

CONSTITUTION OF THE SOCIETY OF ADVOCATES OF KWAZULU-NATAL

I NAME AND OBJECTS

- 1 The name of the organization shall be "The Society of Advocates of KwaZulu-Natal hereinafter referred to as "the Society".
- 2 The objects of the Society are:
 - (a) The protection of the interests of the Bar in KwaZulu-Natal, and of the individual members of the Society in their professional capacity;
 - (b) The supervision of the conduct of members;
 - (c) The consideration and promotion of improvements in the teaching and practice of the law and in the administration of justice;
 - (d) The promotion of the achievement of equality within the Society of Advocates of KwaZulu-Natal through measures aimed at eliminating unfair discrimination in accordance with section 9 of the Constitution of the Republic of South Africa.

(Amended 7 August 2010)

II MEMBERSHIP

- 3 (a) Membership of the Society is limited to persons enrolled as Advocates of the High Court of South Africa and who have satisfied the Society's requirements from time to time with regard to the serving of pupillage and the passing of Bar examinations.
- (b) There shall be four classes of membership, namely
 - (i) full membership, which is available to a person who practices as an Advocate having his or her principal chambers in Durban or Pietermaritzburg and who does not pursue any other professional, commercial or industrial undertaking other than those that may be allowed by the Society from time to time as provided for in the Rules;
 - (ii) associate membership, which is available to :
 - (aa) a full-time teacher of law at a university in KwaZulu-Natal;

- (bb) a practising Advocate with his or her principal chambers in a town or centre in KwaZulu-Natal other than Durban or Pietermaritzburg;
 - (cc) a practising Advocate who is a full member of a Society of Advocates affiliated to the General Council of the Bar who has his or her principal chambers outside KwaZulu-Natal but who wishes to have subsidiary chambers in Durban or Pietermaritzburg;
 - (dd) a practising Advocate in the employment of a non-governmental organization which provides free legal services to members of the public and which is approved by the Council, or who is employed by some other non-governmental organization which provides legal services and which is approved by the Council, provided that in both cases the work of the person is predominantly that of an Advocate and is not inconsistent with the responsibilities and obligations of an Advocate;
 - (ee) a former full member of the Society who practices as an advocate or in a similar capacity in a foreign jurisdiction from chambers situate in that jurisdiction. **(Amended 13 September 2014)**
- (iii) honorary membership, which is conferred by the Society in general meeting on the recommendation of the Council to a member or former member who has resigned or retired from full-time practice and who deserves recognition for his or her outstanding contribution to the legal profession and/or to the practice of law;
 - (iv) retired membership which is available to a member in good standing who is retired from active practice and whose association with the Society is of such a duration that the Council consider his or her membership of this category to be appropriate. Such a member
 - (aa) need not have chambers in Durban or Pietermaritzburg;
 - (bb) need not reside in KwaZulu-Natal;
 - (cc) will not be obliged to pay subscriptions;
 - (dd) shall not be entitled to vote at any meeting of the Society.

(Amended 7 August 2010)

- (c) Notwithstanding the provisions of clause 3(a), the KwaZulu-Natal Director of Public Prosecutions, for the time being, shall be an associate member of the Society but shall not be liable to pay subscriptions.

- (d) A member in any particular category of membership shall cease to be a member in that category, or at all, if he or she ceases to satisfy the requirements of membership of that category.
- (e) For the purposes of this clause references to Pietermaritzburg should be understood as being references to the area of jurisdiction of the Msunduzi Municipality and references to Durban should be understood as being references to the area of jurisdiction of the eThekweni Municipality.

(Amended 5 September 2009)

- 4 Every person described in Clause 3 who has accepted this Constitution and signed the roll of members within one month of the coming into operation of this Constitution shall be a member of the Society. Thereafter any person described in Clause 3 may become a member by making application and proving to the satisfaction of the Council that he has the qualifications described in Clause 3.

III OFFICIALS

- 5 (a) The Council, all of whose members shall be members of the Society, shall consist of:
 - (i) a Chairman, who shall be a Silk;
 - (ii) a Deputy Chairman, who shall be one of the Silks referred to hereunder;
 - (iii) seven members practising in Durban, of whom two shall Silks and five shall be juniors, one of whom, when elected, shall be a Junior of less than five years' standing at the Bar. **(Amended 23 September 1995);**
 - (iv) four members practising in Pietermaritzburg, of whom one shall be a Silk and three shall be juniors, one of whom, when elected, shall be a junior of less than five years' standing at the Bar. **(Amended 23 September 1995).**
- (b) A member of the Council who takes Silk shall be deemed for the purposes of his membership of it to remain a junior until the period for which he was elected to such membership expires.
- (c) Any member of the Council may nominate any other member of the Society as his alternate for a particular meeting of the Council, whereupon such alternate instead of him shall be entitled to attend and to vote as such meeting.
- (d) At meeting of the Council four of its members shall form a quorum, and the Chairman shall have a casting as well as a deliberative vote.

- 6 The Council shall be elected at the Annual General Meeting, and shall hold office until the next Annual General Meeting following their election, provided that:
- (a) if the Chairman ceases to be a member of the Society, or resigns his office as Chairman, a new Chairman shall be elected at a general meeting which the Council, acting in terms of clause 13(a), shall order to take place within six weeks of either such event. The Deputy Chairman shall act as Chairman until the new Chairman is elected. **(Amended 11 August 1990);**
 - (b) if the Chairman is temporarily absent the Deputy Chairman shall for the period of such absence act as Chairman. If the Deputy Chairman is also temporarily absent the Council shall appoint an Acting Chairman for the period of such absence and such Acting Chairman shall be a Silk. **(Amended 11 August 1990);**
 - (c) if for any reason a member of the Council ceases to hold office, the Council may co-opt another member of the Society to act in his place during the remaining period of the Council's term of office;
 - (d) if a member of the Council is temporarily absent, the Council may co-opt another member of the Society to act in his place during such absence;
 - (e) if a member of the Society is appointed as an Acting Judge, he shall not function as Chairman, Deputy Chairman or Acting Chairman of the Council, or attend meetings of the Council during the period of his appointment. During the period of such appointment such member shall be deemed to be temporarily absent. **(Amended 11 August 1990).**
 - (f) a member against whom there is a complaint of serious professional misconduct is until such complaint is finalised in his or her favour, ineligible to stand for or hold office on the Council. (To render such member ineligible, he or she shall have been informed of the complaint, invited to give a written response to the complaint and the relevant structure of the Council is of the view that the complaint taken together with the member's answer, calls for, at the least, an investigation). **(Amended 1 September 2012)**
- 7 The Council shall appoint, from the members of the Society who are not members of the Council, a Secretary of the Society and, in its discretion, either one or two Assistant Secretaries of the Society. The Secretary and the Assistant Secretary or Secretaries may attend but not vote at meetings of the Council. The functions of a Treasurer of the Society shall be allocated by the Council to and performed by an Assistant Secretary.

IV POWERS OF THE COUNCIL

- 8 The management of the affairs of the Society shall be vested in the Council, except in respect of matters specially directed to be done by a general meeting but the Council shall be bound to act in terms of any decision of a General Meeting.

The Council (subject always to any decisions or directions of a General Meeting) shall represent the Society in all matters affecting the rights, privileges or welfare of its members, as such, in their relations with other persons, bodies or societies, or the public generally.

- 9 The Council shall have the following special powers:
- (a) to make, revoke or alter rules regulating its own procedure;
 - (b) to make, revoke or alter by-laws to carry out the objects of this Constitution;
 - (c) to make, revoke or alter by-laws relating to members of the Society in their professional capacity;
 - (d) to exercise general control over all members in respect of matters affecting their professional status, rights, privileges and obligations;
 - (e) in the manner set forth in the Rules with regard to Complaints and Enquiries:
 - (i) to cause any complaint against a member to be investigated;
 - (ii) either itself or by means of a Committee acting on behalf of the Council, to conduct an Enquiry into the conduct of a member, and to admonish, suspend, expel or impose a fine of an amount not exceeding R25 000,00 on any member found guilty of misconduct, including any breach of the Rules of Professional Conduct and Etiquette and to direct that any reasonable expenses incurred by the Council in respect of the investigation into the conduct of the member and the conduct of the enquiry be paid by such member. **(Amended 23 September 1995 and 5 September 2009);**
 - (iii) where the powers of the Council have been exercised by a Committee, to consider an appeal from the Committee's decision and to substitute, where appropriate, its finding or penalty or both for that of the Committee;

- (f) if the Council is of the opinion that any alleged contravention of the said Rules or any other alleged misconduct is not sufficiently serious to warrant investigation or enquiry in terms of paragraph (e), to require the member concerned to explain the contravention or misconduct alleged, and, if the Council in the light of the member's response or failure to respond thinks fit, to call the member concerned before the Council and then and there summarily dispose of the matter, whether by reprimand, advice to the member or otherwise as the Council thinks fit. **(Amended 30 November 1981).**

- 10 No by-law shall be operative until it shall have been approved by a general meeting of members.

V GENERAL MEETINGS

- 11 The Annual General Meeting shall be held in the month of August or September in each year. **(Amended 16 June 1984).**
- 12 The business at the Annual General Meeting shall be to elect officials, to receive and consider the annual accounts and the report of the Council and general business.
- 13 General meetings other than the Annual General Meeting shall be held:
- (a) where so ordered by the Council;
 - (b) upon a requisition to the Secretary signed by five members.
- 14 At all General Meetings twenty ordinary members shall form a quorum. No Associate or Honorary members shall be entitled to vote at such a meeting. **(Amended 5 September 2009).**
- 15 Seven days' notice shall be given by the Secretary to the members of any General Meeting and of the business to be done thereat, provided that, if the Chairman certifies the business thereof to be urgent, an emergency General Meeting may be convened in such a manner as the Chairman might consider fit.
- 16 The Chairman, Deputy Chairman or Acting Chairman of the Council shall be the Chairman of the General Meetings and in their absence the meeting shall appoint the Chairman. **(Amended 11 August 1990).**

VI FINANCE

- 17 The property of the Society shall be vested in the members of the Council for the time being in trust for members of the Society.

The Council shall be capable of suing and being sued on behalf of the Society, and the Secretary for the time being shall accept service of process, and, when authorized thereto by the Council, sign all necessary powers for that purpose.

- 18 The annual subscription shall be determined by the Council from time to time. The Council shall have power in determining the subscriptions to differentiate between seniors and juniors, and between Pietermaritzburg and Durban members. The Council may, in appropriate circumstances, reduce or waive any subscription. **(Amended 16 June 1984).**
- 19 If a member is in default of the payment of his subscription, or any other monies of any nature whatsoever due to the Society, the Council may suspend or expel him, or take such other steps as may be provided for by the Rules. **(Amended 2 September 2000).**

VII AMENDMENT OF CONSTITUTION

- 20 The Constitution may be amended at a duly constituted general meeting provided:
 - (a) due notice of the proposed amendment has been given, and
 - (b) two-thirds of the members present at the meeting and entitled to vote, cast their votes in favour of the amendment.
- 21 This constitution shall operate as and from 30 May 1929.