AGE POULTRY CO-OP LTD
16. LIWALETHU CO-OP LTD
17. PHILISANI NUTRITIONAL SERVICES CO-OP LTD
18. NQUBEKO CONSTRUCTION, ART TRADING CO-OP LTD
19. NEW KHULANI CO-OP LTD
20. ORATILE CO-OP LTD
21. SIDANI AGRICULTURAL CO-OP LTD
22. SISONKE WELDING AND ALL PURPOSE MAINTENANCE CO-OP LTD
23. POLOKWANE SLAG-FARMERS AGRICULTURAL CO-OP LTD
24. SIBABALWE CATERING SERVICES CO-OP LTD
25. TOP STYLE CO-OP LTD
26. SAKHILE FARMING CO-OP LTD
27. THANDANANI GENERAL TRADING CO-OP LTD
28. ZUZUMQHELE CO-OP LTD
29. PHUTHANANG DIKGOMO CO-OP LTD
30. SAKHALETHU FINANCIAL SERVICES CO-OP LTD
31. SINOLWAZI CO-OP LTD
32. SIYAPHAMBILI MULTI-PURPOSE CO-OP LTD
33. JABULA CONTRACTORS CO-OP LTD
34. MASIZAME COMMUNAL CO-OP LTD
35. MZANSI BUILDING MATERIAL SUPPLIER CO-OP LTD
36. BNS CHILD CARE CENTRE CO-OP LTD
37. ZENZELE NUTRITIONAL SERVICES CO-OP LTD

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1. TOGETHER WE ARE ONE CO-OP LTD
2. AMADODA AHLANGENE CO-OP LTD
3. INXILI WOMENS CO-OP LTD
4. KGOThALANG AGRICULTURAL CO-OP LTD
5. LATHITHA WARD 26 CO-OP LTD
6. LUZUKO CENTRAL CO-OP LTD
7. NONDIZE CO-OP LTD
8. ZAMANAWWE CO-OP LTD
9. TSHWARANANG DIKOLOBE BAKING CO-OP LTD
10. B AND S TRAINING CO-OP LTD
11. ILITHA BAKING CO-OP LTD
12. SEYALULAMA CO-OP LTD
13. INTOYETHU CO-OP LTD
14. YAMBESA CO-OP LTD
15. TSHUMISANANG CATERING CO-OP LTD
16. KGATELOPELE LANDSCAPE AND CLEANING CO-OP LTD
17. SONWABISE CO-OP LTD
18. VHATO VHOTHE AGRICULTURAL CO-OP LTD
19. ANELISWA CO-OP LTD
20. YOBEL TRADING CO-OP LTD
21. DOMNDE CO-OP LTD
22. VUKUZONDLE CO-OP LTD
23. G14 CO-OP LTD
24. VUKA-KE CATERING CO-OP LTD
25. NOTHANI MAZULU CO-OP LTD
26. THANDANANI CATERING CO-OP LTD
27. SUKUMANHLONGA FARMING CO-OP LTD
28. ZITHANDENI CO-OP LTD
29. ZAMIMPILO CLEANING, BAKING, CATERING TRADING CO-OP LTD
30. NOZALELA CO-OP LTD
31. SIZAMA UKUKHANYA CO-OP LTD
32. YOUTH OF THE NATION MULTI-PURPOSE CO-OP LTD
33. MNQUMA FARMERS TRADING CO-OP LTD
34. HOT CHILLIES CO-OP LTD
35. VHUTSHILA DUMELA CO-OP LTD
36. PRESTIGE ENTERPRISE CO-OP LTD
37. TIRISANO BURIAL SOCIETY CO-OP LTD

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1. MTHEMBU AVENUE TRADING CO-OP LTD
2. AFRICAN WOMEN IN ACTION GROUP DEVELOPMENT CO-OP LTD
3. NGEZANDLA ZETHU CO-OP LTD
4. LINDOKUHLE VEGETABLE ASSOCIATION CO-OP LTD
5. IMBALENHLE POULTRY CO-OP LTD
6. SESIHLANGENE CO-OP LTD
7. IZINGQUNQULU CO-OP LTD
8. INSIKA TRADING CO-OP LTD
9. CACADU DISTRICT CO-OP LTD
10. LAPHUMILANGA SOPHAKAMA CO-OP LTD
11. MGUNDAZWE CO-OP LTD
12. MASENZENI POULTRY CO-OP LTD
13. AMEVA CO-OP LTD
14. KATLEGO POULTRY CO-OP LTD
15. QINISELA MSINGA SWEET POTATO CO-OP LTD
16. MOLETJIE FAR NORTH AGRICULTURAL CO-OP LTD
17. KHANYISA LUKHANJI WARD EIGHT CO-OP LTD
18. VUKANISAKHE CATERING CO-OP LTD
19. MPILONHLE CO-OP LTD
20. MIDDELBURG SECURITY SERVICES CO-OP LTD
21. MPHATLALATSANE COOKING OIL CO-OP LTD
22. VEZULWAZI MISCELLANEOUS CO-OP LTD
23. VUKA AFRIKA MULTI-PURPOSE CO-OP LTD
24. HOT BAKERY CO-OP LTD
25. AFRICAN RONDAVEL CO-OP LTD
26. UNITED YOUTH FOR REVOLUTION CONSTRUCTION SERVICES CO-OP LTD
27. NGANGINGEDWA CO-OP LTD
28. ZIDLEKHANYA TRADING CO-OP LTD
29. ZIGQAJE CO-OP LTD
30. MAYENZEKE CO-OP LTD
31. KHANYA FOOD SERVICES CO-OP LTD
32. MZAMO CO-OP LTD
33. NHLALENHLE CO-OP LTD
34. KAGISO HOUSING CO-OP LTD
35. TRENDSETTERS CO-OP LTD
36. KHULA NGOLWAZI GENERAL CO-OP LTD
37. THUBELIHLE CO-OP LTD

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## DEPARTMENT OF TRADE AND INDUSTRY

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2. INGEDE CO-OP LTD
3. INQOLOBANE YAMAQADI NAMANYUSWA CO-OP LTD
4. NORTHERN AREA CLANSING AND GRASS CUTTING CO-OP LTD
5. PHUTHANANG CO-OP LTD
6. AMANDLETHU POULTRY CO-OP LTD
7. TIRO E TSHABA DIATLA CO-OP LTD
8. EMA-EMANG COMMUNITY VEGETABLES CO-OP LTD
9. KWATSHO KWAKHANYA MULTI-PURPOSE CO-OP LTD
10. SINESIPHELO CO-OP LTD
11. TORNADO CO-OP LTD
12. SENZAOKHUHLE LEATHER CRAFT CO-OP LTD
13. TSWELOPELE ENVIRONMENTAL SERVICES CO-OP LTD
14. NGQONGQODWANE CO-OP LTD
15. AMAHLUBI CONSTRUCTION AND CATERING CO-OP LTD
16. MONGWE CATERING AND PROJECTS CO-OP LTD
17. GLORIUS TRADING CO-OP LTD
18. MHLANE MANUFACTURING CO-OP LTD
19. FREEMAN BOERDERY CO-OP LTD
20. MNTSINTSI CO-OP LTD
21. MASETHO CO-OP LTD
22. UKHOZI LETHU CO-OP LTD
23. SIYAFUFUZA SEWING CO-OP LTD
24. AYAKHULA CAMAGU CO-OP LTD
25. SIYAZANA CO-OP LTD
26. WE CAN MULTI-PURPOSE PRIMARY CO-OP LTD
27. UPHONDO GENERAL TRADING CO-OP LTD
28. BISHO CLEANING SERVICES CO-OP LTD
29. MVUMELWANO KULUNGILE CO-OP LTD
30. SIYANDA BUZANENI CO-OP LTD
31. TLAPENG PIGGERY VEGETABLES CO-OP LTD
32. RIBONE CO-OP LTD
33. NGQUNGQULU CO-OP LTD
34. NORTH EASTERN KWAZULU NATAL PRINTERS CO-OP LTD
35. ZIZWELE CATERING CO-OP LTD
36. MASHONA WORKER CO-OP LTD
37. AMANDLA NDAWONYE CO-OP LTD

Notice is hereby given that the names of the abovementioned co-operatives have been removed from the register in terms of the provisions of section 73(1) of the Co-operatives Act, 2005.

**REGISTRAR OF CO-OPERATIVES**

Office of the Registrar of Co-operatives  
Dti Campus  
77 Meintjies Street  
**Pretoria**  
0001

Private Bag X237  
**Pretoria**  
0002

## DEPARTMENT OF TRADE AND INDUSTRY

NO. 732

20 JULY 2018

**CO-OPERATIVES THAT HAVE BEEN REMOVED FROM THE REGISTER**

1. GUDANI PIGGERY CO-OP LTD
2. REJAMONONO CLEANING SERVICES CO-OP LTD
3. PHILA NATURALS WOMEN DEVELOPMENT CO-OP LTD
4. DZ NDAMASE MULTI-PURPOSE CO-OP LTD
5. MASITHEMBANE SEKUSILE CO-OP LTD
6. NQOBANI SECONDARY CO-OP LTD
7. INTATHAKUSA CATERING CO-OP LTD
8. PEOPLES CO-OP LTD
9. MSOBOMVU CO-OP LTD
10. UNKULUNKULU UYABONELELA CO-OP LTD
11. EBERNHEZER 01 AGRICULTURAL CO-OP LTD
12. TOGETHERNESS CATERING AND DECOR CO-OP LTD
13. HLOMPANANG VEGETABLE GARDEN CO-OP LTD
14. NNAMETJENG CONSTRUCTION CO-OP LTD
15. INXUBA YETHEMBA LOCAL SECONDARY CO-OP LTD
16. DALINDYEBO MULTI-PURPOSE CO-OP LTD
17. ZAIDA CO-OP LTD
18. INCEBA CATERING AND SUPPLY CO-OP LTD
19. INKUTHALO CO-OP LTD
20. MALETSHWARA CO-OP LTD
21. NCEDOLWETHU MULTI-PURPOSE CO-OP LTD
22. ELISHAMA ELIYADA CO-OP LTD
23. NONKQUBELA COMMUNITY PROJECT CO-OP LTD
24. SIZIMISELE CO-OP LOCAL ECONOMIC DEVELOPMENT AGENCY LTD
25. Ilinge MULTI-PURPOSE CO-OP LTD
26. LUNCEDO CLEANING AND CATERING CO-OP LTD
27. IQHAYNA LETHU DEVELOPMENT CO-OP LTD
28. MASIPHUMELELE WOMEN'S CO-OP LTD
29. LIBERATED CO-OP LTD
30. ZANOKHANYO MULTI-PURPOSE CO-OP LTD
31. SIZANOTHANDO DEVELOPMENT CO-OP LTD
32. KHULANI NUTRITIONAL SERVICES CO-OP LTD
33. BEBONKE CO-OP LTD
34. DELMAS TAXI CO-OP LTD
35. LUBELO SEWING CO-OP LTD
36. ULWEMBU CO-OP LTD
37. ELSHADAI CO-OP LTD

Notice is hereby given that the names of the abovementioned co-operatives have been removed from the register in terms of the provisions of section 73(1) of the Co-operatives Act, 2005.

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0002

## DEPARTMENT OF TRADE AND INDUSTRY

NO. 733

20 JULY 2018

**CO-OPERATIVES THAT HAVE BEEN REMOVED FROM THE REGISTER**

1. RAMOHAJANE CO-OP LTD
2. SINEKHONO GENERAL TRADING CO-OP LTD
3. SIPHIWOKUHLE CO-OP LTD
4. ISIDLO SETHU TRADING AND SERVICES CO-OP LTD
5. SIYAHLOMULA CO-OP LTD
6. SESIKHONA CO-OP LTD
7. KUSILE WOMEN'S CO-OP LTD
8. ZUZA CO-OP LTD
9. SAKHISIZWE EMALAHLENI MULTI-PURPOSE CO-OP LTD
10. KULANATHI CO-OP LTD
11. OKUHLE KUZOVELA CO-OP LTD
12. ZINONGO CATERING CO-OP LTD
13. NOKUMILA CO-OP LTD
14. SWEET MELODY BABES ACADEMIC SCHOOL CO-OP LTD
15. EYABANTU DRESSMAKERS CO-OP LTD
16. SONQOBA CO-OP LTD
18. WYE-SUB 5 CO-OP LTD
19. ZIZAMELE ARTS AND CULTURE, CONSTRUCTION CATERING TRADING CO-OP LTD
20. IKUSASALETHU AGRICULTURE AND TRADING CO-OP LTD
21. IMPACT NATIONAL CO-OP LTD
22. AGRIC FOREST CO-OP LTD
23. NOKUPHIWA CO-OP LTD
24. SOLOFELANG BASADI GENERAL CO-OP LTD
25. NTEMBENI CO-OP LTD
26. MAMA NOMTWANA CATERING CO-OP LTD
27. SINENJONGO SEWING CO-OP LTD
28. OZASANGA CO-OP LTD
29. SONWABILE INVESTMENT CO-OP LTD
30. UTHOLWETHU PHILAKATHE CO-OP LTD
31. MASIMBONGE CO-OP LTD
32. IQABULA CO-OP LTD
33. SIYAPHUHLISA NGCOBO CO-OP LTD
34. SIYONDLA CO-OP LTD
35. INJINGA TIMBER CO-OP LTD
36. MASILAKHE IKAMVA CO-OP LTD
37. SAKHINGOMSO MAKANA WARD TWELVE CO-OP LTD
38. LAKHE CO-OP LTD

Notice is hereby given that the names of the abovementioned co-operatives have been removed from the register in terms of the provisions of section 73(1) of the Co-operatives Act, 2005.

**REGISTRAR OF CO-OPERATIVES**

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Private Bag X237  
**Pretoria**  
0002

## GENERAL NOTICES • ALGEMENE KENNISGEWINGS

### ECONOMIC DEVELOPMENT DEPARTMENT

#### NOTICE 398 OF 2018

#### COMPETITION TRIBUNAL

#### NOTIFICATION OF COMPLAINT REFERRAL

The Competition Tribunal gives notice in terms of Section 51(3) & (4) of the Competition Act 89 of 1998 as amended, that it received the complaint referrals listed below. The complaint(s) alleges that the respondent(s) engaged in a prohibited practice in contravention of the Competition Act 89 of 1998.

Case No.	Complainant	Respondent	Date received	Sections of the Act
CR090Jun18	Competition Commission	Takata Corporation; Takata South Africa (Pty) Ltd; Autoliv Inc; Autoliv Southern Africa (Pty) Ltd	22/06/2018	4(1)(b)(i); 4(1)(b)(ii); 4(1)(b)(iii)
CR091Jun18	Competition Commission	Takata Corporation; Takata South Africa (Pty) Ltd; Autoliv Inc; Autoliv Southern Africa (Pty) Ltd	22/06/2018	4(1)(b)(i); 4(1)(b)(ii); 4(1)(b)(iii)
CR092Jun18	Competition Commission	Takata Corporation; Takata South Africa (Pty) Ltd; TRW Automotive Inc; TRW Occupant Restraints SA Inc	22/06/2018	4(1)(b)(i); 4(1)(b)(ii); 4(1)(b)(iii)
CR093Jun18	Competition Commission	Takata Corporation; Takata South Africa (Pty) Ltd; TRW Automotive Inc; TRW Occupant Restraints South Africa Inc; Autoliv Inc; Autoliv Southern Africa (Pty) Ltd	22/06/2018	4(1)(b)(i); 4(1)(b)(ii); 4(1)(b)(iii)
CR094Jun18	Competition Commission	Takata Corporation; Takata South Africa (Pty) Ltd; TRW Automotive Inc; TRW Occupant Restraints South Africa Inc; Autoliv Inc; Autoliv Southern Africa (Pty) Ltd	22/06/2018	4(1)(b)(i); 4(1)(b)(ii); 4(1)(b)(iii)
CR095Jun18	Competition Commission	Takata Corporation; Takata South Africa (Pty) Ltd; TRW Automotive Inc; TRW Occupant Restraints South Africa Inc; Autoliv Inc; Autoliv Southern Africa (Pty) Ltd	22/06/2018	4(1)(b)(i); 4(1)(b)(ii); 4(1)(b)(iii)
CR096Jun18	Competition Commission	Takata Corporation; Takata South Africa (Pty) Ltd; TRW Automotive Inc; TRW Occupant Restraints SA Inc	22/06/2018	4(1)(b)(i); 4(1)(b)(ii); 4(1)(b)(iii)

**The Chairperson  
Competition Tribunal**

**ECONOMIC DEVELOPMENT DEPARTMENT****NOTICE 399 OF 2018****COMPETITION TRIBUNAL****NOTIFICATION OF DECISION TO APPROVE MERGER**

The Competition Tribunal gives notice in terms of rules 34(b)(ii) and 35(5)(b)(ii) of the "Rules for the conduct of proceedings in the Competition Tribunal" as published in Government Gazette No. 22025 of 01 February 2001 that it approved the following mergers:

Case No.	Acquiring Firm	Target Firm	Date of Order	Decision
LM003Apr18	Naledi Forging (Pty) Ltd	DCD Ringrollers, A Division of DCD Group (Pty) Ltd	06/06/2018	Approved
LM314Mar18	Cell C Limited and Cell C Service Provider Company (Pty) Ltd	Glocell Service Provider (Pty) Ltd	06/06/2018	Approved
LM041May18	VKB AGRI Processors (Pty) Ltd	VKB Flour Mills (Pty) Ltd	13/06/2018	Approved
LM289Feb18	Philafrica Foods (Pty) Ltd	ZUTCO (Pty) Ltd and Pakworks (Pty) Ltd	13/06/2018	Approved
LM261Jan18	Sea Harvest Group Ltd and Sea Harvest Corporation (Pty) Ltd	Viking Fishing Holdings (Pty) Ltd and Viking Aquaculture (Pty) Ltd	18/06/2018	Approved Subject to Conditions
LM018Apr18	Net1 Applied Technologies South Africa (Pty) Ltd ("Net1")	DNI-4PL Contracts (Pty) Ltd ("DNI")	20/06/2018	Approved
LM251Dec17	Robertsons Holdings (Pty) Ltd	Silver 2017 (Pty) Ltd	20/06/2018	Approved Subject to Conditions
LM043May18	Unilever International Holdings N.V.	Unilever N.V. and Unilever PLC	04/07/2018	Approved
LM049May18	Starfruit Finco B.V	Specialty Chemicals Business of AKZO Noble N.V	04/07/2018	Approved
LM062May18	Main Street 1603 (Pty) Ltd	Tessara (Pty) Ltd	04/07/2018	Approved
LM076Jun18	Hail Creek Coal Holdings (Pty) Ltd	Hail Creek Joint Venture, Hail Creek Marketing (Pty) Ltd	04/07/2018	Approved
LM002Apr18	New Largo Coal (Pty) Ltd	New Largo Business of Anglo American Inyosi Coal (Pty) Ltd	05/07/2018	Approved
LM019Apr18	KIA Motors SA (Pty) Ltd	Hyundai Automotive SA (Pty) Ltd	05/07/2018	Approved
LM063May18	Sanlam Life Insurance Ltd	Ingenuity Property Investment Ltd	05/07/2018	Approved
IM193Oct17	Netcare Hospitals (Pty) Ltd	Lakeview Hospital	04/06/2018	Approved Subject to Conditions

**The Chairperson  
Competition Tribunal**

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT  
NOTICE 400 OF 2018

**PROMOTION OF ACCESS TO INFORMATION ACT, 2000**

**DESCRIPTION SUBMITTED IN TERMS OF SECTION 15(1)**

I, Tshililo Michael Masutha, Minister of Justice and Correctional Services, hereby publish under section 15(2) of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), the descriptions submitted to me in terms of section 15(1) of the said Act by the –

**KWAZULU-NATAL DEPARTMENT OF TRANSPORT**

As set out in the Schedule



**TSHILOLO MICHAEL MASUTHA, MP (ADV)**  
**MINISTER FOR JUSTICE AND CORRECTIONAL SERVICES**



## REPUBLIC OF SOUTH AFRICA

## OFFICE OF THE PREMIER, KWAZULU-NATAL

## FORM D

**AUTOMATICALLY AVAILABLE RECORDS AND ACCESS TO SUCH RECORDS:**  
 (Section 15 of the Promotion of Access to Information Act 2000 (Act No. 2 of 2000))

## [Regulation 5A]

DESCRIPTION OF CATEGORY OF RECORDS AUTOMATICALLY AVAILABLE IN TERMS OF SECTION 15(1)(a) OF THE PROMOTION OF ACCESS TO INFORMATION ACT, 2000	MANNER OF ACCESS TO RECORDS (e.g. website)(SECTION 15(1)(a))
CATEGORIES	MANNER OF ACCESS TO RECORD
<b>1. FOR INSPECTION IN TERMS OF SECTION 15(1)(a)(i)</b>	
1.1 Budget Speech; 1.2 Departmental Strategic Plan; 1.3 Provincial Growth and Development Strategy; 1.4 Annual Performance Plan 1.5 Annual Strategic Plan; 1.6 Service Delivery Improvement Plan; 1.7 Employment Equity Report; 1.8 Approved Organisational Structure; 1.9 Circulars of advertised posts; and 1.10 Magazines, newspapers and newsletters. 1.11 Magazines, newspapers and newsletters.	The records may be inspected at the Resource Centre as follows –  KZN Department of Transport 172 Burger Street PIETERMARITZBURG 3201 Telephone: +27 33 355 8694 Fax: +27 33 355 8632 Email: <a href="mailto:Michelle.Dally@kzntransport.gov.za">Michelle.Dally@kzntransport.gov.za</a>

<p><b>1.12 Tender-Bids</b></p> <p>1.12.1 List of Bidders 1.12.2 Publication Awards 1.12.3 Available Tenders 1.12.4 Closed Tenders</p>	<p>The records may be inspected at the Department of Transport 172 Burger Street PIETERMARITZBURG 3201 At the Supply Chain Management Directorate- B-Block Acquisition Section Telephone: +27 33 355 8891 Fax: +27 33 355 8091 Email: <a href="mailto:Anusha.chetty@kzntransport.gov.za">Anusha.chetty@kzntransport.gov.za</a></p>
<p><b>2. FOR PURCHASING IN TERMS OF SECTION 15(a)(ii)</b></p>	
<p>2.1 Bid Documents</p>	<p>Bid documents may be purchased at the Department of Transport 172 Burger Street PIETERMARITZBURG 3201 At the Supply Chain Management Directorate- B-Block Acquisition Section Telephone: +27 33 355 8891 Fax: +27 33 355 8091 Email: <a href="mailto:Anusha.chetty@kzntransport.gov.za">Anusha.chetty@kzntransport.gov.za</a></p>
<p><b>3. FOR COPYING IN TERMS OF SECTION 15(a)(ii)</b></p>	
<p>3.1 Budget Speech; 3.2 Departmental Strategic Plan; 3.3 Provincial Growth and Development Strategy; 3.4 Annual Performance Plan; 3.5 Service Delivery Improvement Plan; 3.6 Employment Equity Report; 3.9 Approved Organisational Structure; 3.13 Circulars of advertised posts; and 3.14 Magazines, newspapers and newsletters.</p>	<p>The records may be inspected at the Resource Centre as follows –</p> <p>KZN Department of Transport 172 Burger Street PIETERMARITZBURG 3201 Telephone: +27 33 355 8694 Fax: +27 33 355 8632 Email: <a href="mailto:Michelle.Dally@kzntransport.gov.za">Michelle.Dally@kzntransport.gov.za</a></p>

<b>4. FOR COPYING IN TERMS OF SECTION 15(a)(II)</b>	
<b>4.1 Speeches by MEC and HOD</b> <b>4.2 Circulars of advertised posts;</b> <b>and</b> <b>4.3 Magazines, newspapers and</b> <b>newsletters.</b> <b>4.4 Choice Numbers</b> <b>4.5 Drivers Licence</b> <b>4.6 In-service Training</b> <b>4.7 Learners Licences</b> <b>4.8 Motor Vehicle Licensing</b> <b>4.9 Vacancies</b> <b>4.10 Vukuzakhe programme</b> <b>4.11 Zibambele Programme</b> <b>4.12 Research reports</b>	<b>The records may be inspected at the</b> <b>Resource Centre as follows –</b>  <b>KZN Department of Transport</b> <b>172 Burger Street</b> <b>PIETERMARITZBURG</b> <b>3201</b> <b>Telephone: +27 33 355 8694</b> <b>Fax: +27 33 355 8632</b> <b>Email:</b> <b><u><a href="mailto:Michelle.Dally@kzntransport.gov.za">Michelle.Dally@kzntransport.gov.za</a></u></b>

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT  
NOTICE 401 OF 2018



NATIONAL FORUM  
ON THE LEGAL PROFESSION

National Office,  
Pretoria, South Africa

20 July 2018

**FINAL RULES AS PER SECTION 95 (1), 95 (3) and 109 (2) of the LEGAL PRACTICE ACT 28 OF 2014**

The National Forum on the Legal Profession ("the National Forum"), a transitional body established in terms of Chapter 10 of the Legal Practice Act 28 of 2014 ("the Act"), hereby publishes the Rules required by sections 95(1), 95(3) and 109(2)(a) of the Act.

The National Forum considered the comments received from interested parties after publishing a draft of the Rules in Government Gazette No. 41419 dated 2 February 2018, as required by sections 95(4) and 109(2)(b) read with sections 97(1) and 109(2) and (3) of the Act as amended by the Legal Practice Amendment Act 16 of 2017.

**The Rules will be applied by the Legal Practice Council after its establishment in terms of Chapter 2 of the Act and will apply to all legal practitioners (attorneys and advocates) as well as all candidate legal practitioners and juristic entities as defined in the Act.**

The Rules consist of the following parts:

- Definitions
- Fees & Charges
- The Council
- Provincial Councils
- Professional Practice
- Education and Training
- Admission and Enrolment
- Rendering of Legal Services
- Law Clinics
- Disciplinary Rules
- Legal Practitioners Fidelity Fund: Procedural Rules
- Accounting Rules
- Schedules to the Rules

The Rules, along with the Code of Conduct for legal practitioners published in Gazette 40610 of 10 February 2017 and the Regulations still due to be promulgated, will play an important role in the establishment of a single unified statutory Legal Practice Council to regulate the affairs of all legal practitioners, candidate legal practitioners and juristic entities in South Africa.

Signed at Pretoria on this 20th day of July 2018

**Mr Max Boqwana**  
Deputy Chairperson: National Forum on the Legal Profession.

Enquiries:

Ms. Charity Nzuza, - Executive Officer: National Forum, Email: cmhlungu@justice.gov.za

Adv. K.D Moroka SC - Chairperson • Mr M Boqwana - Deputy Chairperson • Ms C Mhlungu - Executive Officer

The South African Legal Practice Council

Rules

made under the authority of sections 95(1), 95(3) and 109(2) of the Legal Practice Act, 28 of 2014 (as amended)

**The South African Legal Practice Council**

**Rules**

**made under the authority of section 95(1) of the Legal Practice Act, 28 of 2014**

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**PART I****Definitions**

In these rules, unless the context otherwise indicates:

- 1.1 "accounting records" means the records which a firm is required to keep in terms of section 87(3) of the Act;
- 1.2 "the Act" means the Legal Practice Act, 28 of 2014;
- 1.3 "advocate" means a legal practitioner who is admitted and enrolled as such under the Act;
- 1.4 "attorney" means a legal practitioner who is admitted and enrolled as such under the Act;
- 1.5 "auditor" means a person who is registered as an auditor in terms of the Auditing Profession Act, 26 of 2005 and who engages in public practice as an auditor registered in terms of that Act;
- 1.6 "bank" means a bank as defined in section 1 of the Banks Act, 94 of 1990;
- 1.7 "Board" means the Legal Practitioners' Fidelity Fund Board established in terms of section 61 of the Act;
- 1.8 "branch office" means an office at or from which the firm practises, but which is not its main office;
- 1.9 "business account transactions" means transactions in regard to which records are required to be kept in terms of accounting rule 54.6 other than trust account transactions, and where such transactions relate to the business affairs of the firm;
- 1.10 "candidate attorney" means a person undergoing practical vocational training with a view to being admitted and enrolled as an attorney;
- 1.11 "candidate legal practitioner" means a person undergoing practical vocational training, either as a candidate attorney or as a pupil;

- 1.12 "code of conduct" means the code of conduct setting out rules and standards relating to ethics, conduct and practice for legal practitioners, candidate legal practitioners and juristic entities and its enforcement through the Council and its structures, as published in Government Gazette no. 40610 dated 10 February 2017;
- 1.13 "conveyancer" means any practising attorney who is admitted and enrolled to practise as a conveyancer in terms of the Act;
- 1.14 "Council" means the South African Legal Practice Council established in terms of section 4 of the Act;
- 1.15 "court" means any court in the Republic as defined in section 166 of the Constitution of the Republic of South Africa 108 of 1996;
- 1.16 "disciplinary body" means -
- 1.16.1 an investigating committee;
- 1.16.2 a disciplinary committee; or
- 1.16.3 an appeal tribunal,
- as the case may be, established under the Act and the rules;
- 1.17 "Fidelity Fund certificate" means the certificate referred to in sections 84 and 85 of the Act;
- 1.18 "firm" means -
- 1.18.1 a partnership of attorneys;
- 1.18.2 an attorney practising for his or her own account; or
- 1.18.3 a juristic entity
- who or which in each case conducts the practice of an attorney, and for purposes of Part XII (accounting rules) of these rules only, includes an advocate referred to in section 34(2)(b) of the Act;
- 1.19 "Fund" means the Legal Practitioners' Fidelity Fund referred to in section 53 of the Act;

- 1.20 "Good standing" means, in relation to a legal practitioner -
- 1.20.1 that the name of the legal practitioner is on the roll of legal practitioners and that he or she has not been suspended from practice;
- 1.20.2 that there are no proceedings pending or contemplated to remove the name of the legal practitioner from the roll of legal practitioners or to suspend him or her from practice;
- 1.20.3 that where the legal practitioner is required to be in possession of a Fidelity Fund certificate, he or she is in possession of a valid Fidelity Fund certificate; and
- 1.20.4 that the legal practitioner is up to date with all amounts owed by him or her to the Council.
- 1.21 "High Court" means the High Court of South Africa established by section 6 of the Superior Courts Act, 10 of 2013 or, if the context indicates otherwise, the Division thereof having jurisdiction;
- 1.22 "juristic entity" means a commercial juristic entity established to conduct a legal practice of an attorney, as contemplated in section 34(7) of the Act and a limited liability legal practice as contemplated in section 34(9) of the Act;
- 1.23 "legal practitioner" means an advocate or attorney admitted and enrolled as such in terms of sections 24 and 30 respectively of the Act;
- 1.24 "main office" means the premises at and from which the practice of a firm is as a whole administered and controlled, including such premises in two or more buildings situate in sufficiently close proximity to one another to allow the administration of that practice as a single composite entity, and includes premises declared or determined as such in terms of accounting rules 54.2 or 54.5 as the case may be;
- 1.25 "Minister" means the Minister of Justice and Constitutional Development;
- 1.26 "notary" means any practising attorney who is admitted and enrolled to practise as a notary in terms of this Act;

- 1.27 "practical vocational training" means training required in terms of the Act to qualify a candidate attorney or pupil to be admitted and enrolled as an attorney or advocate, as the case may be;
- 1.28 "principal place of practice" means the place at which the main office of a firm is situated, notwithstanding that any member of the firm (being a sole practitioner, or a partner in a partnership, or a director of a juristic entity) may habitually or temporarily practise at or from a branch office; provided that the principal place of practice of a member of the firm who is a member of more than one firm, or who is the proprietor of one firm and a member of another firm or other firms shall be deemed to be the place of the main office of that firm which has its main office closest to his residential address;
- 1.29 "pupil" means a person undergoing practical vocational training with a view to being admitted and enrolled as an advocate;
- 1.30 "Republic" means the Republic of South Africa;
- 1.31 "Roll" means the Roll of Legal Practitioners referred to in section 30(3) of the Act;
- 1.32 "rules" means the rules made for and by the Council in terms of sections 95(1), 95(3)(d), and 109(2) of the Act;
- 1.33 "training supervisor" means an individual who is authorised in terms of the Act, or in terms of any rule or regulation issued under the Act, to enter into a practical vocational training contract with a pupil, and includes a duly qualified employee of an entity which is accredited by the Council to provide practical vocational training to pupils;
- 1.34 "trust account advocate" means an advocate referred to in section 34(2)(b) of the Act who is, in terms of the Act, required to hold a Fidelity Fund certificate;
- 1.35 "trust account practice" means a practice conducted by -
- 1.35.1 one or more attorneys who are; or
- 1.35.2 an advocate referred to in section 34(2)(b) of the Act who is in terms of the Act, required to hold a Fidelity Fund certificate;
- 1.36 "trust account transactions" means transactions in regard to which records are required to be kept in terms of rule 54.6, where such transactions relate to the

trust bank account, trust cash, trust creditors, trust investment accounts and trust money, as the case may be, of a trust account practice;

- 1.37 "trust banking account" means an account kept in terms of section 86 of the Act on bank account products at a bank in South Africa as arranged by the Fund in terms of section 63(1)(g) of the Act;
- 1.38 "trust cash" means any cash held in trust by a trust account practice otherwise than in a trust banking account or a trust investment account;
- 1.39 "trust creditor" means a person on whose account money is held or received as contemplated by section 86(2), or invested as contemplated by section 86(3) or section 86(4), of the Act;
- 1.40 "trust investment account" means and includes all banking accounts kept by a firm in terms of section 86(3) or section 86(4) of the Act;
- 1.41 "trust money" means money held or received on account of any person as contemplated by section 86(2), or invested as contemplated by section 86(3) or section 86(4), of the Act.

Words or expressions referred to in these rules which are not defined herein shall bear the respective meanings assigned to them by section 1 of the Act.

## PART II

### Fees and Charges

#### 2. **Application fees** **[section 95(1) read with section 6(4)(a)]**

The following fees (which are inclusive of value-added tax) shall be payable on application to the Council in respect of the matters referred to below:

- |     |   |       |
|-----|---|-------|
| 2.1 | the registration of a practical vocational training contract, and the examination fee of any such contract; | R 345 |
| 2.2 | issuing of a certificate of good standing;  | R 175 |
| 2.3 | cession of a practical vocational training contract, and the  | R 345 |

	examination fee in respect thereof;	
2.4	enrolment of a legal practitioner or re-enrolment of a person whose name was removed from the roll as a legal practitioner or as a notary or conveyancer at his or her own request;	R 460
2.5	re-enrolment as a legal practitioner, and/or as a notary or conveyancer, subsequent to the name of that legal practitioner being struck off the roll;	R2 875
2.6	enrolment as a notary;	R 690
2.7	enrolment as a conveyancer;	R 690
2.8	registration for the legal practice management course in terms of section 26(1)(c)(ii) of the Act or application for exemption from attendance at the course;	R 460
2.9	conversion of enrolment in terms of section 32(1)(a) of the Act;	R 690
2.10	conversion of enrolment by an advocate in terms of section 32(1)(b) of the Act.	R 690

**3. Annual fees for Fidelity Fund certificates  
[section 95(1)(a) read with section 6(4)(b)]**

- 3.1 Every attorney required to be in possession of a Fidelity Fund certificate, and every advocate contemplated in section 34(2)(b) of the Act, shall pay to the Council an annual fee of R345 (inclusive of value-added tax) for the issue to him or her of a Fidelity Fund certificate, such fee being payable on application for a Fidelity Fund certificate.
- 3.2 The amount of the annual fee will be the amount applicable to the practitioner concerned on 1 January of the year in respect of which application for a Fidelity Fund certificate is made; provided that any practitioner enrolled after 30 June in any year shall pay only one half of the annual fee for the year.

**4. Annual fees payable by all legal practitioners  
[section 95(1)(a) read with section 6(4)(c)]**

- 4.1 Every legal practitioner who is admitted and enrolled in terms of section 24(1) of the Act as a legal practitioner shall pay an annual fee to the Council at such time as may from time to time be fixed by the Council. That fee (which is inclusive of value-added tax) shall be -
- 4.1.1 in the case of a legal practitioner who is in practice, R2 500; save that in the case of a legal practitioner who is in the first year of practice the annual fee shall be R1 500;
- 4.1.2 in the case of a legal practitioner who is not in practice, R800.
- 4.2 The amount of the annual fee will be the amount applicable to the practitioners concerned on January of the year to which the fee relates, provided that -
- 4.2.1 any practitioner enrolled after 30 June in any year shall pay only one half of the annual fee for that year;
- 4.2.2 in respect of the period from the date referred to in section 120(4) of the Act until 30 June 2019 the annual fees payable in terms of rule 4.1.1 will be calculated on a pro rata basis.
- 4.3 The Council may in its discretion, and on application by the legal practitioner, permit the annual fee to be payable in instalments.

**5. Fees payable in respect of examinations conducted by the Council  
[section 95(1)(a) read with section 6(4)(e)]**

- 5.1 Every legal practitioner and every candidate legal practitioner entering any examination conducted by the Council or on behalf of the Council, or repeating any such examination, shall pay the following fees to the Council, which are inclusive of value-added tax:
- 5.1.1 in respect of the examination referred to in section 26(1)(d) of the Act (candidate legal practitioners); R345
- 5.1.2 in respect of the examination referred to in section 26(2) of the Act (conveyancers); R345
- 5.1.3 in respect of the examination referred to in section 26(3) of the Act (notaries). R345

- 5.2 Every candidate entering any examinations referred to in rule 5.1 who applies for a re-mark or a re-assessment of his or her examination scripts shall pay a fee equal to twice the fee payable in terms of rule 5.1 for the examination in question; provided that if the candidate successfully passes the examination as a result of the re-mark or re-assessment the fee paid shall be refunded.

**6. Other fees, levies, contributions and charges**  
**[section 95(1)(a) read with section 6(4)(f)]**

Every legal practitioner shall pay to the Council such fees or charges as it considers necessary, as contemplated in the Act, other than those fees, levies, contributions or charges specifically provided for in these rules, at such time and in such amounts as may from time to time be fixed by the Council.

**7. Failure to pay fees, levies and charges**

If a legal practitioner or candidate legal practitioner fails to pay any fee, levy or other charge payable by him or her in terms of the Act or in terms of these rules within one month after it has become due, the executive officer appointed in terms of section 19 shall, by letter or by electronic communication, draw his or her attention to that fact; and if the fee, levy or other charge in arrear is not paid within seven days from the date of despatch of that letter or electronic communication, or within such further time as the Council may allow, proceedings for the recovery thereof may be taken against him or her.

**PART III**

**The Council**

**8. Removal or suspension of member of Council**  
**[section 95(1)(b) read with section 12(4)]**

- 8.1 If the Council proposes to suspend or remove a member of Council from office in terms of the powers granted to it in terms of section 12 of the Act it may not do so without having first notified the member of Council concerned in writing that it is considering such a suspension or removal and without also advising such member of the reasons for which it is considering doing so.
- 8.2 The Council shall afford the member of the Council concerned the opportunity to furnish the Council, within a period stipulated in the notification, with his or her

reasons, if any, as to why the Council should not exercise the right to suspend or remove him or her.

- 8.3 The Council shall be entitled to call upon the member of Council concerned to amplify such reasons by oral representations to the Council within such period as it shall stipulate.
- 8.4 The Council shall make its decision to suspend or remove the member of Council concerned from office in the light of such reasons and of any oral representations made.
- 8.5 The Council shall notify the member of Council concerned in writing of its decision either to suspend him or her or remove him or her from office, or not to do so, within 24 hours of such decision, and in the former instance the suspension or removal shall be effective from the date of the Council's decision.
- 8.6 The Council shall register the date on which the removal or suspension of a member of the Council becomes effective, and in the case of a suspension, the date on which the suspension terminates.

9. **Meetings of the Council**  
**[section 95(1)(c) read with section 16(2)]**

- 9.1 Meetings of the Council shall be held at least four times in each year on such dates and at such times and places as may from time to time be determined by the Council.
- 9.2 The successive date of each meeting of the Council shall be determined at its preceding meeting, or at such other time as the Council may determine.
- 9.3 The chairperson may at any time *mero motu* convene a meeting of the Council in such manner as he or she shall determine. The executive officer must, if requested in writing to do so by members of the Council representing not less than one fifth of the Council members in office, convene a special meeting of the Council at such time and in such place as he or she may determine on not less than seven days and not more than fourteen days' notice in writing, stating the business to be considered.
- 9.4 When convening a meeting *mero motu* the chairperson may, in cases which are, in his or her judgment, of sufficient urgency, give such period of notice of the

meeting, and in such manner, as he or she thinks fit, to the members of the Council.

- 9.5 A resolution, other than a written resolution, taken on a motion of the chairperson on a matter which is, in his or her opinion, of sufficient urgency, shall, although not taken at a meeting of the Council but by such other means of communication as the chairperson may deem fit to employ, be as valid and effective as if it had been passed at a meeting of the Council duly convened and held if all those members of the Council who are readily accessible have been consulted and if the majority of all members of the Council who are then in office have expressed their assent.
- 9.6 Every resolution taken in terms of rule 9.5 shall as soon as possible thereafter be recorded in writing and such record shall be deemed to be a minute of the meeting, shall be entered into the minute book of the Council and shall be noted at the next following meeting of the Council.
- 9.7 The majority of the members of the Council then in office constitutes a quorum at any meeting of the Council, provided that if a quorum is not present within fifteen minutes after the time fixed for the commencement of the meeting it shall stand adjourned to the corresponding time on the seventh day thereafter at the same place, and the members then present shall constitute a quorum; but if the last mentioned date is a public holiday the meeting shall not take place on that day but shall stand adjourned instead to the corresponding time and the same place on the next succeeding business day not being a public holiday, a Saturday or a Sunday. The executive officer shall forthwith give notice in writing to all members of the Council of the date, time and venue of the adjourned meeting.
- 9.8 Minutes shall be kept in a minute book, to be maintained by the executive officer, of every meeting of the Council, and at every ordinary meeting of the Council the minutes of the previous ordinary meeting and of all extraordinary meetings held since then shall be read or, if so resolved by the Council, taken as read and shall, subject to any necessary corrections, be signed by the chairperson as being a correct record of the proceedings of the meeting or meetings concerned.
- 9.9 No resolution passed at any meeting of the Council shall be rescinded at any subsequent meeting unless not less than ten days' written notice of the intention to propose such rescission shall have been given in the notice of the meeting; but such notice may be dispensed with by the Council if, at the meeting at which

the proposed rescission is to be considered, every member of the Council then in office is present and agrees to waive notice and agrees to the motion being moved.

9.10 Subject to the provisions of the Act and of these rules, the Council may make, vary and rescind regulations for its meetings and proceedings, and shall otherwise regulate its meetings as it deems fit.

9.11 No decision taken by or act performed under the authority of the Council is invalid only by reason of -

9.11.1 a casual vacancy on the Council; or

9.11.2 the fact that any person who is not entitled to sit as a member of the Council participated in the meeting at the time the decision was taken or the act was authorised

if the members who were present and acted at the time followed the required procedure for decisions.

**10. Conduct of meetings of a committee  
[section 95(1)(d) read with section 18(3)]**

10.1 Any committee of the Council established by the Council in terms of the Act shall meet as often as circumstances require but at least once in every year, at such time and at such place as the committee may determine.

10.2 The chairperson of the committee may at any time convene a special meeting of the committee at a time and place determined by the chairperson of the committee.

10.3 If requested in writing by not less than one quarter of the members of a committee, the chairperson of the committee must convene a special meeting of the committee to be held within fourteen days after the receipt of the request, and a meeting must take place at a time and place determined by the chairperson of the committee.

10.4 A majority of members of the committee constitutes a quorum at a meeting.

10.5 Every member of the committee, including the chairperson, has one vote. In the event of an equality of votes the chairperson of the committee has a casting vote in addition to his or her deliberative vote.

10.6 A decision of the majority of members of a committee present at a duly constituted meeting is a decision of the committee.

10.7 Rules 9.8 to 9.11 inclusive relating to meetings and decisions of the Council, with the necessary changes required by the context, apply in respect of any committee, subject to the proviso that no decision of an investigating committee or disciplinary committee, or of an appeal tribunal, may be rescinded.

**11. Appointment of executive officer and other employees  
[section 95(1)(e) read with section 19]**

11.1 The Council shall adopt such procedure as it may determine for the appointment of the executive officer or any other employees of the Council.

11.2 The Council may assign to the executive officer, in addition to the duties and functions assigned to him or her under the Act, the code of conduct, any other law or these rules, such other functions and duties of a general or particular nature as the Council may determine.

**12. Conditions of service of executive officer and other employees  
[section 95(1)(f) read with section 19(6)]**

12.1 The executive officer of the Council is responsible for the day-to-day management of the Council's affairs, and is accountable to the Council.

12.2 On appointment of the executive officer he or she must enter into a performance agreement with the Council on terms to be agreed between the executive officer and the Council.

12.3 The Council must determine the conditions of service of other employees of the Council which are appropriate to the position and seniority of each such other employee.

**13. Executive committee  
[section 95(1)(g) read with section 20(1)]**

The Council shall determine the powers of the executive committee established in terms of section 20 of the Act. The executive committee shall have only those powers which are delegated to it from time to time by the Council, and the Council may at any time revoke any powers so delegated.

**14. Convening of meeting and conduct of meetings of executive committee  
[section 95(1)(h) read with section 20(9)(b)]**

The provisions of rule 9, with the necessary changes required by the context, apply to meetings of the executive committee.

**15. Investment of monies of the Council  
[section 95(1)(i) read with section 22(3)(b)]**

- 15.1 The executive officer shall cause all monies held by the Council to be placed as soon as practicable after each receipt in such bank accounts as the Council may from time to time determine.
- 15.2 Any monies which in the opinion of the Council are not required for immediate use may be invested by the Council with financial institutions, in securities listed on any registered securities exchange and in such other prudent investments as the Council deems fit.

**PART IV**

**Provincial Councils**

**16. Election of Provincial Councils  
[section 95(1)(j) read with section 23(4)]**

- 16.1 A Provincial Council shall consist of such number of members as the Council may determine from time to time, elected in accordance with the provisions of this rule. A member of a Provincial Council shall hold office for a term of three years but may serve as a member for one further term if he or she is again so elected.
- 16.2 Until otherwise determined by the Council, every Provincial Council other than the Gauteng Provincial Council will comprise six practising attorneys and four practising advocates, and the Gauteng Provincial Council will comprise eight practising attorneys and four practising advocates, constituted in accordance with the principles set out in Schedule 1A (in the case of attorney members) or Schedule 1B (in the case of advocate members) respectively.
- 16.3 The provisions of sections 8, 11 and 12 of the Act shall apply, with the necessary changes required by the context, to members of a Provincial Council.

- 16.4 Within 60 days after a Provincial Council has been established by the Council in terms of the Act the Council shall organise the holding of the first election for members of that Provincial Council. In respect of such election -
- 16.4.1 the provisions of this rule will apply;
- 16.4.2 no member of the Council may make himself or herself available for election as a member of a Provincial Council.
- 16.5 An election for members of a Provincial Council shall be held, in the manner prescribed in these rules, every third year after the year in which the first such election is held. The term of office of members of the Provincial Council shall run from the date of their election to the third anniversary of the date of the announcement of the results of the election at which they were elected; provided that in the case of a member elected or co-opted to fill a casual vacancy in the Provincial Council, the term of office of that member shall terminate on the date on which the office of the member replaced by him or her would have terminated. The member elected to fill a casual vacancy shall be eligible for re-election.
- 16.6 During September of each year in which an election is to be held, or at such other time as the Council may determine, the Council shall despatch a notice to every attorney and every advocate admitted to practise and enrolled on the practising roll in the area of jurisdiction of the Provincial Council concerned calling for nominations of eligible attorneys and eligible advocates for election to the Provincial Council, such nominations to be received not later than a date stipulated in the notice. The notice -
- 16.6.1 shall be sent by email to the email address of the legal practitioner concerned; where no email address has been provided to the Council by the legal practitioner concerned the notice shall be sent by prepaid post;
- 16.6.2 shall be published in the English language once in such journal or journals published by the practising legal profession in South Africa as the Council may determine;
- 16.6.3 shall be published once in the government gazette on a date as close as possible to the date of dispatch of the notice;
- 16.6.4 shall be published on the Council's website from the date of despatch of the notice to the closing date of the nominations;

- 16.6.5 shall give details of the number of vacancies on the Provincial Council for attorney members and advocate members respectively.
- 16.7 Any two attorneys admitted to practice and enrolled on the practising roll may, in the manner prescribed in this rule, nominate any eligible attorney (other than themselves) as an attorney member of the Provincial Council for the then ensuing period of office.
- 16.8 Any two advocates admitted to practice and enrolled on the practising roll may, in the manner prescribed in this rule, nominate any eligible advocate (other than themselves) as an advocate member of the Provincial Council for the then ensuing period of office.
- 16.9 Any such nomination shall be made over the signature of the two nominating individuals in a document which shall provide the following information in relation to each nominee named therein, in not more than 600 words and in such format as the Council may require -
- 16.9.1 his or her name;
- 16.9.2 in the case of an attorney, the name of the firm of which he or she is a proprietor or a member or by which he or she is employed, stating also the status of that attorney within the firm;
- 16.9.3 in the case of an advocate, whether he or she renders legal services in terms of section 34(1)(2)(a)(i) or section 34(2)a)(ii) of the Act, and in either case whether or not he or she has the status of Senior Counsel;
- 16.9.4 his or her race, gender, date of admission and enrolment and period in practice;
- 16.9.5 if he or she has a disability and wishes to disclose that fact, a statement to that effect and the nature of the disability;
- 16.9.6 the address of his or her principal place of practice

and on which shall be endorsed, over the signature of each nominee named therein, the acceptance of nomination by that nominee and his or her confirmation that the information given therein is correct and that he or she is not disqualified from membership of the Provincial Council.

- 16.10 Originally signed nominations must be lodged with the Provincial Council by not later than the date stipulated in the notice referred to in rule 16.6. Any nomination which does not comply substantially with the provisions of this rule or which is not lodged within the prescribed time will not be recognised.
- 16.11 If no greater number of eligible candidates is nominated than the number to be elected, then the eligible candidates who are nominated will be deemed to have been elected.
- 16.12 If the number of eligible candidates who are nominated exceeds the number to be elected as attorney members or as advocate members, as the case may be, the Council must, within 10 days after the last day on which nominations are required to be lodged in terms of rule 16.6, send to every legal practitioner eligible to vote, by email to the legal practitioner's email address or, where the legal practitioner has not appointed an email address, by prepaid post -
- 16.12.1 an envelope on which the address of the Council is printed, together with the words "voting papers", or, where the communication is by email, directions to the legal practitioner as to the size and format of an envelope to be used by the legal practitioner;
- 16.12.2 a smaller envelope on which is printed the words "ballot paper" and nothing else, or where the communication is by email, directions to the legal practitioner as to the size and format of an envelope to be created by the legal practitioner;
- 16.12.3 a printed declaration in such form as the Council may direct containing appropriate spaces for -
- 16.12.3.1 the surname and forenames of the voting legal practitioner and a statement whether he or she is an attorney or an advocate;
- 16.12.3.2 the date of signature by that legal practitioner and that legal practitioner's signature;
- 16.12.3.3 a declaration by the legal practitioner above his or her signature that he or she has not already voted in the election concerned;
- 16.12.4 a ballot paper, substantially in the form of Schedule 1A (in the case of the election of attorney members) or Schedule 1B (in the case of the election of advocate members), containing the surnames and forenames in

alphabetical order by surname of the nominated candidates and providing the information indicated in Schedule 1A or Schedule 1B, as the case may be, and nothing more;

- 16.12.5 a written notice in such form as the Council may direct -
- 16.12.5.1 requesting the legal practitioner, if he or she wishes to record a vote -
- 16.12.5.1.1 to place a cross on the accompanying ballot paper against the name of each candidate for whom the legal practitioner wishes to vote and so as to indicate a vote in favour of not more than the number of candidates for which there are vacancies, and to make no other mark or alteration on the ballot paper;
- 16.12.5.1.2 to place the ballot paper in the envelope marked "ballot paper";
- 16.12.5.1.3 to seal the envelope containing the ballot paper;
- 16.12.5.1.4 to complete and sign the form of declaration;
- 16.12.5.1.5 to place a completed and signed declaration, together with the envelope containing the ballot paper in and seal the envelope marked "voting papers";
- 16.12.5.1.6 to despatch the envelope marked "voting papers" with its contents to the Council so as to reach the Council not later than a date referred to in the notice;
- 16.12.5.2 drawing the attention of legal practitioners to the fact that the profiles of candidates, containing the information set out in rule 16.9, will be published on the website of the Council for a period of 30 days commencing on the date of the written notice referred to in rule 16.12.5.1.6.
- 16.13 The notice referred to in rule 16.12.5 shall contain a warning that if a vote is cast in favour of more than the number of names referred to in rule 16.12.5.1.1, or if any mark or alteration is made on the ballot paper other than the cross indicating a vote in favour of the candidates for whom the legal practitioner intends to vote, or if the declaration referred to in rule 16.12.3 is not duly completed and signed by the voter, the ballot paper will be void.

- 16.14 The Council shall despatch separate notices to attorneys and advocates for purposes of any election in terms of this rule, and all notifications shall distinguish clearly as to whether they are intended for the election of an attorney or for the election of an advocate. Only attorneys may elect attorneys and only advocates may elect advocates.
- 16.15 Within 7 days after the last date on which nominations were required to be lodged in terms of rule 16.6 the chairperson of the Council, or in his or her absence or inability to act, any member of the Council nominated for that purpose by the Council (the person who is to fulfil the functions of the chairperson of the Council for purposes of rule 16 being referred to in this rule as "the chairperson") shall in writing appoint a legal practitioner of more than fifteen years standing as a referee for the purpose of performing the duties assigned to a referee under these rules . The referee shall not be a candidate for office or a legal practitioner who has nominated a candidate, or a member of the Council or of a Provincial Council, as the case may be.
- 16.16 On each day on which envelopes marked "voting papers" despatched to the Provincial Council are received by the Council, or if it is not practicable on that day, as soon as practicable thereafter, the chairperson or a member of the Council nominated by him or her in writing shall, in the presence of the referee, open each such envelope and remove its contents. The chairperson or the nominated member of the Council and the referee shall then together examine each declaration form, shall verify, to such extent as may appear necessary, the information contained therein against the records of the Council and shall satisfy themselves that the declaration form has been duly completed and signed by the legal practitioner, failing which it will be regarded as invalid. In the event of a disagreement between the chairperson or the nominated member of the Council and the referee as to the validity or otherwise of any form of declaration, the view of the referee shall prevail and his or her judgment on the matter shall be final. The referee shall endorse with his or her signature each form of declaration found to be invalid, with the reason for the invalidity. The chairperson or the nominated member of the Council and the referee shall together note the name and surname of each legal practitioner who has submitted a declaration and envelope marked "ballot papers", as well as whether that legal practitioner is an attorney or an advocate, in a voting register kept by the referee.
- 16.17 The chairperson or the nominated member of the Council shall, in the presence of the referee, in respect of each declaration form found to be valid, place its

accompanying envelope marked "ballot paper" unopened through a slot in a ballot box or boxes of a design and construction approved by the Council, which shall have been securely locked and sealed in advance by the chairperson and of which the chairperson shall retain the key or keys until the day following the day referred to in rule 16.12.5.1. After placing the last of such envelopes duly received in the ballot box or boxes the chairperson shall, in the presence of the referee, securely seal the slots, and shall hand the key or keys to the referee. The chairperson shall securely retain the ballot boxes, locked and sealed as aforesaid, and shall deliver the ballot boxes in that condition to the scrutineers appointed in terms of rule 16.19 on the day following the day referred to in rule 16.12.5.1.6. Separate ballot boxes shall be kept for ballot papers in respect of attorneys and advocates respectively.

16.18 An envelope marked "ballot paper" which is accompanied by a form of declaration which has been found to be invalid shall not be placed in the ballot box but the chairperson or the nominated member of the Council as the case may be, shall, in the presence of the referee, replace in the envelope marked "voting papers" in which it was received each such envelope marked "ballot paper" unopened, together with its accompanying form of declaration endorsed by the referee as provided in rule 16.16, shall securely seal all those documents and shall separately retain them in the same manner as is provided for in rule 16.17, for a period of three months after the date referred to in rule 16.12.5.1.6. The chairperson shall thereafter destroy all of them unless ordered otherwise by an order of court; provided that if there should be a dispute regarding the validity of the form of declaration the documents shall be retained until the dispute has been resolved. The chairperson shall keep a separate record of the number of declarations and envelopes thus retained by him.

16.19 Prior to or on the date referred to in rule 16.12.5.1.6 the Council shall appoint as scrutineers to examine the ballot papers placed in the ballot boxes and of counting the votes received, not less than two legal practitioners, not being candidates for office or legal practitioners who have nominated candidates or who are members of the Council or of a Provincial Council, and none of whom shall be the legal practitioner appointed as referee under these rules. Upon receipt by the scrutineers of the ballot boxes they shall break the seals, open the ballot boxes and remove their contents. They shall then open each of the envelopes marked "ballot paper", remove the ballot paper contained therein, examine the ballot paper and satisfy themselves of its validity in accordance with

these rules or, if not so satisfied, reject the ballot paper after having endorsed on its reverse over their signatures the reason for its rejection. They shall then count the votes recorded in the remaining ballot papers and record the result in the presence of the chairperson and the referee. Thereafter they shall replace all the ballot papers, including those rejected, in the ballot boxes and shall lock and re-seal them, and hand them to the chairperson for safekeeping.

- 16.20 The number of attorney candidates in the respective categories indicated on the ballot paper who received the greatest number of votes of attorneys in diminishing order among the attorney candidates shall be deemed to have been elected as attorney members of the Provincial Council in those categories, and the advocate candidates in the respective categories indicated on the ballot paper who received the greatest number of votes of advocates in diminishing order among the advocate candidates shall be deemed to have been elected as advocate members of the Provincial Council in those categories. If there are insufficient candidates to fill a particular category the Council shall co-opt a suitable candidate to fill the vacancy, and the co-opted candidate shall be deemed to have been elected in accordance with these rules.
- 16.21 If there is a tie between two or more candidates having the result of leaving undecided which of the candidates has been elected, in the relevant category, the question as to which of them shall be deemed elected shall be determined immediately by lot drawn by the scrutineers in the manner determined by them.
- 16.22 Upon completion of their scrutiny the scrutineers shall immediately report the result of the election in writing to the chairperson and referee. The referee shall immediately determine whether the election was conducted freely and fairly, and shall issue a signed declaration in that regard to the chairperson. The report shall be signed by all of the scrutineers and shall contain the following particulars:
- 16.22.1 the total number of ballot papers received by them;
  - 16.22.2 the number of ballot papers rejected and the grounds of rejection;
  - 16.22.3 the total number of votes in favour of each candidate in each category;
  - 16.22.4 the result of any lot drawn in terms of rule 16.21;
  - 16.22.5 the names of those candidates who are deemed to have been elected.

- 16.23 The chairperson shall, after receipt of the report of the scrutineers and a declaration in terms of rule 16.22 that the election was conducted freely and fairly, cause each candidate to be advised of the result of the election.
- 16.24 The report of the scrutineers together with a declaration from the referee in terms of rule 16.22 that the election was conducted freely and fairly shall be conclusive as to the result of the election.
- 16.25 The scrutineers, having completed their scrutiny, shall return the ballot boxes containing the examined ballot papers and which are locked in accordance with rule 16.19 to the chairperson, together with their keys. The chairperson shall securely retain the ballot boxes in that condition for a period of three months after the date referred to in rule 16.12.5.1.6 and shall thereupon break the seals, unlock the boxes, empty and destroy the contents. The chairperson shall then also destroy all the valid declaration forms received by the Council.
- 16.26 If an election is declared to be not free and fair by the referee in terms of rule 16.22, or by a court on application brought within one month of the announcement of the result, the process for the election of members of the Provincial Council shall be conducted afresh.

## **PART V**

### **Professional Practice**

17. **Application for admission and enrolment as legal practitioners [sections 95(1)(k) and (t) read with sections 24(2)(d), 30(1)(a) and 30(b)(iii)]**
- 17.1 A person seeking to be admitted to practise and to be authorised to be enrolled as an attorney or as an advocate under the Act -
- 17.1.1 must apply to a High Court in terms of the provisions of section 24(2) of the Act; and
- 17.1.2 must simultaneously lodge an application in terms of sections 30(1)(a) and 30(b)(iii) of the Act with the Council, through the Provincial Council where the applicant intends to practise (or in the case of a person who does not intend to practise, where that person is ordinarily resident), for the enrolment of his or her name on the roll of attorneys or advocates, or on the roll of non-practising attorneys or advocates, as the case may be,

which application shall be treated as an application subject to the condition that the applicant is duly admitted by the High Court and authorised to be enrolled as a legal practitioner in terms of section 30 of the Act.

- 17.2 An application for admission and enrolment in terms of rule 17.1 must be in writing and must be accompanied by an affidavit by the applicant setting out the following information supported, where applicable, by documentary evidence:
- 17.2.1 confirmation of the jurisdiction of the Court;
  - 17.2.2 his or her full names, date of birth, identity number and residential address;
  - 17.2.3 confirmation that the applicant is a South African citizen or is a permanent resident of the Republic;
  - 17.2.4 confirmation that the applicant has satisfied all the requirements for a degree referred to in section 26(1) of the Act after pursuing for that degree a course of study referred to in that section;
  - 17.2.5 a statement whether the applicant intends to be enrolled and to practise as an attorney or as an advocate and, in the case of an advocate, whether the applicant intends practising with or without a fidelity fund certificate, or whether the applicant does not intend to practise;
  - 17.2.6 the physical address of his or her main office and of every branch office and of every building at and from which he or she practises, and its postal address, and telephone numbers, mobile telephone numbers, fax numbers, email addresses and other electronic communication contact particulars, if any;
  - 17.2.7 in the case of an attorney, whether he or she conducts practice -
    - 17.2.7.1 for his or her own account and if so, whether alone or in partnership (stating the full names of his or her partners) or as a member of a commercial juristic entity (stating the full names of his or her co-members); or
    - 17.2.7.2 as an employee.
  - 17.2.8 the name under which the firm of which he or she is the proprietor or a member, or by which he or she is employed, conducts practice.

- 17.2.9 confirmation that the applicant had no pecuniary interest in any law practice and that he or she held no other position than that of candidate legal practitioner during the period of service under the contract of practical vocational training or supervision, or proof that the applicant had such pecuniary interest or held such other position with the prior written approval of the Council;
- 17.2.10 confirmation that the applicant has undergone all the prescribed practical vocational training requirements as a candidate legal practitioner, referred to in section 26(1)(c) of the Act;
- 17.2.11 confirmation that the applicant has passed the competency-based examination or assessment for candidate legal practitioners, referred to in section 26(1)(d) of the Act;
- 17.2.12 confirmation that the applicant has complied with the requirements for community service, if applicable, where that community service is a component of practical vocational training by candidate legal practitioners, pursuant to the provisions of section 29 of the Act, or proof that the applicant has been exempted from performing community service;
- 17.2.13 if a period of more than one year has elapsed between the date of completion of the practical vocational training contract and the date of the application, a statement as to the activities of the applicant during that period;
- 17.2.14 confirmation that the applicant is a fit and proper person to be admitted, including a statement as to whether -
- 17.2.14.1 the applicant has any previous criminal convictions or has any criminal investigations pending. If there have been any proceedings as contemplated in this sub-rule, or if any such proceedings are pending, the applicant shall set out full details thereof;
- 17.2.14.2 the applicant has been subjected to previous disciplinary proceedings by the Council or any law society, university or employer, or whether any such disciplinary proceedings are pending. If there have been any proceedings as contemplated in this sub-rule, or if any such proceedings are pending, the applicant shall set out full details thereof;

- 17.2.14.3 the estate of the applicant has been sequestrated, provisionally or finally, or whether there is any application for the sequestration of his or her estate which is pending; where the estate of the applicant has been sequestrated, the applicant must state whether or not he or she has been rehabilitated.
- 17.2.15 confirmation that the originals of all attachments to the affidavit will be made available to the Court on the date of the hearing of the application.
- 17.3 A person seeking to be admitted to practise and to be authorised to be enrolled as an attorney must include in the affidavit in support of the application (in addition to any other information to be provided in terms of this rule) -
- 17.3.1 confirmation that the applicant has served under a practical vocational training contract, stating the dates of filing and registration of that contract and the period served by the applicant under that contract;
- 17.3.2 confirmation by the applicant that his or her principal was entitled to enter into the contract of practical vocational training;
- 17.3.3 confirmation by the applicant that service under the contract of practical vocational training was performed under the direct supervision of the principal or of another attorney in the firm of the principal;
- 17.3.4 confirmation that the applicant was not absent for more than 30 working days during any one year of service under the contract of practical vocational training;
- 17.3.5 confirmation by the applicant of the exact dates served under the practical vocational training contract;
- 17.3.6 a statement as to the type of legal experience gained by the applicant whilst serving under the contract of practical vocational training.
- 17.4 An applicant for admission to practise and to be authorised to be enrolled as an attorney shall attach to his or her application a supporting affidavit by the applicant's principal containing the following information:
- 17.4.1 confirmation of the exact dates that the applicant served under his or her supervision or that of another attorney in terms of the contract of practical vocational training;

- 17.4.2 in relation to the principal:
- 17.4.2.1 a statement that he or she -
- 17.4.2.1.1 has been practising as an attorney for his or her own account or as a partner in a firm of attorneys or as a member of a professional company continuously for three years or for periods of three years in the aggregate during the preceding four years; or
- 17.4.2.1.2 has practised as a professional assistant in a firm for a period of five years within the preceding six years; or
- 17.4.2.1.3 has practised as a professional assistant in a firm for a period of two years in the preceding five years and has practised as an attorney for his or her own account or as a partner in a firm or as a member of a professional company continuously for two years or for periods of two years in the aggregate during the preceding four years
- at the date of commencement of the contract of practical vocational training;
- 17.4.2.2 where the applicant has undergone practical vocational training with a law clinic or with Legal Aid South Africa, or with another entity accredited by the Council to provide practical vocational training, that his or her principal is or at all relevant times was in the full time employment of the law clinic or of Legal Aid South Africa or with such other entity, and has practised as an attorney or advocate, as the case may be continuously for three years, or for periods of three years in the aggregate during the preceding four years, prior to the date of commencement of the practical vocational training contract;
- 17.4.2.3 where the applicant has undergone practical vocational training with the State Attorney, that his or her principal has practised the profession of an attorney as the State Attorney, Deputy State Attorney, Senior Assistant State Attorney or Assistant State Attorney in the office of the State Attorney or any branch thereof continuously for four years at the date of commencement of the practical vocational training contract;

- 17.4.3 that he or she has continued to practise as aforesaid during the period of the contract of practical vocational training;
- 17.4.4 that he or she was at no time during the course of the contract of the practical vocational training in question a principal to more than three candidate attorneys, or where the principal was employed at a law clinic or at Legal Aid South Africa that he or she was at no time during the course of the contract of the practical vocational training in question a principal to more than six candidate attorneys;
- 17.4.5 confirmation that in his or her view the applicant is a fit and proper person to be admitted and enrolled as an attorney.
- 17.5 An applicant for admission to practise and to be authorised to be enrolled as an advocate shall attach to his or her application (in addition to any further information to be included in terms of this rule) a supporting affidavit by the applicant's training supervisor containing the following information:
- 17.5.1 confirmation that he or she is a practising advocate, or has been accredited by the Council to act as a training supervisor of pupils for purposes of practical vocational training or is employed by an entity which has been accredited to provide supervisors who are qualified to act as training supervisors to pupils;
- 17.5.2 confirmation of the exact dates that the applicant served under the supervision of his or her training supervisor;
- 17.5.3 confirmation that in his or her view the applicant is a fit and proper person to be admitted and enrolled as an advocate.
- 17.6 Copies of the following documents must be attached to the founding affidavit of the applicant, whether for admission as an attorney or as an advocate, and must be certified as being true copies of the originals by a notary public or by a commissioner of oaths:
- 17.6.1 identity document of the applicant;
- 17.6.2 where the surname of the applicant does not correspond with the applicant's name in the application, or with any other documents attached to the application, a marriage certificate or other proof to reflect the reason for the discrepancy;

- 17.6.3 degree certificate or certificates of the applicant;
- 17.6.4 the relevant practical vocational training contract (in the case of an application for admission as an attorney) or written confirmation that the applicant has registered with a person or entity accredited by the Council to supervise the practical vocational training of pupils (in the case of application for admission as an advocate);
- 17.6.5 written confirmation from the Council confirming that the contract of practical vocational training or of supervision, as the case may be, has been registered with the Council;
- 17.6.6 where applicable, an agreement relating to the cession of the contract of practical vocational training and written confirmation from the Council that the cession of the contract has been registered;
- 17.6.7 in the case of an application for admission as an advocate intending to practise with a Fidelity Fund certificate, proof that the applicant has satisfied the requirements of the Council in terms of section 85(1)(b) of the Act in relation to a legal practice management course, and has passed the examination required to be passed by attorneys so as to reflect that the applicant has the required knowledge of accounting for the keeping of accounting records referred to in section 87 of the Act and for compliance with the accounting rules published by the Council from time to time;
- 17.6.8 attendance report issued in respect of attendance of the applicant at a practical legal training course approved by the Council.
- 17.7 The original and two copies of the application must lie for inspection with the Council for a period of not less than one month. The application must be properly prepared and bound with an index, all pages of the application must be paginated at the top right hand corner of every page, and all attachments must be clearly marked when the application is served on the Council.
- 17.8 The Council may require that the information referred to in this rule 17 be submitted in a form to be determined by the Council.
- 17.9 An application in terms of this rule 17 must be accompanied by proof of payment of the fee payable in terms of rule 2.

17.10 Subject to compliance with rules 27.1 to 27.9, and upon receipt by the Council of a copy of an order by the High Court admitting the applicant to practise and authorising him or her to be enrolled as a legal practitioner, the Council shall place the name of the applicant on the roll of attorneys or of advocates, or on the roll of non-practising attorneys or advocates, as the case may be, to be kept in terms of rule 28.

17.11 The Council must cause to be enrolled as an attorney or as an advocate, as the case may be, every person who is to be regarded in terms of section 114(1) of the Act as having been admitted to practice as an attorney or as an advocate, subject to any condition imposed by the High Court in relation to the admission of that person and subject to the terms of any order of court whereby any such person has been suspended from practice as an attorney or as an advocate, as the case may be.

**18. Application for admission and enrolment as conveyancer or notary [sections 95(1)(k) and (t)]**

18.1 A person seeking to be admitted to practise and to be authorised to be enrolled as a conveyancer or as a notary under the Act -

18.1.1 must apply to a High Court in terms of the provisions of section 24(2) of the Act; and

18.1.2 must simultaneously lodge an application with the Council through the Provincial Council where the applicant intends to practise for the enrolment of his or her name on the roll of conveyances or of notaries, as the case may be.

18.2 An application for admission as a conveyancer or as a notary must be accompanied by an affidavit by the applicant setting out the following information, supported, where applicable, by documentary evidence:

18.2.1 confirmation of the jurisdiction of the Court;

18.2.2 confirmation that the applicant has been admitted as an attorney;

18.2.3 confirmation that the applicant complies with the provisions of section 26(2) of the Act (in the case of application as a conveyancer) or section 26(3) of the Act (in the case of application as a notary) of the Act.

- 18.3 The original and two copies of the application must lie for inspection with the Council for a period of not less than one month. The application must be properly prepared and bound with an index, all pages of the application must be paginated at the top right-hand corner of every page, and all attachments must be clearly marked when the application is served on the Council.
- 18.4 The Council may require that the information referred to in this rule 18 be submitted in a form to be determined by the Council.
- 18.5 An application in terms of this rule 18 must be accompanied by proof of payment of the fee payable in terms of rule 2.
- 18.6 Subject to compliance with rules 18.1 to 18.5, and upon receipt by the Council of a copy of an order by the High Court admitting the applicant to practise as a conveyancer or as an attorney, as the case may be, and authorising him or her to be enrolled as a conveyancer or as a notary, as the case may be, the Council shall place the name of the applicant on the roll of conveyancers or of notaries, as the case may be, to be kept in terms of rule 28.
- 18.7 The Council must cause to be enrolled as a conveyancer or as a notary, as the case may be, every person who is to be regarded in terms of section 114(1) of the Act as having been admitted to practice as a conveyancer or as a notary, subject to any condition imposed by the High Court in relation to the admission of that person and subject to the terms of any order of court whereby any such person has been suspended from practice as a conveyancer or as a notary, as the case may be.

**19. Period of practice as an attorney and advocacy training programme [section 95(1)(m) read with section 25(4)(a)].**

19.1 The continuous period of three years of practice as an attorney, provided for in section 25(3)(a)(i) of the Act, that an attorney applying for the right to appear in the High Court, the Supreme Court of Appeal or the Constitutional Court is required to serve before having the right to appear may be reduced by such period as the Council in its discretion may determine if the applicant has successfully undergone a trial advocacy training programme approved by the Council.

19.2 The trial advocacy training programme referred to in rule 19.1 -

19.2.1 shall comprise training under the direct supervision of an advocate who has been practising as such for a continuous period of not less than five years, or of an attorney who has the right of appearance in the High Court, the Supreme Court of Appeal and the Constitutional Court and has exercised the right of appearance in those courts regularly for a continuous period of not less than five years or for an aggregate period of five years during the preceding seven years;

19.2.2 shall require involvement in the programme by the attorney of not less than 40 hours in the aggregate over a period of no longer than six months;

19.2.3 may require attendance by the attorney at lectures and workshops, and the completion of written assignments, of sufficient standard to provide training to the attorney in the practical aspects of court work and trial advocacy;

19.2.4 shall require the supervisor, at the completion of the programme, to issue a certificate to the attorney that he or she has successfully completed the trial advocacy training programme.

**20. Information to be provided by attorney for appearance in High Court [section 95(1)(m) read with section 25(4)(a)]**

20.1 An attorney who wishes to apply in terms of section 25(3) for the right of appearance in the High Court, the Supreme Court of Appeal and the Constitutional Court must apply to the registrar of the Division of the High Court in which he or she was admitted and enrolled as an attorney for the issue to him or her of the prescribed certificate.

- 20.2 The application must be in writing, must be dated and signed by the attorney and must be accompanied by:
- 20.2.1 documentary proof that he or she has satisfied all the requirements for a degree referred to in section 26(1) of the Act, or any other degree which, before the date referred to in section 120(4) of the Act, would have entitled the applicant to the right of appearance in the High Court, the Supreme Court of Appeal and the Constitutional Court;
  - 20.2.2 a certificate issued by the executive officer of the Council to the effect that the applicant has been practising as an attorney for a continuous period of not less than three years or for an aggregate of three years during the previous four years, or has been practising as an advocate;
  - 20.2.3 a certificate issued by the executive officer of the Council that the applicant has not had his or her name struck off the Roll and has not been suspended from practice, and that there are no proceedings pending to strike the applicant's name from the Roll or to suspend him or her from practice;
  - 20.2.4 a copy of the applicant's identity document, certified as true and correct by a notary public or by a commissioner of oaths.
- 20.3 If the applicant wishes to apply for the period of practice to be reduced as contemplated in section 25(3)(a)(i), he or she must provide the registrar with a certificate by the executive officer of the Council that he or she has undergone a trial advocacy training programme approved by the Council and that the Council has resolved that the three year period referred to in that section be reduced to such period as may be specified by the Council.
- 20.4 Where the applicant claims that he or she has gained appropriate relevant experience, as contemplated in section 25(3)(b) of the Act, full details of that experience must be provided in the application.
- 20.5 The applicant must serve a copy of the application on the Council not less than thirty days before he or she applies to the registrar in terms of section 25(3) of the Act.
- 20.6 Every attorney who, at the date of coming into effect of this rule, was in possession of a certificate issued in terms of section 4(2) of the Right of

Appearance in Courts Act, 62 of 1995 shall, within six months of the date of coming into effect of this rule, lodge with the Council a copy of the certificate issued to him or her in terms of that Act.

## **PART VI**

### **Education and Training**

#### **21. Competency-based examinations or assessments [section 95(1)(n) read with section 26(1)(d), (2) and (3)]**

- 21.1 A person wishing to qualify to be admitted and enrolled as a legal practitioner will be required to have passed a competency based assessment in terms of this rule 21, read with any rule made by the Council or the National Forum concerning levels of competence required for the admission and enrolment of legal practitioners.
- 21.2 The assessment of a person wishing to be admitted and enrolled as an attorney shall comprise assessment at least in relation to -
- 21.2.1 the practice and procedure in the High Court and in courts established under the Magistrates' Courts Act, 32 of 1944;
- 21.2.2 the practice and procedure relating to the winding up and distribution of the estates of deceased persons;
- 21.2.3 the practice, functions and duties of an attorney, including the ethical duties of an attorney;
- 21.2.4 a knowledge of accounting necessary for the keeping of accounting records referred to in section 87 of the Act, and compliance with accounting rules published by the Council from time to time.
- 21.3 A person wishing to qualify to be admitted and enrolled as an attorney who, before the date referred to in section 120(4) of the Act, had passed all parts of the practical examinations provided for in section 14 of the Attorneys Act, 1979 (Act no. 53 of 1979) will be deemed to have complied with rule 21.1.
- 21.4 A person wishing to qualify to be admitted and enrolled as an attorney who, before the date referred to in section 120(4) of the Act, had passed one or more parts of the practical examinations provided for in section 14 of the Attorneys

Act, 1979 (Act no. 53 of 1979) but at that date had not yet passed all parts of those examinations, shall have the right to be examined or assessed on those parts which he or she had not yet passed, and upon successfully completing those parts of the said examinations which he or she had not passed at that date, he or she will be deemed to have complied with rule 20.1; provided, however, that if the candidate concerned has not passed the parts of the said examination which he or she had not successfully completed prior to the date referred to in section 120(4) of the Act within a period of three years from that date, then he or she shall no longer have the right to be examined or assessed on any part of those examinations.

- 21.5 The assessment of a person wishing to be admitted and enrolled as an advocate shall comprise assessment at least in relation to -
- 21.5.1 the practice and procedure in the High Court and in courts established under the Magistrates' Courts Act, 32 of 1944;
  - 21.5.2 the practice, functions and duties of an advocate, including the ethical duties of an advocate;
  - 21.5.3 in the case of an advocate intending to practise as a legal practitioner conducting a trust account practice, a knowledge of accounting necessary for the keeping of accounting records referred to in section 87 of the Act, and compliance with accounting rules published by the Council from time to time.
- 21.6 A person wishing to qualify to be admitted and enrolled as an advocate who, before the date referred to in section 120(4) of the Act, has passed all parts of the examinations conducted by the General Council of the Bar or any other society of advocates contemplated in section 112(1)(a)(ii) of the Act will be deemed to have complied with rule 21.1.
- 21.7 A person wishing to qualify to be admitted and enrolled as an advocate who, before the date referred to in section 120(4) of the Act, had passed one or more parts of the examinations referred to in rule 21.6 but at that date had not yet passed all parts of those examinations, shall have the right to be examined or assessed on those parts which he or she had not yet passed and, upon successfully completing those parts of the said examinations which he or she had not passed at that date, he or she will be deemed to have complied with rule 21.1; provided, however, that if the pupil concerned had not passed the parts of

the said examination which he or she had not successfully completed prior to the date referred to in section 120(4) of the Act within a period of three years from that date, then he or she shall no longer have the right to be examined or assessed on any part of those examinations

provided that a person wishing to be qualified to be admitted and enrolled as an advocate who, before the date referred to in 120(4) of the Act, has passed one or more parts of a training course approved by the General Council of the Bar or any other society of advocates, as contemplated in section 112(1)(a)(ii) of the Act, but at that date had not yet passed all parts of those examinations, shall have the right to be examined or assessed on those parts which he or she had not yet passed and, upon successfully completing those parts of the said examinations which he or she had not passed at that date, he or she will be deemed to have complied with this rule 21.4; provided further, however, that if the pupil concerned had not passed the parts of the said examination which he or she had not successfully completed prior to the date referred to in section 120(4) of the Act within a period of three years from that date, then he or she shall no longer have the right to be examined or assessed on any part of those examinations.

- 21.8 The assessment of persons wishing to be admitted and enrolled as a notary shall comprise assessment in relation to the practice, functions and duties of a notary.
- 21.9 The assessment of persons wishing to be admitted and enrolled as a conveyancer shall comprise assessment in relation to the practice, functions and duties of a conveyancer.
- 21.10 The areas of knowledge required of persons wishing to be admitted and enrolled as attorneys or as advocates, as the case may be, in terms of this rule, and the standards of proficiency required of such persons, shall be determined by the Council from time to time and shall be published by the Council for the information of legal practitioners and candidate legal practitioners.
- 21.11 An assessment referred to in rules 21.2 and 21.5 shall not be conducted in respect of any person unless that person -
- 21.11.1 has complied with the provisions of the Act in regard to practical vocational training; or
- 21.11.2 is undergoing practical vocational training and has so undergone practical vocational training for a continuous period of not less than six months; or

21.11.3 is, under the provisions of the Act, exempt from undergoing practical vocational training.

**22. Practical vocational training and remuneration for candidate legal practitioners [section 95(1)(o) read with section 27]**

**22.1 Candidate attorneys**

**22.1.1 Information to be submitted to the Council before practical vocational training contract is entered into**

Any person intending to serve an attorney under a practical vocational training contract must submit the following to the Council:

22.1.1.1 his or her identity document or other proof to the satisfaction of the Council of his or her date of birth; and

22.1.1.2 proof to the satisfaction of the Council that he or she is a fit and proper person to serve as a candidate attorney under a practical vocational training contract and has satisfied all the requirements for the degrees referred to in sections 26(1)(a) or (b) of the Act.

**22.1.2 Lodging, examination and registration of practical vocational training contract**

22.1.2.1 A practical vocational training contract shall be substantially in the form set out in Schedule 2 of these rules.

22.1.2.2 The original of any practical vocational training contract shall, within two months of its date, be lodged by the principal concerned with the Council.

22.1.2.3 The Council shall, on payment of the prescribed fee, examine any practical vocational training contract lodged with it and, if it is satisfied that the practical vocational training contract is in order and the Council has no objection to its registration, register the practical vocational training contract, and shall advise the principal and the candidate attorney concerned in writing of such registration.

22.1.2.4 If a practical vocational training contract is not lodged for registration within two months from the date thereof, any service under any such contract will be deemed to commence on the date of registration.

### 22.1.3 **Supervision over candidate attorney**

A candidate attorney shall, during the whole term of service specified in the practical vocational training contract -

22.1.3.1 serve in the office of his or her principal under the direct personal supervision of the principal or under the direct personal supervision of an attorney who is a partner or other admitted attorney in the office of the principal;

22.1.3.2 in the case of a candidate attorney serving under a practical vocational training contract with the State Attorney or a practising attorney employed by the State Attorney, serve in the office of the State Attorney or in any branch thereof and under the direct personal supervision of the State Attorney or a practising attorney employed by him or her; or

22.1.3.3 in the case of a candidate attorney serving under a contract of service with a law clinic or Legal Aid South Africa, serve under the direct personal supervision of a legal practitioner who is employed full time at the law clinic or at the office of Legal Aid South Africa.

### 22.1.4 **Absence of candidate attorneys**

22.1.4.1 Subject to rule 21.1.4.2, a candidate attorney may, with the consent of his or her principal, absent himself or herself from office for a period which does not, or for periods which in the aggregate do not, exceed thirty working days in any one year of the practical vocational contract.

22.1.4.2 A court may, on the application of a candidate attorney in any case -

22.1.4.2.1 where the principal refuses to grant the candidate attorney leave of absence from office; or

22.1.4.2.2 where the period of absence from office exceeds, or the periods of absence from the office in the aggregate exceed, thirty working days in any one year of the practical vocational training contract

grant an order authorising leave of absence from office for the period in question, if the court is satisfied that the principal and the Council received due notice of the application and that sufficient cause for the absence exists or existed, as the case may be.

22.1.4.3 An order referred to in rule 22.1.4.2 may be granted before, during or after the period of absence.

22.1.4.4 If any period of absence from office exceeds (or the periods of absence from office in the aggregate exceed) thirty working days in any one year of the practical vocational training contract, the period in excess of thirty working days shall be added to the period for which the candidate attorney is bound to serve under the contract.

22.1.4.5 Notwithstanding the provisions of rule 22.1.4.1, any period of absence not exceeding six months by a candidate attorney from the office of his or her principal for the purpose of attending a training course approved by the Council shall, if that candidate attorney has completed the course to the satisfaction of the Council, be deemed to have been served under a practical vocational training contract.

22.1.4.6 Notwithstanding the provisions of rule 22.1.4.1, any period of absence not exceeding twelve months of a candidate attorney from the office of his or her principal for the purposes of service, in terms of a contract with terms and conditions similar to those of his or her practical vocational training contract, under the direct supervision of another attorney who is entitled to engage a candidate attorney shall, provided the Council has approved such service in advance in writing, be deemed to have been served by the candidate attorney concerned under a practical vocational training contract with his or her principal.

#### 22.1.5 **Restriction on pecuniary interests of candidate attorneys**

22.1.5.1 A candidate attorney shall not have any pecuniary interest in the practice and service of an attorney, other than in respect of bona fide remuneration for his or her services as a candidate attorney, and shall not, without the prior written consent of the Council, hold or occupy any office in respect of which he or she receives any form of remuneration, directly or indirectly, or engage in any other business

other than that of candidate attorney, where holding that office or engaging in that business is likely to interfere with the proper training of the candidate attorney.

22.1.5.2 If any candidate attorney contravenes the provisions of rule 22.1.5.1 the contract concerned shall be void *ab initio* and service rendered thereunder shall be ineffective unless the court on good cause shown otherwise directs.

#### 22.1.6 **Cession of practical vocational training contract**

22.1.6.1 A practical vocational training contract may with the consent of the principal and the candidate attorney concerned be ceded to any other principal willing to accept such cession.

22.1.6.2 The Council may, in the event of the death, mental illness, insolvency, conviction of a crime, suspension from practice, striking off the roll or discontinuation of practice of the principal under whom the candidate attorney is serving, or the debarring of that principal from engaging or continuing to engage a candidate attorney, or any other cause, direct that the practical vocational training contract concerned be ceded to any other principal willing to accept such cession, and all service completed under the ceded contract shall be effective for purposes of the Act and these rules.

22.1.6.3 A practical vocational training contract may be ceded under rule 22.1.6.2 notwithstanding the fact that the principal who accepts the cession will, as a result of that acceptance, have more than the maximum allowable number of candidate attorneys in his or her employment.

22.1.6.4 An agreement whereby a practical vocational training contract is ceded shall, within two months of the date on which the service of the candidate attorney concerned may have terminated with the cedent, or within such further period as a court may on good cause allow, be lodged with the Council by the cessionary together with affidavits -

22.1.6.4.1 by the cedent stating whether the provisions of the Act and these rules relating to service under the practical vocational training contract have been complied with during the whole

term of service during which the candidate attorney concerned was in the service of the cedent, and the date on which the candidate attorney terminated his or her services with the cedent; and

22.1.6.4.2 by the cessionary stating the date on which the candidate attorney assumed duty with the cessionary.

22.1.6.5 The Council shall on payment of such fee as may be prescribed -

22.1.6.5.1 examine the agreement and affidavits referred to in rule 22.1.6.4; and

22.1.6.5.2 if it is satisfied that the cession is in order and it has no objection thereto, register the cession

and shall advise the attorney and the candidate attorney concerned in writing of such registration.

22.1.6.6 If a practical vocational training contract is ceded in terms of rule 22.1.6.2 the agreement whereby the practical vocational training contract is ceded shall be signed by the legal representative of the attorney concerned or by the chairperson or the executive officer of the Council as cedent, and a certificate of such legal representative, chairperson or executive officer containing the particulars referred to in rule 22.1.6.4 shall serve as a substitute for the affidavit of the cedent referred to in 22.1.6.4.1.

## 22.1.7 **Termination of practical vocational training contract**

22.1.7.1 If a practical vocational training contract is for any reason cancelled, abandoned or ceded, the principal with whom the candidate attorney is serving at that time must forthwith in writing notify the Council of such cancellation, abandonment or cession.

22.1.7.2 If a practical vocational training contract has been cancelled or abandoned before it has been completed, the court may in its discretion, on the application of the person who served under such contract, and subject to such conditions as the court may impose, order that for the purposes of the Act and these rules the whole or such part of the period served under such contract as the court

deems fit, be added to any period served by that person under a practical vocational training contract or contract of service entered into after the first mentioned contract was cancelled or abandoned, and any period so added shall for purposes of the Act and these rules be deemed to have been served under the last mentioned contract and continuously with any period served thereunder.

**22.1.8 Registration of practical vocational training contract by advocate**

Any person admitted as a legal practitioner and enrolled to practice as an advocate shall not be allowed to register a practical vocational training contract with a candidate attorney in terms of the provisions of these rules unless his or her enrolment as an advocate has been converted to that of an attorney in terms of section 32(1) of the Act.

**22.1.9 Irregular service under practical vocational training contract**

If any person has not served regularly as a candidate attorney in terms of the provisions of these rules the court, if satisfied that such irregular service was occasioned by sufficient cause, and that such service is substantially equivalent to regular service, and that the Council has had due notice of the application, may permit such person, on such conditions as it may deem fit, to apply for admission as an attorney as if he or she had served regularly under a practical vocational training contract or a contract of service.

**22.1.10 Cancellation or suspension or abandonment of practical vocational training contract**

If a person who has served any period under a practical vocational training contract which was cancelled or suspended or abandoned before its completion, has satisfied all the requirements for the degrees referred to in sections 26(1)(a) or (b) of the Act, the court may, on the application of such person and subject to such conditions as the court may impose, order -

**22.1.10.1** that, for the purpose of this rule 22, the whole of the period so served, or such part of that period as the court deems fit be added to any period served by such person after he or she satisfied such requirements or became so entitled under a practical vocational training contract entered into after the first mentioned contract was

cancelled or abandoned, and thereafter any period so added shall be deemed to have been served -

22.1.10.1.1 after that person satisfied such requirements or became so entitled; and

22.1.10.1.2 under the practical vocational training contract entered into after the first mentioned contract was cancelled or abandoned, and continuously with any period served thereunder.

22.1.10.2 if the period served by that person under the first mentioned practical vocational training contract is equal to or exceeds the period which that person would, at the time of making the application, be required to serve under a practical vocational training contract, that the period so served be considered as adequate service under a practical vocational training contract for purposes of this rule 22, and thereafter any period served by that person shall be deemed to have been served after and under a practical vocational training contract entered into after he or she satisfied those requirements and became so entitled.

## 22.2 Pupils

### 22.2.1 Information to be submitted to the Council for purposes of registration of pupillage

Any person intending to register with the Council as a pupil must submit the following to the Council:

22.2.1.1 his or her identity document or other proof to the satisfaction of the Council of his or her date of birth;

22.2.1.2 proof to the satisfaction of the Council that he or she is a fit and proper person to serve as a pupil under a practical vocational training contract and has satisfied all the requirements for the degrees referred to in sections 26(1)(a) or (b) of the Act.

22.2.2 **Lodging, examination and registration of practical vocational training contract**

22.2.2.1 A practical vocational training contract shall be substantially in the form set out in Schedule 3 of these rules.

22.2.2.2 The original of any practical vocational training contract shall, within 2 months of its date, be lodged by the training supervisor concerned with the Council.

22.2.2.3 The Council shall, on payment of the prescribed fee, examine any practical vocational training contract lodged with it and, if it is satisfied that the practical vocational training contract is in order and the Council has no objection to its registration, register the practical vocational training contract, and shall advise the training supervisor and the pupil concerned in writing of such registration.

22.2.2.4 If a practical vocational training contract is not lodged for registration within 2 months from the date thereof, any service under such contract will be deemed to commence from the date of registration.

22.2.3 **Supervision over pupil**

The training supervisor shall, during the whole term of service specified in the practical vocational training contract, supervise the training of the pupil to ensure that the pupil is instructed in the practice and profession of an advocate.

22.2.4 **Restriction on pecuniary interests of pupil**

22.2.4.1 A pupil shall not have any pecuniary interest in the practice and service of an attorney, or in the practice of an advocate, and shall not, without the prior written consent of the Council, hold or occupy any office in respect of which he or she receives any form of remuneration, directly or indirectly, or engage in any business, where holding that office or engaging in that business is likely to interfere with the proper training of the pupil.

22.2.4.2 If a pupil contravenes the provisions of rule 22.2.4.1, the contract concerned shall be void ab initio and ineffective unless the court on good cause shown otherwise directs.

**22.2.5 Cession of practical vocational training contract**

The provisions of rule 22.1.6 relating to the cession of practical vocational training contracts of candidate attorneys, with the necessary changes required by the context, apply in respect of the cession of practical vocational training contracts of pupils.

**22.2.6 Termination of practical vocational training contract**

The provisions of rule 22.1.7 relating to the termination of practical vocational training contracts of candidate attorneys, with the necessary changes required by the context, apply in respect of the termination of practical vocational training contracts of pupils.

**22.2.7 Irregular service under practical vocational training contract**

The provisions of rule 22.1.9 in relating to irregular service under practical vocational training contracts of candidate attorneys, with the necessary changes required by the context, apply in respect of irregular service under practical vocational training contracts of pupils.

**22.2.8 Cancellation or suspension or abandonment of practical vocational training contract**

The provisions of rule 22.1.10 relating to the cancellation or suspension or abandonment of practical vocational training contracts of candidate attorneys, with the necessary changes required by the context, apply in respect of the cancellation or abandonment of practical vocational training contracts of pupils.

22.3 Every candidate attorney undergoing practical vocational training in terms of a practical vocational training contract shall be entitled to not less than such reasonable remuneration, allowances or stipends for his or her service under the practical vocational training contract as may be determined from time to time by the Council, which remuneration, allowances or stipends shall be payable not less frequently than monthly and shall in any event be not less than an amount determined from time to time by the Council.

22.4 Every pupil undergoing practical vocational training in terms of a practical vocational training contract shall be entitled to not less than such reasonable remuneration, allowances or stipends (if any) as may be determined from time to

time by the Council and as may be appropriate having regard to the nature of the pupil's activities in terms of the practical vocational training contract.

**23. Assessment of persons undergoing practical vocational training  
[section 95(1)(p) read with section 28(1)]**

23.1 Every assessment shall be conducted by one or more assessors who qualify in terms of rule 25 to conduct assessments.

23.2 The assessor or assessors who conduct an assessment shall put written questions to the candidate when conducting assessments in respect of the subjects referred to in-

23.2.1 rules 21.2 and 21.4, which respective assessments may, subject to rule 21.7, be taken separately and may require the candidate to draft such process, accounts and documents to show whether he or she possesses sufficient practical knowledge of such subjects to comply with the provisions of any rule made by the Council or the National Forum concerning levels of competence required for the admission and enrolment of legal practitioners;

23.2.2 rule 21.5, and may require the candidate to draft such documents to show whether he or she possesses sufficient practical knowledge of such subject to comply with the levels of competence referred to in rule 23.2.1;

23.2.3 rule 21.6, and may require the candidate to draft such deeds and other documents to show whether he or she possesses sufficient practical knowledge of the requirements of deeds registries and to comply with the levels of competence referred to in rule 23.2.1;

provided that if the candidate has failed to obtain the prescribed minimum standard in the written questions which are put to him or her as part of the assessment, as determined from time to time by the Council, the assessor or assessors conducting the assessment may put oral questions to the candidate to determine whether or not the candidate possesses sufficient practical knowledge of the subjects concerned.

23.3 The assessment in respect of the subjects referred to in rules 21.5 and 21.6 may only be conducted together with or after the successful completion of the assessment in respect of the subjects referred to in rule 21.2.

- 23.4 The assessor or assessors conducting the assessment shall, if in their opinion the candidate has satisfactorily answered the questions put to him or her and has shown that he or she possesses sufficient practical knowledge of the subjects concerned, as required in terms of any rule made by the Council or the National Forum concerning levels of competence required for the admission and enrolment of legal practitioners, issue or cause to be issued to the candidate a certificate of proficiency in such subjects. If the Council engages an institution or organisation to perform the functions set out in rule 24 the certificate of proficiency shall be issued by the institution or organisation, as the case may be.
- 23.5 A candidate entering for assessment in respect of any of the subjects referred to in rule 21, or repeating any such assessment, shall pay a fee to the Council or such amount as may be determined by the Council from time to time, in respect of any such assessment, which fee shall be payable at the time that the candidate registers for the assessment.

**24. Levels of competence for admission and enrolment as legal practitioner  
[section 95(1)(q) read with section 28(2)]**

Any person wishing to be admitted and enrolled as a legal practitioner must satisfy the Council that he or she has attained the levels of competence contemplated in the Act and the rules regarding the required knowledge, skills and values that will enable him or her -

- 24.1 to serve the public with diligence and integrity;
- 24.2 to apply the provisions and uphold the values enshrined in the Constitution of South Africa;
- 24.3 to practise in accordance with the rules of ethics of the relevant branch of the legal profession to which the applicant seeks admission and enrolment;
- 24.4 to promote measures and processes that enhance access to justice;
- 24.5 to apply relevant laws and procedures to resolve disputes;
- 24.6 to advise clients in relation to their rights and the appropriate action to be taken to enforce those rights;

- 24.7 to draft all legal documents which are required to be drafted in the normal course of practice in the branch of the profession to which the applicant seeks admission and enrolment;
- 24.8 to manage his or her practice in the manner appropriate to the branch of the profession to which the applicant seeks admission and enrolment;
- 24.9 in circumstances applicable to the profession to which the applicant seeks admission and enrolment, to apply appropriate principles of accounting relevant to his or her practice;
- 24.10 in general to conduct himself or herself in a manner that enhances the repute of the legal profession in terms of independence, integrity, competence and the promotion of justice in South Africa.
- 25. Qualifications to conduct assessment of practical vocational training [section 95(1)(r) read with section 28(4)]**
- 25.1 The Council shall appoint persons to determine the structure and process of assessment and to arrange, control and conduct assessments for the purpose of assessing whether individuals undergoing practical vocational training have attained an adequate level of competence for admission and enrolment as a legal practitioner, and/or may engage or accredit an appropriate institution or organisation to do so on its behalf.
- 25.2 Every person appointed by the Council for the purpose of arranging, controlling and conducting assessments in respect of the subjects referred to in -
- 25.2.1 rule 21.2, shall be a person who has been a practising attorney for not less than seven years;
- 25.2.2 rule 21.5, shall be a person who has been a practising advocate for not less than seven years: provided that in the case of a candidate legal practitioner intending to be admitted and enrolled as an advocate conducting a trust account practice, at least one of the persons conducting the assessment must be a person who has been a practising attorney for not less than seven years;
- 25.2.3 rule 21.8, shall be a person who has been a practising notary for not less than seven years; and

25.2.4 rule 21.9, shall be a person who has been a practising conveyancer for not less than seven years.

25.3 The periods of practice which are required to qualify an attorney, or an advocate, or a notary, or a conveyancer, as the case may be, to conduct assessments may be reduced by the Council in its discretion if in any particular instance the person concerned had other prior experience to qualify him or her to conduct an assessment.

25.4 Where the Council engages an institution or organisation to conduct the assessment on its behalf, that institution or organisation will be required to ensure that the persons employed by it to arrange, control and conduct assessments shall be individuals with the qualifications referred to in rule 25.2.

26. **Exemption from performing community service  
[section 95(1)(s) read with section 29(3)]**

The Council may from time to time publish rules relating to the legal practitioners or candidate legal practitioners or categories of legal practitioners or candidate legal practitioners who shall be exempted from performing community service.

27. **Legal practice management course  
[section 95(1)(zL) read with section 85(1)(b)]**

27.1 Every legal practitioner who is obliged in terms of section 84(1) of the Act to be in possession of a Fidelity Fund certificate and who is not in possession of a Fidelity Fund certificate must, within a period of one year after the date on which the legal practitioner was required for the first time to be in possession of a Fidelity Fund certificate, or within such further period as the Council may approve in any specific case, complete to the satisfaction of the Council a legal practice management course approved by the Council.

27.2 The Council may exempt any legal practitioner, fully or partially and on such conditions as the Council may determine, from completing a legal practice management course to the extent that the legal practitioner -

27.2.1 has a qualification that is similar to or of a higher standard than that attainable on completion of the course in question; or

27.2.2 has a level of experience that would render the completion of the course in question or any part of such course unnecessary.

- 27.3 A legal practice management course referred to in rule 27.1 may be presented through lectures, seminars or any other forms of learning requiring the physical presence of the legal practitioner concerned, or in appropriate circumstances determined by the Council may be presented through an approved distance learning method or digital transmission, telephone or video conference call, audio tape or electronic network.
- 27.4 The legal practice management course referred to in rule 27.1 must comprise the following modules:
- 27.4.1 module 1: general introduction to management;
  - 27.4.2 module 2: risk management and insurance;
  - 27.4.3 module 3: law business finance;
  - 27.4.4 module 4: systems and technology;
  - 27.4.5 module 5: practice administration;
  - 27.4.6 module 6: marketing of legal services;
  - 27.4.7 module 7: human resources management;
  - 27.4.8 module 8: strategic management.
- 27.5 The legal practice management course referred to in rule 27.1 shall require, in addition to the completion of the modules referred to in rule 27.4, the successful completion of the following assignments:
- 27.5.1 law business finance;
  - 27.5.2 risk management and insurance;
  - 27.5.3 a business plan
- 27.6 The compulsory modules of practice management training and the assignments referred to in rule 27.4 shall be completed to the satisfaction of the Council over a period of no longer than twelve months.
- 27.7 Satisfactory completion of any practice management training course presented at the Legal Education and Development Section of the Law Society of South Africa for purposes of the Attorneys Act 53 of 1979, for which an attorney or

candidate attorney had registered before the date referred to in section 120(4) of the Act and in respect of which was completed satisfactorily within a period of twelve months after that date will be regarded as compliance with the requirements of rule 27.1.

## **PART VII**

### **Keeping of rolls and conversion of enrolment**

#### **28. Manner of keeping roll of legal practitioners [section 95(1)(v) read with section 30(3)]**

28.1 The Council shall keep separate alphabetical registers in which are recorded the names of all attorneys, advocates, notaries and conveyancers admitted by the High Court, as well as the dates of admission and enrolment. The register of advocates shall list separately, in alphabetical order, advocates who hold the rank of senior counsel, junior counsel and advocates practising with a Fidelity Fund certificate.

28.2 The roll of legal practitioners kept by the Council shall reflect the particulars contained in section 30(3) of the Act.

28.3 The roll of legal practitioners kept by the Council may be kept in electronic form.

#### **29. Notification of cancellation or suspension of enrolment [section 95(1)(w) read with section 31(3)]**

29.1 If the High Court orders that the name of a legal practitioner be struck off the roll or that he or she be suspended from practice the Council must forthwith upon receipt of notification to that effect from the High Court cancel or suspend the enrolment of the legal practitioner, as the case may be.

29.2 The Council shall forthwith upon the cancellation or suspension of the enrolment of a legal practitioner in terms of rule 29.1 notify that legal practitioner of the cancellation or suspension of enrolment and shall make the appropriate entry in the roll kept by the Council in terms of rule 28.

29.3 The notification of cancellation or suspension of enrolment shall be in writing by notice delivered to the legal practitioner concerned or sent by pre-paid registered post, and in addition a copy of the notice shall be sent to the electronic address (if any) chosen by the legal practitioner.

**30. Application for conversion of enrolment by attorneys and advocates  
[section 95(1)(x) read with section 32(1)(a)]**

- 30.1 Any person duly admitted by the High Court and enrolled to practise as a legal practitioner under the Act may, in the manner prescribed by rule 30.1.2, apply to the Council, through the Provincial Council where the legal practitioner intends to practise, to convert his or her enrolment as an attorney to that of an advocate, and vice versa.
- 30.2 An application for conversion in terms of rule 30.1 shall be in writing and shall contain the following information in respect of the applicant:
- 30.2.1 his or her full names, date of birth, identity number and residential address;
- 30.2.2 whether or not he or she practises or is about to commence practice;
- 30.2.3 if he or she does not practise, his or her business address and personal address and telephone numbers, if any;
- 30.2.4 the physical address of his or her main office and its postal address, and telephone numbers, mobile telephone numbers, fax numbers, email addresses and other electronic communication contact particulars, if any;
- 30.2.5 whether he or she conducts practice as an attorney or as an advocate and, in the case of an advocate, whether he or she conducts practice -
- 30.2.5.1 in the manner contemplated in section 34(2)(a)(i) of the Act; or
- 30.2.5.2 in the manner contemplated in section 34(2)(a)(ii) of the Act;
- 30.2.6 if he or she is employed by any person who does not practise, the nature of his or her employment and the name and business address and postal address and telephone numbers, if any, of his or her employer;
- 30.2.7 every court in which he or she has been admitted, and a statement that he or she has not been admitted in any other court.
- 30.3 The Council may require that information referred to in rule 30.2 be submitted in a form to be determined by the Council.
- 30.4 The application referred to in rule 30.1 must be signed by the applicant, and must be accompanied by the following:

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- 30.4.1 proof of payment of the prescribed fee;
- 30.4.2 a certificate signed by the registrar of every High Court to which the applicant applied for admission to practise that no proceedings are pending or are contemplated to strike the name of the applicant off the roll or to suspend the applicant from practice;
- 30.4.3 where the applicant is an attorney applying to convert his or her enrolment to that of an advocate -
- 30.4.3.1 a statement indicating whether he or she intends to practise as an advocate and, if so, whether he or she intends to practise with or without a fidelity fund certificate;
- 30.4.3.2 proof to the satisfaction of the Council that he or she has the right of appearance in the High Court, the Supreme Court of Appeal and the Constitutional Court in terms of section 25(2) of the Act or in terms of any legislation in force prior to the coming into force of the Act and has undergone such specialised training in advocacy as is required by pupils for admission as advocates, other than training in terms of a contract for the provision of practical vocational training under the supervision of a training supervisor, as provided for in the rules;
- 30.4.3.3 such other requirements as the Council may determine.
- 30.4.4 where the applicant is an advocate applying to convert his or her enrolment to that of an attorney, proof to the satisfaction of the Council -
- 30.4.4.1 that the applicant has passed the examination required to be passed by attorneys so as to reflect that the applicant has the required knowledge of accounting for the keeping of accounting records referred to in section 87 of the Act and for compliance with the accounting rules published by the Council from time to time;
- 30.4.4.2 that the applicant has attended a legal practice management course as contemplated in section 85(1)(b) of the Act;
- 30.4.4.3 that the applicant has been enrolled as an advocate for a period of not less than 12 months, or 3 years in the case of an advocate who has been admitted and enrolled as such without having complied with the requirements of regulation 7 of the regulations under section

109(1)(a) of the Act or without having successfully completed a training course as contemplated in section 112(1)(a)(ii) of the Act ;

30.4.4.4 such other requirements as the Council may determine.

30.5 Where the applicant is an attorney, and the Council is satisfied that the applicant is entitled to convert his or her enrolment to that of an advocate, the Council shall remove the name of the applicant from the roll of attorneys and shall place the name of the applicant on the roll of advocates intending to practice without a fidelity fund certificate, or with a fidelity fund certificate, as the case may be.

30.6 Where the applicant is an advocate, and the Council is satisfied that the applicant is entitled to convert his or her enrolment to that of an attorney, the Council shall remove the name of the applicant from the roll of advocates and place the name of the applicant on the roll of attorneys.

**31. Conversion of non-practising legal practitioners to practising legal practitioners and vice versa**

31.1 Any person admitted by the High Court and enrolled to practise as a legal practitioner under the Act or admitted and enrolled as a non-practising legal practitioner may, in the manner prescribed by rule 30.2, apply to the Council through the Provincial Council where the legal practitioner intends to practise, or in the case of an applicant who is a practising legal practitioner intending to convert his or her enrolment to that of a non-practising legal practitioner, where that legal practitioner resides, to convert his or her enrolment as a practising legal practitioner to that of a non-practising legal practitioner, and vice versa.

31.2 The provisions of rule 30.2, apply to an application in terms of rule 31.1, with the changes required by the context.

31.3 The Council may require that information referred to in rule 30.2 be submitted in a form to be determined by the Council.

31.4 The application referred to in rule 31.1 must be signed by the applicant, and must be accompanied by the following:

31.4.1 proof of payment of the prescribed fee;

31.4.2 a certificate signed by the registrar of every High Court to which the applicant applied for admission that no proceedings are pending or are

contemplated to strike the name of the applicant off the roll or to suspend the applicant from practice (in the case of a practising legal practitioner).

31.5 Where the applicant is a practising legal practitioner, and the Council is satisfied that the applicant is entitled to convert his or her enrolment to that of a non-practising legal practitioner, the Council shall remove the name of the applicant from the roll of practising legal practitioners and shall place the name of the applicant on the roll of non-practising legal practitioners.

31.6 Where the applicant is a non-practising legal practitioner and the Council is satisfied that the applicant is entitled to convert his or her enrolment to that of a practising legal practitioner, the Council shall remove the name of the applicant from the roll of non-practising legal practitioners and shall place the name of the applicant on the roll of practising legal practitioners.

**32. Circumstances in which legal practitioner can apply for conversion of enrolment [section 95(1)(z) read with section 32(3)]**

32.1 An attorney may at any time, in the manner determined in rule 30, and upon payment of the fee determined by the Council in the rules, apply to the Council to convert his or her enrolment as an attorney to that of an advocate, whether as an advocate who conducts a practice in the manner contemplated in section 34(2)(a)(i) of the Act, or as an advocate conducting a practice in the manner contemplated in section 34(2)(a)(ii) of the Act.

32.2 An advocate referred to in section 34(2)(a)(i) and practising as such may at any time, as determined in the rules and upon payment of the fee determined by the Council, apply to the Council for the conversion of his or her enrolment to that of an advocate referred to in section 34(2)(a)(ii) and practising as such, provided the applicant satisfies the Council -

32.2.1 that the applicant has the knowledge of accounting necessary for the keeping of accounting records referred to in section 87 of the Act and for compliance with the accounting rules published by the Council from time to time;

32.2.2 that the applicant has attended a legal practice management course as contemplated in section 85(1)(b) of the Act.

32.3 An advocate referred to in section 34(2)(a)(ii) and practising as such may at any time, as determined in the rules and upon payment of the fee determined by the

Council in the rules, apply to the Council for the conversion of his or her enrolment to that of an advocate referred to in section 34(2)(a)(i) and practising as such.

## **PART VIII**

### **Rendering of Legal Services**

**33. Legal services which may be rendered by advocate in possession of Fidelity Fund certificate  
[section 95(1)(zA) read with section 34(2)(b)]**

An advocate referred to in section 34(2)(a)(ii) of the Act who is in possession of a Fidelity Fund certificate may render all those legal services which advocates were entitled to render before the commencement of the Act, and may perform such functions ancillary to his or her instructions as are necessary to enable him or her properly to represent the client.

**34. Briefing of advocates by attorneys and by members of the public  
[section 95(1)(zB) read with section 34(3)]**

All briefs to advocates as contemplated in section 34(2)(a)(i) shall be subject to the terms and conditions contained in Part IV and Part V of the code of conduct made under section 97(1)(b) of the Act applicable to that category of advocate, or under any code of conduct developed under section 36 of the Act.

**35. Instruction of attorneys  
[section 95(1)(zC) read with section 34(4)]**

- 35.1 For purposes of this Rule 35 "client" means the user or intended user of legal services to be provided by an attorney.
- 35.2 Instructions by a client to an attorney may be in writing or may be verbal.
- 35.3 When written instructions are given by a client to an attorney the attorney must ensure that they set out the intended scope of the engagement with sufficient clarity to enable the attorney to understand the full extent of the mandate. If the attorney is uncertain as to the scope of the mandate the attorney must seek written clarification of the intended scope of the instruction.

- 35.4 Where the client instructs the attorney verbally, the attorney must as soon as practically possible confirm the instructions in writing and in particular must set out the attorney's understanding of the scope of the engagement.
- 35.5 An attorney who is in receipt of instructions from a client must comply with those provisions of the Act which relate to the provision of legal services, including, without limitation, the provisions of sections 34 and 35 of the Act.
- 35.6 Rule 35 applies, with the necessary changes, to an advocate contemplated in section 34(2)(a)(ii) of the Act who is in possession of a Fidelity Fund certificate.

## **PART IX**

### **Law Clinics**

#### **36. Establishment of law clinics [section 95(1)(zD) and (zF) read with section 34(8)(a)]**

- 36.1 The Council may grant recognition on an annual basis to an entity as a law clinic if it is satisfied that the entity complies with the following requirements:
- 36.1.1 if it complies with the provisions of section 34(8)(a) of the Act;
- 36.1.2 if it is properly constituted, organised and controlled to the satisfaction of the Council;
- 36.1.3 if it provides legal services to the public;
- 36.1.4 if the legal services provided by the clinic are rendered free of charge, direct or indirect, to the recipient of those services; provided that -
- 36.1.4.1 the clinic may recover from the recipient of its services any amounts actually disbursed by the clinic on behalf of the recipient;
- 36.1.4.2 where the clinic acts for a successful litigant in litigation it will be entitled to take cession from that litigant of an order for costs awarded in favour of the litigant, and to recover those costs for its own account;
- 36.1.5 the services may be rendered only to persons who, in the opinion of the Council, would not otherwise be able to afford them, or, with the prior written approval of the Council, services rendered in the public interest;

and the Council may from time to time issue guidelines for the assistance of clinics in determining to whom services may be rendered;

- 36.1.6 the clinic may not undertake work in connection with the administration or liquidation or distribution of the estate of any deceased or insolvent person, mentally ill person or any person under any other legal disability, or the liquidation of a company, nor in relation to the transfer or mortgaging of immovable property, nor in relation to the lodging or processing of claims under the Road Accident Fund Act, 1996, or such other work as the Council may from time to time determine;
- 36.1.7 the name under which the clinic is to carry on its activities, and the letterheads and other stationery of the clinic will require the prior approval of the Council; and
- 36.1.8 legal practitioners in the employ of the clinic may be remunerated only by way of salary payable by the clinic or by the organisation to which it is attached.

**37. Engagement of candidate legal practitioners by law clinics  
[section 95(1)(zE) read with section 34(8)(b)(iv)]**

- 37.1 If a legal practitioner in the full time employment of a law clinic wishes to engage a candidate legal practitioner for purposes of practical vocational training he or she may do so only if:
- 37.1.1 the candidate legal practitioner is to be under his or her direct personal supervision or under the direct personal supervision of another legal practitioner who is a member of the professional staff of the clinic;
- 37.1.2 the clinic is open for business during normal business hours for not less than eleven months in any year;
- 37.1.3 the clinic has proper office systems, including telephones, information technology facilities, files and filing procedures, a diary system and at least elementary library facilities;
- 37.1.4 the clinic has a proper accounting system and accounting procedures;
- 37.1.5 the clinic handles a reasonably wide range of work to give the candidate legal practitioner exposure to the kind of problems that a newly qualified

legal practitioner would expect to encounter and be able to handle competently during his or her first year of practice. The Council shall have the right to direct the clinic to require the candidate legal practitioner to attend a training course approved by the Council in areas of practice which, in the opinion of the Council, are not adequately dealt with by the clinic;

provided that no such legal practitioner shall be entitled to engage more than six candidate legal practitioners at any one time.

## **PART X**

### **Disciplinary**

#### **38. Procedure to be followed by disciplinary bodies [section 95(1)(zG) read with section 38(1) and 39(1)]**

##### **38.1 Disciplinary proceedings**

In rules 38 to 45 -

- 38.1.1 "alternative dispute resolution" or "ADR" means a procedure involving a meeting between a complainant who has lodged a complaint against a legal practitioner, and the respondent, in the presence of and under the guidance and supervision of a legal practitioner trained in ADR procedures, with the objective of arriving at a speedy resolution of complaints which are the subject of an ADR procedure."
- 38.1.2 "the executive officer" means the executive officer of the Council appointed in terms of section 19(1) of the Act;
- 38.1.3 "the legal officer" means a person, by whatever title he or she may be designated, who is an employee of the Council and who is appointed or charged by the Council to perform the disciplinary functions referred to in these rules;
- 38.1.4 "the respondent" means a legal practitioner or candidate legal practitioner or juristic entity referred to in section 37(1) of the Act whose conduct is the subject of any proceedings (of whatever nature, including a complaint or a decision whether or not to refer such conduct to investigation) under these rules;

- 38.1.5 "costs", where an investigating committee or a disciplinary committee or an appeal tribunal orders a respondent to pay the costs of the investigation or of the disciplinary or appeal hearing, means the actual costs incurred by the Council in conducting the disciplinary proceedings, including without limitation:
- 38.1.5.1 the cost of procuring the attendance of witnesses;
  - 38.1.5.2 the professional fees of accountants or auditors in public practice, or other experts, in relation to evidence of an accounting nature;
  - 38.1.5.3 the professional fees of legal practitioners engaged by the Council to act as *pro forma* complainant, or in any other capacity, to assist the investigating committee or the disciplinary committee or the appeal tribunal in the disciplinary process, assessed on the scale as between attorney and client by an independent assessment committee, consisting of legal practitioners, appointed by the Council.
- 38.2 The Council shall have disciplinary jurisdiction over all respondents no matter where the conduct which is, or allegedly is, misconduct is perpetrated. On the understanding that the Council is empowered by section 38(1) of the Act to enquire into and deal with any complaint of misconduct, and on the further understanding that this rule is not intended to be a complete list of acts or omissions which may constitute misconduct on the part of a legal practitioner, any legal practitioner shall be guilty of misconduct if he or she -
- 38.2.1 contravenes or fails to comply with any rule or any provision of a code of conduct applicable to him or her; or
  - 38.2.2 fails after demand to pay any subscription or any fee or other charge payable to the Council in terms of the Act.
- 38.3 The Council shall assign its duties in relation to the exercise of its disciplinary functions to a committee established by it in terms of section 37(1) or section 37(4) of the Act, subject to the provisions of the Act and these rules.
- 38.4 An investigating committee established by the Council shall consist of one or more legal practitioners, of whom at least one shall be an attorney where the respondent is an attorney or a candidate attorney or a juristic entity, and at least one shall be an advocate where the respondent is an advocate or a pupil.

- 38.5 A disciplinary committee established by the Council shall consist of the individuals provided for in sections 37(4) and 37(5) of the Act; provided that where more than two legal practitioners have been appointed to serve on a disciplinary committee:
- 38.5.1 where the respondent is an attorney or a candidate attorney, the majority of legal practitioners serving on the committee shall be attorneys;
- 38.5.2 where the respondent is an advocate or a pupil, the majority of the legal practitioners serving on the committee shall be advocates.

**39. Commencement of enquiry into alleged misconduct**

- 39.1 If an allegation of misconduct against a respondent comes to the attention of the executive officer or the legal officer, he or she must refer the allegation to the investigating committee if -
- 39.1.1 the allegations are in the public domain and he or she on reasonable grounds suspects that a respondent may be guilty of misconduct; or
- 39.1.2 a court, or another tribunal or forum sends, or directs to be sent, a record of proceedings in that court, tribunal or forum; or
- 39.1.3 a member of the public lodges a complaint with the Council and the executive officer or the legal officer is of the opinion that the complaint of misconduct appears to be justified.
- 39.2 Members of the public who wish to lodge a complaint of misconduct against a respondent must do so in writing. A complaint shall set out clearly and concisely the specific acts or failures to act which give rise to the complaint of misconduct.
- 39.3 In order to establish whether grounds for referring the complaint to the investigating committee exist, the executive officer or the legal officer, or any other person in the employ of the Council to whom the authority has been delegated by the Council, may, in his or her discretion:
- 39.3.1 notify the respondent in writing of the nature of the complaint and call upon the respondent to furnish a written explanation in answer to the complaint within 30 days of such notice; and

- 39.3.2 request the complainant to provide further particulars on any aspect of the complaint.
- 39.4 If the executive officer or the legal officer, or any other duly authorised official as contemplated in rule 39.3, or the investigating committee, is of the view -
- 39.4.1 that the complaint is of such a nature as is likely to have arisen from a misunderstanding on the part of complainant or the respondent, or both; and
- 39.4.2 that in the event of the respondent being found guilty, a sanction other than a caution or reprimand or warning, as contemplated in section 40(3)(a), 40(3)(b) or 40(3)(c) is unlikely to be imposed,
- the officer or individual concerned, or the investigating committee, as the case may be, may in their discretion, at any time following receipt of the complaint or of the respondent's response to the complaint, or the referral of the complaint to the investigating committee, call upon the complainant and the respondent to attend an ADR meeting, at a time convenient to the complainant and the respondent, to discuss the complaint in an attempt to resolve the issues between them.
- 39.5 If the complainant and the respondent agree in writing to the ADR procedure, the executive officer or the legal officer or the individual referred to in rule 39.3 must arrange for a meeting to be held on an informal basis in the presence of and under the guidance and supervision of a mediator, and at the cost of the Council, to discuss the matters which are the subject of the complaint.
- 39.6 The proceedings before the mediator will be without prejudice to the rights of the complainant or the respondent and will not be recorded. Neither party will be entitled to call witnesses to give evidence in the ADR proceedings.
- 39.7 At the conclusion of the ADR proceedings the mediator shall prepare a written report to the executive officer, which report shall contain a recommendation by the mediator as to whether or not the complaint should follow the disciplinary process provided for in the rules, or whether the investigating committee should not proceed with disciplinary proceedings.
- 39.8 Notwithstanding anything in these rules, the investigating committee is not bound to follow the recommendation of the mediator, nor does the withdrawal of the

complaint by the complainant imply that the Council may not enquire into the conduct of the respondent which formed the subject of the complaint.

#### 40. Investigation of alleged misconduct

40.1 When a complaint or allegation of misconduct against the respondent is referred to the investigating committee, that committee must investigate the complaint or allegation or cause the complaint or allegation to be investigated by the legal officer or by a legal practitioner appointed by the Council for that purpose.

40.2 For purposes of carrying out its responsibilities in terms of rule 40.1 the investigating committee may:

40.2.1 take any steps which are not prohibited by law to gather information with regard to the complaint or allegation;

40.2.2 request a complainant to provide further particulars on any aspect of the complaint;

40.2.3 request the respondent to appear before the investigating committee in order to assist it to formulate its recommendations to the Council by notice, specifying the time and place of the meeting of the investigating committee. That notice shall inform the respondent:

40.2.3.1 that the respondent has the right to be assisted or represented by another person;

40.2.3.2 that any statement made by the respondent to the investigating committee may be used in evidence and that the proceedings of the investigating committee will be recorded; and

40.2.3.3 that section 40(4)(b) of the Act provides that a respondent may be ordered to pay the cost of the investigation or of any disciplinary hearing;

40.2.4 by notice in writing require the respondent, or any employee of the respondent, to produce to the investigating committee at a time and place stipulated in the notice, any information relating to the complaint including, but not limited to, files, statements, correspondence, accounting records or other documents which are in the possession of or under the control of the

- respondent or that other person and which relate to the subject matter of the complaint;
- 40.2.5 request the Council to institute legal action against any person referred to in rule 40.2.4 who fails to produce to the investigating committee the information referred to in that rule at the time and place stipulated in the notice; and
- 40.2.6 inspect and, if the investigating committee considers it appropriate, retain any information obtained pursuant to rules 40.2.4 and 40.2.5, and make copies of and take extracts from such information.
- 40.3 Notwithstanding the provisions of rules 40.2.3.1 and 40.2.3.2, where the conduct of the respondent which forms the subject of the complaint is not such as, in the opinion of the investigating committee, is likely to lead to an application for the suspension from practice or to the removal from the roll of the respondent in the event of a conviction, the investigating committee and the respondent may agree to declare any appearance or part of an appearance of the respondent before the committee to be "without prejudice". In such a case:
- 40.3.1 the evidence presented or the discussions at such appearance or part of the appearance will not be recorded;
- 40.3.2 the discussions between the investigating committee and the respondent will not be used in evidence against the respondent;
- 40.3.3 the complainant will not be entitled to attend the proceedings.
- 40.4 If, in the course of the investigations, the respondent admits to the investigating committee that the respondent is guilty of misconduct, and the investigating committee and the respondent agree on an appropriate punishment to be imposed for that misconduct, or if it appears to the investigating committee to be appropriate, the investigating committee may recommend to the Council that a specific sanction be imposed on, and the payment of a specific amount in respect of costs be required from, the respondent; provided that such a recommendation will not be binding on the Council or on a disciplinary committee, which will be entitled to impose its own punishment after conducting an enquiry in accordance with this rule.

- 40.5 If after investigating allegations of misconduct against the respondent the investigating committee is satisfied:
- 40.5.1 that the respondent, on the basis of available *prima facie* evidence, is guilty of misconduct which, on account of the nature of conduct, warrants misconduct proceedings, the investigating committee must refer the matter to the Council or to a committee of the Council established for that purpose for adjudication by a disciplinary committee;
- 40.5.2 that the complaint should be dismissed on the grounds that the conduct in question does not necessarily warrant misconduct proceedings, it must dismiss the complaint and inform the Council, the complainant and the respondent of its decision and the reasons for it. Without limiting the discretion of the investigating committee, the following may be grounds for determining that the conduct in question does not warrant misconduct proceedings:
- 40.5.2.1 that the respondent is not guilty of misconduct; or
- 40.5.2.2 that the respondent has given a reasonable explanation for his or her conduct; or
- 40.5.2.3 that the conduct of which the respondent may be guilty is of an inconsequential nature; or
- 40.5.2.4 that there is no reasonable prospect of success in preferring a charge of misconduct against the respondent;
- 40.5.2.5 that the complaint is vexatious or that in all the circumstances it is not appropriate to charge the respondent with misconduct.
- 40.6 If a complainant is aggrieved by:
- 40.6.1 the manner in which the investigating committee conducted its investigation; or
- 40.6.2 the outcome of the investigation,
- he or she may appeal to the appeal tribunal in terms of section 41 of the Act.
- 40.7 When the Council, or a committee of the Council established for that purpose, receives a referral from the investigating committee in terms of rule 40.5.1 that

the legal practitioner be charged with misconduct, it must refer the matter to a disciplinary committee for adjudication.

#### 41. **Disciplinary procedure**

- 41.1 A disciplinary enquiry shall be commenced by way of a notice to the respondent requiring the attendance of that respondent at the enquiry before a disciplinary committee. The notice shall be sent by pre-paid post or by email or facsimile transmission, or shall be delivered personally, and the enquiry shall proceed if the committee is satisfied that the notice has been received by the respondent..
- 41.2 The notice shall be issued under the hand of the executive officer or the legal officer or some other duly authorised employee of the Council and shall be served not less than 10 days before the date appointed for the hearing, in the computation of which period weekends and statutory public holidays shall be excluded.
- 41.3 The notice shall set out the place, date and time of the hearing and shall contain the charge or charges of unprofessional or unworthy or dishonourable conduct alleged against the respondent.
- 41.4 At an enquiry conducted under this rule the respondent -
- 41.4.1 may be present at the hearing of the proceedings; provided that if the respondent is not so present, the hearing may proceed in his or her absence if the committee is satisfied that the notice of the enquiry has been received by the respondent;
  - 41.4.2 may be assisted or represented by another person or by a legal practitioner in conducting his or her defence;
  - 41.4.3 has the right to be heard;
  - 41.4.4 may call witnesses;
  - 41.4.5 may cross-examine any person called as a witness in support of the charge; and
  - 41.4.6 may have access to any book, document or object produced in evidence;

- 41.5 A respondent appearing at an enquiry -
- 41.5.1 may admit at any time before a conviction that he or she is guilty of the charge; and
- 41.5.2 may, in the case where he or she makes an admission of guilt, be deemed to be guilty of misconduct as charged.
- 41.6 The complainant in the matter shall be entitled to be present during all proceedings in the disciplinary enquiry relating to his or her complaint in the same manner as a complainant in criminal proceedings.
- 41.7 The Council may appoint a practising attorney or advocate, or an employee who is admitted as an attorney or advocate, to act as a pro forma prosecutor in the leading of evidence against, and the presentation of the case against, the respondent at the enquiry, and to examine and cross-examine witnesses.
- 41.8 The duties, functions and powers of the disciplinary committee relating to the conduct of an enquiry shall be the following, namely:
- 41.8.1 to determine through its chairperson and, subject always to the provision of these rules and to the Act, the manner in which the enquiry shall be conducted;
- 41.8.2 to exercise the powers vested in the Council in terms of the Act in relation to its disciplinary functions;
- 41.8.3 to dispense with any requirements regarding summonses, notices, affidavits, documents, service or times in any case where it appears to be just to do so, or to extend the time for doing anything in connection with the conduct of the enquiry;
- 41.8.4 of its own accord, or upon the application of any affected person, to adjourn the enquiry upon such terms as to costs or otherwise as it deems fit;
- 41.8.5 to cause the proceedings at the enquiry to be recorded in such a manner as shall enable a true and correct record of such proceedings to be available, and to procure that each of its decisions shall be recorded in writing, and shall be signed by the chairperson of the committee;

- 41.8.6 to procure that all decisions referred to in rule 41.8.5 shall be filed in the records of the Council;
- 41.8.7 of its own accord, to treat as a separate complaint of misconduct, any act or omission on the part of a respondent attending, or required to attend, an enquiry being conducted under these rules, where such act or omission is calculated to interfere with, or otherwise interferes with, its proper consideration, investigation and determination of the complaint for the subject matter of the enquiry, and to refer any such separate complaint to the Council for consideration and investigation in accordance with the provisions of these rules;
- 41.8.8 to exercise such ancillary powers as it shall consider reasonably necessary to enable it to discharge its duties, functions and powers under these rules;
- 41.8.9 to appoint a person or persons to assist it in the performance of its functions under these rules;
- 41.8.10 where any matter of procedure arises for which no provision is made in these rules, to determine through its chairperson in his or her discretion what procedure shall be followed.

## 42. **Subpoena**

A subpoena issued by the disciplinary committee in terms of section 39(3) of the Act-

- 42.1 shall be in the form of Schedule 4 to these rules;
- 42.2 shall be signed by the chairperson of the committee or, in the absence of the chairperson, any member of the committee; and
- 42.3 shall be served on the person concerned personally.

## 43. **Proceedings after disciplinary hearing, and sanctions**

- 43.1 After the conclusion of the hearing the disciplinary committee must, within 30 days, decide whether or not the respondent is guilty of misconduct.

- 43.2 If the disciplinary committee finds that the respondent is guilty of misconduct it must -
- 43.2.1 inform the respondent and the Council and the Provincial Council concerned of the finding; and
  - 43.2.2 inform the respondent of the right of appeal as provided for in terms of section 41 of the Act;
- 43.3 A respondent found guilty of misconduct may -
- 43.3.1 address the disciplinary committee in mitigation of sentence; and
  - 43.3.2 call witnesses to give evidence on his or her behalf in mitigation of sentence.
- 43.4 If the disciplinary committee finds the respondent guilty of misconduct it may call witnesses to give evidence in aggravation of sentence and may-
- 43.4.1 in the case of a legal practitioner:
    - 43.4.1.1 order him or her to pay compensation, with or without interest, to the complainant, which order is subject to confirmation by an order of any court having jurisdiction in the circumstances in the prescribed manner, on application by the Council;
    - 43.4.1.2 impose upon him or her a fine, payable to the Council, not exceeding the amount determined from time to time by the Minister by notice in the *Gazette*, on the advice of the Council;
    - 43.4.1.3 temporarily suspend him or her from practising or from engaging in any particular aspects of the practice of law, pending the finalisation of an application referred to in rule 43.4.1.4;
    - 43.4.1.4 advise the Council to apply to the High Court for -
      - 43.4.1.4.1 an order striking his or her name from the roll;
      - 43.4.1.4.2 an order suspending him or her from practice;
      - 43.4.1.4.3 an interdict prohibiting him or her from dealing with trust money; or

- 43.4.1.4.4 any other appropriate relief;
- 43.4.1.5 advise the Council to amend or endorse his or her enrolment;
- 43.4.1.6 order that his or her Fidelity Fund certificate be withdrawn, where applicable;
- 43.4.1.7 warn him or her against certain conduct and order that such warning be endorsed against his or her enrolment; or
- 43.4.1.8 caution or reprimand him or her;
- 43.4.2 in the case of a juristic entity:
- 43.4.2.1 order it to pay compensation, with or without interest, to the complainant, which order is subject to confirmation by an order of any court having jurisdiction in the circumstances in a prescribed manner on application by the Council;
- 43.4.2.2 impose upon it a fine, payable to the Council, not exceeding the amount determined from time to time by the Minister by notice in the *Gazette*, on the advice of the Council;
- 43.4.2.3 warn it against certain conduct;
- 43.4.2.4 advise the Council to apply to the High Court for the winding up of the juristic entity; or
- 43.4.2.5 caution or reprimand the juristic entity;
- 43.4.3 in the case of a candidate legal practitioner:
- 43.4.3.1 cancel or suspend his or her practical vocational training;
- 43.4.3.2 impose upon him or her a fine, payable to the Council, not exceeding the amount determined from time to time by the Minister by notice in the *Gazette*, on the advice of the Council; or
- 43.4.3.3 caution or reprimand him or her.
- 43.5 The disciplinary committee may -

- 43.5.1 impose any combination of the sanctions in rules 43.4.1, 43.4.2 or 43.4.3; and
- 43.5.2 postpone the taking of any steps or suspend the imposition of any sanction on such conditions as it may determine;
- 43.5.3 in addition to the sanctions referred to in rule 43.4, order the respondent to pay the cost of the investigation or of the disciplinary hearing.
- 43.6 If the respondent fails to comply with any conditions determined by the disciplinary committee, the committee may impose a sanction for non-compliance or may execute the sanction which was originally imposed, unless the respondent satisfies the disciplinary committee that the non-compliance was due to circumstances beyond his or her or its control, in which case the disciplinary committee may impose such further conditions as it deems fit.
- 43.7 At the conclusion of a disciplinary hearing -
- 43.7.1 the disciplinary committee must notify the complainant, the respondent, the Council and the Provincial Council in writing of the outcome of the hearing ;
- 43.7.2 if the disciplinary committee has found the respondent not guilty of misconduct it must inform the complainant of the right to appeal as provided for in terms of section 41 of the Act and of the time limit imposed by rule 44.2.
- 44. Appeal against conduct or finding of investigating committee or disciplinary committee**
- 44.1 Subject to section 43 of the Act, a respondent may, within thirty days of being informed of the decision of a disciplinary committee, lodge an appeal with the appeal tribunal against the finding of the disciplinary committee or against the sanction imposed by the disciplinary committee, or both.
- 44.2 A complainant who is aggrieved by -
- 44.2.1 the manner in which an investigating committee conducted its investigation, or the outcome of the investigating committee; or
- 44.2.2 the outcome of a disciplinary enquiry.

may lodge an appeal with the appeal tribunal, within thirty days of being informed on the decision of the investigating committee or the disciplinary committee, as the case may be, against the conduct or finding of the investigating committee or the disciplinary committee, as the case may be.

44.3 The appeal referred to in rule 44.1 or 44.2 shall be by notice of appeal in writing, addressed to the Council, setting out -

44.3.1 in the case of an appeal by the respondent:

44.3.1.1 whether the appeal is against the finding of misconduct by the disciplinary committee, or against the sanction imposed, or both; and

44.3.1.2 the grounds of appeal in detail;

44.3.2 in the case of an appeal by the complainant:

44.3.2.1 whether the appeal is against the manner in which the investigating committee or the disciplinary committee, as the case may be, conducted the investigation or the hearing; and/or

44.3.2.2 whether the appeal is against the decision of the investigating committee or the disciplinary committee, as the case may be; and

44.3.2.3 the grounds of appeal in detail.

44.4 The Council shall forward a copy of the notice of appeal referred to in rules 44.3.1 or 44.3.2 to the complainant or to the respondent, as the case may be, and shall call upon the complainant or the respondent, as the case may be, to respond in writing to the notice of appeal within thirty days, or within such longer period as the Council may determine.

44.5 On receipt of the response from the complainant or the respondent, as the case may be, in terms of rule 44.4 the Council must forward the notice of appeal and the response to the appeal tribunal. If no response is received from the complainant or the respondent, as the case may be, the Council must send the copy of the notice of appeal to the appeal tribunal to be dealt with in accordance with these rules.

44.6 On receipt of the notice of appeal and, if applicable, the response to the notice of appeal the appeal tribunal shall advise the respondent and the complainant of

the place and date, being a date not less than ten days after the date of the notice, at which the appeal will be heard by the appeal tribunal.

44.7 At the hearing of the appeal the respondent and the complainant may be present and may be assisted or represented by another person or by a legal practitioner. The proceedings before the appeal tribunal shall be conducted in such manner as the appeal tribunal shall determine.

44.8 After the conclusion of the hearing before the appeal tribunal the appeal tribunal must, within thirty days:

44.8.1 decide whether or not the finding of the disciplinary committee should be confirmed or set aside; or

44.8.2 decide whether or not the sanction imposed on the respondent should be confirmed or set aside; provided that if the sanction imposed by the disciplinary committee is to be set aside the appeal tribunal may impose its own sanction in respect of the misconduct, which sanction imposed by the appeal tribunal may be one which is more severe than that imposed by the disciplinary committee; or

44.8.3 if it decides that the conduct of the investigating committee or the disciplinary committee was unlawful or unfairly prejudicial to the respondent or to the complainant, or was in any other respect irregular or not in accordance with natural justice, it may refer the matter back to the Council to be dealt with as a new complaint before a different investigating committee or disciplinary committee.

44.9 At the conclusion of the hearing before the appeal tribunal the appeal tribunal must notify the respondent, the complainant, the Council and the Provincial Council in writing of the outcome of the appeal.

44.10 If a respondent who has been found guilty of misconduct lodges an appeal in terms of rule 44.1 the decision of the disciplinary committee may not be enforced before the appeal tribunal has decided the appeal.

44.11 **Publication**

The Council shall cause particulars of all disciplinary hearings, including the particulars of:

- 44.11.1 the allegations of misconduct dealt with;
- 44.11.2 the members of the disciplinary committee in question;
- 44.11.3 the respondent involved in the dispute; and
- 44.11.4 the outcome of the hearings and any sanction imposed, if applicable

to be published on the website of the Council, to be updated at least once every month, and to be available for inspection by members of the public during business hours of the Council and of the relevant Provincial Councils.

**45. Manner and form in which complaints of misconduct must be lodged with the Council**  
**[section 109(2)(a)(vi)]**

- 45.1 A person wishing to lodge a complaint of misconduct against a legal practitioner, a candidate legal practitioner or a juristic entity must lodge the complaint in writing with the Council.
- 45.2 The complaint must be substantially in the form of Schedule 5 of these rules, must be signed by the complainant, and must be lodged with the Council; provided that the Council may in appropriate circumstances require that the complaint be lodged in a different format.
- 45.3 The Council, or a person to whom the function may be assigned by the Council, shall be entitled to dispense with the requirements of this rule in any specific case if in his or her view it is appropriate, and in the interests of justice, that the requirements of the rule be dispensed with.
- 45.4 The failure of a complainant to comply with the provisions of this rule shall not prevent the Council from exercising its powers to enquire into the conduct of a legal practitioner, a candidate legal practitioner or a juristic entity even in the absence of a formal complaint by a complainant.
- 45.5 The Council may require a complainant to provide, on affidavit, such further particulars in relation to any aspect of the complaint as it deems necessary.

## **PART XI**

### **Legal Practitioners' Fidelity Fund**

**46. Procedure for election of legal practitioners to the Board  
[section 95(1)(zJ) read with section 62(1)(a)]**

46.1 Four members shall be elected to the Board from among, and by, the practising legal practitioners who are in good standing and who have their principal place of business as such in the following geographical areas:

46.1.1 one member from the area corresponding with the area under the jurisdiction of the Gauteng division of the High Court of South Africa;

46.1.2 one member each from the areas corresponding with the areas under the jurisdiction of the Western Cape provincial division of the High Court of South Africa and the Northern Cape division of the High Court of South Africa;

46.1.3 one member each from the areas corresponding with the areas under the jurisdiction of the Free State division of the High Court of South Africa, the North West division of the High Court of South Africa and the Limpopo division of the High Court of South Africa;

46.1.4 one member each from the areas corresponding with the areas under the jurisdiction of the KwaZulu-Natal division of the High Court of South Africa and the Eastern Cape division of the High Court of South Africa.

46.2 One member shall be elected to the Board from among the practising advocates referred to in section 34(2)(b) who are in good standing, by all the practising legal practitioners in the Republic who are in good standing.

46.3 Whenever a vacancy occurs in the Board in respect of –

46.3.1 a member elected from among the legal practitioners having their principal places of business in the areas referred to in rule 46.1 respectively; or

46.3.2 the member elected to the Board from among the advocates referred to in section 34(2)(b) of the Act

the Council shall call for nominations from among the legal practitioners of the respective province or provinces and who are on the practising roll, or in the case of members of the Board referred to in rule 46.2, from among all legal practitioners who are on the practising roll, as the case may be, by notice in the *Gazette* and on the Council's website, and in such other publication as may be

appropriate, allowing 21 days from the date of the notice to the date on which nominations are to be submitted, and stating that nominations are to be made in writing in accordance with these rules.

- 46.4 A nomination may only be made –
- 46.4.1 in the case of a nomination in respect of a vacancy referred to in rule 46.3.1, by a practising legal practitioner in good standing and having his or her principal place of business in the province concerned; and
- 46.4.2 in the case of a nomination in respect of a vacancy referred to in rule 46.3.2, by a practising legal practitioner in good standing.
- 46.5 Every nomination shall be in writing, shall be signed by the person making it and shall –
- 46.5.1 in the case of a nomination by an attorney, state the name of that attorney, his or her date of admission as an attorney and the address of that attorney's principal place of business; and
- 46.5.2 in the case of an advocate, state the name of the advocate, his or her date of admission as an advocate and the address at which such advocate keeps chambers.
- 46.6 Every nomination shall be accompanied by –
- 46.6.1 written acceptance of the practising attorney or practising advocate being nominated, duly signed by the said attorney or advocate, and providing such details relating to the said attorney or advocate as is required from the attorney or advocate making the nomination in terms of rule 46.5; and
- 46.6.2 a comprehensive *curriculum vitae* of the person being nominated, in not more than 600 words and in such format as the Council may require, containing at least the following information:
- 46.6.2.1 his or her name;
- 46.6.2.2 in the case of an attorney, the name of the firm of which he or she is a proprietor or a member or by which he or she is employed, stating also the status of that attorney within the firm;

- 46.6.2.3 in the case of an advocate, whether or not he or she renders legal services in terms of section 34(2)(a)(ii) of the Act, and whether or not he or she has the status of a Senior Counsel;
- 46.6.2.4 his or her race, gender, date of admission and enrolment, and period in practice;
- 46.6.2.5 if he or she suffers from a disability, a statement to that effect and the nature of the disability;
- 46.6.2.6 the address of his or her principal place of practice
- and on which shall be endorsed, over the signature of each nominee named therein, his or her confirmation that the information given therein is correct and that he or she is not disqualified from membership of the Board;
- 46.6.3 a certificate, issued by the Council not earlier than one month prior to the date of acceptance of nomination by the person accepting nomination, that he or she is admitted and enrolled as a legal practitioner and is in good standing.
- 46.7 Upon receipt of a nomination, the Council shall make every effort to verify the information provided in the *curriculum vitae* that accompanied such nomination.
- 46.8 Within 30 days after the closing date for nominations, the Council shall publish a list of all the persons duly nominated and who have duly accepted such nomination, by notice in the *Gazette* and in such other publications as may be appropriate: provided that the Council may refuse to include the name of any person who has been nominated in respect of whom the Council has reason to believe that the information provided in the *curriculum vitae* submitted by or on behalf of such person contains material details that are untrue, and any person whose name is so omitted shall be ineligible for election to the Board.
- 46.9 A notice referred to in rule 46.8 -
- 46.9.1 shall invite the submission of a written communication from every legal practitioner eligible to vote for the election of the member or members concerned, in such format as the Council may determine, by which such practitioner exercises his or her right to vote;

- 46.9.2 shall draw the attention of legal practitioners to the following consideration in relation to the constitution of the Board:
- 46.9.2.1 the racial and gender composition of South Africa;
- 46.9.2.2 representation of persons with disabilities;
- 46.9.2.3 provincial representation.
- 46.10 Every such written communication shall be signed by its author and-
- 46.10.1 in the case of a communication from an attorney, state the name of his or her practice and the address of that attorney's principal place of business; and
- 46.10.2 in the case of a communication from an advocate, specify the date of admission of the advocate concerned and the address at which such advocate keeps chambers.
- 46.11 Upon the expiry of 21 days from the date of the notice in the *Gazette*, referred to in rule 46.8, the Council shall, at a formal special meeting, tally all the votes received in writing by hand delivery, facsimile transmission, ordinary mail or electronic mail in respect of each person duly nominated, and shall determine the names of the persons in favour of whom the most such votes have been cast in order to fill the number of vacancies on the Board which are required to be filled.
- 46.12 Having made such a determination, the Council shall at such meeting declare such person or persons duly elected.
- 46.13 The Council shall within 7 days of having made such a declaration, by notice in the *Gazette*, publish the name of the person or persons so elected.

**47. Application for Fidelity Fund certificates  
[section 95(1)(zK) read with section 85(1)(a)]**

- 47.1 The Council shall, not later than the last day of September in every year, send to every legal practitioner who is obliged in terms of section 84(1) of the Act to be in possession of a Fidelity Fund certificate, by electronic on-line submission to that legal practitioner's electronic mail address (or by pre-paid post to the postal address of that legal practitioner, or by delivery to that legal practitioner's business address, where the legal practitioner has not provided the Council with

an email address) an application form or a notice to apply for a Fidelity Fund certificate in respect of the year following. The application form shall also be published on the Council's website. The Council shall enclose with such application form or notice a statement setting out the liability, if any, of the legal practitioner concerned in respect of his or her subscription or other amounts due to the Council, including, but not limited to, the contribution to the Fund in respect of the cost of group professional indemnity insurance arranged by the Board pursuant to the provisions of section 77(2) of the Act and any other non-refundable amount as may be fixed by the Board from time to time in terms of section 74(1)(a) of the Act.

- 47.2 The application form, or electronic on-line submission format for a Fidelity Fund certificate shall, as nearly as circumstances will permit, be in the form set out in rule 49.
- 47.3 Every legal practitioner who is obliged in terms of section 84(1) of the Act to be in possession of a Fidelity Fund certificate shall sign, or confirm through the electronic on-line submission, the application form relevant to him or her and shall truly, accurately and completely set out the information and particulars provided for in the form, and shall submit the duly completed application form by electronic on-line submission (or where the legal practitioner does not have an email facility, by hand delivery or by other means acceptable to the Council) to the Council not later than the first day of December of the same year in which it was sent.
- 47.4 The failure on the part of a legal practitioner to receive an application form, or notice to apply for a Fidelity Fund certificate, and the statement of liability, or the failure of the Council to make publication on the Council's website, as required in terms of rule 47.1, shall not relieve the legal practitioner of his or her obligation to make an application as required by section 85(1) of the Act.
- 47.5 The Council may from time to time require an applicant to furnish it with further and additional information and particulars in respect of any application before it issues a Fidelity Fund certificate, and neither the Council nor the Board shall incur any liability in respect of any penalty incurred or loss sustained by the applicant due to any delay in issuing such a certificate if such delay was caused by the applicant's failure to furnish such information or particulars.

47.6 A Fidelity Fund certificate shall be in the form of Schedule 6A (in the case of attorneys) and Schedule 6B (in the case of advocates referred to in section 34(2)(b) of the Act) to this rule and shall be signed by an authorised official on behalf of the Council, and the production of such a certificate purporting to be so signed shall be *prima facie* evidence of its contents.

47.7 Every such application shall be accompanied by –

47.7.1 in the case of an applicant who, for the first time, is required to be in possession of a Fidelity Fund certificate, proof that the applicant has completed a legal practice management course referred to in section 85(1)(b) of the Act, failing which a Fidelity Fund certificate will not be issued to him or her until he or she has completed the course;

47.7.2 in the case of a legal practitioner other than one referred to in rule 47.7.1, the certificate of an auditor in respect of an audit of his or her trust accounts that had been performed for the year ended immediately prior to the application.

**48. Contributions payable by applicants for Fidelity Fund certificates  
[section 95(1)(zM) read with section 85(2)]**

The contribution payable by the applicant for a Fidelity Fund certificate shall be in the amount determined by the Council from time to time, in consultation with the Board, in accordance with sections 85(3) and 85(4) of the Act, and as notified by the Council in the *Gazette* and on the Council's website.

**49. Form of application for Fidelity Fund certificate  
[section 95(1)(zN)]**

The application form for a Fidelity Fund certificate, referred to in rule 47.2 shall, in the case of attorneys, be as nearly as circumstances will permit in the form set out in Schedule 7A to these rules, and in the case of advocates referred to in section 34(2)(b) of the Act, be as nearly as circumstances will permit in the form set out in Schedule 7B to these rules.

**50. Inspections of accounting records**

**50.1 Authority to conduct inspections**

50.1.1 The Board may at any time, itself or through its nominee, or through a nominee of the Council acting on behalf of the Board, and at its own cost

and on its own initiative, inspect the accounting records of any trust account practice in order to satisfy itself that the provisions of sections 86 and 87 of the Act, and the accounting rules issued by the Council, are being complied with.

- 50.1.2 If on an inspection it is found that any of the provisions of sections 86 or 87, or the accounting rules, have not been complied with, the Board may write up the accounting records of the trust account practice and recover the costs of the inspection and the writing up of the accounting records from the trust account practice concerned..

## 50.2 **Inspections**

- 50.2.1 The Board may appoint any person in the service of the Board, or any other suitably qualified person, as an inspector to carry out inspections in terms of these rules.

- 50.2.2 The Board may determine the remuneration to be paid to a person who is appointed in terms of rule 50.2.1 and who is not in the full time service of the Board.

## 50.3 **Certificate of appointment**

- 50.3.1 The Board must issue an inspector contemplated in rule 54.2 (whether a person in the full time service of the Board or any other suitably qualified person) with a certificate of appointment signed by the chief executive officer of the Board, which certificate of appointment must specify -

50.3.1.1 the full name of the person so appointed;

50.3.1.2 his or her identity number;

50.3.1.3 his or her signature;

50.3.1.4 a description of the capacity in which he or she is appointed; and

50.3.1.5 the extent of his or her powers to inspect.

- 50.3.2 When an inspector undertakes an inspection in terms of these rules the inspector must -

50.3.2.1 be in possession of a certificate of appointment issued in terms of rule 50.3.1; and

50.3.2.2 on request, show that certificate to any person who is affected by the performance of the functions of the inspector, or is in charge of any premises or firm to be inspected.

#### 50.4 **Conduct of inspections**

50.4.1 In carrying out the Board's functions in terms of these rules an inspector may at any reasonable time, and on reasonable notice where appropriate, enter and inspect any premises at which the Board reasonably believes that a trust account practice is being conducted.

50.4.2 In conducting such an inspection an inspector may -

50.4.2.1 in writing direct a person to appear for questioning before the inspector at a time and place determined by the inspector;

50.4.2.2 order any person who has or had any document in his, her or its possession or under his, her or its control relating to the accounting records of the firm to produce that document or to furnish the inspector, at the place and in a manner determined by the inspector, with information in respect of that document;

50.4.2.3 require reasonable assistance from any person on the premises to use any computer system on the premises, to access any data contained in or available to that computer system, and to reproduce any document from that data;

50.4.2.4 examine or make extracts from, or copy, any document in the possession of the firm or any other person which is relevant to the inspection or, against the issue of a receipt, remove that document temporarily for that purpose; and

50.4.2.5 against the issue of a receipt, seize any document obtained in terms of 50.4.2.3 to 50.4.2.5 which, in the opinion of the inspector, may constitute evidence of non-compliance with the provisions of sections 86 and 87 of the Act or of the rules.

- 50.4.3 A firm to whom this Act applies must, without delay, provide reasonable assistance to an inspector acting in terms of rule 50.4.
- 50.4.4 No warrant is required for the purposes of an inspection in terms of these rules.
- 50.4.5 An inspector may at any time request the firm to provide to the Board such additional information or documentation relating to the subject matter of the inspection.
- 50.5 **The inspection procedure**
- 50.5.1 The procedure for an inspection will be determined on a case-by-case basis by the inspector.
- 50.5.2 An inspection may be conducted by one or more inspectors. Where more than one inspector is engaged in an inspection, one of the inspectors will be designated as the lead inspector who will take overall responsibility for the conduct of the inspection.
- 50.5.3 Any request for the firm to produce documentation for purposes of inspection must be in writing, unless the purpose of the inspection, in the reasonable opinion of the inspector, would be frustrated by the giving of notice.
- 50.5.4 All inspections must be conducted so as to cause as little inconvenience and disruption to the firm and its staff as possible.
- 50.5.5 The inspection should be conducted only during normal business hours, unless the inspector reasonably considers that the conducting of an inspection at any other time is necessary on the grounds of urgency or expediency.
- 50.5.6 Not less than seven days' notice in writing shall be given to the firm of any inspection; provided that where the inspector has a reasonable suspicion that there has been a contravention of the Act or of the Council rules, or that the purpose of the inspection may be frustrated by the giving of notice, the inspection may be conducted without notice.
- 50.5.7 Only the inspector, and such other officials of the Board as may be reasonably necessary to carry out the inspection, should enter the

premises of the firm during the course of the inspection. The person in charge of the firm, or a person nominated by him or her, shall be entitled to be present and to observe all aspects of the inspection, but the failure of that person to be present at the inspection shall not prevent the inspector from proceeding with the inspection.

- 50.5.8 If an inspector, after having identified himself or herself and declared his or her official capacity and the purpose for requiring admission to the premises of the firm and having complied with any other reasonable requirements, is not immediately given admission to the premises or access to documentation relating to the firm's accounting records, the Board may apply to court for an order that the inspector be admitted to the premises to enable the inspection to be carried out.
- 50.5.9 The firm which is the subject of the inspection shall make such facilities available to the inspector as may reasonably be required for the purpose of conducting the inspection.
- 50.5.10 Any request for information or documentation which is not immediately available for inspection must be in writing and must allow the firm a reasonable time to comply with the request. Any such request -
- 50.5.10.1 must describe with reasonable particularity each item or category of items to be inspected;
- 50.5.10.2 must specify a reasonable time, place and manner for inspection and for performing any related acts; and
- 50.5.10.3 in the case of electronically stored information, must specify the form in which that information is to be produced.
- 50.5.11 If the firm which is the subject of an inspection objects to making disclosure of documentation or information which is called for by the inspector, the firm must set out its objection in writing, with detailed grounds of the objection, and the matter shall be determined by the executive officer of the Board.
- 50.5.12 Unless otherwise stipulated or ordered by a court, the following procedures shall apply to producing documents or electronically stored information:

- 50.5.12.1 the firm must produce documents as they are kept in the normal and ordinary course of business, or must otherwise organise and label the documents to correspond to the categories in the request;
- 50.5.12.2 if the request for information does not specify a form for producing electronically stored information, the firm must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form; and
- 50.5.12.3 the firm may not be required to produce the same electronically stored information in more than one form.
- 50.5.13 The Board may request the firm which is subject to the inspection to complete a pre-inspection questionnaire to allow for more efficient planning and conducting of the inspection.
- 50.5.14 At the conclusion of the inspection the inspector must prepare a report to the Board on the findings of the inspection, a copy of which report must be made available to the firm which was subject to the inspection. If the firm objects to any of the findings in the report it must do so in writing to the Board, outlining the basis of the objection. The Board shall consider the objections and shall take such further action in relation thereto as the Board considers appropriate.
- 50.5.15 The Board may in its discretion refer the inspection report to the Council for consideration. The firm which is the subject of the report shall be notified of such referral.
- 50.5.16 Any report of an inspection may, if appropriate, be used in disciplinary or criminal proceedings which may be brought against members of the firm.
- 50.6 **Duty to cooperate**
- 50.6.1 Every firm, and every partner or director of the firm, and every trust account advocate, must cooperate with the Board in the performance of any inspection in terms of these rules. Without limiting the generality of this provision, cooperation shall include cooperating with and complying with any lawful request, made in pursuance of the Board's authority and responsibilities under the Act -

- 50.6.1.1 to provide access to, and the ability to copy, any accounting record in the possession, custody or control of the firm or of that person; and
- 50.6.1.2 provide information by oral interviews, written responses or otherwise.
- 50.6.1.3 any person who refuses or fails to produce a book, document or any article for purposes of an inspection, or obstructs or hinders any person in the performance of his or her functions in conducting the investigation, shall be guilty of an offence.
- 50.6.2 The Board will not be liable for any costs incurred by the firm arising out of an inspection in terms of these rules, otherwise than in exceptional circumstances.

## 50.7 **Confidentiality**

Subject to any other law, any person who performs any function under these rules may not disclose any information which he or she obtained in the performance of that function except -

- 50.7.1 for the purposes of an inspection or hearing by a disciplinary body of the Council;
- 50.7.2 to any person authorised thereto by the Board or the Council who of necessity requires it for the performance of his or her functions under the Act or these rules;
- 50.7.3 if he or she is a person who of necessity supplies it in the performance of his or her functions under the Act or under these rules;
- 50.7.4 when required to do so by order of a court of law;
- 50.7.5 at the written request of the Legal Services Ombud for the Republic; or
- 50.7.6 at the written request of the National Prosecuting Authority or any competent authority which requires it for the institution of an investigation with a view to the institution of any criminal prosecution.

**50.8 Obligations to provide information and documentation not affected by confidentiality rules**

Subject to the provisions of any other law relating to legal professional privilege a firm, or the person in charge of the firm, or any person nominated by him or her, may not refuse to produce any book, document or article required for purposes of an inspection under these rules, even though he or she is of the opinion that it contains confidential information belonging to or concerning his or her client.

**51. Contributions to the fund: insurance premiums**

51.1 Every attorney who is required to be in possession of a Fidelity Fund certificate, and every advocate contemplated in section 34(2)(b) of the Act, shall pay annually to the Council, on behalf of the Fund, such amount as the Board shall determine as a contribution to the Fund towards the cost of the premiums payable by the Fund in respect of contracts of insurance entered into in terms of section 77 of the Act.

51.2 The annual contributions payable in terms of rule 51.1 shall be payable by not later than 30 November in every year commencing in the year to be determined by the Board; provided that any practitioner enrolled after 30 June in any year shall pay only one-half of the annual fee for the year then current, payable within thirty days of enrolment.

51.3 The Board shall, not later than the last day of September in every year, cause to be sent to every legal practitioner who is obliged in terms of section 84(1) of the Act to be in possession of a Fidelity Fund certificate, by electronic on-line transmission to that legal practitioner's electronic mail address (or by pre-paid post to the postal address of that legal practitioner, or by delivery to that legal practitioner's business address, where the legal practitioner has not provided the Council with an email address) an invoice in respect of the contribution to be made by the legal practitioner in respect of the year following.

51.4 The failure on the part of a legal practitioner to receive an invoice in respect of the contribution shall not relieve the legal practitioner of his or her obligation to make payment of the contribution as required by rule 51.1.

**52. Issuing and costs of Fidelity Fund certificate**

- 52.1 Subject to the payment of all contributions payable by a legal practitioner for the issue of a Fidelity Fund certificate, as required by rule 51.1, and upon receipt of the costs payable to the Council for the issue of the Fidelity Fund certificate, as determined from time to time by the Council in consultation with the Board, and as notified by the Council in the *Gazette*, and subject to the Council's being satisfied as to the matters dealt with in the application for the Fidelity Fund certificate, the Council shall issue a Fidelity Fund certificate to the applicant.
- 52.2 A Fidelity Fund certificate shall be in the form of Schedule 6A to these rules (in the case of attorneys) and Schedule 6B to these rules (in the case of advocates referred to in section 34(2)(b) of the Act), and shall be signed by an authorised official on behalf of the Council, and the production of such a certificate purporting to be so signed shall be prima facie evidence of its contents.

**53. Procedure for the appointment of the executive officer and other employees**

- 53.1 The Board must appoint an executive officer to carry out the functions referred to in section 63(2) of the Act, and such other employees as it deems necessary to assist the executive officer.
- 53.2 The procedure for the appointment of the executive officer shall be as follows:
- 53.2.1 the Board shall advertise the vacancy for an executive officer in an open and transparent manner;
- 53.2.2 the advertisement shall state the criteria to be considered by the Board in appointing the executive officer;
- 53.2.3 the advertisement calling for applications shall state the date by which applications should be received, and shall include a statement that applications received after that date will not be considered;
- 53.2.4 after the closing date the Board, or a committee of the Board established for that purpose, shall review the applications and arrange to interview those of the applicants which the Board or the committee, as the case may be, considers to be suitable for the position of executive officer; provided that if the Board or the committee, as the case may be, considers that none of the applicants is suitable for the position the Board shall again

advertise for the vacancy, and the provisions of rules 53.2.1 to 53.2.4 shall again apply.

53.2.5 If, after following the procedure referred to in this rule 53.2, the Board appoints a candidate to fill the office of executive officer it shall enter into a written agreement with the individual setting out the terms and conditions of the appointment.

53.3 Notwithstanding the provisions of rule 53.2, the Board may, if it considers that it would be appropriate to do so in the circumstances, adopt generally accepted human resources processes and policies for the appointment of the executive officer, including, but not limited to, the engagement of executive placement entities to approach individuals who might be suitable for the position

53.4 The procedure for the appointment of other employees of the Board shall be determined by the Board.

53.5 The need for the staff of the Board to reflect -

53.5.1 the racial and gender composition of South Africa; and

53.5.2 representation of persons with disabilities

must as far as practicable be considered when the executive officer and other employees of the Board are appointed.

53.6 The Board must determine the conditions of service of the executive officer and other employees of the Board.

## **PART XII**

### **54. Accounting Rules**

54.1 Part XII of the rules applies only to legal practitioners conducting a trust account practice.

54.2 If a firm at any time administers and controls its practice as a whole from premises in two or more buildings which, in the opinion of the Council, do not constitute such a single composite entity as is contemplated in the definition of 'main office' in rule 1, the Council may require the firm to declare to it in writing, within a time stipulated by the Council, which one or more of those buildings as may constitute such an entity contains or contain its main office, and thereafter

that firm shall administer and control its practice as a whole from the premises so declared.

54.3 The Council may make such enquiry as it deems fit, including inspection of the premises concerned, and the firm concerned shall furnish the Council with such information and render such assistance as it may require to enable it to form an opinion in terms of accounting rule 54.2.

54.4 A declaration made by a firm under accounting rule 54.2 shall remain effective until such time as the firm:

54.4.1 moves its main office from the premises which are the subject of the declaration; or

54.4.2 makes a declaration in terms of accounting rule 54.2 in respect of other premises.

54.5 Should a firm fail to make a declaration under accounting rule 54.2 within the time stipulated by the Council, the Council may by notice in writing to the firm determine which of the premises concerned constitutes its main office, whereupon the remaining provisions of accounting rules 54.2, 54.3 and 54.4 shall apply as though those premises had been so declared by the firm.

#### **Accounting Requirements - General**

54.6 A firm shall keep in an official language of the Republic such accounting records, which record both business account transactions and trust account transactions, as are necessary to enable the firm to satisfy its obligations in terms of the Act, these rules and any other law with respect to the preparation of financial statements that present fairly and in accordance with an acceptable financial reporting framework in South Africa the state of affairs and business of the firm and to explain the transactions and financial position of the firm including, without derogation from the generality of this rule:

54.6.1 records showing all assets and liabilities as required in terms of sections 87 of the Act;

54.6.2 records containing entries from day to day of all monies received and paid by it on its own account, as required by sections 87(1) and 87(3) of the Act;

54.6.3 records containing particulars and information of:

- 54.6.3.1 all monies received, held and paid by it for and on account of any person;
- 54.6.3.2 all monies invested by it in terms of section 86(3) or section 86(4) of the Act;
- 54.6.3.3 any interest referred to in section 86(5) of the Act which is paid over or credited to it;
- 54.6.3.4 any interest credited to or in respect of any separate trust savings.

#### **Acceptable financial reporting framework**

54.7 For purposes of these rules:

- 54.7.1 acceptable financial reporting frameworks which are to be recognised and applied are:
  - 54.7.1.1 "IFRS" being International Financial Reporting Standards as issued from time to time by the International Accounting Standards Board, or its successor body; and
  - 54.7.1.2 "IFRS for SMEs", being IFRS for Small and Medium Enterprises.
- 54.7.2 In determining what is meant by "acceptable financial reporting frameworks" regard shall be had, *inter alia*, to any rulings of the Council published to trust account practitioners with respect to specific additional disclosures required to be made in the financial statements or trust account Schedules.

#### **Distinguishing between trust account and business account transactions**

54.8 The accounting records shall distinguish in readily discernible form between business account transactions and trust account transactions.

#### **Retention of accounting records and files**

- 54.9 A firm shall retain its accounting records, and all files and documents relating to matters dealt with by the firm on behalf of clients:
  - 54.9.1 for at least seven years from the date of the last entry recorded in each particular book or other document of record or file;

- 54.9.2 save with the prior written consent of the Council, or when removed therefrom under other lawful authority, at no place other than its main office, a branch office or, in the case of electronic accounting records or files, the location at which such accounting records or files are ordinarily hosted; provided that:
- 54.9.2.1 in the case of electronic accounting records or files hosted offsite, such records or files shall always be reasonably secured and shall remain immediately accessible to authorised persons from the office of the firm, and to the Council; and
- 54.9.2.2 in the case of a branch office, only insofar as they relate to any part of its practice conducted at that branch office.
- 54.9.2.3 where the accounting records are required to be made available elsewhere than as provided for in this rule to enable an auditor or inspector to comply with the provisions of rule 54.24, the accounting records may be removed temporarily to the premises of the auditor or inspector, as the case may be, for that purpose, but shall be returned to the place referred to in rule 54.9.2 as soon as the accounting records have served that purpose.

#### **Updating accounting records**

- 54.10 A firm shall update and balance its accounting records monthly and shall be deemed to comply with this rule if, *inter alia*, its accounting records have been written up by the last day of the following month.

#### **Trust money to be kept separate from other money**

- 54.11 Trust money shall in no circumstances be deposited in or credited to a business banking account. Money other than trust money found in a trust banking account at any time shall be transferred to a business banking account without undue delay. A firm shall be deemed to have complied sufficiently with this rule if it:
- 54.11.1 makes transfers from its trust banking account to its business banking account at least once a month; and
- 54.11.2 ensures that, when making a transfer from its trust banking account to its business banking account:

- 54.11.2.1 the amount transferred is identifiable with, and does not exceed, the amount due to the firm;
- 54.11.2.2 the trust creditor from whose account the transfer is made is identified; and
- 54.11.2.3 the balance of any amount due to the firm remaining in its trust banking account is capable of identification with corresponding entries appearing in its trust ledger.

### **Accounting to clients**

- 54.12 Every firm shall, within a reasonable time after the performance or earlier termination of any mandate, account to its client in writing and retain a copy of each such account for not less than five years. Each account shall contain details of:
  - 54.12.1 all amounts received by it in connection with the matter concerned, appropriately explained;
  - 54.12.2 all disbursements and other payments made by it in connection with the matter;
  - 54.12.3 all fees and other charges charged to or raised against the client and, where any fee represents an agreed fee, a statement that such fee was agreed upon and the amount so agreed;
  - 54.12.4 the amount owing to or by the client.

### **Payment to clients**

- 54.13 A firm shall, unless otherwise instructed, pay any amount due to a client within a reasonable time. Prior to making any such payment the firm shall take adequate steps to verify the bank account details provided to it by the client for the payment of amounts due. Any subsequent changes to the bank account details must be similarly verified.
- 54.14 Accounting Requirements - Accounting Records
  - 54.14.1 A firm shall maintain its accounting records in terms of the Act and these rules.

- 54.14.2 A firm shall report to the Council forthwith, in writing, any loss, theft or destruction of any such records.
- 54.14.3 A firm shall, in the case of the accounting records being computerised, make monthly back-ups which shall be kept in a safe, fireproof place remote from the firm or, in the case of accounting records being in the form of manual books of account, by ensuring that, outside normal business hours, such records are kept in a safe place.
- 54.14.4 If the firm keeps any of its accounting records in electronic form, the firm shall:
- 54.14.4.1 provide adequate precautions against loss of the records as a result of damage to or failure of the media in which the records are maintained; and
- 54.14.4.2 ensure that the records are at all times capable of being retrieved to a readable and printable form, including by converting the records from legacy to later systems or software from time to time.
- 54.14.5 A firm shall, where the firm utilises electronic banking in respect of payments from the trust account, keep a proper audit trail, which shall include verification of the payee's banking account details.
- 54.14.6 The firm's accounting records shall not, save with the prior written consent of Council or under lawful authority, and except for electronic records in terms of accounting rule 54.14.3 and backups of computerised records, be maintained at any place other than its main office or branch office, but in the latter instance, only insofar as they relate to any part of its practice conducted at that branch.
- 54.14.7 A firm shall ensure:

**Internal controls**

- 54.14.7.1 that adequate internal controls are implemented to ensure compliance with these rules and to ensure that trust funds are safeguarded; and in particular to ensure -
- 54.14.7.1.1 that the design of the internal controls is appropriate to address identified risks;

- 54.14.7.1.2 that the internal controls have been implemented as designed;
- 54.14.7.1.3 that the internal controls which have been implemented operate effectively throughout the period ;
- 54.14.7.1.4 that the effective operation of the internal controls is monitored regularly by designated persons in the firm having the appropriate authority;

#### **Prompt depositing of trust monies**

- 54.14.7.2 that all money received by it on account of any person is deposited intact into its trust banking account on the date of its receipt or the first banking day following its receipt on which it might reasonably be expected that it would be banked; provided that a firm which does not deposit trust money into a banking product at his registered bank in South Africa with which the Fund has made an arrangement as contemplated in section 63(1)(g) of the Act without the prior written consent of the Council shall be guilty of misconduct; provided further that if any arrangement made by the Fund with a bank in terms of section 63(1)(g) is withdrawn or cancelled, the firm shall forthwith withdraw its trust funds from that bank with immediate effect, or on maturity of the investments concerned, as the case may be.

#### **Transfers from trust investment account**

- 54.14.7.3 unless the firm has received written authorisation for the payment of any guarantees issued by a bank on the strength of a trust investment, that any amount withdrawn by it from a trust investment account is deposited promptly by it in its trust banking account.

#### **Trust moneys not to be less than trust balances**

- 54.14.8 A firm shall ensure that the total amount of money in its trust banking account, trust investment account and trust cash at any date shall not be less than the total amount of the credit balances of the trust creditors shown in its accounting records.

#### **Trust accounts not to be in debit**

- 54.14.9 A firm shall ensure that no account of any trust creditor is in debit.

**Reports to Council of non-compliance**

- 54.14.10 A firm shall immediately report in writing to the Council should the total amount of money in its trust bank accounts and money held as trust cash be less than the total amount of credit balances of the trust creditors shown in its accounting records, together with a written explanation of the reason for the debit and proof of rectification.
- 54.14.11 A firm shall immediately report in writing to the Council should an account of any trust creditor be in debit, together with a written explanation of the reason for the debit and proof of rectification.

**Transfer from trust bank account to business bank account**

- 54.14.12 A firm shall employ and maintain a system to ensure that the requirements of these rules are not infringed when amounts are transferred from its trust banking account to its business banking account.

**Deposits on account of charges**

- 54.14.13 Amounts received by a firm in advance to cover a prospective liability for services rendered or to be rendered or for disbursements (including counsel's fees) to be made must be deposited forthwith to the credit of its trust banking account.

**Withdrawals from trust banking account**

- 54.14.14 Withdrawals from a firm's trust banking account shall be made only:
- 54.14.14.1 to or for a trust creditor; or
- 54.14.14.2 as transfers to the firm's business banking account, provided that such transfers shall be made only in respect of money due to the firm; and provided that no transfer from its trust banking account to its business banking account is made in respect of any disbursement (including counsel's fees) or fees of the firm unless:
- 54.14.14.2.1 the disbursements have actually been made and debited by the firm; or
- 54.14.14.2.2 a contractual obligation has arisen on the part of the firm to pay the disbursement; or

- 54.14.14.2.3 fees and disbursement have been correctly debited in its accounting records.

**Payments from trust banking account**

- 54.14.15.1 Any cheque drawn on a firm's trust banking account shall be made payable to or to the order of a payee specifically designated.
- 54.14.15.2 Payments from the trust banking account of a firm shall only be by cheque or electronic transfer.
- 54.14.15.3 No withdrawals from the trust banking account of a firm may be made by way of cellular and telephone transacting.

**Interest accrued on trust banking account**

- 54.14.16.1 Any interest referred to in section 86(5) of the Act which relates to a trust banking account opened in terms of section 86(2) of the Act which has accrued on money deposited during the course of a calendar month, shall be paid over to the Fund or its nominee on or before the last day of the next succeeding calendar month; provided that the Fund may, in its discretion, exempt a practitioner from this obligation.
- 54.14.16.2 Where exemption has been granted as contemplated in rule 54.14.16.1, any interest referred to in section 86(5) of the Act which relates to a trust banking account opened in terms of section 86(2) of the Act, accrued on monies deposited in respect of any period ending on the last day of February in each year shall, on or before the last day of May in that year, be paid to the Fund or its nominee.
- 54.14.16.3 Any interest referred to in section 86(5) of the Act which relates to an account opened in terms of section 86(3) of the Act accrued on money deposited in respect of any period ending on the last day of February in each year shall, on or before the last day of May in that year, be paid to the Fund or its nominee.
- 54.14.16.4 Any interest referred to in section 86(5) of the Act which relates to an account opened in terms of section 86(4) of the Act, accrued on money deposited during the course of a calendar month or on

maturity shall be paid over to the Fund or its nominee on or before the last day of the next succeeding calendar month.

- 54.14.16.5 A legal practitioner shall be guilty of misconduct if he or she fails to pay over, in accordance with this rule 54.14.16, any interest that vests in the Fund.

#### **Lists of balances**

- 54.15.1 Every firm shall extract monthly, and in a clearly legible manner, a list showing all persons on whose account money is held or has been received and the amount of all such moneys standing to the credit of each such person, who shall be identified therein by name, and shall total such list and compare the said total with the total of the balance standing to the credit of the firm's trust banking account, trust investment account and amounts held by it as trust cash, in the estates of deceased persons and other trust assets in order to ensure compliance with the accounting rules.
- 54.15.2 The balance listed in respect of each such account shall also be noted in some permanent, prominent and clear manner in the ledger account from which the balance was extracted.
- 54.15.3 Each such list shall be part of the accounting records of the firm to be retained for the five-year period referred to in accounting rule 54.9.

#### **Notification of trust banking account**

- 54.16 Every firm shall:
- 54.16.1 immediately notify the Council in writing of the name and address of the bank or banks at which its trust banking account or accounts are kept and shall thereafter notify the Council immediately of any change in the name and address of such bank or banks;
- 54.16.2 whenever so required by the Council, furnish to the Council within ten days or such longer period as the Council may stipulate, a signed statement issued by the bank or banks with which it keeps its trust banking account or accounts and a signed statement issued by the bank with which the firm keeps any trust investment account, certifying the amount of the balance of such trust banking account or accounts or trust investment account or accounts at such date or dates as may be specified by the Council.

**Trust account investments in terms of section 86(4)**

- 54.17 A firm which invests funds on behalf of any person shall, in addition to all other requirements applicable to the holding or investment of trust money:
- 54.17.1 not invest such funds other than in a trust savings or other interest-bearing account with a bank;
- 54.17.2 obtain that person's written confirmation of the investment as soon as is reasonably possible, or notify that person forthwith thereof in writing; and
- 54.17.3 forthwith cause the relevant trust savings or other interest-bearing account to be endorsed to the effect that it is an account opened in terms of Section 86(4) of the Act.
- 54.18 A firm shall not, in connection with any mandate which the firm has accepted to invest trust funds, agree or arrange to receive from a bank any commission, fee or other reward, without having disclosed, in writing, such commission, fee or reward to the person who has given the firm the mandate to invest.

**Responsibility for ensuring compliance**

- 54.19 Every partner of a firm, and every director of a juristic entity referred to in section 34(7) of the Act, and every advocate referred to in section 34(2)(b) of the Act, will be responsible for ensuring that the provisions of the Act and of those rules relating to trust accounts of the firm are complied with.

**Reporting Requirements**

- 54.20 A firm shall at its expense once in each calendar year or at such other times as the Council may require, appoint an auditor to discharge the duties assigned to the auditor in terms of these rules; provided that:
- 54.20.1 the Council may refuse to recognise the appointment by a firm of an auditor of whom the Council on good cause does not approve;
- 54.20.2 the Council may at any time, in its discretion and at its expense, appoint an auditor or a suitably qualified inspector to discharge those duties;
- 54.20.3 on the written application of a firm the Council may authorise the firm to appoint a person who in the opinion of the Council is suitably qualified as an inspector to perform the functions of an auditor in terms of these rules,

subject to such terms as the Council in its discretion may determine; provided that the mere appointment of a person who is not an auditor as an inspector in terms of this rule will not imply that that inspector is engaging in public practice or holding himself or herself out as a registered auditor in public practice..

- 54.21 A firm which commences practice for the first time shall, within six months of so commencing practice, furnish the Council with a report substantially in the form of the Eighth Schedule to these rules (or in such other form as the Council may determine after consultation with the Independent Regulatory Board for auditors) covering the first four months of that firm's practice.
- 54.22 A firm shall allow an auditor or inspector appointed under accounting rule 54.20 access to such of its records as the auditor or inspector may deem necessary to examine for the purposes of discharging his duties under accounting rule 54.24 and shall furnish the auditor or inspector with any authority which may be required to enable the auditor or inspector to obtain such information, certificates or other evidence as the auditor or inspector may reasonably require for such purposes.
- 54.23 A firm shall ensure that the report to be furnished by an auditor or inspector in terms of accounting rule 54.21 or 54.22 is furnished in its original format (which may include an electronic format specified by the Council) within the required time or on the required date; provided that on written application by a firm relating to a particular report the Council may, in its discretion and on such conditions as it may stipulate, condone a failure by that firm to comply with this requirement. The form of such report shall be obtained only from the Council, which shall issue it on request to any firm or to any auditor or inspector appointed in terms of accounting rule 54.20.
- 54.24 A firm shall ensure that every auditor or inspector who has accepted an appointment in terms of accounting rule 54.20 shall:
- 54.24.1 within six months of the annual closing of the accounting records of the firm concerned or at such other times as the Council may require and subject to any conditions that the Council may impose, furnish the Council with a report which shall be in the form of the Eighth Schedule to these rules or in such other form as the Council may determine after consultation with the Independent Regulatory Board for Auditors;

- 54.24.2 without delay report in writing directly to the Council if at any time during the discharge of his or her functions and duties under this rule:
- 54.24.2.1 it comes to his or her notice that at any date the total of the balances shown on trust accounts in the accounting records of the firm exceeded the total amount of the funds in its trust banking account, its trust investment account and held by it as trust cash;
- 54.24.2.2 any material queries regarding the firm's accounting records which the auditor or inspector has raised with the firm have not been dealt with to his satisfaction;
- 54.24.2.3 any reasonable request made by the auditor or inspector for access to the firm's records or for any authority referred to in accounting rule 54.24 has not been met to his or her satisfaction;
- 54.24.3 state in his or her report in terms of accounting rule 54.24.1 that to the best of his or her belief:
- 54.24.3.1 the firm has not, during the period under review, carried on the business of an investment practice; or
- 54.24.3.2 the firm has carried on the business of an investment practice and has complied with these rules.
- 54.25.1 The Council may reject a report in terms of accounting rule 54.24 from an auditor or inspector whose appointment the Council has refused to recognise, as provided in accounting rule 54.20.1, or which is not in the prescribed format.
- 54.25.2 A copy of the report on the prescribed form required under accounting rule 54.24.1 and any report made in terms of accounting rule 54.24.2 shall be sent by the auditor or inspector to the firm concerned.
- 54.26 Where the Council is satisfied that it is not practicable to obtain the services of an auditor or inspector for the issuing of a report as prescribed under accounting rule 54.24, it may in lieu thereof accept as compliance with the requirements of accounting rule 54.24 such other evidence as it may deem sufficient.

- 54.27 The Council may by notice to trust account practices amend the Schedule or the audit report form as may be required from time to time to report such information as may be required.
- 54.28 A firm is obliged to report in the relevant sections of the accounting rule 55 report the gross interest earned and the gross charges levied in respect of trust accounts in terms of sections 86(2) or 86(3) or 86(4) of the Act, even if no claim in respect of bank charges is to be made.
- 54.29 In order to qualify for the issue of a Fidelity Fund certificate, a trust account practitioner must ensure that an unqualified audit or inspector's report is issued in respect of any firm or firms of which he or she is or was a partner or director or sole practitioner during the financial period under review, and is delivered timeously to the Society.
- 54.30 Where the audit or inspector's report in respect of the trust account of the firm is qualified by the auditor or inspector, as the case may be, the firm shall provide the Council with such information as the Council may require to satisfy itself that the firm's trust account is in good order, that the trust account practitioner remains fit and proper to continue to practise and that Fidelity Fund certificates may be issued to the members of the firm.

#### **Closure of firm**

- 54.31 A trust account practitioner who practises for his or her own account and who intends to cease practising shall, before he or she so ceases to practice, provide the Council, in writing, with the following information:
- 54.31.1 notice of the trust account practitioner's intention to cease practising for his or her own account;
- 54.31.2 his or her future contact particulars, being his or her residential and business address, fax, e-mail and telephone details;
- 54.31.3 the steps to be taken to satisfy the Council that provision has been made for the effective winding up of his or her practice, both in respect of current files and archived files and in respect of accounting records;
- 54.31.4 the name, address and telephone number of his or her bookkeeper;

- 54.31.5 the status of the writing up of his or her accounting records by providing the Council with a copy of the latest trust reconciliation;
- 54.31.6 the name of the auditor or inspector who will be submitting the final audit report;
- 54.31.7 updated contact particulars if the trust account practitioner remains on the roll.
- 54.32 A trust account practitioner shall be required to submit, within three months of the date that such practitioner ceases to practise:
- 54.32.1 an audit or inspector's report for any period for which an audit or review is outstanding, up to date of closure of the trust banking account;
- 54.32.2 a final list of trust creditors as at the date on which the trust account practitioner ceased to practise;
- 54.32.3 confirmation from the auditor or inspector that all trust creditors have been paid;
- 54.32.4 in the event of trust creditors being taken over by another firm, a list of trust creditors, signed by the trust account practitioner, after the auditor or inspector confirms that that list is correct, and signed by or on behalf of the partners of the firm taking over the trust creditors, confirming that they accept liability for claims of the trust creditors listed and that they have received the funds;
- 54.32.5 a certificate of nil balance from the trust account practitioner's bank confirming that the trust banking account has been closed.
- 54.33 In the event of non-compliance with accounting rule 54.31 or 54.32, or if at any time the Council has reason to believe that adequate provision has not been made for the winding up of the practice or for the protection of the interests of clients' affairs, the Council may take such steps as it deems necessary to wind up the practice subject to the Council being entitled to recover the reasonable expenses incurred and reasonable compensation for work done in connection therewith from the trust account practitioner concerned.

**Opening of practice**

54.34 An office opened by a firm, which for the first time opens a practice within the jurisdiction of a Provincial Council, shall be designated as a main office of the firm in that jurisdiction, and the firm shall ensure that:

54.34.1 banking accounts for the firm are opened in that jurisdiction;

54.34.2 a separate set of accounting records is kept for each office.

54.35 The Council may at any time inspect or cause to be inspected the accounting records of any firm to satisfy itself that the provisions of sections 86 and 87 of the Act, read with these rules, have been or are being complied with. Such inspection may be conducted by the Council, or by an auditor or suitably qualified inspector appointed by the Council, or by the Board at the request of the Council.

**Report of dishonest or irregular conduct**

54.36 Unless prevented by law from doing so every legal practitioner is required to report to the Council any dishonest or irregular conduct on the part of a trust account practitioner in relation to the handling of or accounting for trust money on the part of that trust account practitioner.

**55. Investment Practice Rules****Definitions**

55.1 A firm shall for the purpose of this rule be deemed to be carrying on the business of an investment practice if it invests funds on behalf of a client or clients and it controls or manages such investments, whether directly or indirectly.

55.2 A client shall for the purpose of this investment practice rule include any person on whose behalf a firm invests funds or manages or controls investments, whether or not such person is otherwise a client of the firm concerned.

55.3 This investment practice rule shall not apply to:

55.3.1 investments made pursuant to sections 86(3) of the Act, which are not transactions contemplated in investment practice rule 55.1;

- 55.3.2 any investment of a temporary nature that is made in the course of and incidental to a conveyancing or other matter, including litigation, to which the investing client is a party;
- 55.3.3 investments made by attorneys in their capacity as executors, trustees, curators or in any similar capacity in so far as such investments are governed by any other statutory enactment or regulation;
- 55.3.4 any investment (other than one referred to in investment practice rule 55.1) made with a bank in the name of that client alone and on the written instructions of that client.

### **Mandates**

- 55.4 A firm carrying on an investment practice shall obtain an investment mandate from each client before or as soon as possible after investing funds for that client. The form of the investment mandate shall be substantially in the form of the Ninth Schedule to these rules, and shall contain a statement that the client acknowledges that moneys so invested do not enjoy the protection of the Fund.

### **Reports to clients in relation to investments**

- 55.5 Every firm carrying on an investment practice shall report to its client in writing in terms of the client's investment mandate at least once every twelve months on income earned and capital movements during the period of the report. That report shall reflect all commission earned or other charges made by the firm in carrying out the mandate.

### **Accounting records for investment practices**

- 55.6 Every firm carrying on an investment practice shall, in addition to its normal accounting records, also keep a separate trust account record and supporting documents in respect of each client, which record shall reflect:
- 55.6.1 payments of all monies entrusted to it from time to time by the client for investment pursuant to the mandate granted by the client in terms of investment practice rule 55.4;
- 55.6.2 payments of all monies invested by it on the client's behalf;

- 55.6.3 payments of all amounts, both capital and income, derived from investments and received for the client's account;
- 55.6.4 all payments made by it to the client in respect of the client's investments, and
- 55.6.5 all charges paid to the firm in respect of services rendered by it to the client pursuant to the client's mandate in terms of investment practice rule 55.4.
- 55.7 The accounting records and other supporting documents referred to in investment practice rule 55.6 shall be retained by the firm in such manner as to enable it to furnish each client upon request with all current details of the client's investments as recorded in investment practice rule 55.6. Such accounting records, other supporting documents and systems shall be maintained in sufficient detail and be cross-referenced to the trust account records retained in respect of each client, in such a way as to provide an adequate and appropriate audit trail which will enable a particular transaction to be identified at any time and traced through the accounting records to the client. The system shall collect the information in an orderly manner and the accounting records and other supporting documents shall be properly arranged, filed and indexed so that any particular record can be promptly accessed. Where accounting records are maintained by means other than on paper, adequate facilities must exist for such records to be reproduced in printed form.
- 55.8 All accounting records required to be retained in terms of investment practice rule 55.3 and copies of all reports dispatched in terms of rule 55.3 shall be retained for at least five years, unless there is statutory provision to the contrary, from the date of the last entry recorded in each particular book or other document of record, and shall be held at the same office as the firm's other accounting records.

### **Pooling of investments**

- 55.9 No firm may mix deposits in a pooled account or make other money market investments in any manner otherwise than by accepting funds as agent for each participating client and placing such funds with a bank in a savings account or on the money market on behalf of the client. The firm shall obtain from the bank an acknowledgement of receipt of each deposit or money market investment and such written receipts shall be retained by the firm as part of its accounting records.

- 55.10 All monies received by a firm for investment with a bank shall be paid to such bank as soon as reasonably possible after receipt by the firm, having regard to matters such as whether a payment by cheque has been cleared with the issuing bank.

#### **Restrictions applicable to certain investments**

- 55.11 A firm may not invest on behalf of a client:
- 55.11.1 in shares or debentures in any company which is not listed on a licensed securities exchange in the Republic, unless it is a subsidiary of a listed company; or
- 55.11.2 in loans in respect of which, in the firm's reasonable opinion at the time of making the investment, there is no adequate security
- unless the client's specific written authorisation for each such investment has first been obtained.

#### **Compliance with requirements of Financial Advisory and Intermediary Services FAIS Act.**

- 55.12 Every firm carrying on an investment practice must comply with all the applicable requirements of the Financial Advisory and Intermediary Services Act, 37 of 2002 and the regulations thereunder.

#### **Investment of funds by firms on behalf of persons, otherwise than in terms of investment practice rule 55**

- 56.1 A firm shall not invest any funds on behalf of any person otherwise than in accordance with the written instructions of that person, detailing the manner and form of the investment.
- 56.2 The written instructions referred to in rule 56.1:
- 56.2.1 shall be obtained by the firm concerned before the investment is made, save that, in cases of urgency, the firm may obtain them as soon as possible thereafter and shall forthwith upon making the investment request the person concerned in writing to furnish it with such instructions, detailing in that request the manner and form of the investment;

- 56.2.2 may be incorporated in a written contract to which the person giving the instructions is a party.
- 56.3 If the firm does not receive the written instructions to be obtained by it in terms of rule 56.2 within one month after its written request the firm shall forthwith notify the Council in writing and at the same time furnish the Council with copies of all relevant letters of request and responses, if any.

### **General Provisions**

- 57.1 Failure by a firm to comply with any of the provisions of the rules contained in Part XII of the rules shall constitute misconduct on the part of the partners or directors of the firm.
- 57.2 An administrative fine in an amount to be determined by the Council from time to time shall be payable by all firms whose audit reports are not submitted within six months of the annual close of the accounting records of the firms concerned, as prescribed by accounting rule 54.24.
- 57.3 It shall constitute misconduct, or an abuse or misuse of trust funds, for a trust account practitioner to enter into any abnormal or unusual banking arrangement in relation to trust accounts such as "no interest - no charges" or to agree to or acquiesce in reduced interest or to increased charges in return for, or in the expectation or hope of, work allocated or referred to the trust account practitioner by the bank or corresponding advantages allowed by the bank to him or her in respect of his or her business or private accounts.
- 57.4 The Council shall be entitled to recover from any firm any expenditure incurred by the Council resulting from the firm's failure to comply with these accounting rules.

**Schedule 1A  
(Part A)  
(Rule 16.12.4)**

**Provincial Council of [●]**

**Ballot Paper - Attorneys**

**(for use in elections for all Provincial Councils except for the Gauteng Provincial Council)**

Every attorney who is on the roll of practising attorneys and who practises within the area of jurisdiction of the Provincial Council may vote for a maximum of six candidates from the candidates listed below. Please note, however, that in order to achieve an appropriate balance of race and gender in relation to the composition of the Provincial Council, and subject to the availability of candidates, the following individuals will constitute the six attorneys who will serve as members of the Provincial Council:

1. the two black women<sup>1</sup> with the highest number of votes in this category;
2. the two black men with the highest number of votes in this category;
3. the white woman with the highest number of votes in this category;
4. the white male with the highest number of votes in this category.

A short profile of each candidate is available at [www.lpc.co.za](http://www.lpc.co.za).

**A**  
**B**  
**C**  
**D**  
**E**  
**F**  
**G**

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<sup>1</sup> Black is used as defined in section 1 of the Broad-Based Black Economic Empowerment Act 53 of 2003, read with the Broad-Based Black Economic Empowerment Amendment Act 46 of 2013 as a generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent, or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date and such other persons as may be categorised as black persons for purposes of that legislation.

*When voting, please take into account the following considerations in relation to the constitution of the Provincial Council:*

- (a) the racial and gender composition of South Africa;*
- (b) representation of persons with disabilities; and*
- (c) experience and knowledge of—*
  - (i) the provision of legal services;*
  - (ii) the principles of promoting access to justice;*
  - (iii) legal education and training;*
  - (iv) consumer affairs;*
  - (v) civil and criminal proceedings and the functioning of the courts and tribunals in general;*
  - (vi) the maintenance of professional standards of persons who provide legal services;*
  - (vii) the handling of complaints; and*
  - (viii) competition law.*

**Schedule 1A  
(Part B)  
(Rule 16.12.4)****Provincial Council of Gauteng****Ballot Paper - Attorneys****(only for use in elections for the Gauteng Provincial Council)**

Every attorney who is on the roll of practising attorneys and who practises within the area of jurisdiction of the Provincial Council may vote for a maximum of eight candidates from the candidates listed below. Please note, however, that in order to achieve an appropriate balance of race and gender in relation to the composition of the Provincial Council, and subject to the availability of candidates, the following individuals will constitute the eight attorneys who will serve as members of the Provincial Council:

1. the two black women<sup>2</sup> with the highest number of votes in this category;
2. the two black men with the highest number of votes in this category;
3. the two white women with the highest number of votes in this category;
4. the two white men with the highest number of votes in this category.

A short profile of each candidate is available at [www.lpc.co.za](http://www.lpc.co.za).

**A**  
**B**  
**C**  
**D**  
**E**  
**F**  
**G**  
**H**

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<sup>2</sup> Black is used as defined in section 1 of the Broad-Based Black Economic Empowerment Act 53 of 2003, read with the Broad-Based Black Economic Empowerment Amendment Act 46 of 2013 as a generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent, or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date and such other persons as may be categorised as black persons for purposes of that legislation.

*When voting, please take into account the following considerations in relation to the constitution of the Provincial Council:*

- (a) the racial and gender composition of South Africa;*
- (b) representation of persons with disabilities; and*
- (c) experience and knowledge of—*
  - (i) the provision of legal services;*
  - (ii) the principles of promoting access to justice;*
  - (iii) legal education and training;*
  - (iv) consumer affairs;*
  - (v) civil and criminal proceedings and the functioning of the courts and tribunals in general;*
  - (vi) the maintenance of professional standards of persons who provide legal services;*
  - (vii) the handling of complaints; and*
  - (viii) competition law.*

**Schedule 1B  
(Part A)  
(Rule 16.12.4)**

**Provincial Council of [●]**

**Ballot Paper - Advocates**

**(for use in elections for all Provincial Councils except for the Gauteng Provincial Council)**

Every advocate who is on the roll of practising advocates and who practises within the area of jurisdiction of the Provincial Council may vote for a maximum of four candidates from the candidates listed below. Please note, however, that in order to achieve an appropriate balance of race and gender in relation to the composition of the Provincial Council, and subject to the availability of candidates, the following individuals will constitute the four advocates who will serve as members of the Provincial Council:

1. the black woman<sup>3</sup> with the highest number of votes in this category;
2. the black male with the highest number of votes in this category;
3. the white woman with the highest number of votes in this category;
4. the white male with the highest number of votes in this category.

A short profile of each candidate is available at [www.lpc.co.za](http://www.lpc.co.za).

**A**  
**B**  
**C**  
**D**  
**E**  
**F**  
**G**

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<sup>3</sup> Black is used as defined in section 1 of the Broad-Based Black Economic Empowerment Act 53 of 2003, read with the Broad-Based Black Economic Empowerment Amendment Act 46 of 2013 as a generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent, or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date and such other persons as may be categorised as black persons for purposes of that legislation.

*When voting, please take into account the following considerations in relation to the constitution of the Provincial Council:*

- (a) the racial and gender composition of South Africa;*
- (b) representation of persons with disabilities; and*
- (c) experience and knowledge of—*
  - (i) the provision of legal services;*
  - (ii) the principles of promoting access to justice;*
  - (iii) legal education and training;*
  - (iv) consumer affairs;*
  - (v) civil and criminal proceedings and the functioning of the courts and tribunals in general;*
  - (vi) the maintenance of professional standards of persons who provide legal services;*
  - (vii) the handling of complaints; and*
  - (viii) competition law.*

**Schedule 1B  
(Part B)  
(Rule 16.12.4)**

**Provincial Council of Gauteng**

**Ballot Paper - Advocates**

**(only for use in elections for the Gauteng Provincial Council)**

Every advocate who is on the roll of practising advocates and who practises within the area of jurisdiction of the Provincial Council may vote for a maximum of four candidates from the candidates listed below. Please note, however, that in order to achieve an appropriate balance of race and gender in relation to the composition of the Provincial Council, and subject to the availability of candidates, the following individuals will constitute the four advocates who will serve as members of the Provincial Council:

1. the black woman<sup>4</sup> with the highest number of votes in this category;
2. the black male with the highest number of votes in this category;
3. the white woman with the highest number of votes in this category;
4. the white male with the highest number of votes in this category.

A short profile of each candidate is available at [www.lpc.co.za](http://www.lpc.co.za).

**A**  
**B**  
**C**  
**D**  
**E**  
**F**  
**G**

*When voting, please take into account the following considerations in relation to the constitution of the Provincial Council:*

- (a) the racial and gender composition of South Africa;*
- (b) representation of persons with disabilities; and*

<sup>4</sup> Black is used as defined in section 1 of the Broad-Based Black Economic Empowerment Act 53 of 2003, read with the Broad-Based Black Economic Empowerment Amendment Act 46 of 2013 as a generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent, or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date and such other persons as may be categorised as black persons for purposes of that legislation.

- (c) *experience and knowledge of—*
- (i) *the provision of legal services;*
  - (ii) *the principles of promoting access to justice;*
  - (iii) *legal education and training;*
  - (iv) *consumer affairs;*
  - (v) *civil and criminal proceedings and the functioning of the courts and tribunals in general;*
  - (vi) *the maintenance of professional standards of persons who provide legal services;*
  - (vii) *the handling of complaints; and*
  - (viii) *competition law.*

**Schedule 2  
(Rule 22.1.2.1)****Form of Practical Vocational Training Contract**

Practical vocational training contract entered into at ..... on this ..... day of ..... 20....., between ....., an attorney of the High Court of South Africa (hereinafter referred to as the principal) ..... and ..... born on ..... (hereinafter referred to as the candidate attorney).

1. The candidate attorney undertakes -

- 1.1 to serve the principal diligently, honestly and properly in his or her profession as an attorney from the date hereof for such period as may be determined by regulation, and during that period to maintain confidentiality in all matters relating to the business of the principal;
- 1.2 to execute, at all times, all lawful instructions given to him or her by the principal or any partner of the principal or any person placed in authority over the candidate attorney by the principal or any partner of the principal;
- 1.3 not to absent himself or herself from his or her employment by the principal without the principal's prior consent;
- 1.4 subject to any applicable rule or regulation, not to engage in any business whatsoever other than that of a candidate attorney unless the written consent of the principal and the Legal Practice Council has been granted;

2. The principal undertakes -

- 2.1 to use his or her best efforts to teach and instruct the candidate attorney in the practice and profession of an attorney;
- 2.2 provided the candidate attorney has served his or her period under this contract properly and is in the principal's opinion a fit and proper person for admission, to use his or her best efforts to procure the admission and enrolment of the candidate attorney as an attorney of the High Court of South Africa.

3. Should the principal discontinue his or her practice he or she shall not thereafter be bound by this contract but shall cede this contract to another qualified principal.

4. Should the candidate attorney:

4.1 not serve the period of service properly in terms of this contract;

4.2 commit a breach of any of the terms of this contract; or

4.3 be guilty of any misconduct

the principal will be entitled to cancel this contract and dismiss the candidate attorney from his or her employment, subject always to the employment laws applicable in South Africa.

Signed on ..... 20...

As witnesses:

1 .....

.....

Principal

2 .....

.....

Candidate Attorney

**Schedule 3  
(Rule 22.2.1.1)****Form of Practical Vocational Training Contract**

Practical vocational training contract entered into at ..... on this ..... day of ..... 20....., between ....., an advocate of the High Court of South Africa (hereinafter referred to as the training supervisor) ..... and ..... born on ..... (hereinafter referred to as the pupil).

1. The pupil undertakes -
  - 1.1 to undergo training under the supervision of the training supervisor diligently, honestly and properly from the date hereof for such period as may be determined by regulation, and during that period to maintain confidentiality in all matters relating to the business of the training supervisor
  - 1.2 to execute, at all times, all lawful instructions given to him or her by the training supervisor or any person placed in authority over the pupil by the training supervisor;
  - 1.3 subject to any applicable rule or regulation not to engage in any business whatsoever other than that of a pupil unless the written consent of the training supervisor and the Legal Practice Council has been granted;
2. The training supervisor undertakes -
  - 2.1 to use his or her best efforts to teach and instruct the pupil in the practice and profession of an advocate;
  - 2.2 provided the pupil has served his or her period under this contract properly and is in the training supervisor's opinion a fit and proper person for admission, to training supervisor use his or her best efforts to procure the admission and enrolment of the pupil as an advocate of the High Court of South Africa.
3. Should the training supervisor discontinue his or her practice or otherwise cease to qualify to act as a training supervisor he or she shall not thereafter be bound by this contract but shall cede this contract to another qualified training supervisor;

4. Should the pupil:

4.1 not serve the period of service properly in terms of this contract;

4.2 commit a breach of any of the terms of this contract; or

4.3 be guilty of any misconduct,

then the training supervisor will be entitled to cancel this contract, subject always to the employment laws applicable in South Africa.

Signed on ..... 20...

As witnesses:

1 .....

.....

Training supervisor

2 .....

.....

Pupil

**Schedule 4  
(Rule 42.1)**

**LEGAL PRACTICE COUNCIL**

**Form of Subpoena**

**(issued in terms of section 39(3) of the Legal Practice Act, 2014)**

To:

Name : .....

Physical address : .....

You are hereby required to appear in person at .....  
.....on..... 20XX ...at.....(time)

before the disciplinary committee in the matter of a hearing in terms of section 39 of the  
Legal Practice Act, 2014 (Act 28 of 2014), in relation to the conduct of .....  
.....

You are required to remain in attendance until excused by the disciplinary committee in  
order to testify at the hearing in regard to the matter under consideration.

You are also required to bring with you, and then produce, the documents specified in the  
following list:

**List of documents to be produced**

.....  
.....  
.....

Given under the hand of the disciplinary committee on .....20XX

\_\_\_\_\_  
Capacity

**Schedule 5  
(Rule 45.2)****The Legal Practice Council****Complaint of misconduct**

A person wishing to complain against the conduct of a legal practitioner, a candidate legal practitioner or a juristic entity must initiate the process by completing and signing this document and lodging the original with the Council at the following address:

**[Insert address of the appropriate Provincial Council]** or by prepaid post to **[insert postal address of the Provincial Council]**

In this document a reference to a "legal practitioner" is a reference to a legal practitioner, a candidate legal practitioner or a juristic entity, as the context requires.

**\*WE WILL ACKNOWLEDGE YOUR COMPLAINT AND GIVE YOU A REFERENCE NUMBER. PLEASE QUOTE OUR REFERENCE NUMBER AT ALL TIMES \***

**Please complete the document in print or typing**

**Please note that it is your duty to inform the Legal Practice Council of any change in your address or particulars after this complaint has been lodged.**

1.	COMPLAINANT'S DETAILS
Full name and surname	
Identity number	
Home address and code:	
Postal address and code:	
E-mail address:	
Telephone number/s:	
Your Employer:	
Work Address:	

Employer's telephone number:	
<b>2.</b>	<b>LEGAL PRACTITIONER'S DETAILS</b>
Full name and surname	
Where is the legal practitioner practising?	
If the legal practitioner is an attorney, the name of the firm of attorneys where the attorney is practising.	
<b>3.</b>	<b>DETAILS OF YOUR COMPLAINT</b>
On which date did you instruct the legal practitioner?	
What was the nature of your instruction to the legal practitioner? ie what did you ask the legal practitioner to do for you?	
When last did you hear from or consult with your legal practitioner?	
Was there a written letter of engagement? If so, please provide a copy.	Annexure:
<b>4.</b>	<b>NATURE OF YOUR COMPLAINT</b>
<b>Into which of the following categories does your complaint fall?</b>	
	Failure to account for money
	Failure to respond to communications
	Failure to deal properly with your instructions
	Fees and costs
	Other
<b>5.</b>	<b>NATURE OF THE WORK</b>
	Third party/motor vehicle accident claim
	Deceased estate
	Property transaction
	Divorce proceedings





**Schedule 6A  
(Rule 47.6)**

**LEGAL PRACTITIONERS' FIDELITY FUND**

**FIDELITY FUND CERTIFICATE**

for the year ending 31 December [●]

Pursuant to the provisions of Chapter 6 of the

Legal Practice Act, 28 of 2014 (the Act)

I hereby certify that

**[NAME OF LEGAL PRACTITIONER]**

an attorney

has complied with the provisions of Section 85 of the Act.

The legal practitioner named in this certificate is obliged to practise subject to the provisions of the Act.

\_\_\_\_\_  
for Executive Officer

Legal Practice Council

Issued on [●]

LOGO

**Schedule 6B**  
**(Rule 47.6)**

**LEGAL PRACTITIONERS' FIDELITY FUND**

**FIDELITY FUND CERTIFICATE**

for the year ending 31 December [●]

Pursuant to the provisions of Chapter 6 of the

Legal Practice Act, 28 of 2014 (the Act)

I hereby certify that

**[NAME OF LEGAL PRACTITIONER]**

an advocate as contemplated in section 34(2)(b) of the Act

has complied with the provisions of Section 85 of the Act.

The legal practitioner named in this certificate is obliged to practise subject to the provisions of the Act.

---

for Executive Officer

Legal Practice Council

Issued on [●]

**Schedule 7A  
(Rule 49)****LEGAL PRACTITIONERS' FIDELITY FUND  
APPLICATION FOR FIDELITY FUND CERTIFICATE IN TERMS OF THE  
LEGAL PRACTICE ACT, 2014 (ACT NO. 28 OF 2014)****APPLICATION FORM FOR ATTORNEYS***PLEASE COMPLETE IN BLOCK LETTERS***GENERAL INFORMATION**

1. Full names of the applicant: \_\_\_\_\_  
  
Identity  
number: \_\_\_\_\_  
  
Practitioner reference  
number: \_\_\_\_\_
2. Name under which practice will be carried on ("the firm"). If the practice is  
incorporated give the full name and registration number:  
\_\_\_\_\_  
  
Firm classification (sole practitioner, partnership, incorporated practice): \_\_\_\_\_  
Firm practice reference number: \_\_\_\_\_  
\_\_\_\_\_  
  
Company  
number: \_\_\_\_\_
3. Physical address at which practice will be carried on (i.e. principal place of practice)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Province: \_\_\_\_\_
4. Contact details:  
  
Postal  
address: \_\_\_\_\_  
  
Residential  
address: \_\_\_\_\_

Docex address (if applicable): \_\_\_\_\_

Telephone (business): \_\_\_\_\_ (home): \_\_\_\_\_

(fax): \_\_\_\_\_ (e-mail): \_\_\_\_\_

5. Any other physical address at which practice will be carried on, including province:

\_\_\_\_\_ Province: \_\_\_\_\_

Name of practitioner in control: \_\_\_\_\_

6. Full names of partners or co-directors, if any: \_\_\_\_\_

\_\_\_\_\_

7. If no Fidelity Fund Certificate has been 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. If applicant ceased to practise for own account, or in partnership or as member of an incorporated practice, and intends to resume practising, state:

Name and address of former practice: \_\_\_\_\_

\_\_\_\_\_ Province: \_\_\_\_\_

When applicant ceased to practise: \_\_\_\_\_

**ADDITIONAL INFORMATION REQUIRED BY THE LEGAL PRACTITIONERS' FIDELITY FUND FOR RISK MANAGEMENT AND ANALYSIS**

9. Registration number with the Financial Intelligence Centre (attach proof): \_\_\_\_\_

10. Appointed auditor: \_\_\_\_\_ Practice registration number: \_\_\_\_\_

Firm

name: \_\_\_\_\_

Physical

address: \_\_\_\_\_

Postal

address: \_\_\_\_\_

Telephone (business): \_\_\_\_\_ (fax): \_\_\_\_\_

E-mail address: \_\_\_\_\_

11. The firm participated / did not participate in the automated monthly transfer system for the period from \_\_\_\_\_ 20\_\_\_\_ to \_\_\_\_\_ 20\_\_\_\_.
12. The firm provides, or facilitates or arranges for the provision of, bridging finance to clients: YES / NO.
13. 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: \_\_\_\_\_

14. The practice purchased / did not purchase -
  - 14.1 insurance cover to protect against the possibility of misappropriation of trust money and property;
  - 14.2 professional indemnity insurance cover.

If such insurance was acquired, state in each case the extent of the cover, the name of the insurer and the policy number.

15. The legal practitioner is required to complete and return the attached risk questionnaire for analysis and risk management by the Attorneys Insurance Indemnity Fund.

#### **FINANCIAL INFORMATION**

16. I as the practitioner / partner / director am responsible for ensuring that my firm's trust accounts are maintained in compliance with the provisions of the Legal Practice Act, No 28 of 2014 ("the Act") and the rules of the Legal Practice Council ("the Council"). The practitioner(s) / partner(s) / director(s) 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.
  - 16.1 I, confirm that I have maintained the necessary accounting records as required in terms of sections 87(1) and 87(3) of the Act and the rules of the Council for the accounting period from 1 October 20\_\_\_\_ to 30 September 20\_\_\_\_.

16.2 I certify that:

16.2.1 the accounting records, to the best of my knowledge and belief, are in accordance with the terms of the Act, and the rules of the Council;

16.2.2 any trust deficit was reported to the Council;

16.2.3 interest earned in terms of sections 86(5) of the Legal Practice Act was paid to the Council in full on a monthly basis;

16.2.4 the annual fees and charges are fully paid up.

16.3 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 86(1)	(B) Section 86(3)	(C) Section 86(4)	(D) Investments	(E) Estates	(F) Property	Total
Currency							
31 December 20							
31 March 20							
30 June 20							
30 September 20							
<b>TOTAL TRUST FUNDS</b>							

Trust banking account details	(A) Section 86(1)	(B) Section 86(3)	(C) Section 86(4)	(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 86(1)	(B) Section 86(3)	(C) Section 86(4)	(D) Investments	(E) Estates	(F) Property	Total
Bank service fee formula:							

16.4 **Analysis of section 86(4) investments by category at 30 September 20\_\_:**

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

16.5 I hereby authorise the above bank/s to provide the Legal Practitioners' Fidelity Fund with details of any changes to, and to certify, the above information, from time to time, as requested by the Fund.

16.6 I hereby authorise the Legal Practitioners' 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 \_\_\_\_\_.**

\_\_\_\_\_  
**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 1 December 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 Legal Practitioners' Fidelity Fund to provide statistics for risk management, risk profiling and reinsurance programmes.

Item 16.3: 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 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 86(3) in B for each quarter.

C - Insert the total of the amounts invested in terms of section 86(4) in C for each quarter. On this type of investment the interest generated is payable to the practitioner's client(s), and to the Legal Practitioners' Fidelity Fund in terms of section 86(5)(b).

D - Insert the total of the amounts invested in terms of the Council's investment rules in D for each quarter.

E - Insert the total amount held in respect of estates in terms of section 87(3)(c) of the Act in E for each quarter.

F - Insert the value of any other entrusted property in terms of section 55(1) 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:**

- (a) Enter name of bank.
- (b) Enter name of branch.
- (c) Enter branch code.
- (d) Enter bank account number.
- (e) 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 R100 000.
- (f) 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:

\_\_\_/\_\_\_/\_\_\_\_\_

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 16.4: You are required to provide your own assessment of the nature of section 86(4) 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 86(4) trust investments.

Also insert the average duration of each investment type.

**Schedule 7B  
(Rule 49)****LEGAL PRACTITIONERS' FIDELITY FUND****APPLICATION FOR FIDELITY FUND CERTIFICATE IN TERMS OF THE  
LEGAL PRACTICE ACT, 2014 (ACT NO. 28 OF 2014)****APPLICATION FORM FOR ADVOCATES referred to in section 34(2)(b) of the Legal Practice Act***PLEASE COMPLETE IN BLOCK LETTERS***GENERAL INFORMATION**

1. Full names of the applicant: \_\_\_\_\_  
Identity number: \_\_\_\_\_  
Practitioner reference number: \_\_\_\_\_
2. Physical address at which practice will be carried on (i.e. principal place of practice)  
\_\_\_\_\_  
\_\_\_\_\_  
Province: \_\_\_\_\_
3. Contact details:  
Postal address: \_\_\_\_\_  
Residential address: \_\_\_\_\_  
Docex address if applicable): \_\_\_\_\_  
Telephone (business): \_\_\_\_\_ (home): \_\_\_\_\_  
(fax): \_\_\_\_\_ (e-mail): \_\_\_\_\_
4. Any other physical address at which practice will be carried on, including province:  
\_\_\_\_\_  
Province: \_\_\_\_\_
5. If no Fidelity Fund Certificate has been obtained for the current year, state date on which the applicant will begin to practise: \_\_\_\_\_
6. If applicant ceased to practise, and intends to resume practising, state:  
Name and address of former practice: \_\_\_\_\_  
\_\_\_\_\_  
Province: \_\_\_\_\_  
When applicant ceased to practise: \_\_\_\_\_

**ADDITIONAL INFORMATION REQUIRED BY THE LEGAL PRACTITIONERS' FIDELITY FUND FOR RISK MANAGEMENT AND ANALYSIS**

7. Registration number with the Financial Intelligence Centre (attach proof): \_\_\_\_\_

8. Appointed auditor: \_\_\_\_\_ Practice registration number: \_\_\_\_\_

Firm

name: \_\_\_\_\_

Physical

address: \_\_\_\_\_

Postal

address: \_\_\_\_\_

Telephone (business): \_\_\_\_\_ (fax): \_\_\_\_\_

E-mail

address: \_\_\_\_\_

9. The applicant participated / did not participate in the automated monthly transfer system for the period from \_\_\_\_\_ 20\_\_\_\_ to \_\_\_\_\_ 20\_\_\_\_.

10. The applicant provides, or facilitates or arranges for the provision of, bridging finance to clients: YES / NO.

11. The applicant 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: \_\_\_\_\_

12. The applicant purchased / did not purchase -

12.1 insurance cover to protect against the possibility of misappropriation of trust money and property;

12.2 professional indemnity insurance cover

If such insurance was acquired, state in each case the extent of the cover, the name of the insurer and the policy number.

13. The legal practitioner is required to complete and return the attached risk questionnaire for analysis and risk management by the Attorneys Insurance Indemnity Fund.

#### FINANCIAL INFORMATION

14. As the legal practitioner I am responsible for ensuring that my trust accounts are maintained in compliance with the provisions of the Legal Practice Act, 28 of 2014 ("the Act") and the rules of the Legal Practice Council ("the Council"). I am responsible for the design, implementation and monitoring of accounting and internal control systems and the completion of the risk assessment of the firm.

- 14.1 I confirm that I have maintained the necessary accounting records as required in terms of sections 87(1) and 87(3) of the Council for the accounting period from 1 October 20\_\_\_\_ to 30 September 20\_\_\_\_.

14.2 **I certify that:**

- 14.2.1 the accounting records, to the best of my knowledge and belief, are in accordance with the terms of the Act and the rules of the Council;

- 14.2.2 any trust deficit was reported to the Council;

- 14.2.3 interest earned in terms of sections 86(5) of the Act was paid to the Council in full on a monthly basis;

- 14.2.4 the annual fees and charges are fully paid up.

- 14.3 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 applicant's trust banking account(s)	(A) Section 86(1)	(B) Section 86(3)	(C) Section 86(4)	(D) Investments	(E) Estates	Total
Currency						
31 December 20__						
31 March 20__						
30 June 20__						
30 September 20__						
<b>TOTAL TRUST</b>						

<b>FUNDS</b>						
--------------	--	--	--	--	--	--

<b>Trust banking account details</b>	<b>(A) Section 86(1)</b>	<b>(B) Section 86(3)</b>	<b>(C) Section 86(4)</b>	<b>(D) Investments</b>	<b>(E) Estates</b>
Bank:					
Branch:					
Branch code:					
Account number:					
Credit interest rate:					
- at 31 March					
- at 30 Sept					

<b>Balance standing to the credit of the applicant's trust banking account(s)</b>	<b>(A) Section 86(1)</b>	<b>(B) Section 86(3)</b>	<b>(C) Section 86(4)</b>	<b>(D) Investments</b>	<b>(E) Estates</b>	<b>(F) Property</b>	<b>Total</b>
Bank service fee formula:							

14.4 **Analysis of section 86(4) investments by category at 30 September 20\_\_:**

<b>Category</b>	<b>R</b>	<b>Distribution</b>	<b>Duration(average number of months)</b>
Commercial		%	months
Litigation		%	months
Road Accident Fund		%	months
Investments		%	months
Estates		%	months
Other: (Specify)			
		%	months
<b>TOTAL</b>		<b>100%</b>	

14.5 I hereby authorise the above bank/s to provide the Legal Practitioners' Fidelity Fund with details of any changes to, and to certify, the above information, from time to time, as requested by the Fund.

I hereby authorise the Legal Practitioners' 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** \_\_\_\_\_.

\_\_\_\_\_  
**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 1 December 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 Legal Practitioners' Fidelity Fund to provide statistics for risk management, risk profiling and reinsurance programmes.

Item 14.3: 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 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 86(3) in B for each quarter.

C - Insert the total of the amounts invested in terms of section 86(4) in C for each quarter. On this type of investment the interest generated is payable to the practitioner's client(s), and to the Legal Practitioners' Fidelity Fund in terms of section 86(5)(b).

D - Insert the total of the amounts invested in terms of the Council's investment rules in D for each quarter.

E - Insert the total amount held in respect of estates in terms of section 87(3)(c) of the Act in E for each quarter.

F - Insert the value of any other entrusted property in terms of section 55(1) 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:**

- (a) Enter name of bank.
- (b) Enter name of branch.
- (c) Enter branch code.
- (d) Enter bank account number.
- (e) 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 R100 000.
- (f) 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:

\_\_\_/\_\_\_/\_\_\_\_\_

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 14.4: You are required to provide your own assessment of the nature of section 86(4) 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 86(4) trust investments.

Also insert the average duration of each investment type.

**Schedule 8  
(Rule 54.24.1)****AUDITOR'S REPORT****(First Part) : Illustrative Auditor's Report (Unmodified opinion)****Circumstances**

- Compliance of trust accounts of trust account practices with the Legal Practice Act, No 28 of 2014 ("the Act") and the accounting rules contained in the rules made in terms of that Act ("the Rules").
- Unmodified auditor's opinion
- The information in the Practitioner's Annual Statement on Trust Accounts of trust account practice agrees with the underlying records that were the subject of the engagement on the trust accounts of the trust account practice.

**Independent Registered Auditor's Report on Trust Accounts of Trust Account Practice.**

To the <Practitioner / Partners / Directors<sup>1</sup>> (insert the name of the firm or practitioner)

**Report on Compliance of the Trust Accounts of the firm/Legal Practitioner with the Act and the rules**

We have undertaken a reasonable assurance engagement on the compliance of the trust accounts of <insert the name of the firm/practitioner> with Section 86(1), 86(2), 86(3), 86(4), 86(5), 86(6) and 86(7) of the Legal Practice Act, No. 28 of 2014 (the Act), and accounting rules 54 and 55<sup>2</sup>> (the Rules) for the <period from <insert date> to <insert date>>/<year ended <insert date>>. <sup>3</sup>

We clarify that we are not required to perform any procedures on records or documents relating to accounting for deceased and insolvent estates and trusts other than those dealt with via the firm's/practitioner's trust banking account(s).

As part of our assurance engagement we are required to agree the information extracted from the accounting records and included in the accompanying Annual Statement on Trust Accounts of a trust account practice for the <period from <insert date> to <insert date> / <year ended <insert date>> to the underlying records that were the subject of our engagement on the compliance of the firm's/practitioner's trust accounts with the Act and the

Rules We are also required to read the representations and the other disclosures in the Annual Statement on Trust Accounts of the firm/practitioner for the purpose of identifying material inconsistencies with our knowledge obtained in our engagement on the compliance of the firm's/practitioner's trust accounts with the Act and Rules.

*<Practitioner's/Partner's/Partners'/Director's/Directors'> responsibility for the trust accounts*

The *<practitioner/partners/directors>* is/are responsible for ensuring that the firm's trust accounts are maintained in compliance with the Act and the Rules, and for such internal control as the *<practitioner/partners/directors>* determine(s) is necessary to maintain the integrity of the trust accounts in accordance with the relevant mandates, including such controls as the *<practitioner/partners/directors>* determine(s) is also necessary to prevent and detect fraud and theft. The *<practitioner/partners/directors>* is/are also responsible for preparing the attached statement and for the financial information and declarations contained therein.

*Our Independence and Quality Control*

We have complied with the independence and other ethical requirements "Code of Professional Conduct for Registered Auditors issued by the Independent Regulatory Board for Auditors (IRBA Code), which is founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour. The IRBA Code is consistent with the International Ethics Standards Board for Accountants Code of Ethics for Professional Accountants (Parts A and B).

(Name of firm) applies the International Standard on Quality Control 1 and accordingly maintains a comprehensive system of quality control, including documented policies and procedures regarding compliance with ethical requirements, professional standards and applicable legal and regulatory requirements.

*Auditor's responsibility*

Our responsibility is to express a reasonable assurance opinion on compliance of the firm's trust accounts with the Act and the Rules, based on our procedures performed, and to report as required on the firm's Annual Statement on Trust Accounts.

We conducted our assurance engagement in accordance with the International Standard on Assurance Engagements ISAE 3000 (Revised), *Assurance Engagements Other than Audits or Reviews of Historical Financial Information*. ISAE 3000 (Revised) issued by the International Auditing and Assurance Standards Board. That standard requires that we plan

and perform the engagement to obtain reasonable assurance about the compliance of trust accounts of trust account practices, in all material respects, with the Act and the Rules.

A reasonable assurance engagement in accordance with ISAE 3000 (Revised) involves performing procedures to obtain evidence about the compliance of trust accounts of trust account practices with the Act and the Rules. The nature, timing and extent of procedures selected depend on the auditor's judgement, including the assessment of the risks of non-compliance with the Act and the Rules, whether due to fraud and error. In making those risk assessments we considered internal control relevant to the circumstances of the engagement. Our reasonable assurance engagement included the following procedures:

- Considering, and applying when considered applicable in the engagement circumstances, the guidance in *the Revised Guide for Registered Auditors: Engagements on Attorneys Trust Account* issued by the Independent Regulatory Board for Auditors;
- Making inquiries of the trust account practitioner and his or her staff;
- Testing transactions for all significant activities with the objective of evaluating whether:
  - Transactions were appropriately identified as trust transactions;
  - Trust transactions were in accordance with mandates and supported by adequate documentation and narrative to identify from whom funds were received, and for whose credit;
  - Deposits and withdrawals from the trust bank account were to, or for, a trust creditor;
  - Transfers to the firm's/ practitioner's business account were only in respect of moneys claimed to be due to the firm/practitioner; and
- Testing and/or scrutinising bank reconciliations, as considered appropriate in the engagement circumstances, and evaluating whether confirmations from financial institutions were in support of the records made available to us.

We believe that our work performed and evidence obtained is sufficient and appropriate to provide a basis for our opinion.

#### *Opinion*

In our opinion, the trust accounts of (*insert the name of the firm*) for the period/year ended *<insert date>* were maintained, in all material respects, in compliance with the Act and the Rules.

*Report on Firm's/Practitioner's Annual Statement on Trust Accounts*<sup>4</sup>

As part of our engagement, on the compliance of the firm's/practitioner's trust accounts with the Act and the Rules, we have agreed the information extracted from the trust accounting records included in the accompanying firm's/practitioner's Annual Statement on Trust Accounts for the <period from <insert date> to <insert date>>/<year ended <insert date>> to the underlying records that were the subject of our engagement. We have also read the firm's/practitioner's Annual Statement on trust accounts for the purpose of identifying whether the information contained therein is inconsistent with our knowledge obtained in the course of our engagement. The firm's/practitioner's Annual Statement on Trust Accounts is the responsibility of the firm/practitioner.

Based on our reading we have not identified any information contained in the Annual Statement on Trust Accounts of the firm/practitioner that is inconsistent with our knowledge obtained in the course of our engagement. However, our opinion on the trust accounts of the firm/practitioner does not cover the Annual Statement on Trust Accounts of the firm/practitioner and accordingly we do not express an opinion thereon.

*Report on Other Legal and Regulatory Requirements*

*<The form and content of this section of the auditor's report will vary depending on the nature of the auditor's other reporting responsibilities.><sup>5</sup>*

*Restriction on distribution and use*

This report is for the purpose of meeting the auditor's reporting requirements of the Rules and, as regards the accompanying firm's/practitioner's Annual Statement on Trust Accounts, the additional auditor reporting requirements of the Legal Practice Council and the Legal Practitioners' Fidelity Fund. Consequently it may not be suitable for any other purpose. It is intended solely for the use of <practitioner/partners/directors> of the firm, the Council and the Legal Practitioners' Fidelity Fund, and should not be distributed to other parties.

*Auditor's Signature*

Name of individual registered auditor

IRBA Registration number for firm and/or auditor

Registered audit firm

Date of report

Auditor's address (if not on a firm letterhead)

**Footnotes:**

1. Throughout the report - delete whichever: "*practitioner/proprietor/partners/directors*" is "*not applicable*"
2. Applicable Rules are: 54.6, 54.7, 54.8, 54.9, 54.10, 54.11, 54.12, 54.13, 54.14.7.2, 54.14.7.3, 54.14.8, 54.14.9, 54.14.12, 54.14.13, 54.14.14, 54.14.15, 54.14.16, 54.15, 54.16, 54.19 and 55.
3. Throughout the report - delete which is not applicable: <period from <insert date> to <insert date>>/<year ended <insert date>>.
4. Refer paragraphs 75-77 of the Guide for Registered Auditors: *Engagements on Attorneys Trust Accounts* for guidance regarding the auditor's reporting responsibilities.
5. Refer paragraph 78 of the Guide for Registered Auditors: *Engagements on Attorneys Trust Accounts*, for illustrative wording to insert as: *Report on Other Legal and regulatory requirements*, where a reportable irregularity, as required in section 45 of the Auditing Profession Act, No. 26 of 2005 has been reported.

**(Second Part) : Illustrative Auditor's Report (Qualified opinion)****Circumstances**

- Certain non-compliance identified (rather than significant non-compliance) of the trust account practitioner's trust accounts with the Act and the Rules.
- Qualified auditor's opinion
- The information in the firm's/practitioner's Annual Statement on Trust Accounts agrees with the underlying records that were the subject of the engagement on the trust account practitioner's trust accounts.

**Independent Registered Auditor's Report on Trust Accounts of a Trust Account Practitioner**

To the <Practitioner / Partners / Directors<sup>1</sup>> (insert the name of the firm/practitioner)

**Report on Compliance of the Trust Accounts of the Firm/Legal Practitioner with the Act and the Rules**

We have undertaken a reasonable assurance engagement on the compliance of the trust accounts of <insert the name of the firm/practitioner> with Section 86(1), 86(2), 86(3), 86(4), 86(5), 86(6) and 86(7) of the Legal Practice Act, No 29 of 2014 (the Act), and Accounting Rules 54 and 55<sup>2</sup> (the "Rules") for the <period from <insert date> to <insert date>>/< year ended <insert date>.

We clarify that we are not required to perform any procedures on records or documents relating to accounting for deceased and insolvent estates and trusts other than those dealt with via the firm's/practitioner's trust banking account(s).

As part of our assurance engagement we are required to agree the information extracted from the accounting records and included in the attached Annual Statement on Trust Accounts of the trust account practice for the <period from <insert date> to <insert date>>/ <year ended <insert date>> to the underlying records that were the subject of our engagement on the compliance of the firm's/practitioner's trust accounts with the Act and Rules. We are also required to read the representations and the other disclosures in the Annual Statement on Trust Accounts of the firm/practitioner for the purpose of identifying material inconsistencies with our knowledge obtained in our engagement on the compliance of firm's trust accounts with the Act and Rules.

<Practitioner's/Partner's/Partners'/Director's/Directors'> responsibility for the trust accounts

The <practitioner/partners/directors> is/are responsible for ensuring that the firm's/practitioner's trust accounts are maintained in compliance with the Act and the Rules, and for such internal control as the <practitioner/partners/directors> determine(s) is necessary to maintain the integrity of the trust accounts in accordance with the relevant mandates, including such controls as the <practitioner/partners/directors> determine(s) is also necessary to prevent and detect fraud and theft. The <practitioner/partners/directors> is/are responsible for preparing the attached Annual Statement on Trust Accounts and for the financial information and declarations contained therein.

#### *Our Independence and Quality Control*

We have complied with the independence and other ethical requirements "*Code of Professional Conduct for Registered Auditors* issued by the Independent Regulatory Board for Auditors (IRBA Code), which is founded on fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour. The IRBA Code is consistent with the International Ethics Standards Board for Accountants *Code of Ethics for Professional Accountants* (Parts A and B).

(*Name of firm*) applies the International Standard on Quality Control 1 and accordingly maintains a comprehensive system of quality control, including documented policies and procedures regarding compliance with ethical requirements, professional standards and applicable legal and regulatory requirements.

#### *Auditor's responsibility*

Our responsibility is to express a reasonable assurance opinion on the compliance of the firm's trust accounts with the Act and the Rules, based on our procedures performed, and to report as required on the firm's Annual Statement on Trust Accounts.

We conducted our assurance engagement in accordance with International Standard on Assurance Engagements ISAE 3000, *Assurance Engagements Other than Audits or Reviews of Historical Financial Information*. That standard requires that we plan and perform the engagement to obtain reasonable assurance about the compliance of the trust accounts of trust account practices, in all material respects, with the Act and the Rules.

A reasonable assurance engagement in accordance with ISAE 3000 involves performing procedures to obtain evidence about the compliance of trust accounts of the account practice with the Act and the Rules. The nature, timing and extent of procedures selected depend on the auditor's judgement, including the assessment of the risks of non-compliance with the Act and the Rules, whether due to fraud and error. In making those risk assessments we considered

internal control relevant to the circumstances of the engagement. Our reasonable assurance engagement included the following procedures:

- Considering, and applying when considered applicable in the engagement circumstances, the guidance in the Guide on *Engagements on Attorneys Trust Accounts* issued by the Independent Regulatory Board for Auditors;
- Making inquiries of the trust account practitioner and his or her staff;
- Testing of transactions for all significant activities with the objective of evaluating whether:
  - Transactions were appropriately identified as trust transactions;
  - Trust transactions were in accordance with mandates and supported by adequate documentation and narrative to identify from whom funds were received, and for whose credit;
  - Deposits and withdrawals from the trust bank account were to, or for, a trust creditor;
  - that transfers to the firm's/practitioner's business account were only in respect of moneys claimed to be due to the firm/practitioner; and
- Testing and/or scrutinising bank reconciliations, as considered appropriate in the engagement circumstances, and evaluating whether confirmations from financial institutions were in support of the records made available to us.

We believe that our work performed and evidence obtained is sufficient and appropriate to provide a basis for our qualified opinion.

#### *Basis for qualified opinion*

The firm's/practitioner's trust accounts were not maintained in compliance with the Act and the Rules, as follows<sup>3</sup>;

List ...<insert instances of non-compliance identified>

#### *Qualified opinion*

In our opinion, except for the instances of non-compliance listed in the preceding paragraph, the trust accounts of <insert the name of the firm/practitioner> for the period/year ended <insert date> were maintained in compliance with the Act and the Rules.

#### *Report on firm's/practitioner's Annual Statement on Trust Accounts<sup>4</sup>*

As part of our engagement, on the compliance of the firm's/practitioner's trust accounts with the Act and the Rules, we have agreed the information extracted from the trust accounting records included in the accompanying firm's/practitioner's Annual Statement on Trust Accounts for the

<period from <insert date> to <insert date>>/ < year ended <insert date>> to the underlying records that were the subject of our assurance engagement. We have also read the firm's/practitioner's Annual Statement on Trust Accounts for the purpose of identifying whether the information contained therein is inconsistent with our knowledge obtained in the course of our engagement. The firm's/practitioner's Annual Statement on Trust Accounts is the responsibility of the firm/practitioner.

Based on our reading we have not identified any information contained in the firm's Annual Statement on trust accounts that is inconsistent with our knowledge obtained in the course of our engagement. However, we have not undertaken an assurance engagement on the firm's Annual Statement on Trust Accounts and accordingly we do not express an opinion thereon.<sup>5</sup>

#### *Report on Other Legal and Regulatory Requirements*

<The form and content of this section of the auditor's report will vary depending on the nature of the auditor's other reporting responsibilities.><sup>6</sup>

#### *Restriction on distribution use*

This report is for the purpose of meeting the auditor reporting requirements of the Rules and, as regards the accompanying firm's/practitioner's Annual Statement on Trust Accounts, the additional auditor reporting requirements of the Legal Practice Council and the Legal Practitioners' Fidelity Fund. Consequently it may not be suitable for any other purpose. It is intended solely for the use of <practitioner/partners/directors> of the firm, the Legal Practice Council and the Legal Practitioners' Fidelity Fund, and should not be distributed to other parties, unless otherwise required by law.

#### *Auditor's Signature*

Name of individual registered auditor

IRBA Registration number of firm and/or auditor

Registered audit firm

Date of report

Auditor's address (if not on a firm letterhead)

## **FOOTNOTES**

<sup>1</sup> Throughout the report - delete whichever: "practitioner/proprietor/partners/directors" is "not applicable"

<sup>2</sup> 54.6, 54.7, 54.8, 54.9, 54.10, 54.11, 54.12, 54.13, 54.14.7.2, 54.14.7.3, 54.14.8, 54.14.9, 54.14.12, 54.14.13, 54.14.14, 54.15.15, 54.14.16, 54.15, 54.16, 54.19 and 55

- <sup>3</sup> Any contravention of Sections 86 of the Act, and any instance of contravention of the rules identified in the course of the engagement relating to trust accounts in terms of the Rules is regarded as material and should be reported.
- <sup>4</sup> Refer paragraphs 82-84 of the Guide for Registered Auditors: *Engagements on Attorneys Trust Accounts* for guidance regarding the auditor's reporting responsibilities.
- <sup>5</sup> Refer paragraph 84 of the Guide for Registered Auditors: *Engagements on Attorneys Trust Accounts* for matters to be considered when inconsistencies are identified.
- <sup>6</sup> Insert paragraph on *Report on Other Legal and regulatory requirements* where a reportable irregularity has been reported (refer paragraph 78 of the Guide for Registered Auditors: *Engagements on Attorneys Trust Accounts* for illustrative wording).

**(Third Part) Practitioner's Annual Statement on Trust Accounts<sup>1</sup>**

This statement is in support of the below listed member/s" application for a Fidelity Fund Certificate for the <year/period> commencing <insert date> and ending <insert date>.

**1. List of attorneys in firm/practice applying for an annual Fidelity Fund Certificate<sup>2</sup>**

- 1.
- 2.

**2. Attorney's compliance representations**

I/we confirm that I/we have maintained the necessary accounting records<sup>3</sup> as required in terms of sections 86 of the Legal Practice Act, no 28 of 2014 and the Rules for the accounting rules applicable to trust account practitioners for the year/period ended <insert date>, inter alia:

- a) The firm's trust accounts have been updated and balanced monthly
- b) The firm complied/has not complied with the service fee structure (including the cash deposit fee structure where applicable) and the credit interest rates, as amended from time to time, as nationally/provincially agreed upon between the Legal Practitioners' Fidelity Fund and the firm's bank(s).
- c) The ratio as a percentage of total bank charges (excluding VAT) incurred during the year/period to the total of interest earned during the year was <insert percentage>.
- d) The firm's trust accounts for the period subsequent to <insert year/period end date> have been written up to <insert date> and the trial balance was last balanced at <insert date> and in compliance with the provisions of <insert rule X> read with <insert rule X>.
- e) The following changes in the composition of the firm occurred during the year or period from <insert date> to <insert date>:

<Insert changes>

<sup>1</sup> To be attached to the auditor's report on the Practitioner's Trust Accounts to be submitted to the Legal Practice Council.

<sup>2</sup> Attach separate list if there are numerous partners/directors in the firm.

<sup>3</sup> Accounting records include those for trust liabilities in respect of which the practitioner is the executor, trustee or curator or which he administers on behalf of the executor, trustee or curator.

- f) The firm was issued with a valid fidelity fund certificate for the calendar year ended <insert financial period end> (i.e. the calendar year preceding the financial period/year of this report in the name of <insert the name of the firm>).
- g) The firm <has/has not> ensured that the trust funds were safeguarded through the design and implementation of adequate internal controls in compliance with rule 50.14.7.1.1 - 50.14.7.1.4.
- h) The firm <has/has not> reported to the Council any dishonesty or irregular conduct on the part of another practitioner in relation to the handling or accounting for trust money on the part of that other practitioner, as required in terms of rule 50.36.
- i) The firm is registered as an Accountable Institution, in accordance with section 43B of the Financial Intelligence Centre Act, Act No. 38 of 2001 (FICA) with accountable institution registration reference number: <insert number> that was issued by the Financial Intelligence Centre.
- j) The firm <has/has not> complied with the requirements of section 21 of FICA "Identification of clients and other persons when establishing a business relationship or conducting a single transaction with a client.
- k) The firm <has/has not> reported <insert number> cash transactions (received or paid) above the prescribed limit of the Financial Intelligence Centre for the period reported on in accordance with the requirements of section 28 of FICA "Cash transactions above prescribed limit".
- l) The firm <has/has not> reported <insert number> property associated with terrorist and related property reports to the Financial Intelligence Centre for the period in accordance with the requirements of section 28A of FICA "Property associated with terrorist and related activities".
- m) The firm <has/has not> reported <insert number> suspicious and unusual transactions to the Financial Intelligence Centre for the period in accordance with the requirements of section 29 of FICA "Suspicious and unusual transactions".
- n) The firm <has/has not> formulated and implemented internal rules in terms of section 42 of FICA which includes the requirement to report cash threshold transactions (section 28) and suspicious and unusual transactions (section 29) to the Financial Intelligence Centre.

### 3. Places of practice

At the date of this report, the firm's principal place of practice is that given in the letterhead and the firm's South African offices are situated at <insert full physical addresses<sup>4</sup>>:

<Insert office addresses>:

<sup>5</sup> Attach as a separate list if the firm has multiple offices in South Africa.

#### 4. Information extracted from the trust accounting records

Reconciliation of interest earned on the firm's section 86(2) and section 86(3) trust accounts and 5% on interest accrued on section 86(4) trust accounts from <insert commencement date> to <insert year/period end date>:

	Interest earned on section 86(2) trust accounts	Interest earned on section 86(3) trust accounts	5% on interest accrued on section 86(4) trust accounts
(i) Amount brought forward from the previous financial year in respect of interest earned on monies deposited in terms of section 86(2) and monies invested in terms of section 86(3) of the Legal Practice Act, No. 28 of 2014.			
(ii) Amount brought forward from the previous financial year in respect of the 5% on interest accrued on monies invested in terms of section 86(4) of the Legal Practice Act, No. 28 of 2014.			
(iii) Interest earned during the current year/period on monies deposited in trust banking accounts in terms of section 86(2) and monies invested in trust investment accounts in terms of section 86(3) of the Legal Practice Act, No. 28 of 2014.			
(iv) 5% earned during the current year/period on interest accrued on monies invested in trust banking accounts in terms of section 86(4) of the Legal Practice Act, No. 28 of 2014.			
(v) Amount incurred during the current year/period in respect of refundable bank charges (excluding VAT – firms not liable for VAT as vendors may include VAT)			
(vi) Amount already paid over to the Fund during the period under review in terms of section 86(5) of the Legal Practice Act, No. 28 of 2014 is: (a schedule of the payments made is to be attached).			
(vii) Amount carried over to the next financial period in respect of interest earned on monies deposited in terms of section 86(2) and monies invested in terms of section 86(3) of the Legal Practice Act, No. 28 of 2014.			
(viii) Amount carried over to the next financial period in respect of the 5% on			

interest earned on monies invested in terms of section 86(4) of the Legal Practice Act, No. 28 of 2014.			
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(ix) The amounts referred to in paragraph 4(vii) and 4(iii) agrees/does not agree<sup>5</sup> with the balance as recorded in the books of account, which amount, less the amount of R\_\_\_\_\_ paid over to the Fund since period end, <is/ is not> held in the firm's trust account.

If not held in the trust account, a written explanation detailing how the trust interest has been dealt with is to be annexed to the report.

(x) The following information was extracted from our trust accounting records that were the subject of our auditor's assurance engagement in respect of trust creditors/liabilities and trust funds available at the period/year-end <insert date> and on one other date, selected by our auditor <insert date>, were as follows:

	Local R (A)	Foreign <sup>6</sup> R (B)	At year end <sup>7</sup> R (A+B)	At period end R
<b>Trust creditors/liabilities</b>				
Trust creditors in terms of:				
- Section 86(2)				
- Section 86(3)				
- Section 86(4)				
- Section 86(5)(a) Interest				
- Section 86(5)(b) 5% on Interest accrued				
Trust creditors in terms of estates <sup>8</sup>				
Trust creditors in terms of other entrusted assets <sup>9</sup>				
<b>TOTAL TRUST CREDITORS/LIABILITIES</b>				
<b>Trust funds available:</b>				
- Section 86(2)				
- Section 86(3)				
- Section 86(4)				
- Trust cash on hand				
- Section 86(5)(a) Interest				
- Section 86(5)(b) 5% on interest accrued				
Trust funds and assets relating to estates				
Other entrusted assets <sup>10</sup>				
Debit balances in trust ledger <sup>11</sup>				
<b>TOTAL TRUST FUNDS</b>				
<b>TRUST SURPLUS /</b>				

(DEFICIT) <sup>12</sup>				
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(xi) The value of executor bond securities provided against the trust funds and assets relating to estate matters as reported in paragraph 4(x), at the end of the period amount to:

Provided by the Attorneys Insurance Indemnity Fund NPC - R\_\_\_\_\_.

Provided other security providers - R\_\_\_\_\_.

<sup>6</sup> If the answer to paragraph 4(vi) is "does not agree", list all instances in which the accounting rules may not have been complied with. (If space is insufficient, this may be continued on a separate sheet and attached to this annual statement)

<sup>7</sup> Attach a detailed schedule of liabilities per foreign currency per category in the same format, and convert to rand at the reporting date.

<sup>8</sup> The date selected by the auditor must be a date, other than the financial year-end, which occurs during the financial year/period to which this assurance engagement relates.

<sup>9</sup> This is trust liabilities in respect of which the practitioner is the executor, trustee or curator or which he administers on behalf of the executor, trustee or curator for which consent has been obtained from the Master of the High Court to deal with through the firm's trust account.

<sup>10</sup> This relates to the liability originating from any asset entrusted to the practitioner other than the items listed, supported by a detailed schedule of the nature of such liability.

<sup>11</sup> Assets entrusted to the practitioner other than the trust fund items listed.

<sup>12</sup> Details of debit balances in the trust ledger must be provided as an attachment to the report, providing reasons for the occurrence and how it was resolved.

<sup>13</sup> Detailed explanation required on how the surplus/deficit originated and how it was subsequently cleared and resolved. Indicate when the deficit was reported to the Legal Practice Council

## 5. Investment practice

The firm:

(i) <has/has not> carried on the business of an investment practice during the year under review;

(ii) <has/has not> complied<sup>13</sup> in all respects with the provisions of investment practices contained in the rules; and

(iii) <is/is not> registered as a Financial Services Provider (FSP) with the FAIS Department of the Financial Services Board.

## 6. Unidentified and/or unclaimed money held in trust

Reconciliation of any money held in the trust account of a trust account practice in respect of which the identity of the owner is unknown or which is unclaimed after one year, which must be paid over to the Fund after the second closing of the accounting records of the trust account practice following the date upon which those funds were deposited in the trust account of the trust account practice from <insert commencement date> to <insert year/period end date>:

	Monies held in terms of Section 86(2) R	Monies held in terms of Section 86(2) R	Monies held in terms of Section 86(2) R	Total R
Balance at the beginning of the period/year				
Unidentified				

and/or unclaimed monies received into trust				
Monies identified and/or claimed and accounted for				
Monies paid to the Fund in terms of Section 87(4)(a)				
Balance at the end of the period/year				

.....  
**<Name of Trust Account Practice>**  
**<Sole Practitioner/Partner/s/Director/s><sup>14</sup>**

<sup>13</sup> If the answer to paragraph 5(ii) is "*has not complied*", list all instances in which the rules may not have been complied with. (If space is insufficient, this may be continued on a separate sheet and attached to this annual statement).

<sup>14</sup> Delete whichever is not applicable. For practices with a large number of partners/directors, this "*Practitioner's Annual Statement on Trust Accounts*" should be signed by the partner/director authorised by the Partnership/Board of the Inc.

**SUPPLEMENTARY INFORMATION REQUESTED BY THE LEGAL PRACTICE COUNCIL  
FIRM <INSERT FIRM NAME >**

**Schedule of payments on interest earned on monies deposited in terms of section 86(2)  
of the Legal Practice Act, No. 28 of 2014.**

For the financial period from \_\_\_\_\_ to \_\_\_\_\_

<b>Trust Banking Account at &lt;insert Name of Bank&gt;, Branch Code No. &lt;insert code&gt; and Account No. &lt;insert account no&gt;</b>				
	<b>Date</b>	<b>Financial Period</b>	<b>Method of Payment (EFT/Cheque)</b>	<b>Amount</b>
<b>1.</b>				
<b>2.</b>				
<b>3.</b>				
<b>4.</b>				
<b>5.</b>				
<b>6.</b>				
<b>7.</b>				
<b>8.</b>				
<b>9.</b>				
<b>10.</b>				
<b>11.</b>				
<b>12.</b>				
<b>13.</b>				
<b>Total</b>				

Notes:

- <sup>1</sup> The total indicated above should agree with Paragraph 4(vi) of the Practitioner's Annual Statement on Trust Accounts
- <sup>2</sup> Kindly note that a separate schedule should be submitted for each trust bank account operated by the firm

**SUPPLEMENTARY INFORMATION REQUESTED BY THE LEGAL PRACTICE COUNCIL  
FIRM <INSERT FIRM NAME >**

**Schedule of payments on interest earned on monies invested in terms of section 86(3) of the Legal Practice Act, No. 28 of 2014.**

For the financial period from \_\_\_\_\_ to \_\_\_\_\_

Trust Banking Account at <insert Name of Bank>, Branch Code No. <insert code> and Account No. <insert account no>				
	Date	Financial Period	Method of Payment (EFT/Cheque)	Amount
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
<b>Total</b>				

Notes:

- <sup>1</sup> The total indicated above should agree with Paragraph 4(vi) of the Practitioner's Annual Statement on Trust Accounts
- <sup>2</sup> Kindly note that a separate schedule should be submitted for each trust bank account operated by the firm

**SUPPLEMENTARY INFORMATION REQUESTED BY THE LEGAL PRACTICE COUNCIL  
FIRM <INSERT FIRM NAME >**

**Schedule of payments of 5% on interest accrued on monies invested in terms of section 86(4) of the Legal Practice Act, No.28 of 2014.**

For the financial period from \_\_\_\_\_ to \_\_\_\_\_

Trust Banking Account at <insert Name of Bank>				
	Date	Financial Period	Method of Payment (EFT/Cheque)	Amount
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
<b>Total</b>				

Notes:

- <sup>1</sup> The total indicated above should agree with Paragraph 4(vi) of the Practitioner's Annual Statement on Trust Accounts

**SUPPLEMENTARY INFORMATION REQUESTED BY THE LEGAL PRACTICE COUNCIL  
FIRM <INSERT FIRM NAME >**

**Schedule of Executor Bond securities obtained from the Attorneys Insurance Indemnity Fund NPC.**

For the financial period from \_\_\_\_\_ to \_\_\_\_\_

Executor Bond Securities provided for <insert practitioner name>				
	Estate Matter	AiIF Executor Bond Reference	Status (Open/Closed)	Amount
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
<b>Total</b>				

Notes:

- <sup>1</sup> The total amount indicated above should agree with Paragraph 4(xi) of the Practitioner's Annual Statement on Trust Accounts, representing the value of all open Executor Bond Securities at the end of the reporting period.
- <sup>2</sup> A schedule is required per practitioner in the firm to whom an executor bond of security was issued by the Attorneys Insurance Indemnity Fund NPC.

**Schedule 9  
(Rule 55.4)****CLIENT INVESTMENT MANDATE**

I/We, the undersigned \_\_\_\_\_

(the client) of \_\_\_\_\_

do hereby authorise and empower \_\_\_\_\_

(firm's name) \_\_\_\_\_

to make the following investments as my/our agent and on my/our behalf:

**1. Type of Investments** YES / NO

1.1 With a bank (subject to the conditions as set out at

the bottom of this mandate); and/or

1.2 Stocks and shares on JSE; and/or

1.3 Money lending; and/or

1.4 Other (give details under 5 or on an annexure, if necessary)

**2. Type of Mandate Given** YES / NO

2.1 Discretionary

2.2 Non-discretionary

**3. Is Firm to keep all Securities/Certificates** YES / NO

3.1 Reporting Monthly / Quarterly / 6-Monthly / Annually

3.2 General

Instructions re securities, interest payments, charges etc. \_\_\_\_\_

**Acknowledgements by Investor**

4. The investor acknowledges:
- 4.1 that the firm/practitioner acts as the investor's agent in relation to any investments made in terms of this mandate;
- 4.2 that the investor assumes (except in so far as there may in law be a right of recovery against the firm/practitioner's) all risks connected with the administration by the firm/practitioner of money entrusted to the firm/practitioner, as well as the responsibility to ensure that the firm/practitioner executes the instructions as recorded in this mandate;
- 4.3 that any funds invested with a bank are not protected against the possible liquidation or other failures of the bank;
- 4.4 that money or other assets paid to the firm/practitioner for investment pursuant to this mandate do not enjoy the protection of the Legal Practitioners' Fidelity Fund.

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Signature of client

Accepted at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Signature of the firm/practitioner

To be completed and signed in duplicate and a copy to be handed to the client.

Conditions applicable to investments with a Bank

DEPARTMENT OF TRADE AND INDUSTRY  
NOTICE 402 OF 2018

**INTERNATIONAL TRADE ADMINISTRATION COMMISSION OF SOUTH AFRICA**

**DRAFT GUIDELINES AND CONDITIONS PERTAINING TO A SAFEGUARD APPLICATION IN TERMS OF ARTICLE 34 OF THE ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE ONE PART, AND THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC) EPA STATES, OF THE OTHER**

Emanating from the Economic Partnership Agreement (EPA) between the European Community and its Member States, of the one part, and the Southern African Development Community (SADC) EPA States, of the other, Article 34 of the EPA provides for safeguard action in defined circumstances.

The International Trade Administration Commission of South Africa (the Commission) has drafted the attached reference and procedural guide pertaining to the application for safeguard action in terms of Article 34 of the EPA.

All interested parties are invited to comment on the draft guidelines within 10 calendar days of the date of publication of this notice. The Commission will finalise the guidelines after considering all comments received.

Comments can be submitted to the Chief Commissioner, International Trade Administration Commission of South Africa, Private Bag X 753, Pretoria or delivered by hand to the DTI Campus (Block E), 77 Meintjies Street, Sunnyside, Pretoria, 0002.

Further information can be obtained from the Senior Manager: Trade Remedies I, Ms Carina Janse van Vuuren, at (012) 394 3594.

DEPARTMENT OF TRADE AND INDUSTRY  
NOTICE 403 OF 2018

INTERNATIONAL TRADE ADMINISTRATION COMMISSION  
CUSTOMS TARIFF APPLICATIONS

LIST 05/2018

The International Trade Administration Commission (herein after referred to as ITAC or the Commission) has received the following application concerning the Customs Tariff. Any objection to or comments on this representation should be submitted to the Chief Commissioner, ITAC, Private Bag X753, Pretoria, 0001. Attention is drawn to the fact that the rate of duty mentioned in this application is that requested by the applicants and that the Commission may, depending on its findings, recommend a lower or higher rate of duty.

**CONFIDENTIAL INFORMATION**

*The submission of confidential information to the Commission in connection with customs tariff applications is governed by section 3 of the Tariff Investigations Regulations, which regulations can be found on ITAC's website at <http://www.itac.org.za/documents/R.397.pdf>. These regulations require that if any information is considered to be confidential, then a non-confidential version of the information must be submitted, simultaneously with the confidential version. In submitting a non-confidential version the regulations are strictly applicable and require parties to indicate:*

- ❑ Each instance where confidential information has been omitted and the reasons for confidentiality;*
- ❑ A summary of the confidential information which permits other interested parties a reasonable understanding of the substance of the confidential information; and*
- ❑ In exceptional cases, where information is not susceptible to summary, reasons must be submitted to this effect.*

*This rule applies to all parties and to all correspondence with and submissions to the Commission, which unless clearly indicated to be confidential, will be made available to other interested parties.*

*The Commission will disregard any information indicated to be confidential that is not accompanied by a proper non-confidential summary or the aforementioned reasons. If a party considers that any document of another party, on which that party is submitting representations, does not comply with the above rules and that such deficiency affects that party's ability to make meaningful representations, the details of the deficiency and the reasons why that party's rights are so affected must be submitted to the commission in writing forthwith (and at the latest 14 days prior to the date on which that party's submission is due). Failure to do so timeously will seriously hamper the proper administration of the investigation, and such party will not be able to subsequently claim an inability to make meaningful representations on the basis of the failure of such other party to meet the requirements.*

**REVIEW OF THE DESCRIPTION OF TARIFF SUBHEADING 6210.10.20 IN PART 1 OF SCHEDULE NO.1 TO THE CUSTOMS AND EXCISE ACT NO.91 OF 1964, WHICH READS AS FOLLOWS: “DISPOSABLE PANTIES OF FABRICS OF HEADING 56.03”.**

The review is conducted with a view to consider amending the abovementioned description of tariff subheading 6210.10.20, provided there are no local manufacturers, as follows: “Disposable underwear of fabrics of heading 56.03”. This proposed tariff description is intended to cover universal disposable underwear, which is currently not the case as the current tariff structure differentiates between disposable panties classifiable under tariff subheading 6210.10.20 at free of duty and other disposable underwear classifiable under tariff subheading 6210.10.90 at a rate of duty of 40 per cent ad valorem.

**ENTITY:**

**South African Revenue Service (SARS)**

Pretoria Head Office  
299 Bronkhorst Street

**NIEUW MUCKLENEUK**  
0181

Ref: 33/2017 **Enquiries:** Mr Chris Sako, at Tel: (012) 394-3669, Email: [csako@itac.org.za](mailto:csako@itac.org.za) or Mrs Ayanda Gandi, at Tel: (012) 394-3672, Email: [endou@itac.org.za](mailto:endou@itac.org.za).

**THE REASONS PROVIDED FOR THE REVIEW IS AS FOLLOWS:**

- a) Disposable under garments of non-woven fabrics appear to have evolved from their original use as substitutes for sanitary pads and are now used, *inter alia*, as theatre-wear for patients during surgical procedures.
- b) The current description of tariff subheading 6210.10.20 currently at free of duty, makes it discriminatory and difficult to administer as some disposable underwear of fabrics of heading 56.03 are imported under tariff subheading 6210.10.90 which attracts a general rate of duty of 40 per cent *ad valorem*.
- c) If disposable underwear is not manufactured locally it is reasonable to review the description of tariff subheading 6210.10.20 to reflect this position.

**PUBLICATION PERIOD:**

Representation should be submitted to the above address within **four (4) weeks** of the date of this notice.

**DEPARTMENT OF TRADE AND INDUSTRY**  
**NOTICE 404 OF 2018**

**STANDARDS ACT, 2008**  
**STANDARDS MATTERS**

In terms of the Standards Act, 2008 (Act No. 8 of 2008), the Board of the South African Bureau of Standards has acted in regard to standards in the manner set out in the Schedules to this notice.

**SECTION A: DRAFTS FOR COMMENTS**

The following draft standards are hereby issued for public comments in compliance with the norm for the development of the South Africa National standards in terms of section 23(2)(a) (ii) of the Standards Act.

Draft Standard No. and Edition	Title, scope and purport	Closing Date
SANS 1534 Ed 2	<i>Resin capsules for use with tendon based support systems.</i> Specifies the characteristics of resin capsules for use with tendon based support systems for the mining and construction industries.	2018-09-10

**SCHEDULE A.1: AMENDMENT OF EXISTING STANDARDS**

The following draft amendments are hereby issued for public comments in compliance with the norm for the development of the South African National Standards in terms of section 23(2)(a) (ii) of the Standards Act.

Draft Standard No. and Edition	Title	Scope of amendment	Closing Date

**SCHEDULE A.2: WITHDRAWAL OF THE SOUTH AFRICAN NATIONAL STANDARDS**

In terms of section 24(1)(C) of the Standards Act, the following published standards are issued for comments with regard to the intention by the South African Bureau of Standards to withdraw them.

Draft Standard No. and Edition	Title	Reason for withdrawal	Closing Date

**SCHEDULE A.3: WITHDRAWAL OF INFORMATIVE AND NORMATIVE DOCUMENTS**

In terms of section 24(5) of the Standards Act, the following documents are being considered for withdrawal.

Draft Standard No. and Edition	Title	Reason for withdrawal	Closing Date

**SECTION B: ISSUING OF THE SOUTH AFRICAN NATIONAL STANDARDS**

**SCHEDULE B.1: NEW STANDARDS**

The following standards have been issued in terms of section 24(1)(a) of the Standards Act.

Standard No. and year	Title, scope and purport
SANS 33004:2018 Ed 1	<i>Information technology - Process assessment - Requirements for process reference, process assessment and maturity models.</i> Sets out the requirements for process reference models, process assessment models, and maturity models.
SANS 50007:2018 Ed 1	<i>Energy services - Guidelines for the assessment and improvement of the energy service to users.</i> Addresses the relevant elements of energy service provided by energy suppliers to users.

Standard No. and year	Title, scope and purport
SANS 60335-2-14:2018 Ed 5	<i>Household and similar electrical appliances - Safety Part 2-14: Particular requirements for kitchen machines.</i> Deals with the safety of electric kitchen machines for household and similar purposes, their rated voltage being not more than 250 V.
SANS 60335-2-105:2018 Ed 2	<i>Household and similar electrical appliances - Safety Part 2-105: Particular requirements for multifunctional shower cabinets.</i> Deals with the safety of electric multifunctional shower cabinets and electric separate multifunctional shower units for household and similar purposes, their rated voltage being not more than 250 V for single-phase appliances and 480 V for other appliances.
SANS 60364-7-712:2018 Ed 2	<i>Low voltage electrical installations - Part 7-712: Requirements for special installations or locations - Solar photovoltaic (PV) power supply systems.</i> Applies to the electrical installation of PV systems intended to supply all or part of an installation.

### SCHEDULE B.2: AMENDED STANDARDS

The following standards have been amended in terms of section 24(1)(a) of the Standards Act.

Standard No. and year	Title, scope and purport
SANS 1524-1-2:2018 Ed 1.1	<i>Electricity payment systems Part 1-2: Surge protective devices for the protection of payment meters. Consolidated edition incorporating amendment No.1.</i> Amended to change the designation "SANS 1524-1-2/NRS 009-1-2" to read "SANS 1524-1-2", and to update referenced standards.
SANS 60811-508:2018 Ed 1.1	<i>Electric and optical fibre cables - Test methods for non-metallic materials Part 508: Mechanical tests - Pressure test at high temperature for insulation and sheaths. Consolidated edition incorporating amendment No.1.</i> Amended to update the requirements for test method, the figure on flat cable with a flat smaller side and the annex on calculation of the compressing force.
SANS 61347-2-11:2018 Ed 1.1	<i>Lamp controlgear Part 2-11: Particular requirements for miscellaneous electronic circuits used with luminaires. Consolidated edition incorporating amendment No.1.</i> Amended to update the introduction, the scope and the clause on marking.
SANS 164-6:2018 Ed 1.5	<i>Plug and socket-outlet systems for household and similar purposes for use in South Africa Part 6: Two-pole (Class II), 16 A 250 V a.c. system.</i> Amended to change the title of the standard, and to update the list of parts in the foreword.
SANS 1574-3:2018 Ed 1.3	<i>Electric flexible cables with solid extruded dielectric insulation Part 3: PVC-insulated cables for industrial use.</i> Amended to update the scope.
SANS 10090:2018 Ed 3.1	<i>Community protection against fire.</i> Amended to update referenced standards, and to move reference to legislation to the foreword.
SANS 1923:2018 Ed 1.2	<i>Scouring compounds.</i> Amended to update the clause on requirements.
SANS 6081:2018 Ed 3.1	<i>Cleaning efficiency of low-foam laundry detergents.</i> Amended to remove the footnotes to Standard soiled cotton swatches, and Standard detergent.

### SCHEDULE B.3: WITHDRAWN STANDARDS

In terms of section 24(1)(C) of the Standards Act, the following standards have been withdrawn.

Standard No. and year	Title
SANS 1200 AH	<i>Standardized specification for civil engineering construction Section AH: General (structural).</i>
SANS 1200 DB	<i>Standardized specification for civil engineering construction Section DB: Earthworks (pipe trenches).</i>
SANS 1200 DN	<i>Standardized specification for civil engineering construction Section DN: Earthworks (railway sidings).</i>
SANS 1200 G	<i>Standardized specification for civil engineering construction Section G: Concrete (structural).</i>
SANS 1200 GA	<i>Standardized specification for civil engineering construction Section GA: Concrete (small works).</i>
SANS 1200 GB	<i>Standardized specification for civil engineering construction Section GB: Concrete (ordinary buildings).</i>
SANS 1200 GE	<i>Standardized specification for civil engineering construction Section GE: Precast concrete (structural).</i>

SANS 1200 GF	<i>Standardized specification for civil engineering construction Section GF: Prestressed concrete.</i>
SANS 1200 H	<i>Standardized specification for civil engineering construction Section H: Structural steelwork.</i>
SANS 1200 HA	<i>Standardized specification for civil engineering construction Section HA: Structural steelwork (sundry items).</i>
SANS 1200 HB	<i>Standardized specification for civil engineering construction Section HB: Cladding and sheeting.</i>
SANS 1200 HC	<i>Standardized specification for civil engineering construction Section HC: Corrosion protection of structural steelwork.</i>
SANS 1200 HE	<i>Standardized specification for civil engineering construction Section HE: Structural aluminiumwork.</i>
SANS 1200 L	<i>Standardized specification for civil engineering construction Section L: Medium-pressure pipe lines.</i>
SANS 1200 LB	<i>Standardized specification for civil engineering construction Section LB: Bedding (pipes).</i>
SANS 1200 LC	<i>Standardized specification for civil engineering construction Section LC: Cable ducts.</i>
SANS 1200 LD	<i>Standardized specification for civil engineering construction Section LD: Sewers.</i>
SANS 1200 LE	<i>Standardized specification for civil engineering construction Section LE: Stormwater drainage.</i>
SANS 1200 LF	<i>Standardized specification for civil engineering construction Section LF: Erf connections (water).</i>
SANS 1200 NB	<i>Standardized specification for civil engineering construction Section NB: Railway sidings (trackwork).</i>
SANS 1164	<i>Automotive fuels - Requirements and specifications for fuel ethanol as a blending component with petrol.</i>

#### **SCHEDULE B.4: ESTABLISHMENT OF TECHNICAL COMMITTEES**

In terms of section 4(2) (1) the South African Bureau of Standards has established the following technical committees:

<b>Technical Committee No.:</b>	<b>Title</b>	<b>Scope</b>

#### **SCHEDULE B.4: DISBANDMENT OF TECHNICAL COMMITTEES**

In terms of section 4(2) (1) the South African Bureau of Standards has disbanded the following technical committees:

<b>Technical Committee No.:</b>	<b>Title</b>	<b>Scope</b>

If your organization is interested in participating in these committees, please send an e-mail to [Dsscomments@sabs.co.za](mailto:Dsscomments@sabs.co.za) for more information.

#### **SCHEDULE 5: ADDRESSES OF THE SOUTH AFRICAN BUREAU OF STANDARDS OFFICES**

The addresses of offices of the South African Bureau of Standards where copies of the standards mentioned in this notice can be obtained, are as follows:

1. Gauteng Head Office, 1 Dr Lategan Road, Groenkloof, Private Bag X191, Pretoria 0001.
2. Western Cape Regional Office, SABS, Liesbeek Park Way, Rosebank, PO Box 615, Rondebosch 7701.
3. Eastern Cape Regional Office, SABS, 30 Kipling Road, cor. Diaz and Kipling Roads, Port Elizabeth, PO Box 3013, North End 6056.
4. KwaZulu-Natal Regional Office, SABS, 15 Garth Road, Waterfall Park, Durban, PO Box 30087, Mayville 4058.

## DEPARTMENT OF TRANSPORT

## NOTICE 405 OF 2018

**AIR SERVICE LICENSING ACT, 1990 (ACT NO.115 OF 1990)  
APPLICATION FOR THE GRANT OR AMENDMENT OF DOMESTIC AIR  
SERVICE LICENCE**

Pursuant to the provisions of section 15 (1) (b) of Act No. 115 of 1990 and Regulation 8 of the Domestic Air Regulations, 1991, it is hereby notified for general information that the application detail of which appear in the appendix, will be considered by the Air Service Licensing Council. Representation in accordance with section 15 (3) of the Act No.115 of 1990 in support of, or in position, an application, should reach the Air Service Licensing Council. Private Box X 193, Pretoria, 0001, within 21 days of date of the publication thereof.

**APPENDIX I**

(A) Full name and trade name of the applicant. (B) Full business or residential address of the applicant. (C) Class of licence applied for. (D) Type of air service to which application applies. (E) Category of aircraft to which application applies.

**(A) BigSky Drones (Pty) Ltd: BigSky Drones.** (B) 231 Bosloerie Street, Stonehenge, West Acres, Mbombela. (C) Class III. (D) Type G3, G4 & G16 (RPAS). (E) Category A4, H1 & H2.

**(A) Flightshare (Pty) Ltd.** (B) 2<sup>nd</sup> Floor One Helth Building, North Office Park, 54 Maxwell Drive, Woodmead, 2191. (C) Class III. (D) Type G2, G3, G4, G5, G6, G7, G8, G10, G13, G14, G15 & G16 (Ship to Shore). (E) Category H1 & H2.

**(A) Peakfull 1181 CC.** (B) Batchelor Street, Komani, Eastern Cape, 5319. (C) Class III. (D) Type G3, G4 & G16 (RPAS operations). (E) Category H1.

**(A) UAV Inspection (Pty) Ltd; UAV Inspection.** (B) 21 Kenmont Mews, 119 First Avenue, Kenilworth, Western Cape, 7708. (C) Class III. (D) Type G3, G4 & G16 (RPAS). (E) Category A4 aircraft.

**APPENDIX II**

(A) Full Name and trade name of the applicant. (B) Full business or residential address the applicant. (C) The Class and number of license in respect of which the amendment is sought (D) Type of air service and the amendment thereto which is being applied for (E) Category of aircraft and the amendment thereto which is being applied for. (F) Amendment referred to in section 14(2) (b) to I.

**(A) Flitecare Air Charters CC; Flitecare Training.** (B) Hanger 38, Wonderboom Airport, Pretoria. (C) Class II; N1035D. (D) Type N1 & N2. (E) Category A3 & A4. **Changes to the Management Plan:** Tavia van Deventer is appointed as the RP: Flight Operations.

**(A) Timeslice Cinematography (Pty) Ltd.** (B) 53 Forestwalk Crescent Bordwalk Meander Estate, Olympus AH, Pretoria, 0081. (C) Class III; G1222D. (D) Type G3, G4 & G16 (RPAS). (E) Category A4, H1 & H2. **Changes to the Management Plan:** M Cretten is appointed as the RP: Aircraft, RP: Flight Operations & JE de Jager as the Air Service Safety Officer.

## DEPARTMENT OF TRANSPORT

## NOTICE 406 OF 2018

## INTERNATIONAL AIR SERVICE ACT, (ACT NO.60 OF 1993)

## GRANT /AMENDMENT OF INTERNATIONAL AIR SERVICE LICENSE

Pursuant to the provisions of section 17 (12) of Act No.60 of 1993 and Regulation 15 (1) and 15 (2) of the International Air Regulations, 1994, it is hereby notified for general information that the applications, detail of which appear in the Schedules hereto, will be considered by the International Air Services Council (Council) representation in accordance with section 16(3) of the Act No. 60 of 1993 and regulation 25(1) of International Air Services Regulation, 1994, against or in favour of an application, should reach the Chairman of the International Air Services Council at Department of Transport, Private Bag X 193, Pretoria, 0001, within 28 days of the application hereof. It must be stated whether the party or parties making such representation is / are prepared to be represent or represented at the possible hearing of the application.

## APPENDIX II

(A) Full name, surname and trade name of the applicant. (B) Full business or residential address of the applicant. (C) Class of licence applied for. (D) Type of International Air Service to which application pertains. (E) Category or kind of aircraft to which application pertains. (F) Airport from and the airport to which flights will be undertaken. (G) Area to be served. (H) Frequency of flight.

(A) Flyfofa Airways (Pty) Ltd. (B) Hanger 71, Wonderboom Airport, Lintvelt Road, Pretoria, 0182. (C) Class I; I/S320. (D) Type S1 & S2. (E) Category A1, A2, A3, A4 & H2. (F) ORTIA, KSIA & CTIA. (G) & (H) Adding the following.

State	Destination	Frequencies
ORTIA: Botswana	Gaborone	Twenty one (21) return flights per week.
ORTIA: Swaziland	Matsapha	Seven (7) return flights per week
ORTIA: Zambia	Lusaka	Seven (7) return flights per week
ORTIA: DRC	Lubumbashi	Seven (7) return flights per week
KSIA: Botswana	Gaborone	Seven (7) return flights per week
KSIA: Mozambique	Maputo	Seven (7) return flights per week
CTIA: Botswana	Gaborone	Seven (7) return flights per week
CTIA: Namibia	Walvis Bay	Seven (7) return flights per week

(A) Flitecare Air Charters CC; Flitecare Training. (B) Hanger 38, Wonderboom Airport, Pretoria. (C) Class II; I/N232. (D) Type N1 & N2. (E) Category A3 & A4. (F) Wonderboom Airport. **Changes to the Management Plan:** Tavia van Deventer is appointed as the RP: Flight Operations.

## BOARD NOTICES • RAADSKENNISGEWINGS

## BOARD NOTICE 93 OF 2018

**INVITATION TO COMMENT ON EXPOSURE DRAFTS ISSUED BY THE ACCOUNTING STANDARDS BOARD****Issued: 20 July 2018**

The Accounting Standards Board (the Board) invites comment on the following Exposure Drafts that were issued by the ASB at its July 2018 meeting:

- The proposed Guideline on *The Application of Materiality to Financial Statements* (ED 168).
- The proposed amendments to the Standard of GRAP on *Presentation of Financial Statements* (GRAP 1)(ED 169).

Comment is due by **7 December 2018**.

Any input received on the proposals in ED 168 to ED 169 will be used in finalising the applicable pronouncements before they are issued.

All those affected by, or who are interested in, these Exposure Drafts are encouraged to provide a written response to the Board.

Responses to these Exposure Drafts should be received by the comment deadline indicated above.

*Copies of the document*

The document is available electronically on the Board's website – <http://www.asb.co.za>, or can be obtained by contacting the Board's offices on 011 697 0660 (telephone), or 011 697 0666 (fax).

Comment can be emailed to [info@asb.co.za](mailto:info@asb.co.za) or can be submitted in writing to:

Accounting Standards Board

PO Box 7001

Halfway House

1685

We look forward to receiving your responses.

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