ATTORNEYS ACT
NO. 53 OF 1979

[View Regulation]

[ASSENTED TO 21 MAY, 1979]
[DATE OF COMMENCEMENT: 1 JUNE, 1979]

(Afrikaans text signed by the State President)

This Act has been updated to Government Gazette 31579 dated 5 November, 2008.

as amended by

Attorneys Amendment Act, No. 76 of 1980
Attorneys Amendment Act, No. 116 of 1981
Attorneys Amendment Act, No. 60 of 1982
Attorneys Amendment Act, No. 56 of 1983
Second Attorneys Amendment Act, No. 103 of 1983
Attorneys Amendment Act, No. 108 of 1984
Attorneys Amendment Act, No. 80 of 1985
Attorneys Amendment Act, No. 87 of 1989
Attorneys Amendment Act, No. 13 of 1990
Attorneys Amendment Act, No. 102 of 1991
Attorneys Amendment Act, No. 115 of 1993
General Law Third Amendment Act, No. 129 of 1993
[with effect from 1 September, 1993]
General Law Sixth Amendment Act, No. 204 of 1993
[with effect from 1 March, 1994]
Admission of Legal Practitioners Amendment Act, No. 33 of 1995
General Law Amendment Act, No. 49 of 1996
[with effect from 4 October, 1996]

Judicial Matters Amendment Act, No. 104 of 1996
[with effect from 14 February, 1997]

Qualification of Legal Practitioners Amendment Act, No. 78 of 1997

Attorneys and Matters Relating to Rules of Court Amendment Act, No. 115 of 1998

Judicial Matters Second Amendment Act, No. 122 of 1998
[with effect from 1 April 1999]

Judicial Matters Amendment Act, No. 62 of 2000
[with effect from 23 March, 2001]

Judicial Matters Amendment Act, No. 55 of 2002
[with effect from 17 January, 2003, unless otherwise indicated]

proposed amendment by

Judicial Matters Second Amendment Act, No. 55 of 2003

Judicial Matters Amendment Act, No. 22 of 2005

Jurisdiction of Regional Courts Amendment Act, No. 31 of 2008
(provisions not yet proclaimed)

ACT

To consolidate the laws relating to the admission and practice of attorneys, notaries and conveyancers; the Attorneys Fidelity Fund; and law societies established in respect of the profession of attorney, notary or conveyancer; and to provide for matters connected therewith.

[Long title substituted by s. 34 of Act No. 87 of 1989.]

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1. Definitions.—In this Act, unless the context otherwise indicates—
“advocate” means an advocate of the Supreme Court;

“appropriate legal experience” means any service which is related to the application of the law and which is prescribed by the Minister;

[Definition of “appropriate legal experience” inserted by s. 1 (a) of Act No. 115 of 1993.]

“articled clerk” . . . . .

[Definition of “articled clerk” deleted by s. 1 (a) of Act No. 87 of 1989.]

Wording of Sections

“articles” or “articles of clerkship” means any contract in writing under which any person is bound to serve an attorney for a specified period in accordance with this Act;

“attend”, for purposes of Chapter I, includes participation in a distance education course approved by the provincial law societies, and “attended” and “attending” have a corresponding meaning;

[Definition of “attend” inserted by s. 17 (a) of Act No. 62 of 2000.]

“attorney” means any person duly admitted to practise as an attorney in any part of the Republic;

“banking institution” means a banking institution as defined in section 1 of the Banks Act, 1965 (Act No. 23 of 1965), and registered, otherwise than provisionally, or deemed to be registered as a banking institution in terms of section 4 of that Act;

“board of control” means the Attorneys Fidelity Fund Board of Control referred to in section 27;

[Definition of “board of control” substituted by s. 1 (b) of Act No. 87 of 1989.]

Wording of Sections

“building society” means—

(a)

a mutual building society as defined in section 1 of the Mutual Building Societies Act, 1965 (Act No. 24 of 1965), and finally registered or deemed to be registered as a permanent building society in terms of section 5 of that Act; or

(b)
a building society as defined in section 1 of the Building Societies Act, 1986 (Act No. 82 of 1986), and finally registered as a building society in terms of section 18 of that Act;

[Definition of “building society” substituted by s. 1 (c) of Act No. 87 of 1989.]

Wording of Sections

“candidate attorney” means any person bound to serve under articles of clerkship or to perform community service under a contract of service;

[Definition of “candidate attorney” inserted by s. 1 (d) of Act No. 87 of 1989 and substituted by s. 1 (c) of Act No. 115 of 1993.]

Wording of Sections

“community service” means full-time service related to the application of the law and performed—

(a) at a law clinic in respect of which the council of the province in which that law clinic is operated, certifies that the law clinic concerned complies with the requirements prescribed by such council for the operation of such clinic; or

(b) on behalf of and under the control of the Legal Aid Board established under section 2 of the Legal Aid Act, 1969 (Act No. 22 of 1969), and which is approved for this purpose by the Minister;

[Definition of “community service” inserted by s. 1 (b) of Act No. 115 of 1993.]

“contract of service” means any contract in writing under which a candidate attorney who wishes to perform community service, is bound to serve a principal for a specified period in accordance with this Act;

[Definition of “contract of service” inserted by s. 1 (d) of Act No. 115 of 1993.]

“conveyancer” means any person duly admitted to practise as a conveyancer within any part of the Republic;

“council” means the council of a society;

“court” means any court of a provincial division;

“fidelity fund certificate” means a certificate issued in terms of section 42;
“fund” means the Attorneys Fidelity Fund referred to in section 25;

[Definition of “fund” substituted by s. 1 (e) of Act No. 87 of 1989.]

Wording of Sections

“law clinic” means—

(a)

a centre for the practical legal education of students in the faculty of law at a university in the Republic; or

(b)

a law centre controlled by, or which is, a non-profit making organization,

which, subject to section 79A, provides legal services to the public free of charge;

[Definition of “law clinic” inserted by s. 1 of Act No. 102 of 1991 and substituted by s. 17 (b) of Act No. 62 of 2000.]

Wording of Sections

“Minister” means the Minister of Justice;

“notary” means any person duly admitted to practise as a notary in any part of the Republic;

“practise” means practise as an attorney or a notary or conveyancer, and “practice” has a corresponding meaning;

“practitioner” means any attorney, notary or conveyancer;

“prescribed” means prescribed by rule or by regulation made in terms of section 74, 81 or 82;

“principal”, in relation to—

(a)

a candidate attorney, means the attorney who is being served by such candidate attorney under articles of clerkship;

(b)
a former candidate attorney referred to in section 8 (4), means the practitioner concerned so referred to;

(c)

a candidate attorney performing community service, means an attorney who is employed full-time at a law clinic or an office of the Legal Aid Board established under section 2 of the Legal Aid Act, 1969 (Act No. 22 of 1969), and who has so practised or been so employed for a period of three years or periods of three years in the aggregate during the preceding four years; and

(d)

a former candidate attorney referred to in section 8 (4) performing community service, means the practitioner concerned so referred to;

[Definition of “principal” substituted by s. 1 (g) of Act No. 87 of 1989 and by s. 1 (e) of Act No. 115 of 1993.]

Wording of Sections

“profession” means the profession of attorney, notary or conveyancer and, in relation to a society, means such profession within the province of that society;

“professional company” means a company referred to in section 23;

“province” . . . . .

[Definition of “province” deleted by s. 1 (f) of Act No. 115 of 1993.]

Wording of Sections

“provincial division” means a provincial division as defined in the Supreme Court Act, 1959 (Act No. 59 of 1959);

“Republic” . . . . .

[Definition of “Republic” deleted by s. 1 (f) of Act No. 115 of 1993.]

Wording of Sections

“roll”, in relation to a court, means the roll of attorneys or of notaries or of conveyancers of that court;

“secretary”, in relation to a society, includes an assistant secretary of that society;
“society” means any law society referred to in section 56;

“Supreme Court” means the Supreme Court of South Africa as constituted by section 2 of the Supreme Court Act, 1959;

“Territory” . . . . .

[Definition of “Territory” deleted by s. 1 (f) of Act No. 115 of 1993.]

Wording of Sections

“trust account”, in relation to a practising practitioner, means an account comprising—

(a) that practitioner’s trust banking account referred to in section 78 (1); and

(b) any trust savings or other interest-bearing account referred to in section 78 (2) or (2A) opened by that practitioner;

[Definition of “trust account” inserted by s. 1 (h) of Act No. 87 of 1989.]

“unprofessional or dishonourable or unworthy”, in relation to conduct, includes any conduct prescribed as such.

CHAPTER I
PRACTITIONERS: QUALIFICATIONS, ADMISSION AND REMOVAL FROM ROLL

Wording of Sections

def: articled clerk of Act 53 of 1979 prior to amendment by Act 87 of 1989

Repealed Act

Act 23 of 1965 has been repealed by s 95 of Act 94 of 1990

Repealed Act

Act 23 of 1965 has been repealed by s 95 of Act 94 of 1990

Wording of Sections


Repealed Act


Repealed Act
2. **Duration of service under articles.**—(1) Any person intending to be admitted as an attorney, shall serve under articles of clerkship for a period of—

(a) two years after he or she has satisfied all the requirements for the degree of *baccalaureus legum* of any university in the Republic after pursuing for that degree a course of study of not less than four years;
Wording of Sections

(aA)

two years after he or she has satisfied all the requirements for the degree of bachelor other than the degree of baccalaureus legum, of any university in the Republic or after he or she has been admitted to the status of any such degree by any such university and has satisfied all the requirements for the degree of baccalaureus legum of any such university after completing a period of study for such degrees of not less than five years in the aggregate;

[Para. (aA) inserted by s. 2 (b) of Act No. 78 of 1997.]

(aB)

two years after he has satisfied all the requirements for a degree or degrees of a university in a country which may be designated by the Minister, after consultation with the presidents of the various societies, by notice in the Gazette, and in respect of which a university in the Republic with a faculty of law has certified that the syllabus of instruction and the standard of training thereof, together with a supplementary examination (if any) required by the latter university, the requirements of which have been satisfied by that person, are equivalent or superior to those required for the degree referred to in paragraph (a);

[Para. (aB), formerly para. (aA), inserted by s. 1 (a) of Act No. 108 of 1984.]

(b)

     . . . . . .

[Para. (b) deleted by s. 2 (d) of Act No. 78 of 1997.]

Wording of Sections

(c)

three years after he or she has satisfied all the requirements for any degree, other than an honorary degree, of any university in the Republic, but has not satisfied the requirements of paragraph (a), (aA) or (aB);

[Para. (c) substituted by s. 1 (b) of Act No. 108 of 1984 and by s. 2 (e) of Act No. 78 of 1997.]
three years after he or she has satisfied all the requirements for any degree other than an honorary degree, or for other such degrees, of a university in a country designated under paragraph (aB), and in respect of which degree or degrees a university in the Republic has certified that the syllabus of instruction and the standard of training thereof are equivalent or superior to those required for a corresponding degree of such university in the Republic, but has not satisfied the requirements of paragraph (a), (aA), (aB) or (c);

[Para. (cA) inserted by s. 1 (c) of Act No. 108 of 1984 and substituted by s. 2 (f) of Act No. 78 of 1997.]

Wording of Sections

(d)

three years after he has passed the matriculation examination conducted and controlled by the joint matriculation board referred to in section 15 of the Universities Act, 1955, or an examination certified by that matriculation board to be equivalent or superior thereto, and thereafter has served continuously for a period of at least two years as a clerk to any judge of the Supreme Court, provided he enters into articles of clerkship within a period of one year after he has ceased to serve in such manner; or

(e)

five years after he has passed an examination referred to in paragraph (d).

(1A) Any person intending to be admitted as an attorney and who has not served articles of clerkship in terms of subsection (1), and has satisfied all the requirements for a degree referred to in paragraph (a) or (aB) of subsection (1), or the degrees referred to in paragraph (aA) of that subsection, shall serve under articles of clerkship for a period of one year and shall in addition thereto—

(a)

attend a training course approved by the society concerned for an uninterrupted period of at least four months and complete such course to the satisfaction of that society; or

(b)

perform community service approved by the society concerned in terms of a contract of service for an uninterrupted period of at least one year to the satisfaction of that society.

[Sub-s. (1A) inserted by s. 2 of Act No. 115 of 1993 and amended by s. 2 (g) of Act No. 78 of 1997.]
(2) Subject to the provisions of this Act, any period of service performed before the passing of any examination or the obtaining of any degree referred to in subsection (1), shall not be regarded as good or sufficient service for the purposes of this Act.

Wording of Sections

s 2(1)(a) of Act 53 of 1979 prior to amendment by Act 78 of 1997

Wording of Sections

s 2(1)(b) of Act 53 of 1979 prior to amendment by Act 78 of 1997

Wording of Sections

s 2(1)(c) of Act 53 of 1979 prior to amendment by Act 108 of 1984

s 2(1)(c) of Act 53 of 1979 prior to amendment by Act 78 of 1997

Wording of Sections

s 2(1)(cA) of Act 53 of 1979 prior to amendment by Act 78 of 1997

Wording of Sections

s 2(1A) of Act 53 of 1979 prior to amendment by Act 78 of 1997

2A. Exemption from service under articles of clerkship.—Any person intending to be admitted as an attorney and who has satisfied all of the requirements for a degree referred to in paragraph (a) or (aB) of section 2 (1), or the degrees referred to in paragraph (aA) of that section, and who—

(a)

(i)

has attended a training course approved by the society concerned for an uninterrupted period of at least four months and has completed such course to the satisfaction of that society; and

(ii)

has performed community service in terms of a contract of service for an uninterrupted period of at least one year to the satisfaction of that society; or

(b)

has performed community service in terms of a contract of service for an uninterrupted period of at least two years to the satisfaction of the society concerned; or

(c)
has, to the satisfaction of the society concerned, gained at least five years’ appropriate legal experience,
is exempted from service under articles of clerkship in terms of section 2 (1), and from the provisions of section 2 (1A).

[S. 2A inserted by s. 3 of Act No. 115 of 1993 and amended by s. 3 of Act No. 78 of 1997.]

Wording of Sections

Wording of Sections

s 2A of Act 53 of 1979 prior to amendment by Act 78 of 1997

3. **By whom candidate attorneys may be engaged.**—(1) A candidate attorney shall only be engaged or retained by a person practising the profession of attorney—

(a)

on his own account; or

(b)

as a partner in a firm of attorneys; or

(c)

as a member of a professional company; or

(d)

as State Attorney; or

(e)

as Deputy State Attorney, Senior Assistant State Attorney or Assistant State Attorney in the office of the State Attorney or any branch thereof; or

[Para. (e) substituted by s. 2 (a) of Act No. 102 of 1991.]
in the full-time employment of a law clinic, and if the council of the province in which that law clinic is operated, certifies that the law clinic concerned complies with the requirements prescribed by such council for the operation of such clinic; and—

[Para. (f) inserted by s. 2 (b) of Act No. 102 of 1991.]

(g)

. . . . .

(h)

. . . . .

(i)

who has—

(i)

if he is an attorney so practising on his own account or as a partner in a firm of attorneys or as a member of a professional company, or is employed full-time at a law clinic, so practised or been so employed for a period of three years or periods of three years in the aggregate during the preceding four years;

[Sub-para. (i) substituted by s. 2 (c) of Act No. 102 of 1991.]

Wording of Sections

(ii)

if he is the State Attorney or any Deputy State Attorney, Senior Assistant State Attorney or Assistant State Attorney as aforesaid, practised the profession in the office of the State Attorney or any branch thereof continuously for a period of four years immediately prior to taking such candidate attorney under articles.

(2) Service by any candidate attorney to any attorney while such attorney is not practising the profession as referred to in subsection (1), shall not be deemed to be good or sufficient service for the purposes of this Act.

(3) An attorney shall at no time have more than three candidate attorneys under articles: Provided that—

(a)
on the death or retirement from practice of any attorney, any of his surviving or remaining partners, any member of the professional company of which he was a member or any other person who as an attorney is employed full-time at the law clinic concerned;

[Para. (a) substituted by s. 2 (d) of Act No. 102 of 1991.]

Wording of Sections

(b)

where an attorney has been debarred under section 72 (1) (a) (iii) from continuing with a contract of articles, any of his partners, any other member of the professional company of which he is a member or any other person who as an attorney is employed full-time at the law clinic concerned,

[Para. (b) substituted by s. 2 (d) of Act No. 102 of 1991.]

Wording of Sections

may take cession of the articles of any candidate attorney articled to such attorney, although the cessionary will then have more than three candidate attorneys in his employment.

[S. 3 amended by s. 2 of Act No. 108 of 1984 and substituted by s. 2 of Act No. 87 of 1989.]

Wording of Sections

Wording of Sections

s 3(1)(e) of Act 53 of 1979 prior to amendment by Act 102 of 1991

Wording of Sections

s 3(1)(i)(i) of Act 53 of 1979 prior to amendment by Act 102 of 1991

Wording of Sections

s 3(3)(a) of Act 53 of 1979 prior to amendment by Act 102 of 1991

Wording of Sections

s 3(3)(b) of Act 53 of 1979 prior to amendment by Act 102 of 1991

Wording of Sections

s 3 of Act 53 of 1979 prior to amendment by Act 108 of 1984

s 3 of Act 53 of 1979 prior to amendment by Act 87 of 1989
4. **Information to be submitted to society before articles are entered into.**—Any person intending to serve any attorney under articles of clerkship shall submit to the secretary of the society of the province in which the service under such articles is to be performed, the following, namely—

(a) his birth certificate or other proof to the satisfaction of the society of his date of birth; and  

(b) proof to the satisfaction of the society that he is a fit and proper person and that he has—

(i) passed the examination referred to in section 2 (1) (d); or

(ii) satisfied all the requirements for a degree, other than an honorary degree, at any university in the Republic, or for a degree or degrees referred to in paragraph (aB) or (cA) of section 2 (1), in respect of which a certification in accordance with those respective paragraphs has been done.

[Sub-para. (ii) substituted by s. 3 of Act No. 108 of 1984 and by s. 4 of Act No. 78 of 1997.]

Wording of Sections

Wording of Sections

s 4(b)(ii) of Act 53 of 1979 prior to amendment by Act 108 of 1984

s 4(b)(ii) of Act 53 of 1979 prior to amendment by Act 78 of 1997

4A. **Information which shall be submitted to a society before performance of community service.**—A candidate attorney intending to perform community service shall submit to the secretary of the society of the province in which the community service is to be performed, the following, namely—

(a) his birth certificate or other proof to the satisfaction of the society of his date of birth;  

(b) proof to the satisfaction of the society that he—
is a fit and proper person; and

(ii) has satisfied all the requirements for a degree referred to in paragraphs (a) or (aB) of section 2 (1), or the degrees referred to in paragraph (aA) of that section; and

[Sub-para. (ii) substituted by s. 5 of Act No. 78 of 1997.]

Wording of Sections

(c)

the contract of service in which the date is mentioned upon which he will commence community service and at which law clinic or office of the Legal Aid Board, as the case may be, he intends performing community service.

[S. 4A inserted by s. 4 of Act No. 115 of 1993.]

Wording of Sections

5. Lodging, examination and registration of articles or contract of service.—

(1) The original of any articles of clerkship or contract of service shall within two months of the date thereof be lodged by the principal concerned with the secretary of the society of the province in which the service under such articles or contract of service is to be performed.

(2) The secretary of the society concerned shall, on payment of the fees prescribed under section 80, examine any articles or contract of service lodged with him and shall, if he is satisfied that the articles are or contract of service is in order and that the council has no objection to the registration thereof, on payment of the fees so prescribed register such articles or contract of service and shall advise the principal and candidate attorney concerned of such registration in writing by certified post.

(3) If articles of clerkship are or a contract of service is not registered within two months of the date thereof, any service thereunder shall be deemed to commence on the date of registration thereof.

[S. 5 amended by s. 3 of Act No. 87 of 1989 and substituted by s. 5 of Act No. 115 of 1993.]

Wording of Sections
6. Supervision over candidate attorney.—(1) Without derogating from the provisions of section 10, any candidate attorney shall during the whole term of service specified in the articles of clerkship, serve—

(a) in the office of his principal under his direct personal supervision or under that of an attorney who is a partner or manager of his principal;

(b) in the case of a candidate attorney articled to the State Attorney or to a member of his professional staff, in the office of the State Attorney or in any branch thereof and under the direct personal supervision of the State Attorney or a member of his professional staff; or

(c) in the case of a candidate attorney articled to an attorney employed full-time at a law clinic, under the direct personal supervision of that attorney or another attorney who is also employed full-time at the law clinic concerned.

[Para. (c) added by s. 3 of Act No. 102 of 1991.]

(2) For the purposes of subsection (1) “office” shall not include a branch office which is under the control of an attorney who is not entitled to have a candidate attorney under articles.

(3) A candidate attorney performing community service shall during the whole term specified in the contract of service, serve—

(a) in the office of the law clinic under the direct personal supervision of his principal, or of an attorney or advocate, who is also employed full-time at the law clinic concerned; or

(b) in the office of the Legal Aid Board under the direct personal supervision of his principal, or of an attorney or advocate, who is also employed full-time at the relevant office of the Legal Aid Board.
7. **Absence of candidate attorney.**—(1) Subject to the provisions of subsection (2), a candidate attorney may, with the consent of his principal, absent himself 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 articles of clerkship or contract of service.

(2) (a) A court may on the application of a candidate attorney in any case—

(i) where his principal refuses to grant him leave of absence from office;

(ii) where the 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 articles of clerkship or contract of service,

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

(b) An order referred to in paragraph (a) may be granted before, during or after the period of absence.

(3) 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 articles of clerkship or contract of service, the period in excess of thirty working days shall be added to the
period for which the candidate attorney is bound to serve under articles or contract of service.

[Sub-s. (3) substituted by s. 7 (c) of Act No. 115 of 1993.]

Wording of Sections

(4) Notwithstanding the provisions of section 6, one half of any period of absence from the office of his principal by a candidate attorney as a result of training undergone by him in the South African Defence Force in terms of section 3 of the Defence Act, 1957 (Act No. 44 of 1957), shall, subject to a maximum period of three months, be deemed to have been served under such articles of clerkship or contract of service.

[Sub-s. (4) substituted by s. 7 (c) of Act No. 115 of 1993.]

Wording of Sections

(5) Notwithstanding the provisions of section 6, any period of absence not exceeding six months of a candidate attorney from the office of his principal for the purpose of attending a training course approved by the society concerned, shall, if that candidate attorney has completed that course to the satisfaction of that society, be deemed to have been served under articles of clerkship or contract of service: Provided that in the case of a candidate attorney referred to in sections 2 (1A) and 2A the period of attending a training course shall not be deemed to be a period that that candidate attorney has served under articles of clerkship or contract of service.

[Sub-s. (5) substituted by s. 7 (c) of Act No. 115 of 1993.]

Wording of Sections

(6) Notwithstanding the provisions of section 6, any period of absence not exceeding 12 months of a candidate attorney from the office of his principal for the purposes of service, in terms of a contract with terms and conditions similar to those of his articles of clerkship, under the direct supervision of another attorney who is entitled to engage a candidate attorney in terms of section 3, shall, provided the secretary of the society where the articles concerned have been registered has approved such service in advance in writing, be deemed to have been served by the candidate attorney concerned under articles of clerkship with his principal.

[S. 7 amended by s. 1 of Act No. 76 of 1980 and substituted by s. 5 of Act No. 87 of 1989.]

Wording of Sections

Wording of Sections
8. Appearance of candidate attorney in court and before other institutions.—

(1) Any candidate attorney who has satisfied all the requirements for the degree referred to in paragraph (a) of section 2 (1), or for the degrees referred to in paragraph (aA) of that section, or for a degree or degrees referred to in paragraph (aB) of that section in respect of which a certification in accordance with that paragraph has been done, shall be entitled to appear in any court, other than any division of the Supreme Court, and before any board, tribunal or similar institution in or before which his or her principal is entitled to appear, instead of and on behalf of such principal, who shall be entitled to charge the fees for such appearances as if he or she himself or herself had appeared: Provided that such a candidate attorney shall not be entitled to appear in a court of a regional division established under section 2 of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944), or a Divorce Court established under section 10 of the Administration Amendment Act, 1929 (Act No. 9 of 1929), unless he or she—

(i) has previously practised as an advocate for at least one year; or

(ii) has served for at least one year under his or her articles or contract of service; or

(iii) has at least one year’s experience as a state advocate, state prosecutor or magistrate.
Wording of Sections

(2) . . . . .

(3) The secretary or the society concerned shall, upon the written application of the principal of any candidate attorney referred to in subsection (1) and upon the payment of the fees prescribed under section 80 (bA), issue to such candidate attorney a certificate that he complies with the relevant provisions of subsection (1).

(4) (a) Any candidate attorney who is entitled to appear as contemplated in subsection (1), shall at the expiry of his articles or contract of service, and provided he remains in the employ of the attorney who was his principal immediately before such expiry, or provided he remains in the service of the law clinic or the Legal Aid Board concerned, as the case may be, remain so entitled until he is admitted as an attorney, but not for longer than six months.

(b) The provisions of section 6 shall apply mutatis mutandis in respect of a former candidate attorney referred to in paragraph (a).

(5) In the event of the death, mental illness, insolvency, conviction for crime, imprisonment for debt, suspension, striking off the roll or discontinuance of practice of the attorney who was the principal of a former candidate attorney referred to in subsection (4) immediately before the expiry of his articles, such former candidate attorney shall with the written permission of the secretary of the society of the province in which the candidate attorney served under articles, be entitled to take service with any other attorney and to appear as contemplated in subsection (4) under the supervision of that attorney.

Wording of Sections

Wording of Sections
9. **Restriction of pecuniary interests of candidate attorneys.**—(1) A candidate attorney shall not have any pecuniary interest in the practice and service of an attorney, or in the organization or institution where he performs community service, and shall not, without the prior written consent of the council of the society of the province in which he performs service under the articles or contract of service, hold or occupy any office or engage in any other business other than that of candidate attorney.

(2) If any candidate attorney contravenes the provisions of subsection (1), the articles or contract of service shall be void *ab initio* and service rendered thereunder shall be ineffectual unless the court on good cause shown otherwise directs.

[S. 9 substituted by s. 7 of Act No. 87 of 1989 and by s. 9 of Act No. 115 of 1993.]

10. **Cession of articles or contract of service.**—(1) Articles or a contract of service may with the consent of a principal and the candidate attorney concerned be ceded to any other principal willing to accept such cession.

(2) The society concerned may in the event of the death, mental illness, insolvency, conviction for crime, suspension, striking off the roll or discontinuance of practice of the principal under whom a candidate attorney is serving or the debarring of such principal from engaging or continuing to engage a candidate attorney, or any other cause, direct that the articles or the contract of service concerned be ceded to any other principal willing to accept such cession, and all service completed under the ceded articles or the contract of service shall be effectual for the purposes of this Act.
(3)Articles or a contract of service may be ceded under subsection (2) notwithstanding the fact that the principal who accepts the cession will, as a result of that acceptance, have more than three candidate attorneys in his or her employment.

(4)An agreement whereby articles or a contract of service is ceded shall within two months of the date on which the services of the candidate attorney concerned have been terminated with the cedent, or within such further period as the court may for good cause allow, be lodged with the society of the province wherein service under the said articles or the said contract of service so ceded is to be performed, by the cessionary together with affidavits—

(a) by the cedent stating whether the provisions of this Act relating to service under articles of clerkship or a contract of service have been complied with during the whole term of service during which the candidate attorney concerned was in his or her service and the date on which the candidate attorney terminated his or her services with him or her; and

(b) by the cessionary stating the date on which the said candidate attorney assumed duty with him or her.

(5)The secretary of the law society referred to in subsection (4) shall on payment of such fee as is prescribed under section 80—

(a) examine the agreement and affidavits referred to in that subsection; and

(b) if he or she is satisfied that the cession is in order and that the council of the society has no objection, register the cession, and shall advise the attorney and the candidate attorney concerned of such registration in writing by registered post.

(6)If articles or a contract of service is ceded in terms of subsection (2), the agreement whereby the articles or the contract of service is ceded shall be signed by the legal representative of the attorney concerned or the president or secretary of the society concerned as cedent, and a certificate of such legal representative, president or secretary containing the particulars referred to in subsection (4)(a), shall serve as a substitute for the affidavit referred to in subsection (4)(a).

[S. 10 amended by s. 8 of Act No. 87 of 1989 and substituted by s. 11 of Act No. 104 of 1996.]
11. Termination of articles or contract of service.—(1) If articles of clerkship are or a contract of service is for any reason cancelled, abandoned or ceded, the principal with whom the candidate attorney concerned is serving at that time shall forthwith in writing notify the secretary of the society of such cancellation, abandonment or cession.

(2) If articles of clerkship have or a contract of service has been cancelled or abandoned before completion thereof, the court may in its discretion on the application of the person who served under such articles or contract of service and subject to such conditions as the court may impose, order that for purposes of this Act, the whole or such part of the period served under such articles or contract of service as the court deems fit, be added to any period served by that person under articles or a contract of service entered into after the first mentioned articles were or contract of service was cancelled or abandoned, and any period so added shall for the purposes of this Act be deemed to have been served under the last-mentioned articles or contract of service and continuously with any period served thereunder.

(3) If a person who has served any period under articles of clerkship which were cancelled or abandoned before completion thereof, has satisfied all the requirements for a degree referred to in paragraph (a) or (c) of section 2 (1), or the degrees referred to in paragraph (aA) of that section, or a degree or degrees referred to in paragraph (aB) or (cA) of that section in respect of which a certification in accordance with those respective paragraphs has been done, the court may, on the application of such person and subject to such conditions as the court may impose, order—

(a) that, for the purposes of this Act, the whole of the period so served or such part thereof as the court deems fit be added to any period served by such person after he satisfied such requirements or became so entitled under articles of clerkship entered into after the first-mentioned articles were cancelled or abandoned, and thereafter any period so added shall be deemed to have been served—

(i) after he or she satisfied such requirements; and

[Sub-para. (i) substituted by s. 7 (b) of Act No. 78 of 1997.]
under the articles entered into after the first-mentioned articles were cancelled or abandoned and continuously with any period served thereunder;

(b) if the period served by such person under the first-mentioned articles of clerkship is equal to or exceeds the period which he or she would, at the time of the making of the application, be required to serve under articles of clerkship in terms of this Act, that the period so served be considered as adequate service under articles for the purposes of this Act, and thereafter any period so served by such person shall be deemed to have been served after and under articles entered into after he or she satisfied such requirements.

[S. 11 amended by s. 5 of Act No. 108 of 1984 and by s. 9 of Act No. 87 of 1989 and substituted by s. 10 of Act No. 115 of 1993. Sub-s. (3) amended by s. 7 (a) of Act No. 78 of 1997. Para. (b) substituted by s. 7 (c) of Act No. 78 of 1997.]

Wording of Sections

Wording of Sections

s 11(3)(a)(i) of Act 53 of 1979 prior to amendment by Act 78 of 1997

12. Registration of articles or contract of service entered into by advocate.—Any person admitted to practice as an advocate shall not be allowed to register articles or a contract of service in terms of the provisions of this Act, unless his name has on his own application been removed from the roll of advocates.

[S. 12 substituted by s. 1 of Act No. 13 of 1990 and by s. 11 of Act No. 115 of 1993.]

Wording of Sections

Wording of Sections

s 12 of Act 53 of 1979 prior to amendment by Act 13 of 1990
s 12 of Act 53 of 1979 prior to amendment by Act 115 of 1993
13. Exemption from service under articles and certain examinations, and powers of court in respect of irregular service and certain other service. — (1) Any person lawfully admitted to the Republic for permanent residence therein who is ordinarily resident in the Republic and who has been admitted and enrolled as a solicitor or attorney of the supreme or high court of any country or territory which has been approved for the purposes of this subsection by regulation made under section 81(1)(a) —

(a) shall—

(i) if he has practised for at least 5 years as a solicitor or an attorney, as the case may be, in the country or territory in which he has been so admitted and enrolled and belongs to a class of persons (if any) which has been designated by any such regulation; or

(ii) if the country or territory referred to has been designated for the purposes of this subparagraph by regulation made under section 81(1)(a), without his having practised as contemplated in subparagraph (i), and if he belongs to a class of persons (if any) which has been designated by any such regulation,

be exempted from service under articles;

[Para. (a) substituted by s. 2 of Act No. 76 of 1980 and by s. 1 of Act No. 60 of 1982.]

Wording of Sections

(b) shall, if a university in South Africa which has a law faculty has certified that an examination which he or she has passed in any country or territory is, in so far as it relates to the syllabus of instruction and the standard of training, together with a supplementary examination (if any) required by that university, the requirements of which have been satisfied by that person, equivalent or superior to the examination which is required for the degree mentioned in section 2(1)(a) be exempted from satisfying the requirements for the degree mentioned in the said section 2(1)(a);

[Para. (b) substituted by s. 2 of Act No. 56 of 1983, by s. 6(a) of Act No. 108 of 1984 and by s. 8(a) of Act No. 78 of 1997.]

Wording of Sections

(c)
may, by regulation made under section 81 (1) (c), be exempted from the requirement to pass any examination referred to in section 14 (1) (a), (b) or (c) or any part thereof.

[Sub-s. (1) amended by s. 2 of Act No. 76 of 1980.]

Wording of Sections

(2) If any person has not served regularly as a candidate attorney, the court, if satisfied that such irregular service was occasioned by sufficient cause, that such service is substantially equivalent to regular service, and that the society concerned 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 had served regularly under articles or a contract of service.

[Sub-s. (2) substituted by s. 10 (a) of Act No. 87 of 1989 and by s. 12 of Act No. 115 of 1993.]

Wording of Sections

(3) The court may, on the application of a candidate attorney who has satisfied all the requirements for a degree referred to in paragraph (a) or (c) of section 2 (1), or for the degrees referred to in paragraph (aA) of that section, or for a degree or degrees referred to in paragraph (aB) or (cA) of that section in respect of which a certification in accordance with those respective paragraphs has been done, and subject to such conditions as the court may impose, order that the whole or any part of the period served by that candidate attorney under articles before he or she satisfied such requirements, shall, for the purpose of his or her admission and enrolment as an attorney, be regarded as having been served after and under articles entered into after he or she satisfied such requirements.

[Sub-s. (3) substituted by s. 6 (b) of Act No. 108 of 1984, by s. 10 (b) of Act No. 87 of 1989 and by s. 8 (b) of Act No. 78 of 1997.]

Wording of Sections
13A. Certain attorneys must comply with certain conditions before being entitled to practise on their own account.—Any person contemplated in section 13 (1) (a) (ii) who has been admitted and enrolled as an attorney in terms of this Act, shall not be entitled to practise that profession on his own account, unless he has after his admission and enrolment practised for a period of not less than 3 years on such conditions as may be determined by regulation made under section 81 (1) (j).

[S. 13A inserted by s. 3 of Act No. 76 of 1980.]

14. Practical examinations.—(1) The judge president of a provincial division may after consultation with the president of the society concerned appoint two or more examiners for the purpose of arranging, controlling and conducting examinations in respect of—

(a) the practice and procedure in the Supreme Court and in magistrates’ courts established under the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944);

(b) the practical bookkeeping necessary for the keeping of the accounting records referred to in section 78 (4);

[Para. (b) substituted by s. 1 of Act No. 80 of 1985.]

Wording of Sections

(c) the practice, functions and duties of an attorney;

(d) the practice, functions and duties of a notary;
the law, practice and procedure of conveyancing.

(2) An examination referred to in subsection (1) shall be conducted by not less than two examiners so appointed.

(3) An examination referred to in subsection (1) shall not be conducted in respect of any person unless he satisfies the examiners concerned that he—

(a) has complied with the provisions of this Act in regard to service under articles or a contract of service; or

(b) is serving under articles or contract of service and has so served for a continuous period of not less than six months; or

(c) is, under the provisions of this Act, exempt from service under articles; or

(d) has attended a training course approved by the society concerned for an uninterrupted period of at least four months and has completed such course to the satisfaction of that society.

[Sub-s. (3) substituted by s. 13 of Act No. 115 of 1993.]

Wording of Sections

Wording of Sections

s 14(1)(b) of Act 53 of 1979 prior to amendment by Act 80 of 1985

Wording of Sections

s 14(3) of Act 53 of 1979 prior to amendment by Act 115 of 1993

15. Admission and readmission of attorneys.—(1) Unless cause to the contrary to its satisfaction is shown, the court shall on application in accordance with this Act, admit and enrol any person as an attorney if—

(a)
such person, in the discretion of the court, is a fit and proper person to be so admitted and
enrolled; and

(b)

the court is satisfied that such person has satisfied the following requirements or, where
applicable, has been exempted therefrom in terms of the provisions of this Act, namely
that such person—

(i)

is 21 years of age or older;

(ii)

(aa)

is a South African citizen or has been lawfully admitted to the Republic for permanent
residence therein and is ordinarily resident in the Republic; or

(bb)

is a citizen of a state the territory of which formerly formed part of the Republic, and
belongs to such category of persons, and complies with such conditions, as may be
determined by the Minister, after consultation with the presidents of the various societies,
by notice in the Gazette;

(iii)

(aa)

has satisfied all the requirements for the degree referred to in paragraph (a) of section
2 (1), or for the degrees referred to in paragraph (aA) of that section, after pursuing for
that degree or degrees a course of study referred to in paragraph (a) or (aA) of that
section, as the case may be; or

(bb)

has satisfied all the requirements for a degree or degrees referred to in paragraph (aB) of
section 2 (1) in respect of which a certification in accordance with that paragraph has
been done; or

(cc)

has previously been admitted as an advocate.

[Sub-para. (iii) substituted by s. 9 of Act No. 78 of 1997.]
has passed the practical examinations referred to in section 14 (1) (a), (b) and (c):

(ivA)

(aa) during his term of service under articles or contract of service, or after the expiry of his articles or contract of service; or

(bb) after he has been exempted in terms of this Act from service under articles of clerkship, has attended a training course approved by the society of the province in which he completed his service under articles or contract of service, or, in the case of section 2A (c), has attended a training course approved by the society of the province in which the candidate attorney intends to practise, and has completed such training course to the satisfaction of that society: Provided that this subparagraph shall not apply to a person who attended a training course referred to in section 2 (1A) (a) or 2A (a) (i) and who has completed such course to the satisfaction of the society concerned; and

[Sub-para. (ivA) inserted by s. 11 of Act No. 87 of 1989.]

(v)

[Sub-para. (v) deleted by s. 3 of Act No. 33 of 1995.]

completed his service under articles or contract of service, or has complied with the provisions of section 2 (1A), within the period of three years preceding his application to the court or within the further period allowed by the court in terms of subsection (2).

[Sub-para. (vi) substituted by s. 14 (a) of Act No. 115 of 1993.]

(2) The court may in its discretion, on the application of any person and on good cause shown, allow a further period in addition to the period of three years referred to in
subsection (1) (b) (vi), within which the applicant may apply for admission as an attorney, subject to such conditions, if any, as it may deem fit, including a condition relating to further service under articles or contract of service.

[Sub-s. (2) substituted by s. 14 (b) of Act No. 115 of 1993.]

Wording of Sections

(3) A court may, on application made in accordance with this Act, readmit and re-enrol any person who was previously admitted and enrolled as an attorney and has been removed from or struck off the roll, as an attorney, if—

(a) such person, in the discretion of the court, is a fit and proper person to be so readmitted and re-enrolled; and

(b) the court is satisfied that he has complied with the provisions of subsection (1) (b) (ii).

[S. 15 substituted by s. 7 of Act No. 108 of 1984.]

Wording of Sections

16. Duty of applicant for admission or readmission and enrolment as attorney to society.—Any person who applies to the court to be admitted or readmitted and enrolled as an attorney, shall satisfy the society of the province wherein he so applies—

(a)
that he is a fit and proper person to be so admitted or readmitted and enrolled;

(b)

if he has at any time been admitted as an advocate, that his name was subsequently removed from the roll of advocates on his own application;

(c)

if he is a person exempted from service under articles in terms of section 13 (1), that he is still entitled to practise and that his name is still on the roll of solicitors or attorneys of the country or territory referred to in that section, and that no proceedings to have him struck off the roll or suspended from practice are pending; and

(d)

if his estate has at any time been sequestrated, whether provisionally or finally, that despite such sequestration he is a fit and proper person to be so admitted or readmitted and enrolled.

[Para. (d) added by s. 52 of Act No. 129 of 1993.]

17. **Admission of attorneys practising in certain countries or territories.**—
Notwithstanding the provisions of this Act, but subject to the provisions of section 19, any person admitted and enrolled as a solicitor or an attorney of the supreme or high court of any country or territory approved for the purposes of this section by regulation made under section 81 (1) (a), may be admitted and enrolled by the court as an attorney in the Republic upon satisfying the court that he—

(a)

has been admitted and enrolled as a solicitor or an attorney of that supreme or high court, and that no proceedings are pending to have him struck off the roll of solicitors or attorneys or suspended from practice;

(b)

is resident and practising as a solicitor or an attorney in the country or territory in which he has been so admitted and enrolled;

(bA)

belongs to a class of persons (if any) which has been designated by regulation made under section 81 (1) (a); and

[Para. (bA) inserted by s. 2 (b) of Act No. 60 of 1982.]
is a fit and proper person to be admitted and enrolled as an attorney in the Republic.

18. Admission and readmission of notaries and conveyancers.—(1) The court may on application made in the prescribed manner admit and enrol any person as a notary or conveyancer if the court is satisfied that—

(a) he is an attorney admitted by such court to practise as an attorney;

(b) no order of court striking his name off the roll of attorneys or suspending him from practice as an attorney is in operation in respect of him;

(c) no proceedings are pending to strike his name off the roll of attorneys or to suspend him from practice; and

(d) he has passed the practical examination prescribed by section 14 (1) (d) or (e), as the case may be, or is exempted therefrom under the provisions of this Act.

(2) The court may on application made in the prescribed manner readmit and re-enrol as a notary or conveyancer, as the case may be, any person who was previously admitted and enrolled as a notary or conveyancer and has been removed from or struck off the roll, if—

(a) he, in the discretion of the court, is a fit and proper person to be so readmitted and re-enrolled; and

(b) the court is satisfied that such person has complied with the provisions of paragraphs (a), (b) and (c) of subsection (1).

[S. 18 substituted by s. 8 of Act No. 108 of 1984.]

Wording of Sections
19. Applications for admission or readmission as practitioner to be submitted to secretary of society.—(1) Any person who applies to a court to be admitted or readmitted as a practitioner shall at least one month before the date of his application deliver to the secretary of the society of the province in which the court to which such application is made, is situated, together with his notice of application, a copy of his application for admission or readmission and copies of all affidavits, certificates and other documents or papers which are referred to therein or connected therewith.

(2) Upon production to the secretary referred to in subsection (1), of the application, affidavits, certificates, documents and other papers referred to therein, the secretary shall, upon payment of the fees prescribed under section 80, certify on such application that the provisions of this section have been complied with.

(3) Unless such certificate has been obtained, the person concerned shall not make his application to the court.

20. Enrolment of practitioner admitted and enrolled by other court.—(1) Any person admitted and enrolled as an attorney, or a notary or conveyancer under this Act may in the manner prescribed by subsection (2), apply to the registrar of any court other than the court by which he was so admitted and enrolled to have his name placed on the roll of attorneys or of notaries or of conveyancers, as the case may be, of the court for which such registrar has been appointed.

(2) An application referred to in subsection (1) shall be in writing and be signed by the applicant and shall be accompanied by—

(a) an affidavit stating the name of every court in which the applicant is enrolled in terms of this Act;

(b) a certificate signed by the registrar of every court in which the applicant is so enrolled that his name is still upon the roll of such court;

(c) a certificate signed by the secretary of the society of each province in which the applicant is so enrolled that no proceedings are pending or contemplated to strike his name off the roll or to suspend him from practice;
(d) proof to the satisfaction of the registrar that a copy of the application and copies of the documents referred to in paragraphs (a), (b) and (c) have been served on the secretary of the society of the province in which such other court is situated; and

(e) proof to the satisfaction of the registrar that the fees prescribed by section 80 (h) have been paid.

(3) A registrar receiving an application referred to in subsection (1), shall place the name of the applicant on the roll of attorneys or of notaries or of conveyancers, as the case may be, kept by him in terms of section 21, unless an objection in writing against it is lodged with him by the secretary of the society concerned within 21 days from the date of receipt of the application by the registrar.

(4) When the name of a practitioner has in terms of subsection (3) been placed by the registrar upon the roll of attorneys or of notaries or of conveyancers, as the case may be, he shall be entitled to practise and shall have all the rights and privileges and be subject to all the obligations which he would have had and to which he would have been subject if he had been admitted and enrolled by that court.

(5) A notary or conveyancer shall not be enrolled in terms of this section unless he is also thus enrolled as an attorney.

21. Rolls of attorneys, of notaries and of conveyancers.—(1) The registrar of every court shall keep separate alphabetical registers in which he shall record the names of all attorneys, notaries and conveyancers admitted by such court and all names enrolled in terms of section 20, as well as the dates of admission or enrolment.

(2) If a court orders the striking off the roll or suspension from practice of any practitioner, the registrar shall forthwith enter a reference to such order opposite the name of the practitioner in the registers kept by him in terms of subsection (1), and shall forward copies of such order to the registrars of the other courts, the registrars of deeds appointed in terms of section 2 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), and the secretaries of the various societies.

(3) If a registrar of a court receives a copy of an order forwarded to him in terms of subsection (2), he shall forthwith, if the name of the practitioner concerned appears in the registers kept by him, enter a reference to that order opposite the name of such practitioner, and such entry shall in the area of jurisdiction of such court have the effect of removing such practitioner from the roll or suspending him from practice, as the case may be.
22. Removal of attorneys from roll.—(1) Any person who has been admitted and enrolled as an attorney may on application by the society concerned be struck off the roll or suspended from practice by the court within the jurisdiction of which he practises—

(a) if he is no longer a South African citizen;

(i) in the case of a person who is not a South African citizen, other than a person contemplated in subparagraph (iii), if he has failed to obtain a certificate of naturalization in terms of the South African Citizenship Act, 1949 (Act No. 44 of 1949), within a period of six years from the date on which he was admitted to the Republic for permanent residence therein, or within such further period as the court may for good cause allow;

[Sub-para. (ii) substituted by s. 9 (a) of Act No. 108 of 1984.]

Wording of Sections

(ii) in the case of a person referred to in item (bb) of section 15 (1) (b) (ii), if he is no longer a citizen of any state referred to in that item, or has ceased to belong to a category of persons or to comply with conditions determined in terms of that item;

[Sub-para. (iii) added by s. 9 (b) of Act No. 108 of 1984.]

(b) in the case of a person referred to in section 13 (1) who is exempted from passing any examination, if he has failed to pass any examination in respect of which he is so exempted before the expiration of the period in respect of which he is so exempted or within such further period as the court may for good cause allow;

(c) in the case of a person admitted and enrolled in terms of section 17, if it appears to the court that he is no longer resident or practising as an attorney or a solicitor in the country or territory in which he was admitted and enrolled on his admission and enrolment in the Republic or if the country or territory in which he was so admitted and enrolled is no longer a prescribed country or territory;

(d)
if he, in the discretion of the court, is not a fit and proper person to continue to practise as an attorney; or

[Para. (d) substituted by s. 9 (c) of Act No. 108 of 1984.]

Wording of Sections

(e)

if his estate has been finally sequestrated and he is unable to satisfy the court that despite his sequestration he is still a fit and proper person to continue to practise as an attorney.

[Para. (e) added by s. 53 of Act No. 129 of 1993.]

(2)  (a)  If it appears to the court that a person in respect of whom a society intends making an application under subsection (1), has left the Republic and that he probably does not intend to return to the Republic and that his whereabouts are unknown, the court may order that service on that person of any process in connection with such application may be affected by the publication of such process in an Afrikaans and an English newspaper circulating in the district in which the said person’s last known business address, as entered in the records of the society concerned, is situated.

(b) Any such process may, if the court so orders, be so published in a form as near as may be in accordance with Form 1 (Edictal Citation) of the First Schedule to the Supreme Court Rules.

[Para. (b) added by s. 12 of Act No. 87 of 1989.]

(c) Any process referred to in paragraph (b), shall before the publication thereof be approved and signed by the registrar concerned.

[Sub-s. (2) added by s. 4 of Act No. 76 of 1980. Para. (c) added by s. 12 of Act No. 87 of 1989.]

Repealed Act

Act 44 of 1949 has been repealed by s 26 of Act 88 of 1995

Wording of Sections

s 22(1)(a)(ii) of Act 53 of 1979 prior to amendment by Act 108 of 1984

Wording of Sections

s 22(1)(d) of Act 53 of 1979 prior to amendment by Act 108 of 1984

23. Juristic person may conduct a practice.—(1) A private company may, notwithstanding anything to the contrary contained in this Act, conduct a practice if—
such company is incorporated and registered as a private company under the Companies Act, 1973 (Act No. 61 of 1973), with a share capital, and its memorandum of association provides that all present and past directors of the company shall be liable jointly and severally with the company for the debts and liabilities of the company contracted during their periods of office;

only natural persons who are practitioners and who are in possession of current fidelity fund certificates are members or shareholders of the company or persons having any interest in the shares of the company;

the name of the company consists solely of the name or names of any of the present or past members of the company or of persons who conducted, either of their own account or in partnership, any practice which may reasonably be regarded as a predecessor of the practice of the company: Provided that the words “and associates” or “and company” may be included in the name of the company.

(2) Every shareholder of the company shall be a director of the company, and only a shareholder of the company shall be a director thereof.

(3) If a shareholder of the company or a person having any interest in the shares of the company, dies or ceases to conform to any requirement of subsection (1), (b), he or his estate, as the case may be, may, as from the date on which he dies or ceases so to conform, continue to hold the relevant shares or interest in the shares in the company for a period of six months or for such longer period as the council of the society of the province in which the company’s registered office is situate, may approve.

(4) No voting rights shall attach to any share held in terms of subsection (3), and the holder of any such share shall not act as a director of the company or receive, directly or indirectly, any director’s fees or remuneration or participate in the income of or profits earned by the company in its practice.

(5) If the articles of association of the company so provide, the company may, without confirmation by a court, upon such conditions as it may deem expedient, purchase any shares held in it, and the authorized share capital of the company shall not be reduced thereby.

(6) Shares purchased in terms of subsection (5) shall be available for allotment in terms of the articles of association of the company.
(7) Notwithstanding anything to the contrary contained in any other law, the articles of association of the company may provide that a member of the company may not appoint a person who is not a member of the company, to attend, speak or vote in his stead at any meeting of the company.

(8) If the company ceases to conform to any requirement of subsection (1), it shall forthwith cease to practise, and shall, as from the date on which it ceases so to conform, not be recognized in law as a practitioner: Provided that the provisions of this subsection shall not, during the period referred to or contemplated in subsection (3), apply to a company by reason only that a shareholder of the company or a person having any interest in the shares of the company has ceased to be a practitioner or to be in possession of a fidelity fund certificate.

(9) Any reference in this Act or in any other law to a practitioner or to a partner or partnership in relation to practitioners, shall be deemed to include a reference to a company under this section or to a member of such a company, as the case may be, unless the context otherwise indicates.

24. Applications in terms of this Chapter to be delivered to secretary of society concerned.—Subject to provisions to the contrary in this Chapter contained, any person who makes an application to a court in terms of this Chapter, shall, at least one month before the date of his application, deliver to the secretary of the society of the province in which the court to which such application is made is situated, a copy of the application, together with copies of the other documents and papers referred to therein or connected therewith.

CHAPTER II
FIDELITY FUND

[Heading substituted by s. 13 of Act No. 87 of 1989.]

25. Continued existence of Fidelity Fund.—The fund established by section 8 of the Attorneys’ Admission Amendment and Legal Practitioners’ Fidelity Fund Act, 1941 (Act No. 19 of 1941), shall notwithstanding the provisions of section 86, continue to exist under the name the Attorneys Fidelity Fund.

[S. 25 substituted by s. 14 of Act No. 87 of 1989.]

Wording of Sections

Wording of Sections

s 25 of Act 53 of 1979 prior to amendment by Act 87 of 1989

26. Purpose of fund.—Subject to the provisions of this Act, the fund shall be applied for the purpose of reimbursing persons who may suffer pecuniary loss as a result of—
theft committed by a practising practitioner, his candidate attorney or his employee, of any money or other property entrusted by or on behalf of such persons to him or to his candidate attorney or employee in the course of his practice or while acting as executor or administrator in the estate of a deceased person or as a trustee in an insolvent estate or in any other similar capacity; and

(b)

theft of money or other property entrusted to an employee referred to in paragraph (cA) of the definition of “estate agent” in section 1 of the Estate Agents Act, 1976 (Act No. 112 of 1976), or an attorney or candidate attorney referred to in paragraph (d) of the said definition, and which has been committed by any such person under the circumstances contemplated in those paragraphs, respectively, and in the course of the performance—

(i)

in the case of such an employee, of an act contemplated in the said paragraph (cA); and

(ii)

in the case of such an attorney or candidate attorney, of an act contemplated, subject to the proviso thereof, in the said paragraph (d).

[S. 26 substituted by s. 3 of Act No. 60 of 1982 and by s. 15 of Act No. 87 of 1989.]
28. Constitution of board of control.—The board of control shall consist of—

(a) the serving presidents of all societies; and

(b) three members of each society elected annually by the council of the society.

[Para. (b) substituted by s. 18 of Act No. 62 of 2000.]

29. Period of office of members of board of control.—An elected member of the board of control shall hold office until his successor has been elected and, unless another is elected in his place in any year, he shall be deemed to have been re-elected.

30. Vacation of office by members of board of control.—A member of the board of control shall vacate his office if he—

(a) becomes mentally ill;

(b) ceases to be a member of the society the council of which elected him;

(c) becomes insolvent or makes any arrangement or composition with his creditors;

(d)
ceases to practise;

(e) is convicted of any offence which, in the opinion of the council which elected him, debars him from serving as a member of the board of control;

(f) resigns and his resignation is accepted by his society and the board of control.

31. **Chairman and vice-chairman of board of control.**—(1) The board of control shall annually elect a chairman and a vice-chairman.

(2) If the chairman and vice-chairman are both absent from any meeting of the board of control, the board shall from among its number elect a chairman for that meeting.

32. **Meeting of board of control.**—The board of control shall meet at such times and places as it or its chairman may determine from time to time.

[S. 32 substituted by s. 17 of Act No. 87 of 1989.]

Wording of Sections

Wording of Sections

s 32 of Act 53 of 1979 prior to amendment by Act 87 of 1989

33. **Quorum.**—Ten members of the board of control shall constitute a quorum for any meeting thereof.

[S. 33 substituted by s. 19 of Act No. 62 of 2000.]

Wording of Sections

Wording of Sections

s 33 of Act 53 of 1979 prior to amendment by Act 62 of 2000

34. **Decisions and chairman’s casting vote.**—(1) A decision of the majority of the members of the board of control present at any meeting thereof shall, subject to the provisions of subsection (2), be the decision of the board of control.

(2) In the event of an equality of votes at any meeting of the board of control, the chairman shall have a casting vote in addition to his deliberative vote.
34A. Committees of board of control.—(1) (a) The board of control may appoint one or more committees to assist it in the carrying out of its duties, the performance of its functions and the exercise of its powers, may at any time increase or reduce the membership of any such committee and may fill any vacancy on any such committee.

(b) The board of control may designate one of the members of a committee appointed by it in terms of paragraph (a) as chairman of that committee and, if no such designation is made, the members of that committee may from among their number elect a chairman.

(2) The board of control may assign to a committee appointed by it in terms of subsection (1), such of its powers as it may deem fit, but shall not be divested of any power which it may have assigned to a committee, and may amend or withdraw any decision of any such committee.

(3) The board of control may require any committee appointed in terms of subsection (1) either generally or specially to enquire into and to advise the board of control on any matter in connection with the duties, functions or powers of the board of control.

[S. 34A inserted by s. 18 of Act No. 87 of 1989.]

35. Validity of resolution signed by all members of board of control.—A resolution of the board of control contained in a writing and signed by all members of the board shall be valid although no meeting was held to pass that resolution.

36. Revenue of fund.—The fund shall consist of—

(a) the annual contributions by practitioners and interest paid to the fund in terms of this Act;

(b) the revenue obtained from time to time from the investment of the fund;

(c) money given or advanced to the fund by any society;

(d) money recovered by the fund in terms of this Act;

(e) money received on behalf of the fund from any insurance company;
other money lawfully paid into the fund.

37. **Banking account.**—Money in the fund shall, pending the investment or application thereof in terms of this Act, be paid into an account at a banking institution or building society to the credit of an account to be known as “The Attorneys Fidelity Fund Account”.

[S. 37 substituted by s. 19 of Act No. 87 of 1989.]

Wording of Sections

38. **Certificate in respect of liabilities of fund and investment of money in fund.**—

(1) The board of control shall appoint an actuary to determine on or before 31 March in any year the amount which in that actuary’s opinion will be required during the next ensuing year ending on 31 December, for the purposes of the fund’s obligations in terms of [section 45](#), and such actuary shall furnish the board of control, on or before the first-mentioned date, with a certificate setting out the amount so determined.

(2) The board of control shall within 30 days after receipt thereof submit such certificate to the Minister, and the Minister shall, after receipt of the said certificate, determine the amount which in his opinion will be required during the said ensuing year for the purposes referred to in [subsection (1)](#).

(3) Such money in the fund as exceeds the amount determined under [subsection (2)](#) may be invested in the manner prescribed under [section 81 (2) (b)](#).

(4) So much of the amount determined in terms of [subsection (2)](#) as is not immediately required for the purposes referred to in [subsection (1)](#) in any financial year, as well as so much of the money referred to in subsection (3) as is not invested as contemplated in that subsection, shall, subject to the provisions of [section 46](#), be invested in such Government and other securities as may be prescribed.

[S. 38 substituted by s. 2 of Act No. 80 of 1985.]
39. **Audit.**—(1) The accounts of the fund shall be audited by an accountant appointed by the board of control.

(2) A person appointed under subsection (1) shall, at least once in every year and not later than a date to be determined by the board of control, draw up a balance sheet and profit and loss account of the fund and forthwith submit certified copies thereof and of his report thereon to the chairman of the board of control and to each council.

40. **Insurance contracts for purpose of indemnifying fund.**—(1) The board of control may in its discretion enter into a contract with any person or company carrying on fidelity insurance business in the Republic whereby the fund will be indemnified to the extent and in the manner provided in such contract against liability to pay claims under this Act.

(2) A contract referred to in subsection (1) shall be entered into in respect of practitioners generally.

(3) (a) A claimant against the board of control shall not have—

   (i) any right of action against any person or company with whom a contract of indemnity has been entered into in terms of this section, in respect of such contract; or

   (ii) any right to any money paid by the insurer in accordance with such contract.

(b) Money paid by the insurer in accordance with such contract shall be paid into the fund for appropriation by the board of control.

40A. **Acquisition, forming and administration of insurance company or scheme.**—
The board of control may—

(a) acquire or form, and administer, a public company; or

(ii) together with any other person or institution establish a scheme, underwritten by a registered insurer,
so as to provide insurance cover, subject to the provisions of the Insurance Act, 1943 (Act No. 27 of 1943), to practitioners in respect of claims which may proceed from the professional conduct of such practitioners;

(b) enter into deeds of suretyship to the satisfaction of the Master of the Supreme Court so as to provide security on behalf of a practitioner in respect of work to be done by such practitioner as executor in the estate of a deceased person, or as trustee in an insolvent estate, or as curator to the person or property in the case of a person who is unable to manage his own affairs, or in any other similar capacity, or by any other person in such capacity where a practitioner acts as agent for the person concerned; and

(c) levy premiums and fees for the provision of such insurance or security, as the case may be.

[S. 40A inserted by s. 4 of Act No. 102 of 1991.]

Repealed Act

Act 27 of 1943 has been repealed by s. 1 of Act 30 of 2002

40B. Insurance contracts for purpose of professional indemnity to practitioners.—The board of control may enter into a contract with a company or scheme contemplated in section 40A (a) or any company carrying on professional indemnity insurance business in the Republic for the provision of group professional indemnity insurance to practitioners to the extent and in the manner provided for in such contract.

[S. 40B inserted by s. 14 of Act No. 55 of 2002.]

41. Possession of fidelity fund certificates by practitioners practising on own account or in partnership.—(1) A practitioner shall not practise or act as a practitioner on his own account or in partnership unless he is in possession of a fidelity fund certificate.

(2) Any practitioner who practises or acts in contravention of subsection (1) shall not be entitled to any fee, reward or disbursement in respect of anything done by him while so practising or acting.

(3) The provisions of this Chapter shall not apply in respect of any person admitted and enrolled as a conveyancer under Act No. 23 of 1904 (Natal).

42. Application for and issue of fidelity fund certificate.—(1) A practitioner practising on his own account or in partnership, and any practitioner intending so to
practise, shall apply in the prescribed form to the secretary of the society concerned for a fidelity fund certificate.

(2) Any application referred to in subsection (1) shall be accompanied by the contribution (if any) payable in terms of section 43.

(3) (a) Upon receipt of the application referred to in subsection (1), the secretary of the society concerned shall, if he is satisfied that the applicant has discharged all his liabilities to the society in respect of his contribution and that he has complied with any other lawful requirement of the society, forthwith issue to the applicant a fidelity fund certificate in the prescribed form.

(b) A fidelity fund certificate shall be valid until 31 December of the year in respect of which it was issued.

(4) Any document purporting to be a fidelity fund certificate which has been issued contrary to the provisions of this Act shall be null and void and shall on demand be returned to the society concerned.

43. Contributions to fund by practitioners.—(1) (a) Subject to the provisions of this section, every practitioner, practising on his or her own account or in partnership, shall, annually when he or she applies for a fidelity fund certificate, pay to the fund—

(i) such amount as may be fixed by the board of control from time to time in respect of the cost of group professional indemnity insurance arranged by the board of control pursuant to the provisions of section 40B; and

(ii) such other non-refundable amount as may be fixed by the board of control from time to time.

(b) Any practitioner referred to in paragraph (a) who commences to practise on or after 1 July in any year shall in respect of that year pay half of the contribution which is payable in terms of that paragraph for that year.

(2) . . . .

(3) . . . .

(4) A practitioner who applies under section 42 for the first time for a fidelity fund certificate, in addition to any contributions payable in terms of subsection (1), such single non-refundable contribution as the board of control may determine.
(5) The board of control may require a practitioner in respect of whom the fund has been applied as a result of any of the circumstances referred to in section 26, to pay an additional annual contribution to the fund of such amount and for such period as the board of control may determine.

(6) (a) A practitioner who is not in possession of a fidelity fund certificate and who intends to commence to practise on his or her own account or in partnership, shall, before commencing so to practise, give notice of such intention to the secretary of the society of the province in which he or she intends to practise, and he or she shall thereupon become liable to pay to the fund the amount of the contribution referred to in subsections (1) and (4).

(b) Any practitioner who is in possession of a fidelity fund certificate but who intends to commence to practise for his or her own account or in partnership in the area of jurisdiction of any provincial division other than that in which he or she usually practises for his or her own account or in partnership, shall give notice of such intention to the secretary of the other society concerned.

(7) All contributions payable under this section shall be paid to the society, and every society shall remit the contributions to the board of control within seven days of receipt thereof.

[S. 43 substituted by s. 15 of Act No. 55 of 2002.]

Wording of Sections

s 43 of Act 53 of 1979 prior to amendment by Act 55 of 2002

44. Board of control may refund contributions in certain cases.—If any practitioner in respect of whom no claim has been made under this Act or in respect of whom such claim has not been sustained, dies or ceases to practise, the board of control may in its discretion, if it is satisfied that no claim is likely to be made, pay to him or her, or to his or her estate, a sum not exceeding the aggregate amount of his or her contributions to the fund made prior to the date of commencement of the Judicial Matters Amendment Act, 2002.

[S. 44 substituted by s. 16 of Act No. 55 of 2002.]

Wording of Sections

s 44 of Act 53 of 1979 prior to amendment by Act 55 of 2002
45. **Payments from fund.**—(1) Subject to the provisions of this Act, the fund shall be applied for the following purposes, namely—

(a) all claims, including costs, payable in terms of this Act, and interest as provided in subsection (2);

(b) in the discretion of the board of control, a contribution towards expenses incurred by a claimant in establishing his claim;

(bA) in the discretion of the board of control, the costs or any portion thereof incurred by a claimant in exhausting the legal remedies contemplated in section 49 (1);

[Para. (bA) inserted by s. 20 (a) of Act No. 87 of 1989.]

(c) legal expenses incurred in defending any claim made against the fund or otherwise incurred in relation to the fund;

(d) premiums payable in respect of contracts of insurance entered into by the board of control in terms of sections 40 and 40B;

[Para. (d) substituted by s. 17 (a) of Act No. 55 of 2002.]

Wording of Sections

(e) refunds made to any member or to his estate in terms of section 44;

(f) expenses involved in the administration of the fund, including allowances to members of the board of control in respect of their services or their reasonable travelling expenses incurred in connection with the management of the fund;
in the discretion of the board of control, the bank charges or any portion thereof paid by a practitioner in connection with the keeping of his trust account;

[Para. (g) substituted by s. 20 (b) of Act No. 87 of 1989.]

Wording of Sections

(h)

in the discretion of the board of control, the premium or any portion thereof payable in respect of any group insurance policy of any kind taken out in favour of practitioners;

[Para. (h) substituted by s. 17 (b) of Act No. 55 of 2002.]

Wording of Sections

(i)

in the discretion of the board of control, the costs or any portion thereof incurred by a practitioner in connection with the obtaining of a fidelity fund certificate;

(j)

in the discretion of the board of control, the defraying of the whole or any portion of the expenses incurred by any society for the purposes of or in connection with any steps taken by it under section 22 (1), 78 or 83 (13);

[Para. (j) substituted by s. 3 of Act No. 80 of 1985.]

Wording of Sections

(k)

loans and interest thereon;

(l)

other moneys which are payable or may be paid from the fund in accordance with this Act or the regulations made thereunder.

(2) The board of control may in its discretion pay an amount out of the fund as interest on the amount of any judgment obtained or of any claim admitted against the fund:

Provided that—

(a)
46. **Board of control may make grants from fund for education or research in law and for enhancement of professional standards of practitioners.**—The board of control may, if the amount of the fund exceeds the amount determined under section 38 (2), out of the excess in question—

(a)

make grants with the approval of the Minister on such conditions as the board of control may determine with such approval—

(i)

to any person, any university established by an Act of Parliament, any university college established under the Extension of University Education Act, 1959 (Act No. 45 of 1959), any university contemplated in section 2 (1) (aA) of this Act or section 3 (2) (a) (iii) of the Admission of Advocates Act, 1964 (Act No. 74 of 1964), or a person connected with any such university or university college or to any training centre in the Republic designated by the Minister for the purposes of—

(aa)
education or research in the science of law or in legal practice;

(bb)

education or research in any related science or practice in so far as such education is
given to a student of a law faculty at any such university or university college, or to a
student at any such training centre, or in so far as such research is done at any such
university, university college or training centre;

(cc)

the furtherance of the administration or dispensation of justice;

(ii)

to any association or society of attorneys, notaries or conveyancers in a country which
has been designated by the Minister by notice in the Gazette after consultation with the
presidents of the various societies, for the purposes of enabling such association or
society to establish or maintain a fund for facilitating the practice of law,

and may, with such approval, at any time when it deems fit, revoke such grant or any part
thereof;

(b)

pay an honorarium or compensation to any person for services rendered at the request of
the board of control with the object of enhancing the professional standards of
practitioners.

[S. 46 amended by s. 3 of Act No. 56 of 1983 and substituted by s. 4 of Act No. 80 of 1985.]

Wording of Sections

Repealed Act

Act 45 of 1959 has been repealed by s 21 of Act 66 of 1988

Repealed Act

Act 66 of 1988 has been repealed by s 76 of Act 101 of 1997

Wording of Sections

s 46 of Act 53 of 1979 prior to amendment by Act 56 of 1983
s 46 of Act 53 of 1979 prior to amendment by Act 80 of 1985
47. **Limitation of liability of fund.**—(1) The fund shall not be liable in respect of any loss suffered—

(a) by any person as a result of theft committed by a practitioner while such practitioner is in the employment of any person who is not a practitioner;

(b) by the wife of a practitioner as a result of any theft committed by that practitioner;

(c) by any practitioner as a result of any theft committed by any partner or employee of that practitioner or by any employee of any partnership in which he is a partner;

(d) by any practitioner as a result of any theft committed by any member or employee of a professional company of which he is a member;

(e) as a result of any theft committed by any practitioner whose fidelity has been guaranteed by any person, either in general or in respect of the particular transaction, to the extent to which it is covered by the guarantee;

(f) by any person as a result of any theft committed by any practitioner after such person has received a notification in writing from the secretary of a society or the board of control warning him against the employment or continued employment of such practitioner;

(g) by any person as a result of theft of money which a practitioner has been instructed to invest on behalf of such person after the date of commencement of this paragraph.

[Para. (g) added by s. 1 (a) of Act No. 115 of 1998.]

(2) A claim for reimbursement as contemplated in section 26 shall be limited, in the case of money entrusted to a practitioner, to the amount actually handed over, without interest, and, in the case of securities or other property, to an amount equal to the average market value of such securities or property at the date when written demand is first made for
their delivery, or, if there is no average market value, the fair market value as at that date of such securities or other property, without interest.

(3) Only the balance of any loss suffered by any person after deduction from the loss of the amount or value of all money or other benefits received or receivable by him from any source other than the fund, may be recovered from the fund.

(4) Subject to subsection (5), a practitioner must be regarded as having been instructed to invest money for the purposes of subsection (1) (g), where a person—

(a) who entrusts money to the practitioner; or

(b) for whom the practitioner holds money,

instructs the practitioner to invest all or some of that money in a specified investment or in an investment of the practitioner’s choice.

[Sub-s. (4) added by s. 1 (b) of Act No. 115 of 1998.]

(5) For the purposes of subsection (1) (g), a practitioner must be regarded as not having been instructed to invest money if he or she is instructed by a person—

(a) to pay the money into an account contemplated in section 78 (2A) if such payment is for the purpose of investing such money in such account on a temporary or interim basis only pending the conclusion or implementation of any particular matter or transaction which is already in existence or about to come into existence at the time that the investment is made and over which investment the practitioner exercises exclusive control as trustee, agent or stakeholder or in any fiduciary capacity;

(b) to lend money on behalf of that person to give effect to a loan agreement where that person, being the lender—

(i) specifies the borrower to whom the money is to be lent;
has not been introduced to the borrower by the practitioner for the purpose of making that loan; and

(iii) is advised by the practitioner in respect of the terms and conditions of the loan agreement; or

(c) to utilise money to give effect to any term of a transaction to which that person is a party, other than a transaction which is a loan or which gives effect to a loan agreement that does not fall within the scope of paragraph (b).

[Sub-s. (5) added by s. 1 (b) of Act No. 115 of 1998.]

(6) Subsection (1) (g) does not apply to money which a practitioner is authorised to invest where the practitioner acts in his or her capacity as executor, trustee or curator or in any similar capacity.

[Sub-s. (6) added by s. 1 (b) of Act No. 115 of 1998.]

(7) A practitioner who has been instructed to invest money as contemplated in subsection (4) shall, as soon as practicable after he or she has received such instruction but prior to the receipt of the money to be invested, notify the person giving the instruction of the provisions of subsection (1) (g) in the form and manner prescribed by the board of control in terms of subsection (8).

[Sub-s. (7) added by s. 1 (b) of Act No. 115 of 1998.]

(8) For the purposes of subsection (7), the board of control shall issue directives prescribing the form and manner in which a notice referred to in that subsection shall be given and may from time to time review and, if necessary, revise such directives.

[Sub-s. (8) added by s. 1 (b) of Act No. 115 of 1998.]

(9) Pending the issuing of the directives contemplated in subsection (8), a notice referred to in subsection (7) shall—

(a) be drawn up by the practitioner;

(b) be signed by both the practitioner and the person giving the instruction; and
contain a written acknowledgement by such person to the effect that he or she—

(i)

has been informed by the practitioner concerned of the provisions of subsection (1) (g) and that he or she understands the effect thereof; and

(ii)

admits that the fund shall not be liable in respect of any loss suffered by him or her as a result of theft of such money.

[Sub-s. (9) added by s. 1 (b) of Act No. 115 of 1998.]

(10) Any practitioner who contravenes subsection (7) shall be guilty of an offence and on conviction be liable to a fine or to imprisonment for a period not exceeding two years.

[Sub-s. (10) added by s. 1 (b) of Act No. 115 of 1998.]

47A. Transitional provisions relating to liability of fund for investments.—The fund is not liable for loss of money caused by theft committed by a practitioner, candidate attorney, employee or agent of a practitioner where the money is invested or should have been invested on instructions given before the date contemplated in section 47 (1) (g) and where—

(a)

the money is to be repaid, at any time after that date, to the beneficiary specified in any agreement whether with the borrower or practitioner;

(b)

the theft is committed at any time after the expiration of 90 days after the investment matures or after the expiration of 90 days after the date contemplated in section 47 (1) (g);

(c)

repayment is subject to the lender making a demand or is subject to the occurrence of an impossible or uncertain event; or

(d)

the repayment date is not fixed.
48. Claims against fund: notice, proof and extension of periods for claims.—(1) No person shall have a claim against the fund in respect of any theft contemplated in section 26 unless—

(a) written notice of such claim is given to the council of the society concerned and to the board of control within 3 months after the claimant became aware of the theft or by the exercise of reasonable care should have become aware of the theft; and

(b) within 6 months after a written demand has been sent to him by the board of control, the claimant furnishes the board with such proof as the board may reasonably require.

(2) If the board of control is satisfied that, having regard to all the circumstances, a claim or the proof required by the board has been lodged or furnished as soon as practicable, it may in its discretion extend any of the periods referred to in subsection (1).

49. Actions against fund.—(1) No action shall without leave of the board of control be instituted against the fund unless the claimant has exhausted all available legal remedies against the practitioner in respect of whom the claim arose or his estate and against all other persons liable in respect of the loss suffered by the claimant.

(2) Any action against the fund in respect of any loss suffered by any person as a result of any theft committed by any practitioner, his candidate attorney or employee, shall be instituted within one year of the date of a notification directed to such person or his legal representative by the board of control informing him that the board of control rejects the claim to which such action relates.

[Sub-s. (2) substituted by s. 21 of Act No. 87 of 1989.]

Wording of Sections

(3) In any action against the fund all defences which would have been available to the person against whom the claim arose, shall be available to the fund.

(4) Any action against the fund may, subject to the provisions of this Act and the regulations made thereunder, be brought in any provincial or local division of the Supreme Court within the jurisdiction of which the cause of action arose.

Wording of Sections

s 49(2) of Act 53 of 1979 prior to amendment by Act 87 of 1989
50. **Subrogation.**—On payment out of the fund of money in settlement in whole or in part of any claim under this Act, the fund shall be subrogated to the extent of such payment to all the rights and legal remedies of the claimant against any practitioner or any person in relation to whom the claim arose, or in the event of his death or insolvency or other legal disability, against any person having authority to administer his estate.

51. **Claims may be charged against future revenue of fund.**—(1) If the fund at any time has insufficient assets to settle all claims and judgments, such claims and judgments shall, to the extent to which they are not settled, be charged against future revenue of the fund.

(2) The board of control may in its discretion determine the order in which claims and judgments in terms of subsection (1) shall be settled, and may, if the revenue of the fund is not sufficient to settle all claims in full, settle any claim or judgment in whole or in part.

(3) Without limiting the discretion of the board of control it shall, in applying the fund towards such settlement of claims and judgments, consider the following, namely—

(a) the relative degrees of hardship suffered or likely to be suffered by the various claimants should their claims against the fund not be settled in whole or in part;

(b) subject to paragraph (a), the full settlement of claims not exceeding R1 000, except in special circumstances, before claims for amounts exceeding R1 000 are settled to a greater extent than R1 000;

(c) in equal circumstances, the priority of claimants according to the dates of the judgments or the dates when the claims were admitted by the board of control, as the case may be.

52. **Exemption of fund from certain provisions of certain laws.**—(1) The revenue of the fund shall be exempt from the provisions of any law relating to payment of income tax or any other tax or levy by the State.

(2) Any provision of any law relating to insurance (other than a law relating to the compulsory insurance of employees) or the provision of security in connection therewith, shall not apply to the fund.

53. **Indemnification in respect of certain acts in good faith.**—No action for damages shall be instituted—
against the fund, the board of control or any member, official or employee of the board of control in respect of anything done in the bona fide exercise or performance of its or his powers or duties in terms of the provisions of this Act; or

(b) against any society, any council, any member of a council or official or employee of any council, in respect of any notification issued in good faith for the purposes of section 47 (1) (f).

54. **Preservation and disposal of records and documents in possession of board of control.**—(1) Any record or document in possession of the board of control relating to any claim instituted against the fund shall, subject to the provisions of subsection (2), be preserved at the office of the secretary of the board of control.

(2) The chairman of the board of control may, after the lapse of 5 years from the date on which any claim to which any record or document relates is settled by the board of control or adjudicated upon by the court or rendered unenforceable by lapse of time, direct that such record or document be removed to some other place of custody or be destroyed or otherwise disposed of.

55. **Application of Chapter in respect of persons exercising legal professions in area of former Republic of Transkei, Bophuthatswana, Venda or Ciskei.**—(1) For the purposes of this Chapter—

(a) “practicing practitioner” includes any person who exercises a legal profession in—

   (i) the former Republic of Transkei or Ciskei; or

   (ii) the former Republic of Bophuthatswana or Venda,

   on his or her own account or in partnership, and—

(aa) who is required by a law of the former Republic of Transkei or Ciskei, or by section 6 (1) of the Attorneys and Matters relating to Rules of Court Amendment Act, 1998, as the
case may be, as a prerequisite for exercising such profession, to be in possession of a valid fidelity fund certificate issued to him or her in terms of section 42 (3);

(bb)

who is in possession of such a certificate; and

(b)

a person referred to—

(i) in paragraph (a) (i) must be regarded as being a practitioner who is a member of the society known as the Law Society of the Cape of Good Hope;

(ii) in paragraph (a) (ii) must be regarded as being a practitioner who is a member of the society known as the Law Society of the Transvaal.

(2) This Chapter shall apply with the necessary changes in respect of any theft committed in the area of the former Republic of Transkei, Bophuthatswana, Venda or Ciskei, as the case may be, by a practicing practitioner, his or her candidate attorney, employee or agent, of any money or other property referred to in section 26.

[S. 55 amended by s. 22 of Act No. 87 of 1989 and substituted by s. 1 of Act No. 116 of 1981 and by s. 3 of Act No. 115 of 1998.]

Wording of Sections

CHAPTER III
LAW SOCIETIES

Wording of Sections

s 55 of Act 53 of 1979 prior to amendment by Act 87 of 1989
s 55 of Act 53 of 1979 prior to amendment by Act 116 of 1981
s 55 of Act 53 of 1979 prior to amendment by Act 115 of 1998

56. Continued existence of law societies.—The law societies known as—

(a)

in the case of the law society of the province of the Cape of Good Hope, The Law Society of the Cape of Good Hope;
(b) in the case of the law society of the province of the Orange Free State, The Law Society of the Orange Free State;

(c) in the case of the law society of the province of the Transvaal, The Law Society of the Transvaal;

(d) in the case of the law society of the province of Natal, The Natal Law Society;

(e) . . . . . .

[Para. (e) deleted by s. 15 of Act No. 115 of 1993.]

Wording of Sections shall, notwithstanding the provisions of section 86, continue to exist as juristic persons.

Wording of Sections

s 56(e) of Act 53 of 1979 prior to amendment by Act 115 of 1993

57. Membership of society.—(1) Every practitioner who practises in any province, whether for his own account or otherwise, shall be a member of the society of that province.

(2) A society may by notice in writing addressed to any person who has been admitted and enrolled as an attorney or a notary or conveyancer in any court in the province of its society, or whose name has been placed on the roll of such court, but who does not practise in that province, declare such person to be a member of such society with effect from a date fixed in that notice.

(3) The person who holds office as State Attorney in terms of section 2 (1) (a) of the State Attorney Act, 1957 (Act No. 56 of 1957), shall be a member of every society.

(4) If a member of any society is suspended from practice he shall during the period of such suspension not be entitled to the rights or privileges of membership of any society, and if a member of any society is struck off the roll of any court, such member shall cease to be a member of every society of which he is a member.
(5) The provisions of this section shall not apply in respect of any person who is in terms of the Natal Conveyancers Act, 1926 (Act No. 24 of 1926), entitled to practise as a conveyancer, but who is not an attorney.

58. **Objects of society.**—The objects of a society shall be—

(a) to maintain and enhance the prestige, status and dignity of the profession;

(b) to regulate the exercise of the profession;

(c) to encourage and promote efficiency in and responsibility in relation to the profession;

(d) to deal with all matters relating to the interests of the profession and to protect those interests;

(e) to uphold the integrity of practitioners;

(f) to uphold and improve the standards of professional conduct and qualifications for practitioners;

(g) to provide for the effective control of the professional conduct of practitioners;

(h) to promote uniform practice and discipline among practitioners;

(i) to encourage the study of the law;
to initiate and promote reforms and improvements in any branch of the law, the
administration of justice, the practice of the law and in draft legislation;

\((k)\)

to represent generally the views of the profession;

\((l)\)

in the interests of the profession in the Republic, to co-operate with such other societies
or bodies of persons as it may deem fit.

59. **Powers of society.**—A society may for the purpose of achieving its objects—

\((a)\)

acquire or hire movable or immovable property;

\((b)\)

develop, hypothecate, let, sell or otherwise dispose of movable or immovable property of
the society;

\((c)\)

make donations of property (including money) of the society;

\((d)\)

accept, draw, endorse, issue, make, pay or perform any other act in respect of negotiable
instruments;

\((e)\)

with or without security, invest or lend money of the society;

\((f)\)

with or without security, borrow or raise money required by the society in connection
with the carrying out of its duties, the performance of its functions or the exercise of its
powers;

\((g)\)
employ, fix the remuneration and other conditions of service of and discharge a secretary, one or more assistant secretaries and other officials and employees of the society;

(ii)

conclude any agreement with any person for the performance of any particular act or particular work or the rendering of particular services;

(h)

establish or promote or administer or assist in the establishment or promotion or administration of—

(i)

insurance schemes;

(ii)

medical aid schemes or medical benefit schemes;

(iii)

pension funds or provident funds or pension schemes or benevolent schemes,

for members and ex-members of the society, for employees of such members, for officials and employees of the society and for dependants of such members, ex-members, officials and employees;

(i)

enter into contracts in connection with the carrying out of its duties, the performance of its functions or the exercise of its powers;

(j)

appear in support of or in opposition to, or to abide the decision of any court in, any proceedings brought in terms of the provisions of this Act, and if permitted by any other law, such law;

(k)

generally, do anything that is necessary for or conducive to the attainment of the objects of the society, and the generality of this provision shall not be limited by the preceding paragraph of this section.
60. **Council to manage and control affairs of society.**—(1) The affairs of a society shall be managed and controlled by a council, which may, subject to the provisions of subsection (2), exercise the powers of the society.

(2) The alienation or mortgaging of any immovable property of a society, the appointment of the auditors of a society and the fixing of any subscription, fees, levies or other charges payable to a society by its members, shall be subject to the approval of such majority of the members of that society who are present or represented at a general meeting or at a meeting specially convened for that purpose, as may be prescribed.

61. **Constitution of council and election and period of office of members.**—(1) A council shall consist of such number of members of the society concerned as may be prescribed.

(2) The members of a council shall be elected in the prescribed manner by the members of the society concerned.

(3) A member of a council shall hold office for the prescribed period.

62. **Vacation of office, suspension from office and filling of vacancies.**—(1) A member of a council shall vacate his office—

(a) in the prescribed circumstances;

(b) if he is removed from office by the council in the prescribed circumstances and manner.

(2) (a) When a member of a council vacates his office before the expiration of the prescribed period of office, the council may appoint a member of the society to fill the vacancy for the unexpired portion of such period of office.

(b) Any vacancy occurring in any council as a result of the increase in the number of members of such a council, may be filled by a person appointed by that council from the members of the society concerned and such a person shall hold office until the completion of the next election of members of the council held subsequent to the appointment of the person concerned.

[Para. (b) added by s. 4 of Act No. 115 of 1998.]

(3) A council may in the prescribed circumstances and manner suspend from office any member of that council and may in such case appoint any member of its society to act during the period of suspension in the place of the member so suspended.
63. President and vice-president or vice-presidents.—(1) A council shall from among its members elect a president and one or more vice-presidents, who shall respectively also be the president and vice-presidents of the society concerned and who shall hold office for the prescribed periods.

(2) If the office of the president becomes vacant before the expiration of his period of office, the vice-president or, if there is more than one vice-president, that vice-president determined by the council, shall be the president for the unexpired portion of such period of office.

(3) If the office of a vice-president becomes vacant before the expiration of his period of office, the council shall elect one of its number to fill such vacancy, and the member so elected shall be vice-president for the unexpired portion of such period of office.

(4) If for any reason the president is absent or unable to perform his functions as president, the vice-president or, if there is more than one vice-president, such vice-president as the council may determine, shall act as president, and such vice-president shall while so acting have all the powers and perform all the functions of the president.

64. Meetings of council.—(1) A meeting of a council shall be convened in the manner prescribed and shall be held at a time and place prescribed or determined in the manner prescribed.

(2) If the president and the vice-president or, if there is more than vice-president, all vice-presidents, are absent from or unable to preside at any meeting of a council, the members of the council present at that meeting shall elect one of their number to preside at such meeting during such absence or inability, and the person so elected shall while so presiding have all the powers and perform all the functions of the president.

(3) (a) The decision of the majority of the members of a council present at a meeting of the council shall be the decision of the council: Provided that in the event of an equality of votes on any matter before such meeting, the person presiding at such meeting shall have a casting vote in addition to his deliberative vote.

(b) The method and procedure of voting at meetings of a council shall be determined by that council.

(4) (a) The quorum for any meeting of a council shall be as prescribed.

(b) If the number of members of a council is reduced to a number less than that required to constitute the prescribed quorum, the remaining members of that council shall from among the members of the society concerned appoint such number of members as is required to constitute the prescribed quorum.
65. Alternate members.—A council may appoint any member of its society as an alternate to attend on behalf of any member any meeting of the council which such member is unable to attend, with the power to vote at any such meeting.

66. Validity of decisions taken by, or acts performed under authority of, council.—No decision taken by a council or act performed under authority of a council shall be invalid by reason only of the existence of a vacancy on that council or of the fact that a person who was not entitled to sit as a member of the council, sat as a member of the council, if the decision was taken or the act was authorized by the requisite majority of the members of the council who were present at the time and entitled to sit as members.

67. Committees of council.—(1) (a) A council may appoint one or more committees to assist it in the carrying out of its duties, the performance of its functions and the exercise of its powers, may at any time increase or reduce the membership of any such committee and may fill any vacancy on any such committee.

(b) Any committee referred to in paragraph (a) shall consist of members of the council concerned or of members of the society or of members of such council as well as of members of such society.

(c) A council may designate one of the members of a committee appointed by it in terms of paragraph (a) as chairman of that committee and, if no such designation is made, the members of that committee may from among their number elect a chairman.

(2) A council may assign to a committee appointed by it in terms of subsection (1), such of its powers as it may deem fit, but shall not be divested of any power which it may have assigned to a committee, and may amend or withdraw any decision of any such committee: Provided that if a council has assigned to a committee the power to enquire into any case of alleged unprofessional or dishonourable or unworthy conduct and to impose any punishment in respect thereof in accordance with section 72, the council shall not amend or withdraw any decision arrived at or anything done by such committee in terms of the power so assigned.

(3) A council may require any committee appointed in terms of subsection (1) either generally or specially to enquire into and to advise the council on any matter in connection with the duties, functions or powers of the society or the council.

68. Duties of council.—A council shall—

(a) convene annually a general meeting of the members of its society;

(b) convene in the prescribed circumstances a special meeting of the members of its society;
(c) determine the date and place of meetings of its society and the business to be transacted at such meetings;

(d) make rules providing for the calling of and the quorum and procedure at meetings of its society, and the manner in which motions shall be submitted to such meetings;

(e) deposit all money received by it with a banking institution or with a building society;

(f) keep proper accounts of the revenue and expenditure and of the assets and liabilities of its society.

69. Powers of council.—A council may—

(a) prescribe the books, records, certificates or other documents to be kept, maintained or issued for the purposes of this Act, the form thereof, the inspection thereof by persons authorized to do so by the council, and the circumstances and manner in which alterations may be effected thereto;

(b) fix the subscriptions, fees, levies or other charges payable to its society by the members of its society, and, in fixing such subscriptions, fees, levies or other charges, differentiate among members belonging to different categories determined by it for the purpose;

(c) fix the fees payable to its society in respect of certificates issued by the secretary of its society, and determine the persons who shall be obliged to pay such fees;

(d) prescribe the tariff of fees payable to any practitioner in respect of professional services rendered by him in cases where no tariff is prescribed by any other law;

(dA)
authorize any practitioner, after the submission of reasons which are acceptable to the
council, to deviate in a particular case from any prescribed tariff for conveyancing
services;

[Para. (dA) inserted by s. 54 (a) of Act No. 129 of 1993.]

(e)

prescribe the information to be furnished to the secretary of its society by any person who—

(i) commences or discontinues to practise in the province of its society;

(ii) takes up employment in that province or ceases to be employed therein as a practitioner;

(iii) enters into or withdraws from a partnership with any person practising in that province;

(iv) practises in that province and who changes his business or residential address;

(f)

prescribe the minimum remuneration payable to candidate attorneys;

[Para. (f) substituted by s. 23 (a) of Act No. 87 of 1989.]

Wording of Sections

(g)

 prescribe the form and contents of articles of clerkship;

(h)

 prescribe the manner of assessment of the fees payable by any person to a practitioner in
respect of the performance of any work other than litigious work and in respect of
expenses reasonably incurred by such practitioner in connection with the performance of
that work and, mero motu or at the request of such person or practitioner, assess such fees
in the prescribed manner;
[Para. \((h)\) substituted by s. 23 \((b)\) of Act No. 87 of 1989, by s. 5 \((a)\) of Act No. 102 of 1991 and by s. 54 \((b)\) of Act No. 129 of 1993.]

Wording of Sections

\((i)\)

pay any person allowances to cover expenses reasonably incurred by such person in connection with the performance of any act at the request or under the directions of the council, on behalf of or for the benefit of its society;

\((j)\)

subject to such conditions as it may deem fit to impose, permit members of its society to form associations of such members, to be known as circles, in respect of such areas of the province concerned as the council may determine from time to time; determine the duties, functions and powers of such circles; designate places as the headquarters of such circles; and determine the constitution of bodies responsible for the management of the affairs of such circles;

\((k)\)

prescribe the conditions on which any practitioner may practise at any branch office or in association with any other practitioner or any other person who carries on the practice of a lawyer outside the Republic;

\((l)\)

prescribe the allowance on the fees charged by a practitioner for professional services which such practitioner shall be entitled to make to another practitioner or to any other person who carries on the practice of a lawyer outside the Republic with whom he is not in partnership, in respect of any matter on which they were both engaged;

\((m)\)

prescribe the procedure to be followed in connection with any enquiry referred to in section 71;

\((n)\)

determine the manner in which the council shall conduct its business;

\((o)\)

prescribe the requirements to be complied with by a law clinic referred to in section 3 \((1)\) \((f)\);
do anything which is required for the proper and effective carrying out of its duties, the performance of its functions or the exercise of its powers.

Wording of Sections

s 69(f) of Act 53 of 1979 prior to amendment by Act 87 of 1989

Wording of Sections

s 69(h) of Act 53 of 1979 prior to amendment by Act 87 of 1989
s 69(h) of Act 53 of 1979 prior to amendment by Act 102 of 1991
s 69(h) of Act 53 of 1979 prior to amendment by Act 129 of 1993

70. Council’s power of inspection.—(1) A council may for the purposes of an enquiry under section 71 of or in order to enable it to decide whether or not such an enquiry should be held, direct any practitioner to produce for inspection, either by the council itself or by any person authorized thereto by the council, any book, document, record or thing which is in the possession or custody or under the control of such practitioner and which relates to his practice or former practice.

(2) The refusal or failure by a practitioner to comply with a direction in terms of subsection (1) shall constitute unprofessional conduct.

71. Enquiry by council into alleged cases of unprofessional or dishonourable or unworthy conduct.—(1) A council may in the prescribed manner inquire into cases of alleged unprofessional or dishonourable or unworthy conduct on the part of any attorney, notary or conveyancer whose name has been placed on the roll of any court within the province of its society, whether or not he is a member of such society, or of any person serving articles of clerkship or a contract of service with a member of its society, or of any former candidate attorney referred to in section 8 (4).

[Sub-s. (1) substituted by s. 24 of Act No. 87 of 1989 and by s. 16 of Act No. 115 of 1993.]

Wording of Sections

(2) (a) For the purposes of an enquiry under subsection (1), a council may—

(i)
bearing on the subject matter of the enquiry, to appear before it at a time and place specified in the summons, to be interrogated or to produce that book, document, record or thing, and may retain for inspection any book, document, record or thing so produced;

(ii) through the person presiding at the enquiry administer an oath to, or accept an affirmation from, any person present at the enquiry and who was summoned under subparagraph (i) and interrogate him and require him to produce any book, document, record or thing in his possession or custody or under his control.

(b) A summons referred to in paragraph (a) shall be served in the same manner as a summons for the attendance of a witness at a civil trial in a magistrate’s court.

(c) In connection with the interrogation of any person who has been summoned under this section or the production by such person of any book, document, record or thing, the law relating to privilege as applicable to a witness summoned to give evidence or to produce a book, document, record or thing in a civil trial before a court of law shall apply.

(d) (i) Any person who has been summoned in terms of this subsection or who has given evidence before a council shall be entitled to the same witness fees as if he had been summoned to attend or had given evidence at a civil trial in a magistrate’s court held at the place where the enquiry is held.

(ii) Any fees which may become payable in terms of subparagraph (i) shall be paid from the funds of the society concerned.

(3) The person presiding at the enquiry shall keep or cause to be kept a record of the proceedings at the enquiry and of the evidence given thereat.

(4) A council conducting an enquiry in terms of this section may, if the conduct enquired into forms or is likely to form the subject of criminal or civil proceedings in a court of law, postpone the enquiry until such proceedings have been determined.

Wording of Sections

s 71(1) of Act 53 of 1979 prior to amendment by Act 87 of 1989
s 71(1) of Act 53 of 1979 prior to amendment by Act 115 of 1993

72. Council’s disciplinary powers.—(1) A council conducting an enquiry in terms of section 71 may find the person concerned guilty of unprofessional or dishonourable or unworthy conduct and may—

(a)
in the case of a practitioner—

(i)

impose upon him a fine not exceeding R10 000; or

[Sub-para. (i) substituted by s. 13 (a) of Act No. 204 of 1993.]

Wording of Sections

(ii)

reprimand him; or

(iii)

for a specified period or until otherwise decided by the council, debar him from engaging or continuing to engage a candidate attorney; and

(iv)

recover from him the costs incurred by the council in connection with such enquiry;

(b)

in the case of a candidate attorney—

(i)

cancel or suspend his articles of clerkship or contract of service; or

[Sub-para. (i) substituted by s. 17 of Act No. 115 of 1993.]

Wording of Sections

(ii)

impose upon him a fine not exceeding R2 000; or

[Sub-para. (ii) substituted by s. 13 (b) of Act No. 204 of 1993.]

Wording of Sections

(iii)

reprimand him;
(c)

in the case of a former candidate attorney referred to in section 8 (4)—

(i)

debar him from remaining in the employ of the attorney referred to in section 8 (4) or 8 (5), as the case may be; or

(ii)

impose upon him a fine not exceeding R2 000; or

[Sub-para. (ii) substituted by s. 13 (c) of Act No. 204 of 1993.]

Wording of Sections

(iii)

reprimand him.

[Sub-s. (1) amended by s. 5 of Act No. 80 of 1985 and substituted by s. 25 of Act No. 87 of 1989.]

Wording of Sections

(2) Where a council finds a person referred to in subsection (1) guilty of the conduct referred to therein, it may—

(a)

on the conditions determined by it postpone the taking of any steps in respect of him or the imposition of any punishment upon him;

(b)

impose a fine referred to in subsection (1), but suspend the payment of such fine, or any part thereof.

(3) (a) If the taking of any steps or the imposition of any punishment has been postponed for a particular period in terms of subsection (2), and if at the end of that period the council concerned is satisfied that the person concerned has substantially observed all the relevant conditions, that council shall inform that person that no steps will be taken in respect of him or that no punishment will be imposed upon him.
(b) If the payment of a fine or any part thereof has been suspended by a council for a particular period in terms of subsection (2), and if at the end of such period the council concerned is satisfied that the person concerned has substantially observed all the relevant conditions, that council shall inform such person that the payment of that fine or that part thereof will not be enforced.

(4) A fine imposed at an enquiry in terms of this section and the costs incurred by a council in connection with such enquiry may be recovered by legal process in the magistrate’s court of the district in which the office of the society concerned is situate.

(5) A council may to such extent and in such manner as may be prescribed publish information relating to an enquiry held by it in terms of section 71.

(6) The provisions of this section shall not affect the power of—

(a) a society to apply in terms of the provisions of this Act for the suspension from practice or the striking from the roll of any practitioner against whom an enquiry is being or has been conducted in terms of this Act in respect of the conduct which forms or formed the subject matter of such enquiry;

(b) a competent court, at the instance of the society concerned, to suspend any practitioner from practice or to strike him from the roll.

Wording of Sections

s 72(1)(a)(i) of Act 53 of 1979 prior to amendment by Act 204 of 1993

s 72(1)(b)(i) of Act 53 of 1979 prior to amendment by Act 115 of 1993

s 72(1)(b)(ii) of Act 53 of 1979 prior to amendment by Act 204 of 1993

s 72(1)(c)(ii) of Act 53 of 1979 prior to amendment by Act 204 of 1993

s 72(1) of Act 53 of 1979 prior to amendment by Act 80 of 1985

s 72(1) of Act 53 of 1979 prior to amendment by Act 87 of 1989

73. Appeal against finding of council.—(1) A person who has been found guilty in terms of section 72 may within a period of thirty days of the date of the council’s
decision appeal to a competent court against that finding by lodging with the registrar of that court a notice of appeal setting out in full his grounds of appeal.

(2) A person who appeals in terms of subsection (1) shall when lodging such notice of appeal deposit with the registrar concerned an amount of R200 as security for the costs of the appeal and shall on the same day deliver or send to the secretary of the society concerned a copy of the notice of appeal.

(3) The secretary of the society concerned shall within a period of thirty days of the date upon which he received the notice of appeal referred to in subsection (1), send to the registrar referred to in that subsection in respect of the enquiry concerned—

(a) three copies of the record referred to in section 71 (3);

(b) the documentary evidence admitted at the enquiry;

(c) a statement of the finding of the council which held the enquiry and the reasons for such finding;

(d) any observations which such council may wish to make.

(4) An appeal in terms of subsection (1) shall be prosecuted as if it were an appeal from a judgment of a magistrate’s court in a civil matter, and all rules applicable to such last-mentioned appeal in respect of the hearing thereof shall mutatis mutandis apply to an appeal under this section.

(5) The court hearing an appeal under this section shall—

(a) confirm the finding appealed against; or

(b) set that finding, and the punishment imposed in respect thereof, aside; or

(c)
confirm that finding, but set that punishment aside, and impose in its place such punishment as could have been imposed by the council concerned.

(6) If a person succeeds in his appeal in terms of this section, the costs of the enquiry shall not be recoverable by the council concerned, and if such costs have already been recovered by that council, such costs shall be refunded.

74. **Council may make rules.**—(1) A council may subject to the provisions of subsections (2) and (3) make rules, which shall be binding within the province of its society, as to—

(a) conduct which on the part of any practitioner or candidate attorney, or former candidate attorney referred to in section 8 (4), shall constitute unprofessional or dishonourable or unworthy conduct;

[Para. (a) substituted by s. 26 of Act No. 87 of 1989.]

Wording of Sections

(b) service under articles of clerkship or a contract of service and the circumstances under and the conditions on which articles of clerkship or a contract of service may be cancelled by the council;

[Para. (b) substituted by s. 18 (a) of Act No. 115 of 1993.]

Wording of Sections

(c) the conditions relating to conduct and activities on which persons other than practitioners may be employed by practitioners to assist them in their practices;

(d) the appointment by the council of persons as honorary members of its society, the rights and privileges of such honorary members and the termination of their membership;

(e) any matter not provided for in this section which by this Chapter is required or permitted to be prescribed; and
generally, all matters which the council considers it necessary or expedient to prescribe in
order that the purposes of this Chapter may be achieved.

(2) Any rule referred to in subsection (1) shall be made with the approval of the Chief
Justice of South Africa and, if the Chief Justice is of the opinion that the interests of the
public would be adversely affected by the provisions of any such rule, with the approval
of the State President.

(3) A council shall not submit any draft rule to the Chief Justice unless—

(a)

if the draft rule is submitted by the council of—

(i)

the Law Society of the Cape of Good Hope;

(ii)

the Law Society of the Orange Free State; or

(iii)

the Natal Law Society,

(iv) . . . . .

[Sub-para. (iv) deleted by s. 18 (b) of Act No. 115 of 1993.]

Wording of Sections

such draft rule has been approved by the majority of the members of the society
concerned present or represented at a general meeting of that society; and

(b)

the council has consulted with the judge president of every provincial division in the
province of its society and with the chief justice of every high court in such province.

(4) Rules made under subsection (1) shall come into operation on the date of publication
of such rules in the Gazette or on a subsequent date fixed in the notice of publication.
(5) Any assessment of fees in terms of a rule contemplated in section 69 (h) shall be subject to review in all respects as if it were a determination by such officer of a provincial division or high court as is charged with the taxation of fees and charges.

(6) In this section “High Court” means any high court constituted in terms of section 34 (1) of the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971).

[Sub-s. (6) substituted by s. 18 (c) of Act No. 115 of 1993.]

Wording of Sections

s 74(1)(a) of Act 53 of 1979 prior to amendment by Act 87 of 1989

s 74(1)(b) of Act 53 of 1979 prior to amendment by Act 115 of 1993

s 74(3)(a)(iv) of Act 53 of 1979 prior to amendment by Act 115 of 1993

Repealed Act

Act 21 of 1971 has been repealed by Sch 7 of Act 200 of 1993

Wording of Sections

s 74(6) of Act 53 of 1979 prior to amendment by Act 115 of 1993

75. Limitation of liability.—No action for damages shall lie against any society, council, member of a council, official or employee of any society or any person with whom a council has concluded any agreement referred to in section 59 (g) (ii), in respect of anything done in good faith in terms of this Act.

76. Society may institute private prosecution.—Any society may, by any person authorized thereto in writing by his president, institute a prosecution for any offence in terms of this Act or of any regulation made thereunder, and the provisions of the laws relating to private prosecutions shall apply to such prosecution as if a society is a public body.

77. Particular provisions relating to persons exercising legal profession in Transkei or Ciskei.—(1) Any person who exercises in Transkei or Ciskei a legal profession equivalent to that of a practitioner, shall be a member of the society known as the Law Society of the Cape of Good Hope, if such person is in terms of a law of Transkei or Ciskei, as the case may be, permitted to be a member of that society.
The society referred to in subsection (1), may perform in respect of any person who exercises in Transkei or Ciskei a legal profession referred to in that subsection, or who undergoes training in Transkei or Ciskei in order to qualify himself for such profession, such functions as are assigned in terms of this Chapter to the society in respect of practitioners or candidate attorneys, or former candidate attorneys referred to in section 8(4), if a law of Transkei or Ciskei as the case may be, authorizes it to do so.

[S. 77 substituted by s. 2 of Act No. 116 of 1981. Sub-s. (2) substituted by s. 27 of Act No. 87 of 1989.]

Wording of Sections

CHAPTER IV
GENERAL

Wording of Sections

s 77 of Act 53 of 1979 prior to amendment by Act 116 of 1981
s 77(2) of Act 53 of 1979 prior to amendment by Act 87 of 1989

78. Trust accounts.—(1) Any practising practitioner shall open and keep a separate trust banking account at a banking institution in the Republic and shall deposit therein the money held or received by him on account of any person.

(2) (a) Any practitioner may invest in a separate trust savings or other interest-bearing account opened by him with any banking institution or building society any money deposited in his trust banking account which is not immediately required for any particular purpose.

(b) Any trust savings or other interest-bearing account referred to in paragraph (a) shall contain a reference to this subsection.

(2A) Any separate trust savings or other interest-bearing account—

(a) which is opened by a practitioner for the purpose of investing therein, on the instructions of any person, any money deposited in his trust banking account; and

(b) over which the practitioner exercises exclusive control as trustee, agent or stakeholder or in any other fiduciary capacity,

shall contain a reference to this subsection.
(3) The interest, if any, on money deposited in terms of subsection (1) and the interest on money invested in terms of subsection (2) shall be paid over to the fund by the practitioner concerned at the prescribed time and in the manner prescribed.

(4) Any practising practitioner shall keep proper accounting records containing particulars and information of any money received, held or paid by him for or on account of any person, of any money invested by him in a trust savings or other interest-bearing account referred to in subsection (2) or (2A) and of any interest on money so invested which is paid over or credited to him.

(5) The council of the society of the province in which a practitioner practises may by itself or through its nominee, and at its own cost, inspect the accounting records of any practitioner in order to satisfy itself that the provisions of subsections (1), (2), (2A), (3) and (4) are being observed, and, if on such inspection it is found that such practitioner has not complied with such provisions, the council may write up the accounting records of such practitioner and recover the costs of the inspection or of such writing up, as the case may be, from that practitioner.

(6) For the purposes of subsections (4) and (5), “accounting records” includes any record or document kept by or in the custody or under the control of any practitioner which relates to—

(a) money invested in a trust savings or other interest-bearing account referred to in subsection (2) or (2A);

(b) interest on money so invested;

(c) any estate of a deceased person or any insolvent estate or any estate placed under curatorship, in respect of which such practitioner is the executor, trustee or curator or which he administers on behalf of the executor, trustee or curator; or

(d) his practice.

(7) No amount standing to the credit of any practitioner’s trust account shall be regarded as forming part of the assets of the practitioner, or may be attached on behalf of any creditor of such practitioner: Provided that any excess remaining after payment of all claims of persons whose money has, or should have, been deposited or invested in such
trust account, and all claims in respect of interest on money so invested, shall be deemed to form part of the assets of such practitioner.

(8) The court may on application made by the society of the province concerned, and on good cause shown, prohibit any practitioner from operating in any way on his trust account, and may appoint a *curator bonis* to control and administer such trust account, with such rights, duties and powers in relation thereto as the court may deem fit.

(9) *(a)* If any practitioner—

(i) dies;

(ii) becomes insolvent;

(iii) in the case of a professional company, is liquidated or placed under judicial management, whether provisionally or finally;

(iv) is struck off the roll or suspended from practice;

(v) is declared by a competent court to be incapable of managing his own affairs; or

(vi) abandons his practice or ceases to practise,

the Master of the Supreme Court may, on application made by the society of the province concerned or by any person having an interest in the trust account of that practitioner, appoint a *curator bonis* to control and administer such account, with such of the prescribed rights, duties and powers as the Master may deem fit.

*(b)* Any person who is of the opinion that he has been prejudiced by a decision of a Master in terms of paragraph *(a)*, may, within 30 days after the decision became known to him, appeal against that decision to the court, and the court may confirm or vary the said decision or give any such other decision as in its opinion the Master should have given.
(c) Nothing in this subsection or in subsection (7) or (8) contained shall be construed as preventing any practitioner who was practising in partnership with a practitioner referred to in paragraph (a) of this subsection, from operating on the trust account of the partnership.

(10) Any banking institution or building society at which a practitioner keeps his trust account or any separate account forming part of his trust account, shall not by reason only of the name or style by which the account concerned is distinguished, be deemed to have knowledge that the practitioner is not entitled to all money paid into such account or with which such account is credited: Provided that the provisions of this subsection shall not relieve such banking institution or building society from any liability or obligation which legally exists and to which it would be subject apart from the provisions of this Act.

(11) Notwithstanding anything in subsection (10) contained, a banking institution or building society at which a practitioner keeps his trust account or any separate account forming part of his trust account, shall not, in respect of any liability of the practitioner to such banking institution or building society, not being a liability arising out of or in connection with any such account, have or obtain any recourse or right, whether by way of set-off, counter-claim, charge or otherwise, against money standing to the credit of any such account.

(12) The provisions of this section shall not be construed—

(a) as depriving any banking institution or building society of any existing right;

(b) as taking away or affecting any claim, lien, counter-claim, right of set-off, or charge of any kind which a practitioner has against or on any money held or received by him on account of any person;

(c) as relieving any practitioner who has invested any money referred to in subsection (1) in a trust savings or other interest-bearing account referred to in subsection (2) or (2A), of any liability in respect thereof.

(13) Any banking institution or building society at which a practitioner keeps his trust account or any separate account forming part of his trust account, shall, if so directed by the council of the society of the province in which such practitioner is practising, furnish the council with a signed certificate which indicates the balance of such account at the date or dates stated by the council.
79. **Trust property not to form part of assets of practitioner.**—Notwithstanding anything to the contrary in any law or the common law contained, trust property which is expressly registered in the name of a practitioner, or jointly in the name of a practitioner and any other person in his or their capacity as administrator, trustee, curator, or agent, as the case may be, shall not form part of the assets of that practitioner or other person.

79A. **Recovery of costs by law clinics.**—(1) Notwithstanding the provisions of section 83 (6) of this Act and section 9 (2) of the Admission of Advocates Act, 1964 (Act No. 74 of 1964), whenever in any legal proceedings or any dispute in respect of which legal services are rendered to a litigant or other person by a law clinic, costs become payable to such litigant or other person in terms of a judgment of the court or a settlement, or otherwise, it shall be deemed that such litigant or other person has ceded his or her rights to such costs to the law clinic.

(2) (a) A litigant or person referred to in subsection (1) or the law clinic rendering legal services to such litigant or person may, at any time before payment of the costs referred to in subsection (1), give notice in writing to—

(i) the person liable for such costs; and

(ii) the registrar or clerk of the court concerned,

that the legal services concerned are being or have been rendered by that law clinic.

(b) Where notice has been given as contemplated in paragraph (a), the law clinic concerned may proceed in its own name to have such costs taxed, where appropriate, and to recover them, without being substituted on the record of the legal proceedings concerned, if any, for the litigant or person referred to in subsection (1).
(3) The costs referred to in subsection (1) shall be calculated and the bill of costs concerned, if any, shall be taxed as if the litigant or person to whom legal services were rendered by the law clinic, actually incurred the costs of obtaining the services of the attorney or advocate acting on his or her behalf in the proceedings or dispute concerned.

[S. 79A inserted by s. 20 of Act No. 62 of 2000.]

80. **Minister may prescribe fees.**—The Minister may, after consultation with the presidents of the various societies, by notice in the Gazette prescribe a scale of fees which shall be paid in respect of the—

(a) examination of articles of clerkship or a contract of service in terms of section 5;

[Para. (a) substituted by s. 19 of Act No. 115 of 1993.]

Wording of Sections

(b) registration of articles of clerkship or a contract of service;

[Para. (b) substituted by s. 19 of Act No. 115 of 1993.]

Wording of Sections

(bA) issuing of a certificate in terms of section 8 (3);

[Para. (bA) inserted by s. 10 (b) of Act No. 108 of 1984.]

(c) examination of documents in terms of section 10 (5);

(d) registration of a cession of articles of clerkship or a contract of service in terms of section 10 (5);

[Para. (d) substituted by s. 12 of Act No. 104 of 1996.]

Wording of Sections
(e) admission or readmission as an attorney;

(f) admission or readmission as a notary;

(g) admission or readmission as a conveyancer;

(h) enrolment as a practitioner under section 20.

[S. 80 amended by s. 10 (a) of Act No. 108 of 1984.]

81. Regulations.—(1) The Minister may after consultation with, except in the case of regulations made under paragraph (f) or (g), the Chief Justice of South Africa and after consultation with the presidents of the various societies make regulations determining the following:

(a) the countries or territories which shall be approved of for the purposes of section 13 (1) or 17 and be designated for the purposes of section 13 (1) (a) (ii), and the class or classes of persons which shall be designated for the purposes of sections 13 (1) and 17;

[Para. (a) substituted by s. 5 (a) of Act No. 76 of 1980 and by s. 4 of Act No. 60 of 1982.]
the service which is recognized as appropriate legal experience for the purposes of section 2A (c) and the period which may expire between the date on which such service has been completed and the date on which exemption from articles of clerkship may be granted;

[Para. (b) substituted by s. 5 (b) of Act No. 76 of 1980, deleted by s. 4 (b) of Act No. 56 of 1983 and inserted by s. 20 of Act No. 115 of 1993.]

whether any person referred to in section 13 (1) shall be exempted or not from passing any practical examination referred to in section 14 (1) (a), (b) or (c) or any part thereof before being admitted and enrolled as an attorney under this Act;

the circumstances under which any person shall, for the purposes of admission as a notary or conveyancer under section 18, be exempted from passing the practical examination referred to in section 14 (1) (d) or (e);

the rights, duties and powers of a curator bonis appointed under section 78 (9);

the time when and the manner in which any interest referred to in section 78 (3) shall be paid to the fund;

the acts which shall not be performed by any person other than a practitioner or an agent referred to in section 22 of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944);

the certificate which shall be endorsed on any document specified in the regulations by any person preparing such document for or on behalf of any other person;
Paragraph (i) substituted by s. 29 (a) of Act No. 87 of 1989 and deleted by s. 4 of Act No. 33 of 1995.

Wording of Sections

(1) The conditions for the purposes of section 13A on which a person contemplated in section 13 (1) (a) (ii) who has been admitted and enrolled as an attorney in terms of this Act, shall be allowed to practise before being entitled to practise on his own account.

[Sub-s. (1) amended by s. 4 (a) of Act No. 56 of 1983. Para. (j) added by s. 5 (c) of Act No. 76 of 1980.]

Wording of Sections

(2) The Minister may, for the purposes of the provisions of this Act relating to the fund, with the concurrence of the Chief Justice of South Africa and after consultation with the presidents of the several societies, make regulations relating to—

(a) the method of payment and recovery of any contribution to the fund;

(b) the investment of the money contemplated in section 38 (3);

[Para. (b) substituted by s. 7 (a) of Act No. 80 of 1985.]

Wording of Sections

(bA) the investment of the money available for investment in terms of section 38 (4);

[Para. (bA) inserted by s. 7 (b) of Act No. 80 of 1985.]

(c) the form in which and the periods within which notice is to be given to a society and the board of control in respect of claims against the fund and the particulars thereof, and the conditions subject to which and the extent to which the board of control may settle claims without recourse to legal proceedings;
(d) the form of certificates to be issued to practitioners and of declarations, applications, notices and documents to be used in relation to any application or refusal of any application relating to the fund;

(e) the obtaining of evidence for the purposes of the fund that any person has been admitted to practise or is still practising or has ceased to practise, or as to the reason why any person has discontinued practice, and generally for the obtaining of information which is considered necessary or desirable for the purposes of determining the merits of applications for fidelity fund certificates or matters related thereto;

(f) the election of a chairman, vice-chairman and other office-bearers of the board of control;

(g) the appointment, remuneration and dismissal of officers of the board of control;

(h) the opening of offices for and the regulation of the management and administration of the board of control, including the manner and form in which all agreements, deeds and documents shall be drawn up and executed by, for or on behalf of the board of control;

(i) the authorization of the board of control or any committee thereof to subpoena and to examine on oath any person whose evidence is deemed necessary to enable the said board or committee to decide on the validity of any claim submitted against the fund;

(j) generally, such other matters which are considered necessary for the implementation of the intention of this act, in respect of the fund.

(3) Regulations made under subsection (1)(g) may provide for exemption, either temporarily or permanently or partially or wholly, from the prohibitions therein contained in respect of particular persons or categories of persons or in respect of any specified matter connected with any act mentioned in such regulations: Provided that no exemption granted permanently shall be cancelled or withdrawn unless such cancellation or withdrawal has been approved by resolution of Parliament.
Wording of Sections

(4) Any regulations made under subsection (1) (h) may provide for penalties by way of a fine not exceeding R1 000 or imprisonment for a period not exceeding three months for any contravention thereof or failure to comply therewith.

Wording of Sections

(5) Regulations made by the Minister under subsection (2) shall be published in the Gazette and shall thereupon have the same force and effect as if they were enacted in this Act.

82. **Rules of court.**—The Chief Justice may, after consultation with the judges president of the several provincial divisions and with the presidents of the several societies make rules of court so as to provide for —

(a)
the qualifications of examiners appointed under section 14;

(b) the manner in which examinations referred to in section 14 shall be conducted;

c) the registration fees payable by candidates for the examinations referred to in section 14;

d) the procedure to be followed and the information to be supplied to the court by any applicant for admission or readmission under this Act;

[Para. (d) substituted by s. 13 of Act No. 104 of 1996.]

Wording of Sections

(e) the nature and form of the oath which shall be taken and signed by any person before admission and enrolment under this Act;

(f) any other matter considered necessary for giving effect to the provisions of this Act, excluding Chapters II and III.

Wording of Sections

s 82(d) of Act 53 of 1979 prior to amendment by Act 104 of 1996

83. Offences.—(1) No person other than a practitioner shall practise or hold himself out as a practitioner or pretend to be, or make use of any name, title or addition or description implying or creating the impression that he is a practitioner or is recognized by law as such or perform any act which he is in terms of any regulations made under section 81 (1) (g) prohibited from performing.

(2) No person shall orally or by means of any written or printed matter or in any other manner, directly or indirectly, either for himself or for any other person, canvass advertise or tout for, or make known his preparedness or that of such other person to undertake any work, whether for or without remuneration in connection with the drawing up of a will or other testamentary writing, 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 judicial management or the liquidation of a company.
Wording of Sections

(3) Notwithstanding anything to the contrary in any law contained, no person other than
an advocate or an attorney or an agent referred to in section 22 of the Magistrates’ Courts
Act, 1944 (Act No. 32 of 1944), shall appear for or on behalf of any other person in any
proceedings or categories of proceedings which are held under the provisions of any law
and which have been designated by the Minister by notice in the Gazette after
consultation with the presidents of the various societies.

(4) Any practitioner who has been struck off the roll or suspended from practice shall
not, while he is so struck off or suspended, continue to practise as a practitioner directly
or indirectly for his own account or in partnership or association with any other person,
or, except with the written consent of the society concerned, and, if he is a person who, in
terms of section 34 (1) (b) of the Internal Security Act, 1982 (Act No. 74 of 1982), has
been struck off the roll, also with the written consent of the Minister, be employed in any
capacity connected with the profession of a practitioner.

(5) A practitioner shall not, except with the written consent of the society concerned and,
in the case of a person who, in terms of section 34 (1) (b) of the Internal Security Act,
1982, has been struck off the roll, also with the written consent of the Minister, employ in
any capacity any person who has been struck off the roll or suspended from practice,
while such person is so struck off or suspended.

(6) A practitioner shall not make over to or share or divide with any person other than a
practitioner in, or a legal practitioner outside, the Republic, either by way of partnership,
commission or allowance or in any other manner any portion of his professional fees.

(7) A person who contravenes any of the provisions of subsections (1) to (6) or of
section 13A shall be guilty of an offence and on conviction liable to a fine not exceeding
R2 000 in respect of each offence.
(8) (a) Any person, except a practising practitioner, who for or in expectation of any fee, gain or reward, direct or indirect, to himself or to any other person, draws up or prepares or causes to be drawn up or prepared any of the following documents, namely—

(i)

any agreement, deed or writing relating to immovable property or to any right in or to immovable property, other than contracts of lease for periods not exceeding five years, conditions of sale or brokers’ notes;

(ii)

any will or other testamentary writing;

(iii)

any memorandum or articles of association or prospectus of any company;

(iv)

any agreement, deed or writing relating to the creation or dissolution of any partnership or any variation of the terms thereof;

(v)

any instrument or document relating to or required or intended for use in any action, suit or other proceeding in a court of civil jurisdiction within the Republic, shall be guilty of an offence and on conviction liable in respect of each offence to a fine not exceeding R2 000 and in default of payment thereof to imprisonment not exceeding six months.

[Para. (a) amended by s. 30 (d) of Act No. 87 of 1989.]

Wording of Sections

(b) The expression “fee, gain or reward, direct or indirect” referred to in paragraph (a) shall not apply to—

(i)

the salary or emoluments of an employee if no fee, gain or reward is sought or obtained by his employer from the person on whose behalf the document was drawn or prepared; or

(ii)
any commission or other remuneration to which any person is or may be entitled either by law or otherwise for services rendered in his capacity as executor, administrator, trustee, curator, tutor or guardian by virtue of his appointment as such by any court of law or under the provisions of any will or other testamentary writing, or as agent for any person holding such appointment.

(9) Any practitioner who does not comply with the provisions of section 78 (1), (2), (2A), (3) or (4), shall be guilty of an offence and on conviction liable to a fine not exceeding Rl 000.

[Sub-s. (9) substituted by s. 30 (e) of Act No. 87 of 1989.]

Wording of Sections

(10) Any person who directly or indirectly purports to act as a practitioner or to practice on his own account or in partnership without being in possession of a fidelity fund certificate, shall be guilty of an offence and on conviction liable to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Sub-s. (10) substituted by s. 30 (f) of Act No. 87 of 1989.]

Wording of Sections

(11) The provisions of subsection (2) shall not apply—

(a)

to any board of executors, or trust company (not being a private company within the meaning of section 104 of the Companies Act, 1926 (Act No. 46 of 1926)), licensed as such on or before 31 December 1938 under the Licences Consolidation Act, 1925 (Act No. 32 of 1925), which—

(i)

has in its name or title words indicating that its objects or functions include work in connection with a matter mentioned in subsection (2); or

(ii)

on signboards, nameplates or notices exhibited on the premises in which it carries on business, on its stationery, or on its usual annual calendars or in any advertisement in the public press, or in its annual reports or any report of the proceedings at an annual general meeting, makes known by a simple statement to that effect that its objects or functions include any such work;
Para. (a) amended by s. 1 of Act No. 49 of 1996.

Wording of Sections

(b) to any person who in reply to a direct enquiry voluntarily made to him by someone else makes known the preparedness of himself or some other person to perform any such work;

(c) to any shareholder or employee of a board of executors or trust company mentioned in paragraph (a) who canvasses another shareholder or employee of the same board of executors or trust company on behalf of such board or company;

(d) to any practitioner or any commercial banking institution or any board of executors or trust company who indicates in any public notice required by law in connection with the liquidation or administration of any estate, that he or it does such work;

(e) to any practitioner who makes known in such manner as may be approved by the society of the province in which he practises, that he does such work;

(f) to any person (not being a board of executors or trust company mentioned in paragraph (a) or a company registered under the Companies Act, 1926 (Act No. 46 of 1926), or a commercial banking institution)—

(i) who on 21 February 1941 held a valid broker’s or agent’s licence issued under the Licences Consolidation Act, 1925 (Act No. 32 of 1925);

(ii) . . . . .

[Sub-para. (ii) deleted by s. 1 of Act No. 49 of 1996.]

Wording of Sections
who on a signboard, nameplate or notice exhibited on the premises where he carries on
business, on his stationery or in any advertisement in the public press, makes known by a
simple statement to that effect that his business includes any such work;

[Para. (f) amended by s. 1 of Act No. 49 of 1996.]

Wording of Sections

(g)

to any accountant who on 21 February 1941, was entitled to use any designation provided
for by the Chartered Accountants Designation (Private) Act, 1927 (Act No. 13 of 1927),
and who still is so entitled, who on a signboard or nameplate exhibited on the premises in
which he carries on business, or on his stationery, makes known by a simple statement to
that effect that his business includes any such work, provided he had on the date
mentioned by such means made known that his business included such work.

[Para. (g) amended by s. 1 of Act No. 49 of 1996.]

Wording of Sections

(12) The provisions of subsection (8) shall not apply to—

(a)

any person in the employment of a practising practitioner drawing or preparing or
causing to be drawn or prepared any of the documents concerned in the course of his
employment and on behalf of his employer;

(b)

any agent referred to in section 22 of the Magistrates’ Courts Act, 1944, and any person
in the employment of such agent, acting in the course of his employment and on behalf of
his employer, drawing or preparing or causing to be drawn or prepared any of the
documents concerned, in so far as such agent was prior to the commencement of this Act
entitled to draw or prepare or cause to be drawn or prepared any of the aforementioned
documents and to charge a fee therefor;

(c)

any person in the employment of the State, the Railway Administration, a provincial
administration, the administration of the Land and Agricultural Bank of South Africa
drawing or preparing or causing to be drawn or prepared any of the documents concerned
in the course of his duty;

[Para. (c) amended by s. 1 of Act No. 49 of 1996.]
any trustee under the laws relating to insolvency or any executor, administrator or curator or any liquidator of a company drawing or preparing any of the documents concerned in the course of his statutory duties and receiving such fees as may be allowed by law;

any person—

(i) who on 31 December 1938 was the manager or secretary or attorney in the employment of a board of executors or trust company or any branch thereof licensed as such under the Licences Consolidation Act, 1925 (Act No. 32 of 1925);

(ii) . . . . .

[Sub-para. (ii) deleted by s. 1 of Act No. 49 of 1996]

in respect of any such document drawn or prepared by him in such capacity in so far as immediately prior to the relevant date aforementioned he in his said capacity was entitled to draw or prepare such a document and to charge a fee therefor;

[Para. (e) amended by s. 1 of Act No. 49 of 1996.]

any practising advocate in so far as he would be entitled but for the passing of this Act to draw or prepare any of the aforesaid documents in the ordinary course of his profession;

any board of executors or trust company which, on 27 October 1967, was licensed as such under the Licenses Act, 1962 (Act No. 44 of 1962), and carrying on business of which a substantial part consisted of the liquidation or distribution of the estates of deceased persons, if the person in the service of any such institution, who draws up or prepares or causes to be drawn up or prepared the documents referred to in subsection (8)
(a) (ii), satisfies all the academic requirements to be admitted as an advocate or attorney in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964), or this Act, as the case may be.

[Para. (g) added by s. 9 of Act No. 122 of 1998.]

(13) Any practitioner who contravenes subsection (1), (3) or (4) of section 78 or subsection (2), (5) or (6) of this section shall also be guilty of unprofessional conduct and be liable to be struck off the roll or suspended from practice.

(14) Subsection (8) shall not in any way affect the provisions of the Natal Conveyancers Act, 1926 (Act No. 24 of 1926).

(15) (a) Any person who has been summoned under section 71 who—

   (i) fails, without sufficient cause, to attend at the time and place specified in the summons, or to remain in attendance until excused from further attendance by the person presiding at the enquiry;

   (ii) refuses to take the oath or make an affirmation when required by the person presiding at the enquiry to do so;

   (iii) fails, without sufficient cause, to produce any book, document, record or thing which he has in terms of section 71 (2) been required to produce;

   (iv) fails, without sufficient cause, to answer fully and satisfactorily to the best of his knowledge and belief any question lawfully put to him,

shall be guilty of an offence and on conviction liable to a fine not exceeding R400.

[Para. (a) amended by s. 30 (g) of Act No. 87 of 1989.]

Wording of Sections

(b) Any person who at an enquiry referred to in section 71 gives false evidence after having been sworn or after having made an affirmation, shall be guilty of an offence and on conviction liable to the penalties prescribed by the law in respect of perjury.
Wording of Sections

s 83(2) of Act 53 of 1979 prior to amendment by Act 60 of 1982

Repealed Act

Act 74 of 1982 has been repealed by s 27 of Act 33 of 2004

Repealed Act

Act 74 of 1982 has been repealed by s 27 of Act 33 of 2004

Wording of Sections

s 83(4) of Act 53 of 1979 prior to amendment by Act 87 of 1989

Wording of Sections

s 83(5) of Act 53 of 1979 prior to amendment by Act 87 of 1989

Wording of Sections

s 83(7) of Act 53 of 1979 prior to amendment by Act 76 of 1980

s 83(7) of Act 53 of 1979 prior to amendment by Act 87 of 1989

Wording of Sections

s 83(8)(a) of Act 53 of 1979 prior to amendment by Act 87 of 1989

Wording of Sections

s 83(9) of Act 53 of 1979 prior to amendment by Act 87 of 1989

Wording of Sections

s 83(10) of Act 53 of 1979 prior to amendment by Act 87 of 1989

Repealed Act

Act 46 of 1926 has been repealed by s 442 of Act 61 of 1973

Repealed Act

Act 46 of 1926 has been repealed by s 442 of Act 61 of 1973

Repealed Act

Act 32 of 1925 has been repealed by s 15 of Act 44 of 1962

Repealed Act

Act 44 of 1962 has been repealed by s 27(1) of Cape Ord 19 of 1972

Wording of Sections

s 83(11)(a) of Act 53 of 1979 prior to amendment by Act 49 of 1996

Repealed Act
Act 46 of 1926 has been repealed by s 442 of Act 61 of 1973

Act 32 of 1925 has been repealed by s 15 of Act 44 of 1962

Act 44 of 1962 has been repealed by s 27(1) of Cape Ord 19 of 1972

s 83(11)(f) of Act 53 of 1979 prior to amendment by Act 49 of 1996

s 83(11)(f)(ii) of Act 53 of 1979 prior to amendment by Act 49 of 1996

s 83(11)(g) of Act 53 of 1979 prior to amendment by Act 49 of 1996

s 83(12)(c) of Act 53 of 1979 prior to amendment by Act 49 of 1996

s 83(12)(e)(ii) of Act 53 of 1979 prior to amendment by Act 49 of 1996

s 83(12)(e) of Act 53 of 1979 prior to amendment by Act 49 of 1996

s 83(15)(a) of Act 53 of 1979 prior to amendment by Act 87 of 1989

84. Society of Cape Province may exercise certain powers in respect of certain matters and persons in Transkei and Ciskei.—The society of the province of the Cape of Good Hope, and its council, president and secretary, may in respect of matters and persons in Transkei and Ciskei perform any functions which are similar to the functions
assigned to them by Chapter I or this Chapter and which are assigned to them in respect of such matters and persons in Transkei and Ciskei, respectively.

[S. 84 substituted by s. 3 of Act No. 116 of 1981.]

Wording of Sections

s 84 of Act 53 of 1979 prior to amendment by Act 116 of 1981

84A. Law Society of Transvaal may exercise certain powers in respect of practitioners practicing in areas of former Republics of Bophuthatswana and Venda.—Notwithstanding any other law, the Law Society of the Transvaal and its council, president and secretary, may in respect of practitioners practicing in the areas of the former Republics of Bophuthatswana and Venda, perform any function which is similar to a function assigned to that Law Society, council, president or secretary, as the case may be, by section 22 (1) (d) or (e), (2), 67 (2), 69 (a), (e) or (m), 70, 71, 72, 73, 74 (1) (a), (e) and (f), 78, 81 (1) (e) and (f), (2) (a), (d), (e), (i) or (j), (5) or 83 (9), (13) or (15).

[S. 84A inserted by s. 5 of Act No. 115 of 1998.]

85. . . . . .

[S. 85 repealed by s. 1 of Act No. 49 of 1996.]

Wording of Sections

s 85 of Act 53 of 1979 prior to amendment by Act 49 of 1996

86. Repeal of laws and savings.—(1) Subject to the provisions of subsections (2) and (3), the laws set out in the Schedule are hereby repealed to the extent set out in the third column thereof.

(2) (a) Any person referred to in subsection (1) of section 34 of the Attorneys, Notaries and Conveyancers Admission Act, 1934 (Act No. 23 of 1934), who in terms of that subsection was immediately prior to the commencement of this Act entitled to be admitted and enrolled as an attorney shall continue to be so entitled.

(b) The provisions of this Act shall not be construed so as to deprive any person referred to in subsection (2) of the said section 34 of the right to be admitted as an attorney or a notary or conveyancer or to practise in Natal as an advocate as well as an attorney.
(c) (i) Any person referred to in subsection (4) of the said section 34 shall notwithstanding the provisions of section 15 (1) (b) (iii) of this Act be entitled to be admitted as an attorney, provided he complies with all the other requirements of this Act.

[Sub-para. (i) substituted by s. 31 of Act No. 87 of 1989.]

Wording of Sections

(ii) Any person referred to in subsection (5) of the said section 34 shall receive from his employer the salary referred to in that subsection from the date or from the expiry of the period referred to in that subsection.

(d) (i) Any articled clerk referred to in subsection (6) of the said section 34, shall be entitled to appear as provided in that subsection, and the principal of any such clerk shall be entitled to charge fees in respect of such appearance as if he had appeared himself.

(ii) The provisions of section 8 (3) of this Act shall mutatis mutandis apply in respect of an articled clerk referred to in subparagraph (i).

(e) (i) The Natal Provincial Division of the Supreme Court may remove the name of any person referred to in subsection (1) of section 35 of the Attorneys, Notaries and Conveyancers Admission Act, 1934, from the roll of attorneys, notaries and conveyancers upon an application of which notice was given as mentioned in that section, and thereupon the provisions referred to in that subsection shall apply in respect of such person.

(ii) Such division may upon an application, of which notice was given as mentioned in that section, of any person whose name was removed from the roll of attorneys, notaries and conveyancers under subparagraph (i), again admit such person as an attorney or a notary or conveyancer, subject to the provisions of subsection (2) of the said section 35.

(iii) The provisions of subsection (3) of section 35 shall apply in respect of an application referred to in this paragraph and in respect of the order of admission granted on the ground of such application.

(3) Anything done or deemed to have been done under any provision of a law repealed by subsection (1), shall be deemed to have been done under the corresponding provision of this Act.

Repealed Act

Act 23 of 1934 has been repealed by s 86 of Act 53 of 1979

Repealed Act

Act 23 of 1934 has been repealed by s 86 of Act 53 of 1979

Repealed Act
Act 23 of 1934 has been repealed by s 86 of Act 53 of 1979.

Wording of Sections

s 86(2)(c)(i) of Act 53 of 1979 prior to amendment by Act 87 of 1989

87. **Short title.**—This Act shall be called the Attorneys Act, 1979.

**Schedule**

**LAWS REPEALED**

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Act 16 of 1938 has been repealed by s 86 of Act 53 of 1979
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Repealed Act
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Repealed Act
Act 4 of 1977 has been repealed by s 86 of Act 53 of 1979

Repealed Act
Act 81 of 1978 has been repealed by s 86 of Act 53 of 1979

ATTORNEYS AMENDMENT ACT
NO. 76 OF 1980

[ASSENTED TO 4 JUNE, 1980]
[DATE OF COMMENCEMENT: 18 JUNE, 1980]

(English text signed by the State President)

This Act was published in Government Gazette 7074 dated 18 June, 1980.

ACT

To amend the Attorneys Act, 1979, so as to make provision for a certain period of absence of an articled clerk from the office of his principal to be deemed to have been served under articles of clerkship; to further regulate the exemption from service under articles and the admission and removal from the roll of attorneys; to effect certain textual alterations; and to provide for matters connected therewith.

1. Amends section 7 of the Attorneys Act, No. 53 of 1979, by adding subsection (5).

2. Amends section 13 (1) of the Attorneys Act, No. 53 of 1979, by substituting the words preceding paragraph (a) and paragraph (a).


4. Amends section 22 of the Attorneys Act, No. 53 of 1979, by adding subsection (2), the existing section becoming subsection (1).
5. Amends section 81 (1) of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes paragraph (a); paragraph (b) substitutes paragraph (b); and paragraph (c) adds paragraph (j).

6. Amends section 83 of the Attorneys Act, No. 53 of 1979, by substituting subsection (7).

7. Substitution of certain expressions in Act 53 of 1979.—The principal Act is hereby amended by the substitution for the expressions “section 2 (a)”, “section 2 (a) or (c)” and “section 2 (d)” wherever they occur of the expressions “section 2 (1) (a)”, “section 2 (1) (a) or (c)” and “section 2 (1) (d)”, respectively.

8. Short title.—This Act shall be called the Attorneys Amendment Act, 1980.
ATTORNEYS AMENDMENT ACT
NO. 60 OF 1982

[ASSENTED TO 26 MARCH, 1982]
[DATE OF COMMENCEMENT: 21 APRIL, 1982]

(Unless otherwise indicated)

(Afrikaans text signed by the State President)

This Act was published in Government Gazette 8157 dated 21 April, 1982.

ACT

To amend the Attorneys Act, 1979, so as to further regulate exemption from service under articles; to further regulate the admission of attorneys practising in certain countries or territories; to extend the purpose for which the Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund may be applied; and to further extend the prohibition on the canvassing of certain types of work; and to provide for incidental matters.

1. Amends section 13 (1) of the Attorneys Act, No. 53 of 1979, by substituting paragraph (a).

2. Amends section 17 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) deletes the word “and” at the end of paragraph (b); and paragraph (b) inserts paragraph (bA).

3. Substitutes section 26 of the Attorneys Act, No. 53 of 1979 (date of commencement 30 April, 1982).

4. Amends section 81 (1) of the Attorneys Act, No. 53 of 1979, by substituting paragraph (a).

5. Amends section 83 of the Attorneys Act, No. 53 of 1979, by substituting subsection (2).

6. Short title and commencement.—(1) This Act shall be called the Attorneys Amendment Act, 1982.

(2) The provisions of section 3 shall come into operation on a date to be fixed by the State President by proclamation in the Gazette.
ATTORNEYS AMENDMENT ACT
NO. 56 OF 1983

[ASSENTED TO 4 MAY, 1983]
[DATE OF COMMENCEMENT: 11 MAY, 1983]

(English text signed by the State President)

This Act was published in Government Gazette 8699 dated 11 May, 1983.

ACT

To amend the Attorneys Act, 1979, so as to increase the amount payable in respect of a certificate which may be issued to certain articled clerks entitled to appear in certain courts; to further regulate the exemption of certain persons admitted as attorneys in certain countries or territories from satisfying the requirements for a certain degree; and to further regulate the power to make grants out of the Fidelity Guarantee Fund for Attorneys, Notaries and Conveyancers; and to provide for incidental matters.

1. Amends section 8 of the Attorneys Act, No. 53 of 1979, by substituting subsection (3).

2. Amends section 13 (1) of the Attorneys Act, No. 53 of 1979, by substituting paragraph (b).

3. Amends section 46 of the Attorneys Act, No. 53 of 1979, by substituting paragraph (a).

4. Amends section 81 (1) of the Attorneys Act, No. 53 of 1979, as follows:— paragraph (a) substitutes the words preceding paragraph (a); and paragraph (b) deletes paragraph (b).

5. Short title. —This Act shall be called the Attorneys Amendment Act, 1983.

SECOND ATTORNEYS AMENDMENT ACT
NO. 103 OF 1983

[ASSENTED TO 18 AUGUST, 1983]
[DATE OF COMMENCEMENT: 1 MARCH, 1983]

(Afrikaans text signed by the State President)
ACT

To amend the Attorneys Act, 1979, so as to make further provision for the payment of interest on money accruing to the Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund.

1. Amends section 78 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes subsection (3); and paragraph (b) substitutes subsection (4).

2. Short title and commencement.—This Act shall be called the Second Attorneys Amendment Act, 1983, and shall be deemed to have come into operation on 1 March 1983.

ATTORNEYS AMENDMENT ACT
NO. 108 OF 1984

[ASSENTED TO 12 JULY, 1984]
[DATE OF COMMENCEMENT: 15 AUGUST, 1984]

(Unless otherwise indicated)

(English text signed by the State President)

ACT

To amend the Attorneys Act, 1979, so as to provide for the recognition of degrees and examinations of universities in certain other countries for purposes connected with the duration of service under articles of clerkship, the submission of information to law societies before articles are entered into, the appearance of articled clerks before courts and other institutions, the termination of articles and the admission of attorneys; to increase by one the number of persons at the Johannesburg branch of the State Attorney by whom articled clerks may be engaged; to make other provision in respect of fees payable to a law society for the issue of a certificate that an articled clerk is entitled to appear before certain courts and institutions; to further regulate the admission of attorneys, and to make express provision for the readmission of attorneys, notaries and conveyancers; to further regulate the removal of attorneys from the roll of attorneys; and to delete the requirement that the Minister of Justice in prescribing fees shall consult with the judges-president, and to extend the said Minister’s power to prescribe fees; and to provide for matters connected therewith.
1. Amends section 2 (1) of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) inserts paragraph (aA); paragraph (b) substitutes paragraph (c); and paragraph (c) inserts paragraph (cA).

2. Amends section 3 (1) of the Attorneys Act, No. 53 of 1979, by substituting paragraph (h).

3. Amends section 4 (b) of the Attorneys Act, No. 53 of 1979, by substituting subparagraph (ii).

4. Amends section 8 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes subsection (1) (b); and paragraph (b) substitutes subsection (3) (date of commencement 1 February, 1985).

5. Amends section 11 (3) of the Attorneys Act, No. 53 of 1979, by substituting the words preceding paragraph (a).

6. Amends section 13 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes subsection (1) (b); and paragraph (b) substitutes subsection (3).

7 and 8. Substitutes respectively sections 15 and 18 of the Attorneys Act, No. 53 of 1979.

9. Amends section 22 (1) of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes paragraph (a) (ii); paragraph (b) adds paragraph (a) (iii); and paragraph (c) substitutes paragraph (d).

10. Amends section 80 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes the words preceding paragraph (a) (date of commencement 1 February, 1985); and paragraph (b) inserts paragraph (bA) (date of commencement 1 February, 1985).

11. Short title and commencement.—(1) This Act shall be called the Attorneys Amendment Act, 1984.

(2) Sections 4 (b) and 10 shall come into operation on a date fixed by the State President by proclamation in the Gazette.

ATTORNEYS AMENDMENT ACT
NO. 80 OF 1985

[ASSENTED TO 19 JUNE, 1985]
[DATE OF COMMENCEMENT: 28 JUNE, 1985]
ACT

To amend the Attorneys Act, 1979, so as to replace an obsolete expression; to further regulate the investment of money in and payments from the Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund; to make further provision with regard to the payment of grants and honoraria from the said fund; and to increase the maximum fines which may be imposed by the council of a law society; and to provide for matters connected therewith.

1. **Amends** section 14 (1) of the Attorneys Act, *No. 53 of 1979*, by substituting paragraph (b).


3. **Amends** section 45 (1) of the Attorneys Act, *No. 53 of 1979*, by substituting paragraph (j) (date of commencement 1 June, 1979).


5. **Amends** section 72 (1) of the Attorneys Act, *No. 53 of 1979*, as follows:— paragraph (a) substitutes paragraph (a) (i); and paragraph (b) substitutes paragraph (b) (ii).

6. **Amends** section 78 of the Attorneys Act, *No. 53 of 1979*, as follows:—paragraph (a) substitutes subsection (4); paragraph (b) substitutes subsection (5); and paragraph (c) substitutes in subsection (6) the words preceding paragraph (a).

7. **Amends** section 81 (2) of the Attorneys Act, *No. 53 of 1979*, as follows:— paragraph (a) substitutes paragraph (b) (date of commencement 1 March, 1986); and paragraph (b) inserts paragraph (bA) (date of commencement 1 March, 1986).

8. **Short title and commencement.**—(1) This Act shall be called the Attorneys Amendment Act, 1985.

(2) **Sections 2, 4 and 7** shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. 
(3) Section 3 shall be deemed to have come into operation on 1 June 1979.

ATTORNEYS AMENDMENT ACT
NO. 87 OF 1989

[ASSENTED TO 1 JUNE, 1989]
[DATE OF COMMENCEMENT: 29 SEPTEMBER, 1989]

(Unless otherwise indicated)

(English text signed by the State President)

This Act has been updated to Government Gazette 14981 dated 20 July, 1993.

as amended by

Attorneys Amendment Act, No. 115 of 1993

ACT

To amend the Attorneys Act, 1979, so as to replace the designation “articled clerk” with “candidate attorney”; to redefine “building society”; to define “trust account”; to make other provision relating to the engagement and service of candidate attorneys; to further regulate the admission and readmission of attorneys and the removal of attorneys from the roll; to change the name of the Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund; to make further provision relating to the convening of meetings of the board of control of the said fund; to authorize the said board of control to appoint committees; to further regulate payments from the said fund; to extend the powers of the councils of law societies; to further regulate the keeping of a trust account by a practising practitioner; to increase various maximum fines; and to rectify certain incorrect or obsolete references; to amend the Magistrates’ Courts Act, 1944, so as to make other provision in relation to the appearance of candidate attorneys in magistrates’ courts; and to provide for matters connected therewith.

1. Amends section 1 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) deletes the definition of “articled clerk”; paragraph (b) substitutes the definition of “board of control”; paragraph (c) substitutes the definition of “building society”; paragraph (d) inserts the definition of “candidate attorney”; paragraph (e) substitutes the definition of “fund”; paragraph (f) amends the Afrikaans text; paragraph (g) substitutes the definition of “principal”; and paragraph (h) inserts the definition of “trust account” (date of commencement 1 March, 1990).

3. Amends section 5 of the Attorneys Act, No. 53 of 1979, by substituting subsection (2).

4 to 7 inclusive. Substitute respectively sections 6, 7, 8 and 9 of the Attorneys Act, No. 53 of 1979.

8. Amends section 10 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes subsection (1); paragraph (b) substitutes subsection (2); paragraph (c) substitutes subsection (3); paragraph (d) substitutes subsection (4); and paragraph (e) substitutes in subsection (5) the words following upon paragraph (b).


10. Amends section 13 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes subsection (2); and paragraph (b) substitutes subsection (3).

11. Amends section 15 (1) (b) of the Attorneys Act, No. 53 of 1979, by inserting subparagraph (ivA) (date of commencement 1 January, 1994).

[S. 11 substituted by s. 21 of Act No. 115 of 1993.]

Wording of Sections

s 11 of Act 87 of 1989 prior to amendment by Act 115 of 1993

12. Amends section 22 (2) of the Attorneys Act, No. 53 of 1979, by adding paragraphs (b) and (c), the existing subsection becoming paragraph (a).

13 to 15 inclusive. Substitute respectively the heading to Chapter II and sections 25 and 26 of the Attorneys Act, No. 53 of 1979.


20. Amends section 45 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) inserts subsection (1) (bA); paragraph (b) substitutes subsection (1) (g); and paragraph (c) deletes paragraph (a) of the proviso to subsection (2).


22. Amends section 55 of the Attorneys Act, No. 53 of 1979, by substituting paragraph (a).

23. Amends section 69 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes paragraph (f); and paragraph (b) substitutes paragraph (h).


25. Amends section 72 of the Attorneys Act, No. 53 of 1979, by substituting subsection (1).

26. Amends section 74 (1) of the Attorneys Act, No. 53 of 1979, by substituting paragraph (a).

27. Amends section 77 of the Attorneys Act, No. 53 of 1979, by substituting subsection (2).


29. Amends section 81 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes subsection (1) (i); paragraph (b) substitutes the proviso to subsection (3); and paragraph (c) substitutes subsection (4).

30. Amends section 83 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes subsection (4); paragraph (b) substitutes subsection (5); paragraph (c) substitutes subsection (7); paragraph (d) substitutes in subsection (8) (a) the words following upon subparagraph (v); paragraph (e) substitutes subsection (9); paragraph (f) substitutes subsection (10); and paragraph (g) substitutes in subsection (15) (a) the words following upon subparagraph (iv).

31. Amends section 86 (2) (c) of the Attorneys Act, No. 53 of 1979, by substituting subparagraph (i).

32. Substitution of certain words in Act 53 of 1979.—The principal Act is hereby amended by the substitution in the Afrikaans text for the words “getrouheidswaarborgsertifikaat” and “getrouheidswaarborgsertifikate” wherever they
occur of the words “getrouheidsfondssertifikaat” and “getrouheidsfondssertifikate”, respectively.

33. **Amends the “ARRANGEMENT OF SECTIONS” of the Attorneys Act, No. 53 of 1979**, by substituting the words “Fidelity Fund” for the words “Fidelity Guarantee Fund”.

34. **Substitutes the long title of the Attorneys Act, No. 53 of 1979**.

35. **Substitutes section 21 of the Magistrates’ Courts Act, No. 32 of 1944**.

36. **Short title and commencement.**—(1) This Act shall be called the Attorneys Amendment Act, 1989, and shall come into operation on a date fixed by the State President by proclamation in the Gazette.

(2) Different dates may be so fixed in respect of different provisions of this Act.

ATTORNEYS AMENDMENT ACT
NO. 13 OF 1990

[ASSENTED TO 9 MARCH, 1990]
[DATE OF COMMENCEMENT: 1 JANUARY, 1986]

(Afrikaans text signed by the State President)

This Act was published in Government Gazette 12356 dated 21 March, 1990.

ACT

To amend the Attorneys Act, 1979, so as to regulate the registration of articles entered into by advocates; and to provide for incidental matters.

1. **Substitutes section 12 of the Attorneys Act, No. 53 of 1979**.

2. **Short title and commencement.**—This Act shall be called the Attorneys Amendment Act, 1990, and shall be deemed to have come into operation on 1 January 1986.

ATTORNEYS AMENDMENT ACT
NO. 102 OF 1991
ACT

To amend the Attorneys Act, 1979, so as to further regulate the engagement of candidate attorneys; to provide that the Attorneys Fidelity Fund Board of Control may acquire or form, and administer, a public company, or establish a scheme, so as to provide insurance cover to practitioners; and to further regulate the powers of the council of a law society; and to provide for matters connected therewith.

1. Amends section 1 of the Attorneys Act, No. 53 of 1979, by inserting the definition of “law clinic”.

2. Amends section 3 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes subsection (1) (e); paragraph (b) inserts subsection (1) (f); paragraph (c) substitutes subsection (1) (i); and paragraph (d) substitutes subsection (3) (a) and (b).

3. Amends section 6 (1) of the Attorneys Act, No. 53 of 1979 by deleting the word “or” at the end of paragraph (a), inserting the word “or” at the end of paragraph (b), and by adding paragraph (c).


5. Amends section 69 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes paragraph (h); and paragraph (b) inserts paragraph (o), the existing paragraph (o) becoming paragraph (p).

6. Short title and commencement.—(1) This Act shall be called the Attorneys Amendment Act, 1991, and shall come into operation on a date fixed by the State President by proclamation in the Gazette.

(2) Different dates may be so fixed in respect of different provisions of this Act.

ATTORNEYS AMENDMENT ACT
NO. 115 OF 1993

[ASSENTED TO 9 JULY, 1993]
[DATE OF COMMENCEMENT: 1 AUGUST, 1993]
(English text signed by the State President)

ACT

To amend the Attorneys Act, 1979, in order to amend, insert or delete certain definitions; to further regulate the duration of service under articles of clerkship; to provide for exemption from service under articles of clerkship; to provide for certain information to be submitted to a society before the performance of community service; to provide for the lodging, examination and registration of contracts of service; to further regulate the supervision of candidate attorneys; to further regulate absence from office of candidate attorneys; to further regulate the right of appearance of candidate attorneys; to restrict the pecuniary interests of candidate attorneys in the organization or institution where they perform community service; to regulate the termination of a contract of service; to further regulate removal from the roll of advocates; to further regulate the performance of irregular service; to further regulate practical examinations; to further regulate the admission of attorneys; to delete obsolete provisions; to further regulate the prescribing of fees; and to make further provision for the prescribing of regulations; to amend the Magistrates’ Courts Act, 1944, so as to make provision for the appearance of candidate attorneys performing community service in magistrates’ courts; and to provide for matters connected therewith.

1. Amends section 1 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) inserts the definition of “appropriate legal experience”; paragraph (b) inserts the definition of “community service”; paragraph (c) substitutes the definition of “candidate attorney”; paragraph (d) inserts the definition of “contract of service”; paragraph (e) substitutes the definition of “principal”; and paragraph (f) deletes the definitions of “province”, “Republic” and “Territory”.

2. Amends section 2 of the Attorneys Act, No. 53 of 1979, by inserting subsection (1A).

3 and 4. Insert respectively sections 2A and 4A in the Attorneys Act, No. 53 of 1979.


6. Amends section 6 of the Attorneys Act, No. 53 of 1979, by adding subsection (3).

7. Amends section 7 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes subsection (1); paragraph (b) substitutes subsection (2) (a) (ii); and paragraph (c) substitutes subsections (3), (4) and (5).

8. Amends section 8 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes subsection (1) (ii); and paragraph (b) substitutes subsection (4) (a).
9 to 11 inclusive. Substitute respectively sections 9, 11 and 12 of the Attorneys Act, No. 53 of 1979.


14. Amends section 15 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes subsection (1) (b) (vi); and paragraph (b) substitutes subsection (2).

15. Amends section 56 of the Attorneys Act, No. 53 of 1979, by deleting paragraph (e).

16. Amends section 71 of the Attorneys Act, No. 53 of 1979, by substituting subsection (1).

17. Amends section 72 (1) (b) of the Attorneys Act, No. 53 of 1979, by substituting subparagraph (i).

18. Amends section 74 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes subsection (1) (b); paragraph (b) deletes subsection (3) (a) (iv); and paragraph (c) substitutes subsection (6).

19. Amends section 80 of the Attorneys Act, No. 53 of 1979, by substituting paragraphs (a) and (b).

20. Amends section 81 (1) of the Attorneys Act, No. 53 of 1979, by inserting paragraph (b).


22. Substitutes section 21 of the Magistrates’ Courts Act, No. 32 of 1944.

23. Saving.—The provisions of this Act shall, in so far as they can be applied, also be applicable to a candidate attorney who, at the commencement of this Act, is serving under articles of clerkship.

24. Short title and commencement.—(1) This Act shall be called the Attorneys Amendment Act, 1993, and shall come into operation on a date fixed by the State President by proclamation in the Gazette.

(2) Different dates may be so fixed in respect of different provisions of this Act.
GENERAL LAW THIRD AMENDMENT ACT
NO. 129 OF 1993

[ASSENTED TO 9 JULY, 1993]
[DATE OF COMMENCEMENT: 1 SEPTEMBER, 1993]

(Unless otherwise indicated)

(English text signed by the State President)

This Act has been updated to Government Gazette 22896 dated 5 December, 2001.

as amended by

General Law Fifth Amendment Act, No. 157 of 1993

Maritime Zones Act, No. 15 of 1994
[with effect from 11 November, 1994]

Labour Relations Act, No. 66 of 1995
[with effect from 11 November 1996]

National Road Traffic Act, No. 93 of 1996
[with effect from 1 August, 2000]

Marine Living Resources Act, No. 18 of 1998
[with effect from 1 September, 1998]

Animal Improvement Act, No. 62 of 1998
[with effect from 21 November, 2003]

National Forests Act, No. 84 of 1998
[with effect from 1 April, 1999]

Meat Safety Act, No. 40 of 2000
[with effect from 1 November, 2000]

Judicial Matters Amendment Act, No. 42 of 2001
[with effect from 7 December, 2001, unless otherwise indicated]

Judges’ Remuneration and Conditions of Employment Act, No. 47 of 2001

[with effect from 22 November, 2001, unless otherwise indicated]

General and Further Education and Training Quality Assurance Act, No. 58 of 2001

[with effect from 5 December, 2001]

ACT

To amend the Insolvency Act, 1936, so as to further regulate an appeal against certain orders; to amend the Magistrates’ Courts Act, 1944, so as to further regulate the limits of jurisdiction of lower courts; to amend the Radio Act, 1952, so as to delete certain definitions and amend another definition; and to delete obsolete provisions; to amend the Universities Act, 1955, so as to regulate certain offences and penalties anew; to amend the Mines and Works Act, 1956, so as to further regulate work on certain days and insert a penalty clause in connection therewith; to amend the Labour Relations Act, 1956, so as to make further provision for the auditing of account books of trade unions and employers’ organizations; to amend the Interpretation Act, 1957, so as to further regulate the dates of commencement of certain laws; to amend the State Attorney Act, 1957, so as to further regulate the employment of correspondents; to amend the Post Office Act, 1958, so as to further regulate the transfer of land and the use of immovable property and land; and to exempt the successor companies from certain laws; to amend the Correctional Services Act, 1959, so as to provide for the manner in which multiple sentences of correctional supervision shall be served; to amend the Stock Theft Act, 1959, so as to repeal an obsolete provision; to amend the Supreme Court Act, 1959, so as to delete obsolete expressions; to regulate appeals against judgments or orders of certain divisions anew; and to make provision that a court of appeal may strike certain appeals off the roll; to amend the Territorial Waters Act, 1963, so as to extend the application of certain laws to certain installations; to amend the Unemployment Insurance Act, 1966, so as to further regulate the determination of the value of remuneration in kind in agriculture; to amend the Mental Health Act, 1973, so as to further regulate the discharge of State patients; to amend the Post Office Service Act, 1974, so as to further regulate the constitution of the Staff Management Board and term of office of the Postmaster General; to amend the Livestock Improvement Act, 1977, so as to insert certain definitions; to amend the Criminal Procedure Act, 1977, so as to redefine “bank”; to further regulate private prosecutions; to further regulate the powers of a peace officer in respect of an arrest without a warrant; to substitute certain obsolete expressions; to further regulate the proof of entries in accounting records and documentation of banks; to further regulate the sentence of correctional supervision; to extend the discretion of the court to antedate a sentence under certain circumstances; and to further regulate the conditional postponement or suspension of a sentence; to amend the Attorneys Act, 1979, so as to
further regulate the admission or readmission and enrolment as an attorney and the removal of an attorney from the roll; to make provision that attorneys may under certain circumstances deviate from the prescribed tariffs for conveyancing; and to empower a council of a law society to assess certain fees *mero motu*; to amend the Manpower Training Act, 1981, so as to give training boards the opportunity to evaluate test results before they issue certificates; to amend the Universities and Technikons Advisory Council Act, 1983, so as to expand the composition of the Universities and Technikons Advisory Council; and to further regulate the consequences of the existence of a vacancy in a committee of the Advisory Council; to amend the Forest Act, 1984, so as to amend a definition; and to provide for the delegation of a certain power by the Minister of Agriculture; to amend the Rules Board for Courts of Law Act, 1985, so as to regulate anew the composition of the Rules Board for Courts of Law; to provide that the said Board can employ a person with special knowledge of any matter on a temporary basis; and to provide for the remuneration, allowances, benefits and privileges of the members of the said Board; to amend the South African Certification Council Act, 1986, so as to further regulate the composition of the South African Certification Council; to amend the Sea Fishery Act, 1988, so as to regulate by permit the transfer of fish from one vessel or fishing boat to another at sea; to further regulate the prohibition on the catching or killing of fish by detonating a substance in the sea; and to create certain presumptions; to amend the Legal Succession to the South African Transport Services Act, 1989, so as to further regulate certain statutory protection; to amend the Road Traffic Act, 1989, so as to further regulate the offence of driving with an excessive amount of alcohol in the blood or breath; to amend the Judges’ Remuneration and Conditions of Employment Act, 1989, so as to further regulate the method of transport of judges; to amend the South African Reserve Bank Act, 1989, so as to further regulate the appointment of directors; to amend the Agricultural Product Standards Act, 1990, so as to further regulate export inspection tariffs; to amend the Posts and Telecommunications Acts Amendment Act, 1992, so as to repeal a superfluous provision; to amend the Births and Deaths Registration Act, 1992, so as to provide that a person who has undergone a change of sex may apply for the alteration of the sex description in his birth register; to amend the Abattoir Hygiene Act, 1992, so as to further regulate the delegation of powers; to amend the Audit Arrangements Act, 1992, so as to further regulate the transfer of officials; to amend the Management of State Forests Act, 1992, so as to redefine “Minister”; and to further regulate the management of State forests; to provide for the interpretation of references to the Public Accountants’ and Auditors’ Act, 1951; to create a certain offence; to repeal certain obsolete laws; and to provide for matters connected therewith.

1. *Amends section 150 of the Insolvency Act, No. 24 of 1936, by substituting subsection (1).*

2. *Amends section 92 (1) of the Magistrates’ Courts Act, No. 32 of 1944, by adding paragraph (d).*

3. *Amends section 1 of the Radio Act, No. 3 of 1952, as follows:*—paragraph (a) *deletes the definition of “earth station”*; paragraph (b) *substitutes the definition of “radio apparatus”*; and paragraph (c) *deletes the definition of “space station”*. 
(Date of commencement: 1 January, 1994.)

Repealed Act

Act 3 of 1952 has been repealed by s 103

Repealed Act

Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005 of Act 103 of 1996

Repealed Act

Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005

Repealed Act

Act 3 of 1952 has been repealed by s 103

Repealed Act

Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005 of Act 103 of 1996

Repealed Act

Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005


Repealed Act

Act 3 of 1952 has been repealed by s 103

Repealed Act

Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005 of Act 103 of 1996

Repealed Act

Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005

Repealed Act

Act 3 of 1952 has been repealed by s 103

Repealed Act

Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005 of Act 103 of 1996

Repealed Act

Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005
Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005

5. *Amends* section 7 (1) of the Radio Act, No. 3 of 1952, by substituting paragraph (a).

Repealed Act
Act 3 of 1952 has been repealed by s 103
Repealed Act
Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005
of Act 103 of 1996
Repealed Act
Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005

Repealed Act
Act 3 of 1952 has been repealed by s 103
Repealed Act
Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005
of Act 103 of 1996
Repealed Act
Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005


Repealed Act
Act 3 of 1952 has been repealed by s 103
Repealed Act
Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005
of Act 103 of 1996
Repealed Act
Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005

Repealed Act
Act 3 of 1952 has been repealed by s 103
Repealed Act
Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005

of Act 103 of 1996
Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005

7. **Substitutes** section 28bis of the Universities Act, No. 61 of 1955.

Repealed Act
Act 61 of 1955 has been repealed by s 76 of Act 101 of 1997

8. **Amends** section 9 of the Mines and Works Act, No. 27 of 1956, as follows:—paragraph (a) substitutes the words preceding subsection (1) (a); and paragraph (b) adds subsection (3).

9. . . . . .

[S. 9 repealed by s. 212 of Act No. 66 of 1995.]

Wording of Sections

s 9 of Act 129 of 1993 prior to amendment by Act 66 of 1995

10. **Amends** section 13 of the Interpretation Act, No. 33 of 1957, by adding subsection (3).

11. **Amends** section 8 of the State Attorney Act, No. 56 of 1957, as follows:—paragraph (a) substitutes subsection (1); and paragraph (b) adds subsection (3).

12. **Amends** section 4 of the Post Office Act, No. 44 of 1958, as follows:—paragraph (a) adds subsection (3) (c); and paragraph (b) inserts subsection (4A).


14. **Amends** section 90A of the Post Office Act, No. 44 of 1958, by adding subsection (3).

15. **Amends** section 32 of the Correctional Services Act, No. 8 of 1959, by inserting subsection (2A).

17. Amends section 1 of the Supreme Court Act, No. 59 of 1959, by deleting the definition of “Republic”.

18. Amends section 10 (2) (a) of the Supreme Court Act, No. 59 of 1959, by deleting the words “or the territory of South-West Africa”.

19. Amends section 19bis (5) (a) of the Supreme Court Act, No. 59 of 1959, by deleting the expression “not exceeding R300”.

20. Amends section 20 of the Supreme Court Act, No. 59 of 1959, as follows:— paragraph (a) substitutes subsection (1); paragraph (b) substitutes subsection (2) (a) and (b); and paragraph (c) substitutes the words preceding subsection (3) (a).

21. Amends section 21 of the Supreme Court Act, No. 59 of 1959, by substituting subsection (1A).

22. Inserts section 21A in the Supreme Court Act, No. 59 of 1959.

23. Amends section 26 (1) of the Supreme Court Act, No. 59 of 1959, by deleting the words “or of the Supreme Court of South West Africa”.

24. Amends section 30 (4) of the Supreme Court Act, No. 59 of 1959, by deleting the expression “not exceeding R1 000”.

25. Amends section 32 of the Supreme Court Act, No. 59 of 1959, as follows:— paragraph (a) deletes the words “or of the Supreme Court of South West Africa” in subsection (2); paragraph (b) substitutes subsection (3); and paragraph (c) deletes the expression “not exceeding R300” in subsection (5).

26. Amends section 36 of the Supreme Court Act, No. 59 of 1959, as follows:— paragraph (a) substitutes subsection (1); and paragraph (b) deletes the words “(including the Supreme Court of South West Africa)” in subsection (3).

27. Amends section 39 of the Supreme Court Act, No. 59 of 1959, as follows:— paragraph (a) substitutes paragraphs (b) and (c); and paragraph (b) substitutes paragraphs (e) and (f).

(Date of commencement: 1 December, 1993.)

28. Amends section 40 of the Supreme Court Act, No. 59 of 1959, by deleting the expression “not exceeding R500”.

29. Amends section 41 of the Supreme Court Act, No. 59 of 1959, by deleting the words “(including the Supreme Court of South West Africa)”, wherever they occur.
30 and 31. . . . .

[Ss. 30 and 31 repealed by s. 15 (1) of Act No. 15 of 1994.]

Wording of Sections

Wording of Sections

s 30, s 31 of Act 129 of 1993 prior to amendment by Act 15 of 1994

32. Amends section 50 (3) of the Unemployment Insurance Act, No. 30 of 1966, by adding the provisos (date of commencement 1 December, 1993).

[S. 32 substituted by s. 10 of Act No. 157 of 1993.]

Wording of Sections

Repealed Act

Act 30 of 1966 has been repealed by s 70 of Act 63 of 2001

Repealed Act

Act 30 of 1966 has been repealed by s 70 of Act 63 of 2001

Wording of Sections

s 32 of Act 129 of 1993 prior to amendment by Act 157 of 1993

33. Amends section 29 of the Mental Health Act, No. 18 of 1973, as follows:—
paragraph (a) substitutes subsection (1) (a); paragraph (b) deletes subsections (2), (3) and (4); paragraph (c) substitutes subsection (5); and paragraph (d) substitutes subsection (6).

34. Amends section 4 of the Post Office Service Act, No. 66 of 1974, as follows:—
paragraph (a) substitutes subsection (1) (b); paragraph (b) substitutes subsection (2); and paragraph (c) deletes subsection (5).

Repealed Act

Act 66 of 1974 has been repealed by s 6 of Act 10 of 1998

Repealed Act

Act 66 of 1974 has been repealed by s 6 of Act 10 of 1998

35. Amends section 9 of the Post Office Service Act, No. 66 of 1974, by substituting subsection (5).
36. (1) Amends section 10A of the Post Office Service Act, No. 66 of 1974, as follows:—paragraph (a) substitutes subsection (1) (b); and paragraph (b) deletes subsection (2).

(2) Paragraph (b) of subsection (1) shall be deemed to have come into operation on 1 December 1991.

37. . . . . .

[S. 37 repealed by s. 29 (2) (a) of Act No. 62 of 1998.]

Wording of Sections

Wording of Sections

s 37 of Act 129 of 1993 prior to amendment by Act 62 of 1998

38. Amends section 1 of the Criminal Procedure Act, No. 51 of 1977, by substituting the definition of “bank”.

39. Amends section 9 (1) of the Criminal Procedure Act, No. 51 of 1977, by substituting paragraphs (a) and (b) (date of commencement 1 December, 1993).


41. Amends section 40 (1) of the Criminal Procedure Act, No. 51 of 1977, by substituting paragraph (d).

42. Amends section 77 of the Criminal Procedure Act, No. 51 of 1977, as follows:—paragraph (a) substitutes subsection (6) (a); paragraph (b) substitutes subsection (7); and paragraph (c) substitutes subsection (9).
43. **Amends** [section 78 (6)] of the Criminal Procedure Act, No. 51 of 1977, by substituting the words following upon paragraph (b).

44. **Amends** [section 79] of the Criminal Procedure Act, No. 51 of 1977, by substituting the expression “psychiatric hospital” for the expression “mental hospital” wherever it occurs in subsections (1) and (2).

45. **Substitutes** [section 236] of the Criminal Procedure Act, No. 51 of 1977.

46. **Amends** [section 276A (3)] of the Criminal Procedure Act, No. 51 of 1977, as follows:—paragraph (a) substitutes the words following upon paragraph (a) (ii); paragraph (b) substitutes paragraph (b); and paragraph (c) substitutes the words preceding paragraph (c) (i).

47. **Amends** [section 280] of the Criminal Procedure Act, No. 51 of 1977, as follows:—paragraph (a) substitutes subsection (2); and paragraph (b) adds subsection (3).

48. **Amends** [section 282] of the Criminal Procedure Act, No. 51 of 1977, by substituting the words following upon paragraph (b).

49. **Amends** [section 297 (9) (a)] of the Criminal Procedure Act, No. 51 of 1977, by substituting the words preceding subparagraph (i).

50. **Inserts** [section 308A] in the Criminal Procedure Act, No. 51 of 1977.

51. **Amends** [section 309 (4)] of the Criminal Procedure Act, No. 51 of 1977, by substituting paragraph (b).

52. **Amends** [section 16] of the Attorneys Act, No. 53 of 1979, by adding paragraph (d).

53. **Amends** [section 22 (1)] of the Attorneys Act, No. 53 of 1979, by adding paragraph (e).

54. **Amends** [section 69] of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) inserts paragraph (dA); and paragraph (b) substitutes paragraph (h).

55. **Amends** section 13 of the Manpower Training Act, No. 56 of 1981, by substituting subsection (12).

Repealed Act

Act 56 of 1981 has been repealed by s 37(1) of Act 97 of 1998

Repealed Act

Act 56 of 1981 has been repealed by s 37(1) of Act 97 of 1998
56. **Amends** section 2 (2) (b) of the Universities and Technikons Advisory Council Act, No. 99 of 1983, as follows:—paragraph (a) substitutes the words preceding subparagraph (i); and paragraph (b) substitutes subparagraph (iii).

Repealed Act

Act 99 of 1983 has been repealed by s 76 of Act 101 of 1997

57. **Amends** section 3 (1) of the Universities and Technikons Advisory Council Act, No. 99 of 1983, by substituting paragraph (d).

Repealed Act

Act 99 of 1983 has been repealed by s 76 of Act 101 of 1997


Repealed Act

Act 99 of 1983 has been repealed by s 76 of Act 101 of 1997

59 and 60. . . . . . .

[Ss. 59 and 60 repealed by s. 73 (1) of Act No. 84 of 1998.]

Wording of Sections

Wording of Sections

s 59, s 60 of Act 129 of 1993 prior to amendment by Act 84 of 1998

61. **Substitution of** section 3 of Act 107 of 1985, as amended by section 2 of Act 77 of 1989.—The following section is hereby substituted for section 3 of the Rules Board for Courts of Law Act, 1985:

“Constitution of Board and period of office of members
3. (1) The Board shall consist of the following members appointed by the Minister, namely—

(a) a judge of appeal of the appellate division of the Supreme Court of South Africa, as chairman;

(b) two judges of the Supreme Court, one of whom the Minister shall designate as the vice-chairman;

(c) one advocate, after consultation with the General Council of the Bar of South Africa;

(d) one attorney, after consultation with the Association of Law Societies of the Republic of South Africa;

(e) two other persons who in the opinion of the Minister have the necessary experience and knowledge to serve as members of the Board.

(2) Not more than three members of the Board designated by the Minister, shall hold their office as members of the Board, and shall perform their functions under this Act, in a full-time capacity.

(3) The Minister may appoint one or more additional members if he deems it necessary for the investigation of any particular matter by the Board.

(4) A member of the Board—

(a) referred to in subsection (1), shall be appointed for a period of not more than five years;

(b) referred to in subsections (2) and (3), shall be appointed for a period and on the conditions determined by the Minister,
and any such appointment may be revoked at any time by the Minister if in his opinion there are good reasons therefor.

(5) Any person whose period of office as a member of the Board has expired, shall be eligible for reappointment.”.

(Date of commencement to be proclaimed.)

62. Amendment of section 6 of Act 107 of 1985, as amended by section 4 of Act 77 of 1989 and section 24 of Act 139 of 1992.—Section 6 of the Rules Board for Courts of Law Act, 1985, is hereby amended by the insertion after subsection (6) of the following subsection:

“(6A) The Board may do research with reference to the functioning and structure of the courts, the criminal procedure law and the civil procedure law of the Republic in order to advise the Minister on the development, improvement or reform thereof.”.

(Date of commencement to be proclaimed.)

63. Substitution of section 8 of Act 107 of 1985.—The following section is hereby substituted for section 8 of the Rules Board for Courts of Law Act, 1985:

“Remuneration, allowances, benefits and privileges of members

8. (1) A member of the Board who—

(a)

is a judge of the Supreme Court of South Africa shall, notwithstanding anything to the contrary contained in any other law, in addition to his salary and any allowance, including any allowance for reimbursement of travelling and subsistence expenses, which may be payable to him in his capacity as such a judge, be entitled to such allowance (if any) in respect of the performance of his functions as such a member as the Minister with the concurrence of the Minister of State Expenditure may determine;

(b)

is not such a judge and is not subject to the provisions of the Public Service Act, 1984 (Act No. 111 of 1984), shall be entitled to such remuneration, allowances (including allowances for reimbursement of travelling and subsistence expenses incurred by him in the performance of his functions under this Act), benefits and privileges as the Minister with the concurrence of the Minister of State Expenditure may determine.

(2) The remuneration, allowances, benefits or privileges of different members of the Board may differ according to—
the different offices held by them in the Board; or

(b)

the different functions performed, whether in a part-time or full-time capacity, by them from time to time.

(3) In the application of subsections (1) and (2), the Minister may determine that any remuneration, allowance, benefit or privilege contemplated in those subsections, shall be the remuneration, allowance, benefit or privilege determined from time to time by or under any law in respect of any person or category of persons.”.

(Date of commencement to be proclaimed.)

Repealed Act

Act 111 of 1984 has been repealed by s 43 of P 103 of 1994

64. Amendment of section 9 of Act 107 of 1985—Section 9 of the Rules Board for Courts of Law Act, 1985, is hereby amended by the addition of the following subsection, the existing section becoming subsection (1):

“(2) The Board may, with the approval of the Minister and the concurrence of the Minister of State Expenditure, on a temporary basis or for a particular matter which is being investigated by it, employ any person with special knowledge of any matter relating to the work of the Board, or obtain the co-operation of any body, to advise or assist the Board in the performance of its functions under this Act, and fix the remuneration, including reimbursement for travelling, subsistence and other expenses, of such person or body.”.

(Date of commencement to be proclaimed.)

65. . . . .

[S. 65 repealed by s. 29 (1) of Act No. 58 of 2001.]

Wording of Sections

Wording of Sections

s 65 of Act 129 of 1993 prior to amendment by Act 58 of 2001

66 to 68 inclusive. . . . .
[Ss. 66 to 68 inclusive repealed by s. 84 of Act No. 18 of 1998.]

Wording of Sections

s 66, s 68 of Act 129 of 1993 prior to amendment by Act 18 of 1998


(2) Subsection (1) shall be deemed to have come into operation on 1 April 1990.

70. . . . .

[S. 70 repealed by s. 12 of Act No. 42 of 2001.]

Wording of Sections

s 70 of Act 129 of 1993 prior to amendment by Act 42 of 2001

71. . . . .

[S. 71 repealed by s. 17 of Act No. 47 of 2001.]

Wording of Sections

s 71 of Act 129 of 1993 prior to amendment by Act 47 of 2001

72. Amends section 4 (4) of the South African Reserve Bank Act, No. 90 of 1989, by inserting paragraph (bA).

[S. 72 repealed by s. 93 (1) of Act No. 93 of 1996. (Editorial Note: In terms of the Schedule to Act No. 93 of 1996, section 72 must be repealed. It is suggested that section 70 was in fact meant.)]

Wording of Sections

s 72 of Act 129 of 1993 prior to amendment by Act 93 of 1996

74. Amends section 7 of the Agricultural Product Standards Act, No. 119 of 1990, by substituting subsection (5).


76. Amends section 33 of the Births and Deaths Registration Act, No. 51 of 1992, by adding subsection (3).

77 and 78. . . . .

[Ss. 77 en 78 repealed by s. 25 of Act No. 40 of 2000.]

Wording of Sections

Wording of Sections

s 77 of Act 129 of 1993 prior to amendment by Act 40 of 2000


Repealed Act

Act 122 of 1992 has been repealed by s 53 of Act 25 of 2004

80. Amends section 1 of the Management of State Forests Act, No. 128 of 1992, by substituting the definition of “Minister”.

81. Amends section 4 of the Management of State Forests Act, No. 128 of 1992, as follows:—paragraph (a) adds subsection (3) (c); and paragraph (b) deletes subsection (4).

82. Failure to give satisfactory account of possession of implement or object.—Any person who possesses any implement or object in respect of which there is a reasonable suspicion that it was used or is intended to be used to commit housebreaking, or to break open a motor vehicle or to gain unlawful entry into a motor vehicle, and who is unable to give a satisfactory account of such possession, shall be guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding three years.
83. **Interpretation of a law, and savings.**—(1) Any reference in any law or document to the Public Accountants’ and Auditors’ Act, 1951 (Act No. 51 of 1951), shall be deemed to be a reference to the corresponding provision in the Public Accountants’ and Auditors’ Act, 1991 (Act No. 80 of 1991).

(2) Notwithstanding the repeal of paragraphs \((k)\) up to and including \((u)\) of subsection \((1)\) and subsection \((4)\) of **section 2B** of the Post Office Act, 1958 (**Act No. 44 of 1958**), by **section 3** of the Post Office Amendment Act, 1991 (**Act No. 85 of 1991**), those paragraphs and that subsection shall remain applicable to the Department of Posts and Telecommunications.

(3) If a judge in chambers has, prior to the commencement of section 33 of this Act, made a recommendation to the Minister of Justice in terms of section 29 \((1)\) of the Mental Health Act, 1973 (**Act No. 18 of 1973**), concerning the discharge of a State patient, and an order under section 29 \((4)\) has not been issued prior to the date of the commencement of section 33 of this Act, the recommendation concerned shall be deemed to be the order in respect of the discharge of that State patient in terms of section 29 \((1)\) of the Mental Health Act, 1973, as amended by this Act.

(4) The provisions of **subsection \((2)\)** shall be deemed to have come into operation on 19 June 1991.

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**Repealed Act**

Act 51 of 1951 has been repealed by s 28

Act 80 of 1991 has been repealed by s 58 of **Act 26 of 2005**

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84. **Repeal of laws.**—The laws mentioned in the **Schedule** are hereby repealed to the extent indicated in the third column thereof.

85. **Short title and commencement.**—(1) This Act shall be called the General Law Third Amendment Act, 1993, and shall come into operation on a date fixed by the State President by proclamation in the **Gazette**.

(2) Different dates may be so fixed in respect of different provisions of this Act.
### Schedule
#### LAWS REPEALED

(SECTION 84)

<table>
<thead>
<tr>
<th>No. and year of law</th>
<th>Short title</th>
<th>Extent of repeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act No. 27 of 1882</td>
<td>The Police Offences Act, 1882 (Cape of Good Hope)</td>
<td>So much as is unrepealed.</td>
</tr>
<tr>
<td>Act No. 24 of 1886</td>
<td>The Native Territories Penal Code, 1886 (Cape of Good Hope)</td>
<td>So much as is unrepealed.</td>
</tr>
<tr>
<td>Act No. 10 of 1910</td>
<td>Criminal Law Amendment Act, 1909, 1910 (Natal)</td>
<td>Section 6 (2) (c)</td>
</tr>
<tr>
<td>Ordinance No. 21 of 1902</td>
<td>The Police Offences Ordinance, 1902 (Orange Free State)</td>
<td>Section 26 (1).</td>
</tr>
<tr>
<td>Ordinance No. 26 of 1904</td>
<td>The Crimes Ordinance, 1904 (Transvaal)</td>
<td>Section 7 (b).</td>
</tr>
</tbody>
</table>

Repealed Act

Act 10 of 1910 has been repealed by s 194 of Act 9 of 1916

Repealed Act

Act 9 of 1916 has been repealed by s 37 of Act 57 of 1967

Repealed Act

Act 57 of 1967 has been repealed by s 55 of Act 195 of 1993

GENERAL LAW SIXTH AMENDMENT ACT

NO. 204 OF 1993

[ASSENTED TO 14 JANUARY, 1994]

[DATE OF COMMENCEMENT: 1 MARCH, 1994]

(Unless otherwise indicated)

(Afrikaans text signed by the State President)

This Act has been updated to Government Gazette 22854 dated 22 November, 2001.
as amended by

Maintenance Act, No. 99 of 1998

[with effect from 26 November, 1999]

Judicial Matters Amendment Act, No. 42 of 2001

[with effect from 7 December, 2001, unless otherwise indicated]

Judges’ Remuneration and Conditions of Employment Act, No. 47 of 2001

[with effect from 22 November, 2001, unless otherwise indicated]

ACT

To amend the Magistrates’ Courts Act, 1944, so as to further regulate property exempt from execution; to amend the Aviation Act, 1962, so as to make provision for a prohibition of the conveyance of certain drugs and animal products in aircraft; to amend the Maintenance Act, 1963, so as to further regulate witness expenses payable to certain persons; to amend the Gambling Act, 1965, so as to define the expression “opportunity to play a further game”; to amend the Mental Health Act, 1973, so as to redefine “Minister”; to further regulate the discharge of State patients and the termination of their detention; and to amend or repeal certain outdated provisions; to amend the Criminal Procedure Act, 1977, so as to further regulate the taking of evidence by a judge, regional magistrate or magistrate; to amend the Attorneys Act, 1979, so as to raise certain fines; to amend the Legal Succession to the South African Transport Services Act, 1989, so as to rectify an incorrect reference; to amend the Judges’ Remuneration and Conditions of Employment Act, 1989, so as to further regulate the gratuity payable to judges after discharge from active service; to amend the Air Services Licensing Act, 1990, so as to further regulate the making of regulations; to amend the Abolition of Racially Based Land Measures Act, 1991, so as to provide that a proclamation may be made with retrospective effect; to provide for the appointment and powers of committees; and to make other provision in respect of the removal of certain racially based restrictions in the laws of self-governing territories; to amend the Magistrates Act, 1993, so as to further regulate the pension benefits of magistrates; to amend the Security Forces Board of Inquiry Act, 1993, so as to provide for the appointment of acting members on the Security Forces Board of Inquiry; to amend the Technikons Act, 1993, so as to rectify an incorrect reference; to provide for the grant of vacation leave and the resignation of civil servants for the purposes of an election in terms of the Electoral Act, 1993; and to provide for matters connected therewith.
1. Amends section 67 of the Magistrates’ Courts Act, No. 32 of 1944, as follows:—
paragraph (a) substitutes paragraphs (b) and (c); paragraph (b) substitutes paragraphs (e) and (f); and paragraph (c) substitutes the proviso.


3 and 4. . . . . .
[Ss. 3 and 4 repealed by s. 45 of Act No. 99 of 1998.]

Wording of Sections

Wording of Sections

s 3, s 4 of Act 204 of 1993 prior to amendment by Act 99 of 1998

5. Amends section 1 of the Gambling Act, No. 51 of 1965, by inserting the definition of “opportunity to play a further game” (date of commencement 21 October, 1994).

Repealed Act

Act 51 of 1965 has been repealed by s 2 of Act 36 of 1999

6. Amends section 1 (1) of the Mental Health Act, No. 18 of 1973, as follows:—
paragraph (a) substitutes the definition of “Minister”; and paragraph (b) substitutes the definition of “State patient”.

7. Amends section 29 (1) of the Mental Health Act, No. 18 of 1973, by substituting paragraph (a).

8. Amends section 30 of the Mental Health Act, No. 18 of 1973, by substituting subsection (1).

9. Amends section 74 of the Mental Health Act, No. 18 of 1973, by substituting subsection (1).

10. Amends section 74B of the Mental Health Act, No. 18 of 1973, as follows:—
paragraph (a) deletes subsection (1) (b); and paragraph (b) deletes subsection (2) (b).

12. Amends section 236 (1) of the Criminal Procedure Act, No. 51 of 1977, as follows:—paragraph (a) substitutes paragraph (b); and paragraph (b) substitutes paragraph (a).

13. Amends section 72 (1) of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes paragraph (a) (i); paragraph (b) substitutes paragraph (b) (ii); and paragraph (c) substitutes paragraph (c) (ii).


15. . . . .

[S. 15 repealed by s. 17 of Act No. 47 of 2001.]

Wording of Sections

Wording of Sections

s 15 of Act 204 of 1993 prior to amendment by Act 47 of 2001

16. Amends section 29 (1) of the Air Services Licensing Act, No. 115 of 1990, by deleting the word “and” at the end of paragraph (a), and inserting paragraph (aA).


(2) Subsection (1) shall be deemed to have come into operation on 30 June 1991.


Repealed Act
Act 125 of 1993 has been repealed by s 76 of Act 101 of 1997

Repealed Act

Act 125 of 1993 has been repealed by s 76 of Act 101 of 1997

24. . . . . .

[S. 24 repealed by s. 14 of Act No. 42 of 2001.]

Wording of Sections

Wording of Sections

s 24 of Act 204 of 1993 prior to amendment by Act 42 of 2001

25. Short title and commencement.—(1) This Act shall be called the General Law Sixth Amendment Act, 1993, and shall come into operation on a date fixed by the State President by proclamation in the Gazette.

(2) Section 5 shall only come into operation in consultation with the Lotteries and Gambling Board referred to in section 2 of the Lotteries and Gambling Board Act, 1993.

ADMISSION OF LEGAL PRACTITIONERS AMENDMENT ACT
NO. 33 OF 1995

[ASSENTED TO 10 JULY, 1995]
[DATE OF COMMENCEMENT: 19 JULY, 1995]

(Afrikaans text signed by the President)

This Act was published in Government Notice No. 1050 dated 19 July, 1995.

ACT

To amend the Admission of Advocates Act, 1964, the Attorneys Act, 1979, the Admission of Advocates Act, 1964, of the former Transkei, the Attorneys, Notaries and Conveyancers Admission Act, 1934, of the former Transkei, the Admission of Advocates Act, 1964, of the former Bophuthatswana, the Attorneys, Notaries and Conveyancers Act, 1984, of the former Bophuthatswana, the Admission of Advocates Act, 1964, of the former Venda, the Attorneys Act, 1987, of the former Venda, the Admission of Advocates Act, 1964, of the former Ciskei and the Attorneys Act, 1979, of the former
Ciskei so as to abolish the requirement that applicants for admission as advocates or attorneys must have passed examinations in the Afrikaans and English languages; and to provide for matters connected therewith.

1.  **Amends section 3 (2) of the Admission of Advocates Act, No. 74 of 1964, by substituting paragraph (a).**

2.  **Amends section 7 (1) of the Admission of Advocates Act, No. 74 of 1964, by deleting paragraph (b).**

3.  **Amends section 15 (1) (b) of the Attorneys Act, No. 53 of 1979, as follows:—
paragraph (a) inserts the word “and” at the end of subparagraph (ivA); and paragraph (b) deletes subparagraph (v).**

4.  **Amends section 81 (1) of the Attorneys Act, No. 53 of 1979, by deleting paragraph (i).**

5.  **Amendment of section 3 of Act 74 of 1964 (Transkei), as amended by section 6 of Act 55 of 1994.—Section 3 of the Admission of Advocates Act, 1964, applicable in the area of the former Republic of Transkei, is hereby amended by the substitution in subsection (2) for paragraph (a) of the following paragraph:**

   “(a)

   Any person who—

   (i)

   has satisfied all the requirements for the degree of baccalaureus legum of any university in the Republic or any other country designated by the Minister by notice in the Gazette, after pursuing a course of study for that degree of not less than five years; or

   (ii)

   after he or she has satisfied all the requirements for the degree of bachelor other than the degree of baccalaureus legum, of any university in the Republic or any other country designated by the Minister by notice in the Gazette, or after he or she has been admitted to the status of any such degree by any such university, has satisfied all the requirements for the degree of baccalaureus legum of any such university after pursuing courses of study for such degrees of not less than five years in the aggregate;”.

6.  **Amendment of section 10 of Act 23 of 1934 (Transkei), as amended by section 1 of Act 14 of 1980 (Transkei).—Section 10 of the Attorneys, Notaries and Conveyancers Admission Act, 1934, applicable in the area of the former Republic of Transkei, is hereby amended by the deletion of paragraph (c).**

Repealed Act
Act 23 of 1934 has been repealed by s 86 of Act 53 of 1979

7. Amendment of section 3 of Act 74 of 1964 (Bophuthatswana), as amended by section 2 of Act 9 of 1987 (Bophuthatswana) and section 6 of Act 55 of 1994.—Section 3 of the Admission of Advocates Act, 1964, applicable in the area of the former Republic of Bophuthatswana, is hereby amended—

   (a) by the substitution in subsection (2) for subparagraphs (i) and (ii) of paragraph (a) of the following subparagraphs:

   “(i) has satisfied all the requirements for the degree of baccalaureus legum of any university in the Republic after pursuing a course of study for that degree of not less than five years; or

   (ii) after he or she has satisfied all the requirements for a baccalaureus degree other than the degree of baccalaureus legum, of any university in the Republic, or after he or she has been admitted to the status of any such degree by any such university, has satisfied all the requirements for the degree of baccalaureus legum of any such university after pursuing courses of study for such degrees of not less than five years in the aggregate;”;

   (b) by the deletion in subsection (2) of the proviso to subparagraph (iii) of paragraph (a); and

   (c) by the deletion in subsection (2) of the provisos to paragraph (a).

8. Amendment of section 16 of Act 29 of 1984 (Bophuthatswana), as amended by section 1 of Act 21 of 1986 (Bophuthatswana) and section 4 of Act 12 of 1991 (Bophuthatswana).—Section 16 of the Attorneys, Notaries and Conveyancers Act, 1984, applicable in the area of the former Republic of Bophuthatswana, is hereby amended—

   (a) by the deletion in subsection (1) of paragraph (f); and
by the insertion in subsection (1) after paragraph (g) of the word “and”.

Repealed Act

Act 29 of 1984 has been repealed by s 100 of Act 130 of 1993

Repealed Act

Act 29 of 1984 has been repealed by s 100 of Act 130 of 1993

Repealed Act

Act 12 of 1991 has been repealed by s 26 of Act 103 of 1993

Repealed Act

Act 12 of 1991 has been repealed by s 26 of Act 103 of 1993

9. Amendment of section 3 of Act 74 of 1964 (Venda), as amended by Proclamation 1 of 1992 (Venda) and section 6 of Act 55 of 1994.—Section 3 of the Admission of Advocates Act, 1964, applicable in the area of the former Republic of Venda, is hereby amended—

(a)

by the substitution in subsection (2) for item (bb) of subparagraph (i) of paragraph (a) of the following item:

“(bb)

after he or she has satisfied all the requirements for the degree of bachelor other than the degree of baccalaureus legum, of any university in the Republic or after he or she has been admitted to the status of any such degree by any such university, has satisfied all the requirements for the degree of baccalaureus legum of any such university after completing a period of study for such degrees of not less than five years in the aggregate; or”; and

(b)

by the deletion in subsection (2) of the proviso to subparagraph (ii) of paragraph (a).

10. Amendment of section 15 of Act 42 of 1987 (Venda).—Section 15 of the Attorneys Act, 1987, applicable in the area of the former Republic of Venda, is hereby amended—

(a)
by the insertion in subsection (1) after subparagraph (iv) of paragraph (b) of the word “and”; and

(b)

by the deletion in subsection (1) of subparagraph (v) of paragraph (b).  
Repealed Act

Act 42 of 1987 has been repealed by s 9 of Act 95 of 1991
Repealed Act

Act 42 of 1987 has been repealed by s 9 of Act 95 of 1991

11. Amendment of section 80 of Act 42 of 1987 (Venda).—Section 80 of the Attorneys Act, 1987, applicable in the area of the former Republic of Venda, is hereby amended by the deletion in subsection (1) of paragraph (h).

Repealed Act

Act 42 of 1987 has been repealed by s 9 of Act 95 of 1991
Repealed Act

Act 42 of 1987 has been repealed by s 9 of Act 95 of 1991

12. Amendment of section 3 of Act 74 of 1964 (Ciskei), as amended by section 2 of Act 32 of 1985 (Ciskei) and section 2 of Decree 8 of 1991 (Ciskei).—Section 3 of the Admission of Advocates Act, 1964, applicable in the area of the former Republic of Ciskei, is hereby amended by the deletion in paragraphs (a) and (b) of subsection (2) of the expression “and who has passed not less than one course in the English language prescribed or recognized by a university for a baccalaureus degree”.

13. Amendment of section 15 of Act 53 of 1979 (Ciskei), as substituted by section 11 of Decree 10 of 1993 (Ciskei).—Section 15 of the Attorneys Act, 1979. applicable in the area of the former Republic of Ciskei, is hereby amended by the deletion in subsection (1) of subparagraph (v) of paragraph (b).

14. Amendment of section 81 of Act 53 of 1979 (Ciskei), as amended by section 29 of Decree 10 of 1993 (Ciskei).—Section 81 of the Attorneys Act, 1979, applicable in the area of the former Republic of Ciskei, is hereby amended by the deletion in subsection (1) of paragraph (i).

15. Short title.—This Act shall be called the Admission of Legal Practitioners Amendment Act, 1995.
JUDICIAL MATTERS AMENDMENT ACT
NO. 104 OF 1996

[ASSENTED TO 12 NOVEMBER, 1996]
[DATE OF COMMENCEMENT: 14 FEBRUARY, 1997]

(Unless otherwise indicated)

(English text signed by the President)

This Act has been updated to Government Gazette 22854 dated 22 November, 2001.

as amended by

Maintenance Act, No. 99 of 1998

[with effect from 26 November, 1999]

Judges’ Remuneration and Conditions of Employment Act, No. 47 of 2001

ACT

To amend the Currency and Exchanges Act, 1933, so as to effect a technical correction; to amend the Insolvency Act, 1936, so as to further define a certain expression; to amend the Magistrates’ Courts Act, 1944, so as to further regulate the appointment of judicial officers; to abolish the Regional Divisions Appointments Advisory Board; and to delete an obsolete provision; to amend the Pension Funds Act, 1956, so as to effect a technical correction; to amend the Supreme Court Act, 1959, so as to regulate certain appeals anew; to amend the Justices of the Peace and Commissioners of Oaths Act, 1963, so as to extend the offices, the holders of which are ex officio justices of the peace; to amend the Maintenance Act, 1963, so as to further regulate the service of maintenance orders; to amend the Administration of Estates Act, 1965, so as to further regulate the acceptance of a will; to amend the Attorneys Act, 1979, so as to provide for the cession of a contract of service; and to make further provision for rules of court; to amend the Judges’ Remuneration and Conditions of Employment Act, 1989, so as to further regulate the power of the Minister of Justice to make a certain regulation; to amend the Investigation of Serious Economic Offences Act, 1991, so as to make provision for preparatory examination procedures; and to regulate prosecution in criminal proceedings by the Director and officials of the Office for Serious Economic Offences; to amend the Attorney-General Act, 1992, so as to further regulate the delegation powers of an attorney-general; to amend the Criminal Law Second Amendment Act, 1992, so as to substitute certain references; to amend the Magistrates Act, 1993, so as to substitute an obsolete expression; to amend the Magistrates’ Courts Amendment Act, 1993, so as to
delete an obsolete provision; to amend the Promotion of National Unity and Reconciliation Act, 1995, so as to amend a definition; to further regulate the quorum for meetings of the Truth and Reconciliation Commission; to further regulate the granting of amnesty; and to further regulate the powers of the Commission with regard to investigations and hearings; to amend the Justice Laws Rationalisation Act, 1996, so as to provide for further transitional provisions; and to provide for matters connected therewith.


2. Amends section 35A (1) of the Insolvency Act, No. 24 of 1936, by substituting the definition of “market participant”.

3. Amends section 9 of the Magistrates’ Courts Act, No. 32 of 1944, as follows:— paragraph (a) substitutes subsection (1) (aA); paragraph (b) substitutes subsections (3) and (4); and paragraph (c) adds subsection (5).

4. (a) Repeals section 9bis of the Magistrates’ Courts Act, No. 32 of 1944.

(b) Any matter before the Regional Divisions Appointments Advisory Board established in terms of section 9bis of the Magistrates’ Courts Act, 1944 (Act No. 32 of 1944), which immediately before the commencement of this section was not yet disposed of by the Board, shall be continued and concluded in every respect as if this section had not been put into operation.

5. Amends section 114 of the Magistrates’ Courts Act, No. 32 of 1944, by deleting subsection (4).

6. Amends section 7E of the Pension Funds Act, No. 24 of 1956, by substituting subsection (1).


8. Amends the First Schedule to the Justices of the Peace and Commissioners of Oaths Act, No. 16 of 1963, by substituting the fourth item.

9. . . . . . .

[S. 9 repealed by s. 45 of Act No. 99 of 1998.]

Wording of Sections

Wording of Sections

s 9 of Act 104 of 1996 prior to amendment by Act 99 of 1998
10. Amends section 8 of the Administration of Estates Act, No. 66 of 1965, by substituting subsection (4B).


12. Amends section 80 of the Attorneys Act, No. 53 of 1979, by substituting paragraph (d).

13. Amends section 82 of the Attorneys Act, No. 53 of 1979, by substituting paragraph (d).

14. ......

[S. 14 repealed by s. 17 of Act No. 47 of 2001.]

Wording of Sections

s 14 of Act 104 of 1996 prior to amendment by Act 47 of 2001

15. Amends section 5 of the Investigation of Serious Economic Offences Act, No. 117 of 1991, by adding subsections (13) and (14).

Repealed Act

Act 117 of 1991 has been repealed by s 44 of Act 32 of 1998


Repealed Act

Act 117 of 1991 has been repealed by s 44 of Act 32 of 1998

Act 92 of 1992 has been repealed by s 44 of Act 32 of 1998

Repealed Act

Act 92 of 1992 has been repealed by s 44 of Act 32 of 1998

18. Amends section 13 of the Criminal Law Second Amendment Act, No. 126 of 1992, by substituting subparagraphs (i) and (ii).

19. Substitution of expression in Act 90 of 1993.—The Magistrates Act, 1993, is hereby amended by the substitution for the expression “Minister of State Expenditure”, wherever it appears, of the expression “Minister of Finance”.

20. Repeals section 7 of the Magistrates’ Courts Amendment Act, No. 120 of 1993.

21. Amends section 1 of the Promotion of National Unity and Reconciliation Act, No. 34 of 1995, as follows:—paragraph (a) substitutes the words following upon paragraph (b) of the definition of “gross violation of human rights” in subsection (1); and paragraph (b) substitutes subsection (2).

22. Amends section 10 of the Promotion of National Unity and Reconciliation Act, No. 34 of 1995, by substituting subsection (4).

23. Amends section 20 of the Promotion of National Unity and Reconciliation Act, No. 34 of 1995, by substituting subsection (6).

24. Amends section 29 of the Promotion of National Unity and Reconciliation Act, No. 34 of 1995, as follows:—paragraph (a) substitutes subsection (1) (c); and paragraph (b) substitutes subsection (5).

25. Amends section 15 of the Justice Laws Rationalisation Act, No. 18 of 1996, by adding subsections (2) and (3), the existing section becoming subsection (1).

26. Short title and commencement.—(1) This Act shall be called the Judicial Matters Amendment Act, 1996, and shall come into operation on a date fixed by the President by proclamation in the Gazette.

(2) Different dates may be fixed in respect of different provisions of this Act.

QUALIFICATION OF LEGAL PRACTITIONERS AMENDMENT ACT
NO. 78 OF 1997

[ASSENTED TO 26 NOVEMBER, 1997]
[DATE OF COMMENCEMENT: 5 DECEMBER, 1997]
To amend the Admission of Advocates Act, 1964, the Attorneys Act, 1979, and the Recognition of Foreign Legal Qualifications and Practice Act, 1993, so as to provide for the requirement of a universal legal qualification in order to be admitted and enrolled to practise as an advocate or an attorney; and to provide for matters connected therewith.

1. Amends section 3 (2) (a) (i) of the Admission of Advocates Act, No. 74 of 1964, by substituting item (aa).

2. Amends section 2 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes subsection (1) (a); paragraph (b) inserts subsection (1) (aA); paragraph (c) re-numbers subsection (1) (aA) as subsection (1) (aB); paragraph (d) deletes subsection (1) (b); paragraph (e) substitutes subsection (1) (c); paragraph (f) substitutes subsection (1) (cA); and paragraph (g) substitutes the words preceding subsection (1A) (a).

3. Amends section 2A of the Attorneys Act, No. 53 of 1979, by substituting the words preceding paragraph (a).

4. Amends section 4 (b) of the Attorneys Act, No. 53 of 1979, by substituting subparagraph (ii).

5. Amends section 4A (b) of the Attorneys Act, No. 53 of 1979, by substituting subparagraph (ii).

6. Amends section 8 of the Attorneys Act, No. 53 of 1979, by substituting subsection (1).

7. Amends section 11 (3) of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes the words preceding paragraph (a); paragraph (b) substitutes paragraph (a) (i); and paragraph (c) substitutes paragraph (b).
8. Amends section 13 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes subsection (1) (b); and paragraph (b) substitutes subsection (3).

9. Amends section 15 (1) (b) (iii) of the Attorneys Act, No. 53 of 1979, by substituting items (aa), (bb) and (cc).

10. Amends section 6 (2) (a) (i) of the Recognition of Foreign Legal Qualifications and Practice Act, No. 114 of 1993, by substituting the words following upon item (bb).

11. Transitional provisions.—(1) Any person who at the commencement of this Act—

(a)

has satisfied the requirements for the degree of baccalaureus procurationis; or

(b)

was registered as a student at any university in the Republic with a view to obtaining the degree of baccalaureus procurationis and has satisfied the requirements for the said degree on or before 31 December 2004,

shall for the purposes of sections 2 (1) (a), 2A, 4A (b) (ii), 11 (3), 13 (3) and 15 (1) (b) (iii) (aa) of the Attorneys Act, 1979 (Act No. 53 of 1979), as amended by this Act, be deemed to have satisfied the requirements of the degree referred to in paragraph (a) of section 2 (1) of that Act.

(2) Any candidate attorney who at the commencement of this Act—

(a)

has satisfied the requirements for the degree of baccalaureus procurationis; or

(b)

was registered as a student at any university in the Republic with a view to obtaining the degree of baccalaureus procurationis and provided that he or she has satisfied the requirements for the said degree on or before 31 December 2004,

shall be entitled to appear in any court, other than any division of the High Court, a court of the regional division established under section 2 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), or a Divorce Court established under section 10 of the Administration Amendment Act, 1929 (Act No. 9 of 1929), and before any board, tribunal or similar institution in which his or her principal is entitled to appear, instead of or on behalf of such principal, who shall be entitled to charge the fees for such appearances as if he or she himself or herself had appeared.
(Editorial Note: Sub-s. (2) to be substituted by s. 10 (2) of Act No. 31 of 2008 with effect from a date to be fixed by the President by proclamation in the Gazette – date not fixed.)

Wording of Sections

(3) Nothing in this Act contained shall prejudice any right or privilege, including the right to appear in or before any court of law, tribunal or other body, vested in any person who at the commencement of this Act—

(a)

was duly admitted and enrolled—

(i)

as an attorney in terms of the Attorneys Act, 1979 (Act No. 53 of 1979); or

(ii)

as an advocate in terms of the Admission of Advocates Act, 1964 (Act No. 74 of 1964); or

(b)

enjoyed such right or privilege on account of being in possession of any qualification in law, whether prescribed by law or not.

(4) Any provision contained in any other law which is inconsistent with the provisions of section 3 of the Admission of Advocates Act, 1964, or sections 2, 2A, 4, 4A, 8, 11, 13 and 15 of the Attorneys Act, 1979, as amended by this Act, shall be deemed to be amended to the extent of the inconsistency thereof.

(5) Every university in the Republic with a faculty of law, shall take all reasonable steps so as to ensure that students are able to register for the degree referred to in section 3 (2) (a) (i) of the Admission of Advocates Act, 1964, and section 2 (1) (a) of the Attorneys Act, 1979, at that university on or before 31 December 1998.

Wording of Sections

s 11(2) of Act 78 of 1997 prior to amendment by Act 31 of 2008

12. Short title.—This Act shall be called the Qualification of Legal Practitioners Amendment Act, 1997.
ACT

To amend the Attorneys Act, 1979, so as to limit liability of the Attorneys Fidelity Fund; to insert transitional provisions relating to liability of the Attorneys Fidelity Fund for investments; to extend the jurisdiction of the Attorneys Fidelity Fund to practitioners in the areas of the former Republics of Bophuthatswana and Venda; to further regulate the filling of a vacancy on the council of a society; and to empower the Law Society of the Transvaal to exercise certain powers in respect of practitioners practicing in the areas of the former Republics of Bophuthatswana and Venda; to amend certain laws; to make fresh provision with regard to the Rules of the High Court in the areas of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei; and to provide for matters connected therewith.

1. Amends section 47 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) adds subsection (1) (g); and paragraph (b) adds subsections (4), (5), (6), (7), (8), (9) and (10).


4. Amends section 62 (2) of the Attorneys Act, No. 53 of 1979, by the addition of paragraph (b), the existing subsection becoming paragraph (a).

5. Inserts section 84A in the Attorneys Act, No. 53 of 1979.

6. Savings and amendment of certain provisions.—(1) Any practicing practitioner contemplated in section 55 (a) (ii) of the principal Act who, at the commencement of this Act, is not in possession of a fidelity fund certificate must, within 21 days after that date and subject to the rules of the Law Society of the Transvaal relating to the issue of a fidelity fund certificate, apply for such a certificate.
(2) Notwithstanding section 55 of the principal Act, as amended by section 3 of this Act, the Attorneys Fidelity Fund does not incur any liability, in respect of any practicing practitioner referred to in section 55 (a) (ii) of the principal Act, for any theft committed prior to the day upon which he or she becomes the holder of a valid fidelity fund certificate as contemplated in subsection (1) and issued in terms of section 42 (3) of the principal Act.

(3) Notwithstanding any other law, section 83 (10) of the principal Act applies to any practicing practitioner who fails to comply with subsection (1) after 60 days have elapsed from the date on which this Act takes effect.

(4) The laws mentioned in the second column of the Schedule are amended to the extent indicated in the third column thereof.

(5) Rules of court made under any provision amended by this Act which were in force immediately before the commencement of this Act, shall, subject to the provisions of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), and notwithstanding the amendment of that provision by subsection (4), remain in force until repealed in terms of the Rules Board for Courts of Law Act, 1985.

7. **Short title and commencement.**—This is the Attorneys and Matters relating to Rules of Court Amendment Act, 1998, which takes effect on a date fixed by the President by proclamation in the Gazette.

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### Schedule
(LAWS AMENDED BY SECTION 6 (4))

<table>
<thead>
<tr>
<th>No. and year of law</th>
<th>Short title</th>
<th>Extent of amendment</th>
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</thead>
<tbody>
<tr>
<td>Act No. 59 of 1959</td>
<td>Supreme Court Act, 1959</td>
<td>Amendment of section 43 by the deletion of subsections (1), (2) (a) and (3).</td>
</tr>
</tbody>
</table>
| (Venda)             | Republic of Transkei Constitution Act, 1976 | The following section is substituted for section 49:
| Act No. 15 of 1976  |                             | **“Rules of court**  
| (Transkei)          |                             | **49.** (1) Subject to the provisions of subsection (2) the Judge President may make rules regulating the conduct of proceedings in the High Court and prescribing any matter whatsoever which is necessary to prescribe in order to ensure the proper despatch and conduct of the business of the court |
Any rules made by the Judge President under subsection (1) shall be by notice in the *Gazette*.

(3) The rules which immediately prior to the commencement of this Act applied in respect of the High Court referred to in section 44 (3) shall, notwithstanding the provisions of section 74 (1), apply *mutatis mutandis* in respect of the High Court of Transkei and shall be deemed to have been duly made, approved and published in terms of this section.”.

Amendment of section 64 by the substitution for subsection (1) of the following subsection:

“(1) Subject to any contrary provision existing in any other law, the Judge President may make rules regulating the conduct of proceedings in the High Court and prescribing matters which may be necessary to prescribe in order to ensure the proper dispatch and conduct of the business of that Court, and may amend, substitute or withdraw any rule so made.”.

The following section is substituted for Section 47:

**Rules of court**

47. (1) Subject to the provisions of subsection (2) the Judge President may make rules regulating the conduct of proceedings in the High Court and prescribing any matter whatsoever which is necessary to prescribe in order to ensure the proper despatch and conduct of the business of the court.

(2) Any rules made by the Judge President under subsection (1) shall be by notice in the *Gazette*. 
(3) The rules which immediately prior to the commencement of this Constitution applied in respect of the High Court referred to in section 42 (3) shall, notwithstanding the provisions of section 75 (1), apply mutatis mutandis in respect of the High Court of Venda and shall be deemed to have been duly made, approved and published in terms of this section.”.

Amendment of section 27—

(a)

by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“Without in any way derogating from the authority of the Judge President, in terms of the provisions of section 64 of the Constitution Act, to make rules of court, or from the generality of the said provisions, such rules may prescribe—”; and

(b)

by the substitution for subsection (3) of the following subsection:

“(3) Any rules of court of force immediately prior to the commencement of this Act under any law repealed by section 28 (1) shall, subject to the provisions of this Act, and notwithstanding such repeal, remain of full force and effect until amended, substituted or repealed under this section or any other law.”.

By the deletion of Chapter II.
<table>
<thead>
<tr>
<th>Act No. 42 of 1987 (Venda)</th>
<th>Conveyancers Act, 1984</th>
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<tbody>
<tr>
<td>Decree No. 43 of 1990 (Ciskei)</td>
<td>Attorneys Act, 1987</td>
<td>The following section is substituted for section 37:</td>
</tr>
<tr>
<td></td>
<td>Supreme Court Decree, 1990</td>
<td>“Rules of Court”</td>
</tr>
<tr>
<td></td>
<td>Justice Laws Rationalisation Act, 1996</td>
<td>Amendment of section 11 by the deletion of subsection (2).</td>
</tr>
</tbody>
</table>

Repealed Act

Act 32 of 1982 has been repealed by s 29 of Act 72 of 1993

Repealed Act

Act 29 of 1984 has been repealed by s 100 of Act 130 of 1993

Repealed Act

Act 42 of 1987 has been repealed by s 9 of Act 95 of 1991

JUDICIAL MATTERS SECOND AMENDMENT ACT NO. 122 OF 1998
ACT

To amend the Insolvency Act, 1936, so as to make other provision in connection with the salaries or wages of former employees of an insolvent; to amend the Supreme Court Act, 1959, so as to further regulate persons over whom and matters in relation to which High Courts have jurisdiction; to amend the Criminal Procedure Act, 1977, so as to make other provision in connection with the use of force in effecting arrests; to amend the Attorneys Act, 1979, so as to provide for any board of executors or trust company to receive remuneration for the preparation of a will or other testamentary writing; to amend the Co-operatives Act, 1981, so as to effect a consequential amendment; to amend the Magistrates Act, 1993, so as to further regulate the vacation of office by a magistrate; to amend the Special Investigating Units and Special Tribunals Act, 1996, so as to further regulate the appointment of the President of a Special Tribunal; to amend the National Prosecuting Authority Act, 1998, so as to effect a consequential amendment; to provide for the centralisation of certain offences; to repeal an obsolete law; and to provide for matters connected therewith.

1. Amends section 96 of the Insolvency Act, No. 24 of 1936, by substituting subsection (3).

2. (1) Inserts section 98A in the Insolvency Act, No. 24 of 1936.

   (2) The provisions of subsection (1) shall apply in respect of estates which are sequestrated or provisionally sequestrated on or after the date of commencement of this section.

3. Amends section 99 (1) of the Insolvency Act, No. 24 of 1936, by deleting paragraph (f).

4. Repeals section 100 of the Insolvency Act, No. 24 of 1936.

5. Amends section 104 (1) of the Insolvency Act, No. 24 of 1936, by substituting the words preceding the proviso.
6. Amends section 19 (1) of the Supreme Court Act, No. 59 of 1959, by adding paragraph (c) (date of commencement 1 April, 1999).


9. Amends section 83 (12) of the Attorneys Act, No. 53 of 1979, by adding paragraph (g) (date of commencement 1 April, 1999).

10. Amends section 219 of the Co-operatives Act, No. 91 of 1981, by substituting paragraph (b).

Repealed Act
Act 91 of 1981 has been repealed by s 98 of Act 14 of 2005

Repealed Act
Act 91 of 1981 has been repealed by s 98 of Act 14 of 2005

11. Amends section 13 of the Magistrates Act, No. 90 of 1993, by substituting subsection (1) (date of commencement 1 April, 1999).

12. (1) Amends section 7 of the Special Investigating Units and Special Tribunals Act, No. 74 of 1996, by substituting subsection (1).

(2) Subsection (1) shall be deemed to have come into operation on 20 November 1996.

13. Substitutes section 45 of the National Prosecuting Authority Act, No. 32 of 1998 (date of commencement 1 April, 1999).

14. Removal of certain trials to jurisdiction of other Directors of Public Prosecutions.—Despite the provisions of section 13 of the Justice Laws Rationalisation Act, 1996 (Act No. 18 of 1996), the provisions of section 111 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), as made applicable to certain areas of the national territory of the Republic of South Africa by section 2 of the Justice Laws Rationalisation Act, 1996, shall also be applicable in respect of any offence committed in any such area prior to the commencement of the lastmentioned Act.

(Date of commencement 1 April, 1999.)

15. Repeal of law.—The Bophuthatswana Electricity Act, 1985 (Act No. 34 of 1985), is repealed.
16. **Short title and commencement.**—This Act is called the Judicial Matters Second Amendment Act, 1998, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

## COMMENCEMENT OF THIS ACT

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<tr>
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<td>1 September, 2000</td>
<td><strong>Ss. 1-5, 10</strong></td>
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<td><strong>Ss. 7, 8</strong></td>
<td>R.54</td>
<td>25206</td>
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**JUDICIAL MATTERS AMENDMENT ACT**

**NO. 62 OF 2000**

[ASSENTED TO 5 DECEMBER, 2000]

[DATE OF COMMENCEMENT: 23 MARCH, 2001]

(Unless otherwise indicated)

(English text signed by the President)

This Act has been updated to *Government Gazette* 23548 dated 21 June, 2002.

**ACT**

To amend the Magistrates’ Courts Act, 1944, so as to further regulate the appointment of judicial officers; to amend the General Law Amendment Act, 1955, so as to remove a reverse onus; to amend the Stock Theft Act, 1959, so as to provide anew for the jurisdiction of magistrates’ courts in respect of sentence; to amend the Supreme Court Act, 1959, consequentially; to amend the Administration of Estates Act, 1965, so as to substitute an obsolete expression; to amend the Criminal Procedure Act, 1977, so as to delete a definition; to further regulate the hearing of bail proceedings; to repeal an obsolete provision; to effect certain consequential amendments; and to further regulate
the granting of bail; to amend the Attorneys Act, 1979, so as to insert a new definition and to substitute another; to provide for the recovery of costs by law clinics; and to make new provision regarding the constitution and quorum of the Attorneys Fidelity Fund Board of Control; to amend the Rules Board for Courts of Law Act, 1985, so as to delete a certain definition; to further regulate the powers of the Rules Board for Courts of Law; and to effect certain technical changes; to amend the Game Theft Act, 1991, so as to make new provision regarding the jurisdiction of magistrates’ courts in respect of sentence; to amend the Magistrates Act, 1993, so as to make new provision for the composition of the Magistrates Commission; to amend the Magistrates’ Courts Amendment Act, 1993, so as to repeal an obsolete provision; to amend the Special Investigating Units and Special Tribunals Act, 1996, so as to further regulate legal representation on behalf of a Special Investigating Unit; and to further regulate the powers and functions of a Special Tribunal; to amend the Criminal Law Amendment Act, 1997, so as to further regulate the imposition of minimum sentences for certain serious offences; so as to further regulate the committal of an accused for the imposition of sentence by a High Court after conviction in a regional court; and to provide that the court of a regional division retains its jurisdiction to try offences referred to in Part I of Schedule 2 to that Act; and to provide for matters connected therewith.

1. **Amends section 9 (2) of the Magistrates’ Courts Act No. 32 of 1944**, by substituting paragraph (a).


3. **Repeals section 13 of the Stock Theft Act, No. 57 of 1959**.

4. **Substitutes section 14 of the Stock Theft Act, No. 57 of 1959**.

5. **Amends section 12 (1) of the Supreme Court Act, No. 59 of 1959**, by substituting paragraph (bA).


7. **Amends section 1 of the Criminal Procedure Act, No. 51 of 1977**, by deleting the definition of “special superior court”.

8. **Amends section 50 of the Criminal Procedure Act, No. 51 of 1977, as follows:**—paragraph (a) substitutes subsection (3); paragraph (b) substitutes subsection (6) (c); and paragraph (c) deletes subsection (6) (d) (iii).

(2) Any bail proceedings in respect of a person who is charged with an offence referred to in **Schedule 6** to the Criminal Procedure Act, 1977 (**Act No. 51 of 1977**), which have commenced prior to the date of commencement of this Act in a regional court or any other lower court within the area of jurisdiction of such regional court in terms of section
50 (6) (c) of that Act and which proceedings have not been concluded at that date, must be continued in, and concluded by, that court as if this Act had not been passed.

9. Amends section 60 of the Criminal Procedure Act, No. 51 of 1977, as follows:—paragraph (a) substitutes subsection (1) (a); and paragraph (b) substitutes the words preceding subsection (4) (a).


11. Amends section 315 of the Criminal Procedure Act, No. 51 of 1977, by substituting subsection (1).

12. Amends section 316 (1) of the Criminal Procedure Act, No. 51 of 1977, by deleting paragraph (a).


15. Amends Schedule 2, Part II to the Criminal Procedure Act, No. 51 of 1977, as follows:—paragraph (a) substitutes the ninth offence; and paragraph (b) substitutes the eleventh offence.

16. Amends Schedule 7 to the Criminal Procedure Act, No. 51 of 1977, by substituting the ninth offence.

17. Amends section 1 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) inserts the definition of “attend”; and paragraph (b) substitutes the definition of “law clinic”.

18. Amends section 28 (1) of the Attorneys Act, No. 53 of 1979, by substituting paragraph (b).


22. Amends section 3 (1) of the Rules Board for Courts of Law Act, No. 107 of 1985, by substituting paragraphs (a) and (b).
23. Amends section 6 of the Rules Board for Courts of Law Act, No. 107 of 1985, as follows:—paragraph (a) substitutes the words preceding subsection (1) (a); paragraph (b) substitutes subsection (1) (p); paragraph (c) substitutes subsection (1) (t); and paragraph (d) substitutes subsection (2).


26. Amends the Rules Board for Courts of Law Act, No. 107 of 1985, as follows:—paragraph (a) substitutes the word “chairman” with the word “chairperson” wherever it occurs in sections 4 (1) and (3), 5 (3) and 5A (1) and (2); paragraph (b) substitutes the word “vice-chairman” with the word “vice-chairperson” wherever it occurs in sections 4 (1) and (3), 5 (3) and 5A (1); paragraph (c) substitutes the word “he” with the expression “he or she” wherever it occurs in sections 3 (1A) and 4 (1); paragraph (d) substitutes the word “his” with the expression “his or her” wherever it occurs in sections 3 (2), 5 (2), 5A (4) and 8 (2); and paragraph (e) substitutes the word “him” with the expression “him or her” wherever it occurs in sections 5 (1) and (2) and 8 (2).


28. Amends section 6 of the Game Theft Act, No. 105 of 1991, by substituting paragraphs (a) and (b).

29. Amends section 3 (1) (a) of the Magistrates Act, No. 90 of 1993, by substituting subparagraph (xi).

(2) Any person designated as a member of the Magistrates Commission in terms of section 3 (1) (a) (xi) of the Magistrates Act, 1993 (Act No. 90 of 1993), prior to the commencement of this Act, must be regarded as having been so designated in terms of that section as amended by subsection (1).

30. Repeals section 6 of the Magistrates’ Courts Amendment Act, No. 120 of 1993.

31. Amends section 5 of the Special Investigating Units and Special Tribunals Act, No. 74 of 1996 by adding subsection (9).

32. Amends section 8 of the Special Investigating Units and Special Tribunals Act, No. 74 of 1996, by substituting subsection (2).

33. Amends section 51 of the Criminal Law Amendment Act, No. 105 of 1997, as follows:—paragraph (a) substitutes subsection (1); paragraph (b) substitutes the words preceding subsection (2) (a); paragraph (c) substitutes the words preceding subsection (2) (a) (i); paragraph (d) substitutes the words preceding subsection (2) (b) (i);
paragraph (e) substitutes the words preceding subsection (2) (c) (i); and paragraph (f) substitutes subsection (8) (b).

34. Amends section 52 of the Criminal Law Amendment Act, No. 105 of 1997, as follows:—paragraph (a) substitutes the heading; paragraph (b) substitutes subsection (1); paragraph (c) substitutes the words following upon subsection (2) (b) (ii); paragraph (d) substitutes subsection (2) (c); paragraph (e) substitutes the words preceding the proviso in subsection (3) (b); and paragraph (f) substitutes subsection (3) (e) (i) and (ii).


(Date of commencement of s. 35: 21 June, 2002.)


38. Short title and commencement.—This Act is called the Judicial Matters Amendment Act, 2000, and comes into operation on a date fixed by the President by proclamation in the Gazette.

JUDICIAL MATTERS AMENDMENT ACT
NO. 55 OF 2002

[ASSENTED TO 30 DECEMBER, 2002]
[DATE OF COMMENCEMENT: 17 JANUARY, 2003]

(Unless otherwise indicated)

(English text signed by the President)

This Act was published in Government Gazette 24277 dated 17 January, 2003.

ACT

To amend the Magistrates’ Courts Act, 1944, so as to further regulate the rescission of judgments; to amend the Stock Theft Act, 1959, so as to repeal certain obsolete provisions; to amend the General Law Further Amendment Act, 1962, so as to make further provision for access to children under custodianship; to amend the South African Law Commission Act, 1973, so as to effect a change of name; to further regulate the appointment of members of the Commission; and to further regulate requirements in
BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

1. Substitutes section 36 of the Magistrates’ Courts Act, No. 32 of 1944.


10. Amends section 415 of the Companies Act, No. 61 of 1973, as follows:—paragraph (a) substitutes subsection (3); and paragraph (b) substitutes subsection (5).

11. Amends section 417 (2) of the Companies Act, No. 61 of 1973, as follows:—paragraph (a) substitutes paragraph (b); and paragraph (b) adds paragraph (c).

12. Amends section 77 (6) of the Criminal Procedure Act, No. 51 of 1977, by substituting paragraph (a).


17. Amends section 45 (1) of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) substitutes paragraph (d); and paragraph (b) substitutes paragraph (h).


19. Amends section 1 of the Mental Health Care Act, No. 17 of 2002, by substituting the definition of “State patient”.

20. Short title and commencement.—(1) This Act is called the Judicial Matters Amendment Act, 2002.

(2) Sections 12, 13 and 19 take effect on a date set by the President by proclamation.

COMMENCEMENT OF THIS ACT

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<tr>
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<td>R.9</td>
<td>27288</td>
<td>14 February, 2005</td>
</tr>
</tbody>
</table>

JUDICIAL MATTERS SECOND AMENDMENT ACT
NO. 55 OF 2003

[ASSENTED TO 25 MARCH, 2004]
[DATE OF COMMENCEMENT: 31 MARCH, 2005]
(Unless otherwise indicated)

(English text signed by the President)

This Act has been updated to Government Gazette 28391 dated 11 January, 2006.

as amended by

Judicial Matters Amendment Act, No. 22 of 2005

[with effect from 11 January, 2006, unless otherwise indicated]

ACT

To amend the Administration Amendment Act, 1929, so as to eliminate any uncertainty relating to the appointment of presiding officers of Divorce Courts in an acting, temporary or permanent capacity; to amend the Insolvency Act, 1936, so as to further regulate agreements providing for termination and netting of certain unperformed obligations and obligations in respect of assets transferred as collateral security in the event of sequestration; to amend the Prevention of Counterfeiting of Currency Act, 1965, so as to make further provision regarding the evidentiary burden of proof on an accused person; to amend the Criminal Procedure Act, 1977, so as to ensure the consideration of a pre-trial services report in respect of bail proceedings; to further regulate correctional supervision as a sentencing option in certain circumstances; to make provision for a complainant to make representations with regard to the placement of accused persons on parole and to set out the duties of such complainant; and to make provision for the submission of a report to Parliament containing certain particulars in respect of accused persons whose trials have not commenced and who have been in custody for a particular period of time; to amend the Attorneys Act, 1979, so as to provide for the mandatory attendance of a legal practice management course by certain attorneys; to amend the Divorce Act, 1979, so as to make further provision regarding pension benefits in respect of the division of assets and maintenance of parties; to amend the Sheriffs Act, 1986, so as to effect a change of name; to amend the Mediation in Certain Divorce Matters Act, 1987, so as to prescribe the circumstances in which a Family Advocate may intervene in maintenance and domestic violence proceedings; to amend the Maintenance Act, 1998, so as to provide for the consideration by a court of the report and recommendations of a Family Advocate at a maintenance enquiry; to further regulate the payment of a maintenance benefit by a third party; and to extend maintenance orders by including maintenance orders made by High Courts and Divorce Courts in certain circumstances; to amend the Domestic Violence Act, 1998, so as to provide for the consideration by a court of the report and recommendations of a Family Advocate; to amend the Promotion of Access to Information Act, 2000, so as to extend the period within which the South African Human Rights Commission must compile a guide to assist persons who wish to
gain access to information; to make provision regarding the exclusion of the Judicial
Service Commission from the application of that Act in certain circumstances; to extend
the period of time within which the rules of procedure must be made; to further regulate
the institution of legal proceedings in terms of the Act in a court; to make provision
regarding the failure to comply with certain provisions of the Act; and to sanction the
punishment for failure to comply with certain regulations; to amend the Promotion of
Administrative Justice Act, 2000, so as to adapt the definition of “administrative action”;
to extend the period of time within which the rules of procedure for judicial review must
be made; and to further regulate the institution of legal proceedings in terms of the Act in
a court; to amend the Promotion of Equality and Prevention of Unfair Discrimination
Act, 2000, so as to further regulate the publication of a notice altering the boundaries of
an equality court; and to make provision for the delegation of certain powers; to amend
the Cross-Border Insolvency Act, 2000, so as to regulate the position of legal proceedings
when a notice designating a State for the purposes of that Act is withdrawn; to amend the
Judges’ Remuneration and Conditions of Employment Act, 2001, so as to address a
technical problem during the enactment of the Judicial Officers (Amendment of
Conditions of Service) Act, 2003; and to make provision regarding pensions paid to
retired judges and to surviving spouses of retired judges; to amend the Judicial Officers
(Amendment of Conditions of Service) Act, 2003, so as to address a technical problem
during the enactment of that Act; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

1. Amends section 10 of the Administration Amendment Act, No. 9 of 1929, as follows:—
   paragraph (a) substitutes subsection (3) (b); and paragraph (b) inserts subsection (3A).


3. Amends section 4 of the Prevention of Counterfeiting of Currency Act, No. 16 of
   1965, by substituting subsection (2).

4. Amends section 60 of the Criminal Procedure Act, No. 51 of 1977, by inserting
   subsection (2A).

5. Amends section 276 of the Criminal Procedure Act, No. 51 of 1977, by substituting
   subsection (3).


7. Amends section 342A of the Criminal Procedure Act, No. 51 of 1977, by adding
   subsection (7).

8. Insertion of section 13B in Act 53 of 1979.—The following section is hereby
   inserted in the Attorneys Act, 1979, after section 13A:

   “Certain attorneys to complete training in legal practice management
13B. After the commencement of the Judicial Matters Second Amendment Act, 2003, every attorney who, for the first time, practises as a partner in a firm of attorneys or who practises on his or her own account, must—

(a) within the period contemplated in section 74 (l) (dA); and

(b) after payment of the fee prescribed in terms of section 80 (1) (i),

complete a legal practice management course approved by the council of the province in which he or she practises.”.

(Date of commencement to be proclaimed.)

9. Amendment of section 74 of Act 53 of 1979, as amended by section 26 of Act 87 of 1989 and section 18 of Act 115 of 1993. —Section 74 of the Attorneys Act, 1979, is hereby amended by the insertion in subsection (1) after paragraph (d) of the following paragraph:

“(dA) legal practice management courses to be completed by attorneys as contemplated in section 13B and determine the period within which such courses must be completed;”.

(Date of commencement to be proclaimed.)

10. Amendment of section 80 of Act 53 of 1979, as amended by section 10 of Act 108 of 1984, section 19 of Act 115 of 1993 and section 12 of Act 104 of 1996. —Section 80 of the Attorneys Act, 1979, is hereby amended by the addition to subsection (1) of the following paragraph:

“(i) the completion of legal practice management courses as contemplated in section 13B.”.

(Date of commencement to be proclaimed.)

11. Amends section 7 (8) (a) of the Divorce Act, No. 70 of 1979, by substituting subparagraph (ii).

12. Amends section 1 of the Sheriffs Act, No. 90 of 1986, by substituting the definition of “Board”.


15. Amends section 5 (1) of the Mediation in Certain Divorce Matters, Act No. 24 of 1987, by inserting paragraph (dA).


17. Amends section 16 (2) of the Maintenance Act, No. 99 of 1998, by substituting paragraph (a).

18. Amends section 26 of the Maintenance Act, 99 of 1998, as follows:—paragraph (a) substitutes subsection (1) (a); and paragraph (b) substitutes subsection (2) (a).


20. Amends section 10 of the Promotion of Access to Information Act, No. 2 of 2000, by substituting subsection (1).


22. . . . . .

[S. 22 repealed by s. 18 of Act No. 22 of 2005.]

Wording of Sections

Wording of Sections

s 22 of Act 55 of 2003 prior to amendment by Act 22 of 2005

23. Amends section 79 of the Promotion of Access to Information Act, 2 of 2000, as follows:—paragraph (a) substitutes in subsection (1) the words preceding paragraph (a); and paragraph (b) substitutes subsection (2).


25. Amends section 92 of the Promotion of Access to Information Act, No. 2 of 2000, by adding subsection (4).

26. Amends section 1 of the Promotion of Administrative Justice Act, No. 3 of 2000, by substituting paragraph (gg) of the definition of “administrative action”.
27. Amends section 7 of the Promotion of Administrative Justice Act, No. 3 of 2000, as follows:—paragraph (a) substitutes subsection (3); and paragraph (b) substitutes subsection (4).

28. Amends section 16 (1) of the Promotion of Equality and Prevention of Unfair Discrimination Act, No. 4 of 2000, by substituting paragraph (c).


30. Amends section 2 of the Cross-Border Insolvency Act, No. 42 of 2000, by adding subsection (5).


32. Amends section 16 (4) of the Judges’ Remuneration and Conditions of Employment Act, No. 47 of 2001, as follows:—paragraph (a) substitutes paragraphs (b) and (c); and paragraph (b) adds paragraphs (d), (e) and (f)


34. **Short title and commencement.**—This Act is called the Judicial Matters Second Amendment Act, 2003, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

**COMMENCEMENT OF THIS ACT**

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<td>27406</td>
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**GENERAL LAW AMENDMENT ACT**
NO. 49 OF 1996

[ASSENTED TO 27 SEPTEMBER, 1996]
[DATE OF COMMENCEMENT: 4 OCTOBER, 1996]
This Act has been updated to *Government Gazette* 19959 dated 21 April, 1999.

as amended by

Wine and Spirit Control Act, No. 47 of 1970
[with effect from 30 June, 1999]

Road Accident Fund Act, *No. 56 of 1996*
[with effect from 1 May, 1997]

Marine Living Resources Act, *No. 18 of 1998*
[with effect from 1 September, 1998]

University of Cape Town (Private) Act, No. 8 of 1999
[with effect from 29 September, 1999]

ACT

To amend or repeal South African legislation, so as to substitute or delete all references to “South-West Africa”; and to provide for matters connected therewith.

Repealed Act

Act 47 of 1970 has been repealed by s 58D of Act 47 of 1970

1. *Amends or repeals the laws to the extent set out in the Schedule.*

2. **Short title.**—This Act shall be called the General Law Amendment Act, 1996.

SCHEDULE

LAND SURVEY ACT, NO. 9 OF 1927

*Amends section 49 of the Land Survey Act, No. 9 of 1927, by deleting the expressions “or in the Deeds Registry Proclamation, 1939 (Proclamation No. 37 of 1939), of the territory of South-West Africa”, and “and the Mining Titles Office at Windhoek” from the definition of “deeds registry”.*
CURRENCY AND EXCHANGES ACT, NO. 9 OF 1933

Amends section 9 of the Currency and Exchanges Act, No. 9 of 1933, by deleting subsection (6).

INSOLVENCY ACT, NO. 24 OF 1936

Amends section 2 of the Insolvency Act, No. 24 of 1936, as follows:—paragraph (a) deletes the definition of “Gazette”, paragraph (b) deletes the definition of “Republic”, paragraph (c) deletes the definition of “Supreme Court”, and paragraph (d) deletes the definition of “the Territory”.

Amends section 4 (1) of the Insolvency Act, No. 24 of 1936, by deleting the two provisos.

Amends section 21 (2) (d) of the Insolvency Act, No. 24 of 1936, by deleting the expression “or by the Insurance Ordinance, 1927 (Ordinance No. 12 of 1927 of the Territory)”.

Amends section 49 (2) of the Insolvency Act, No. 24 of 1936, by deleting the expression “or the Commissioner for Inland Revenue of the Territory”.

Amends section 89 (5) of the Insolvency Act, No. 24 of 1936, by deleting the expression “or the Administration of the Territory”.

Amends section 90 of the Insolvency Act, No. 24 of 1936, by deleting the expression “or the Land Agricultural Bank of south-west Africa”.

Amends section 101 (a) of the Insolvency Act, No. 24 of 1936, by deleting the expression “the Territory or”.

Amends section 124 (2) (c) of the Insolvency Act, No. 24 of 1936, by deleting the expression “or of the Insolvency Ordinance, 1928 (Ordinance No. 7 of 1928), of the Territory”.

Amends section 134 (1) of the Insolvency Act, No. 24 of 1936, by deleting the expression “or, in the case of an insolvent whose estate has been sequestrated by an order of the High Court of South-West Africa, the German language,”.

Repeals section 158ter of the Insolvency Act, No. 24 of 1936.

POLICE AND PRISON OFFICERS PAY ACT, NO. 30 OF 1939

Amends the long title of the Police and Prisons Officers Pay Act, No. 30 of 1939, by deleting the expression “and members of the South-West Africa Police”.
Amends section 1 of the Police and Prisons Officers Pay Act, No. 30 of 1939, by deleting paragraph (c) and by deleting the expression “, and the European members of the South-West African Police”.

Repeals section 2 of the Police and Prisons Officers Pay Act, No. 30 of 1939.

INDUSTRIAL DEVELOPMENT ACT, NO. 22 OF 1940

Amends section 1 of the Industrial Development Act, No. 22 of 1940, by deleting the definition of “Republic”.

MERCHANDISE MARKS ACT, NO. 17 OF 1941

Amends section 1 of the Merchandise Marks Act, No. 17 of 1941, as follows:—paragraph (a) deletes the definitions of “Gazette”, “Territory” and “Union”; and paragraph (b) deletes the expression “, or the Patents, Designs, Trade Marks and Copyright Proclamation, 1923 (Proclamation No. 17 of 1923 of the Territory) or an amendment thereof” in the definition of “trade mark”.

Amends section 14 of the Merchandise Marks Act, No. 17 of 1941, as follows:—paragraph (a) deletes the expression “, or in the case of the Territory, the first day of March, 1952” in the proviso to subsection (1); and paragraph (b) deletes the expression “, the Administration of the Territory” in subsection (2).

Repeals section 21bis of the Merchandise Marks Act, No. 17 of 1941.

RAILWAYS AND HARBOURS PENSIONS AMENDMENT ACT, NO. 26 OF 1941

Amends section 1 of the Railways and Harbours Pensions Amendment Act, No. 26 of 1941, as follows:—paragraph (a) deletes the expression “or South-West Africa” in the definition of “Republic of South Africa”; and paragraph (b) deletes the expression “or the territory of south-west Africa” in the definition of “foreign Black”.

Repeals section 8A of the Railways and Harbours Pensions Amendment Act, No. 26 of 1941.

INSOLVENCY LAW AMENDMENT ACT, NO. 16 OF 1943

Repeals section 38 of the Insolvency Law Amendment Act, No. 16 of 1943.

Substitutes section 39 of the Insolvency Law Amendment Act, No. 16 of 1943.

COMMISSIONS ACT, NO. 8 OF 1947

Amends section 2 of the Commissions Act, No. 8 of 1947, by deleting the expression “or the mandated territory of South-West Africa”.
Amends section 3 (1) of the Commissions Act, No. 8 of 1947, by deleting the expression “and in the mandated territory of south-west Africa have the powers which the High Court of that territory has”.

Repeals section 6A of the Commissions Act, No. 8 of 1947.

FERTILIZERS, FARM FEEDS, AGRICULTURAL REMEDIES AND STOCK REMEDIES ACT, NO 36 OF 1947

Amends section 1 of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, No. 36 of 1947, by deleting the definition of “Republic”.

Repeals section 24 of the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, No. 36 of 1947.

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 49 OF 1949

Amends section 16 (2) (a) (iii) of the Railways and Harbours Acts Amendment Act, No. 49 of 1949, by deleting the expression “or of the mandated territory of South-West Africa”.

Amends section 26 of the Railways and Harbours Acts Amendment Act, No. 49 of 1949, as follows:— paragraph (a) substitutes the heading; and paragraph (b) deletes the expression “shall apply to the territory of South-West Africa and”.

MERCHANT SHIPPING ACT, NO. 57 OF 1951

Amends section 2 (b) of the Merchant Shipping Act, No. 57 of 1951, by deleting the proviso in the definition of “international voyage”.

Amends section 3 of the Merchant Shipping Act, No. 57 of 1951, by deleting subsection (1).

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 63 OF 1951

Amends section 24 of the Railways and Harbours Acts Amendment Act, No. 63 of 1951, as follows:— paragraph (a) substitutes the heading; and paragraph (b) deletes the expression “shall apply to the Territory of South-West Africa and”.

RADIO ACT, NO. 3 OF 1952

Amends section 2 of the Radio Act, No. 3 of 1952, by deleting the expression “and the territory of South-West Africa”.

MERCHANDISE MARKS AMENDMENT ACT, NO. 39 OF 1952
Repeals the Merchandise Marks Amendment Act, No. 39 of 1952.

RAILWAYS AND HARBOURS ACTS AMENDMENT ACTS, NO. 45 OF 1952


WILLS ACT, NO. 7 OF 1953

Amends section 1 of the Wills Act, No. 7 of 1953, by deleting the expression “or the High Court of South-West Africa” in the definition of “Court”.

RAILWAYS AND HARBOURS SPECIAL PENSIONS ACT, NO. 36 OF 1955

Repeals section 8 of the Railways and Harbours Special Pensions Act, No. 36 of 1955.

RAILWAY EXPROPRIATION ACT, NO. 37 OF 1955

Repeals section 17 of the Railways Expropriation Act, No. 37 of 1955.

UNIVERSITIES ACT , NO. 61 OF 1955

Amends section 16bis (1) (b) of the Universities Act, No. 61 of 1955, by deleting the expression “and the territory of South-West Africa”.

VEXATIOUS PROCEEDINGS ACT, NO. 3 OF 1956

Amends section 1 of the Vexatious Proceedings Act, No. 3 of 1956, by deleting the expression “and includes the High Court of South-West Africa” in the definition of “court”.

Amends section 2 (3) of the Vexatious Proceedings Act, No. 3 of 1956, by deleting the expression “and in the Official Gazette of the territory of South-West Africa”.

Repeals section 3 of the Vexatious Proceedings Act, No. 3 of 1956.

RAILWAYS AND HARBOURS ACTS AMENDMENT ACTS, NO. 15 OF 1956

Repeals section 16 of the Railways and Harbours Acts Amendment Act, No. 15 of 1956.

RIOTOUS ASSEMBLIES ACT, NO. 17 OF 1956

Repeals section 19A of the Riotous Assemblies Act, No. 17 of 1956.

FRIENDLY SOCIETIES ACT, NO. 25 OF 1956

Repeals section 52 of the Friendly Societies Act, No. 25 of 1956.
APPORPTIONMENT OF DAMAGES ACT, No. 34 of 1956

Amends section 4 (2) of the Apportionment of Damages Act, No. 34 of 1956, by deleting the expression “, or under section three of the Administration of Justice Proclamation, 1919 (Proclamation No. 21 of 1919), of the territory of South-West Africa”.

Repeals section 6 of the Apportionment of Damages Act, No. 34 of 1956.

WATER ACT, No. 54 of 1956

Amends section 34 (1) (d) of the Water Act, No. 54 of 1956, by deleting the expression “and, for the purposes of the application of the provisions of sections one hundred and six and one hundred and seventy-four, and until the water court referred to in paragraph (g) is established, also in the territory of South-West Africa”.

Amends section 41 (1) of the Water Act, No. 54 of 1956, by deleting the expression “or, in the case of the territory of South-West Africa, of the High Court of South-West Africa.”.

Amends section 49 of the Water Act, No. 54 of 1956, as follows:—paragraph (a) deletes the expression “or in the case of an appeal from the South-West Africa Water Court, of the High Court of South-West Africa,” in subsection (2); and paragraph (b) deletes the expression “or, in the case of the South-West Africa Water Court, of the High Court of South-West Africa” in subsection (3).

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, No. 34 of 1957

Repeals section 11 of the Railways and Harbours Acts Amendment Act, No. 34 of 1957.

STATE ATTORNEY ACT, No. 56 of 1957

Amends section 3 (2) of the State Attorney Act, No. 56 of 1957, by deleting the expression “, the administration of the territory of South-West Africa”.

EXPORT CREDIT AND FOREIGN INVESTMENTS RE-INSURANCE ACT, No. 78 of 1957

Amends section 1 of the Export Credit and Foreign Investments Re-insurance Act, No. 78 of 1957, by deleting the definitions of “the Territory” and “the Republic”.

Repeals section 12 of the Export Credit and Foreign Investments Re-insurance Act, No. 78 of 1957.

POLICE AMENDMENT ACT, No. 43 of 1958

Repeals section 5 of the Police Amendment Act, No. 43 of 1958.
POST OFFICE ACT, NO. 44 OF 1958

Amends section 12C of the Post Office Act, No. 44 of 1958, as follows:—paragraph (a) deletes the expressions “or the Administration of the territory of South-West Africa” and “or the said Administration” wherever they occur in subsections (1) and (2); paragraph (b) substitutes the expression “or a provincial revenue fund” for the expression “, the relevant provincial revenue fund or the revenue fund of the territory of South-West Africa” in subsection (1); and paragraph (c) substitutes the expression “or the relevant provincial revenue fund” for the expression “, the relevant provincial revenue fund or the revenue fund of the territory of South-West Africa” in subsection (2).

WILLS AMENDMENT ACT, NO. 48 OF 1958

Repeals section 2 of the Wills Amendment Act, No. 48 of 1958.

UNIVERSITY OF THE WITWATERSRAND, JOHANNESBURG (PRIVATE) ACT, NO. 15 OF 1959

Amends section 1 of the University of the Witwatersrand, Johannesburg (Private) Act, No. 15 of 1959, by deleting the expression “, of the territory of South-West Africa” in the definition of “health authority”.

UNIVERSITY OF CAPE TOWN ACT, NO. 38 OF 1959 . . . . .

[Repealed by s. 23 (1) of Act No. 8 of 1999.]

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 44 OF 1959


INSURANCE AMENDMENT ACT, NO. 79 OF 1959


CHILDREN’S ACT, NO. 33 OF 1960

Amends section 1 of the Children’s Act, No. 33 of 1960, as follows:—paragraph (a) deletes the expression “, and, in relation to the territory, means the Administrator of the territory acting on the advice of the Executive Committee thereto” in the definition of “Administrator” in subsection (1); paragraph (b) deletes the expression “, or of the Children’s Ordinance, 1961 (Ordinance No. 31 of 1961), of the territory, or of the Adoption of Children Ordinance, 1927 (Ordinance No. 10 of 1927), of the territory” in the definition of “adopted child” in subsection (1); paragraph (c) deletes “, or of the Children’s Ordinance, 1961, of the territory, or of the Adoption of Children Ordinance, 1927, of the territory” in the definition of “adoptive parent” in subsection (1); paragraph (d) deletes “, and includes a native within the meaning of section 25 of the Native
Administration Proclamation, 1928 (Proclamation No. 15 of 1928), of the territory” in the definition of “Black” in subsection (1); paragraph (e) substitutes “or a provincial education department” for “, a provincial education department or the Administration of the territory” in the definition of “place of care” in subsection (1); paragraph (f) deletes the definitions of “Republic” and “territory” in subsection (1); paragraph (g) deletes paragraphs (v), (vi) and (vii) and substitutes the expression “(iii) or (iv)” for the expression “(iii), (iv), (v), (vi) or (vii)” in the definition of “training institution” in subsection (1); and paragraph (h) deletes subsection (2).

Amends section 14 of the Children’s Act, No. 33 of 1960, as follows:—paragraph (a) deletes the expression “, or under the Children’s Ordinance, 1961 (Ordinance No. 31 of 1961), of the territory, or under the Wives and Children Protection and Maintenance Ordinance, 1927 (Ordinance No. 16 of 1927), of the territory” in paragraph (a); and paragraph (b) deletes the expression “or under Chapter III of the Children’s Ordinance, 1961, of the territory, or under Chapter I of the Wives and Children Protection and Maintenance Ordinance, 1927, of the territory” in paragraph (b).

Amends section 20 (1) of the Children’s Act, No. 33 of 1960, by deleting the expression “or of the Administration of the territory” wherever it occurs.

Amends section 24 (3) of the Children’s Act, No. 33 of 1960, by deleting the expression “or under section 22 (1) of the Children’s Ordinance, 1961 (Ordinance No. 31 of 1961), of the territory”.

Amends section 30 (3) of the Children’s Act, No. 33 of 1960, by deleting the expression “or of the Administration of the territory”.

Amends section 31 (8) of the Children’s Act, No. 33 of 1960, by deleting the expression “or under section 16 (1) of the Children’s Ordinance, 1961 (Ordinance No. 31 of 1961), of the territory”.

Amends section 35 of the Children’s Act, No. 33 of 1960, by deleting subsection (3).

Amends section 52 (1) of the Children’s Act, No. 33 of 1960, by deleting the expression “, or the Education Ordinance, 1962 (Ordinance No. 27 of 1962), of the territory”.

Amends section 63 (2) of the Children’s Act, No. 33 of 1960, by deleting the expressions “or the Native Administration Proclamation, 1928 (Proclamation No. 15 of 1928), of the territory,” and “or the said Proclamation”.

Amends section 69 (1) of the Children’s Act, No. 33 of 1960, by deleting the expression “or the Native Administration Proclamation, 1928 (Proclamation No. 15 of 1928), of the territory”.
Amends section 73 (1) (a) of the Children’s Act, No. 33 of 1960, by deleting the expression “or under section 16 (1) of the Children’s Ordinance, 1961 (Ordinance No. 31 of 1961), of the territory”.

Amends section 82A of the Children’s Act, No. 33 of 1960, by deleting the expression “or in section 25 of the Native Administration Proclamation, 1928 (Proclamation No. 15 of 1928), of the territory.”.

Repeals section 93A of the Children’s Act, No. 33 of 1960.

Amends the First Schedule to the Children’s Act, No. 33 of 1960, by deleting the expression “or under Chapter III of the Children’s Ordinance, 1961 (Ordinance No. 31 of 1961), of the territory”.

THE APOSTOLIC FAITH MISSION OF SOUTH AFRICA (PRIVATE) ACT, NO. 24 OF 1961

Amends section 7 of The Apostolic Faith Mission of South Africa (Private) Act, No. 24 of 1961, by deleting the expression “and in the Territory of South-West Africa”.


COMMONWEALTH RELATIONS (TEMPORARY PROVISION) ACT, NO. 41 OF 1961

Amends section 1 of the Commonwealth Relations (Temporary Provision) Act, No. 41 of 1961, by deleting the expression “or the territory of South-West Africa.


RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 62 OF 1961


ARCHIVES ACT, NO. 6 OF 1962

Amends the long title of the Archives Act, No. 6 of 1962, by deleting the expression “and the territory of South-West Africa”.

Amends section 1 of the Archives Act, No. 6 of 1962, as follows:—paragraph (a) deletes the expression “, and any institution in the territory similar to any institution so referred to” in the definition of “local authority”; paragraph (b) deletes the definitions of “province” and “territory”; and paragraph (c) substitutes the definition of “provincial administration”.

Amends section 8 (1) of the Archives Act, No. 6 of 1962, by deleting the proviso.

Repeals section 15 of the Archives Act, No. 6 of 1962.

CONVENTIONAL PENALTIES ACT, NO. 15 OF 1962

Repeals section 6 of the Conventional Penalties Act, No. 15 of 1962.

HERALDRY ACT, NO. 18 OF 1962

Amends section 1 of the Heraldry Act, No. 18 of 1962, as follows:—paragraph (a) deletes the expression the definitions of “province” and “territory”; paragraph (b) deletes the expression “the territory” in the definitions of “association” and “institution”; and paragraph (c) deletes the expression “and any similar institution or body in the territory” in the definition of “municipal”.

Amends section 20 (4) of the Heraldry Act, No. 18 of 1962, by deleting the expression “or the territory”.

Repeals section 27 of the Heraldry Act, No. 18 of 1962.

INCOME TAX ACT, NO. 58 OF 1962

Amends section 10 (1) (i) of the Income Tax Act, No. 58 of 1962, by deleting subparagraph (vii).

Amends section 11bis (1) of the Income Tax Act, No. 58 of 1962, as follows:—paragraph (a) deletes the expression “the territory (including the Eastern Caprivi Zipfel),” in the definition of “exported”; and paragraph (b) deletes the expression “the territory (including the Eastern Caprivi Zipfel),” in the definition of “export country”.

Amends section 21ter (1) of the Income Tax Act, No. 58 of 1962, by deleting the expression “or any economic development area falling within the confines of any land or area referred to in section 4 of the South-West Africa Black Affairs Administration Act, 1954 (Act No. 56 of 1954)” in the definition of “Black development area”.

Amends section 36 (11) (d) (vi) (cc) of the Income Tax Act, No. 58 of 1962, by deleting the expressions “or any Income Tax Ordinance of the territory” and “or section 11 (2) (i) of the Income Tax Ordinance, 1961 (Ordinance No. 10 of 1961), of the territory, or the corresponding provisions of any previous Income Tax Ordinance of the territory” in the definition of “capital expenditure incurred”.

Amends section 91 (2) of the Income Tax Act, No. 58 of 1962, by deleting the expression “or the Magistrates’ Courts Ordinance, 1963 (Ordinance No. 29 of 1963), of the territory.”.
RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, No. 62 of 1962


EXTRADITION ACT, No. 67 of 1962

Amends section 1 of the Extradition Act, No. 67 of 1962, as follows:—paragraph (a) deletes the expression the definition of “the Republic”; and paragraph (b) deletes the expression “and, in relation to the area in the territory of South-West Africa beyond the Police Zone, as defined in section three of the Prohibited Areas Proclamation, 1928 (Proclamation No. 26 of 1928 of that territory), a Commissioner, an Assistant Commissioner and any officer in charge of Black affairs” in the definition of “magistrate”.

Amends section 20 of the Extradition Act, No. 67 of 1962, by deleting the expression “or, in the case of any person surrendered for trial or detention in the territory of South-West Africa, the Administrator thereof”.

Repeals section 22 of the Extradition Act, No. 67 of 1962.

FOREIGN COURTS EVIDENCE ACT, No. 80 of 1962

Amends section 1 of the Foreign Courts Evidence Act, No. 80 of 1962, as follows:—paragraph (a) deletes the expression “and, in relation to the area in the territory of South-West Africa beyond the Police Zone, as defined in section three of the Prohibited Areas Proclamation, 1928 (Proclamation No. 26 of 1928 of that territory), a native commissioner, an assistant native commissioner or any officer in charge of native affairs” in the definition of “magistrate”; and paragraph (b) deletes the definition of “Republic”.

Repeals section 12 of the Foreign Courts Evidence Act, No. 80 of 1962.

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, No. 7 of 1963


JUSTICES OF THE PEACE AND COMMISSIONERS OF OATHS ACT, No. 16 of 1963

Repeals sections 1 and 11A of the Justices of the Peace and Commissioners of Oaths Act, No. 16 of 1963.

MORATORIUM ACT, No. 25 of 1963

Repeals section 7 of the Moratorium Act, No. 25 of 1963.
RECIPROCAL ENFORCEMENT OF MAINTENANCE ORDERS ACT, NO. 80 OF 1963

Amends the long title of the Reciprocal Enforcement of Maintenance Orders Act, No. 80 of 1963, by deleting the expression “…, including the territory of South-West Africa,”.

Amends section 1 of the Reciprocal Enforcement of Maintenance Orders Act, No. 80 of 1963, by deleting the definitions of “Republic” and “territory”.


RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 54 OF 1964

Repeals section 11 of the Railways and Harbours Acts Amendment Act, No. 54 of 1964.

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 6 OF 1965

Repeals section 80 of the Railways and Harbours Acts Amendment Act, No. 6 of 1965.

INSURANCE AMENDMENT ACT, NO. 10 OF 1965


PREVENTION OF COUNTERFEITING OF CURRENCY ACT, NO. 16 OF 1965

Amends section 1 of the Prevention of Counterfeiting of Currency Act, No. 16 of 1965, by deleting the definition of “Republic”.


CIVIL PROCEEDINGS EVIDENCE ACT, NO. 25 OF 1965

Amends the long title of the Civil Proceedings Evidence Act, No. 25 of 1965, by deleting the expression “the Administration of Justice Proclamation, 1919 (South-West Africa), the Further Administration of Justice Proclamation, 1920 (South-West Africa), the Procedure and Evidence Proclamation, 1938 (South-West Africa),”.

Amends section 1 of the Civil Proceedings Evidence Act, No. 25 of 1965, by deleting the definition of “Republic”.

Amends section 5 of the Civil Proceedings Evidence Act, No. 25 of 1965, as follows:—paragraph (a) deletes the expression “…in the Official Gazette of the territory of South-West Africa” in subsection (1); and paragraph (b) deletes the expression “…of the said Official Gazette” in subsection (2).
Amends section 22 (1) of the Civil Proceedings Evidence Act, No. 25 of 1965, by deleting the expression “(including the Administration of South-West Africa)”.

Amends section 27 of the Civil Proceedings Evidence Act, No. 25 of 1965, by deleting the expression “, the Land and Agricultural Bank of South-West Africa”.


ARBITRATION ACT, NO. 42 OF 1965

Amends section 1 of the Arbitration Act, No. 42 of 1965, by deleting the definition of “territory”.

Amends section 14 (1) (a) (iv) of the Arbitration Act, No. 42 of 1965, by deleting the expression “or in the territory”.

Amends section 21 (1) (c) of the Arbitration Act, No. 42 of 1965, by deleting the expression “or in the territory”.

Amends section 37 of the Arbitration Act, No. 42 of 1965, by deleting the expression “or the territory” in paragraphs (b) and (c).

Repeals section 41 of the Arbitration Act, No. 42 of 1965.

ADMINISTRATION OF ESTATES ACT, NO. 66 OF 1965

Amends section 1 of the Administration of Estates Act, No. 66 of 1965, by deleting the definitions of “Republic” and “territory”.

Amends section 5 (1) of the Administration of Estates Act, No. 66 of 1965, by deleting the expression “or in the territory”.

Amends section 12 (5) of the Administration of Estates Act, No. 66 of 1965, by deleting the expression “and in section 156 (1) of the Liquor Ordinance, 1969 (Ordinance No. 2 of 1969), of the territory,”.

Amends section 39 of the Administration of Estates Act, No. 66 of 1965, as follows:— paragraph (a) deletes the expression “and the Deeds Registries Proclamation, 1939 (Proclamation No. 37 of 1939), of the territory,” in subsection (1); and paragraph (b) deletes the expression “and section 25 of the said Proclamation” in subsection (2).

Amends section 44 (3) of the Administration of Estates Act, No. 66 of 1965, by deleting the expressions “, excluding the territory,” and “or in the territory prior to a date twelve months after the date of commencement of the Administration of Estates Amendment Act, 1970”. 
Amends section 86 of the Administration of Estates Act, No. 66 of 1965, by deleting subsection (3).

Amends section 94 of the Administration of Estates Act, No. 66 of 1965, by deleting the expression “or section 30 of the Deeds Registries Proclamation, 1939 (Proclamation No. 37 of 1939), of the territory, “.

Amends section 105 (3) of the Administration of Estates Act, No. 66 of 1965, as follows:—paragraph (a) deletes the expression “, excluding the territory,” in paragraph (a); and paragraph (b) deletes paragraph (b).


IMMOVABLE PROPERTY (REMOVAL OR MODIFICATION OF RESTRICTIONS) ACT, NO. 94 OF 1965

Repeals section 10 of the Immovable Property (Removal or Modification of Restrictions) Act, No. 94 of 1965.

MEDICINES AND RELATED SUBSTANCES CONTROL ACT, NO. 101 OF 1965

Amends section 1 (1) of the Medicines and Related Substances Control Act, No. 101 of 1965, by deleting the definition of “the territory”.

Amends section 6 (1) (d) of the Medicines and Related Substances Control Act, No. 101 of 1965, by deleting the expression “or the territory”.

STATE ATTORNEY AMENDMENT ACT, NO. 7 OF 1966

Repeals sections 6, 7, 8 and 9 of the State Attorney Amendment Act, No. 7 of 1966.

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 18 OF 1966


CUSTOMS AND EXCISE AMENDMENT ACT, NO. 57 OF 1966

Amends section 1 of the Customs and Excise Amendment Act, No. 57 of 1966, by deleting subsection (5).

OBSCENE PHOTOGRAPHIC MATTER ACT, NO. 37 OF 1967


DEFENCE AMENDMENT ACT, NO. 85 OF 1967
Repeals section 70 of the Defence Amendment Act, No. 85 of 1967.

CUSTOMS AND EXCISE AMENDMENT ACT, NO. 96 OF 1967

Amends section 3 of the Customs and Excise Amendment Act, No. 96 of 1967, by deleting subsection (4).

GENERAL LAW AMENDMENT ACT, NO. 102 OF 1967


PRIZE JURISDICTION ACT, NO. 3 OF 1968

Repeals section 6 of the Prize Jurisdiction Act, No. 3 of 1968.

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 8 OF 1968

Repeals section 11 of the Railways and Harbours Acts Amendment Act, No. 8 of 1968.

BLIND PERSONS ACT, NO. 26 OF 1968

Amends section 1 of the Blind Persons Act, No. 26 of 1968, by deleting the definitions of “Republic” and “the territory”.


PROMOTION OF THE ECONOMIC DEVELOPMENT OF NATIONAL STATES ACT, NO. 46 OF 1968

Amends section 1 of the Promotion of the Economic Development of National States Act, No. 46 of 1968, by deleting paragraphs (b) and (c) of the definition of “national states”.

Amends section 12 of the Promotion of the Economic Development of National States Act, No. 46 of 1968, by deleting the expression “or the Legislative Assembly of South-West Africa”.

Repeals section 32 of the Promotion of the Economic Development of National States Act, No. 46 of 1968.

ARMAMENTS DEVELOPMENT AND PRODUCTION ACT NO. 57 OF 1968

Amends section 5 (6) of the Armaments Development and Production Act, No. 57 of 1968, by deleting the expression “or the Legislative Assembly of the territory of South-West Africa”.

USURY ACT, NO. 73 OF 1968

Amends section 1 of the Usury Act, No. 73 of 1968, by deleting the definitions of “Republic” and “territory”.

Repeals section 19 of the Usury Act, No. 73 of 1968.

STATE TENDER BOARD ACT, NO. 86 OF 1968

Amends section 4 (3) of the State Tender Board Act, No. 86 of 1968, by deleting subparagraph (a).

ASSESSMENTS OF DAMAGES ACT, NO. 9 OF 1969

Repeals section 2 of the Assessments of Damages Act, No. 9 of 1969.

PROHIBITION OF DISGUISES ACT, NO. 16 OF 1969

Repeals section 3 of the Prohibition of Disguises Act, No. 16 of 1969.

LEASES OF LAND ACT, NO. 18 OF 1969

Repeals section 2 of the Formalities in respect of Leases of Land Act, No. 18 of 1969.

NATIONAL MONUMENTS ACT, NO. 28 OF 1969

Amends section 1 of the National Monuments Act, No. 28 of 1969, by deleting the definitions of “Republic” and “territory”.

Amends section 8 (2) of the National Monuments Act, No. 28 of 1969, by deleting the expression “or section 5 (1) (a) of the Natural and Historical Monuments, Relics and Antiques Ordinance, 1948 (Ordinance No. 13 of 1948 of the territory), “.

Amends section 19 (2) of the National Monuments Act, No. 28 of 1969, by deleting the expression “, including a law as defined in the Interpretation of Laws Proclamation, 1920 (Proclamation No. 37 of 1920 of the territory), “.

Repeals section 21 of the National Monuments Act, No. 28 of 1969.

CULTURAL INSTITUTIONS ACT, NO. 29 OF 1969

Repeals section 18 of the Cultural Institutions Act, No. 29 of 1969.

LAND BANK AMENDMENT ACT, NO. 31 OF 1969

Repeals the Land Bank Amendment Act, No. 31 of 1969.
RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 32 OF 1969


UNIVERSITY OF FORT HARE ACT, NO. 40 OF 1969

Amends section 19 of the University of Fort Hare Act, No. 40 of 1969, by substituting the expression “and a provincial administration” for the expression “a provincial administration and the Administration of the territory South-West Africa”.

SECOND RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 41 OF 1969


INCOME TAX ACT, NO. 89 OF 1969

Amends the long title of the Income Tax Act, No. 89 of 1969, by deleting the expressions “and the Revenue Fund of the territory of South-West Africa” and “to amend the Income Tax Ordinance, 1961, of the territory of South-West Africa”.

Amends section 1 of the Income Tax Act, No. 89 of 1969, as follows:— paragraph (a) adds the word “and” at the end of subsection (1) (a); paragraph (b) deletes the word “and” at the end of subsection (1) (b); paragraph (c) deletes subsection (1) (c); and paragraph (d) deletes subsection (2).


Amends section 50 (a) of the Income Tax Act, No. 89 of 1969, by deleting the expression “or, in the case of any other company which has carried on any trade or derived any amount in the territory of South-West Africa from the commencement of the first financial year of such company under the principal Act which ended after the thirtieth day of June, 1968”.


Amends the Schedule to the Income Tax Act, No. 89 of 1969, as follows:—paragraph (a) deletes paragraph 2 (b) (i) and paragraph 2 (g) (i); paragraph (b) deletes the expression “elsewhere than within the said territory,” in paragraph 2 (b) (ii) and paragraph 2 (g) (ii); and paragraph (c) deletes paragraph 4.

MEMBERS OF STATUTORY BODIES PENSION ACT, NO. 94 OF 1969

Amends section 1 of the Members of Statutory Bodies Pension Act, No. 94 of 1969, as follows:—paragraph (a) deletes the expression “or of the Legislative Assembly of the
Amends section 2 (3) (a) of the Members of Statutory Bodies Pension Act, No. 94 of 1969, by deleting the expression “, or from the Territory Revenue Fund, as the case may be”.

Repeals section 7 of the Members of Statutory Bodies Pension Act, No. 94 of 1969.

CUSTOMS AND EXCISE AMENDMENT ACT, NO. 105 OF 1969

Repeals section 41 of the Customs and Excise Amendment Act, No. 105 of 1969.

THE APOSTOLIC FAITH MISSION OF SOUTH AFRICA (PRIVATE) AMENDMENT ACT, NO. 4 OF 1970

Amends the long title of The Apostolic Faith Mission of South Africa (Private) Amendment Act, No. 4 of 1970, by substituting the expression “substitute an obsolete expression” for the expression “apply the provisions of the Act to the Territory of South-West Africa, and to make provision for incidental matters”.

Amends the preamble to The Apostolic Faith Mission of South Africa (Private) Amendment Act, No. 4 of 1970, by deleting the expressions “AND WHEREAS the said Act does not apply to the Territory of South-West Africa;” and “AND WHEREAS it is desirable that the provisions of the said Act should be applied also to the Territory of South-West Africa;”.

Repeals sections 1 and 2 of The Apostolic Faith Mission of South Africa (Private) Amendment Act, No. 4 of 1970.

ARCHITECTS’ ACT, NO. 35 OF 1970

Amends section 3 (2) (a) of the Architects’ Act, No. 35 of 1970, by deleting the expression “, and one person who shall be selected by the Minister from among the persons who immediately prior to such commencement were members of the Executive Committee of the Institute of South-West African Architects in terms of the Architects Ordinance, 1952 (Ordinance No. 38 of 1952), of South-West Africa”.

Amends section 19 (5) (a) of the Architects’ Act, No. 35 of 1970, by deleting the expression “or the Architects Ordinance, 1952 (Ordinance No. 38 of 1952), of South-West Africa,”.

Amends section 22 (2) of the Architects’ Act, No. 35 of 1970, by deleting the expression “or the Architects Ordinance, 1952 (Ordinance No. 38 of 1952), of South-West Africa,”.

Amends section 34 of the Architects’ Act, No. 35 of 1970, by deleting subsection (5).
QUANTITY SURVEYORS’ ACT, NO. 36 OF 1970

Amends section 1 of the Quantity Surveyors’ Act, No. 36 of 1970, as follows:—
paragraph (a) deletes the expression “the South-West Africa Administration,” in the
definition of “in the service of the State”; and paragraph (b) deletes the definition of
“Republic”.

Amends section 3 (2) (a) of the Quantity Surveyors’ Act, No. 36 of 1970, by deleting the
expression “from among the persons who immediately prior to such commencement
were, in terms of the Quantity Surveyors Ordinance, 1959 (Ordinance No. 36 of 1959), of
South-West Africa members of the Executive Committee of the Institute of South-West
African Quantity Surveyors.”.

Amends section 19 (5) of the Quantity Surveyors’ Act, No. 36 of 1970, by deleting the
expression “or was registered as a quantity surveyor in terms of the Quantity Surveyors
Ordinance, 1959 (Ordinance No. 36 of 1959), of South-West Africa, ”.

Amends section 22 (2) of the Quantity Surveyors’ Act, No. 36 of 1970, by deleting the
expression “or was registered as a quantity surveyor in terms of the Quantity Surveyors
Ordinance, 1959 (Ordinance No. 36 of 1959), of South-West Africa, ”.

Repeals section 34 of the Quantity Surveyors’ Act, No. 36 of 1970.

RECIPROCAL ENFORCEMENT OF MAINTENANCE ORDERS AMENDMENT
ACT, NO. 40 OF 1970

Repeals section 8 of the Reciprocal Enforcement of Maintenance Orders Amendment Act,
No. 40 of 1970.

WINE AND SPIRIT CONTROL ACT, NO. 47 OF 1970

[Repealed by s. 58D of Act No. 47 of 1970.]

INCOME TAX ACT, NO. 52 OF 1970

Amends the long title of the Income Tax Act, No. 52 of 1970, by deleting the expression
“and the Revenue Fund of the territory of South-West Africa”.


Amends Schedule 1 to the Income Tax Act, No. 52 of 1970, as follows:—paragraph (a)
deletes paragraph 1 (b) (i) and paragraph 1 (g) (i); and paragraph (b) deletes the
expression “elsewhere than within the said territory,” in paragraph 1 (b) (ii) and
paragraph 1 (g) (ii).

ADMINISTRATION OF ESTATES AMENDMENT ACT, NO. 54 OF 1970
Amends section 11 of the Administration of Estates Amendment Act, No. 54 of 1970, by deleting subsections (1) and (3).

Repeals the Schedule to the Administration of Estates Amendment Act, No. 54 of 1970.

JUSTICES OF THE PEACE AND COMMISSIONERS OF OATHS AMENDMENT ACT, NO. 55 OF 1970

Repeals section 4 of and the Schedule to the Justices of the Peace and Commissioners of Oaths Amendment Act, No. 55 of 1970.

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 57 OF 1970


MOUNTAIN CATCHMENT AREAS ACT, NO. 63 OF 1970

Repeals section 19 of the Mountain Catchment Areas Act, No. 63 of 1970.

AGRICULTURAL CREDIT AMENDMENT ACT, NO. 66 OF 1970

Amends section 20 of the Agricultural Credit Amendment Act, No. 66 of 1970, as follows:—paragraph (a) deletes the expression “the Administrator of South-West Africa” in subsection (2); and paragraph (b) deletes subsection (3).

Repeals section 21 of the Agricultural Credit Amendment Act, No. 66 of 1970.

Amends section 23 of the Agricultural Credit Amendment Act, No. 66 of 1970, by deleting the expression “(including the Administration of the territory)”.

SUBDIVISION OF AGRICULTURAL LAND ACT, NO. 70 OF 1970

Amends section 1 of the Subdivision of Agricultural Land Act, No. 70 of 1970, as follows:—paragraph (a) deletes the expression “and, in South-West Africa, a peri-urban area established under section 9 of the Peri-Urban Development Board Ordinance, 1970 (Ordinance No. 19 of 1970 of South-West Africa),” in paragraph (a) of the definition of “agricultural land”; paragraph (b) deletes the expressions “or the administration of the territory of South-West Africa” and “or the Administrator of the said territory” in paragraph (c) of the definition of “agricultural land”; paragraph (c) deletes the expression “or the territory of South-West Africa” in the definition of “executive committee; and paragraph (d) deletes the expression “or an ordinance of the territory of South-West Africa” in the definition of “scheme”.

Amends section 2 (a) (i), (ii) and (iii) of the Subdivision of Agricultural Land Act, No. 70 of 1970, by deleting the expression “or the administration of the territory of South-West Africa”.
Amends section 4 (2) (b) of the Subdivision of Agricultural Land Act, No. 70 of 1970, by deleting the expression “, including the territory of South-West Africa,”.

Amends section 13 of the Subdivision of Agricultural Land Act, No. 70 of 1970, as follows:—paragraph (a) deletes the expression “or an ordinance of the territory of South-West Africa” in subsection (1); and paragraph (b) deletes the expression “(including the Administrator of the territory of South-West Africa)” in subsection (2).

Repeals section 14 of the Subdivision of Agricultural Land Act, No. 70 of 1970.

NATIONAL SUPPLIES PROCUREMENT ACT, NO. 89 OF 1970

Amends section 1 of the National Supplies Procurement Act, No. 89 of 1970, by deleting the definition of “Republic”.

Repeals section 19 of the National Supplies Procurement Act, No. 89 of 1970.

LIMITATION OF LEGAL PROCEEDINGS (PROVINCIAL AND LOCAL AUTHORITIES) ACT, NO. 94 OF 1970

Amends the long title of the Limitation of Legal Proceedings (Provincial and Local Authorities) Act, No. 94 of 1970, by deleting the expression “the Administration of the territory of South-West Africa,”.

Amends section 1 of the Limitation of Legal Proceedings (Provincial and Local Authorities) Act, No. 94 of 1970, as follows:—paragraph (a) deletes the expression “or of the territory of South-West Africa” in the definition of “administration”; and paragraph (b) deletes the expression “, and any municipality or village management board established or constituted or deemed to be established or constituted under the Municipal Ordinance, 1963 (Ordinance No. 13 of 1963, of the territory of South-West Africa), or the Village Management Boards Ordinance, 1963 (Ordinance No. 14 of 1963, of the territory of South-West Africa)” in the definition of “local authority”.


CUSTOMS AND EXCISE AMENDMENT ACT, NO. 98 OF 1970

Amends section 10 of the Customs and Excise Amendment Act, No. 98 of 1970, by deleting subsection (2).

BLACK AUTHORITIES’ SERVICE PENSIONS ACT, NO. 6 OF 1971

Amends section 1 (1) of the Black Authorities’ Service Pensions Act, No. 6 of 1971, as follows:—paragraph (a) (i) adds the word “or” at the end of paragraph (a) of the definition of “authority”, paragraph (a) (ii) deletes paragraph (b) of the definition of
“authority”; paragraph (b) deletes the expression “and the administration of the territory” in the definition of “Government”; paragraph (c) deletes the expression “or the territory and includes any proclamation issued by the Administrator of the territory” in the definition of “ordinance”; paragraph (d) substitutes the expression “or the provincial revenue fund of the province concerned” for the expression “, the provincial revenue fund of the province concerned or the Revenue Fund of the territory” in paragraph (d) (i) of the definition of “revenue”; and paragraph (e) deletes the definition of “the territory”.

Repeals section 8 of the Black Authorities’ Service Pensions Act, No. 6 of 1971.

BLIND PERSONS AMENDMENT ACT, NO. 16 OF 1971

Amends the long title of the Blind Persons Amendment Act, No. 16 of 1971, by deleting the expression “to repeal the Social Pensions Ordinance, 1965, of that territory in certain respects;”.

Repeals sections 7, 8 and 9 of the Blind Persons Amendment Act, No. 16 of 1971.

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 24 OF 1971


WATER RESEARCH ACT, NO. 34 OF 1971


SURETYSHIP AMENDMENT ACT, NO. 57 OF 1971

Repeals section 4 of the Suretyship Amendment Act, No. 57 of 1971.

SECOND RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 85 OF 1971


INCOME TAX ACT, NO. 88 OF 1971

Amends the long title of the Income Tax Act, No. 88 of 1971, by deleting the expression “to provide for the payment of a portion of the normal tax payable by certain companies into the Revenue Fund of the territory of South-West Africa;”.

Amends paragraph 1 of the Schedule to the Income Tax Act, No. 88 of 1971, as follows:—paragraph (a) deletes subparagraphs 1 (b) (i) and (g) (i); and paragraph (b) deletes the expression “elsewhere than within the said territory,” in subparagraphs 1 (b) (ii) and (g) (ii).

CUSTOMS AND EXCISE AMENDMENT ACT, No. 89 Of 1971

Amends section 3 of the Customs and Excise Amendment Act, No. 89 of 1971, by deleting subsection (2).

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, No. 33 Of 1972


AGE OF MAJORITY ACT, No. 57 Of 1972

Repeals section 8 of the Age of Majority Act, No. 57 of 1972.

INCOME TAX ACT, No. 90 Of 1972

Amends the long title of the Income Tax Act, No. 90 of 1972, by deleting the expression “to provide for the payment of a portion of the normal tax payable by certain companies into the Revenue Fund of the territory of South-West Africa;” and “to amend certain provisions of the Income Tax Ordinance, 1961, of South-West Africa;”.


Amends paragraph 1 of Schedule 1 to the Income Tax Act, No. 90 of 1972, as follows:—paragraph (a) deletes subparagraphs 1 (b) (i) and (g) (i); and paragraph (b) deletes the expression “elsewhere than within the said territory” in subparagraphs 1 (b) (ii) and (g) (ii).

MENTAL HEALTH ACT, No. 18 Of 1973

Amends section 1 (1) of the Mental Health Act, No. 18 of 1973, by deleting the definitions of “province” and “Republic”.

Amends section 40 (c) of the Mental Health Act, No. 18 of 1973, by deleting the expression “, or established under section 37 of the Children’s Ordinance, 1961 (Ordinance No. 31 of 1961 of South West Africa”).

Repeals section 78 of the Mental Health Act, No. 18 of 1973.

SOUTH AFRICAN LAW COMMISSION ACT, NO. 19 OF 1973

Amends section 1 of the South African Law Commission Act, No. 19 of 1973, by deleting the definition of “Republic”.

SOCIAL PENSIONS ACT, NO. 37 OF 1973

Amends section 1 of the Social Pensions Act, No. 37 of 1973, by deleting the definitions of “Republic” and “the territory”.

Amends section 19 of the Social Pensions Act, No. 37 of 1973, by deleting the expression “outside the territory”.


SEA BIRDS AND SEALS PROTECTION ACT, NO. 46 OF 1973

Amends section 1 of the Sea Birds and Seals Protection Act, No. 46 of 1973, by deleting the definition of “Republic”.

Amends section 9 (2) (a) of the Sea Birds and Seals Protection Act, No. 46 of 1973, by deleting the expression “or the territory of South-West Africa”.

Amends section 16 (1) of the Sea Birds and Seals Protection Act, No. 46 of 1973, as follows:—paragraph (a) deletes paragraph (a); and paragraph (b) deletes the expression “of the Nature Conservation Ordinance, 1967 (Ordinance No. 31 of 1967 of South West Africa), or” in paragraph (b).

Amends Schedule 1 to the Sea Birds and Seals Protection Act, No. 46 of 1973, by substituting the word “Namibia” for the expression “South-West Africa”, wherever it occurs.

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 47 OF 1973


GOVERNMENT SERVICE PENSION ACT, NO. 57 OF 1973

Amends the long title of the Government Service Pension Act, No. 57 of 1973, by deleting the expression “or of the Administration of the territory of South-West Africa”.
Amends section 1 of the Government Service Pension Act, No. 57 of 1973, as follows:—paragraph (a) deletes the expression “or the Administration of the territory” in the definition of “administration”; paragraph (b) deletes the expression “or the Administrator of the territory” in the definition of “Administrator”; paragraph (c) deletes the expression “and the territory” in the definition of “previous fund”; paragraph (d) deletes the expression “, or in section 1 of that Act as modified and applied to the territory by Proclamation No. 271 of 1959” in the definition of “prison service”; paragraph (e) deletes the definitions of “Republic” and “the territory”; and paragraph (f) deletes paragraph (c) of the definition of “revenue”.

Amends section 6 (7) of the Government Service Pension Act, No. 57 of 1973, by deleting the expression “or of the territory”.


INCOME TAX ACT, NO. 65 OF 1973

Amends the long title of the Income Tax Act, No. 65 of 1973, by deleting the expression “to provide for the payment of a portion of the normal tax payable by certain companies into the Revenue Fund of the territory of South-West Africa;”.


Amends paragraph 1 of the Schedule to the Income Tax Act, No. 65 of 1973, as follows:—paragraph (a) deletes subparagraphs (b) (i) and (g) (i); and paragraph (b) deletes the expression “elsewhere than within the said territory,” in subparagraphs (b) (ii) and (g) (ii).

MEASURING UNITS AND NATIONAL MEASURING STANDARDS ACT, NO. 76 OF 1973

Amends the long title of the Measuring Units and National Measuring Standards Act, No. 76 of 1973, by deleting the expression “and South-West Africa”.

Amends section 1 of the Measuring Units and National Measuring Standards Act, No. 76 of 1973, by deleting the definition of “Republic”.


Amends section 10 of the Measuring Units and National Measuring Standards Act, No. 76 of 1973, by deleting the expression “and the administration of the territory of South-West Africa”.

INTERNATIONAL HEALTH REGULATIONS ACT, NO. 28 OF 1974
Amends section 1 of the International Health Regulations Act, No. 28 of 1974, by deleting the definition of “Republic”.

Repeals section 5 of the International Health Regulations Act, No. 28 of 1974.

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 44 OF 1974


POST OFFICE SERVICE ACT, NO. 66 OF 1974

Amends section 1 of the Post Office Service Act, No. 66 of 1974, by deleting the definitions of “Republic” and “the territory”.

Amends section 16 (3) and (4) of the Post Office Service Act, No. 66 of 1974, by deleting the expression “, the administration of the territory”.

Amends section 23 (b), (f) and (r) of the Post Office Service Act, No. 66 of 1974, by deleting the expression “or the administration of the territory”.

Amends section 38 (6) of the Post Office Service Act, No. 66 of 1974, by deleting the expression “, the administration of the territory”.

INCOME TAX ACT, NO. 85 OF 1974

Amends the long title of the Income Tax Act, No. 85 of 1974, by deleting the expression “to provide for the payment of a portion of the normal tax payable by certain companies into the Revenue Fund of the territory of South-West Africa;”.


Amends paragraph 1 of the Schedule to the Income Tax Act, No. 85 of 1974, as follows:—paragraph (a) deletes subparagraphs (b) (i) and (g) (i); and paragraph (b) deletes the expression “elsewhere than within the said territory,” in subparagraphs (b) (ii) and (g) (ii).

ABORTION AND STERILIZATION ACT, NO. 2 OF 1975

Repeals section 11 of the Abortion and Sterilization Act, No. 2 of 1975.

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 46 OF 1975

Repeals section 20 of the Railways and Harbours Acts Amendment Act, No. 46 of 1975.

INCOME TAX ACT, NO. 69 OF 1975
Amends the long title of the Income Tax Act, No. 69 of 1975, by deleting the expression “to provide for the payment of a portion of the normal tax payable by certain companies into the Revenue Fund of the territory of South-West Africa;”.


Amends paragraph 1 of the Schedule to the Income Tax Act, No. 69 of 1975, as follows:—paragraph (a) deletes subparagraphs (b) (i) and (g) (i); and paragraph (b) deletes the expression “elsewhere than within the said territory,” in subparagraphs (b) (ii) and (g) (ii).

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 8 OF 1976

Repeals section 48 of the Railways and Harbours Acts Amendment Act, No. 8 of 1976.

ABORTION AND STERILIZATION AMENDMENT ACT, NO. 18 OF 1976

Repeals the Abortion and Sterilization Amendment Act, No. 18 of 1976.

NATIONAL PARKS ACT, NO. 57 OF 1976

Amends Schedule 1 to the National Parks Act, No. 57 of 1976, by substitutes the word “Namibia” for the expression “South-West Africa” in the definition of the Area of the Kalahari Gemsbok National Park.

BROADCASTING ACT, NO. 73 OF 1976

Repeals section 31 of the Broadcasting Act, No. 73 of 1976.

MILITARY PENSIONS ACT, NO. 84 OF 1976

Amends section 1 of the Military Pensions Act, No. 84 of 1976, by deleting the definition of “Republic”.


WAR DAMAGE INSURANCE AND COMPENSATION ACT, NO. 85 OF 1976

Amends section 2 (b) of the War Damage Insurance and Compensation Act, No. 85 of 1976, by deleting the expression “or in the territory of South-West Africa”.

Repeals section 12 of the War Damage Insurance and Compensation Act, No. 85 of 1976.

SECOND RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 89 OF 1976
Repeals section 3 of the Second Railways and Harbours Acts Amendment Act, No. 89 of 1976

INCOME TAX ACT, NO. 103 OF 1976

Amends the long title of the Income Tax Act, No. 103 of 1976, as follows:—paragraph (a) deletes the expression “to provide for the payment of a portion of the normal tax payable by certain companies into the Revenue Fund of the territory of South-West Africa;”; and paragraph (b) substitutes the expression “and the Income Tax Act, 1974” for the expression “the Income Tax Act, 1974, and the Income Tax Ordinance, 1974, of the said territory”.


Amends paragraph 1 of the Schedule to the Income Tax Act, No. 103 of 1976, as follows:—paragraph (a) deletes subparagraphs (b) (i) and (g) (i); and paragraph (b) deletes the expression “elsewhere than within the said territory,” in subparagraphs (b) (ii) and (g) (ii).

ESTATE AGENTS ACT, NO. 112 OF 1976

Amends section 1 of the Estate Agents Act, No. 112 of 1976, by deleting the definition of “Republic”.


FINANCE AND FINANCIAL ADJUSTMENTS ACTS CONSOLIDATION ACT, NO. 11 OF 1977

Amends section 5 (1) of the Finance and Financial Adjustments Acts Consolidation Act, No. 11 of 1977, by deleting the expression “or the administration of South-West Africa”.

Amends section 9 of the Finance and Financial Adjustments Acts Consolidation Act, No. 11 of 1977, as follows:—paragraph (a) deletes the expression “a legislative council or authority established or recognized under the Development of Self-government for Native Nations in South-West Africa Act, 1968 (Act 54 of 1968),” in subsection (1); and paragraph (b) deletes subsection (2).


Amends section 25 (1) (a) of the Finance and Financial Adjustments Acts Consolidation Act, No. 11 of 1977, by deleting the expression “or the administration of South-West Africa”.

INQUESTS AMENDMENT ACT, NO. 46 OF 1977
Repeals section 3 of the Inquests Amendment Act, No. 46 of 1977.

CRIMINAL PROCEDURE ACT, NO. 51 OF 1977

Amends section 1 (1) of the Criminal Procedure Act, No. 51 of 1977, by deleting the definitions of “law”, “province”, “provincial administration”, “Republic”, “State” and “territory”.

Amends section 117 of the Criminal Procedure Act, No. 51 of 1977, by deleting the expressions “or an ordinance of the Legislative Assembly of the territory” and “or of the Administrator of the Territory”.

Amends section 195 (1) (g) of the Criminal Procedure Act, No. 51 of 1977, by deleting the expression “, or in the case of the territory, of any provision of section 3 or 4 of the Girls’ and Mentally Defective Women’s Protection Proclamation, 1921 (Proclamation 28 of 1921), or of section 3 of the Immorality Proclamation, 1934 (Proclamation 19 of 1934)”.

Amends section 204 (4) (b) of the Criminal Procedure Act, No. 51 of 1977, by deleting the expression “, or on the case of the territory, for a contravention of section 300 (3) of the Criminal Procedure Ordinance, 1963 (Ordinance 34 of 1963), arising likewise”.

Amends section 224 (a) of the Criminal Procedure Act, No. 51 of 1977, by deleting the expression “or the territory”.

Amends section 250 (2) (a) of the Criminal Procedure Act, No. 51 of 1977, by deleting the expression “or the Revenue Fund of the territory”.

Amends section 260 of the Criminal Procedure Act, No. 51 of 1977, as follows:— paragraph (a) adds the word “or” at the end of paragraph (e); paragraph (b) deletes the word “or” at the end of paragraph (f); and paragraph (c) deletes paragraph (g).

Amends section 264 of the Criminal Procedure Act, No. 51 of 1977, as follows:— paragraph (a) adds the word “or” at the end of paragraph (b); paragraph (b) deletes the word “or” at the end of paragraph (c); and paragraph (c) deletes paragraph (d).

Amends section 265 of the Criminal Procedure Act, No. 51 of 1977, as follows:— paragraph (a) adds the word “or” at the end of paragraph (a); paragraph (b) deletes the word “or” at the end of paragraph (b); and paragraph (c) deletes paragraph (c).

Repeals section 343 of the Criminal Procedure Act, No. 51 of 1977.

Amends section 345 of the Criminal Procedure Act, No. 51 of 1977, by deleting the expression “and may fix different dates for the commencement of any such provision in the Republic, the territory and the Eastern Caprivi Zipfel”.
RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 69 OF 1977


AGRICULTURAL CREDIT AMENDMENT ACT, NO. 81 OF 1977

Amends section 1 of the Agricultural Credit Amendment Act, No. 81 of 1977, by deleting subsection (3).

INCOME TAX ACT, NO. 113 OF 1977

Amends the long title of the Income Tax Act, No. 113 of 1977, by deleting the expression “to provide for the payment of a portion of the normal tax payable by certain companies into the Revenue Fund of the territory of South-West Africa;”.


Amends paragraph 1 of the Schedule to the Income Tax Act, No. 113 of 1977, as follows:—paragraph (a) deletes subparagraphs (b) (i) and (g) (i); and paragraph (b) deletes the expression “elsewhere than within the said territory,” in subparagraphs (b) (ii) and (g) (ii).

PATENTS ACT, NO. 57 OF 1978

Amends section 2 of the Patents Act, No. 57 of 1978, by substituting the definition of “‘law society’ means a law society referred to in section 56 of the Attorneys Act, 1979 (Act No. 53 of 1979);” for the definition of “law society”.

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 64 OF 1978

Repeals section 21 of the Railways and Harbours Acts Amendment Act, No. 64 of 1978.

INCOME TAX ACT, NO. 101 OF 1978

Amends section 1 (b) of the Income Tax Act, No. 101 of 1978, by deleting the expression “elsewhere than in the territory of South-West Africa”.

ATTORNEYS ACT, NO. 53 OF 1979

Amends section 83 of the Attorneys Act, No. 53 of 1979, as follows:—paragraph (a) deletes the expressions “in the Republic, excluding the Territory,” and “or, in the Territory, to any board of executors or trust company licensed as such on or before 1 May 1960 under the Licenses Consolidation Ordinance, 1935 (Ordinance No. 13 of 1935, of the Territory),” in subsection (11) (a); paragraph (b) (i) deletes the word “or” at the end of subsection (11) (f) (i); paragraph (b) (ii) deletes subsection (11) (f) (ii); paragraph (b) (iii) deletes the expression “in the Republic excluding the Territory, in the
case of a person referred to in subparagraph (i), or in the Territory, in the case of a person referred to in subparagraph (ii)” in subsection (11) (f); paragraph (c) deletes the expressions “in the Republic excluding the Territory,” and “or in the Territory to any accountant who on 1 May 1960,” in subsection (11) (g); paragraph (d) deletes the expression “the Territory or” in subsection (12) (c); paragraph (e) (i) deletes the word “or” at the end of subsection (12) (e) (i); paragraph (e) (ii) deletes subsection (12) (e) (ii); and paragraph (e) (iii) deletes the expression “in the Republic excluding the Territory, in the case of a person referred to in subparagraph (i), or in the Territory, in the case of a person referred to in subparagraph (ii),” in subsection (12).

Repeals section 85 of the Attorneys Act, No. 53 of 1979.

TEMPORARY EMPLOYEES PENSION FUND ACT, NO. 75 OF 1979


RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 80 OF 1979


INCOME TAX ACT, NO. 104 OF 1979

Amends section 1 (b) of the Income Tax Act, No. 104 of 1979, by deleting the expression “elsewhere than in the territory of South-West Africa”.

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 67 OF 1980


INCOME TAX ACT, NO. 29 OF 1980

Amends section 1 (b) of the Income Tax Act, No. 29 of 1980, by deleting the expression “elsewhere than in the territory of South-West Africa”.

RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 29 OF 1981


SECOND RAILWAYS AND HARBOURS ACTS AMENDMENT ACT, NO. 60 OF 1981

Repeals section 11 of the Second Railways and Harbours Acts Amendment Act, No. 60 of 1981.

INCOME TAX ACT, NO. 96 OF 1981
Amends section 1 (b) of the Income Tax Act, No. 96 of 1981, by deleting the expression “elsewhere than in the territory of South-West Africa”.

SOUTH AFRICAN TRANSPORT SERVICES AMENDMENT ACT, NO. 6 OF 1982


INCOME TAX ACT, NO. 91 OF 1982

Amends section 1 (b) of the Income Tax Act, No. 91 of 1982, by deleting the expression “elsewhere than in the territory of South-West Africa”.

SOUTH AFRICAN TRANSPORT SERVICES AMENDMENT ACT, NO. 13 OF 1983


UNIVERSITIES AMENDMENT ACT, NO. 83 OF 1983

Amends section 5 of the Universities Amendment Act, No. 83 of 1983, by deleting paragraph (e).

SOUTH AFRICAN TRANSPORT SERVICES AMENDMENT ACT, NO. 5 OF 1984

Repeals section 14 of the South African Transport Services Amendment Act, No. 5 of 1984.

SECOND SOUTH AFRICAN TRANSPORT SERVICES AMENDMENT ACT, NO. 93 OF 1984


MEMBERS OF PARLIAMENT AND POLITICAL OFFICE-BEARERS PENSION SCHEME ACT, NO. 112 OF 1984

Amends section 1 of the Members of Parliament and Political Office-bearers Pension Scheme Act, No. 112 of 1984, by deleting the definition of “Administrator-General”.

Amends section 3 (1) (a) (ii) of the Members of Parliament and Political Office-bearers Pension Scheme Act, No. 112 of 1984, by deleting the expression “, Administrator-General”.

SOUTH AFRICAN TRANSPORT SERVICES AMENDMENT ACT, NO. 44 OF 1985

SOUTH AFRICAN TRANSPORT SERVICES AMENDMENT ACT, NO. 46 OF 1986


MOTOR VEHICLE ACCIDENTS FUND ACT, NO. 84 OF 1986 . . . . .

[Repealed by s. 27 (1) (b) of Act No. 56 of 1996.]

SOUTH AFRICAN TRANSPORT SERVICES AMENDMENT ACT, NO. 91 OF 1987


SEA FISHERY ACT, NO. 12 OF 1988 . . . . .

[Repealed by s. 84 of Act No. 18 of 1998.]

MUNICIPAL ACCOUNTANTS ACT, NO. 21 OF 1988

Amends section 4 (4) of the Municipal Accountants Act, No. 21 of 1988, by deleting the expression “or from the territory of South-West Africa”.

SCIENTIFIC RESEARCH COUNCIL ACT, NO. 46 OF 1988

Amends section 1 of the Scientific Research Council Act, No. 46 of 1988, by deleting the definition of “Republic”.


MULTILATERAL MOTOR VEHICLE ACCIDENTS FUND ACT, NO. 93 OF 1989 . . . . .

[Repealed by s. 27 (1) (b) of Act No. 56 of 1996.]

MIER RURAL AREA ACT (HOUSE OF REPRESENTATIVES), NO. 90 OF 1990

Amends Schedule 2 to the Mier Rural Area Act (House of Representatives), No. 90 of 1990, by substituting the word “Namibia” for the expression “South-West Africa”.

Repealed Act
Act 9 of 1927 has been repealed by s 50 of Act 8 of 1997
Repealed Act

Act 9 of 1927 has been repealed by s 50 of Act 8 of 1997
Repealed Act

Act 9 of 1927 has been repealed by s 50 of Act 8 of 1997
Repealed Act

Act 3 of 1952 has been repealed by s 103 of Act 103 of 1996
Repealed Act
Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005
Repealed Act

Act 3 of 1952 has been repealed by s 103 of Act 103 of 1996
Repealed Act
Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005
Repealed Act

Act 3 of 1952 has been repealed by s 103 of Act 103 of 1996
Repealed Act
Act 103 of 1996 has been repealed by s 97 of Act 36 of 2005
Repealed Act

Act 39 of 1952 has been repealed by s 1 of Act 49 of 1996
Repealed Act

Act 39 of 1952 has been repealed by s 1 of Act 49 of 1996
Repealed Act

Act 61 of 1955 has been repealed by s 76 of Act 101 of 1997
Repealed Act

Act 61 of 1955 has been repealed by s 76 of Act 101 of 1997
Repealed Act

Act 54 of 1956 has been repealed by s 163(1) of Act 36 of 1998
Repealed Act

Act 54 of 1956 has been repealed by s 163(1) of Act 36 of 1998
Repealed Act
Act 54 of 1956 has been repealed by s 163(1) of Act 36 of 1998

Repealed Act

Act 54 of 1956 has been repealed by s 163(1) of Act 36 of 1998

Repealed Act

Act 54 of 1956 has been repealed by s 163(1) of Act 36 of 1998

Repealed Act

Act 54 of 1956 has been repealed by s 163(1) of Act 36 of 1998

Repealed Act

Act 54 of 1956 has been repealed by s 163(1) of Act 36 of 1998

Repealed Act

Act 15 of 1959 has been repealed by s 26 of Act 23 of 2001

Repealed Act

Act 15 of 1959 has been repealed by s 26 of Act 23 of 2001

Repealed Act

Act 15 of 1959 has been repealed by s 26 of Act 23 of 2001

Repealed Act

Act 38 of 1959 has been repealed by s 23(1) of Act 8 of 1999

Repealed Act

Act 79 of 1959 has been repealed by s 73 of Act 52 of 1998

Repealed Act

Act 79 of 1959 has been repealed by s 73 of Act 52 of 1998

Repealed Act

Act 79 of 1959 has been repealed by s 73 of Act 52 of 1998

Repealed Act

Act 6 of 1962 has been repealed by s 19 of Act 43 of 1996

Repealed Act

Act 6 of 1962 has been repealed by s 19 of Act 43 of 1996

Repealed Act

Act 6 of 1962 has been repealed by s 19 of Act 43 of 1996

Repealed Act
Act 6 of 1962 has been repealed by s 19 of Act 43 of 1996
Repealed Act

Act 6 of 1962 has been repealed by s 19 of Act 43 of 1996
Repealed Act

Act 6 of 1962 has been repealed by s 19 of Act 43 of 1996
Repealed Act

Act 6 of 1962 has been repealed by s 19 of Act 43 of 1996
Repealed Act

Act 6 of 1962 has been repealed by s 19 of Act 43 of 1996
Repealed Act

Act 56 of 1954 has been repealed by s 36 of Act 108 of 1993
Repealed Act

Act 56 of 1954 has been repealed by s 36 of Act 108 of 1993
Repealed Act

Act 10 of 1965 has been repealed by s 73 of Act 52 of 1998
Repealed Act

Act 10 of 1965 has been repealed by s 73 of Act 52 of 1998
Repealed Act

Act 10 of 1965 has been repealed by s 73 of Act 52 of 1998
Repealed Act

Act 37 of 1967 has been repealed by s 33 of Act 65 of 1996
Repealed Act

Act 37 of 1967 has been repealed by s 33 of Act 65 of 1996
Repealed Act

Act 37 of 1967 has been repealed by s 33 of Act 65 of 1996
Repealed Act

Act 85 of 1967 has been repealed by s 106 of Act 42 of 2002
Repealed Act

Act 85 of 1967 has been repealed by s 106 of Act 42 of 2002
Repealed Act

Act 85 of 1967 has been repealed by s 106 of Act 42 of 2002
Repealed Act
Act 85 of 1967 has been repealed by s 106 of Act 42 of 2002
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ATTORNEYS ACT
NO. 53 OF 1979

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THE NATAL LAW SOCIETY

The following Rules of the Natal Law Society have been made by the Council in terms of section 74 (1) of Act 53 of 1979 and, after having been approved by the majority of members at a General Meeting, and by the Chief Justice of South Africa, were published in Government Gazette No. 6316 dated 2 March 1979, and have since been amended by:

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1. General Conduct of Corruption

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1. Definitions.—In these Rules, unless the context otherwise indicates or a contrary definition is set out hereunder, words or phases have the meanings defined in the Act, and

“accountant” means a person who is registered as an accountant and auditor in terms of the Public Accountants’ and Auditors’ Act, No. 80 of 1991, and who practises as a public accountant as defined in that Act;
“accounting period” means—

(a)

a period not exceeding six months in duration, the first period commencing on the expiry of the immediately preceding closing date of the accounting records of the firm after the commencement of this rule and each period thereafter commencing on the expiry of the immediately preceding period;

(b)

where there is no such immediately preceding period a period not exceeding six months in duration, the first period commencing on the date on which this rule applies to the firm or, having ceased to apply, applies again to that firm and each period thereafter commencing on the expiry of the immediately preceding period;

“accounting records” means the records which a firm is required to keep in terms of Rule 20;

“Act” means the Attorneys Act (Act 53 of 1979);

“balancing of books” means the preparation and bringing to a balance a trial balance being a schedule or list of balances both debit and credit extracted from the accounts in both business and trust ledgers and including the reconciled cash book balances;

“BLA” means the Black Lawyers Association, a voluntary Association of Lawyers;

“business account transactions” means transactions in regard to which records are required to be kept in terms of Rule 20;

“Constituency” means either (a) BLA; or (b) NADEL; or (c) Attorneys who are not members of BLA or NADEL;

“Council” means the Council of the Society;

“Complaints Committee” means a committee appointed in terms of section 67 (1) of the Act;

“enquiry” means a disciplinary enquiry held by the Council or a Complaints Committee;
“firm” means two or more members practising in partnership, a member practising for his own account or a professional company as defined in the Act;

“Greater Durban” means the Magisterial Districts of Durban, Pinetown, Chatsworth and Verulam;

“member” means a person who by virtue of section 57 of the Act is a member of the Society;

“NADEL” means the National Association of Democratic Lawyers, a voluntary Association of Lawyers;

“partner” includes the shareholders of a professional company as defined in the Act;

“person” includes a firm and body corporate;

“President” and “Vice-President” means respectively the President and either Vice-President of the Society;

“Secretary” means the Secretary appointed in terms of Rule 11 and shall include any acting, deputy or assistant secretary;

“Society” means the Natal Law Society;

“subscription” means a subscription in terms of Rule 19;

“trust account transactions” means transactions in regard to which records are required to be kept in terms of Rule 21;

“trust banking account” means a banking account kept by an attorney in terms of section 78 (1) of the Act;

[Definition of “trust banking account” substituted by GG 29173 of 8/9/2006.]

“trust cash” means any cash held in trust by a firm other than in a trust banking account or in a trust investment account;

“trust creditor” means a person on whose account money is held or received as contemplated by section 78 (1) or invested as contemplated by section 78 (2) or 78 (2A) of the Act;

“trust investment account” means and includes all accounts kept by a firm in terms of section 78 (2) (a) or 78 (2A) of the Act;

[Definition of “trust investment account” substituted by GG 29173 of 8/9/2006.]
“trust money” means money held or received on account of any person as contemplated by section 78 (1) or invested as contemplated by section 78 (2) or 78 (2A) of the Act;

“trust savings account” means a savings or interest bearing account kept by a member in terms of section 78 of the Act;

“year” means the financial year of the Society.

Repealed Act

Act 80 of 1991 has been repealed by s 58 of Act 26 of 2005

2. The Council.—

(a)

The affairs of the Society shall be managed and controlled by the Council of the Society which shall consist of 20 members, of whom 5 shall be attorneys who are members of BLA; S shall be attorneys who are members of NADEL and 10 shall be members who are not members of BLA or NADEL;

(b)

Of the 10 non-ELA and non-NADEL members of the Council, 5 shall be members practising in Greater Durban, 3 shall be members practising in the Pietermaritzburg Magisterial District and 2 shall be members practising elsewhere in the Province of Natal, as it existed prior to the adoption of the Interim Constitution, Act 200 of 1993;

(c)

Of the S BLA and 5 NADEL members of the Council, at least 1 each shall be members practising in Greater Durban, at least 1 each shall be members practising in the Pietermaritzburg Magisterial District and at least 1 each shall be members practising outside Greater Durban and outside the Pietermaritzburg Magisterial District.

3. Annual General Meetings.—

(a)

A general meeting of the members of the Society shall be convened annually by the Council.

(b)
An annual general meeting shall be held at a time, date and place fixed by the Council provided that it shall take place not less than 10 calendar months and not more than 13 calendar months after the date of the last preceding annual general meeting.

(c)

Notice of every annual general meeting shall be posted by the Secretary to each member of the Society at least 49 days before the date of the meeting.

(d)

Such notice shall state the time, date and place of the meeting and the business to be transacted at the meeting, which shall include—

(i) confirmation of the Minutes of the previous meeting;

(ii) the consideration of the President’s report for the preceding year and matters arising therefrom;

(iii) the consideration and adoption, with or without modification, of the financial statements of the Society for the preceding year and the remuneration of the auditor;

(iv) the appointment of an auditor;

(v) the result of the election of Councillors if any elections have been held that year;

(vi) the consideration and transaction of any special business of which due notice has been given by any member in terms of subrule (g) of this Rule;

(vii) the consideration and transaction of any special business which the Council wishes to submit to the meeting;
the consideration of any other matter which the Chairman may allow to be raised for discussion, provided that no such matter shall be voted upon at the meeting.

(e)

The President’s report on the events of the preceding year shall be posted by the Secretary to each member of the Society at least 21 days before the date of the meeting. The report shall contain or be accompanied by the audited financial statements of the Society, and a list of Councillors indicating the number of meetings attended by each Councillor during the year.

(f)

The order of the business at an annual general meeting shall, unless varied by the Chairman with the approval of the meeting, be the order set out in the notice of meeting.

(g)

Notice in writing of any special business which a member wishes to have considered at the annual general meeting shall be given to the Secretary at least 32 days before the date of the meeting. Such notice shall contain the motion to be proposed. Notice of such special business shall be posted to each member by the Secretary at least 21 days prior to the date of the meeting.

4. Special General Meetings.—

(a)

The Council may at any time and shall within 14 days of receiving a written requisition therefore, signed by not less than 20 members, convene a special general meeting of which written notice of not less than 21 days shall be posted to all members of the Society, save that in a case of urgency, of which the Council shall be the sole judge, the Council may give shorter notice.

(b)

The notice shall state the time, place, date and purpose of the meeting and the motion to be proposed. No other business shall be transacted at the meeting, save that the Chairman may in his discretion permit other matters to be discussed provided that no such matter shall be voted upon at the meeting.

5. Provisions Common to General Meetings.—

(a)
The quorum at the general meeting shall be 50 members present in person.

(b) If within half-an-hour after the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to a day not earlier than 14 days and not later than 21 days after the date of the meeting and if at such adjourned meeting a quorum is not present within half-an-hour after the time appointed for the meeting the members present in person or by proxy shall be a quorum.

(ii) Where a meeting has been adjourned as aforesaid the President whom failing, the senior vice-president shall fix a time, date and place for the reconstituted meeting and the Secretary shall, not less than 7 days before the date to which the meeting has been adjourned, send a written notice to each member stating the time, date and place of the meeting.

(c) A general meeting at which a quorum is present may be adjourned to a time, date and place decided by such meeting.

(d) The following rules of debate shall be observed at all general meetings:

(i) Except with the consent of the Chairman, no member shall be permitted to speak more than once on the same question, save that the mover of any motion shall be entitled to speak in reply.

(ii) The mover of a motion shall not speak for more than 15 minutes and any other member may not speak for more than 10 minutes, provided that the Chairman may extend such periods by such time as he may decide.

(iii) Whenever an amendment to a motion has been moved and seconded, no further amendment shall be moved or seconded until the first amendment has been disposed of.
If any amendment is carried, the motion as amended shall take the place of the original motion and shall become the question on which any further amendment may be moved.

(iv)

The Chairman may call the attention of the meeting to any unbecoming language or a breach of order or discipline on the part of a member and may direct such member to discontinue his speech or to leave the meeting.

(v)

If a member who has given proper notice of a motion is not present and has not withdrawn the motion, any member present may, with the consent of the Chairman, propose the motion as if the notice had been given by him.

(vi)

No member whose subscription is in arrear for more than 2 months shall be entitled to vote or be present at a general meeting.

(vii)

All matters shall be decided by a majority of members voting in person or by proxy.

(viii)

The vote shall be taken in the manner directed by the Chairman.

(ix)

If the votes are equal the Chairman shall be entitled to a second or casting vote.

(x)

No vote shall be taken on any motion constituting special business in terms of Rules 3 (d) (vi) or 3 (d) (vii) unless due notice shall have been given in terms of these Rules.

(e)

A proxy holder shall be a member.

(f)

A proxy shall remain in force only for the particular meeting for which it is given and for any adjournment thereof.
(g) A proxy shall be in such form as may be laid down by the Council from time to time and shall be in the form set out in the First Schedule hereto.

(h) No proxy form shall be acted upon unless it is signed by the person granting such proxy and delivered to the Secretary at least 24 hours before the time fixed for the meeting at which it is intended to be used.

(i) The President failing whom a Vice-President nominated by the Council, failing whom a member of the Council appointed by the Council, failing whom a member appointed by the meeting, shall be the Chairman of a general meeting.

6. Election of Councillors.—

(a) Councillors shall hold office for a period of two years until the conclusion of the next but one ensuing annual general meeting, at which they shall be eligible for re-election.

(b) No person shall be eligible for election as a member of the Council unless such person—

(i) is a member who has practised as an attorney for at least 2 years; and

[Sub-para. (i) amended by GG 24093 of 29/11/2002.]

(ii) conducts his practice at an office situate in the area for which he is nominated.

(c) A candidate for election shall be nominated in writing over the signature of two members and such nomination shall be accepted in writing by the candidate over his signature or that of his duly authorised representative. The nomination shall be in the form set out in the Second Schedule hereto.

(d)
The nomination of a candidate must be delivered to the Secretary not less than 32 days prior to the date upon which the annual general meeting of the Society is to be held.

(e)

If less than the required number of nominations is received for any constituency, the remaining Councillors shall have the power at any time to appoint a member who represents the relevant geographic area and constituency and has been nominated by that constituency to fill the vacancy, provided that the member so appointed is eligible to fill the vacancy.

(f)

If no greater number of candidates is duly nominated than the number to be elected for an area and constituency, the candidates nominated shall be deemed to be duly elected at the conclusion of the annual general meeting at which the election takes place.

(g)

When there are more candidates than vacancies for members of the Council in terms of Rule 2, the election or elections shall be by ballot which shall take place as follows:

(i)

Twenty-one clear days at least before the date of the annual general meeting the Secretary shall send by post to each member a ballot voting paper for each area in which a ballot is necessary accompanied by a blank envelope, an identification envelope and an envelope bearing the address of the Secretary and the words “Voting paper/s”.

(ii)

The identification envelope shall have printed on the face of it a declaration substantially in the following form:

I (state name)
of (state address)
being a member of the Natal Law Society do hereby declare that I am the person to whom the enclosed voting paper/s is/were addressed, that I am entitled to vote and that I have not returned any other voting papers in this election.

(Signature of Voter)

Signed at

this day of 19
The ballot voting paper shall contain for each area and constituency the names of the candidates nominated for election in alphabetical order and the number of candidates to be elected for the area and every member receiving ballot voting papers and entitled to vote shall record his choice of candidates thereon by making a cross against the names of the candidates for whom he desires to vote.

A voter shall place his completed ballot voting papers in the blank envelope, seal that envelope and place that envelope in the identification envelope, seal that envelope, sign the declaration thereon and transmit it by post to the Secretary or otherwise deliver it to the Secretary, in the envelope addressed to him, so as to reach him by not later than 09h00 on the day preceding that of the annual general meeting.

The Secretary shall retain, unopened, all identification envelopes and shall deliver the same upon the last date fixed for the receipt of voting papers to the scrutineers, who shall be members appointed by the President after the close of nominations. No candidate and no proposer or seconder of a candidate may be appointed as a scrutineer.

After 09h00 on the date preceding the Annual General Meeting the scrutineers shall:

- examine the identification envelopes and the declarations thereon and reject and leave unopened those identification envelopes on which the declarations have not been completed in accordance with subrule (g), or have been completed by persons not qualified to vote;

- open those identification envelopes which they have not rejected;

- extract from the identification envelopes the blank envelopes containing the ballot voting papers and insert them into a closed ballot box;
open the ballot box, and thereafter open in turn each blank envelope and examine all completed ballot voting papers contained therein, for each area for which an election is to be held;

(v)

in the event of an envelope containing more than one completed ballot voting paper for a particular area the scrutineers shall reject all papers in the envelope relating to such area.

(j)

The remaining ballot voting papers shall then be examined by the scrutineers and any ballot voting papers shall be spoilt and be rejected by the scrutineers if:

(i)

more crosses are recorded on it than the number of Councillors required for that area and constituency, or

(ii)

it is otherwise rendered unintelligible; or

(iii)

it is otherwise not completed in accordance with these Rules.

(k)

After counting the votes the scrutineers shall prepare a report in which they shall record:

(i)

the name of each candidate nominated for election in each area and constituency and the total number of votes cast in favour of each candidate in descending numerical order;

(ii)

the total number of voting papers received;

(iii)

the number (if any) of voting papers rejected; and shall deliver such report to the Secretary.
Upon receipt of the scrutineers’ report the Secretary shall forthwith arrange for that report to be delivered to the Chairman to preside at the annual general meeting, who, after having satisfied himself that such report is complete and regular on the face of it, shall declare the result of the election to the annual general meeting. Such declaration shall be final and binding notwithstanding any irregularity or informality.

(m)

In the event of an equality of votes, the candidates having an equal number shall draw lots at the annual general meeting and in the event of a candidate being absent the President or some other person nominated by him shall draw the lot of the absent candidate.

7. Election of Office Bearers.—

(a)

At the first meeting of the Council after the annual general meeting the Council shall elect from amongst the Councillors—

(i)
a President;

(ii)
three Vice-Presidents;

(iii)
the Chairman and the members of each of the standing committees referred to in Rule 10; to hold office until the next election of office bearers in the following year, provided that the Council may defer the election of any office bearer to a later meeting of the Council.

(b)

An office bearer referred to in paragraph (a), shall cease to hold office if he resigns by giving written notice to the Secretary or if he ceases to be a Councillor.

(c)

If any vacancy occurs in any such office the Council shall fill such vacancy and in doing so shall have due regard to the provisions of section 63 of the Act.

8. Proceedings of the Council.—
Ordinary meetings of the Council shall be held on the first Friday of each month but the Council may postpone or advance the date of any meeting.

Any three Councillors may, by written notice, request the President to convene a special meeting of the Council to consider any special business. Such requisition shall contain details of the business to be conducted at the meeting. The meeting shall be convened in the manner provided for in Rule 3 (d) hereof.

The President or any of the Vice-Presidents may call a special meeting of the Council by giving notice thereof at least one clear day prior to the date of the proposed meeting.

The Secretary shall post or deliver to all Councillors an agenda of the business to be conducted at each ordinary meeting of the Council at least seven days prior to the date of the meeting.

A Councillor shall not be entitled, save with the leave of the Chairman, to introduce a matter for discussion at such meeting which does not appear on the agenda.

The Chairman of all meetings of the Council shall be the President, whom failing a Vice-President, whom failing a Chairman elected at the meeting.

Save as otherwise provided in these Rules, 12 Councillors shall constitute a quorum.

In default of a quorum after the lapse of 15 minutes beyond the time fixed for the commencement of the meeting, the Chairman may adjourn the meeting to a date and time fixed by him.
Subject to the provisions of Rules 9 (c) and 15 (e), all questions discussed at a meeting of the Council shall be decided by a majority of the Councillors there present and voting in person. The Chairman shall, in the event of an equality of votes, have a second or casting vote in addition to his vote as a Councillor. Every Councillor present when a vote is taken must record his vote.

(j)

No Councillor shall be entitled to speak more than once on any matter raised for debate save with the leave of the Chairman.

(k)

The Council shall cause Minutes to be kept of all business conducted at Council meetings.

(l)

A Councillor shall not, by reason of his office, be precluded from contracting with the Council and the Council may remunerate or compensate any Councillor for any services performed by him on behalf of the Council or in the interests of the Society and may pay allowances as compensation for any travelling, subsistence or other expenses incurred by such Councillor on behalf of or in the interests of the Council or the Society.

9. Resignation, Suspension and Disqualification of Councillors.—

(a)

A Councillor shall cease to hold office as such—

(i) upon receipt by the Council of his resignation in writing,

(ii) upon his suspension from practice or removal from the roll as an attorney;

(iii) upon his ceasing to be a member;

(iv) upon the sequestration or surrender of his estate as insolvent;
upon his absenting himself without leave from all meetings of the Council held over a period of 3 consecutive calendar months;

upon the Council resolving that he be removed from office.

(b)

The Council may suspend any Councillor from office and may restore to office any Councillor who has been suspended.

(c)

No resolution for the removal or suspension of a Councillor shall be acted upon unless at least 15 Councillors are present at the meeting at which the resolution is voted upon and at least two-thirds of such Councillors vote in favour of the resolution.

10. Committees.—

(a)

The Standing Committees of the Council shall be—

(i) The Finance Committee

(ii) The Durban Library Committee

(iii) The Pietermaritzburg Library Committee

(iv) A Complaints Committee or Committees.

(v) The Examining Committee.
(b) The Finance Committee shall be responsible for the management of the finances of the Society and it shall submit a financial report to the Council at monthly intervals.

(c) The Library Committees in conjunction with the Secretary shall be responsible for the administration and control of the Council’s libraries in Durban and Pietermaritzburg.

(d) The Complaints Committees shall be responsible for attending to matters of discipline.

(dA) The Examining Committee shall be responsible for *inter alia* the examination of articles of clerkship, contracts of service, cessions of articles of clerkship and contracts of service, the admission and readmission of practitioners, changes in law firms, and considering the circumstances concerning the absence from the office by single practitioners and Rule 21A and 21B reports.

[Para. (dA) amended by GG 27370 of 18/03/2001.]

(e) The Council may constitute, re-constitute or dissolve ad hoe committees from time to time and each such committee shall conform to such rules as may be imposed on it by the Council.

(f) Subject to any limitations imposed by the Council, a committee shall have the power to co-opt additional members.

(g) The Council may appoint alternates to the members of a committee. An alternate may attend meetings of the committee to which he is appointed but he may only speak and vote when the member to whom he is an alternate is absent from the meeting.

(h) The quorum necessary for the transaction of the business of a committee may be fixed by the Council and unless so fixed shall be 2 members having the right to vote.
(i)

A committee may meet and adjourn as it thinks fit. Questions arising at any meeting shall be determined by a majority of votes of the members present and entitled to vote and in the event of an equality of votes the Chairman shall have a second or casting vote.

(j)

If at any meeting of a committee the Chairman is not present, the members present may elect one of their number who has the right to vote to be the Chairman of the meeting.

11. Staff.—

(a)

The Council shall appoint a Secretary and may appoint other persons such as it considers necessary to assist the Council in the performance of its duties and it may remunerate them for their services.

(b)

All appointments by the Council shall be upon such terms and conditions as the Council may in its discretion determine and may be terminated as and when the Council sees fit.

12. The Secretary.—

(a)

The Secretary shall be the chief administrative officer of the Society.

(b)

The Secretary shall perform his functions in accordance with the directions of the Council.

(c)

The Secretary shall be the custodian of all books, documents, papers, records, securities, fixtures, furniture, fittings and other moveable assets belonging to or lodged with the Society.

(d)

The Secretary shall keep a record of all proceedings of the Council and of the Society in a minute book or books.
(e) The Secretary shall maintain a Register of all members containing the full names and business addresses of each member.

(f) The Secretary shall prepare all documents, conduct all correspondence and perform all of the functions appertaining to his office.

(g) The Secretary shall, in addition to his other duties, be the Treasurer of the Society and he shall—

   (i) promptly deposit all moneys received by the Society to the credit of an account in the name of the Society at a bank or building society designated for that purpose by the Council.

   (ii) keep proper accounts of the income and expenditure and of the assets and liabilities of the Society.

13. Notices.—Any notice in writing addressed by the Council or by the Secretary to any firm at the address notified by that firm to the Secretary, shall be deemed to have been validly given and any such firm shall be deemed to have received such notice—

   (i) on the fourth day following its posting by prepaid post; or

   (ii) on physical delivery thereof at such address.

14. Misconduct.—

   (a) The Council may from time to time publish to its members guidelines in the form of rulings concerning the standards of conduct to which it expects members to adhere.

   (b)
Unprofessional, dishonourable or unworthy conduct on the part of a member shall, without restricting the generality of those terms, include:

(i) A breach of faith or trust in relation to his client or in relation to any estate of which he is executor, administrator, trustee, liquidator, receiver, or curator.

(ii) Withholding the payment of trust moneys without lawful excuse.

(iii) Failing within a reasonable time to respond to an enquiry from a person to whom he owes a duty to reply.

(iv) Failing within a reasonable time to render his client a detailed statement of account after being called upon to do so.

(v) Failing without good cause to wind up a deceased estate without undue delay.

(vi) Conduct direct or indirect in the course of his/her practice, which may reasonably be regarded as likely to attract business unfairly.

[Sub-para. (vi) amended by GG 27370 of 18/03/2005.]

(vii) Carrying on practice at an office which is not under the direct and personal supervision of—

(aa) the member, or

(bb) a partner of the member, or
a practitioner who is employed by the member.

Giving or taking allowances in contravention to these rules.

Subject to the Council’s permission sharing offices with a person who is not required to take out a certificate in terms of section 42 of the Act.

[Sub-para. (ix) amended by GG 27370 of 18/03/2005.]

In any way assisting, allowing or enabling an unqualified person to charge, recover or receive any fee, or derive any remuneration for, in respect of or in connection with the preparation or execution of any document, or the performance of any professional work which only an attorney, notary or conveyancer, as the case may be, is qualified by law to prepare, sign, execute, attest or perform, or in any way conniving at any arrangement, agreement or understanding whatsoever whereby any such fee or remuneration as aforesaid is or shall be charged, recovered or received, by any such unqualified person.

Failing to pay within a reasonable time the reasonable fees and disbursements of any attorney, notary or conveyancer or of any legal practitioner in a foreign jurisdiction in respect of work entrusted to such practitioner by him unless—

(aa)

at the time of giving initial instructions in regard to such work, he advised such practitioner that he did not hold himself responsible for the payment of such fees and disbursements; or

(bb)

payment is withheld for a reason which the Council deems good and sufficient.

Claiming in a letter of demand payment of costs of demand or collection commission unless the debtor is under a legal obligation to pay such costs or commission.
Seeking to recover by reason of an agreement from a third party, fees in an amount greater than the normal and usual fee which that member would have expected and have been entitled to receive from his own client if there had been no such agreement.

Any material breach of the provisions of the Act or of these Rules.

Touting, otherwise than as permitted in terms of Rule 14 (d).

Failing to comply with any Rule of the International Code of Ethics of the International Bar Association, as amended from time to time, and which are set out in the Eighth Schedule to these Rules, save where the Rule is in conflict with, or is superseded by a Rule of this Society or a Ruling of the Council.

Soliciting or requesting instructions from any source in exchange for payment directly and/or indirectly of any consideration, gift, allowance, reward or benefit.

Endeavouring to secure work or favourable treatment unfairly by conferring a benefit, or offering to confer a benefit, upon a person who, by reason of his office, employment or relationship of agency is in a position to influence the flow of work to the member, or to exercise a power in favour of the member or the member’s client.

For the purposes of this sub-paragraph the expression “benefit” includes:

(aa)
A donation in cash or kind other than a gift given on an occasion when gifts are customarily given, provided that the gift is of such a value that it is unlikely to exert an undue influence on the recipient;

(bb)

A disposition made or service provided for a consideration that is inadequate in relation to the value thereof

(cc)

Sharing with a person who is not a member any advertising or promotional costs intended to attract work to the member and/or a person who is not an attorney.

(dd)

Payments made to an estate agent or mortgage bond originator or any person or body for work done or services rendered that would normally be done by a legal practitioner in the performance of a mandate received from a bank or a client.

[Sub-para. (xix) inserted by GG 25217 of 25/7/2003.]

(xx)

Borrowing money from a client, unless that client is independently represented in the transaction, or it is a part of the client’s normal business to lend money.

[Sub-para. (xx) inserted by GG 25217 of 25/7/2003.]

(xxi)

Lending money to a client unless:

(aa)

the terms and conditions of the loan are recorded in writing, and

(bb)

the client is advised in writing that the client may seek independent advice in respect of the conditions of the loan and the interest rate charged; or

(cc)

the client is independently represented in accepting the loan.
Acting on the instructions of an organisation or person, not being a practising attorney, unless the relationship between the member and the person on whose behalf instructions are given is properly a relationship of attorney and client and:

(aa)

Instructions thereafter are received directly from such client;

(bb)

The member’s costs and charges are payable by such client; and

(cc)

The member’s independent professional judgement is exercised on behalf of such client without outside interference or control.

Conduct contemplated and prescribed in Sections 3 to 8 of the Prevention and Combating of Corrupt Activities Act, 2004, Act 12 of 2004, where such conduct is committed by a member in the course of his/her practice.

Conduct described in the Eleventh Schedule.

Failing to comply with any Rule of the Code of Ethics for Legal Practitioners, as amended from time to time, and which are set out in the Thirteenth Schedule to these Rules, save where the Rule is in conflict with, or is superseded by a Rule of this Society or a Ruling of the Council.
(d) Subject to the provisions of Rule 14 (b) (vi), a member may publicise the member’s practice, or permit another person to do so, provided that the member, or such other person, shall—

(i) not attract work unfairly,

(ii) not do anything which compromises or impairs, or is likely to compromise or impair—

(aa) the member’s independence or integrity;

(bb) the client’s freedom to instruct an attorney of the client’s choice;

(cc) the member’s duty to act in the best interest of the client;

(dd) the member’s good reputation or that of the attorney’s profession;

(ee) the member’s proper standard of work;

(iii) not advertise jointly with a non-attorney,
not pay any of the advertising costs of a non-attorney,

be entitled to advertise informatively only e.g. the advertisements may contain the name and address details of the member’s firm, the names of the professional employees of the firm and the areas of law in which they practise.

[Para. (d) substituted by GG 29669 of 9/03/2007.]

15. Disciplinary Rules.—

(a)

(i)

The Council may itself exercise the disciplinary powers set out in the Act, or it may assign all or any such powers to a complaints committee or committees or to an ad hoc enquiry committee or committees appointed by it in terms of Rule 10;

(ii)

subject to the provisions of section 71 of the Act and to any resolution of the Council, the Chairman of a complaints committee shall determine the manner in which it shall discharge its duties.

(b)

Subject to any limitation imposed by a resolution of the Council when assigning its duties, or any variation thereof, a complaints committee shall have the following powers, namely—

(i)

to determine the information to be furnished by the Secretary to a complainant who intends to lodge a complaint and the assistance to be given by the Secretary to a complainant who for good cause cannot lodge a complaint unaided;

(ii)

before it investigates any complaint, to require a complainant to make his complaint formally in writing and to vent it by affidavit;

(iii)

to require the complainant to furnish such further evidence, written or oral, documentary or otherwise, as it may require;
to furnish the member in respect of whom a complaint has been received with such particulars of the complaint as may be necessary to enable him to reply;

(v)

to investigate mero motu the conduct of any member, to draw up a pro forma complaint and to exercise in respect of that complaint, the same power as it has with regard to any other complaint;

(vi)

to direct the member against whom the complaint has been made to reply in writing to the Secretary within a stipulated time;

(vii)

to direct the member against whom the complaint is made to verify his reply by affidavit;

(viii)

to direct the member against whom the complaint is made to furnish such further evidence, written or oral, documentary or otherwise, as it may require;

(ix)

to refer the member’s reply to the complainant and to request the complainant to comment on the members reply by a stipulated date and to verify such comment on affidavit.

[Sub-para. (ix) inserted by GG 27370 of 18103/2005.]

(x)

to require the member to appear before it;

[Sub-para. (x) amended by GG 27370 of 18/03/2005.]

(xi)

to dismiss a complaint which in its opinion does not prima facie or on consideration of the member’s reply disclose unprofessional, dishonourable or unworthy conduct.

[Sub-para. (xi) amended by GG 27370 dated 18/03/2005.]
(c) If after consideration of a complaint, the member’s reply, and the complainant’s comments, the Complaints Committee is of the view—

(i) that the complaint disclosed a *prima facie* case of unprofessional, dishonourable or unworthy conduct, the Committee shall—

(aa) inform the member of the Committee’s decision and give the member the option of accepting the Committee’s decision or of rejecting the decision and making further submissions in terms of Rule 15 (cA) or of calling for an enquiry, or

(bb) refer the matter to the Council together with its report and recommendations, and

(cc) inform the complainant of its decision.

(ii) That the complaint does not *prima facie* disclose unprofessional, dishonourable or unworthy conduct, the Committee may dismiss the complaint and inform the complainant of its decision.

[Sub-para. (ii) substituted by GG 27370 of 18/03/2005.]

(cA) Where the Complaints Committee has reached a decision in terms of sub-rule (c) (i), the member shall, in addition to being entitled to demand an enquiry, also be entitled to apply to the Complaints Committee in writing and on oath to re-open the matter solely on the grounds that new evidence has come into the member’s possession after the Complaints Committee had reached its decision. On such grounds alone the Complaints Committee may, if satisfied on the balance of probabilities that the new evidence may alter its decision, call on the complainant to comment on the new evidence and thereafter confirm or rescind its previous decision and, if it rescinds its previous decision, reach a new decision and notify the member and the complainant of the confirmation of its previous decision or of its new decision.

(d)
If the Council decides *mero motu* or on the recommendation of a complaints committee made in terms of subrule (c) (ii) that an enquiry should be held or if a member demands an enquiry in terms of the provisions of subrule (c) (i)—

(i)

the Council shall appoint an ad hoc enquiry committee consisting of a chairperson, who shall be a Councillor, and two other members, two of which committee, one of whom shall be a Councillor (hereinafter called the enquiry committee) shall form a quorum;

[Sub-para. (i) substituted by GG 29173 of 8/09/2006.]

(ii)

the chairperson of the enquiry committee shall, subject to the provisions of the Act and these Rules, determine the manner in which the committee shall discharge its duties and all other matters relating to procedure; provided that, notwithstanding the provisions of Rule 15 (d) (vi) the Enquiry Committee shall conduct the enquiry on an inquisitorial basis;

[Sub-para. (ii) substituted by GG 29173 of 8/09/2006.]

(iii)

the complaints committee which investigated the complaint or the Council, if the Council has decided *mero motu* to hold an enquiry, shall cause a written summons under the hand of the President or the Secretary of the Society to be served upon the member complained against requiring him to appear before the enquiry committee at the time and place and on the date specified in the summons;

(iv)

the summons shall set out the specific charge or charges of unprofessional or dishonourable or unworthy conduct made against the member concerned;

(v)

if during the course of any enquiry it should appear to the enquiry committee that the member may have been guilty of unprofessional, dishonourable or unworthy conduct in respects other than those alleged in the summons, the enquiry committee may amend or add to the charges contained in the summons in which event it shall inform the member of the amended charges and grant such adjournment, if any, as may be necessary to enable the member to prepare his defence;
the Council may appoint an advocate or an attorney or the Secretary to lead evidence, to cross-examine the member complained against and witnesses, and to present argument;

(vii)

the enquiry committee or the Council having decided *mero motu* to hold an enquiry may also cause any other person to be summoned to appear at the enquiry in the manner provided in section 71 (2) of the Act;

(viii)

should the member complained against or any other person required to appear fail to appear pursuant to any summons, the enquiry committee may, after 15 minutes have elapsed since the time for the enquiry, proceed with the enquiry in his absence;

(ix)

if the Chairperson is absent from any meeting of the enquiry committee the remaining members of the committee shall appoint an acting Chairperson who shall be a Councillor from amongst their number and any reference in these Rules to the Chairperson of any enquiry committee shall be deemed to include a reference to an acting Chairperson;

[Sub-para. (ix) substituted by *GG* 29173 of 8/09/2006.]

(x)

the Council may in its discretion remove from office any member of an enquiry committee and it may fill any vacancy occurring in the membership of an enquiry committee;

(xi)

nothing contained in these Rules shall be construed as disqualifying a member of a complaints committee from serving on an enquiry committee.

(xii)

the enquiry shall be open to the public and the media unless the member, or the complainant, can advance compelling reasons to the Enquiry Committee why the enquiry should not be open to the public and the media.

[Sub-para. (xii) inserted by *GG* 29173 of 8/09/2006.]
After completing its enquiry, an enquiry committee shall act in terms of the powers assigned to it by the Council provided that the enquiry committee shall refer the matter to the Council for a decision if the enquiry committee considers that steps should be taken to suspend the member from practice or to strike his name from the roll of attorneys, notaries or conveyancers. No application to suspend a member from practice or to strike his name from the roll shall be made except on the authority of the Council taken at a meeting at which not less than 15 Councillors were present, of whom at least two-thirds have voted in favour of the making of such an application.

(f) Upon finding a member guilty, a complaints committee or an enquiry committee if so authorised may impose a punishment of the nature prescribed in section 72 of the Act and may make such order as to the payment by the member of the costs as it considers just.

(g) Every decision of a complaints committee or an enquiry committee in terms of which a member is found guilty, shall be recorded in writing and be placed before the Council.

(h) The Council, or the complaints committee or the enquiry committee to which the complaint was referred, may publish the decision taken in respect of such complaint in such manner as it may think fit.

(i) If a complaints committee or the Council should decide that a member should be required to appear before it, it may, without prejudice to its rights to cause an enquiry to be held subsequently, caution such member.

(j) A complaints committee or an enquiry committee may summarily enquire into and punish a member for any act or omission on the part of such member which has the effect of obstructing without just cause or unreasonably delaying the investigation of any complaint against such member.

(k) The costs which a member may be ordered to pay shall include all of the costs which the Societyincurs in connection with the complaint made against the member.
The costs of the Society shall be deemed to include a basic charge of R200 in respect of administrative services not otherwise itemised and a charge of R100 per hour for every hour or part thereof during which the Secretary is required to appear before an enquiry committee in terms of Rule 15 (d) (vi).

(m)

Such costs shall be payable by the member forthwith upon the receipt by him of the Society’s bill of costs certified under the hand of the Secretary, provided, however, that should a member be dissatisfied with any item in such bill of costs he shall have the right to appeal to the Council. The member’s appeal shall be in writing advising the item or items complained against and the grounds of his appeal. Should the member wish to appear personally or through an Advocate or Attorney before the Council to argue his appeal he shall have the right to do so provided he gives notice of his intention in the said notice of appeal. The appeal shall be considered by the Council at its next convenient monthly meeting. The appeal shall be summarily and finally determined by the Council at such meeting or at any such further meeting to which it may adjourn the matter.

(n)

Subject to the provisions of the Act, these Rules shall apply, mutatis mutandis, to any proceedings against a candidate attorney, provided that in such proceedings his principal may also be joined as a party charged formally or nominally, as the case may be.

16. Assessment of fees.—

(a)

It shall be competent for the Council or any committee appointed by the Council for that purpose, mero motu, or at the request of any person or member, to assess the fees and disbursements payable to a member in respect of the performance of any work other than litigious work by a member in his capacity as such; provided that the Council or the committee shall not assess fees and disbursements in instances where a state official is empowered to do so or where the work concerned is already covered by a statutory tariff.

(b)

With a view to affording the member reasonable and adequate remuneration for the services rendered by him, the Council or the committee as the case may be, shall, on every assessment, allow all such fees and disbursements as appear to it to have been reasonable for the performance of the work concerned, and in so doing shall take cognisance of the following—

(i)

the amount and importance of the work done;
the complexity of the matter or the difficulty or novelty of the work or the questions raised;

the skill, labour, specialised knowledge and responsibility involved on the part of the member;

the number and importance of the documents prepared or perused without necessarily having regard to length;

the place where and circumstances in which the services or any part thereof were rendered;

the time expended by the member;

where money or property is involved, its amount or value;

the importance of the matter to the client;

the quality of the work done;

the experience or seniority of the member,

[Sub-para. (xi) deleted by GG 27370 of 18/03/2005.]
whether the fees and disbursements have been incurred or increased through overcaution, negligence or mistake on the part of the member.

(c)

At the assessment of any members fees and disbursements, the Council or the committee, as the case may be, may call for the production of such books, documents, papers, or accounts as in its opinion are necessary to enable it properly to determine any matter arising upon such assessment.

(d)

The Council or the committee, as the case may be, shall not proceed to the assessment of the fees and disbursements unless the Secretary of the Society has duly given notice by prepaid registered post to both the member and the person liable to pay the fees, stating the time and place of such assessment and recording that he is entitled to be present and represented thereat, but such notice shall not be necessary if both the member and such person have consented in writing to the assessment in their absence. At the assessment the Council or the committee, as the case may be, shall permit the member and such person to submit their representations and arguments either orally or in writing. After receiving such representations and arguments, the Council or the committee, as the case may be, shall be entitled to reserve its decision. As soon as the Council or the committee, as the case may be, has arrived at its decision, it shall deliver to both the member and such person either by hand or prepaid registered post, a copy of the fee list submitted for assessment, duly endorsed with the allocatur of the Council or the committee, as the case may be, under the hand of the Secretary of the Society. Subject to the provisions of section 74(5) of the Act the fees and disbursements determined in terms of the allocatur shall be deemed to be the reasonable fees and disbursements payable to the member for the services rendered.

(e)

The Council or the committee, as the case may be, shall be entitled in its discretion at any time, to depart from any of the provisions of subrule (b) above, in extraordinary or exceptional eases, where strict adherence to such provisions would be inequitable.

16A. Fees for Conveyancing and Notarial Work.—(1) The fees specified in the Seventh Schedule of these Rules shall serve as a guide to members in connection with the preparation or registration of documents registered or filed, or intended for registration or
filing, in a Deeds Registry referred to in the Deeds Registries Act, No. 47 of 1937, or the Mining Titles Office referred to in the Mining Titles Registration Act, No. 16 of 1967.

16B. **Collapse Fee.**—A member may not charge a fee where a matter which has been set down for hearing collapses for any reason unless the fee:

1. has been agreed to in writing in advance with the client and the client has been informed that the client is not obliged to agree to such a fee;

and

2. is determinable and reasonable and takes into account any work that is actually done by the member after the collapse of the matter but before the end of the period for which the matter had been scheduled to run.


17. **Investment Practices.**—(1) **(a)** 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 or if it controls or manages, whether directly or indirectly, such investment by the collection of interest or capital redemption payments on behalf of investing clients.

**(b)** This Rule shall not apply to—

(i) investments made pursuant to section 78 (2A) of the Act; as contemplated by Section 47 (5) **(a)** of the Act.

(ii) any other investment of a temporary nature that is made in the course of and is incidental to a conveyancing or other matter, including litigation, to which the investing client is a party, or

(iii) investments made by members in their capacities as executors, trustees, curators or in any similar capacities insofar as such investments are governed by any other statutory enactment or regulation.

[Sub-rule (1) substituted by GG 29173 of 8/9/2006.]

(2) A member carrying on an investment practice is required to obtain a certificate from the member’s accountant who will be required to report to the Society in terms of Rule
21A or furnish a report from the trust account partner in terms of Rule 21B to the effect that the member has complied with this Rule.

[Sub-rule (2) substituted by GG 29173 of 8/9/2006.]

(3) A member carrying on an investment practice shall obtain an investment mandate from each client before investing funds for that client. The form of the investment mandate should be substantially in accordance with the form referred to in the Fourth Schedule to these Rules.

(4) Every member carrying on an investment practice shall, not later than 6 months after the financial year end of such member’s firm, supply each client with a schedule reflecting all relevant details of such client’s investments. Such report shall also be made available at any other time upon the reasonable request of a client.

(5) (a) Every member carrying on an investment practice shall, in addition to his normal accounting records, also keep a separate trust account record in respect of each client, which account shall reflect—

(i) payments of all monies entrusted to him from time to time by the client for investment pursuant to the mandate granted by the client in terms of subrule (3);

(ii) payments of all monies invested by him on the clients behalf;

(iii) payments of all amounts, both capital and income, derived from investments and received for the client’s account;

(iv) all payments made by him to the client in respect of the client’s investments, and

(v) all charges paid to the member in respect of services rendered by him to the client pursuant to the client’s mandate in terms of subrule (3).

(b) The accounting records and other supporting documents referred to in paragraph (a) shall be retained by the member in such manner as to enable him to furnish each client upon request with all current details of the client’s investments as recorded in paragraph (a). 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 shall exist for such records to be reproduced in printed form.

(c) All accounting records required to be retained in terms of this subrule and copies of all reports despatched in terms of subrule (4) shall be retained for at least 5 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 member’s other accounting records.

(6) (a) No member may syndicate deposits or other money market investments in any manner other than by accepting funds as agent for each participating client and placing such finds with a deposit-taking institution on the money market. The deposit-taking institution shall acknowledge receipt of each deposit or money market investment and such written receipts shall be retained by the member as part of his accounting records.

(b) All monies received by a member for investment with a deposit-taking institution shall be paid to such institution as soon as is reasonably possible after receipt by the member, having regard to matters such as whether a payment by cheque has to be cleared with the issuing banker.

(c) For the purpose of this rule “deposit-taking institution” shall mean any bank or building society registered in terms of the Deposit-Taking Institutions Act, No. 94 of 1990.

(7) A member may not invest on behalf of a client—

(a) in shares or debentures in any company which is not listed on the Johannesburg Stock Exchange, unless it is a subsidiary of a listed company;

(b) in money market type investments, other than in the clients name in an institution as defined in subrule 6 (c), or

(c) in loans in respect of which, in the member’s opinion, there is no adequate security;
unless the client’s written authorization for such investment has first been obtained.

(8) (a) Notwithstanding the terms of this Rule, a member who has an existing investment practice, at the date of commencement of this Rule, shall—

(i) not accept new funds for investment without complying with subrules (3), (5), (6) and (7);

(ii) in respect of all existing investments, secure compliance with subrules (3), (5), (6) and (7) within 6 months of the date of this Rule;

(iii) not be required to commence compliance with subrule (5) until the end of February of the calendar year following the year in which the period of grace stipulated in subparagraph (ii) expires;

(iv) not be required to lodge his first annual accountants report in terms of subrule (2) until the expiry of 3 months after the end of the financial period in which the period of grace stipulated in subparagraph (ii) expires.

(b) Any member who, as part of his investment practice, already holds or manages an investment which does not comply with subrule (7), shall not later than 6 months after the commencement of this Rule either obtain the client’s written consent for such investment or relinquish the management of such investment.

(9) Failure to comply with the provisions of this Rule may constitute unprofessional conduct on the part of the member, his partners or directors.

18. Allowances.—

(a)

Sharing of fees shall only be allowed in the following circumstances:

(i) Attorneys’ fees with practising attorneys;
Conveyancers’ fees with practising attorneys or conveyancers.

Notaries’ fees with practising notaries or within a firm of which the notary is a partner or an employee.

(iii)

(b) . . . . .

[Para. (b) deleted by GG 27370 of 18/03/2005.]

(c) A member who introduces a client to another member and who advises such other member that he will not be responsible for the fees and disbursements of the client introduced shall not, in the absence of any agreement to the contrary, be entitled to claim any share of the fees of the member to whom the client was introduced.

(d) . . . . .

[Para. (d) deleted by GG 27370 of 18/03/2005.]

(e) . . . . .

[Para. (e) deleted by GG 27370 of 18/03/2005.]

(f) . . . . .

[Para. (f) deleted by GG 27370 of 18/03/2005.]

19. Annual subscription.—

(a) There shall be an annual subscription payable to the Society by each member which shall be fixed by members at an Annual General Meeting on the recommendation of the Council for each year and shall be payable not later than 31 December in each year and
the Council may differentiate among members belonging to different categories
determined by it for the purpose of fixing subscriptions.

(b)

The Council may in its discretion waive any subscription payable by a member in whole
or in part.

(c)

If a member fails to pay his annual subscription within one month after it has become due
the Secretary shall, by pro-paid registered post, draw his attention to this fact and if the
subscription is not paid within 21 days from the date of such letter or within such further
time as the Council may allow, proceedings for the recovery thereof may be taken by the
Council.

20. Accounting Requirements: General.—(1) A firm shall keep in an official
language of the Republic such accounting records as are necessary fairly to present in
accordance with generally accepted accounting practice the state of affairs and business
of the firm and to explain the transactions and financial position of the firm including,
without derogating from the generality of this rule—

(a)

records containing particulars and information of all monies received, credited to, held
and paid by it including interest for and on account of any person as well as of all monies
invested by it in terms of section 78 (2) or 78 (2A) of the Act;

(b)

records showing its assets and liabilities.

[Sub-rule (1) amended by GG 29669 of 9/3/2007.]

(c)

records containing particulars and information of all monies received, held and paid by it
for and on account of any person as well as of all monies invested by it in terms of
section 78 (2) or 78 (2A) of the Act and of any interest referred to in section 78 (3) of the
Act which is paid over or credited to it, as well as any interest credited to or on any
separate trust savings or other interest-bearing account referred to in section 78 (2A).

(2) In determining what is meant by “generally accepted accounting practice” regard
shall be had, inter alia, to any Rulings of the Council published to members.
(3) The accounting records shall distinguish in readily discernible form between business account transactions and trust account transactions.

(4) A firm shall retain its accounting records—

(a) for at least 5 years from the date of the last entry recorded in each particular book or other document of record;

(b) save when removed therefrom under other lawful authority,

(i) in the case of a firm practising in KwaZulu-Natal only, at its main office or a branch office, but, in the latter case only insofar as such records relate to any part of its practice conducted at that branch office,

(ii) in the case of a firm practising with its main office in another province and a branch office in KwaZulu-Natal, such firm shall be deemed to comply with this sub-rule where all trust monies received in KwaZulu-Natal by that firm are receipted and banked within KwaZulu-Natal, and the branch office has immediate access to the firm’s computerised clients’ accounting system via a terminal and printer in the branch office.

(iii) Any firm seeking to keep such records at any other place must seek written permission from the Society.

[Para. (b) amended by GG 29173 of 8/9/2006 and substituted by GG 29669 of 9/3/2007.]

(5) A firm shall regularly and promptly update its accounting records and shall be deemed not to have complied with this Rule, inter alia, if its accounting records have not been written up for more than 1 month and have not been balanced within 2 months after each date on which the trust creditors’ lists referred to in Rule 21 (7) are to be extracted.

(6) (a) Trust money shall in no circumstances be deposited in or credited to a business banking account, while money other than trust money at any time found in a trust banking account shall be transferred to a business banking account without undue delay; provided that a firm which—

(i)
makes transfers from its trust banking account to its business banking account at least once a month, and

(ii)

ensures that each transfer from its trust banking account to its business banking account is for the full amount due and available to the firm as at that date of transfer,

[Sub-para. (ii) substituted by GG 29173 of 8/9/2006.]

(b) When making a transfer from its trust banking account to its business banking account, a firm shall ensure that—

(i)

the amount transferred is identifiable with and does not exceed the amount due to it, and

(ii)

the balance of any amount due to it remaining in its trust banking account is capable of identification with corresponding entries appearing in its trust ledger.

(7) Every firm shall within a reasonable time after the performance or earlier termination of any mandate account to its client in writing; each account shall contain—

(a)

details of all amounts received by it in connection with the matter concerned appropriately explained;

(b)

particulars of all disbursements and other payments made by it in connection with the matter;

(c)

fees and disbursements raised against the client and, where any fee represents an agreed fee, a statement that such fee was charged and the amount so agreed;

and the firm shall retain a copy of each such account for not less than 5 years.

[Para. (c) substituted by GG 29173 of 8/9/2006.]
the amount due to or by the client, and the firm shall retain a copy of each such account for not less than 5 years.

(8) A firm, unless otherwise instructed, shall pay any amount due to a client within a reasonable time.

21. Trust Receipts.—(1) A firm shall—

(a) issue a pre-numbered trust receipt in duplicate for all money received on account of any person and such receipt shall be printed and shall provide the following details—

(i) date of receipt;

(ii) amount in words and in figures;

(iii) from whom received;

(iv) for whose credit;

(v) identification of transaction;

(vi) whether trust or business;

(vii) whether received in cash, by cheque or otherwise; and

(b) on the date of the receipt of such trust money, or the first banking day following its receipt on which it might reasonably be expected that it will be banked, deposit such money in its trust bank account; and/or
(c) record all direct deposits received on account of any person and such records shall provide the details as in (a) (i) to (vii) above.


(2) Any amount withdrawn by a firm from a trust investment account shall promptly be deposited in its trust banking account.

[Sub-rule (2) substituted by GG 29173 of 8/9/2006.]

(3) A firm shall—

(a) ensure that the total amount of money in its trust accounts, and held as 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;

(b) ensure that no account of any trust creditor is in debit;

(c) employ and maintain a system to ensure that the requirements of paragraphs (a) and (b) are not infringed when amounts are transferred from its trust banking account to its business banking account.

(d) immediately report in writing to the Secretary should the total amount of money in its trust 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.

(e) immediately report in writing to the Secretary should an account of any trust creditor be in debit.

[Sub-rule (3) amended by GG 23407 of 17/5/2002 and substituted by GG 29173 of 8/9/2006.]

(4) A firm shall ensure that amounts received in advance to cover fees and disbursements are deposited forthwith into its trust banking account.
[Sub-rule (4) substituted by GG 29173 of 8/9/2006.]

(5) A firm shall ensure that withdrawals from its trust banking account are made only—

(a) to or for a trust creditor—

(b) as transfers to its business banking account, provided that such transfers shall be made only in respect of money claimed to be due to the firm.

(6) A firm shall ensure that—

(a) any cheque drawn on its trust banking account shall be made payable to or to the order of a payee specifically designated;

(b) 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 until—

   (i) the disbursement has actually been made by the firm;

   (ii) the fee has been correctly debited in its accounting records.

(7) (a) Every firm shall extract at intervals of not more than 3 calendar months in a clearly legible manner a list of amounts then standing to the credit of any person, who shall be identified therein by name, in respect of all money held or received by it on account of such person 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 order to ensure compliance with subrule (3).

(b) 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 that balance was extracted.
(c) Each such list shall be part of the accounting records of the firm to be retained for the 5 year period referred to in Rule 20 (4) (a).

(8) Every firm shall—

(a) open and keep a trust banking account at a bank or building society in Natal, provided that the Council may, in the case of a firm which has its head office situated in another province and a branch office situated in Natal, on written application by such firm and subject to such conditions as the Council may impose, exempt that firm from the provisions of this paragraph;

(b) immediately notify the Secretary in writing of the name and address of the bank or banks at which are kept its trust banking account or accounts and shall thereafter notify the Secretary immediately of any change in the name and address of such bank or banks;

(c) whenever so required by the Council, furnish to the Council within 10 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 financial institution with which it keeps any trust investment account, certifying the amount of the balance of such trust banking account or accounts or trust investment account at such date or dates as may be specified by the Council.

(9) (a) A member who invests funds on behalf of any person in terms of Section 78 (2A) of the Act with that person’s prior written specific Instructions shall obtain such instructions to make such investment substantially in the form referred to in the Twelfth Schedule to these rules.

(b) A member who invests funds on behalf of any person without that person’s prior written specific or general instructions shall—

(i) not invest such funds otherwise than in a trust savings or other interest-bearing account with a banking institution or building society;

(ii) obtain that person’s written confirmation of the investment as soon as is reasonably possible or notify him forthwith thereof in writing, which confirmation or notification
shall substantially be in the form of the instructions to make such investment referred to in the Twelfth Schedule to these Rules, and

(iii)

forthwith cause the relative trust savings or other interest-bearing account to be endorsed in terms of section 78 (2A) of the Act.

[Sub-rule (9) substituted by GG 29669 of 9/3/2007.]

(10) A firm, when reporting to the Secretary as required by the provisions of Rules 21 (3) (d) and (e) shall submit simultaneously with such report the following documentation:—

(a) a schedule with name/s of trust account/s in debit and debit amount/s;

(b) the firm’s full explanation on oath of how each trust debit arose;

(c) proof that the trust debit or shortfall has been rectified;

(d) the firm’s full written statement as to how each trust debit or shortfall was rectified”

[Para. (d) inserted by GG 23407 of 17/5/2002.]

(11) A firm shall submit either a Rule 21A Report by Accountants or a Rule 2113 Certificate in compliance with the provisions of the relevant Rule.

[Sub-rule (11) inserted by GG 27370 of 18/03/2005.]

(12) Any firm which complies with the provisions of Rule 2113 shall appoint a trust account partner who shall be responsible for the firms compliance with Rule 21B.

A sole practitioner shall for the purposes of this Rule be deemed to be the trust account partner.

[Sub-rule (12) inserted by GG 27370 of 18/03/2005.]
21A. **Report by Accountants.**—(1) A firm shall at its expense once in each calendar year or at such other times as the Council may require, appoint an accountant approved by the Council to act on behalf of and as the representative of the fund to discharge the duties assigned to him in terms of subrule (4).

(2) A firm shall allow an accountant appointed under subrule (1) access to such of its records as he may deem it necessary to examine for the purposes of discharging his duties under subrule (4) and shall furnish the accountant with any authority which may be required to enable him to obtain such information, certificates or other evidence as he may reasonably require for such purposes.

(3) A firm shall ensure that the report to be furnished by an accountant in terms of subrule (4) is so furnished within or at the required time; provided that the Council may in its discretion and on such conditions as it may stipulate, on written application by a firm relating to a particular report, condone a failure by that firm to comply with this requirement.

(4) Every accountant who has accepted an appointment in terms of subrule (1) shall—

(a) within 6 months of the annual closing of the accounting records of the firm concerned, or at such other times as the Council may require, furnish the Council with a report which shall be in the form set out in the *Fifth Schedule* to these Rules;

(b) without delay report in writing directly to the Council if, at any time during the discharge of his functions and duties under this Rule—

(i) it comes to his notice that at any date the total of the balances shown on trust accounts in the accounting records of the firm in respect of any trust creditor, exceeded the total amount of the funds in its trust banking account and/or its trust investment account and/or its trust cash in respect of such trust creditor or 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, and/or its trust investment account and/or its trust cash;

[Sub-para. (i) amended by *GG 23407* of 17/5/2002.]

(ii) any material queries regarding its accounting records which he has raised with the firm have not been dealt with to his satisfaction;
any reasonable request made by him for access to its records or for any authority referred to in subrule (2) has not been met to his satisfaction.

(5) A copy of the report in the prescribed form required under subrule (4) (a) and any report made in terms of subrule (4) (b) shall be sent by the accountant to the firm concerned.

(6) The form as prescribed under subrule (4) shall be obtained only from the Secretary who shall issue it on request to any firm or to any accountant appointed in terms of this Rule.

(7) In any case where the Council is satisfied that it is not practicable to obtain the services of an accountant for the issuing of a report as prescribed under subrule (4), it may in lieu thereof accept as compliance with the requirements of subrule (4) such other evidence as it may deem sufficient.

(8) Where the accountant submits a qualified audit report in accordance with the provisions of sub-rule 4 above reporting a shortfall as envisaged by sub-rule 4 (b) (i) the firm shall simultaneously with the submission of such qualified audit report submit the undermentioned documentation, namely

(a) a schedule with the name/s of the trust account/s in debit and the debit amount/s;

(b) the firm’s full explanation on oath of how each trust debit arose;

(c) the accountant’s confirmation that the firm’s explanation accords with the firm’s accounting records;

(d) proof that the trust debit or shortfall has been rectified;

(e) the firm’s full written statement as to how each trust debit or shortfall was rectified.

[Para. (e) inserted by GG 23407 of 17/5/2002.]
21B. Accounts Certificate.—(1)  

(a) A firm may apply to the Council to submit an Accounts Certificate in accordance with this Rule in the place of a Report submitted in terms of Rule 21A.

(b) The Council will assess such application and grant permission when the applicant’s firm satisfies the criteria laid down by the Council, which criteria include, but are not limited to a firm’s trust interest contribution, geographical location, nature of practice, its period of existence and its previous compliance with Rule 21A.

(c) The Council may limit the number of applications to be granted, and may accept or refuse such applications.

(d) A firm whose application has been approved shall comply with this Rule and is exempted from compliance with Rule 21A.

(2) A participating firm shall deliver to the Council within one calendar month of the completion of each accounting period a Certificate in respect of that period.

(3) In respect of an accounting period for which no client monies have been held the Certificate shall be in the form set out in the Tenth Schedule to these Rules and, in all other cases, shall be in the form set out in the Ninth Schedule to these Rules.

(4) The Council may on such terms and conditions as it may stipulate, on written application by a firm relating to a particular Certificate, extend the period of one calendar month within which a Certificate is required following a balancing of books, but such extension shall not exceed three months from the date on which the Certificate was due.

(5) Two partners must sign the Certificate under these Rules, one of whom shall be the current Designated Trust Account partner, unless the practitioner is a sole practitioner.

(6) In the case of a firm, which has two or more offices, where any branch office maintains a separate trust banking account, the firm shall lodge a separate Certificate for each such branch office.

[Sub-rule (6) amended by GG 27370 of 18/03/2005.]

22. Candidate Attorneys.—

(a) Articles of Clerkship or a contract of service shall contain the whole agreement entered into between the parties.

(b)
Articles of Clerkship or a contract of service shall comply substantially with the form of articles or a contract of service set out respectively in the Third and Sixth Schedules to these Rules.

(c)

The Council shall have the right to reject any Articles of Clerkship or a contract of service which in the opinion of the Council contain improper or undesirable clauses.

(d)

Candidate Attorneys shall be subject to discipline by the Council and the provisions of Rules 14 and 15 shall apply to candidate attorneys.

23. Changes in Firms and Branch Offices.—(1) It shall be the duty of every member—

(a)

within 30 days of becoming a member to lodge with the Secretary a statement of his full names and the address at which he practises, and in the case of those members who practise as shareholders of a professional company, the address at which the professional company practises;

(7)

who is a shareholder of a professional company to ensure that there is lodged with the Secretary a statement of the company’s name, the number and date of its incorporation, the address of its registered office, the address at which it practises and the full names of its shareholders within 30 days of the date upon which the company commences to practise in Natal or undergoes any change in shareholding;

(8)

of a firm which changes the address of the place at which it practises, within 30 days of such change, individually or collectively with his partners or co-shareholders to notify the Secretary of the firm’s new address;

(9)

who practises in any existing practice, partnership or professional company in which any change of professional personnel takes place, or who commences practice on his own account, to notify the Secretary forthwith in writing of full details of the change or changes which have taken place and to furnish such additional particulars in this regard as the Secretary may require of any such member;
(Editorial Note: Numbering as per original Government Gazette.)

(2) (a) The Secretary shall in the event of any change occurring as contemplated in Rule 23 (1) (d) be entitled to call upon any member involved in such change whether practising for his own account, or in partnership, or as a shareholder in a professional company, to state in writing what arrangements have been made in relation to any monies held or to be held by the member practising for his own account, or by the partnership in which the member practises, or by the professional company in which the member is a shareholder, on account of any person in terms of section 78 of the Act, and shall further be entitled to call upon such member to provide the Council with a list of trust creditors;

(b) The Secretary shall further be entitled to call upon any member, or the lawful executor or representative of any member, to furnish a certificate by an accountant approved by the Council in relation to any matter or thing in connection with the protection of any monies held or to be held or received by any member on account of any person in terms of section 78 of the Act.

(3) (a) A member may open one or more branch offices within the Province of Natal after he has informed the Secretary in writing prior to opening his branch office of the following—

(i) his intention to open a branch office and the proposed physical address, postal address and telephone number of such branch office;

(ii) whether he will open a separate trust account and keep separate accounting records for his branch office, and

(iii) the name or names of the practitioner or practitioners who will be supervising the branch office, and the hours that it will be open to the public.

(b) A member who practises from more than one physical address shall indicate on his letterheads the address of his main office and all branch offices, and all letters shall indicate from which address they emanate.

(c) A member’s branch office may remain open only while it is under the direct and personal supervision of—

(aa)

the member, or
(bb)

a partner of the member, or

(cc)

a practitioner who is employed by the member.

(d) In the event that a member’s branch office has a separate trust banking account, the member is obliged to lodge a separate certificate for the branch office in terms of Rule 21A of these Rules.

24. Suspension or Modification of Rules.—The Council may in such manner as it may determine, and subject to such conditions and directions as it may impose, suspend in whole or in part or modify the application of any rule applicable to any member while such member is employed by or acting to promote or assist the functioning of any body recognised by the Council as a students’ legal aid clinic, legal aid body, or other similar organisation of a public or philanthropic nature, which renders legal services in the public interest.

25. Law Clinics.—(1) Any law clinic performing “community service” as defined in the Act, which seeks recognition as a law clinic for the purposes of the Act and of this Rule shall comply with the following requirements:

[Sub-rule (1) substituted by GG 29173 of 8/9/2006.]

(a)

the law clinic shall be properly constituted, organised and controlled to the satisfaction of the Council, either as part of the faculty of law at a university in the Republic or as a law centre controlled by a non-profit making organisation;

(b)

the law clinic must provide legal services to the public;

(c)

the legal services provided by the law clinic must be rendered free of any direct or indirect charge to the recipient of those services; provided that—

(i)

the law clinic may recover from the recipient of its services any amounts actually disbursed by it on behalf of the recipient; and
where the law clinic acts for the successful litigant in litigation it will be entitled to take cession from such litigant of any order for costs awarded in favour of the litigant and to recover those costs for its own account;

(d) the services may be rendered only to a person who would not otherwise be able to afford them; provided that the Clinic shall be obliged to apply a means test pre-determined by it:

[Para. (d) substituted by GG 29173 of 8/9/2006.]

(e) the law clinic may not undertake work in connection with—

(i) the drafting of Wills;

(ii) subject to the provisions of paragraph (f) the administration, liquidation or distribution of the estate of any deceased person, insolvent person, mentally ill person or any other person under any other legal disability;

(iii) the judicial management or liquidation of any company,

(iv) the transfer or mortgaging of immovable property

(v) the lodging or processing of any claims under the Multilateral Motor Vehicle Accidents’ Fund Act, No. 93 of 1989, its predecessors or its successors;

(vi) such other work as may from time to time be prescribed in this Rule;

(f)
the law clinic entering into a contract of service with a candidate attorney accepts the responsibility to provide the candidate attorney with adequate opportunities for gaining practical legal experience in all aspects prescribed in paragraph 5 of the contract of service;

[Para. \((f)\) substituted by GG 29173 of 8/9/2006.]

\((g)\)

the law clinic may undertake work in connection with the administration, liquidation or distribution of the estate of any deceased person only in those cases where the executor has declined nomination and the Master of the High Court has exercised his/her discretion in terms of the Administration of Estates Act, 1965, and has appointed an attorney employed full-time at a law clinic as Executor;

[Para. \((g)\) substituted by GG 29173 of 8/9/2006.]

\((h)\)

the name under which the law clinic is to carry on its activities, its letterheads and other stationery shall require the prior approval of the Council;

[Para. \((h)\) substituted by GG 29173 of 8/9/2006.]

\((i)\)

attorneys in the employ of the law clinic may be remunerated only by way of salaries payable by the clinic or by the organisation to which it is attached.

[Para. \((i)\) inserted by GG 29173 of 8/9/2006.]

\((2)\) If any attorney employed full-time at a law clinic wishes to and is qualified in terms of Section 3 of the Act to engage a candidate attorney to perform community service he/she may do so only if—

[Sub-rule \((2)\) substituted by GG 29173 of 8/9/2006.]

\((a)\)

the candidate attorney will be under his/her direct personal supervision or under the direct personal supervision of another attorney or advocate who is a member of the professional staff and is also employed full-time at the law clinic;

[Para. \((a)\) inserted by GG 29173 of 8/9/2006.]

\((b)\)
the law clinic carries on its activities during normal business hours for not less than 11 months in any year;

(c)

the law clinic has proper office systems with telephones, typing facilities, files and filing procedures, a diary system and at least elementary library facilities;

(d)

the law clinic has a proper bookkeeping system and accounting procedures, and

(e)

the law clinic handles a reasonably wide range of work to give the candidate attorney exposure to the kind of problems that a newly qualified attorney would expect to encounter and be able to handle competently during his first year of practice.

Repealed Act

Act 93 of 1989 has been repealed by s 27 of Act 56 of 1996

26. **Dissolution of Society.**—If for any reason the Society is wound up, liquidated or in any other manner dissolved and there remain after the satisfaction of its liabilities any assets whatsoever, the same shall be transferred to such other society or association, as the members shall in general meeting decide, with objects similar to those of the Society.

27. **Pro Bono Services.**—

27.1 Definitions

(a)

*Pro Bono services* shall include, but not be limited to, the delivery of advice, opinion or assistance in matters, falling within the professional competence of a member, to facilitate access to justice for those who cannot afford to pay, through recognised structures, approved in terms of sub-rule 27.3 and identified in terms of subrule 27.4.

(b)

*Recognised structures* shall include, but not be limited to, the office of the Registrars of the High Court when issuing *informa pauperis* instructions, Small Claims Courts, community (non commercial) advice offices, University clinics, non-government organisations, the office of the Inspectorate of Prisons, Circle and specialist Committees of the Society, and others approved in terms of sub-rule 27.7 and identified in terms of sub-rule 27.8.
Those who cannot afford to pay shall be those who ordinarily qualify for assistance through recognised structures.

27.2 Practising members who have practised for less than 40 years and who are less than 60 years of age, shall be encouraged to perform *pro bono* services of not less than 24 hours per calendar year, save that:

27.2.1 a member who becomes a practising member during the course of a year shall be encouraged to perform *pro bono* services equal to not less than 2 hours per month, or part thereof, of practising member status acquired in the first year of practice;

27.2.2 in the year of publication of this Rule, practising members shall be encouraged to perform *pro bono* services equal to not less than 2 hours per month, or part thereof, from the month of publication to the end of that year.

27.3 Members may refer to the Society, for approval by Council as *pro bono* services, a written description of areas of professional work proposed for recognition as *pro bono* services.

27.4 The Society shall, within 30 days of publication of this Rule and from time to time, publish, through its Circular, a list of services which, when performed by members at no charge for those who cannot afford to pay, shall be recognised as *pro bono* services capable of being delivered in compliance with the provisions of this Rule.

27.5 *Pro bono* services shall be delivered though recognised structures only to those who cannot afford to pay for professional services.

27.6 Members may refer to the Society, for approval by Council as a recognised structure, a written description of a structure proposed for recognition.

27.7 The Society is mandated by members to enter into partnership and joint venture agreements with recognised structures, the effect of which is that only matters that fall within the professional competence of members are referred to practising members for advice, opinion or assistance, that briefs addressed to practising members are reasonably well formulated, and that potential language and cultural barriers are overcome.

27.8 The Society shall, within 30 days of publication of this Rule and from time to time, publish, in a Circular, a list of recognised structures, including structures with which the Society has concluded partnership, or joint venture, agreements for the delivery of *pro bono* services.

27.9 Members shall submit to the Society a certificate providing full particulars of *pro bono* services delivered, within 60 days of delivery thereof, failing which, the service shall be treated as not having been rendered in terms of this Rule.
27.10 The Society shall, within 30 days of the publication of this Rule, publish, in a Circular, the form of the certificate to be submitted by practising members. Any amendments introduced to the certificate, by Council, shall be published, from time to time in a Circular.

27.11 The Society shall keep a record of services delivered per member, which record shall be raised from member certificates. A report of all services rendered shall be extracted annually and shall be retained by the Society but individual member records substantiating the report shall be expunged. On 1 January of each year, all individual member records shall be refreshed to show an availability of hours for the new year. The record of hours sewed or not served in the previous year shall then be, expunged. The Society shall report to its members annually and at the Annual General Meeting, and shall make such report generally available, on the total delivery of pro bono services by members.

27.12 The Society shall cause particulars of pro bono hours still to be served by members in a calendar year to be published on its website and for reduced hours to be displayed against submission by members of certificates. This information will also be available from the Society, on request. It shall be the responsibility of practising members to ensure that the Society’s records as to pro bono services rendered are complete so that correct information is published on the website and generally made available.

27.13 Members may elect to deliver pro bono services through a single recognised structure. The Society shall cause a members election of the recognised structure through which he/she chooses to deliver his/her pro bono services to be published on its website. This information will also be available from the Society, on request. Members who make such an election may properly refuse calls through other recognised structures for the delivery of pro bono services. It shall be the responsibility of the practising member to notify the Society of his/her election so that this information is published on the website and generally made available.

27.14 Members who travel a distance of more than 50km from their office in order to deliver pro bono services may, in special circumstances, make written application to the Society to recover the actual cost of travel, excluding the first 100km.

27.15 Disbursements incurred, save for travel expenses referred to in 27.14, in respect of pro bono services shall be borne by the client.

27.16 It shall be unprofessional conduct for a practising member who still has to perform pro bono service hours to refuse, with no good cause, to deliver pro bono services.

27.17 In the event of the Society receiving a complaint of refusal to deliver pro bono services, with no good cause, it shall be entitled to treat its record of services rendered as complete, save only for services rendered within 80 days of the complaint that are not on record. The member against whom the complaint is made shall be responsible to provide the Society with certificates, relating to such additional services, within 21 days of receipt
by the Society of the complaint, failing which, services alleged to have been rendered, but not on record, will be treated as not having been rendered for the purpose of investigating the complaint. Pending investigation of the complaint, the Society, shall refer the complainant to another practising member, for assistance.

27.18 Professional standards applicable to services rendered by members shall apply to pro bono services.

[Rule (27) inserted by GG 27370 of 18/03/2005.]

First Schedule
Proxy

1. I,
2. hereby appoint
3. to act as my proxy at the
   General Meeting of
4. the Natal Law Society to be held on 19 and at any adjournments thereof to vote for me on any matter which may be put to the vote at such meeting as follows:

<table>
<thead>
<tr>
<th>Resolution to</th>
<th>In favour</th>
<th>Against</th>
<th>Abstain</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

I declare that I and my proxy are members as defined in the Rules of the Natal Law Society.

Dated at this 19

As Witnesses:

1.
2.

Notes: 1 and 2, insert full names; 3 insert Annual or Special; 4 insert date; 5 indicate clearly the title of the motion or otherwise describe the motion clearly and indicate whether your proxy shall vote for or against it or shall abstain or if no indication is given as to how your proxy is to vote, you will be taken to have given your proxy a mandate to use his discretion as to the manner in which the vote should be counted.

Second Schedule
Nomination of Council Member

Nomination:
I (full name of proposer),
a member of the Natal Law Society, and I (full name of seconder)
a member of the Natal Law Society,
hereby nominate (full name of nominee)
as a member of the Council for (state Greater Durban, Pietermaritzburg or Country Districts)
representing (state whether BLA, NADEL or non-BLA and non-NADEL)
and whose further particulars are as follows—

1. Name of nominee’s firm
2. Town or city in which nominee practises
3. Number of years that nominee has practised as an attorney
4. Number of years that nominee has sewed on—
   (a) Natal Law Society Council: years from to
   (b) Legal Circle Committee: years from
Natal or National Branch Committee of NADEL: years from to 

Natal or National Branch Committee of BLA: years from to 

( Editorial Note: Numbering as per original Government Gazette)

Date Proposer’s Signature

Date Seconder’s Signature

Acceptance:

I (full name of nominee), hereby accept nomination as a member of the Natal Law Society Council and declare that—

(a) in terms of Rule 6(b) of the Natal Law Society Rules, I am not disqualified from being nominated, and

(b) I am a member of the Natal Law Society practising as an attorney in the area for which I have been nominated.

(c) I am—

* (i) a member of NADEL;

* (ii) a member of BLA;
Third Schedule
Articles of Clerkship

Between
a duly admitted Attorney practising under the name and style of
at
(hereinafter referred to as the Principal), and
(hereinafter referred to as the Candidate Attorney), a major (minor, assisted herein by his/her guardian).

It is agreed that—

1. The duration of this agreement shall be a period of years commencing on the day of 19 , and terminating on the day of 19 , provided that, should the Candidate Attorney become entitled to be admitted as an Attorney prior to the date of termination, this agreement shall forthwith terminate upon such admission.

2. The commencing monthly salary shall be the sum of R which shall be payable in arrear not later than the last day of each calendar month.

3. The Candidate Attorney hereby undertakes and agrees that he/she shall—
(a) diligently, honestly, properly and confidentially serve his/her Principal in his/her profession as an Attorney

(b) promptly execute all lawful instructions given to him/her by his/her Principal, any of his/her partners or any other person placed in authority over him/her by his/her Principal;

(c) ensure that he/she does not absent himself/herself from his/her employment by his/her Principal without his/her Principal’s prior consent;

(d) conform with the reasonable requirements of his/her Principal with regard to dress, behaviour and propriety, and do all things in his/her power to ensure that he/she obtains during the course of this agreement such qualifications as shall entitle him/her to admission as an Attorney;

(e) keep a diary or other written record of the training which he/she received under articles and until such time as he/she is admitted as an attorney hold such diary or other record available for inspection by his/her principal, the Council of the Natal Law Society or by the examiners responsible for conducting the Candidate Attorneys’ practical examinations in terms of section 14 of the Attorneys Act, 1979;

(f) not engage in any business other than that of Candidate Attorney without the written consent of his/her Principal and the Council of the Natal Law Society;

(g) at no time divulge any secrets of his/her Principal or his/her clients, nor discuss their affairs with any third party without their specific knowledge and consent, and that he/she will not damage, do away with or deface any records, books, documents or assets of his/her Principal or his/her clients.

4.

The Candidate Attorney hereby indemnifies his/her Principal and/or partners and, in the case of a professional company, the directors and holds them harmless against any claims which may arise against him/her or them
from any act, omission or default on the part of the Candidate Attorney acting in the course and scope of his/her employment under this agreement.

5.
The Principal hereby undertakes and agrees that he/she shall—

(1)
use his/her best endeavours to ensure that the Candidate Attorney is properly and fully instructed in the practice, ethics and understanding of the profession of an attorney and provide the Candidate Attorney with opportunities for gaining practical experience in:

(a) the preparation of legal opinions and briefs for Counsel;
(b) interviews with clients and witnesses and the drafting of witnesses’ statements;
(c) the identification and application of appropriate legal principles to facts;
(d) advocacy (the arguing of elementary cases before courts and tribunals and the effective presentation of certain legal arguments);
(e) negotiations and the settlement of disputes;
(f) the drafting of letters, contracts, wills and pleadings;
(g) the keeping of proper accounting records and the handling of trust money;
(h) routine office administration, including the proper handling of files and documents;
(i) the preparation of statements of account for clients and bills of cost for taxation;

(2)
use his/her best efforts to procure the admission of the Candidate Attorney as an Attorney; provided that the Candidate Attorney has served his/her period of articles properly and is in his/her Principal’s opinion a fit and proper person for admission as an Attorney;

(3)
in the event of his/her ceasing to practice as an Attorney, sign all documents and do all acts or things necessary to enable the Candidate Attorney, should he/she desire, to cede these Articles to some other suitable Attorney, and use his/her best endeavours to ensure that such other suitable Attorney will accept such cession.

6.
Should the Candidate Attorney—

(a)
not serve his/her period of articles properly in terms of this Agreement;

(b)
commit a breach of any of the terms and conditions of this Agreement, or

(c)
be guilty of any misconduct, the Principal shall be entitled to cancel this Agreement and dismiss the Candidate Attorney from his/her employment.

Signed by the Principal at

this day of 19

As Witnesses:
1. Principal

2.

Signed by the Candidate Attorney at

this day of 19

As Witnesses:
1.
Candidate Attorney

2.

Duly assisted by me in my capacity as his/her lawful guardian.

Guardian

Note:
1.

Clauses 4 and/or 6 may be omitted and/or amended by the parties to the Agreement.

2.

Articles of Clerkship may not be backdated.

3.

Clause 4 contains an indemnity clause requiring revenue stamps in addition to the revenue stamp required for the Agreement.

Fourth Schedule
Client investment mandate


I, the undersigned,

(Full names and Identity Number)

of

erery authorise and empower (firm’s name)
to make the following investment/s as my agent and on my behalf—
(delete words, which are not applicable or insert words if and where required)

1.

TYPE OF INVESTMENT/S
(a)

Money lending (Yes/No), and/or

(b)

Money market (Yes/No), and/or
(c) Stocks and shares on JSE (Yes/No), and/or

(d) Call or fixed term deposit [for \(\text{days/months/year/s}\) (Yes/No), and/or

(e) Any other type (Yes/No) [specify sufficient details thereof]

2. TYPE OF MANDATE GIVEN

(a) Does the firm have the sole and exclusive discretion to make the investment/s? (Yes/No)

(b) If no, the type of mandate is non-discretionary and the precise instruction/s given to the firm to invest with relevant details of such instructions are to be set out.

3. IS FIRM TO KEEP ALL SECURITIES? (Yes/No)

4. IS GENERAL OR SPECIAL POWER OF ATTORNEY ATTACHED?

(a) General power of attorney? (Yes/No)

(b) Special power of attorney? (Yes/No)

(c) None? (Yes/No)

5. REPORTING

The firm shall report as follows: (Monthly/Quarterly/6 Monthly/Annually)
6. **PROTECTION:**

I acknowledge that I have been informed by the practitioner (attorney, notary or conveyancer) concerned of the provisions of subsection 47 (1) (g) of the Attorneys Act and that I understand the effect thereof.

I acknowledge and admit that the Attorneys Fidelity Fund shall not be liable in respect of any loss suffered by me as a result of theft of theft of money, which the practitioner has been instructed to invest on my behalf.

7. **GENERAL.**

Any other instructions:

---

**SIGNED AT**

on this day of 20

Client

**ACCEPTED AT**

on this day of 20

On behalf of firm

**Full names of practitioner**

**Fifth Schedule**

Report by Independent Accountant

[Fifth Schedule amended by GG 27370 of 18/03/2005.]
REPORT OF AN INDEPENDENT ACCOUNTANT TO THE SOLE PROPRIETOR/PARTNERS/DIRECTORS OF [INSERT THE NAME OF THE FIRM], LAW SOCIETY OF KWAZULU-NATAL AND THE ATTORNEYS FIDELITY FUND

I/We have audited the trust accounts of (insert the name of the firm) to determine whether those accounts were maintained in compliance with sections 78 (1), 78 (2), 78 (2A), 78 (3), 78 (4) and 78 (6) of the Attorneys Act, No. 53 of 1979 (the Act) and with Rules 17, 20, 21 and 21A of the KwaZulu-Natal Law Society for the period from (insert date) to (insert date).

The sole proprietor/partners/directors of (insert the name of the firm) is/are responsible for ensuring that the firm’s trust accounts are maintained in compliance with the provisions of the Act and the Rules of the KwaZulu-Natal Law Society and for the implementation of accounting and internal control systems. Our responsibility is to express an opinion on whether the firm’s trust accounts were maintained in compliance with the sections of the Act, and the Rules referred to above for the period (insert date) to (insert date) based on our audit.

Scope

This audit was conducted in accordance with the South African Auditing Standards applicable to special purpose audit engagements and the guide issued by the South African Institute of Chartered Accountants, Guidance for Auditors: The Audit of Attorneys’ Trust Accounts in terms of the Attorneys Act, No 53 of 1979 and the Applicable Rules of the Provincial Law Societies. This audit has included:

- examining, on a test basis, evidence supporting the amounts and disclosures in the trust accounts, and

- assessing the accounting principles used by management.

We believe this audit provides a reasonable basis for our opinion.

We have not performed any audit procedures on records or documents relating to accounting for deceased and insolvent estates and trusts, not transmitted through the trust account. Accordingly, we do not express any opinion in this regard.

Qualification

The report is subject to the following qualifications (if none, state NIL)
(Any contravention of sections 78 (1), 78 (2), 78 (24), 78 (3), 78 (4) and 78 (6) of the Act and of the Rules of the Law Society referred to above relating to trust accounts are regarded as material and should be reported. If the report is qualified the next heading is to be changed to “Qualified opinion “and the wording is to change to ‘in my/our opinion, except as noted above, the...”

Opinion
In our opinion, the attorney’s trust accounts of (insert the name of the attorneys firm) for the period from (insert date) to (insert date) were maintained in compliance with Sections 78 (1), 78 (2), 78 (2A), 78 (3), 78 (4) and 78 (6) of the Attorneys Act, No. 53 of 1979 and in terms of the Rules 17, 20, 21, 21A of the KwaZulu Natal Law Society.

Supplementary information
A.

Our audit procedures indicated that:
1. The firm’s trust and business accounts for the period reported on have been updated monthly and balanced at least quarterly.
2. The firm complied/did not comply 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 Attorneys Fidelity Fund and the firm’s bank(s).
3. The firm’s trust and related business accounts for the period subsequent to the period being audited, was last inspected by us on (insert date of last inspection), have been written up to [insert date] and the trial balance was last balanced at [insert date].
4. The management of the firm provided us with the following changes in the composition of the firm which occurred during the period from (insert date) to (insert date), namely:
5. Firm’s principal place of practice (insert full physical address)
6. Firm’s branch office/s is/are at (insert full physical addresses)
B.

The following information was extracted from the audited trust accounts:

1.

Reconciliation of interest earned on the firm’s trust accounts from the period on (insert date) to the end of the period on (insert date):

<table>
<thead>
<tr>
<th>Amount brought forward from the previous financial year in respect of interest earned on monies deposited in terms of section 78 (1) and monies invested in terms of section 78 (2) of the Act is</th>
<th>R</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount earned during the current period on monies deposited in trust banking accounts in terms of subsection 78 (1) and monies invested in trust investment accounts in terms of section 78 (2) of the Act is</td>
<td>R</td>
</tr>
<tr>
<td>Amount incurred during the current period in respect of actual Bank charges (excluding VAT – firms not liable for VAT as registered vendors may include VAT) is</td>
<td>R</td>
</tr>
<tr>
<td>Amount already paid over to the Attorneys Fidelity Fund during the period under review in terms of section 78 (3) of the Act is</td>
<td>R</td>
</tr>
<tr>
<td>Amount carried over to the next financial year in respect of interest earned on monies deposited in terms of section 78 (1) and monies invested in terms of section 78 (2) of the Act is</td>
<td>R</td>
</tr>
</tbody>
</table>

2.

The ratio as a percentage of total bank charges (excluding VAT) incurred during the current period to the total of interest earned during the period was

(insert %)

3.

Trust creditors and trust funds available at the period end on (insert date) and on one other date (insert date, being another month end within the period covered by the report), were as follows:

<table>
<thead>
<tr>
<th>At period end</th>
<th>Other selected date</th>
</tr>
</thead>
</table>


Use of the Report
This report is intended solely for the use of the sole proprietor/partners/directors of the firm, the KwaZulu-Natal Law Society and the Attorneys Fidelity Fund.

Name
Registered Accountants and Auditors
Chattered Accountants (SA)
Address
Date

Sixth Schedule
Contract of Service

Between

(the Principal)

being an Attorney who is employed fulltime at the

being a Law Clinic,

or the

office of the Legal Aid Board established under section 21 of the Legal Aid Act, 1969,* which Law Clinic has been certified by the Law Society or which Legal Aid Office has been approved by the Minister in terms of section 1 of the Attorneys Act, No. 53 of 1979, and

(the Candidate Attorney),
a major (minor, assisted herein by his/her guardian), *Complete that which

<table>
<thead>
<tr>
<th>Trust creditors</th>
<th>Xxxx</th>
<th>Xxxx</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trust funds available in terms of:</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Section 78 (1)</strong> trust money</td>
<td>Xx</td>
<td>xx</td>
</tr>
<tr>
<td>Trust cash</td>
<td>Xx</td>
<td>xx</td>
</tr>
<tr>
<td><strong>Section 78 (2)</strong> investments</td>
<td>Xx</td>
<td>xx</td>
</tr>
<tr>
<td><strong>Section 78 (2A)</strong> investments</td>
<td>Xx</td>
<td>xx</td>
</tr>
<tr>
<td>Trust surplus/(deficit)</td>
<td>xxxx</td>
<td>xxxx</td>
</tr>
</tbody>
</table>
is applicable.

It is agreed that—

1.

The duration of this contract shall be a period of __ years commencing on the day of __19__, and terminating on the day of __19__, provided that, should the Candidate Attorney become entitled to be admitted as an Attorney prior to the date of termination, this contract shall forthwith terminate upon such admission.

2.

The commencing monthly salary shall be the sum of R __, which shall be payable in arrear not later than the last day of each calendar month.

3.

The Candidate Attorney hereby undertakes and agrees that he/she shall—

(a) 

diligently, honestly, properly and confidentially serve his/her Principal in his/her profession as an Attorney;

(b) 

promptly execute all lawful instructions given to him/her by his/her Principal or any other person placed in authority over him/her by his/her Principal;

(c) 

ensure that he/she does not absent himself/herself from his/her employment by his/her Principal without his/her Principal’s prior consent;

(d) 

conform with the reasonable requirements of his/her Principal with regard to dress, behaviour and propriety; and do all things in his/her
power to ensure that he/she obtains during the course of this agreement, such qualifications as shall entitle him/her to admission as an Attorney;

(e)

keep a diary or other written record of the training which he/she received during the period of service and until such time as he/she is admitted as an attorney hold such diary or other record available for inspection by his/her Principal, the Council of the Natal Law Society or by the examiners responsible for conducting the Candidate Attorneys’ practical examinations in terms of section 14 of the Attorneys’ Act 1979;

(f)

not engage in any business other than that of Candidate Attorney without the written consent of his/her Principal and the Council of the Natal Law Society

(g)

at no time divulge any secrets of his/her Principal or his/her clients, nor discuss their affairs with any third party without their specific knowledge and consent, and that he/she will not damage, do away with or deface any records, books, documents or assets of his/her Principal or of his/her clients.

4.

The Candidate Attorney hereby indemnifies his/her Principal and holds him/her harmless against any claims which may arise against him/her or them from any act, omission or default on the part of the Candidate Attorney acting in the course and scope of his/her employment under this agreement.

5.

The Principal hereby undertakes and agrees that he/she shall—

(1)

use his/her best endeavours to ensure that the Candidate Attorney is properly and fully instructed in the practice, ethics and understanding of the profession of an attorney and provide the Candidate Attorney with opportunities for gaining practical experience in:

(a)

the preparation of legal opinions and briefs for Counsel;

(b)
interviews with clients and witnesses and the drafting of witnesses’ statements;

(c)

the identification and application of appropriate legal principles to facts;

(d)

advocacy (the arguing of elementary cases before courts and tribunals and the effective presentation of certain legal arguments);

(e)

negotiations and the settlement of disputes;

(f)

the drafting of letters, contracts, wills and pleadings;

(g)

the keeping of proper accounting records and the handling of trust money;

(h)

routine office administration, including the proper handling of files and documents;

(i)

the preparation of statements of account for clients and bills of cost for taxation.

(2)

use his/her best efforts to procure the admission of the Candidate Attorney as an Attorney; provided that the Candidate Attorney has served his/her period of service properly and is in his/her Principal’s opinion a fit and proper person for admission as an Attorney

(3)

in the event of his/her ceasing to be employed by the Principal, sign all documents and do all acts or things necessary to enable the Candidate Attorney, should he/she so desire, to cede this Contract of Service to some other suitable Principal, and use his/her best endeavours to ensure that such other suitable Principal will accept such cession.

6.

Should the Candidate Attorney——
(a) not serve his/her period of service properly in terms of this Agreement;
(b) commit a breach of any of the terms and conditions of this Agreement or
(c) be guilty of any misconduct,
the Principal and/or the Council of the Law Society shall be entitled to cancel this Contract and dismiss the Candidate Attorney from his/her employment.

Signed by the Principal at this day of 19

As Witnesses:
1. Principal
2.

Signed by the Candidate Attorney at this day of 19

As Witnesses:
1. Candidate Attorney
2.

Duly assisted by me in my capacity as his/her lawful guardian.

Guardian

Note:
1. Clauses 4 and/or 6 may be omitted and/or amended by the parties to the Agreement.

2. A Contract of Service may not be backdated, and commences on the date of signature or on some future date stipulated therein.

3. All parties to the contract, as well as the witnesses, must sign or initial each page of the contract.

**Seventh Schedule**  
Conveyancing and Notarial Fees

*Note:*  
Members are requested to note that the Council has decided not to publish the fees for conveyancing and notarial work in the Manual because of the cost involved in updating the Manual when the fees are changed and because members will be advised by way of a Circular immediately after the fees have been changed.

**Eighth Schedule**  
International Code of Ethics

*Rules*

1. A lawyer who undertakes professional work in a jurisdiction where he is not a full member of the local profession shall adhere to the standards of professional ethics in the jurisdiction in which he has been admitted. He shall also observe all ethical standards which apply to lawyers of the country where he is working.

2. Lawyers shall at all times maintain the honour and dignity of their profession.  
They shall, in practice as well as in private life, abstain from any behaviour which may tend to discredit the profession of which they are members.

3. Lawyers shall preserve independence in the discharge of their professional duty.  
Lawyers practising on their own account, or in partnership, where permissible, shall not engage in any other business or occupation, if by
doing so, they may cease to be independent.

4. Lawyers shall treat their professional colleagues with the utmost courtesy and fairness.

Lawyers who undertake to render assistance to a foreign colleague shall always keep in mind that the foreign colleague has to depend on them to a much larger extent than in the case of another lawyer of the same country. Therefore their responsibility is much greater, both when giving advice, and when handling a case.

For this reason it is improper for lawyers to accept a case unless they can handle it promptly and with due competence, without undue interference by the pressure of other work. Rule 19 applies to the fees in these cases.

5. Except where the law or custom of the country concerned otherwise requires, any oral or written communication between lawyers shall in principle be accorded a confidential character as far as the Court is concerned, unless certain promises or acknowledgements are made therein on behalf of a client.

6. Lawyers shall always maintain due respect towards the Court. Lawyers shall without fear defend the interests of their clients and without regard to any unpleasant consequences to themselves or to any other person.

Lawyers shall never knowingly give to the Court incorrect information or advice which is to their knowledge contrary to the law.

7. It shall be considered improper for lawyers to communicate about a particular case directly with any person whom they know to be represented in that case by another lawyer without the latter’s consent.

8. A lawyer should not advertise or solicit business except to the extent and in the manner permitted by the rules of the jurisdiction to which that lawyer is subject. A lawyer should not advertise or solicit business in any country in which such advertising or soliciting is prohibited.

9. A lawyer should never consent to handle a case unless:

(a) the client gives direct instructions, or

(b) the case is assigned by a competent body or forwarded by another lawyer, or
instructions are given in any other manner permissible under the relevant local rules or regulations.

10. Lawyers shall at all times give clients a candid opinion on any case. They shall render assistance with scrupulous care and diligence. This applies also if they are assigned as counsel for an indigent person.

Lawyers shall at any time be free to refuse to handle a case, unless it is assigned by a competent body.

Lawyers should only withdraw from a case during its course for good cause, and if possible in such a manner that the client’s interests are not adversely affected.

The loyal defence of a client’s case may never cause lawyers to be other than perfectly candid, subject to any right or privilege to the contrary which clients choose them to exercise, or knowingly to go against the law.

11. Lawyers shall, when in the client’s interest, endeavour to reach a solution by settlement out of Court rather than start legal proceedings. Lawyers should never stir up litigation.

12. Lawyers should not acquire a financial interest in the subject matter of a case which they are conducting. Neither should they directly or indirectly, acquire property about which litigation is pending before the Court in which they practice.

13. Lawyers should never represent conflicting interests in litigation. In non-litigation matters, lawyers should do so only after having disclosed all conflicts or possible conflicts of interest to all parties concerned and only with their consent. This Rule also applies to all lawyers in a firm.

14. Lawyers should never disclose, unless lawfully ordered to do so by the Court or as required by Statute, what has been communicated to them in their capacity as lawyers even after they have ceased to be the client’s counsel. This duty extends to their partners, to junior lawyers assisting them and to their employees.

15. In pecuniary matters lawyers shall be most punctual and diligent. They should never mingle funds of others with their own and they should at all times be able to refund money they hold for others.

They shall not retain money they receive for their clients for longer than is
16. Lawyers may require that a deposit is made to cover their expenses, but the deposit should be in accordance with the estimated amount of their charges and the probable expenses and labour required.

17. Lawyers shall never forget that they should put first, not their right to compensation for their services, but the interests of their clients and the exigencies of the administration of justice. The lawyer’s right to ask for a deposit or to demand payment of out-of-pocket expenses and commitments, failing payment of which they may withdraw from the case or refuse to handle it, should never be exercised at a moment at which the client may be unable to find other assistance in time to prevent irreparable damage being done.

Lawyers’ fees should, in the absence or non-applicability of official scales, be fixed on a consideration of the amount involved in the controversy and the interest of it to the client, the time and labour involved and all other personal and factual circumstances of the case.

18. A contract for a contingent fee, where sanctioned by the law or by professional rules and practice, should be reasonable under all circumstances of the case, including the risk and uncertainty of the compensation and subject to supervision of a Court as to its reasonableness.

19. Lawyers who engage a foreign colleague to advise on a case or to cooperate in handling it, are responsible for the payment of the latter’s charges, except express agreement to the contrary. When lawyers direct a client to a foreign colleague they are not responsible for the payment of the latter’s charges, but neither are they entitled to a share of the fee of the foreign colleague.

20. Lawyers should not permit their professional services or their names to be used in any way which would make it possible for persons to practise law who are not legally authorised to do so. Lawyers shall not delegate to a legally unqualified person not in their employ and control any functions which are by the law or custom of the country in which they practise only to be performed by a qualified lawyer.

21. It is not unethical for lawyers to limit or exclude professional liability subject to the Rules of their local Bar Association, and to there being no statutory or constitutional prohibitions.
The Financial Manager
KZN Law Society
P.O. Box 1454
Pietermaritzburg
3200 or
Docex 25
Pietermaritzburg

Dear Sir,

I/We, the duly designated and appointed trust account partner(s)/director(s) or sole practitioner of,

(name of firm), carrying on business at:

(address of firm),

(separate certificate required for each branch office having a separate trust account), confirm that:

1. I/We have maintained the necessary accounting records as required in terms of ss 78 (4) & ss 78 (6) of the Attorneys Act 53 of 1979 and the Rules and Rulings as they appear in the KZN Law Society Practice Manual for the accounting period from to

2. I/We certify that:—

2.1

the accounting records are up to date and balanced as at the last day of the accounting period (note (b)), and
2.2

the accounting records, to the best of my/our knowledge and belief, are in accordance with the terms of the Attorneys Act 53 of 1979 and the ICZN Law Society Rules and Rulings, and

2.3

all outstanding reconciling entries noted as at the end of the accounting period (refer note (b)) in terms of Rule 20 (5) and 21 (7) have been entered in the records or confirmed as correct.

2.4

the trust creditor’s account reconciliation as at end of accounting period is as follows.

(a) R

Total as per Trust Creditors listing

(b) R

Total of balance standing to the credit of the firm’s Trust Banking account(s), Trust Investments account(s) ss 78 (2) and 78 (2A) and amounts held by it as Trust cash.

(c) R

(b) - (a)

Surplus/(Deficit) Trust monies

(d) R

A detailed explanation is required under item 2.6 below, should (c) not equal NIL, including the steps taken to rectify the discrepancy(s).

2.5

I/We have extracted the following information from the accounting records of the firm and report that during the accounting period:

(a) R

the amount which the firm has earned on monies deposited in trust banking accounts in terms of Section 78 (1) and monies invested in trust investment accounts in terms of Section 78 (2) of the Act is

(b) R
the amount which the firm has incurred in respect of trust bank charges exclusive of VAT (bank charges including VAT may have been levied against firms not being liable for VAT as registered vendors) is

(c)

the amount which the firm has paid/has to pay to the Attorneys Fidelity Fund or its nominee, the KwaZulu-Natal Law Society, in terms of Section 78 (3) of the Act for this accounting period is R

(d)

the amount which the firm has to pay to the Attorneys Fidelity Fund or its nominee, the KwaZulu-Natal Law Society, in terms of Section 78 (3) of the Act for this accounting period is R

(d)

the ratio as a percentage of total bank charges referred to in sub-paragraph (b) to the total trust interest referred to in sub-paragraph (a) \([ (b) + (a) ] \) is percent (%); and

(e)

the firm (*did/did not) comply 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 Attorneys Fidelity Fund/KwaZulu-Natal Law Society and the Firm’s bank/s.

2.6

the other matters which require to be reported are:—

2.7

during the said accounting period the Designated Trust Account Partner (s)/Director(s) or sole practitioner in terms of Rule 21B of the KZN Law Society rules was/were as follows:—

<table>
<thead>
<tr>
<th>NAME</th>
<th>DATE DESIGNATED</th>
<th>DATE DESIGNATION CEASED</th>
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</tbody>
</table>
I/We solemnly and sincerely declare that the information given by me in this Certificate is true to the best of my knowledge and belief.

CURRENT DESIGNATED TRUST ACCOUNT PARTNER(S)/DIRECTOR(S) OR SOLE PRACTITIONER (where applicable)

DATE:

NOTES:

(a) State addresses of all places of business of the practice in respect of which this certificate is lodged.

(b) The Trial Balance is to be a balance of all the accounting records covering Trust and Business accounts.

Tenth Schedule
Form of certificate
(Where no trust monies have been held)

[Tenth Schedule substituted by GG 27310 of 18/03/2005.]

The Financial Manager
KZN Law Society
P.O. Box 1454
Pietermaritzburg
3200
Docex 25
Pietermaritzburg

Dear Sir,
I/We, the duly designated and appointed trust account partner(s)/director(s) or sole practitioner of,

(name of firm), carrying on business at:
(address of firm),

(separate certificate required for each branch office having a separate trust account), confirm that:

1.

I/We have maintained the necessary accounting records as required in terms of ss 78 (6) of the Attorneys Act 53 of 1979 and the Rules and Rulings as they appear in the KZN Law Society Practice Manual for the accounting period from to

2.

I/We certify that:—

2.1

the accounting records are up to date and balanced as at the last day of the accounting period, and

2.2

the accounting records, to the best of my/our knowledge and belief, are in accordance with the terms of the Attorneys Act 53 of 1979 and the KZN Law Society Rules and Rulings, and

2.3

I/We have not handled Trust monies during this accounting period (note (b)).

2.4

if circumstances change with the result that I am required to receive or hold Trust monies, I shall immediately advise the Society.

2.5

the other matters which require to be reported are:—

2.6

during the said accounting period the Designated Trust Account Partner(s)/Director(s) or sole practitioner in terms of Rule 21B of the KZN Law Society rules was/were as follows:—

<table>
<thead>
<tr>
<th>NAME</th>
<th>DATE DESIGNATED</th>
<th>DATE DESIGNATION CEASED</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
I/We solemnly and sincerely declare that the information given by me in this Certificate is true to the best of my knowledge and belief

CURRENT DESIGNATED TRUST ACCOUNT PARTNER(S)/DIRECTOR(S) OR SOLE PRACTITIONER (where applicable)

DATE:

NOTES:
(a)

State addresses of all places of business of the practice in respect of which this certificate is lodged.

(b)

The accounting period must be six months or less and follow immediately on from the previous accounting period without a gap or overlap in the dates concerned.

Eleventh Schedule
Conduct in respect of corrupt activities

Corrupt practices by law firms

Part 1: General Conduct of Corruption
In this Schedule “practitioner” includes a “candidate attorney”

1. General Conduct of Corruption.—Any practitioner who, directly or indirectly—

(a)

accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or

(b)

gives or agrees or offers to give to any other person any gratification, whether for the benefit of that other person or for the benefit of another person,

in order to act, personally or by influencing another person so to act, in a manner—
that amounts to the—

(aa)

illegal, dishonest unauthorised, incomplete, or biased; or

(bb)

misuse or selling of information or material acquired in the course of the,

exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;

(ii)

that amounts to—

(aa)

the abuse of a position of authority;

(bb)

a breach of trust; or

(cc)

the violation of a legal duty or a set of rules;

(iii)

designed to achieve an unjustified result; or

(iv)

that amounts to any other unauthorised or improper inducement to do or not to do anything,

is guilty of unprofessional, dishonourable or unworthy conduct.

Part 2: Conduct in respect of Corrupt Activities Relating to Specific Persons

2. **Conduct in respect of Corrupt Activities Relating to Public Officers.**—(1) Any—

(a)
practitioner who, directly or indirectly, accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person or his law firm; or

(b)

practitioner who, directly or indirectly, gives or agrees or offers to give any gratification to a public officer, whether for the benefit of That public officer or for the benefit of another person,

in order to act, personally or by influencing another person so to act, in a manner—

(i)

that amounts to the—

(aa)

illegal, dishonest, unauthorised, incomplete, or biased; or

(bb)

misuse or selling of information or material acquired in the course of the,

exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;

(ii)

that amounts to—

(aa)

the abuse of a position of authority;

(bb)

a breach of trust; or

(cc)

the violation of a legal duty or a set of rules;

(iii)

designed to achieve an unjustified result; or
that amounts to any other unauthorised or improper inducement to do or not to do anything,

is guilty of unprofessional, dishonourable or unworthy conduct.

(2) Without derogating from the generality of 2 (1) above, “to act” includes—

(a) voting at any meeting of a public body,

(b) performing or not adequately performing any official functions;

(c) expediting, delaying, hindering or preventing the performance of an official act;

(d) aiding, assisting or favouring any particular person in the transaction of any business with a public body;

(e) aiding or assisting in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person in relation to the transaction of any business with a public body;

(f) showing any favour or disfavour to any person in performing a function as a public officer;

(g) diverting, for purposes unrelated to those for which they were intended, any property belonging to the state which such officer received by virtue of his or her position for purposes of administration, custody or for any other reason, to another person; or

(h)
exerting any improper influence over the decision making of any person performing functions in a public body.

3. **Conduct in respect of Corrupt Activities Relating to Foreign Public Officials.**—

   (1) Any practitioner who, directly or indirectly gives or agrees or offers to give any gratification to a foreign public official, whether for the benefit of that foreign public official or for the benefit of another person, in order to act, personally or by influencing another person so to act, in a manner—

   \[(a)\]

   that amounts to the—

   \[(i)\]

   illegal, dishonest, unauthorised, incomplete, or biased conduct; or

   \[(ii)\]

   misuse or selling of information or material acquired in the course of the, exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;

   \[(b)\]

   that amounts to—

   \[(i)\]

   the abuse of a position of authority;

   \[(ii)\]

   a breach of trust; or

   \[(iii)\]

   the violation of a legal duty or a set of rules;

   \[(c)\]

   designed to achieve an unjustified result; or

   \[(d)\]
that amounts to any other unauthorised or improper inducement to do or not to do anything,

is guilty of unprofessional, dishonourable or unworthy conduct.

(2) Without derogating from the generality of paragraph 3 (1) above, “to act” includes—

(a)

The using of such foreign public official’s or such other person’s position to influence any acts or decisions of the foreign state or public international organisation concerned; or

(b)

Obtaining or retaining a contract, business or an advantage in the conduct of business of that foreign state or public international organisation.

4. Conduct in respect of Corrupt Activities Relating to Agents.—Any—

(a)

practitioner acting as an agent for someone else who, directly or indirectly—

(i)

accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or

(ii)

gives or agrees or offers to give to any other person any gratification, whether for the benefit of that person or for the benefit of another person; or

(b)

practitioner who, directly or indirectly—

(i)

accepts or agrees or offers to accept any gratification from an agent, whether for the benefit of himself or herself or for the benefit of another person; or

(ii)
gives or agrees or offers to give any gratification to an agent, whether for the benefit of
that agent or for the benefit of another person,

in order to act, personally or by influencing another person so to act, in a manner—

(aa)

that amounts to the—

(iiiaa)

illegal, dishonest, unauthorised, incomplete, or biased conduct; or

(iiibb)

misuse or selling of information or material acquired in the course
of the,

exercise, carrying out or performance of any powers, duties or functions arising out of a
constitutional, statutory, contractual or any other legal obligation;

(bb)

that amounts to—

(iiiaa)

the abuse of a position of authority,

(iiibb)

a breach of trust; or

(iiicc)

the violation of a legal duty or a set of rules;

(cc)

designed to achieve an unjustified result; or

(dd)

that amounts to any other unauthorised or improper inducement to do or not to do
anything,
is guilty of unprofessional, dishonourable or unworthy conduct.

5. **Conduct in respect of Corrupt Activities Relating to Members of the Council, Committee or Joint Committee of the Law Society.**—(1) Any—

(a) member of the Council, Committee or Joint Committee of the Law Society who, directly or indirectly, accepts or agrees or offers to accept any gratification from any other person, whether for the benefit of himself or herself or for the benefit of another person; or

(b) practitioner who, directly or indirectly, gives or agrees or offers to give any gratification to a member of the Council, Committee or Joint Committee of the Law Society, whether for the benefit of that member or for the benefit of another person,

in order to act, personally or by influencing another person so to act, in a manner—

(i) that amounts to the—

(aa) illegal, dishonest, unauthorised, incomplete, or biased conduct; or

(bb) misuse or selling of information or material acquired in the course of the, exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;

(ii) that amounts to—

(aa) the abuse of a position of authority;

(bb) a breach of trust; or

(cc)
the violation of a legal duty or a set of rules;

(iii)

designed to achieve an unjustified result; or

(iv)

that amounts to any other unauthorised or improper inducement to do or not to do
anything.

is guilty of unprofessional, dishonourable or unworthy conduct.

(2) Without derogating from the generality of paragraph 5 (1) above, “to act” includes—

(a) absence himself or herself from;

(b) voting at any meeting of;

(c) aiding or assisting in procuring or preventing the passing of any vote in;

(d) exerting any improper influence over the decision making of any person performing his
or her functions as a member of or

(e) influencing in any way, the election, designation or appointment of any functionary to be
elected, designated or appointed by, the Council of which he or she is a member or of any
committee or joint committee of that Council.

6. Conduct in respect of Corrupt Activities Relating to Judicial, Quasi Judicial or
Administrative Duties.—(1) Any—

(a) practitioner acting in a judicial, quasi judicial or administrative capacity who, directly or
indirectly, accepts or agrees or offers to accept any gratification from any other person,
whether for the benefit of himself or herself or for the benefit of another person; or
(b) practitioner who, directly or indirectly, gives or agrees or offers to give any gratification to a practitioner acting in a judicial, quasi judicial or administrative capacity, whether for the benefit of that practitioner or for the benefit of another person, in order to act, personally or by influencing another person so to act in a manner

(i) that amounts to the—

(aa) illegal, dishonest, unauthorised, incomplete, or biased conduct; or

(bb) misuse or selling of information or material acquired in the course of the exercise, carrying out or performance of any powers, duties or functions arising out of a constitutional, statutory, contractual or any other legal obligation;

(ii) that amounts to—

(aa) the abuse of a position of authority;

(bb) a breach of trust; or

(cc) the violation of a legal duty or a set of rules;

(iii) designed to achieve an unjustified result; or

(iv) that amounts to any other unauthorised or improper inducement to do or not to do anything,
is guilty of unprofessional, dishonourable or unworthy conduct.

(2) Without derogating from the generality of paragraph 6 (1) above, “to act” includes—

(a) performing or not adequately performing a judicial, quasi judicial or administrative function;

(b) making decisions affecting life, freedoms, rights, duties, obligations and property of persons;

(c) delaying, hindering or preventing the performance of a judicial, quasi judicial or administrative function;

(d) aiding, assisting or favouring any particular person in conducting judicial, quasi judicial or administrative proceedings or judicial, quasi judicial or administrative functions;

(e) showing any favour or disfavour to any person in the performance of a judicial, quasi judicial or administrative function; or

(f) exerting any improper influence over a decision making of any person, including a practitioner acting in a judicial, quasi judicial or administrative capacity or a member leading evidence in a judicial, quasi judicial or administrative capacity, performing his or her functions.

[Eleventh Schedule inserted by GG 27370 of 18/03/2005.]

Twelfth Schedule

Instructions to make an investment in terms of section 78 (2A) of the Attorneys Act


I/we, the undersigned,
I hereby confirm my/our instructions to (firm’s name) to invest any money deposited by me/us on account of into the/a trust banking account of the firm on the basis that:

1. The amount is invested in a separate trust savings or other interest-bearing account at a registered bank.


3. The payment of the money into the account contemplated in section 78 (2A) is for the purpose of investing such money in such account on a temporary or interim basis only pending the conclusion or implementation of a particular matter or transaction, being (provide full details thereof) that is either already in existence or about to come into existence at the time that this investment is made and over which investment the practitioner (an attorney, notary or conveyancer in the exclusive employ of the firm) exercises exclusive control as trustee, agent or stakeholder or in any fiduciary capacity.

4. I direct that the investment be made at the following bank:

5. The firm shall report to me monthly/quarterly/on registration of transfer/on termination of my mandate (delete whichever is not applicable).

6. The interest, which accrues on such investment is to be for the benefit of (provide full details) and is to be paid to after deducting your professional fee and costs for administering the investment (delete if
not applicable) (provide full details when the interest shall be paid).

7. I am aware of the fact that while the funds are so invested with the said bank, the funds are not protected against a possible liquidation of the said bank.

8. I confirm the following other instructions (if applicable):

Signed at

on this day of 20

Client/s

Accepted at

on this day of 20

On behalf of firm

Full names

Thirteenth Schedule
Code of ethics for legal practitioners


All legal practitioners shall:
1.
honour, respect and promote the values enshrined in the Bill of Rights;

2. maintain the highest standards of honesty, integrity and independence at all time;

3. act with care and skill, honour undertakings and maintain the reputation and high standards required in the performance of their duties;

4. conduct themselves with courtesy and respect towards participants in proceedings, especially persons without legal representation, so as to ensure compliance with the rules and procedures for the fair conduct of such proceedings;

5. maintain the highest standards of professionalism and promptly respond to correspondence and messages from colleagues, clients and members of the public;

6. comply with all ethical and professional rules of practice;

7. respect the legal privilege and confidentiality that exists with clients and former clients;

8. subject to the laws as regards contingency fees, and the rules and guidelines as regards advertising, not engage in any form of activity that may be construed as touting;

9. extend to all colleagues, judges, academics, professionals, litigants and students, including persons from foreign jurisdictions, cordiality and respect at all times.

Rules - The Law Society of the Cape of Good Hope

Rules framed in terms of Section 21 (1) of the Law Societies Act 41 of 1979 as substituted by Section 74 (1) of the Attorneys Act 53 of 1979 and promulgated in GG 5255 dated 20 August 1976, as amended by—
ARRANGEMENT OF RULES

1. Definitions
2. Honorary Members
3. Meetings of members
4. Circles
5. Articles of clerkship
6. Election of councillors
7. The Council
8. Subscription and registration fees
9. Directorate
10. Annual reports and audits
11. Library
12. Collection commission
13. Accounting rules

Schedule to Rule
13.20. Form of report by independent accountant

14. Professional conduct
15. Disciplinary
16. Benevolent fund
17. Assessment of fees
18. Dissolution of society
19. Accreditation of law clinics
20. Investment practice rules
21. Pro bono services

Schedule
Client Investment Mandate

Repealed Act
Act 41 of 1979 has been repealed by s 106 of Act 103 of 1984

Repealed Act
Act 103 of 1984 has been repealed by Sch 7 of Act 200 of 1993

Repealed Act
Act 41 of 1979 has been repealed by s 106 of Act 103 of 1984
1. DEFINITIONS

“Accountant” means a person who is registered as an accountant and auditor in terms of the Public Accountants’ and Auditors’ Act, 1991, and who practises as a public accountant as defined in that Act.

“Accounting records” means the records which a firm is required to keep in terms of Rule 13.5.


“Branch office”, in relation to a practising member, means an office at or from which the firm of which he is the proprietor or a member or by which he is employed practises, but which is not a main office.

“Business account transactions” means transactions in regard to which records are required to be kept in terms of Rule 13.5.2.

“Council” means the Council of the Society.

“Director” means a director and includes an assistant, deputy or acting director appointed in terms of Rule 9.1.

“Disciplinary Committee” means a committee appointed in terms of Rule 15.2.1.

“Disciplinary Inquiry Committee” means a committee appointed in terms of Rule 15.2.2.

“Firm” means—
a partnership of practitioners
a sole practitioner for his own account
a professional company

who or which in each case conducts the practice of a practitioner.

“Main office”, in relation to a practising member, means the premises at and from which the practice of the firm of which he is the proprietor or a member of by which he is employed is as a whole administered and controlled and includes such premises in two or
more buildings situate in sufficiently close proximity to one another to allow the administration of those premises as a single composite entity; and

includes premises declared or determined as such in terms of Rule 13.1 or 13.4 as the case may be.

“Member” save as otherwise required by the context means both—

a practitioner who is a member of the Society by virtue of Section 57 (1) of the Act; and

a person who is declared a member of the Society in terms of Section 57 (2) of the Act;
or one or the other, as required by the context.

“President” and “Vice-President” mean respectively the President and Vice-President of the Society.

“Professional work” means, in addition to work which may by law or regulation promulgated under any law be performed only by a practising practitioner, such other work as is properly or commonly performed by or associated with the practice of a practitioner but excludes auctioneering, the sale and letting of immovable property, insurance agency work and deposit-taking institutions work carried out by him in connection with his activities as a practising practitioner.

“Service” means service in terms of the Rules of Court of the Magistrates’ Court.

“Society” means the Law Society of the Cape of Good Hope.

“Subscription” means a subscription in terms of Rule 8.1

“Trust account transactions” means transactions in regard to which records are required to be kept in terms of Rule 13.5.3.

“Trust banking account” means and includes all trust accounts kept by a firm in terms of Section 78 (1) of the Act.

“Trust cash” means any cash held in trust by a firm other than in a trust banking account or a trust investment account.

“Trust creditor” means a person on whose account money is held or received as contemplated by section 78 (1) or invested as contemplated by section 78 (2) or section 78 (2A) of the Act.

“Trust Investment Account” means and includes all accounts kept by a firm in terms of section 78 (2) or section 78 (2A) of the Act.
“Trust money” means money held or received on account of any person as contemplated by section 78 (1) or invested as contemplated by section 78 (2) or section 78 (2A) of the Act.

Words or expressions referred to in these Rules which are not defined herein, shall bear the meaning assigned to them by section 1 of the Act.

2. HONORARY MEMBERS

The Society may subject to the approval of a general meeting of members expressed in a resolution passed without dissent appoint any attorney, whether practising or not, an honorary member of the Society. Such persons shall remain honorary members during the pleasure of the Society, be entitled to attend all meetings of members, and shall be entitled to vote thereat but shall not be liable for payment of subscriptions.

2bis.

Declared members

2bis.1

No person shall be declared a member of the Society under Section 57 (2) of the Act unless the Council is satisfied that the applicant is a fit and proper person, regard being had to the following considerations:

2bis.1.1

the reasons advanced in support of an application for membership;

2bis.1.2

whether the applicant’s employer or partners, as may be applicable, support or object to his admission to membership and the reasons advanced for such support or objection, as the case may be;

2bis.1.3

the nature of the applicant’s employment, profession or business and the period for which he has been employed or otherwise engaged therein;

2bis.1.4
whether or not the applicant practises or resides outside the Cape Province;

2bis.1.5

the written acknowledgement of the applicant to be bound, once declared a member, by these Rules, by the ethical code of the profession and by the rulings and determinations of the Council;

2bis.1.6

any other considerations which the Council considers relevant.

2bis.2

In declaring a person a member of the Society the Council may impose such conditions of membership as it may determine and as it may be competent for it to impose, both at the time of its declaration and at any time subsequent thereto, and in the latter instance, whether by way of addition to, or variation of, any conditions previously imposed.

2bis.3

The Council shall be entitled to terminate a declared member’s membership of the Society if it deems it desirable to do so by reason of—

2bis.3.1

any change in the nature of such member’s employment subsequent to the date of his declaration as a member;

2bis.3.2

any alteration, deemed by the Council to be material, in the circumstances in the light of which the Council exercised its discretion to declare him a member including (but without derogating from the generality of the foregoing) the reliance by the Council, in making such declaration, upon information which, in its opinion, appears to have been erroneous, false or misleading;

2bis.3.3
any other circumstances which, in the opinion of the Council, justify such a termination of membership.

The Council shall not exercise its right of termination without having first notified the member concerned in writing that it is considering exercising such right and without advising such member of the reasons for which it is considering doing so and without having afforded the member concerned an opportunity to furnish [to] the Society within a period stipulated (which period shall not be less than 14 days calculated from the date of the Society’s notification to the member) his reasons, if any, as to why the Council should not exercise such right. The Council shall be entitled to call upon the member concerned to amplify his aforesaid reasons by way of oral representations made to the Council within such period as it shall stipulate. The Council shall make its decision as to whether or not the membership of the member concerned is to be terminated, in the light of such reasons, if any, and such oral representations, if any, as may be submitted by such member.

The Council shall notify the member concerned in writing of its decision either to terminate his membership or not to do so and, in the former instance, the member’s membership of the Society shall terminate with effect from the date of the Council’s notification.

3. MEETINGS OF MEMBERS

3.1.

Annual General Meetings

3.1.1

Notice of every annual general meeting convened in terms of Section 68 of the Act shall, at least eight weeks before the date of the meeting, be:

(i) sent or posted to every member; and

(ii) sent or posted to the head offices of the National Association of Democratic Lawyers as well as the Black Lawyers Association; and

(iii) advertised once in the Government Gazette.
3.1.2

Such notice shall state the business to be transacted at the meeting and shall call for notices and nominations in terms of Rule 3.1.3.7, 4.8 and 6.2 respectively.

3.1.3

The business to be transacted at an annual general meeting shall be:

3.1.3.1

The consideration of the President’s Report for the year ended on the preceding 30th June;

3.1.3.2

The consideration and adoption with or without modification of the accounts for the year ended on the preceding 30th June;

3.1.3.3

To receive the result of the election of Councillors;

3.1.3.4

To announce the names of the President and the Vice-President for the ensuing year;

3.1.3.5

The election of the auditor;

3.1.3.6

The consideration of motions or other matters submitted by the Council to the meeting;

3.1.3.7

The consideration of motions of which notice in writing has been given by any member to the Director at least five weeks before the meeting.

3.1.4

The order of business at an annual general meeting shall unless varied with the approval of the meeting, be as follows:
The minutes of the preceding annual general meeting and of any intervening special general meeting shall be submitted for confirmation;

3.1.4.2

The President’s report shall be considered and all matters arising therefrom shall be open for discussion;

3.1.4.3

The chairman shall announce the names of the Councillors elected or appointed for the ensuing terms of office concerned;

3.1.4.4

The audited accounts of the Society as signed by the auditor shall be submitted to the meeting for consideration and adoption with or without modification;

3.1.4.5

Nominations for the office of auditor shall be called for by the chairman and if more than one person be nominated the appointment shall be by vote of the meeting;

3.1.4.6

Motions submitted by the Council shall be dealt with, and if necessary the vote of the meeting taken thereon;

3.1.4.7

Any other matter submitted by the Council shall be open for discussion;

3.1.4.8

Motions submitted by members shall be dealt with;

3.1.4.9

The names of the President and Vice-President elected by the Council for the ensuing year shall be announced and they shall take office immediately after the closure of the meeting;

3.1.4.10

After any other matter allowed by the chairman has been discussed, the meeting shall be closed.
3.2

Special General Meeting

The Council

3.2.1

may at any time and

3.2.2

shall within fourteen days of receiving a written requisition or requisitions therefor signed by not less than twenty members convene a special general meeting, of which written notice of not less than twenty-one days shall be sent or posted to all members of the Society provided that the Council may in its discretion in special circumstances give shorter notice. Such notice shall state the purpose of the meeting and no other business shall be transacted thereat.

3.3

Provisions common to General Meetings

3.3.1

A quorum at a general meeting shall be 10 practising members personally present within 15 minutes of the time fixed for the meeting.

3.3.2

If there be no quorum at a meeting or an adjourned meeting, no business shall be transacted thereat and the meeting or adjourned meeting shall be adjourned or further adjourned for seven days, provided that if the meeting is a special general meeting requisitioned in terms of Rule 3.2.2, the meeting shall be dissolved.

3.3.3

If the date to which any meeting is adjourned is a public holiday the adjourned meeting shall be held on the first succeeding day which is not a public holiday, a Saturday or a Sunday.

3.3.4

A general meeting at which a quorum is present may be adjourned to a time and place decided by the meeting.

3.3.5
No business shall be transacted at an adjourned general meeting other than business capable of being considered and uncompleted at the meeting which was adjourned.

3.3.6

At a general meeting the following shall be the rules of debate:

3.3.6.1

A member shall speak once only on any question save by way of explanation provided that the mover of a resolution may speak in reply, after which there will be no further debate.

3.3.6.2

A member moving a motion may not speak for more than 15 minutes and any other member may not speak for more than 10 minutes provided that the chairman may, with the consent of the meeting, extend such periods by such time as he may direct.

3.3.6.3

A member may move a question, or that the question be not put, by moving that the meeting proceed to the next business.

3.3.6.4

A member moving the adjournment of the meeting or the debate or that the question be not put or that the meeting proceed to the next business, may speak for not more than 5 minutes and such motion shall be seconded without a speech. One member (the mover of the motion or amendment under discussion having preference) may speak for 5 minutes in opposition to any such motion, which shall then be put by the chairman without debate.

3.3.6.5

Whenever an amendment to an original motion has been moved and seconded no further amendment shall be moved until the first amendment has been disposed of. If an amendment is carried, the motion as amended shall take the place of the original motion and shall become the question on which any further amendment may be moved.

3.3.6.6

No member may move more than one amendment on any motion.

3.3.6.7
The chairman may call the attention of the meeting to unbecoming language or a breach of order on the part of a member and may direct such member to discontinue his speech.

3.3.7

If a member who has given proper notice of a motion is not present and has not withdrawn the motion any member present may, with the consent of the chairman, adopt the motion and move it as if notice had been given by him.

3.3.8

No member whose subscription is in arrear for more than 2 months shall be entitled to vote or be present at any general meeting.

3.3.9

All matters shall be decided on a show of hands unless before or on the declaration of the result of the show of hands a member present at the meeting demands a poll which shall be determined by the votes of members present in person or by proxy.

3.3.10

A poll shall be taken forthwith in the manner directed by the chairman.

3.3.11

In the event of an equality of votes on a show of hands or a poll, the chairman shall be entitled to a second or casting vote.

3.3.12

The result of voting shall be the decision of the meeting.

3.3.13

A proxy holder shall be a member.

3.3.14

A proxy shall remain in force only for the particular meeting for which it is given and for any adjournment thereof.
3.3.16

A proxy shall be in the following form:

I

of a member of the Law Society of the

Cape of Good Hope, appoint

of also a member of the Society as my proxy to appear and vote for me upon all

matters to be

brought forward at a general meeting of the Society to be held on the
day of

and at any adjournment thereof.

Dated at

this
day of

Signature

and shall be signed by the grantor.

3.3.17

No proxy form shall be acted upon unless it is delivered to the Director at least 24 hours
before the time fixed for the meeting at which it is intended to be used.

3.3.18

Minutes of the proceedings at every general meeting shall be kept by the Director or in
the event of his absence by a person appointed by the chairman. The original copy of
such minutes shall be kept in a minute book and signed by the chairman upon
confirmation at the next succeeding general meeting.

3.3.19

The President, failing whom the Vice-President, failing whom a member of the Council
appointed by the Council, failing whom a member appointed by the meeting shall be the
chairman of a general meeting.

4. CIRCLES

4.1.
For the purposes of this Rule the Province of the Cape of Good Hope shall be divided into Circles as follows:

- **o. 1:** The Magisterial district of the Cape.
- **o. 2:** The divisions of Stellenbosch, Paarl, Caledon and Bredasdorp.
- **o. 3:** The divisions of Worcester, Sutherland, Laingsburg, Montagu, Robertson, Tulbagh and Ceres.
- **o. 4:** The divisions of George, Mossel Bay, Oudtshoorn, Uniondale, Ladismith, Calitzdorp and Knysna.
- **o. 5:** The divisions of Beaufort West, Prince Albert and Fraserburg.
- **o. 6:** The divisions of Graaff-Reinet, Aberdeen, Jansenville, Pearston and Willowmore.
- **o. 7:** The divisions of De Aar, Britstown, Victoria West, Prieska, Carnarvon, Hopetown, Philipstown, Murraysburg, Hanover, Richmond and Loxton.
- **o. 8:** The divisions of Port Elizabeth, Uitenhage, Humansdorp and Steytlerville.
- **o. 9:** The divisions of Somerset East, Alexandria, Albany, Fort Beaufort, Bathurst and Bedford.
- **o. 10:** The divisions of Colesberg, Middelburg, Cradock, Hofmeyr and Steynsburg.
- **o. 11:** The divisions of Aliwal North, Barkly East, Albert, Lady Grey and Venterstad.
- **o. 12:** The division of Kaffraria (excluding the Magisterial district of East London).
- **o. 13:** The divisions of Queenstown, Tarka, Sterkstroom, Elliot, Cathcart, Molteno, Wodehouse and Maclear.
- **o. 14:** Walvis Bay.
- **o. 15:** Transkei.
- **o. 16:** The divisions of Kimberley, Herbert, Hay and Barkly West (including the Magisterial district of Olifantschoek).
- **o. 17:** The divisions of Vryburg, Kuruman (excluding the Magisterial district of Olifantschoek) and Vaalharts.
- **o. 18:** The divisions of Namaqualand, Vanrhynsdorp, Clanwilliam, Calvinia and Williston.
- **o. 19:** The divisions of Gordonia and Kenhardt.
o. 20: The divisions of Malmesbury and Piketberg.

o. 21: The divisions of Swellendam, Riversdale and Heidelberg.

o. 22: The Magisterial district of Goodwood, Parow, Bellville, Durbanville and Kuils River.

o. 23: The Magisterial districts of Wynburg and Simon’s Town.

o. 24: The Magisterial district of East London.

4.2

The Council shall have the power from time to time to increase, reduce or any other manner alter the areas of the several Circles.

4.3

All members practising or otherwise employed within the area of a Circle shall be members of that Circle.

4.4

The affairs of a Circle shall be conducted by a Circle Committee, which shall consist of three members practising in that Circle or such greater number as the Council may determine.

4.5

The functions of a Circle Committee shall be:

4.5.1 to consider and deal with such matters as specifically affect the members practising or otherwise employed within its area and are not matters which in the opinion of the Council should properly be dealt with by the Council;

4.5.2 to discuss and report on matters referred to it by the Council and generally deal with such matters when so required by the Council;

4.5.3 to consider and make representations to the Council upon any matter affecting the profession either in its area or as a whole or affecting the Society;
4.5.4
to assist where possible in the friendly settlement of disputes between its members;

4.5.5
such other functions as the Council may from time to time decide.

4.6
Where the whole area of a Circle is served by an Attorneys Association whose constitution has been approved by the Council—

4.6.1
the Committee of such Attorneys Association shall, if the Council so decides, constitute the Circle Committee for such Circle, or, alternatively—

4.6.2
the Council shall suspend the operation of the whole or any part of this Rule for as long as it shall think fit, in relation to that Circle.

4.7
The headquarters of the Circle Committees shall, unless otherwise determined by the Council, be as follows:

No. 1: Cape Town.
No. 2: Paarl.
No. 3: Worcester.
No. 4: George.
No. 5: Beaufort West.
No. 6: Graaff-Reinet.
No. 7: De Aar.
No. 8: Port Elizabeth.
No. 9: Grahamstown.
No. 10: Cradock.
No. 11: Aliwal North.
No. 12: King William’s Town.
No. 13: Queenstown.
No. 14: Walvis Bay.
No. 15: Umtata.
No. 16: Kimberley.
No. 17: Vryburg.
No. 18: Calvinia.
No. 19: Upington.
No. 20: Moorreesburg.
No. 21: Swellendam.
No. 22: Bellville.
No. 23: Wynberg.
No. 24: East London.

4.8
Members of Circle Committees shall be nominated and elected annually in like manner
mutatis mutandis as if such nomination and election were for members of the Council,
only members practising or otherwise employed within a Circle being entitled to
nominate or vote in respect of the Committee for such Circle.

4.9
Members of Circle Committees shall remain in office for one year. A retiring member
shall be eligible for re-election.

4.10
The Director, in calling for nominations to fill the annual vacancies in the Council, shall
at the same time call for nominations in each of the said Circles of candidates for election
as members of the Committee for the ensuing year.

4.11
If a member of a Committee fails to attend two consecutive meetings without leave of
absence he shall cease to be a member of the Committee.

4.12
Any casual vacancy occurring in any Circle Committee between the annual general
meetings of the Society may be filled by the remaining members of the Circle
Committee, but their nominee shall hold office only for so long as his predecessor would
have held office had his position not become vacant. Any such casual appointment shall
forthwith be notified to the Council.

4.13
A Circle Committee shall annually appoint a chairman and secretary and shall
immediately after such appointment notify the Director of their names and addresses. It
shall keep in a minute book, a proper record of all its proceedings, which minute book
shall be open to the inspection of the Council at all times, and remain the property of the
Council. Two members shall form a quorum.

4.14
A Circle Committee shall furnish an annual report to the Council for submission to the annual general meeting.

4.15

Each member of a Circle Committee shall be entitled by written proxy to appoint another practising member to act as his alternate to attend any meeting or meetings of the Circle Committee at which he cannot be present, and to vote thereat, and the attendance of such alternate shall be reckoned as the attendance of such member.

4.16

All communications addressed by the Director to a Circle Committee shall be promptly acknowledged by its secretary, and all papers or documents transmitted to any Circle Committee for its perusal and consideration shall be deemed to be confidential and shall be duly returned to the Director as required by him.

4.17

It shall be the duty of each Circle Committee to be represented by at least one representative, who shall be either one of its members or his alternate (provided he is a practising member in that Circle) at each annual general meeting of the Society.

4.18

The Council may from time to time contribute to a Circle Committee or member of a Circle an amount it considers reasonable towards the expenses incurred by such Circle Committee.

4.19

Each Circle shall be entitled to claim from the Society an amount not exceeding R150,00 towards the expenses of its delegates attending an annual general meeting of the Society, provided that, if the distance travelled to such meeting by such delegate or delegates exceeds 200 kilometres, such amount may be increased to R200,00.

4.20

The amount referred to in sub-rule 4.19 shall be paid in respect of the travelling and accommodation expenses incurred by each delegate of a Circle who has been nominated by his Circle Committee to attend the annual general meeting provided that a Circle shall only be entitled to one contribution in terms of Rule 4.19 for each 100 members or part thereof practising or otherwise employed within the area of such Circle. Circle No. 24 (East London) shall notwithstanding the above be entitled to two such contributions towards the expenses of its delegates.

5. ARTICLES OF CLERKSHIP

5.1
Articles of clerkship shall contain the whole agreement entered into between the parties and shall be lodged with the Director within one month of their execution; should any subsequent agreement amending the articles be entered into, the amending agreement shall be lodged within 60 days of its execution.

5.2

The Council shall have the right to reject any articles of clerkship or supplementary agreement lodged as aforesaid, which are in conflict with the Act or which in the opinion of the Council contain any improper or objectionable clauses.

6.  ELECTION OF COUNCILLORS

6.1

Notice calling for nomination of Councillors shall be sent by post to every member at least 8 weeks before the holding of every annual general meeting.

6.2

After the issue of the notice referred to in sub-clause 6.1 any two members:

6.2.1

who are members in the Province of the Western Cape may nominate in writing any practising member or practising members who practice in such Province;

6.2.2

who are members in the Province of the Eastern Cape may nominate in writing any practising member or practising members who practise in such Province;

6.2.3

who are members in the Province of the Northern Cape including the area falling under the jurisdiction of Circle No. 17 may nominate in writing any practising member or practising members who practise in such Province or in the area of jurisdiction of such Circle; to fill any vacancy or vacancies in the Council membership for the Province concerned for the term of office contemplated in sub-rule 7.2.1. Each nomination in terms of 6.2 shall bear the acceptance of the nominee concerned and be in the hands of a Director at least five weeks before the date for the holding of an annual general meeting.

6.3

No member whose subscription is in arrears for more than 2 months may nominate or second any candidate as a member of the Council and no practising member whose subscription is so in arrears may be nominated as a candidate for the Council.

6.4
If no greater number of candidates be duly nominated than the number of vacancies to be filled, the candidates nominated shall be deemed and declared to be elected.

6.5

If at the expiration of the time appointed for the receipt of nominations none be received, or if the number of candidates duly nominated for each province shall be fewer than the number of Councillors to be elected, the candidates nominated (if any) shall be deemed and declared to be duly elected.

6.6

If the number of candidates duly nominated in terms of any sub-rule 6.2 above exceeds the number of Councillors required to be elected in respect of any province then an election shall be held by the members of the province concerned as contemplated in 7.1.1. A Director shall as soon as possible, forward by post to every member of the Society a printed voting paper accompanied by a printed identification envelope and an envelope bearing the address of the Society and the words “Voting Paper” printed thereon. The form of the voting paper and of the identification envelope shall respectively be as nearly as is material, to the following:

THE LAW SOCIETY OF THE CAPE OF GOOD HOPE VOTING PAPER

<table>
<thead>
<tr>
<th>Name of Candidate</th>
<th>Address</th>
<th>Column for Voter’s Mark (X)</th>
</tr>
</thead>
<tbody>
<tr>
<td>CD</td>
<td></td>
<td></td>
</tr>
<tr>
<td>EF</td>
<td></td>
<td></td>
</tr>
<tr>
<td>GH</td>
<td></td>
<td></td>
</tr>
<tr>
<td>IJ</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

NOTES

Note I

The names of the candidates are given in alphabetical order by province. You may vote only for the candidates nominated for the province in which you are practising.

Note II

There are “x” vacancies as follows:

1.

Western Cape:
2.

Eastern Cape:

3.

Northern Cape including Circle No. 17:

Note III

You may vote for any number of candidates in your province provided that the number voted for does not exceed the number of vacancies referred to in Note II above.

Note IV

No voting paper other than this will be accepted unless it is sent or delivered by you to the Director in an envelope marked “Voting Paper” with a letter explaining why the printed form was not returned.

Note V

In terms of Rule 6.3, no member whose subscription is in arrears for more than two months shall be entitled to cast his vote for any candidate for election as a Councillor.

IDENTIFICATION ENVELOPE

Form of Declaration on Identification Envelope

I, (state name)
who practice at (state address)
in the province of
being a member of the Law Society of the Cape of Good Hope do hereby declare that I am the person to whom the enclosed Voting Paper was addressed that I am entitled to vote that I am not a member of the Black Lawyers Association or the National Association of Democratic Lawyers and that I have not returned any other voting paper in this election.

Signature of Voter

Signed at

this
in the presence of the undersigned witness.

Signature of Witness

6.7
Each member, entitled to vote in terms of 7.1.1 and desiring to vote, shall mark upon the voting paper received by him/her a cross against the names of those candidates for whom he/she intends to vote.

6.8
No member whose subscription is in arrears for more than two months shall be entitled to vote for any candidate.

6.9
A voter shall place his/her voting paper in the identification envelope, close the envelope, sign the declaration thereon in the presence of a witness who shall also sign it as such and post it in the envelope or deliver it to a Director so as to reach him/her at least seven days before the date fixed for the annual general meeting, failing which the vote will be invalid.

6.10
Any voting paper not in accordance with these rules shall be invalid, provided that a voting paper not received in an identification envelope shall not on that account be invalid if it is submitted together with an identification envelope.

6.11
A Director shall retain unopened all identification envelopes addressed or delivered to him/her as aforesaid and shall deliver the same upon the last date fixed for the receipt of voting papers to the scrutineers appointed by the President for examining the votes. There shall be at least two scrutineers; candidates for office and proposers and seconders of candidates shall not be appointed as scrutineers.

6.12
The scrutineers shall—

6.12.1
examine the identification envelopes and the declarations thereon for the purpose of determining whether or not the declarations have been completed in accordance with these Rules by persons qualified to vote;

6.12.2
reject and leave unopened those identification envelopes on which the declarations have
not been completed in accordance with these Rules or have been completed by persons
not qualified to vote;

6.12.3
open those identification envelopes on which declarations have been completed in
accordance with these Rules by persons qualified to vote;

6.12.4
extract from the opened identification envelopes the voting papers and, keeping such
voting papers folded, face inwards, place them in a closed ballot box with aperture for
such purpose;

6.12.5
open the ballot box, examine the voting papers and ascertain the number of valid votes
recorded for each candidate.

6.13
The candidates for whom the greatest number of votes have been recorded (according to
the number of Councillors to be elected) shall be deemed to be duly elected.

6.14
Upon the completion of the scrutiny the scrutineers shall report the result in writing to the
President. The report which shall be signed by them, shall contain in respect of each
province the following particulars:

6.14.1
the total number of voting papers received;

6.14.2
the number (if any) rejected, and the grounds for the rejection;

6.14.3
the total number of votes in favour of each candidate;

6.14.4
the names of those who are duly elected;

6.14.5
the percentage of the poll;
The President shall, on the receipt of the report, cause the candidates to be advised of the particulars set out in 6.14.1 to 6.14.5 above and such particulars shall also, in terms of Rules 3.1.3.3 and 3.1.4.3 be announced at the annual general meeting.

6.15

The report shall be conclusive as to the fact of election, notwithstanding any irregularity or informality.

6.16

In the event of a tie between two or more candidates, the question as to which candidate shall be deemed and declared to be elected shall be decided by lot to be drawn in such manner and at such time and place as the President may direct.

6.17

As soon as the voting papers have been examined and the result of the election ascertained and reported to the President, the voting papers shall be closed up under seal of the scrutineers and shall be retained by them for one month after the election, when they shall be destroyed by the scrutineers. A certificate of such destruction shall be furnished by the scrutineers to the President.

7. THE COUNCIL

7.1

Subject to sub-rule 7.3, the Council shall consist of 24 practising members, in good standing, of whom—

7.1.1

twelve members shall be elected by members of the Society who are not members of the Black Lawyers Association or the National Association of Democratic Lawyers—

7.1.1.1

one shall be elected by members of the Province of the Northern Cape including the area falling under the jurisdiction of circle No. 17;

7.1.1.2

three shall be elected by members of the Province of the Eastern Cape;

7.1.1.3

eight shall be elected by members of the Province of the Western Cape; provided that at least one member shall be practising outside a radius of 90 kilometres from the Society’s
office in Cape Town; provided that no member elected to represent the Society in terms of this Rule 7.1.1 shall be a member of the Black Lawyers Association and/or the National Association of Democratic Lawyers;

7.1.2

six members, who are members of the Society and the Black Lawyers Association, elected by the Black Lawyers Association in accordance with that association’s own election procedure and who shall constitute a fair representation of that Association in the three provinces in the area of jurisdiction of the Society, subject to practical considerations;

7.1.3

six members, who are members of the Society and the National Association of Democratic Lawyers, elected in accordance with that Association’s own election procedure and who shall constitute a fair representation of that Association in the three provinces in the area of jurisdiction of the Society, subject to practical considerations; provided that if not all the members referred to in sub-rules 7.1.2 and 7.1.3 respectively are elected, the vacancies which have occurred shall remain unfilled until such time as an election has taken place.

7.1.4

The body of councillors elected in terms of 7.1.1 may appoint four alternate councillors and each body of councillors elected in terms of 7.1.2 and 7.1.3 respectively may appoint two alternate councillors, who may substitute for and attend in the place of any of such councillors at Council meetings. Such alternate councillors must be identified by each respective body of councillors at the commencement of the terms of office of members elected in terms of 7.1.1, 7.1.2 and 7.1.3.

7.2

Members of Council elected in terms of—

7.2.1

sub-rule 7.1.1 shall hold office for three years, provided that if the member vacates his/her office before the expiration of such period of office, the Council may appoint a member of the Society practicing in that province after consultation with the Circle Chairmen of that province to fill such vacancy for the unexpired portion of such period of office;

7.2.2

sub-rules 7.1.2 and 7.1.3 shall, subject to the provisions of 7.2.3, hold office for three years, provided that if the member vacates his/her office before the expiration of such period of office, the Council may appoint a member of the organisation concerned in consultation with such organisation to fill such vacancy for the unexpired portion of such period of office;
7.2.3

sub-rules 7.1.2 and 7.1.3 shall—

7.2.3.1

in the case of a member elected at the first election after the promulgation of this sub-rule hold office from the date of election until the end of the 1998 Annual General Meeting of the Society; and

7.2.3.2

in the case of a member declared elected at the 1998 Annual General Meeting hold office from the first day after the 1998 Annual General Meeting until the end of the 2001 Annual General Meeting of the Society; provided that if the member vacates his/her office before the expiration of such period of office, the Council may fill such vacancy in terms of 7.2.2.

7.3

At the 2001 Annual General Meeting of the Society the Society’s members shall decide, after consultation with the Black Lawyers Association and the National Association of Democratic Lawyers, whether the composition of the Council in terms of sub-rules 7.1 and other associated provisions of these rules shall remain in force or whether the rules concerned should be amended and/or repealed.

7.4

Should it be necessary for any directions to be given to the Society’s representatives on the Council of the Law Society of South Africa to be voted on by the Council, the Councillors who are members of the Black Lawyers Association or the National Association of Democratic Lawyers, or who hold seats on the Council by virtue of election by the Black Lawyers Association or the National Association of Democratic Lawyers, shall not participate in the voting.

7.5

All members of the Council of the Society shall hold office in terms of and by subject to the provisions of the Attorneys Act and the Rules of the Society, as amended from time to time.

7.6

The President and the vice-President shall hold office for one year.

7.7

A member of the Council shall vacate office if he/she—

7.7.1
resigns in writing; or

7.7.2
ceases to be a practising member of the Society; or

7.7.3
is suspended from practice; or

7.7.4
surrenders his/her estate or is finally sequestrated; or

7.7.5
becomes of unsound mind; or

7.7.6
is absent without leave from 4 consecutive ordinary meetings of the Council; or

7.7.7
if his/her subscription is in arrear for more than 2 months; or

7.7.8
if a member elected in terms of 7.1.1, after his/her election becomes a member of the Black Lawyers Association or the National Association of Democratic Lawyers; or

7.7.9
if a member elected in terms of 7.1.2 and 7.1.3, after his/her election should resign as member of the Black Lawyers Association or the National Association of Democratic Lawyers.

7.8
A resolution of Council declaring the office of a member of Council vacated shall be conclusive as to the facts and grounds of such vacating of office.

7.9
Meetings of Council shall as far as possible be held once a month on dates and at the time and place fixed by Council or after 7 days’ notice by a Director at such date, time and place as fixed by Council or determined by the President.

7.10
Any 3 members of Council may request the President in writing to convene a special meeting of the Council stating the business to be considered, in such meeting shall be forthwith convened on at least 3 days’ notice in writing or by telegram or telefax,
specifying the business to be considered provided that, where less than 7 days’ notice has been given, the business transacted at such meetings shall be submitted for confirmation at the next succeeding ordinary meeting of Council; provided further that the President may call a special meeting of Council whenever he may consider it necessary.

7.11

At any meeting of Council a quorum shall be 12 members personally present. Alternate members provided for in 7.1.4, may be taken into account to establish a quorum.

7.12

All sitting councillors as at the date of promulgation of this rule shall, until the expiry of their respective terms of office, be deemed to have been elected for the provinces in which they practised at the time of their election. If any sitting councillor ceased to practise in the province for which he was deemed to have been elected his term of office shall expire forthwith and his vacancy will be filled mutatis mutandis in accordance with Rule 7.2.1.

8. SUBSCRIPTION AND REGISTRATION FEES

8.1

Each member shall pay an annual subscription on the first day of July in each year in advance in an amount determined by a majority of the members who are present or represented at an annual general meeting or at a special general meeting convened for that purpose.

8.2

An attorney becoming a member of the Society during the financial year of the Society shall pay a portion of the subscription calculated pro-rata over the remaining number of months (including the month in which the attorney becomes a member) in that financial year, which shall be paid within 1 month of becoming a member.

8.3

For every certificate obtained from the Director the applicant for such certificate shall on application pay the sum of R2,50.

9. DIRECTORATE

9.1

The Council may employ, fix the remuneration and other conditions of service of and discharge a Director, one or more Assistant Directors or Deputy Directors or Acting Directors and other officials and employees of the Society.

9.2
The office of the Director for the time being shall be the office of the Society.

9.3

Every practising member ceasing practice shall within 30 days thereafter give notice in writing to the Director of the date upon which he discontinued or ceased to practise.

9.4

Every attorney who intends to resume practice shall prior to commencing or resuming practice give notice in writing to the Director of the date upon which he intends to commence or resume practice.

9.5

Every member shall within 30 days of becoming a member lodge with the Director a statement of his full name and place of business.

9.6

Every member who changes his place of business shall within 30 days of such change notify the Director in writing of his new place of business, together with a statement of his full name and former address.

9.7

Every firm shall within 30 days of the admission to the firm of any new partner, notify the Director in writing of the full names of the partner so admitted.

9.8

Every firm shall within 30 days of the change of name of the firm notify the Director in writing of such change.

9.9

Any notification required to be given by any person to the Director in terms of these Rules shall be given by prepaid registered post.

9.10

The Director shall maintain a register of all members containing the full names and business addresses of each member and any letter or notice in connection with any business affecting the Society sent by the Council or the Director by post to any member to the address entered in the register shall be deemed to have been properly sent and the member shall be deemed to have received notice of the contents of such letter or notice at the time when the letter would have reached him in the ordinary course of post.

9.11
If a member fails to pay his annual subscription within 1 month after it has become due the Director shall, by letter, draw his attention to the fact and if the subscription in arrear is not paid within 21 days from the date of such letter or within such further time as the Council may grant, proceedings for recovery thereof shall be taken by the Council.

9.12

The Director shall maintain a list of members of the Council showing how often each member has attended meetings of the Council and how often the Council met during the past year, which list shall be available for the inspection of members of the Society in the office of the Director.

9.13

Professional Companies

Every member who is a shareholder of a professional company as defined in Section 1 of the Act, shall—

9.13.1

notify the Director in writing within 30 (thirty) days of the incorporation of the company or of any later date upon which the company shall first commence practice of

9.13.1.1

the name of the company, the number and date of its incorporation and the address of its registered office;

9.13.1.2

the full names, dates of birth, domestic and business addresses of every shareholder of the company;

9.13.1.3

the address of every place of practice within the Republic where the company practises or in which it shall have any interest, with the numbers of the telephones and post office boxes used in connection with the practice carried on at each such place;

9.13.1.4

any other information which the Society may from time to time prescribe;

9.13.2

notify the Director in writing of any change in any of the information given in terms of 9.13.1 within 30 (thirty) days of such change taking place;
9.13.3

supply the Director, whenever so required, with notarially certified copies of the memorandum and articles of association, certificate of incorporation and certificate to commence business relating to such company together with all amendments made to any of the aforesaid to the date of such supply.

10. ANNUAL REPORTS AND AUDIT

10.1

The Council shall cause proper accounts to be kept of the income and expenditure of the Society, and of the assets and liabilities of the Society; the accounts shall be closed annually on the 30th of June, up to which date the statement and balance sheet to be submitted to the next annual general meeting shall be framed. The Society’s Library Fund and Benevolent Fund shall be kept apart from its other funds and from each other.

10.2

At least 14 days before every annual general meeting the President’s report and the accounts for the past year, signed by the auditor, shall lie for inspection by the members at the office of the Director, and a copy of the same shall be posted to each member.

10.3

There shall be one auditor who shall be elected at the annual general meeting. He shall remain in office for one year, on the expiry of which period he shall retire and a successor shall be elected and so on from year to year, the retiring auditor being eligible for re-election. The outgoing auditor shall be deemed to continue in office till the close of the annual general meeting, or if from any cause his successor shall not be elected at such meeting, then till the election of his successor.

10.4

If any vacancy shall arise during the year in the office of auditor, such vacancy may be filled by the Council.

11. LIBRARY

11.1

The Council shall maintain and control the Society’s library which shall be situate in Cape Town.

11.2

The Council may acquire such publications for the library as it deems fit and may dispose of and otherwise deal with publications in the library in its discretion.
The Council may fix subscriptions to be paid by any person for the use of the library provided—

11.3.1
different subscriptions may be fixed in respect of different classes of persons; and

11.3.2
no subscription for the use of the library by any member shall be fixed save with the consent of a majority of members at an annual general meeting of the Society.

11.4
The Council may make regulations in regard to—

11.4.1
those persons who may use the library;

11.4.2
the removal of books from the library;

11.4.3
the manner in which the library shall be used;

11.4.4
the responsibility for damage to publications in the library;

11.4.5
the hours during which the library shall be open.

12. COLLECTION COMMISSION

12.1
A practising member to whom a liquidated monetary claim is handed for collection by reason of default on the part of the debtor—

12.1.1
may raise reasonable collection charges in addition to any other professional fees and collection commission to which he may be entitled;

12.1.2
may charge collection commission on the amount collected for each payment or instalment, provided that, where the practising member recovers commission from the debtor, either in terms of any law or in terms of contractual obligation, he shall credit his
client therewith, to the extent of but not exceeding the commission debited to his client in terms thereof.

12.2

For the purpose of this Rule the words “amount collected” include any payment made by or on behalf of any debtor direct to the client whether in cash or in kind, or by way of novation or set off, after the account is handed to the practising member for collection.

12.3

......

12.4

In the case of the final recovery or repossession of movables in terms of hire purchase agreements, suspensive sale agreements, leases or agreements of a like nature, an attorney may, in addition to any professional fees, charge a collection commission upon the value of the goods so repossessed or recovered, which value shall be:

12.4.1

the value fixed upon the movables by the Court in arriving at a final judgment, failing which

12.4.2

the value fixed upon the movables by a sworn appraiser; provided:

12.4.2.1

where the total unpaid amounts owing under the agreement are less than the value of the movables then the collection commission shall be calculated upon such total unpaid amounts, and not upon the value of the movables;

12.4.2.2

where no value has been fixed upon the movables in terms of either subparagraphs 12.4.1 or 12.4.2 above, then the collection commission shall be calculated upon the total unpaid amounts owing under the agreement.

13. ACCOUNTING RULES

13.1

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 in the
opinion of the Council, contains or contain its main office, and thereafter that firm shall administer and control its practice as a whole from the premises so declared.

13.2

The Council may make such enquiry as it deems fit, including inspection of the premises concerned and the practising member 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 Rule 13.1.

13.3

A declaration made by a practising member under Rule 13.1 shall remain effective until such time as he—

13.3.1

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

13.3.2

makes a declaration in terms of Rule 13.1 in respect of other premises.

13.4

Should a firm fail to make a declaration under Rule 13.1 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 Rules 13.1, 13.2 and 13.3 shall mutatis mutandis apply as though those premises had been so declared by the firm.

Accounting requirements—general

13.5

A firm shall keep in an official language of the Republic such accounting records as are necessary to present fairly and in accordance with generally accepted accounting practice 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—

13.5.1

records showing its assets and liabilities;

13.5.2

records containing entries from day to day of all moneys received and paid by it on its own account;

13.5.3

records containing particulars and information of—
13.5.3.1

all monies received, held and paid by it for and on account of any person;

13.5.3.2

all moneys invested by it in terms of section 78 (2) or section 78 (2A) of the Act;

13.5.3.3

any interest referred to in section 78 (3) of the Act which is paid over or credited to it;

13.5.3.4

any interest credited to or in respect of any separate trust savings or other interest-bearing account, referred to in section 78 (2A).

13.6

In determining what is meant by “generally accepted accounting practice” regard shall be had, inter alia, to any rulings of the Council published to members.

13.7

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

13.8

A firm shall retain its accounting records—

13.8.1

for at least five years from the date of the last entry recorded in each particular book or other document of record;

13.8.2

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 or a branch office, but, in the latter case, only in so far as they relate to any part of its practice conducted at that branch office.

13.9

A firm shall regularly and promptly update its accounting records and shall be deemed not to have complied with this Rule if, inter alia, its accounting records have not been written up for more than one month and have not been balanced within two months after each date on which the trust creditors lists referred to in Rule 13.14 are to be extracted.
13.10

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—

13.10.1

makes transfers from its trust banking account to its business banking account at least once a month; and

13.10.2

ensures that each such transfer covers the total amount due to it as at a date not earlier than one week prior to the date of transfer; and

13.10.3

ensures that, when making a transfer from its trust banking account to its business banking account—

13.10.3.1

the amount transferred is identifiable with, and does not exceed, the amount due to it; and

13.10.3.2

the balance of any amount due to it remaining in its trust banking account is capable of identification with corresponding entries appearing in its trust ledger.

13.11

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—

13.11.1

all amounts received by it in connection with the matter concerned appropriately explained;

13.11.2

all disbursements and other payments made by it in connection with the matter;

13.11.3

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 amounts so agreed;
13.11.4

the amount owing to or by the client.

13.12

A firm shall, unless otherwise instructed, pay any amount due to a client within a reasonable time.

Accounting requirements—trust account transactions

13.13

A firm shall ensure that—

13.13.1

all money received by it on account of any person is deposited in 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;

13.13.2

any amount withdrawn by it from a trust investment account is deposited promptly by it in its trust banking account;

13.13.3

the total amount of money in its trust banking account, in its trust investment account and held by it as trust cash shall at any date not be less than the total amount of the credit balances of the trust creditors shown in its accounting records;

13.13.4

no account of any trust creditor is in debit;

13.13.5

it employs and maintains a system to ensure that the requirements of subrules 13.13.3 and 13.13.4 are not infringed when amounts are transferred from its trust banking account to its business banking account;

13.13.6

amounts received in advance to cover a prospective liability for services rendered or to be rendered or disbursements (including counsel’s fees) to be made are deposited forthwith to the credit of its trust banking account;

13.13.7

withdrawals from its trust banking account are made only—

13.13.7.1
13.13.7.2
as transfers to its business banking account, provided that such transfers shall be made only in respect of money claimed to be due to the firm;

13.13.8
any cheque drawn on its trust banking account is made payable to or to the order of a payee specifically designated;

13.13.9
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) until—

13.13.9.1
the disbursements have actually been made by the firm; and

13.13.9.2
the fee has been correctly debited in its accounting records.

13.14
Lists of balances—

13.14.1
Every firm shall extract at intervals of not more than three calendar months 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 order to ensure compliance with Rule 13.13.3.

13.14.2
The balance listed in respect of each such person shall also be noted in some permanent, prominent and clear manner in the ledger account from which the balance was extracted.

13.14.3
Each such list shall be part of the accounting records of the firm to be retained for the five-year period referred to in Rule 13.8.1.
Every firm shall—

13.15.1

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;

13.15.2

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 at such date or dates as may be specified by the Council.

**Trust account investments in terms of section 78 (2A)**

13.16

A practising member who invests funds on behalf of any person without that person’s prior written instructions (specific or general) shall—

13.16.1

not invest such funds otherwise than in a trust savings or other interest-bearing account with a bank;

13.16.2

obtain that person’s written confirmation of the investment as soon as is reasonably possible or notify him forthwith thereof in writing; and

13.16.3

forthwith cause the relevant trust savings or other interest-bearing account to be endorsed in terms of subsection (2A) of section 78 of the Act.

**Reports by accountants**

13.17

A firm shall at its expense once in each calendar year or at such other times as the Council may require appoint an accountant approved by the Council to act on behalf of and as the representative of the fund, to discharge the duties assigned to him in terms of Rule 13.20.

13.18

A firm shall allow an accountant appointed under Rule 13.17 access to such of its records as he may deem necessary to examine for the purposes of discharging his duties under
Rule 13.20 and shall furnish the accountant with any authority which may be required to enable him to obtain such information, certificates or other evidence as he may reasonably require for such purposes.

13.19
A firm shall ensure that the report to be furnished by an accountant in terms of Rule 13.20 is so furnished 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.

13.20
Every accountant who has accepted an appointment in terms of Rule 13.17 shall—

13.20.1
within six months after 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 schedule to these Rules;

13.20.2
without delay report in writing directly to the Council if, at any time during the discharge of his function and duties under this Rule—

13.20.2.1
it comes to his notice that at any date the total of the balances shown on trust accounts in the accounting records of the firm exceed the total amount of the funds in its trust banking account, its trust investment account and held by it as trust cash;

13.20.2.2
any material queries regarding its accounting records which he has raised with the firm have not been dealt with to his satisfaction;

13.20.2.3
any reasonable request made by him for access to its records or for any authority referred to in Rule 13.18 has not been met to his satisfaction.

13.21
A copy of the report on the prescribed form required under Rule 13.20.1 and any report made in terms of Rule 13.20.2 shall be sent by the accountant to the firm concerned.
13.22

The form as prescribed under Rule 13.20.1 shall be obtained only from the Director who shall issue it on request to any firm or to any accountant appointed in terms of this Rule.

13.23

In any case where the Council is satisfied that it is not practicable to obtain the services of an accountant for the issuing of a report as prescribed under Rule 13.20, it may in lieu thereof accept as compliance with the requirements of Rule 13.20 such other evidence as it may deem sufficient.

Schedule to Rule 13.20

Form of report by independent accountant

The Law Society of the Cape of Good Hope
PO Box 4528
CAPE TOWN
8000

REPORT OF AN INDEPENDENT ACCOUNTANT (to be submitted under cover of the accountants’ letterhead) IN TERMS OF RULE 13.20.1 OF THE RULES OF THE LAW SOCIETY IN RESPECT OF
(NAME AND STREET AND POSTAL ADDRESSES OF ATTORNEY’S FIRM)

(Name and street and postal addresses of firm)

1.

I/We have audited the trust accounts of the abovementioned firm to determine whether those accounts were maintained in compliance with Sections 78 (1), 78 (2), 78 (2A), 78 (3), and 78 (4) of the Attorneys Act, No. 53 of 1979 (“the Act”) and with Rules 13.5.3, 13.7, 13.13, 13.14.1, 13.14.2 and 13.16 of the Rules of the Cape Law Society for the period from (insert date) to (insert date).

2.

The proprietor/partners/directors of the abovementioned firm is/are responsible for ensuring that the firm’s trust accounts are maintained in compliance with the Act and the Rules of the Cape Law Society and for the implementation of accounting and internal control systems. Our responsibility is to express an opinion on whether the firm’s trust accounts were maintained in compliance with the sections of the Act and the Rules referred to above for the period
This report covers the accounting records relating to the firm’s trust accounts and does not extend to the financial statements of the abovementioned firm taken as a whole.

Scope

4.
I/We conducted our audit in accordance with the statement of South African Auditing Standards applicable to special purpose audit engagements and the guide issued by the South African Institute of Chartered Accountants, “Guidance for Auditors: The Audit of Attorneys’ Trust Accounts” in terms of the Attorneys Act, No. 53 of 1979 and the Applicable Rules of the Provincial Societies. This guide sets out the minimum audit procedures to be performed in evaluating a firm’s trust accounts.
An audit includes—

- examining, on a test basis, evidence supporting the amounts and disclosures in the trust accounts; and
- assessing the accounting principles used by the firm.

5.
I/We believe our audit provides a reasonable basis for my/our opinion.

6.
I/We have not performed any audit procedures on records or documents relating to accounting for deceased and insolvent estates and trusts. Accordingly, I/we do not express any opinion in this regard.

Qualification

7.
The report is subject to the following qualifications (if none, state NIL)—

(Any contravention of Sections 78 (1), 78 (2) (a) and (b), 78 (2A), 78 (3) and 78 (4) of the Act and/or the Rules of the Law Society referred to above relating to trust accounts are regarded as material and should be reported.)

Opinion
8.

In my/our qualified/unqualified opinion, except as noted above, the attorney’s trust accounts of the abovementioned firm for the period from (insert date) to (insert date) were maintained in compliance with Section 78 (1), 78 (2) (a) and (b), 78 (2A), 78 (3) and 78 (4) of the Act and with Rules 13.5.3, 13.7, 13.13, 13.14.1, 13.14.2 and 13.16 of the Cape Law Society.

Supplementary information
9.

I/We extracted the following information from the audited trust accounts—
Reconciliation of interest earned on the firm’s trust accounts from the beginning of the period (insert date) to the end of the period (insert date).

9.1 Amount brought forward from the previous financial year in respect of interest earned on monies deposited in terms of section 78 (1) and monies invested in terms of section 78 (2) (a) of the Attorneys Act, No. 53 of 1979 is

9.2 Amount earned during the current period on monies deposited in trust banking accounts in terms of section 78 (1) and monies invested in trust investment accounts in terms of section 78 (2) (a) of the Attorneys Act, No. 53 of 1979 is

9.3 Amount incurred during the current period in respect of refundable bank charges (excluding VAT) is

9.4 Amount already paid over to the Attorneys Fidelity Fund during the period under review in terms of section 78 (3) of the Attorneys Act, No. 53 of 1979 is

9.5
Amount carried over to the next financial year in respect of interest earned on monies deposited in terms of section 78 (1) and monies invested in terms of section 78 (2) (a) of the Attorneys Act, No. 53 of 1979 is

9.6

The amount referred to in paragraph 9.5 agrees/does not agree with the balance as recorded in the books of account, which amount, less the amount of R paid over to the Society 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.

10.

The ratio as a percentage of total bank charges (excluding VAT) incurred during the current period to the total of interest earned during the year was

11.

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 Attorneys Fidelity Fund and the firm’s banker(s).

12.

Trust creditors and trust funds available at the period end

\[\text{At year end}\]

and on one other date

\[\text{Other date selected}\]

\[\text{insert date, being another month end within the period covered by the report}\], were as follows—

<table>
<thead>
<tr>
<th>Funds employed</th>
<th>At year end</th>
<th>Other date selected</th>
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<tbody>
<tr>
<td>Trust creditors</td>
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<td>Trust creditors into section 78 (2A)</td>
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<td>Total trust creditors</td>
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<td>Employment thereof</td>
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<tr>
<td>Section 78 (1) trust banking accounts</td>
<td></td>
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</tbody>
</table>
13.

Our audit procedures indicated that—

13.1

the firm’s trust accounts for the period reported on have been updated monthly and balanced at least quarterly;

13.2

the firm’s trust accounts for the period subsequent to the period being audited, was last inspected by us on

(insert date of last inspection), have been written up to

(insert date) and the trial balance was last balanced at

(insert date).

14.1

The management of the firm provided us with the following changes in the composition of the firm which occurred during the period from

(insert date) to

(insert date)—

14.2

The firm’s principal place of practice is at (insert full physical address)

14.3

The firm’s branch office/s is/are at (insert full physical address)
15.1

The firm has/has not carried on the business of an investment practice during the year under review;

15.2

The firm has/has not complied in all respects with the provisions of Rule 20 of the Society’s Rules;

15.3

If the answer to paragraph 15.2 is NO, 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 certificate).

Use of the report

16.

This report is intended solely for the use of proprietor/partners/directors of the firm, the Cape Law Society and the Attorneys Fidelity Fund.

Name
Registered Accountants and Auditors
Chartered Accountants (SA)
Address
Date

(Editors Note: Numbering as per original Government Gazette.)

14. PROFESSIONAL CONDUCT

14.1

Interpretation

In this rule 14—

14.1.1

“publicity” shall include any direct or indirect reference to a member, published or disseminated by any written, pictorial or aural means, in any medium (including the electronic media), irrespective of whether such publicity and/or reference—
14.1.1.1

is made in connection with any sponsorship, patronage, welfare activity, other similar benevolent purpose or supports any cause; or

14.1.1.2

is made, or is paid for, at the instance, or with the knowledge and/or consent, of the member; or

14.1.1.3

appears, or is contained, in any editorial, advertorial or advertisement and “publicise” has a corresponding meaning.

14.1.2

“member” includes all categories of member defined as such in the rules and any firm, partnership, professional company, association or corporation in which an attorney is involved in any way whatsoever.

14.2

Charge

Members shall comply with the rules of professional conduct set out below. A member who fails to comply shall be guilty of unprofessional and/or dishonourable and/or unworthy conduct.

14.3

General principles

Members shall at all times—

14.3.1

maintain the highest standards of honesty and integrity;

14.3.2

treat the interests of their clients as paramount, provided that their conduct shall be subject always to—

14.3.2.1

their duty to the court;
the interests of justice;

14.3.2.3

the observation of the law, and

14.3.2.4

the maintenance of the ethical standards prescribed by this rule and generally recognised by the profession;

14.3.3

honour any undertaking given in the course of their practice unless prohibited by law;

14.3.4

refrain from doing anything which places or could place them in a position in which a client’s interests conflict with their own or those of other clients;

14.3.5

maintain confidentiality regarding the affairs of present or former clients, unless otherwise required by law;

14.3.6

respect the freedom of clients to be represented by the lawyer of their choice;

14.3.7

account faithfully, accurately and timeously for any of their clients’ money which comes into their possession, keep such money separate from their own money and retain such money for so long only as is strictly necessary;

14.3.8

retain the independence necessary to enable them to give their clients unbiased advice;

14.3.9

advise their clients at the earliest possible opportunity on the likely success of such clients’ cases and not generate unnecessary work nor involve their clients in unnecessary expense;

14.3.10

use their best efforts to carry out work in a competent and timely manner and not take on work which they do not reasonably believe they will be able to carry out in that manner;

14.3.11
be entitled to a reasonable fee for their work provided that no member shall fail or refuse to carry out, or continue, a mandate on the ground of non-payment of fees and disbursements (or the provision of advance cover therefor) if demand for such payment or provision is made at an unreasonable time or in an unreasonable manner;

14.3.12

behave towards their colleagues, including any legal practitioner from a foreign jurisdiction, with integrity, fairness and respect;

14.3.13

refrain from claiming specialisation or expertise in any branch of the law unless such claim is justifiable, and

14.3.14

refrain from doing anything which could or might bring the attorneys’ profession into disrepute.

14.4

Approaches and publicity

14.4.1

Members shall ensure that all written and oral approaches to clients, or potential clients, and all publicity, including the offering of services by publicity, made or published by or on behalf of a member—

14.4.1.1

are made in a manner which does not bring the attorney’s profession into disrepute;

14.4.1.2

are not offensive, inappropriate or made for the purpose of procuring work in respect of which another attorney has already received instructions;

14.4.1.3

do not misrepresent the nature of the service offered;

14.4.1.4

accord in every respect with the requirements of this rule;
do not misrepresent, disparage, compare, criticise the equality of or claim to be superior to, the service provided by any other member, whether or not such other member is identified therein;

14.4.1.6
do not refer to a member’s success in practice;

14.4.1.7
do not refer to a client by name in any advertisement, published by or on behalf of by a member, unless—

14.4.1.7.1
the prior written consent of the client had been obtained, or

14.4.1.7.2
the advertisement relates solely to the sale or letting of a client’s property.

14.4.2
Members’ responsibilities set out in 14.4.1 cannot be delegated. Where a member becomes aware of publicity referring to him/her which is in conflict with or infringes this rule, he/she shall immediately take appropriate steps to have the publicity rectified or withdrawn.

14.5
Specialisation and expertise

If a member claims specialisation or expertise in any branch of the law, the Council may—

14.5.1
require a member to show good cause, by a specified date, why he/she should not be ordered by the Council to cease to hold him/herself out as a specialist or as expert in any particular branch of the law;

14.5.2
order the member to cease holding him/herself out as a specialist or expert in the branch of the law concerned if it is the opinion of Council that the member’s claim is not justified; and

14.5.3
declare that such order shall serve as notice in terms of rule 15.9.1 without in any way limiting Council’s powers in terms of rule 15.

14.6
Sharing of fees

14.6.1
A member shall not, directly or indirectly, enter into any express or tacit agreement, arrangement or scheme of operation, the result or potential result whereof is—

14.6.1.1
to secure for the member professional work solicited by an unqualified person; and/or

14.6.1.2
that an unqualified person will enjoy, share, or participate in fees or other charges for professional work or earnings or commissions from conducting auction sales, the sale or letting of immovable property, the sale or other supply of any commodity, service or facility, the sale of insurance or work on behalf of a bank, unless such unqualified person is in the full time employ of such member;

14.6.2
A member shall furnish the Council or a Director with an affidavit, within seven days of request therefor, explaining the presence and function or position of an employee and manner or form of remuneration earned by such employee, or containing similar information relating to any unqualified person who is apparently associated with the member’s practice or who is continuously or repeatedly in, at or about the member’s office.

14.6.3
A member may not hold him/herself out as practising as a practitioner while in the employ of an unqualified person, save with the prior written consent of the Council.

14.7
Sharing of offices

A practising member may not, without the prior written consent of Council, share offices with a person who is not a member or an employee of a member, provided that—

14.7.1
this prohibition shall not apply to a private company or close corporation, registered by law, whose business is limited to such work as is commonly performed by attorneys, and which has only practising members as shareholders directors or members; and
14.7.2

no provision hereof shall prohibit a practising member from using his/her office as the
registered office of a company or close corporation which is not a company or close
corporation other than one described in 14.7.1 and which does not engage in any trading
activities in or from such office.

14.8

Payment of commission

A member may not effect payment, directly or indirectly, of agent’s commission in
advance of the date upon which such commission is due and payable, except out of funds
provided by the person liable therefor and on the express authority of such person.

14.9

Naming of partners and practice

14.9.1

A member shall disclose his/her name on any letterhead used for the practice and, in the
case of—

14.9.1.1

a partnership, the names of all the partners; or

14.9.1.2

a professional company or close corporation, the names of all directors.

14.9.2

A member who discloses in his/her letterhead the name of any member employed by
him/her in any capacity shall clearly indicate that such employed member is not his/her
partner or fellow director; such indication shall be made by using one or more of the
following words and no others—“consultant”, “associate”, “professional assistant”,
“assisted by”.

14.9.3

A member shall practise only under such style or name which,—

14.9.3.1

is his/her own name or the name of a former proprietor of, or partner in, such practice if
he/she practices without partners; or

14.9.3.2
contains the names of any or all of the present partners or former partners or proprietors of or in such firm if he/she practices in partnership; or

14.9.3.3

the Council has first approved in writing, in the case of any other name.

14.10

Replying to communications

A member shall, within a reasonable time, reply to all communications which require an answer unless good cause for refusing an answer exists.

14.11

Naming in deed of alienation

A member may not act in terms of a deed of alienation of immovable property wherein his/her name or the name of his/her firm has been printed or duplicated as transferring attorney. This prohibition will not apply if a separate written instruction is given to the member prior to the signature of the deed of alienation.

15. DISCIPLINARY

15.1

The Council may appoint committees in terms of sub-rule 15.2 and subject to the provisions of Section 67 of the Act to assist it in the carrying out, performance and exercise of the disciplinary duties, functions and powers vested in it under the Act. Such committees shall have the duties, functions and powers prescribed under this Rule 15 subject to such further limitations as may from time to time be prescribed by resolution of the Council and provided that the Council shall itself have the same duties, functions and powers mutatis mutandis which it may, in its discretion and at any time, carry out, perform and exercise either to the exclusion of, or additionally to, any carrying out, performance or exercise on the part of any of such committees.

15.2

The Council may from time to time and either annually or on an ad hoc basis, appoint committees for the purpose specified in sub-rule 15.1 with such duties, functions and powers and subject to such limitations as it may from time to time prescribe. In particular, the Council may appoint—

15.2.1

annually, a committee with the duties, functions and powers of investigation specified in sub-rule 15.8;
15.2.2

annually, or from time to time on an ad hoc basis, a committee with the duties, functions
and powers of enquiry specified in sub-rule 15.11.

15.3.1

Both a Disciplinary Committee and a Disciplinary Enquiry Committee shall consist of as
many practising members and other persons as the Council may from time to time resolve
provided that—

15.3.1.1

the members of the Disciplinary Committee shall also be members of the Council;

15.3.1.2

no member of the Council who shall have considered any com-plaint against a member of
the nature referred to in sub-clause 15.9 may be a member of any Disciplinary Enquiry
Committee to which the same complaint is referred under sub-rule 15.9.2 for the purpose
of holding a formal enquiry.

15.3.2

The Council shall appoint the members of both such committees and may fill any
vacancy on, and, subject to the prescribed maximum number of each committee for the
time being, may appoint any additional member to, either of such committees. The
Council may also from time to time appoint alternates to such committee members
provided always that an alternate to a Disciplinary Com-mittee member need not be a
member of Council.

15.3.3

The office of each member and of each alternate member of each of such committees
shall terminate—

15.3.3.1

at the end of the first Council meeting held after the Society’s Annual General Maating
following his appointment;

15.3.3.2

upon the receipt by the Council of his resignation;

15.3.3.3

upon his removal from office by resolution of the Council.
15.3.3.4

in the case of an ad hoc appointment to a Disciplinary Enquiry Committee, on completion of the enquiry to which such appointment relates;

15.3.3.5

in the case of an alternate member, upon the termination of the office of the member for whom he is acting as an alternate.

Any member, including an alternate member, of either of such committees, shall be eligible for reappointment.

15.4

The Council shall from time to time prescribe such quorum for the meetings of members of either of such committees as it shall, in its discretion, determine.

15.5

Each committee chairman shall be appointed, and shall hold office, in accordance with the provisions of section 67 (1) (c) of the Act.

15.6

Subject to the provisions of these Rules, each committee chairman shall determine the times and places at which, and where, committee meetings shall be held and the manner in which the Committee’s members shall discharge their duties, functions and powers.

15.7

Any committee appointed by the Council prior to the date upon which this substituted Rule 15 shall come into force and effect, with the duties, functions and powers specified in sub-rule 15.8, shall be deemed, without any further act on the part of Council, to have been appointed in terms of sub-rule 15.2.1.

15.8

Subject to any limitations prescribed thereunder and subject to any further limitations as may from time to time be prescribed by Council and subject always to the provisions of the Act, a Disciplinary Committee shall have the following duties, functions and powers, namely—

15.8.1

to consider and investigate any complaint made against any member at the instance of whomsoever, including any complaint made at the instance of the Council mero motu; and to authorise the Director to render to any complainant such assistance in connection with the lodgement of his complaint as may be reasonably necessary or desirable;
15.8.2

at any time before or during its investigation of any complaint, to require a complainant to lodge his complaint in writing, and if so required by it, to verify the complaint by way of affidavit and to furnish such further evidence, oral or otherwise, in substantiation of any such complaint as it may require and as is available;

15.8.3

to dismiss a complaint where it is of the opinion that the complaint does not disclose a *prima facie* case of unprofessional or dishonourable or unworthy conduct on the part of a member or where a complainant neglects or refuses to comply with any requirements of which he shall have been notified pursuant to sub-rule 15.8.2; and to notify the complainant accordingly;

15.8.4

to furnish a member, where it is of the opinion that the complaint does disclose a prima facie case of unprofessional or dishonourable or unworthy conduct on the part of such member, with such particulars of the complaint as it may consider reasonably necessary to enable the member to appreciate the nature of the complaint made against him and to call on such member to furnish it with his explanation regarding the complaint, within a stipulated period of time;

15.8.5

at any time before or during its consideration of any explanation furnished to it under sub-rule 15.8.4, to require the member furnishing such explanation to verify his explanation by way of affidavit and to furnish such further evidence regarding the complaint as it may require of such member and as may be available;

15.8.6

to require any member who is the subject matter of a complaint, to appear before it, either with or without legal representation, as the member may elect, for the purpose of furnishing it with any additional information which it may require or which the member may wish to submit with regard to the complaint forming the subject matter of its investigation;

15.8.7

to decide, on the basis of the complaint and the member’s explanation, if furnished, and any other evidence available to it, whether or not the complaint establishes a case of unprofessional or dishonourable or unworthy conduct on the part of the member and—

15.8.7.1

where it is of the opinion that it does not do so, to dismiss the complaint and, in such event, to notify the complainant and the member accordingly;
where it is of the opinion that it does do so, to notify the Council of its opinion and the facts upon which such opinion is based and at the same time, and having considered the member’s disciplinary record, to make a recommendation to the Council that the Council either—

15.8.7.2.1
determine the complaint summarily, without a hearing, in which event it shall at the same time make a recommendation to the Council as to whether the Council should impose a punishment provided for in sub-section (1) read with sub-sections (2) and (3) of Section 72 of the Act and, in such event, what punishment the Council should impose or whether the Council should apply for striking off of such member from the roll of attorneys or for his suspension from practice; or

15.8.7.2.2
hold a formal enquiry into the complaint in accordance with the provisions of sub-rule 15.11; provided that the Disciplinary Committee shall, in making any recommendation to the Council in terms of this sub-rule 15.8.7.2, furnish the Council with all relevant information in its possession to enable the Council to consider its said recommendation;

15.8.8
mero motu, to treat as a separate complaint of unprofessional or dishonourable or unworthy conduct, any act or omission on the part of a member which is calculated to interfere with, or which otherwise interferes with, its proper consideration and investigation of a complaint against such member;

15.8.9
to do all things necessary to ensure that all disciplinary proceedings falling within its duties, functions and powers are dealt with justly, expeditiously and in accordance with these Rules;

15.8.10
save to the extent set forth in these Rules, to preserve the confidential nature of its proceedings.

15.9

The Council shall consider any complaint against a member forming the subject matter of a Disciplinary Committee’s recommendation made to it in terms of sub-rule 15.8.7.2 and either—

15.9.1
determine such complaint summarily, without a hearing, in which event it shall impose such punishment as it considers appropriate in respect of any such determination and as is competent in terms of sub-section (1) read with sub-sections (2) and (3) of section 72 of the Act and having regard always to any recommendation made to it in such regard by the Disciplinary Committee; or

15.9.2
resolve that a formal enquiry shall be held into such complaint in which event it shall refer the complaint to a Disciplinary Enquiry Committee with an instruction that such committee shall hold a formal enquiry into such complaint in accordance with the provisions of sub-rule 15.11.

15.9.3

Pursuant to Section 72 (1) of the Attorneys Act No. 53 of 1979, the maximum amount of the fines which may be imposed in respect of a person found guilty of unprofessional or dishonourable or unworthy conduct shall be:

(a)
in the case of a practitioner: R10 000;

(b)
in the case of a candidate attorney as defined in the Attorneys Act: R2 000

Once the Council’s determination and punishment has been reinstated or has become final in terms of Rule 15.10, the Council shall publish its determination and punishment, provided that it in case of minor offences—namely those where the punishment imposed is a warning, a reprimand or a fine of R500,00 or less—the determination and punishment will not be formally published but the information will be made available to any member of the public, on enquiry, for a period of 24 months, reckoned from the date on which the determination and punishment was reinstated or become final, as the case may be.
The Council shall notify the complainant of any determination made by it under sub-rule 15.9.1 and shall, at the same time, notify the member concerned of any such determination and of any punishment imposed by it under the aforesaid sub-rule; provided always that the member shall, in any notification, be afforded the opportunity, instead of submitting to any such determination and punishment, to demand, within a stipulated time, that a formal enquiry be conducted into the complaint by the Disciplinary Enquiry Committee in terms of sub-rule 15.11; provided further that if the member so demands, a formal enquiry shall be conducted under sub-rule 15.11 in which event any determination and punishment made and imposed by the Council under sub-rule 15.9.1 shall be suspended and shall be substituted by any determination and punishment made and imposed at, or in consequence of, any such formal enquiry and failing any such determination and punishment such suspension shall lapse and be of no further force or effect with the consequent reinstatement of the Council’s said determination and punishment.

15.10

Save where a formal enquiry is called for by the member under sub-rule 15.9, a finding of the Council of which such member shall have been notified under such sub-rule shall, save for any error subsequently found therein, be final and, as regards all persons affected thereby, res judicata.

15.11

Subject to the limitations prescribed thereunder and subject to any further limitations as may from time to time be prescribed by Council and subject always to the provisions of the Act, a Disciplinary Enquiry Committee shall be charged with the duty, function and power of conducting a formal enquiry, in accordance with the provisions of this sub-rule, into any complaint forming the subject matter of a request for such an enquiry received from the Council in terms of sub-rule 15.9.2 or received from a member in terms of the proviso to sub-rule 15.9; and in the conduct of which enquiry the following provisions shall apply, namely—

15.11.1

an enquiry under this sub-rule shall be commenced by way of the service on the member personally of a summons requiring the attendance of such member at the enquiry. Such summons shall be issued under the hand of the President or the Director and shall be served not less than FOURTEEN (14) days before the date appointed for the hearing, in the computation of which period weekends and public holidays shall be excluded.

15.11.2

A member appearing at an enquiry conducted under this sub-rule shall be entitled—

15.11.2.1
to legal representation;

15.11.2.2
to decline to answer any question which may incriminate him in any criminal proceedings which may flow from such enquiry.

15.11.3
The duties, functions and powers of the Disciplinary Enquiry Committee relating to its conduct of an enquiry under this sub-rule and as aforementioned shall be the following, namely—

15.11.3.1
to determine through its chairman and subject always to the provisions of these Rules and of the Act, the manner in which the enquiry shall be conducted in which regard such chairman shall, insofar as these Rules and the Act do not provide for any matter specifically, be guided by the practice and procedure prevailing in Supreme Court criminal trials;

15.11.3.2
to appoint any practising practitioner or advocate to act as a pro forma prosecutor in the leading of evidence against, and the presentation of the case against, the member, at the enquiry;

15.11.3.3
to exercise the powers vested in the Council under sub-section 71 (2) (a) of the Act;

15.11.3.4
to dispense with any requirements regarding summonses, notices, affidavits, documents, service or times in any case where it appears to it to be just so to do or to extend the time for doing anything in connection with the conduct of the enquiry;

15.11.3.5
mero motu, or upon the application of any affected party, to adjourn the enquiry upon such terms as to costs, or otherwise, as it deems fit;

15.11.3.6
to cause the enquiry proceedings 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 be prefaced by a statement of its findings in
relation to the facts investigated during the course of the enquiry and shall be signed by the chairman of such committee so authorised; and to procure further, that each such decision shall be filed in the records of the Society;

15.11.3.7

mero motu, to treat as a separate complaint of unprofessional or dishonourable or unworthy conduct, any act or omission on the part of a member attending, or required to attend, an enquiry being conducted under this sub-rule where such act or omission is calculated to interfere with, or otherwise interferes with, its proper consideration, investigation and determination of the complaint forming the subject matter of such enquiry and to refer any such separate complaint to a Disciplinary Committee for consideration and investigation in accordance with the provisions of sub-rule 15.8;

15.11.3.8

to exercise such ancillary powers as it shall consider reasonably necessary to enable it to discharge its duties, functions and powers hereunder;

15.11.3.9

to do all things necessary to ensure that all disciplinary proceedings falling within its duties, functions and powers are dealt with justly, expeditiously and in accordance with these Rules;

15.11.3.10

at the conclusion of the enquiry, to find the member not guilty of the charge forming the subject matter of the enquiry or guilty of unprofessional or dishonourable or unworthy conduct in relation to such charge and in the event of a finding of not guilty, to notify the member and the complainant, if any, accordingly.

15.11.4

Upon a finding of guilty under sub-clause 13.11.3.10, the Disciplinary Enquiry Committee may, having considered the member’s disciplinary record, either—

15.11.4.1

impose upon such member such punishment as is provided for in sub-section (1) read with sub-sections (2) and (3) of Section 72 of the Act, in which event it shall notify the member concerned of its determination and of the punishment imposed by it and shall cause such punishment to be carried into effect and in which event, further, it may, when so authorised by the Council either generally or specially in any particular case, publish such information concerning its determination and punishment as may be determined by the Council provided that it shall not, unless authorised so to do by the Council, notify the complainant of any punishment imposed upon the member as aforesaid; or
15.11.4.2

where it is of the opinion that the nature of the charge upon which it shall have found the member guilty is such as, having regard to the member’s disciplinary record, warrants an application for the striking off of such member from the roll of attorneys or for his suspension from practice, make a recommendation to the Council accordingly and simultaneously forward the record of the enquiry to the Council for such action as the Council may elect to take in terms of sub-rule 15.12, and in which event it shall notify the member concerned of its determination and recommendation aforesaid.

15.11.5

The Disciplinary Enquiry Committee shall, save to the extent set forth in these Rules, preserve the confidential nature of all its enquiry proceedings.

15.12

On receipt of a recommendation made to it by the Disciplinary Enquiry Committee under sub-rule 15.11.4.2 the Council shall consider the record of the enquiry and resolve either—

15.12.1

to adopt the recommendation of the Disciplinary Enquiry Committee, in which event it shall proceed to take action for the striking off of the member from the roll of attorneys or for his suspension from practice, as it may consider appropriate; or

15.12.2

not to adopt the recommendation of the Disciplinary Enquiry Committee, in which event it shall advise such committee accordingly and refer the matter back to such committee whereupon such committee shall impose such punishment on the member as is referred to in sub-rule 15.11.4.1, the provisions of which sub-rule shall apply mutatis mutandis.

15.13

A member found guilty by a Disciplinary Enquiry Committee under sub-rule 15.11.3.10 shall have the right to appeal afforded him under the provisions of Section 73 of the Act.

15.14

Upon a finding of guilty under sub-rule 15.11.3.10, the member shall, unless the Council waives its rights thereto, be obliged to pay the costs incurred at the instance of the Council in connection with the enquiry, which costs shall be calculated in accordance with the non-litigious tariff of the Council as amended from time to time and which costs shall be payable by the member forthwith upon his receipt of the Society’s bill of costs assessed by a Committee appointed by the Council for that purpose.

Without derogating from the generality of the foregoing the aforesaid costs shall include—
15.14.1
the costs of recording, transcribing and preparing copies of the enquiry record;

15.14.2
costs incurred by the Council in the employment of any pro forma prosecutor;

15.14.3
costs incurred by the Council in the employment of any accountant for the investigation of, and report on, the member’s books of account, where applicable;

15.14.4
costs of procuring the attendance of witnesses at the enquiry and their travelling expenses payable on the tariff applicable to witnesses in civil cases in the Supreme Court (Cape of Good Hope Provincial Division);

15.14.5
reasonable allowances payable by the Society to the Disciplinary Enquiry Committee members arising out of the absence of such members from their offices during the hearing and determination of the enquiry.

15.15
Subject to the provisions of the Act all applicable provisions of this Rule 15 shall apply mutatis mutandis to an articled clerk provided that—

15.15.1
in the case of a complaint against an articled clerk forming the subject matter of an investigation by a Disciplinary Committee—

15.15.1.1
the Disciplinary Committee shall be entitled to furnish the principal of the articled clerk with the same information as that furnished to the articled clerk under sub-rule 15.8.4;

15.15.1.2
the principal of the articled clerk shall, if so required by the Disciplinary Committee, verify on affidavit and insofar as his personal knowledge of the circumstances permits him so to do, any explanation furnished to the Disciplinary Committee by his articled clerk pursuant to a request for such explanation made under sub-rule 15.8.4;
the principal shall be entitled to attend, and, if so required by the Disciplinary Committee and save to such extent as he may be excused therefrom by such committee and subject always to his availability, shall attend, any appearance of his articled clerk before the Disciplinary Committee under sub-rule 15.8.6;

15.15.1.4

the principal shall, if so required by the Disciplinary Committee and subject to his availability, appear before such committee without his articled clerk and, in such instance, with or without legal representation, as the principal may elect, for the purpose of furnishing such committee with any additional information which it may require or which the member may wish to submit with regard to the complaint being investigated against his articled clerk;

15.15.2

in the case of an enquiry being conducted by the Disciplinary Enquiry Committee into a complaint against an articled clerk, the principal of such articled clerk shall be entitled to be present, and, if so required by the Disciplinary Enquiry Committee and save to such extent as he may be excused therefrom by such committee and subject to his availability, shall be present, throughout the enquiry.

16. BENEVOLENT FUND

16.1

The Council shall create and control a separate fund to be known as the Benevolent Fund of the Law Society of the Cape of Good Hope (“The Fund”).

16.2

The Council shall credit to such Fund:

16.2.1

such assets as may be transferred to the Fund by the governing body of the Benevolent Fund of the Law Society of the Cape of Good Hope established by regulations approved by the Council of the Society at a meeting on 9 July 1935 under authority conveyed to it by the annual general meeting of the Society held at Port Elizabeth on 22 November 1934; and

16.2.2

all subscriptions and donations to the Fund received from any person.

16.3

The Council shall from time to time in its discretion solicit donations to the Fund from members either by way of annual contributions, lump sum payment or in any other manner.
16.4
The Council shall in its discretion assist from the assets of the Fund, either by special
donation, grant, annuity or otherwise, necessitous members and their wives and
dependants and the necessitous widows and dependants of deceased members.

16.5
The Council may determine:

16.5.1
the form and manner of application for assistance from the Fund;

16.5.2
the conditions upon which any such assistance is given.

17. ASSESSMENT OF FEES

17.1
It shall be competent for the Council or any committee appointed by the Council for that
purpose, mero motu or at the request of any person or practitioner, to assess the fees and
reasonable disbursements payable by such person to a practitioner who, in terms of the
provisions of Section 57 (1) of the Act is a member of the particular Society, in respect of
the performance on behalf of such person of any work other than litigious work by the
practitioner in his capacity as such; provided that the Council shall not assess fees in
instances where a state official is empowered to do so or where the work concerned is
already covered by a statutory tariff.

17.2
With a view to affording the practitioner reasonable and adequate remuneration for the
services rendered by him, the Council or the committee, as the case may be, shall, on
every assessment, allow all such fees and disbursements as appear to it to have been
reasonable for the performance of the work concerned, and in so doing shall take
cognisance of the following:

17.2.1
the amount and importance of the work done;

17.2.2
the complexity of the matter or the difficulty or novelty of the work or the questions
raised;

17.2.3
the skill, labour, specialised knowledge and responsibility involved on the part of the practitioner;

17.2.4

the number and importance of the documents prepared or perused, without necessarily having regard to length;

17.2.5

the place where and circumstances in which the services or any part thereof were rendered;

17.2.6

the time expended by the practitioner;

17.2.7

where money or property is involved, its amount or value;

17.2.8

the importance of the matter to the client;

17.2.9

the quality of the work done;

17.2.10

the experience or seniority of the practitioner;

17.2.11

any tariff of fees approved by the Society or any competent authority for the sole purpose of serving as a guide to practitioners;

17.2.12

any tariff of fees prescribed by the Council in accordance with the provisions of Section 69 (d) of the Act;

17.2.13

and whether the fees and disbursements have been incurred or increased through overcaution, negligence or mistake on the part of the practitioner;

17.2.14

any material change in the purchasing power of money since the promulgation of the applicable tariff of fees framed in terms of sub-rules 17.2.11 or 17.2.12.
17.3
At the assessment of any practitioner’s fees and disbursements, the Council or the committee, as the case may be, may call for the production of such books, documents, papers or accounts as in its opinion are necessary to enable it properly to determine any matter arising upon such assessment including whether the services were rendered or necessarily performed.

17.4
The Council or the committee, as the case may be shall not proceed to the assessment of the fees or reasonable disbursements unless the Director of the Society has duly given notice by prepaid registered post to both the practitioner and the person liable to pay the fees, stating the time and place of such assessment and recording that he is entitled to be present and represented thereat; provided that such notice shall not be necessary if both the practitioner and such person have consented in writing to assessment in their absence. At the assessment the Council, or the committee, as the case may be, shall permit the practitioner and such person to submit their representations and arguments either orally or in writing. After receiving such representations and arguments, the Council or the committee, as the case may be, shall be entitled to reserve its decision. As soon as the Council or the committee, as the case may be, has arrived at its decision, it shall deliver to both the practitioner and such person either by hand or prepaid registered post, a copy of the fee list submitted for assessment, duly endorsed with the allocatur of the Council or the committee, as the case may be, under the hand of the Director of the Society. Subject to the provisions of Section 74 (5) of the Act the fees determined in terms of the allocatur shall be deemed to be a reasonable fee payable to the practitioner for the services rendered.

17.5
As soon as the Council or the committee, as the case may be, has arrived at its decision, it shall deliver to both the practitioner and such person either by hand or prepaid registered post, a copy of the fee list submitted for assessment, duly endorsed with the allocatur of the council or the committee, as the case may be, under the hand of the Director, provided that where the decision is that of the committee, either the practitioner or such person, if he objects to the decision of the committee, shall within 10 days after the date of the allocatur or such longer period allowed by the Council on good cause shown and before taking any other steps, submit that decision to the Council with a view to having the decision amended or set aside, stating in his submission, which shall be in writing, the respect in which he takes objection to the decision and the grounds upon which he claims that amendment or setting aside of the decision is justified.

17.6
Upon submission to the council of an objection in terms of the proviso to rule 17.5, the Council, or another committee appointed by the Council, shall consider the objection and if in the opinion of the Council or the committee appointed by it in terms of this subrule, as the case may be, a prima facie case for the amendment or withdrawal has been made out it shall, after giving the objetor an opportunity of making further written
representations to it, and the other party an opportunity of replying in writing to those
further representations, and again giving the debtor an opportunity of responding to the
reply from the other party, and after obtaining the comments of the committee on the
objection—

17.6.1
reject the objection and confirm the decision of the committee; or

17.6.2
amend the decision of the committee in such manner as it may deem just, and substitute
its own allocatur for that of the committee; or

17.6.3
set aside the decision of the committee and substitute its own decision and allocatur for
those of the committee.

17.7
If in the opinion of the council, no *prima facie* case has been made out, it shall, in
writing, notify the objector accordingly.

17.8
The submission to the Council of an objection in terms of the proviso to rule 17.5 shall
suspend the decision of the committee. The decision of the Council or the said committee
as the case may be in terms of rules 17.6 and 17.7 shall be deemed to be the decision on
the matter in question, and the date of the allocatur shall be the date of the decision of the
Council or the said committee as the case may be in terms of those rules.

17.9
As soon as the Council or the committee, as the case may be, has arrived at its decision, it
shall deliver to the practitioner and such person either by hand or prepaid registered post,
a copy of the fee list submitted for assessment, duly endorsed with the allocatur of the
Council or the committee, as the case may be, under the hand of the Director of the
Society. Subject to the provisions of section 74 (5) of the Act, the fees and disbursements
determined in terms of the allocatur shall be deemed to be a reasonable fee payable to the
practitioner for the services rendered.

17.10
The Council or the committee, as the case may be, shall be entitled in its discretion at any
time, to depart from any of the provisions of sub-rule 17.2 above, in extraordinary or
exceptional cases, where strict adherence to such provisions would be inequitable.

17.11
This rule shall not apply to any work done pursuant to a mandate accepted by a practitioner prior to the date of promulgation of this rule, whether the work is actually done before or after the said date.

17.12

Failure, without reasonable cause, to submit an account for taxation or assessment, as the case may be, within a reasonable time after a request to do so by the client or the person purportedly liable for payment of the fee, or within a reasonable time fixed by the Council, shall be regarded as unprofessional conduct.

18. DISSOLUTION OF SOCIETY

18.1

If for any reason the Society is wound up, liquidated or in any other manner dissolved and there remain after the satisfaction of its liabilities any assets whatsoever, the same shall be transferred to such other Society or Association as the members in General Meeting decide with objects similar to those of this Society.

18.2

The activities of the Society shall be wholly or mainly directed to the furtherance of its objects.

18.3

The Society shall not be permitted to distribute any of its profits or gains to any person and is required to utilise its funds solely for investment or the objects for which it has been established.

19. ACCREDITATION OF LAW CLINICS

Any law clinic which seeks recognition as a law clinic for the purposes of the Act and these Rules shall comply with the following requirements:

19.1

The clinic shall be properly constituted, organised and controlled to the satisfaction of the Council, either as part of the Faculty of Law at a university in the Republic or as a law centre controlled by a non-profit making organisation.

19.2

The clinic must provide legal services to the public.

19.3

The legal services provided by the clinic must be rendered free of charge, direct or indirect, to the recipient of those services, provided that—
19.3.1
the clinic may recover from the recipient of its services any amounts actually disbursed by it on behalf of the recipient;

19.3.2
where the clinic acts for the successful litigant in litigation, the clinic will be entitled to take cession from such litigant of any order for costs awarded in favour of the litigant and to recover those costs for its own account.

19.4
The services may be rendered only to persons who, in the opinion of the Council, would not otherwise be able to afford them.

19.5
The clinic may not undertake work in connection with the drawing up of a will or other testamentary writing, 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 judicial management 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 Multilateral Motor Vehicle Accidents Act, 1989, or any amendment thereof, or litigation in regard to matrimonial disputes.

19.6
The name under which the clinic is to carry on its activities, and the letterheads and other stationery of the clinic, shall require the prior approval of the Council.

19.7
Attorneys 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.

19.8
If an attorney in the full-time employment of a clinic wishes to engage a candidate attorney under articles of clerkship he may do so only if—

19.8.1
the candidate attorney is to be under his direct personal supervision or under the direct personal supervision of another attorney who is a member of the professional staff of the clinic;

19.8.2
such attorney is a declared member of the Society;
the clinic is open for business during normal office hours for not less than 11 months in any year;

the clinic has proper office systems with telephones, typing facilities, files and filing procedures, a diary system and at least elementary library facilities;

the clinic has a proper bookkeeping system and accounting procedures;

the clinic handles a reasonably wide range of work to give the candidate attorney exposure to the kind of problems that a newly qualified attorney would expect to encounter and be able to handle competently during his first year of practice. The Council shall have the right to direct the clinic to require the candidate attorney 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.

20. INVESTMENT PRACTICE RULES

20.1 Definitions

20.1.1 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, whether directly or indirectly, such investments.

20.1.2 A “client” shall for the purpose of this 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.

20.1.3 This rule shall not apply to—

20.1.3.1 investments made pursuant to section 78 (2A) of the Attorneys Act, 53 of 1979 which are not transactions contemplated in sub-rule 20.6;
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;

20.1.3.3

investments made by members of firms in their capacity as executors, trustees, curators or in any similar capacity in so far as such investment is governed by any other statutory enactment or regulation.

20.1.3.4

any investment (other than referred to in sub-rule 20.6) made with a Bank in the name of that client alone and on the written instructions of that client.

20.2

Auditor’s report

20.2.1

Every firm shall not later than six months after the end of its financial year furnish the Director of the Society with a report by the auditor referred to in Rule 13 stating that to the best of the auditor’s knowledge and belief—

20.2.1.1

the firm has not, during the period under review, carried on the business of an investment practice; or

20.2.1.2

the firm has carried on the business of an investment practice and has complied with this rule 20.

20.3

Mandates

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 Schedule to this rule.

20.4

Reports to clients
Every firm carrying on an investment practice shall report to its client 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.

20.5

Accounting records

20.5.1

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—

20.5.1.1

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 sub-rule 20.3;

20.5.1.2

payments of all monies invested by it on the client’s behalf;

20.5.1.3

payments of all amounts, both capital and income, derived from investments and received for the client’s account;

20.5.1.4

all payments made by it to the client in respect of the client’s investments, and

20.5.1.5

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 sub-rule 20.3.

20.5.2

The accounting records and other supporting documents referred to in sub-rule 20.5.1 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 sub-rule 20.5.1. 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 shall exist for such records to be reproduced in printed form.

20.5.3

All accounting records required to be retained in terms of this sub-rule and copies of all reports despatched in terms of sub-rule 20.4 shall be retained for at least 5 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.

20.6

Investment transactions

20.6.1

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 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.

20.6.2

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 banker.

20.6.3

For the purpose of this rule “Bank” shall mean any institution registered in terms of the Banks Act, No. 94 of 1990.

20.7

Restrictions applicable to certain investments

A firm may not invest on behalf of a client—

20.7.1

in shares or debentures in any company which is not listed on the Johannesburg Stock Exchange, unless it is a subsidiary of a listed company; or

20.7.2
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.

20.8

Existing investment practices

20.8.1

Notwithstanding the terms of this rule, a firm which has an existing investment practice on the date of which this rule comes into effect—

20.8.1.1

shall not accept new funds for investment without complying with this rule;

20.8.1.2

shall in respect of all existing investments, secure compliance with this rule within 12 months from the date on which it comes into effect;

20.8.1.3

shall not be required to commence compliance with sub-rule 20.5 until the end of February of the calendar year following the year in which the period of grace stipulated in sub-rule 20.8.1.2 expires;

20.8.1.4

shall not be required to lodge its first annual auditor’s report in terms of sub-rule 20.2 until the expiry of three months after the end of the financial period in which the period of grace stipulated above in sub-rule 20.8.1.2 expires.

20.8.2

Any firm which, as part of its investment practice, already controls or manages an investment which does not comply with sub-rule 20.7 shall not later than 12 months after the date on which this rule comes into effect either obtain the client’s written consent to such investment or relinquish the control or management of such investment and shall be obliged to inform the client in writing accordingly.

20.9

Unprofessional conduct

Failure to comply with the provisions of this rule shall constitute unprofessional conduct on the part of the partners or directors of the firm in default.
21. **PRO BONO SERVICES**

21.1 **Definition**

*Pro bono* services shall include, but not be limited to, the delivery of advice, opinion or assistance in matters, falling within the professional competence of an attorney, to facilitate access to justice for those who cannot afford to pay, through recognised structures, approved in terms of sub-rule 21.3 and identified in terms of sub-rule 21.4.

Recognised structures shall include, but not be limited to, the office of the Registrars of the High Court when issuing *in forma pauperis* instructions, *Legal i*, small claims courts, community (non-commercial) advice offices, university clinics, non-government organisations, the office of the Inspectorate of Prisons, Circle and specialist committees of the Society, etc., approved in terms of sub-rule 21.6 and identified in terms of sub-rule 21.8.

Those who cannot afford to pay shall be those who ordinarily qualify for assistance through recognised structures.

21.2  

Practising members who have practiced for less than 40 years and who are less than 60 years of age, shall, subject to being asked to do so, perform *pro bono* services of not less than 24 hours per calendar year, save that—

21.2.1  

an attorney who becomes a practising member during the course of a year shall perform *pro bono* services equal to not less than 2 hours per month, or part thereof, of practising member status acquired in the first year of practice;

21.2.2  

in the year of publication of this Rule, practising members shall perform *pro bono* services equal to not less than 2 hours per month, or part thereof, from the month of publication to the end of that year.

21.3  

Members may refer to the Society, for approval by Council as *pro bono* services, a written description of areas of professional work proposed for recognition as *pro bono* services.

21.4  

The Society shall, within 30 days of publication of this Rule and from time to time, publish, through *The Cape Attorney*, a list of services which, when performed by
attorneys at no charge for those who cannot afford to pay, shall be recognised as *pro bono* services capable of being delivered in compliance with the provisions of this Rule.

21.5

*Pro bono* services shall be delivered through recognised structures only to those who cannot afford to pay for professional services.

21.6

Members may refer to the Society, for approval by Council as a recognised structure, a written description of a structure proposed for recognition.

21.7

The Society is mandated by members to enter into partnership and joint venture agreements with recognised structures, the effect of which is that only matters that fall within the professional competence of attorneys are referred to practising members for advice, opinion or assistance; that briefs addressed to practising members are reasonably well formulated and that potential language and cultural barriers are overcome.

21.8

The Society shall, within 30 days of publication of this Rule and from time to time, publish, in *The Cape Attorney*, a list of recognised structures, including structures with which the Society has concluded partnership, or joint venture, agreements for the delivery of *pro bono* services.

21.9

Members *shall* submit to the Society a certificate providing full particulars of *pro bono* services delivered, within 60 days of delivery thereof, failing which, the service shall be treated as not having been rendered in terms of this Rule.

21.10

The Society shall, within 30 days of the publication of this Rule, publish, in *The Cape Attorney*, the form of the certificate to be submitted by practising members. Any amendments introduced to the certificate, by Council, shall be published, from time to time in *The Cape Attorney*.

21.11

The Society shall keep a record of services delivered per member, which record shall be raised from member certificates. A report of all services rendered shall be extracted annually and shall be retained by the Society but individual member records substantiating the report shall be expunged. On 1 January of each year, all individual member records shall be refreshed to show an availability of hours for the new year. The record of hours served or not served in the previous year shall then be expunged. The Society shall report to its members annually and at the Annual General Meeting, and
shall make such report generally available, on the total delivery of pro bono services by members.

21.12

The Society shall cause particulars of pro bono hours still to be served by members in a calendar year to be published on its website and for reduced hours to be displayed against submission by members of certificates. This information will also be available from the Society, on request. It shall be the responsibility of practising members to ensure that the Society’s records as to pro bono services rendered are complete so that correct information is published on the website and generally made available.

21.13

Members may elect to deliver pro bono services through a single recognised structure. The Society shall cause a member's election of the recognised structure through which he/she chooses to deliver his/ her pro bono services to be published on its website. This information will also be available from the Society, on request. Members who make such an election may properly refuse calls through other recognised structures for the delivery of pro bono services. It shall be the responsibility of the practising member to notify the Society of his/her election so that this information is published on the website and generally made available.

21.14

Members who travel a distance of more than 50km from their office in order to deliver pro bono services may, in special circumstances, make written application to the Society to recover the actual cost of travel, excluding the first 100 km.

21.15

Disbursements incurred, save for travel expenses referred to in 21.14, in respect of pro bono services shall be borne by the client.

21.16

It shall be unprofessional conduct for a practising member who has still to perform pro bono service hours to refuse, with no good cause, to deliver pro bono services.

21.17

In the event of the Society receiving a complaint of refusal to deliver pro bono services, with no good cause, it shall be entitled to treat its record of services rendered as complete, save only for services rendered within 60 days of the complaint that are not on record. The member against whom the complaint is made shall be responsible to provide the Society with certificates, relating to such additional services, within 21 days of receipt by the Society of the complaint, failing which, services alleged to have been rendered, but not on record, will be treated as not having been rendered for the purpose of investigating the complaint. Pending investigation of the complaint, the Society shall refer the complainant to another practising member, for assistance.
Professional standards applicable to services rendered by attorneys shall apply to pro bono services.

Schedule
Client Investment Mandate

I/We, the undersigned

(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
   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
   2.1 Discretionary
   2.2 Non-discretionary

3. IS FIRM TO KEEP ALL SECURITIES/CERTIFICATES

4. REPORTING Monthly Quarterly 6-Monthly Annually

5. GENERAL
Instructions re securities, interest payments, charges etc.

Signed at

on this day of
199
Signature of client

Accepted at

on this
day of
199

Signature of the firm

To be completed and signed in duplicate and a copy to be handed to the client.

Conditions applicable to investments with a Bank. In terms of Section 1 (ff) of the Banks Act 1990, the client hereby assumes all risks connected with the administration of the funds by the firm as well as the responsibility that the firm executes the instructions in this contract of agency.

Rules - The Law Society of the Orange Free State

Framed in terms of Section 21 (1) of Act 41 of 1975 as substituted by Section 74 (1) of the Attorneys Act 53 of 1979 and promulgated in Government Gazette No. 5807 dated 18 November 1979 as amended up to:

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<th>Government Gazette</th>
<th>Date</th>
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<tr>
<td>16040</td>
<td>28 October 1994</td>
</tr>
<tr>
<td>17073</td>
<td>4 April 1996</td>
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<td>20242</td>
<td>23 July 1999</td>
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<tr>
<td>31083</td>
<td>30 May 2008</td>
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</tbody>
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Repealed Act

Act 41 of 1975 has been repealed by s 86 of Act 53 of 1979

Repealed Act

Act 41 of 1975 has been repealed by s 86 of Act 53 of 1979

1. DEFINITIONS

In these rules, unless the context otherwise indicates—

1.1

“accountant” means a person who is registered as an accountant and auditor in terms of the Public Accountants and Auditors Act, 1991 (Act No. 80 of 1991), and which practises as a public accountant as defined in that Act;
1.2

“accounting records” means the records which a firm is required to keep in terms of rule 16.1;

1.3

“Act” means the Attorneys Act, 1979 (Act No. 53 of 1979), as amended;

1.4

“articles of clerkship” means a contract in writing whereby any person is bound to serve an attorney for a specified period in accordance with the Act;

1.5

“attorney”, “notary” and “conveyancer” mean respectively an attorney, notary and conveyancer admitted and/or enrolled and entitled to practise as such in the Orange Free State;

1.5A

“BLA”, the attorney members of the society who are members of the Black Lawyers Association;

1.6

“branch office,” in relation to a practising member, means an office at or from which the firm of which he is the proprietor or a member or by which he is employed practises, but which is not a main office; (1.21)

1.7

“business account transactions” means transactions in regard to which records are required to be kept in terms of rule 16.1.2;

1.8

“candidate attorney” means any person bound to serve under articles of clerkship or a contract of service;

1.9

“chairman” means the chairman for the time being of any meeting of members;
“circle” means an association of members of the Society referred to in section 69 (j) of the Act and established in terms of rule 21;

1.10A

“contract of service” means any contract in writing under which a candidate attorney who wishes to perform community service is bound to serve a principal for a specified period in accordance with the Act;

1.11

“Council” means the Council of the Society referred to in section 56 of the Act;

1.12

“country districts” means all magisterial districts situated within the Orange Free State excluding the Magisterial District of Bloemfontein;

1.13

“Court” means the Orange Free State Provincial Division of the Supreme Court of South Africa;

1.14

“days” mean days as defined in the Interpretation Act, 1957 (Act No. 33 of 1957), as amended;

1.15

“disciplinary committee” means a committee appointed in terms of section 67 of the Act to exercise such disciplinary powers as may have been assigned to it;

1.16

“firm” means—

1.16.1

a partnership of practitioners;

1.16.2

a sole practitioner for his own account;
a professional company who or which in each case conducts the practice of a practitioner;

1.17

“inquiry” means an inquiry held by the Council or by a disciplinary committee;

1.18

“main office”, in relation to a practising member—

1.18.1

means the premises at and from which the practice of the firm of which he is the proprietor or a member or by which he is employed 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 those premises as a single composite entity; and

1.18.2

includes premises declared or determined as such in terms of rule 1A.1 or rule 1A.4 as the case may be;

1.19

“member” means a member of the Society referred to in section 57 of the Act;

1.20

“misconduct” means unprofessional or dishonourable or unworthy conduct;

1.20A

“NADEL” the attorney members of the Society who are members of the National Association of Democratic Lawyers;

1.21

“practitioner” means a practitioner as referred to in the Act;

1.22

“President” and “Vice-President” mean respectively the President and Vice-President for the time being of the Society;
“principal place of practice” means the place at which the main office of a practising member is situate, notwithstanding that he may usually or temporarily practise at or from a branch office; provided that the principal place of practice of a member who is a member of more than one firm or who is the proprietor of one firm and a member of another or others shall be deemed to be the place of the main office of that one of those firms which has its main office closest to his residential address; and other expressions defined in the Act shall bear the respective meanings assigned to them by section 1 of the Act;

1.24

“Secretary” means the Secretary and Treasurer for the time being of the Society, or the Executive Officer for the time being of the Society, or the Assistant-Secretary for the time being of the Society, or an acting Secretary for the time being of the Society of which any one or all have been duly appointed by the Council as such;

1.25

“Society” means the Law Society of the Orange Free State established in terms of section 56 of the Act;

1.26

“trust account transactions” means transactions in regard to which records are required to be kept in terms of rule 16.1.3;

1.27

“trust banking account” means all trust accounts kept by a firm in terms of section 78 (1) of the Act;

1.28

“trust cash” means any cash held in trust by a firm other than in a trust banking account or a trust investment account;

1.29

“trust creditor” means a person on whose account money is held or received as contemplated by section 78 (1) or invested as contemplated by section 78 (2) or 78 (2A) of the Act;

1.30

“trust investment account” means all accounts kept by a firm in terms of section 78 (2) or 78 (2A) of the Act;
1.31

“trust money” means money held or received on account of any person as contemplated by section 78 (1) or invested as contemplated by section 78 (2) or 78 (2A) of the Act.

Repealed Act

Act 80 of 1991 has been repealed by s 58 of Act 26 of 2005

1A. DETERMINATION OF MAIN OFFICE

1A.1

If a firm at any time administers and controls its practice as a whole from premises in two or more buildings which do not, in the opinion of the Council, constitute such a single composite entity as is contemplated in the definition of “main office” in rule 1.18 the Council may require that firm to declare to it in writing, within a time stipulated by the Council, which one or more of those buildings as may, in the opinion of the Council, 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.

1A.2

The Council may make such enquiry, including inspection of the premises concerned, as it deems fit 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 rule 1A.1.

1A.3

A declaration made by a member under rule 1A.1 shall remain effective until such time as it—

1A.3.1

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

1A.3.2

makes a declaration in terms of rule 1A.1 in respect of other premises.

1A.4

Should a firm fail, within the time stipulated by the Council, to make a declaration under rule 1A.1, 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
this rule 1A shall *mutatis mutandis* apply as though those premises had been so declared by the firm.

2. **OFFICE OF SOCIETY**

The Secretary’s office shall be the office of the Society.

3. **MEMBERS**

   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   
   (a)

   
   (i)

   Every person shall as soon as he becomes a member, give written notice to the Secretary of his full names, employment and business and postal address, and it shall be incumbent on every such member who may be carrying on business in partnership or under a firm name for his own account to send the Secretary a written statement of the name or names of his partner or partners in such business, the firm name under which the business is carried on and also of any subsequent change therein.

   (ii)

   Every member shall, within 14 days of any change in any of the abovementioned particulars notify the Secretary in writing thereof.

   (iii)

   Any member who unreasonably neglects to comply or delays in complying with the requirement to subsections (i) or (ii) hereof shall be guilty of unprofessional conduct.

   
   (b)

   The registers of members which are kept by the Secretary shall for all purposes of the Society be considered to contain a correct list of members and their respective business addresses, and any letter or notice which shall be sent by the Council or by the Secretary in terms of these rules by post to any member addressed to him at such business address shall be deemed to have been duly and properly sent and he shall be deemed to have received such letter or notice at the time when such letter or notice would have reached him in the ordinary course of post.

   
   (c)
A member’s subscription becomes due on the first day of the financial year except in the case of a newly admitted member in which case his subscription becomes due on the date of his admission as a member.

(d)

If any member fails to pay his annual subscription within one month after it has become due, the Secretary shall, by letter, draw his attention to the fact, and if the subscription in arrear is not paid within seven days from the date of such letter or within such further time as the Council may grant, proceedings for recovery thereof may be taken in terms of rule 8 (b).

(e)

No member whose subscription is in arrear for more than three months shall be entitled to vote or be present at any general meetings.

3A. THE OBLIGATIONS OF EVERY MEMBER OF A PROFESSIONAL COMPANY

It shall be the obligation of every member of a professional company (as defined in section 56 of the Act) which practises in the Province of the Orange Free State or which has a registered office situate in the said province—

(a)

to ensure that the Secretary is notified in writing—

(i)

within 14 days of the incorporation of the company or of any later date upon which the company shall first commence practice in the province, of—

(aa)

the name of the company, the number and date of its incorporation and the address of its registered office;

(bb)

the full names, dates of birth, domestic and business addresses of every member of the company;

(cc)
the address of every place of practice within the Republic where the company practises or in which it shall have any interest with the numbers of the telephones and post office boxes, used in connection with the practice carried on at each such place;

(dd)

any other information which the Society may from time to time prescribe;

(ii)

of any change in any of the information given in terms of (i) within 14 days of such change taking place;

(b)

to supply the council, whenever so required, with notarially certified copies of the memorandum and articles of association, certificate of incorporation and certificate to commence business relating to such company together with all amendments made to any of the aforegoing to the date of such supply.

3B. PRACTITIONERS WHO CEASE TO PRACTISE AND WINDING UP OF ABANDONED PRACTICES

1.

Before applying for the removal of his name from the Roll of the Court a practitioner, who practises or has practised for his own account in the Orange Free State shall—

1.1

advise the Council of that fact by delivering a copy of his application to Court to the Secretary at least one month before the date of the hearing thereof;

1.2

unless exempted by the Council, furnish the Council with a certificate by an accountant approved by the Council, or such other proof as the Council may require, that proper provision has been made for the winding up, taking over or protection of all trust money;

1.3

satisfy the Council by affidavit or otherwise as the Council may require that—

1.3.1
all obligations to clients have been discharged or duly assigned with such consents as may be necessary;

1.3.2

any other requirements which the Council deems necessary for the protection of trust money or other assets held in trust, the completion of work on hand, attending to queries and, in general, the orderly winding up of his practice or former practice, have been met;

1.4

state in his application that he has complied with the provisions of this rule 3B.1.

2.

Before or as soon as may be after voluntarily ceasing to practise for any reason other than pursuant to rule 3B.1 a practitioner, who practises or has practised for his own account in the Province, shall comply with the provisions of rule 3B.1 other than those in paragraph 4 thereof and shall thereafter inform the Secretary in writing of any changes in his business, postal and residential addresses for a period of three years from the date of his ceasing to practise or for as long as his name remains on the Roll of the Court, whichever period is the shorter.

3.

Without derogating from the provisions of rules 3B.1 and 3B.2, should a practitioner who practised as the sole proprietor of a practice in the Province for any reason whatsoever have ceased so to practice without having, in the opinion of the Council, made adequate arrangements for the continuance or winding up of his practice or for the protection of his or his clients’ affairs or property, any firm may, at the request of the Council and under the direction of the Secretary, take such steps as may appear necessary to ensure that such practice is wound up with reasonable expedition, subject to any right which such firm may have to recover the reasonable expenses of such winding up and/or other compensation from such practitioner or from his estate or from any other source.

4.

Before applying for the removal of his name from the Roll of the Court, a practitioner who has not practised for his own account, shall advise the Council of that fact by delivering a copy of his application to Court to the Secretary at least one month before the hearing thereof and shall state in his application that he has complied with the provisions of this rule 3B.4.

4. CERTIFICATE FEES
Save as otherwise provided for, the fees payable to the Society for any certificate issued by the Secretary shall be R5.

5. LIBRARY

(a)

The library of the Society will be under the control of the Secretary who shall purchase such law books, reports or other legal publications as the Council may direct.

(b)

Books may be obtained on loan from the library on application to the Secretary and on filling in a card or other acknowledgement by members resident in Bloemfontein, who will be allowed the use thereof for a period of seven days which period may however, for special reasons be extended by the Secretary for a reasonable time.

(c)

Books may be obtained on loan by country members on written application addressed to the Secretary and they will be allowed the use thereof for a period of 14 days which period may, however, for special reasons, be extended by the Secretary for a reasonable time. The Society will defray the railage or postage on the books when forwarded, but the country applicant must defray the cost of their return.

(d)

Should any borrower lose, tear or otherwise damage any book or books on loan he shall replace same or pay such compensation as the Council may determine.

(e)

Any member who keeps a book for a period in excess of the periods referred to in sub-rule (b) or (c), as the case may be (without a reasonable explanation acceptable to the Council), shall pay a fine of R1 per book for every day in excess of the applicable period, and failing payment shall be guilty of conduct which will make him liable to be dealt within terms of the provisions of rule 19.

6. THE COUNCIL

(a)
The Council shall consist of twelve elected members or such other number as may be decided upon at a general meeting.

(ii)

The composition of the Council shall be—

25 per cent representing BLA;

25 per cent representing NADEL;

50 per cent representing the non-BLA and non-NADEL members of the Society.

The above composition of the Council will remain in force for a period as short as possible after the promulgation of a new Attorneys Act or any act which will regulate the attorneys’ profession.

(iii)

The Council shall always consist of an even number of elected members, parity being maintained as between the country districts and the Magisterial District of Bloemfontein.

(iv)

Members of the Council shall remain in office until retirement or vacation of office.

(v)

The Council may be constituted on a regional basis in such manner as may be determined from time to time by the Council but subject to approval by the members in general meeting.

(b)

(i)

One-quarter of the non-BLA and non-NADEL members of the Council shall retire annually at the conclusion of all the proceedings of the annual general meeting. The retiring members shall be eligible for re-election.

(ii)

The longest-serving members of the Council shall retire first.
One councillor from the country districts and one councillor from the Magisterial District of Bloemfontein shall retire annually.

If councillors from the country districts and councillors from the Magisterial District of Bloemfontein have equal lengths of service, the Council shall determine which councillor from the country districts and which councillor from the Magisterial District of Bloemfontein shall retire.

One-third of the BLA and NADEL members of the Council respectively shall retire annually at the conclusion of the proceedings of the annual general meeting. The retiring members shall be eligible for re-election; the longest serving BLA and NADEL members of the Council shall retire first.

The members of the Council shall, immediately after the conclusion of the proceedings of the annual general meeting of the Society, elect a President and a Vice-President of the Society. The President and the Vice-President shall each hold office until the conclusion of the next annual general meeting.

At every meeting of the Council a quorum shall consist of one more than half of the number of members of the Council.

A member of the Council shall vacate his office—

if he resigns; or
(iii) if he ceases to be a member of the Society; or

(iv) if he is suspended from practice; or

(v) in the case of the final sequestration of his estate as insolvent; or

(vi) if he becomes of unsound mind; or

if he is declared by a Court to be incapable of managing his own affairs.

(g) The Council may remove or suspend from office any member of the Council where he fails to attend—

(i) two consecutive meetings of the Council without advising the Secretary of his inability to attend and if there are no other facts before the Council to justify his absence; or

(ii) four consecutive meetings of the Council.

7. MEETINGS OF THE COUNCIL

(a) Ordinary meetings of the Council shall be held whenever, in the opinion of the President or the Secretary, there are sufficient matters on hand requiring attention or decision;

(ii) any two members of the Council may in writing request the Secretary to convene a special meeting of the Council stating the business to be
considered. Such a meeting shall forthwith be called by giving at least five days’ notice in writing of such meeting and specifying the business to be considered thereat;

(iii)

the President may at any time convene a special meeting on such notice and in such manner as he may determine.

(b)

No resolution passed at any meeting of the Council shall be rescinded at any subsequent meeting unless notice of intention to propose such recission shall have been given in the notice of the meeting.

(c)

The annual report shall include a list of Council members and shall reflect the number of Council and of committee meetings held during the year covered by the report and the number of such meetings attended by each member or from which he was absent.

(d)

Minutes of the proceedings of every meeting of the Council or of any committee thereof shall be kept by the Secretary or in the event of his absence by some other person appointed for the occasion by the Chairman. A fair copy of such minutes shall be—

(i)

recorded in book form; and

(ii)

signed by the Chairman after confirmation thereof at the next meeting of the Council or committee.

8. FINANCE

(a)

The subscriptions, fees, levies or other charges payable to the Society shall be those fixed by the Council in terms of the Act.

(b)
All moneys due to the Society may be recovered by the Council by the institution of legal process.

(c)

The financial year of the Society shall be from 1 July in one year to 30 June in the following year, with effect as from 1 July 1977.

(d)

If for any reason the Society is liquidated or dissolved and there remains after the satisfaction of its liabilities any assets whatsoever, the same shall be transferred to such other society or association with objects similar to those of the Society as the members shall in general meeting decide.

9. ANNUAL FINANCIAL REPORT, ACCOUNTS AND AUDIT

(a)

The Council shall cause proper accounts to be kept of the income and expenditure of the Society, which account shall be closed annually as at the 30th day of June whereafter the statements and balance sheet to be submitted to the next annual general meeting shall be compiled.

(b)

If any vacancy shall arise during the year in the office of auditor through death, resignation, absence or otherwise, such vacancy may be filled by the Council.

10. GENERAL MEETINGS

A.

Annual General Meetings

(a)

The Council shall convene an annual general meeting of its members to be held during the month of October in every year.

(b)

Written notice of every annual general meeting shall be posted to every member of the Society at least 14 days before the day appointed for the holding of the meeting. Such notice shall shortly state the business to be transacted at such meeting and shall be accompanied by a copy of the annual report, of the
statement of income and expenditure and of the balance sheet prepared as hereinbefore provided.

(c)

The business to be transacted at the annual general meeting shall be—

(i) the consideration of the Report for the past financial year prepared and submitted by the Council;

(ii) the consideration and adoption with or without amendment of the income and expenditure account and the balance sheet for the past financial year;

(iii) the election of Council members for the ensuing year;

(iv) the appointment of auditors and the determination of their remuneration;

(v) the consideration and transaction of any business which the council may wish to submit to the meeting;

(vi) the consideration and transaction of any special business of which due notice shall have been given by a member as hereinafter provided.

(d)

Members of the Council shall be elected only from candidates who have been nominated as hereinafter provided.

(e)

Only members of this society who practise within the Orange Free State, shall be eligible for election to the Council.

(f)
Any member who desires to nominate a candidate for election as a member of the Council at any annual meeting shall, after the notice convening such meeting has been posted as set out above, but at least seven days before the date upon which such meeting is to be held, lodge with the Secretary a written nomination form signed by him as the proposer and by another member as the seconder in which they nominate a candidate, and which written nomination form shall be endorsed and signed by the candidate that he accepts such nomination.

B.

**Special General Meetings**

(a)

The Secretary shall be bound to call a special general meeting of the Society whenever ordered so to do by the Council or whenever requested so to do by requisition in writing signed by not less than 10 members of the Society stating the business to be submitted to the meeting.

(b)

Notice of every special general meeting shall be posted to every member by the Secretary at least 14 clear days before the day fixed for the holding of the meeting and which notice shall state the business for which such meeting is called. The Council, however, in case of urgency, of which it shall be the sole judge, may call such a meeting at a shorter notice than is above specified.

(c)

No business shall be transacted at any special general meeting other than the business for which such meeting has been specially called.

11. **PROCEDURE AT GENERAL MEETINGS**

A.

**Annual General Meetings**

The procedure at an annual general meeting shall, unless varied by the Chairman, be as follows—

(a)

The chair shall be taken by the president, or in his absence the Vice-President or in his absence a member of the Council nominated by the Council to act as Chairman.
(b)

The minutes of the preceding annual general meeting and of all intervening special general meetings shall be read and confirmed subject to correction and amendment.

(c)

The annual report shall then be considered and matters arising therefrom shall be open for discussion.

(d)

The statements of account and balance sheet of the Society as signed by the auditors shall be submitted to the meeting for consideration and adoption with or without modification.

(e)

The nomination and appointment of auditors shall then take place and their remuneration shall then also be determined.

(f)

Any business or matter, which the Council may deem necessary to introduce, shall then be discussed and dealt with and if necessary the opinion of the meeting shall be taken thereon.

(g)

Any member shall thereafter have the right to bring forward, for the consideration and decision of the meeting, any business or matter which may be lawfully dealt with at such meeting or to give notice of motion of, or relating to, any business which he intends to bring forward at a future general meeting.

(h)

The Chairman shall then announce the names of the candidates nominated for election as members of the Council and if the candidates so nominated are not more than the number of the vacancies the persons so nominated shall be deemed to be duly elected and declared as such by the Chairman.

In case the number of such candidates exceeds the number of vacancies any of the candidates in excess of the number to be elected, may withdraw.
In case all the candidates in excess of the number to be elected fail to withdraw an
election shall be conducted by ballot papers as hereinafter provided.

(i)

Before proceeding to an election by ballot papers, the Chairman shall appoint
two scrutineers from among the members present, not being candidates or
proposers or seconders of candidates, to receive and examine the ballot papers
and to certify to the result of the election.

The ballot papers shall be in such form as directed by the Council and shall state the
number of vacancies to be filled, the names of the candidates and the manner in which
the voting shall take place.

Each member who votes shall vote for the number of vacancies to be filled.

(j)

The scrutineers shall report in writing to the meeting and such report shall be
signed by them and shall contain the following particulars:

(i)

the total number of ballot papers received;

(ii)

the number of the ballot papers rejected, if any;

(iii)

the total number of votes in favour of each candidate;

(iv)

the number of members present and entitled to vote.

The report of the scrutineers shall be read to the meeting by one of them
and such report shall be conclusive notwithstanding any formal
irregularity.

In the event of a tie between two or more candidates the question as to
which candidate shall be declared to be elected shall be decided by lot to
be drawn in such manner and at such time and place as the Chairman may
direct.
Any special business brought forward by any member notice whereof had been given to the Secretary on or before the 15 of September immediately prior to the meeting, including notice of motion in regard thereto given at the previous annual general meeting.

B.

Special General Meeting

The proceedings at a special general meeting shall as far as possible be conducted in a manner similar to those laid down for the conduct of an annual general meeting. The Chairman shall have powers similar to those which he would have at an annual general meeting.

12. PROVISIONS COMMON TO ALL GENERAL MEETINGS

(a)

All notices of general meetings posted by the Secretary to each member shall be considered to have been duly so posted if posted by prepaid post to such member to the last address supplied by him to the Secretary and recorded in the membership register.

(b)

Twenty members present shall form a quorum.

(c)

Any general meeting at which a quorum shall be present may be adjourned to such time and place as may be decided at the meeting.

(d)

If on the day and at the time appointed for the holding of any general meeting, no quorum is present nor within 15 minutes after such time, no business shall be dealt with thereat, but it shall stand adjourned for seven days and even though there shall not then be a quorum present, the meeting shall proceed to business, provided however that if such meeting be a special general meeting requisitioned by members in accordance with rule 10B (a) and there be no quorum present at such last-mentioned meeting, it shall be considered dissolved; and provided further that if any day to which a general meeting shall be adjourned is a public holiday, the meeting shall be held on the next succeeding day not being a public holiday or Sunday.
The following rules of debate shall be observed at all general meetings—

(i) In case debate shall arise on any subject no member shall be permitted to speak more than once on that subject, except by way of explanation, provided that the mover of any motion shall be allowed to speak in reply, after which the debate shall be closed;

(ii) the mover of an original motion shall not without the consent of the Chairman, speak for more than 15 minutes; no other speaker including the mover in reply shall, without the consent of the Chairman, speak for more than 10 minutes;

(iii) after such motion has been seconded, and any member who desires to speak on the motion has done so and the mover thereof has replied if he so desires, the mover or any other member may request the Chairman without a speech to put the motion to the vote and the Chairman shall do so;

(iv) the mover of a motion for the adjournment either of the meeting or of the debate, or that the motion be put, or that the meeting do proceed to the next business, may speak for not more than five minutes and such motion shall be seconded without a speech. Any one member (the mover of the original motion or amendment under discussion to have the preference) may speak for five minutes in opposition to any such seconded motion, which shall then be put by the Chairman to the vote without debate;

(v) whenever an amendment to an original motion has been moved and seconded, no second or subsequent amendment shall be moved until the first amendment shall have been disposed of. If an amendment be carried the motion as amended shall take the place of the original motion, and shall become the question on which any further amendment may be moved;
no member shall move more than one amendment on any motion;

(vii)

the Chairman may call the attention of the meeting to continued irrelevance, tedious repetition, unbecoming language, or any breach of order on the part of a member, and may direct such member to discontinue his speech.

(f)

Whenever a notice of motion has been given by a member and included in the notice convening a general meeting and the member who gave the notice is not present and has not withdrawn it, any member then present may, with the consent of the Chairman, adopt it as his own, and move it as if the notice had been given by him.

(g)

Except where otherwise provided in these rules all matters discussed at general meetings shall be decided by a majority of members voting.

Except in the case of a contested election of members of the Council, the Chairman of the meeting shall in the event of an equality of votes, have a second or casting vote in addition to his vote as member.

(h)

(i)

Minutes of the proceedings of every general meeting shall be kept by the Secretary, or in his absence by any other person appointed for the occasion by the Chairman, a fair copy of which minutes shall be made in a minute book to be kept for the purpose and shall be corrected if necessary and thereafter signed as correct by the Chairman at the next Council meeting.

(ii)

A copy of such minutes shall be posted to all members as soon thereafter as possible.

(iii)

Only members present at such meeting shall be entitled to vote thereat and each member shall have one vote only save for the Chairman’s casting vote referred to in subparagraph (g) above.
Save as provided for the election of councillors and, save if the meeting should require a secret ballot, the method of voting shall be determined by the Chairman.

13. **ALLOWANCES**

(a)

No practitioner shall make over to, share or divide any portion whatsoever of his professional fees with any person other than a practitioner in or a legal practitioner outside the Republic, either by way of partnership, commission or allowance or in any manner whatsoever.

(b)

The allowance on his fees or earnings which a practitioner shall be entitled to make to another practitioner in the Republic with whom he may do business shall not either directly or indirectly exceed one-third of the fees or earnings charged or received on the particular business transacted by the practitioner making the allowance.

(c)

Unless otherwise provided herein an attorney shall be entitled to the same allowance on fees earned in respect of conveyancing, notarial and Sectional Title work, as are received by a notary and conveyancer.

(d)

Notwithstanding the provisions of sub-rule (b) and subject to the division of fees as provided for by the Deeds Registries Act, 1937 (Act 47 of 1937), as amended, (hereinafter referred to as the Deeds Act), and the Sectional Title Act, 1971 (Act 66 of 1971), as amended, and the regulations framed under the said acts, the division of fees in respect of conveyancing, notarial and Sectional Titles Act work, or in such work as is contemplated by the Deeds Act and the Sectional Titles Act, shall be as fixed by a general meeting of members of the Society.

(e)

The provisions of sub-rule (d) shall be applicable to all members of the Society practising within the Orange Free State and having their own offices in this province.
The Council has the right on behalf of the Society, to determine the interprovincial division of deed and section title fees.

Repealed Act

Act 66 of 1971 has been repealed by s 59 of Act 95 of 1986

14. TARIFFS

(1)

The Council issues a tariff of recommended fees from time to time by means of a ruling as a guide line for the convenience of its members.

15. ASSESSMENT OF FEES

(a)

It shall be competent for the Council or any committee appointed by the Council for that purpose, at the request of any person or practitioner, to assess the fees payable by such person to a practitioner, who in terms of the provisions of section 57 (1) of the Act is a member of the particular Society, in respect of the performance on behalf of such person of any work other than litigious work by the practitioner in his capacity as such: Provided that the Council or the committee shall not assess fees in instances where a state official is empowered to do so or where the work concerned is already covered by a statutory tariff.

(b)

With a view to affording the practitioner reasonable and adequate remuneration for the services rendered by him, the Council or the committee, as the case may be, shall, on every assessment, allow all such fees as appear to it to have been reasonable for the performance of the work concerned, and in so doing shall take cognisance of the following—

(i) the amount and importance of the work done;

(ii) the complexity of the matter or the difficulty or novelty of the work or the questions raised;

(iii)
the skill, labour, specialised knowledge and responsibility involved on the part of the practitioner;

(iv)

the number and importance of the documents prepared or perused, without necessarily having regard to length;

(v)

the place where and circumstances in which the services or any part thereof were rendered;

(vi)

the time expanded by the practitioner;

(vii)

the importance of the matter to the client;

(ix)

the quality of the work done;

(x)

the experience or seniority of the practitioner;

(xi)

any tariff of fees approved by the Society for the sole purpose of serving as a guide to practitioners;

(xii)

any tariff of fees prescribed by the Council in accordance with the provisions of section 69 (d) of the Act; and

whether the fees have been incurred or increased through over caution, negligence or mistake on the part of the practitioner.

(c)

At the assessment of any practitioner’s fees, the Council or the committee, as the case may be, may call for the production of such books, documents, papers or
accounts as in its opinion are necessary to enable it properly to determine any matter arising upon such assessment.

(d)

1
The Council or the committee, as the case may be, shall not proceed to the assessment of the fees unless the Secretary of the Society has duly given notice by prepaid registered post to both the practitioner and the person liable to pay the fees, stating the time and place of such assessment and recording that he is entitled to be present and represented thereat: Provided that such notice shall not be necessary if both the practitioner and such person have consented in writing to assessment in their absence.

(d)

2
At the assessment the Council or the committee, as the case may be, shall permit the practitioner and such person to submit their representations and arguments either orally or in writing.

(d)

3
After receiving such representations and arguments, the Council or the committee, as the case may be, shall be entitled to reserve its decision.

(d)

4
As soon as the Council or the committee, as the case may be, has arrived at its decision, it shall deliver to both the practitioner and such person either by hand or prepaid registered post, a copy of the fee list submitted for assessment, duly endorsed with the allocatur of the Council or the committee, as the case may be, under the hand of the Secretary of the Society, provided that, where the decision is that of the committee, either the member or such person, if he objects to the decision of the committee, shall within 10 days after the date of the allocatur and after he has given written notice to the other party of his intention to object against such a decision, but before taking any other steps, submit that decision to the Council with a view to having the decision amended or withdrawn, stating in his submission, which shall be in writing, the respects in which he takes objection to the decision and the grounds upon which he claims that amendment or withdrawal of the decision is justified.

(d)
Upon submission to the Council of an objection in terms of the proviso to rule (d) 4 the Council shall consider the objection and if in its opinion a prima facie case for amendment or withdrawal has been made out shall, after the objector has been given an opportunity to make further written representations, and the other party an opportunity of replying in writing to those further representations, with a further opportunity to the objector to respond to the reply of the other party, and after the committee’s comments on the objection have been obtained:

(d)

5.1 reject the objection and confirm the decision of the committee; or

(d)

5.2 amend the decision of the committee in such manner as the Council may deem just, and substitute its own allocatur for that of the committee; or

(d)

5.3 withdraw the decision of the committee and substitute its own decision and allocatur for those of the committee.

(d)

6 The Council shall advise the objector and the other party of its decision in writing.

(d)

7 The submission to the Council of an objection in terms of the proviso to rule (d) 4 shall suspend the decision of the committee. The decision of the Council in terms of rules (d) 5 and (d) 6 shall be deemed to be the decision of the matter in question, and the date of the allocatur shall be the date of the decision of the Council in terms of those rules.
Subject to the provisions of section 74 (5) of the Act the fees determined in terms of the allocatur shall be deemed to be reasonable fees payable to the practitioner for the services rendered.

(e)

The Council or the committee, as the case may be, shall be entitled in its discretion at any time, to depart from any of the provisions of sub-rule (b) above, in extraordinary or exceptional cases, where strict adherence to such provisions would be inequitable.

(f)

This rule shall not apply to any work done pursuant to a mandate accepted by an attorney prior to the date of promulgation of this rule whether the work is actually done before or after the said date.

(g)

The Council fixes the maximum raising fee a member may charge for the arrangement and raising of finance.

16. ACCOUNTING REQUIREMENTS: GENERAL

16.1 Accounting records

A firm shall keep in an official language of the Republic such accounting records as are necessary to reflect in accordance with generally accepted accounting practice the state of affairs and business of the firm and to explain the transactions and financial position of the firm including and without detracting from the generality of this rule—

16.1.1

records showing its assets and liabilities;

16.1.2

records containing day to day entries of all moneys received and paid by it on and from its own account;

16.1.3

records containing particulars and information of all moneys received, held and paid by it for and on account of any person as well as of all moneys invested by it in terms of section 78 (2) or section 78 (2A) of the Act and of any interest referred to in section 78
(3) of the Act which is paid over or credited to it, as well as any interest credited to or on any separate trust savings or other interest-bearing account referred to in section 78 (2A).

16.2

**Generally accepted accounting practice**

In determining what is meant by “generally accepted accounting practice” regard shall be had, *inter alia*, to any rulings of the Council published to members.

16.3

**Distinction between trust account and business account transactions**

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

16.4

**Retention of accounting records**

A firm shall retain its accounting records—

16.4.1

for at least five years from the date of the last entry recorded in each particular book or other document of record;

16.4.2

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 or a branch office, but, in the latter case, only in so far as they relate to any part of its practice conducted at that branch office.

16.5

**Updating of accounting records**

A firm shall regularly and promptly update its accounting records and shall be deemed not to have complied with this rule, *inter alia*, if its accounting records have not been written up for more than one month and have not been balanced within two months after each date on which the trust creditors’ lists referred to in rule 16A.7 are to be extracted.

16.6
Trust money to be kept separate from other money

Trust money shall in no circumstances be deposited in, or credited to, a business banking account, and money other than trust money which is in a trust banking account at any time shall be transferred to a business banking account without delay; provided that a firm which—

16.6.1

makes transfers from its trust banking account to its business banking account at least once a month; and

16.6.2

ensures that each such transfer covers the total amount due to it on a date not earlier than one week prior to the date of transfer, shall be deemed to have complied with this rule.

16.7

Transfer from trust banking account

When making a transfer from its trust banking account to its business banking account, a firm shall ensure that—

16.7.1

the amount transferred is identifiable with and does not exceed the amount due to it; and

16.7.2

the balance of any amount due to it which remains in its trust banking account is identifiable with corresponding entries appearing in its trust ledger.

16.8

Accounting to clients

Every firm shall, within a reasonable time after the performance or earlier termination of any mandate, account to its client in writing and each such account shall contain—

16.8.1

details of all amounts received by it in connection with the matter concerned, properly explained;

16.8.2
particulars of all disbursements and other payments made by it in connection with the matter;

16.8.3

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 and the amount so agreed;

16.8.4

the amount due to or by the client; and the firm shall retain a copy of each such account for not less than five years.

16.9

Payment of amounts due to clients

Unless otherwise instructed, a firm shall pay to its client any amount due to him within a reasonable time.

16A. ACCOUNTING REQUIREMENTS: TRUST ACCOUNT 16A TRANSACTIONS

16A.1

Prompt deposit of trust money

A firm shall promptly on the date of its receipt, or the first banking day following its receipt on which it can be banked, deposit in its trust banking account all moneys received by it for the account of any person.

16A.2

Transfer from trust investment account to trust banking account

Any amount withdrawn by a firm from a trust investment account shall promptly be deposited by it in its trust banking account.

16A.3

Trust balances not to exceed trust monies and no trust account to have a debit balance

A firm shall ensure that—
the total amount of money in its trust banking account, in its trust investment account and held by it as trust cash is at no time less than the total amount of the credit balances of the trust creditors shown in its accounting records;

16A.3.2

that no account of any trust creditor is in debit;

16A.3.3

a system be used and maintained which complies with the requirements of rules 16A.3.1 and 16A.3.2 when amounts are transferred from its trust banking account to its business banking account.

16A.4

**Amounts received in advance to be deposited to trust banking account**

A firm shall ensure that amounts received in advance to cover a prospective liability for services to be rendered or disbursements (including counsel’s fees) to be made are deposited forthwith to the credit of its trust banking account.

16A.5

**Withdrawal from trust banking account**

A firm shall ensure that withdrawals from its trust banking account are made only—

16A.5.1

to or for a trust creditor; or

16A.5.2

as transfers to its business banking account, provided that such transfers shall be made only in respect of money due to the firm;

16A.5.3

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 until—

16A.5.3.1

the disbursement has actually been made by the firm;
16A.5.3.2

the fee has been correctly debited in its accounting records.

16A.6

**Trust cheques to be made to a specific payee**

A firm shall ensure that any cheque drawn on its trust banking account shall be made payable to, or to the order of, a specified payee.

16A.7

**Extracts of lists of trust creditors**

16A.7.1

Every firm shall extract, at intervals of not more than three calendar months 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 monies standing to the credit of each such person, who shall be identified therein by name, and shall, in order to ensure compliance with [rule 16A.3](#), total such amounts and compare that total with the total of the credit balance in the firm’s trust banking account, trust investment account and the amounts held by it as trust cash;

16A.7.2

the balance listed in respect of each such person shall also be noted in a permanent, prominent and clear manner in the ledger account from which that balance was extracted;

16A.7.3

each such list shall form part of the accounting records of the firm and shall be retained for the minimum period of five years, referred to in [rule 16.4.1](#).

16A.8

**Notification of trust banking accounts and the furnishing of particulars**

Every firm shall—

16A.8.1

without delay 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 without delay notify the Council of any change in the name and address of such bank or banks;
16A.8.2

whenever so required by the Council, furnish to the Council within 10 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 financial institution 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 at such date or dates as may be specified by the Council.

16A.9

Trust account investments in terms of section 78 (2A)

A firm which invests funds on behalf of any person without that person’s prior written instructions (specific or general) shall—

16A.9.1

not invest such funds otherwise than in a trust savings or other interest bearing account with a banking institution or building society;

16A.9.2

obtain that person’s written confirmation of the investment as soon as possible or notify him as soon as possible thereof in writing; and

16A.9.3

forthwith cause the trust savings or other interest-bearing account concerned to be identified as an investment in terms of section 78 (2A) of the Act.

16B. REPORTS BY ACCOUNTANTS

16B.1

Appointment of an accountant

A firm shall at its own expense once in each calendar year or at such other times as the Council may require, appoint an accountant approved by the Council to act on behalf of and as the representative of the Attorneys Fidelity Fund to discharge the duties assigned to him in terms of rule 16B.4.

16B.2

Accountant to have access to records and a firm’s duty to assist
A firm shall allow an accountant appointed under rule 16B.1 access to such of its records as he may deem it necessary to examine for the purpose of discharging his duties under rule 16B.4 and shall furnish the accountant with any authority which may be required to enable him to obtain such information, certificates or other evidence as he may require for such purposes.

16B.3

Duty of a firm to ensure that a report is furnished

A firm shall ensure that the report to be furnished by an accountant in terms of rule 16B.4 is so furnished within the required time or on the required date; provided that the Council may in its discretion and on such conditions as it may stipulate, on written application by a firm relating to a particular report, condone a failure by that firm to comply with this requirement.

16B.4

Duties of accountant

Every accountant who has accepted an appointment in terms of rule 16B.1 shall—

16B.4.1

within six months after the annual closing of the accounting records of the firm concerned, or at such other times as the Council may require, furnish the Council with a report which shall be in the form of Schedule “C” to these rules;

16B.4.2

without delay report in writing directly to the Council if, at any time during the discharge of his functions and duties under this rule—

16B.4.2.1

it comes to his notice that at any date the total of the balances shown on trust accounts in the accounting records of the firm exceed the total amount of the funds in its trust banking account, its trust investment account and held by it as trust cash;

16B.4.2.2

any queries regarding its accounting records which he has raised with the firm have not been answered to his satisfaction; and

16B.4.2.3
any request made by him for access to its records or for any authority referred to in rule 16B.2 has not been met to his satisfaction.

16B.5

Copy of report to be sent to firm

A copy of the report of the prescribed form required under rule 16B.4.1 and any report made in terms of rule 16B.4.2 shall be sent by the accountant to the firm concerned.

16B.6

Form obtainable from Secretary

The form prescribed under rule 16B.4.1 shall be obtained only from the Secretary who shall issue it on request to any firm or to any accountant appointed in terms of this rule.

16B.7

Council may dispense with report by an accountant

In any case where the Council is satisfied that it is not practicable to obtain the services of an accountant for the issuing of a report prescribed under rule 16B.4, it may in lieu thereof accept as compliance with the requirements of rule 16B.4 such other evidence as it may deem sufficient.

Schedule “C”

REPORT BY INDEPENDENT ACCOUNTANT

(To be submitted under cover of the independent accountant’s letterhead)

The Council of the Law Society of the Orange Free State, P.O. Box 319, Bloemfontein.

REPORT OF AN INDEPENDENT ACCOUNTANT IN TERMS OF RULE 16B.4.1 OF THE RULES OF THE LAW SOCIETY OF THE ORANGE FREE STATE IN RESPECT OF

(name of firm)

1.

I have applied certain procedures described below to the accounting records and system of bookkeeping employed by the above firm for the year ended on 19

The firm’s compliance with the provisions of Act No. 53 of 1979 (the Act) and the rules of your Law Society is the responsibility of the
partners/practitioners/directors. It is my responsibility to carry out the procedures described below and to report on the results thereof. This report is furnished solely for your own use and information and should be used by you solely for this purpose.

2.
I have examined (*on a test basis) the trust accounting records and trust account transactions of the firm with specific reference to the following provisions of the Act and the following rules of your Society:

2.1

subsections (1), (2) (b), 2 (A), (3) and (4) of section 78 of the Act;

2.2
rules 16.1.3, 16.3, 16A.1, 16A.2, 16A.3.3, 16A.7.1, 16A.7.2 and 16A.9;
I report that [*except for the qualification(s) set out in the schedule to this report] the firm complied with the above-mentioned provisions of the Act and the rules of your society in respect of the period ended on 19

3.
I have inspected the books on

being the date of my last inspection, and report that—

3.1
the books have been written up to

; and

3.2
the trial balance was last balanced at

19

4.
I have compared (*on a test basis) the list of trust balances shown on the trust accounts in the ledgers of the firm with the respective ledger accounts at the year end and on

and—

4.1
on each of such dates the firm had complied with the provisions of rules 16A.3.1 and 16A.3.2;

4.2
after examining the bank statements of the firm for such period as I deemed it necessary (being not less than one week) in the light of circumstances following each of such dates we report that where negotiable instruments which were deposited in the trust banking account and which were not met, the attendant circumstances were
considered to be satisfactory.

5. I have extracted the following information from the accounting records of the firm and report that the amount during the period under review which the firm—

5.1 has brought forward in respect of interest earned on moneys deposited in terms of section 78 (1) and moneys invested in terms of section 78 (2) of the Act from the previous financial year is: R

5.2 has earned on moneys deposited in trust banking accounts in terms of section 78 (1) and moneys invested in trust investment accounts in terms of section 78 (2) of the Act is: R

5.3 has deducted in respect of recoverable bank charges is: R

5.4 has paid over to the Attorneys Fidelity Fund in terms of section 78 (3) of the Act is: R

5.5 has carried over in respect of interest earned on moneys deposited in terms of section 78 (1) and moneys invested in terms of section 78 (2) of the Act to the next financial year is: R

6. *I have been informed that a separate system of accounting for deceased and insolvent estates and trusts is maintained, but I have not examined any records or documents relating thereto (other than ) (If no examination made, state NIL.)

7. I/We certify that to the best of my/our knowledge and belief the firm has/not during the period reported on, carried on an investment practice as defined
in rule 16C.1, (*and has complied with the provisions of rule 16C).

8.
*On enquiry made I was informed that the following changes in the composition of the firm occurred during the period covered by this report, namely:

9.
A copy of this report is today being sent to the firm.
Accountant:
Date:
Address:
* Delete if not applicable.

**SCHEDULE OF QUALIFICATIONS**

(If space is insufficient, this schedule may be continued in a schedule on the accountant’s letterhead to be attached and signed by the accountant.)

Firm’s principal place of practice (full street address):

Firm’s branch office(s) is/are at [full street address(es)]:

16C. **INVESTMENT PRACTICES**

16C.1

**Definitions**

16C.1.1

A firm shall for the purpose of this rule be deemed to be carrying on an investment practice if it invests funds on behalf of a client or clients or if it holds or manages, whether directly or indirectly, such investments by the collection of interest or capital redemption payments on behalf of the investing clients.

16C.1.2
A “client” shall, for the purpose of this rule, include any person on whose behalf a firm invests funds or manages or holds investments whether or not such person is otherwise a client of the firm concerned.

16C.1.3

This rule shall not apply to—

16C.1.3.1 investments made pursuant to section 78 (2A) of the Act;

16C.1.3.2 any other 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; or

16C.1.3.3 investments made by members 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.

16C.1.4

A firm shall be deemed not to carry on the business of an investment practice in terms of rule 16C.1.1 as long as investments under its control do not amount in the aggregate to more than R100 000 (one hundred thousand rand) or are held on behalf of not more than 10 (ten) clients.

16C.2

Accountant’s report

16C.2.1

Every firm carrying on an investment practice shall not later than 6 (six) months after the end of its financial year furnish the Secretary of the Society with a report by the accountant referred to in rule 16B stating that to the best of the accountant’s knowledge and belief—

16C.2.1.1 the firm did not, during the period covered by the accountant’s report, carry on an investment practice; or

16C.2.1.2 the firm did conduct an investment practice and has complied with this rule 16C.
16C.3

**Mandates**

Every firm which conducts an investment practice shall obtain an investment mandate from each client before investing funds for that client. The form of the investment mandate shall be substantially in the form referred to in Schedule “D” to these rules.

16C.4

**Annual report to clients**

Every firm which conducts an investment practice shall not later than 6 (six) months after the end of its financial year, supply each client from whom it is required to hold a mandate in terms of rule 16C.3 with a report reflecting all relevant details of such client’s investments. The firm shall send such report to the client by pre-paid registered post or shall deliver it by hand, in which latter case it shall obtain a written acknowledgement of receipt. A copy of such report shall also be made available at any other time upon the reasonable request of the client.

16C.5

**Accounting records**

16C.5.1

Every firm which conducts an investment practice shall, in addition to its normal accounting records, also keep proper accounting records and supporting documents in respect of the investments made by it or under its control.

16C.5.2

The accounting records and other supporting documents referred to in rule 16C.5.1 shall be retained by the firm in such manner as to enable it to furnish each client upon request with all details of the client’s investments. Such accounting records and other supporting documents shall be maintained in accurate detail and be cross-referenced to the trust account records retained in respect of each client in such a way as to provide an accurate audit trail which will enable a particular transaction to be identified at any time and traced through the accounting records of the client. The system shall duly state 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 records shall be promptly accessible. Where accounting records are maintained by means other than on paper, adequate facilities shall exist for such records to be reproduced in
16C.5.3
All accounting records required to be kept in terms of this sub-rule and copies of all reports despatched to investing clients in terms of rule 16C.4 shall be retained for at least 5 (five) years from the date of the last entry recorded in each particular book or other document of record, unless there is statutory provision to the contrary, and shall be held at the same office as the firm’s other accounting records.

16C.6
Investment register
Every firm carrying on an investment practice shall, in addition to its normal accounting records also maintain an investment register containing at least the following information—

16C.6.1
The names and addresses of the investors and the amounts invested by each of them and the date of each investment;

16C.6.2
the names and addresses of the borrowers and the amounts borrowed by each of them as well as the date on which each loan was granted;

16C.6.3
the period of each loan;

16C.6.4
the interest rate applicable to each investment;

16C.6.5
details of any security held and particulars of where the authority, the document reflecting the debt and bonds or other documents are filed;

16C.6.6
a list of the total amounts received from investors;

16C.6.7
a list of the total amounts invested with borrowers;

16C.6.8
a list of moneys temporarily invested with a financial institution, indicating whom the moneys belong to, the interest rate and where and how they were invested together with all other particulars;

16C.6.9
a list of the moneys in the trust banking account pending registration of bonds or investment in any other form;

16C.6.10

an annual reconciliation of the lists mentioned in rules 16C.6.6 to 16C.6.9;

16C.6.11

an indication of whether the firm or any member thereof or any company, close corporation or other entity in which the firm or any member thereof has an interest, has borrowed any moneys from the investors.

16C.7

Money market transactions

16C.7.1

No firm may mix deposits in a pool account or make other money market investments in any manner otherwise than by accepting funds as an agent for each participating client and placing such funds with a deposit-taking institution on the money market in the name of the client. The deposit-taking institution shall acknowledge receipt of each deposit or money market investment and such written receipts shall be retained by the member as part of his accounting records.

16C.7.2

All moneys received by a firm for investment with a deposit-taking institution, shall be paid to such institution as soon as reasonably possible after receipt by the firm and regard must be had to matters such as whether a payment by cheque has been cleared with the issuing banker.

16C.7.3

For the purpose of this rule “deposit-taking institution” shall mean any institution registered in terms of the Deposit-Taking Institutions Act No. 94 of 1990.

16C.8

Restrictions applicable to certain investments

A firm may not invest on behalf of a client —

16C.8.1

in shares or debentures in any company which is not listed on the Johannesburg Stock Exchange unless it is a subsidiary of a listed company; or

16C.8.2

in money market investments other than in the client’s
name in a deposit-taking institution; or

16C.8.3

in loans in respect of which there is no adequate security
unless the client’s specific written authorisation for each
such investment has first been obtained.

16C.9

Existing investment practices

16C.9.1

Notwithstanding the terms of this rule, a firm which has
an existing investment practise on the date on which this
rule comes into effect—

16C.9.1.1

shall not accept any new funds for investment
without complying with this rule;

16C.9.1.2

shall in respect of all existing investments
comply with rule 16C.5 within 6 (six) months
from the date on which it comes into effect;

16C.9.1.3

shall not be required to commence compliance
with rule 16C.5 until the end of February of
the calendar year following the year in which
the period of 6 (six) months stipulated in rule
16C.9.1.2 has expired;

16C.9.1.4

shall not be required to lodge its first annual
report by its accountant in terms of rule 16C.2
before the expiry of 3 (three) months after the
period of 6 (six) months laid down in rule
16C.9.1.2 has expired.

16C.9.2

Any firm which, as part of its investment practice,
already holds or manages an investment which does not
comply with rule 16C.8 shall not later than 6 (six)
months after the date of commencement of this rule
either obtain the client’s written consent to such
investment or relinquish the management of such
investment at the termination of the investment period
concerned and shall be obliged to inform the client in
writing accordingly.

16C.10

Unprofessional conduct
Failure to comply with the provisions of this rule shall constitute unprofessional conduct.

Schedule “D”

CLIENT INVESTMENT MANDATE

I, the undersigned,

of

do hereby authorise and empower

(firm’s name)

to make the following investments as my agent and on my behalf.

(Kindly tick the appropriate boxes):

1. TYPE OF INVESTMENTS
   1.1 Money lending and/or
   1.2 Money market and/or
   1.3 Stock and shares on the Johannesburg Stock Exchange

2. TYPE OF MANDATE GIVEN
   2.1 Discretionary
   2.2 Non discretionary

3. IS FIRM TO KEEP ALL SECURITIES
   [ ] Yes  [ ] No

4. IS GENERAL OR SPECIAL POWER OF ATTORNEY ATTACHED?
   [ ] Gen.  [ ] Spec.  [ ] None

5. REPORTING
6. SECURITY TO BE OBTAINED (in money-lending transactions)

7. WHEN IS INTEREST OR OTHER INCOME TO BE PAID?

8. GENERAL

Any other instructions

Signed ................. on this ................. day of ................. 19 ......

Accepted at ................. on this ................. day of ................. 19 ......

On behalf of firm

To be completed and signed in duplicate and a copy to be handed to the client.

17. Misconduct.—Misconduct on the part of an attorney or candidate attorney shall include the following inter alia—

(1) Touting—Without derogating from the generality of the meaning of the word “touting”, an attorney or candidate attorney shall be deemed to be guilty of touting if he—

(a) accepts or agrees to accept or offers to accept remuneration for professional work at any tariff or scale of charges other than those fixed by law, regulation or rule, or does any work gratuitously for any person for the sole reason that such person is a shareholder, partner, director, owner or employee of any firm, business, company or institution; or

(b)
by his conduct directly or indirectly represents or permits the impression to be created
that he is prepared to do professional work at any other tariff or scale of charges than
those fixed by any law, regulation or rule: provided that—

(i)

an attorney or candidate attorney shall be entitled to act pro amico for any employee of
the firm;

(ii)

it shall not be considered as touting if any attorney negotiates with his client for another
fee than the one prescribed by any tariff of fees; and

(iii)

an attorney or candidate attorney may prove that he did not have the intention to attract
work or business;

(c)

procures or allows his name or that of any firm in which he is interested to appear in any
client’s advertisement (other than a prospectus, offer for sale or statement issued in
accordance with the laws or regulations relating to companies or the regulations of a
recognised stock exchange) indicating that he or his firm holds the appointment of
attorney, notary or conveyancer to such client or any other person or company.

(2) The contravention of section 83 (2) and/or section 83 (5) of the Act.

(3) The contravention of section 83 (6) of the Act or the giving or taking of any
allowances in contravention of the provision of the Act or these rules.

(4) The entering into partnership with or being in the employ of any person who is not a
practitioner for the performance of any work or business proper to the calling of a
practitioner or commonly associated therewith, or the holding or acquisition of shares in a
company established mainly for the performance of any work or business commonly
associated with such calling except as provided for in section 23 of the Act: Provided
however, that for the purposes of this rule the performance of any work or business
proper to the calling or business of an auctioneer or general agent shall be deemed not to
be commonly associated with the calling of a practitioner and provided further that the
holding or acquisition of shares in a company as aforesaid shall be permissible so long as
the member’s right to undertake agency work of any kind is not interfered with by reason
of his holding or acquisition of such shares, and so long as the company as aforesaid does
not bear the name of the member or the name of the firm under which such member is
practising.
(5) Knowingly in any way assisting, allowing or enabling an unqualified person to charge, recover or receive any fee, or derive any remuneration for, in respect of or in connection with the preparation or execution of any document, or the performance of any professional work which only a practitioner is qualified by law to prepare, sign, execute, attest or perform, or in any way conniving at any arrangement, agreement or understanding whatsoever whereby any such fee or remuneration as aforesaid is, or shall be, charged, recovered or received by any such unqualified person.

(6) The contravention of section 78 (1) of the Act or withholding the payment of trust moneys without lawful excuse.

(7) Publicising his practice except as prescribed in these rules.

(8) . . . . . (deleted)

(9) . . . . . (deleted)

(10) (a) Inserting or allowing to be inserted on his letterheads, professional cards or elsewhere any appointments he may hold or the name of his clients.

(b) Making use of any stationery or printed material of any description which in the opinion of the Council does not befit the dignity, prestige and status of the profession.

(11) Without previous approval of the Council—

(a) publishing under his name articles on legal subjects in any publication other than recognised legal journals;

(b) in his professional capacity;

(i) appearing on television or broadcasting on radio or television;

(ii) lecturing to lay audiences on any legal subject.

(12) Claiming costs in a letter of demand unless specifically provided for in the contract or instrument of debt or any law.
(13) The opening or maintaining of any office which is not in the normal course of practice continuously under the direct and personal supervision of a practising attorney: Provided that such requirement of continuous, direct and personal supervision may in its discretion be relaxed or waived by the Council on such conditions as it may determine: Provided further that such relaxation or waiver may in its discretion be revoked by the Council.

(14) Keeping the accounts of his business as a practitioner in the books of account utilised in connection with any other business in which he may be interested jointly with a person not being a practitioner.

(15) Remunerating any employee, not being a practitioner, by way of a share in the profits of his business as a practitioner: Provided that it shall not be deemed to be a contravention of this rule if a practitioner employs an unqualified person in connection with the non-professional part of his business and remunerates him wholly or in part on a commission basis.

(16) Non-payment of his subscription to the Society after demand.

(17) . . . . . . (deleted)

(18) . . . . . . (deleted)

(19) Entering into or continuing to be a party to any contract or arrangement with a person not being a practitioner the effect whereof is to place the practitioner under such control on the part of such unqualified person as may interfere with his independence as an Officer of the Court.

(20) . . . . . . (deleted)

(21) Practising his said professions or any of them in any office of which he, his firm or his partners are not the sole lessees or owners, or in offices which have inter-communication with an office occupied by unqualified persons, except in the case of a building which contains a number of offices which have a main entrance giving access also to offices occupied by such unqualified persons.

(22) The wilful and persistent neglect or refusal to reply to correspondence in connection with matters entrusted to a practitioner.

(23) The excessive use of signboards on which professional qualifications are displayed.

(24) Neglect or refusal to reply to the Secretary’s letters when called upon for an explanation of conduct.

(25) The commission of an offence referred to in section 83 (15) (a) and (b) of the Act.
(26) Directly or indirectly applying or seeking any instruction for professional business, or doing or permitting in the conduct of his practice any act or thing which may reasonably be regarded as touting or is calculated to attract such business unfairly.

(27) . . . . . . (deleted)

(28) (a) The practising under any other name than—

(i) his own name if he practises without partners; or

(ii) the name of any of or all partners if his practice is conducted in partnership; or

(iii) the name of any or all of the past or former owners of or partners in the practice; or

(iv) his own name and the names of any or all of the past or former owners of or partners in the practice; or

(v) his own name and the words “and Co”, “and Partners” or “and Son(s)” or in the name of any or all of the past or former owners or partners and the words “and Company”, “and Partners” or “and Sons(s)” if the practice is conducted in partnership.

(b) Failing whenever so required or called upon by the Council to furnish to the Council within 14 days of receipt of such request, full information concerning the name, style or firm under which his or their practice is conducted, including the grounds upon which any name or names appearing in the name, style or firm of the said practice are used.

(c) Disclosing on the stationery of his practice or a practice in which he is a partner, the name of any practitioner employed by him or a partnership in which he is a partner unless he indicates that such employee is not a partner in the said practice by the use of the words “Assisted by” or “Consultant” immediately before or the word “Professional Assistant” or “Consultant” immediately after the name of such practitioner. Provided that the word “Consultant” shall be so used only where the practitioner to whom it refers has been a partner of such practice and if such practitioner is an employee of such practice.

(29) (a) Allowing the total of the trust balances standing to the credit of the trust account in his books of account at any date to be in excess of his trust funds in—

(i) his trust banking account; and/or

(ii) invested in terms of the provisions of the Act; and/or

(iii) in the form of cash on hand.

(b) Withdrawing funds (to which he claims to be entitled) from his trust banking account, being the amount of his trust funds, as aforementioned, which is in excess of the
amount due by him to his trust creditors, otherwise than by a cheque drawn on his trust banking account and depositing same direct into his business account.

(c) Failing to deposit funds received as trust funds, into his trust banking account.

(d) Failing to keep a business banking account.

(e) Failing to cause his books of account to be kept in such manner that the extent of his trust creditors can be ascertained therefrom.

(30) (a) Acting for or in association with any organisation or person, not being a practising attorney or an assessor acting on the instructions of a registered insurance company, whose business or part of whose business is to make, support or prosecute claims resulting from death or personal injury and who solicits instructions to make, support or prosecute any such claim or receives any payment, gift or benefit in respect thereof.

(b) Knowingly with regard to any such claim acting for any person introduced or referred to him by any such organisation or person.

(c) Not making reasonable inquiry before accepting instructions in respect of any claim for the purpose of ascertaining whether the acceptance of such instructions will involve a contravention of sub-rule (a) or (b).

(d) Acting for a person referred to in sub-rule (b), while in the opinion of the Council he should have known that the organisation or person who introduced or referred such person to him is an organisation or person referred to in sub-rule (a), shall be deemed a non-compliance of the provisions of sub-rule (b).

(31) Being a Bloemfontein practitioner, knowingly or under circumstances giving reasonable grounds for suspicion, acting in collaboration or in association with any bank or organisation, not being a practitioner, to disturb the division of fees appertaining to deeds-office work between Bloemfontein and country practitioners as set out in rule 13.

(32) Unreasonable failure to pay an enforceable claim of a practitioner in respect of work entrusted to such practitioner.

(33) Subject to the right of a party to the matter concerned to be present, a member shall not permit the taxation of a bill of costs to be handled by any person other than a person referred to in rule 17 (33) (a).

(a) The taxation of a bill of costs may only be handled by the member presenting the bill or on whose behalf the bill is presented or by his partner or full-time employee, being a member or an articled clerk entitled to appear in terms of section 8 (1) of the Act, or by
his correspondent or correspondent’s full-time employee, being a member or an articled clerk as aforesaid, and being in each case a person familiar with the subject matter of the taxation; provided that the first-mentioned member or his correspondent, as the case may be, shall assume full responsibility for the contents of the bill submitted and for the taxation.

(34) . . . . . . (repealed)

(35) Failing, notwithstanding the provisions of rule 17 (28) —

(a)

whenever practising alone or in partnership in more than one place, to practise at every such place under the same name;

(b)

to state on his letterheads which partner(s) and/or professional assistant(s) physically practise(s) at each of the offices, except where such offices are situated in the same town or city.

(36) . . . . . . (deleted)

(37) No member may employ or continue to employ in any capacity whatsoever, without the written permission of the Council being first obtained, any person whom, to the knowledge of the member, the Council has found not to be a fit and proper person for purposes of section 4 of the Act or in respect of whom the Council has cancelled or suspended his articles of clerkship in terms of section 72 (1) (b) (i) of the Act: provided that the requirement of written permission may, in its discretion, be waived wholly or in part by the Council, on such conditions as it may determine.

18. PUBLICITY CODE OF CONDUCT FOR ATTORNEYS PRACTICES AND SERVICES

Publicity for attorneys’ practices and services

18.1

An attorney may at his discretion publicize his practice, or permit it to be publized, provided that the publicity complies with the provisions of this rule.

18.2

In publicising his practice an attorney shall do nothing which in any manner compromises or impairs or is likely to compromise or impair any of the following —
18.2.1

the attorney’s independence or integrity;

18.2.2

the client’s freedom to instruct an attorney of his choice;

18.2.3

the attorney’s duty to act in the best interest of the client;

18.2.4

the good repute of the attorney or of the attorney’s profession;

18.2.5

the attorney’s standard of work.

18.3

All publicity must be in good professional taste with regard to medium of publication, prominence and medium.

18.4

Publicity may not be misleading in any respect.

18.5

**Touting is prohibited**

Nothing in this rule shall be construed as authorising an attorney to tout for work of a kind commonly performed by a practising attorney. For purposes of this rule an attorney shall be deemed to be touting for work if he—

18.5.1

solicits custom or work directly from any person;

18.5.2

enters into an arrangement with any person, whether an employee or not, for the introduction of prospective clients to the attorney; but this shall not apply—
18.5.2.1 to any arrangement between attorneys for the referral of work in the normal course of practice; and

18.5.2.2 to any arrangement for the introduction to an attorney of other attorneys with a view to their instructing him on a correspondent basis;

18.5.3 by way of unsolicited visits, telephone calls, letters or printed material to any person, except on the basis of an existing professional relationship, attempts to establish an attorney/client relationship with such person.

18.6 The content of publicity

18.6.1 Statutory requirements

Publicity by an attorney shall not be contrary to the Act and the rules promulgated thereunder.

18.6.2 Comparison and criticisms of services

Publicity may not compare the quality of service provided by an attorney with that provided by any other identifiable attorney or form of attorneys or other profession or institution, nor may it claim to be superior in any respect. Publicity may also not criticise the quality of service provided by any attorney or firm of attorneys.

18.6.3 Success rate

An attorney may not refer in publicity to his success rate.

18.6.4 Identifying of clients

18.6.4.1
An attorney may identify a client in the public media only with the client’s consent. An attorney is, however, forbidden to use the name of a client in publicising his practice.

18.6.4.2

An attorney may identify a client, with the client’s consent, in advertising property for sale or to let on that client’s behalf.

18.6.4.3

An attorney may be identified in the publicity of a client, or identified as the client’s attorney in the publicity of another person on the client’s behalf, subject always to the rules of the Society which are applicable from time to time.

18.6.5

Naming of staff other than partners

18.6.5.1

An attorney may not identify any person in his publicity (including his stationery) whom in terms of the rules of the Society he may not identify on his letterhead.

18.6.5.2

An attorney may not represent that person are partners in a firm by including the names of partners and non-partners in the same list. The status of non-partners must be indicated clearly.

18.6.6

Attorney to be identified

Publicity by an attorney must disclose his name or the name of his firm.

18.6.7

Categories of work

Publicity about an attorney’s practice may convey directly or by implication that he undertakes a particular category of work only if the practice itself is in fact able and qualified to handle that work.

In particular an attorney may not indicate that he undertakes conveyancing or notarial work unless he or one or more of his partners or professional assistants in the exclusive
employ of his firm have been admitted to practice as a conveyancer or notary, as the case may be.

18.6.8.1 **Claims to specialisation or particular expertise**

Subject to the provisions of these rules and of any other law, a firm may hold itself out as specialising in any branch of the law only in such manner and subject to such conditions as the council may from time to time determine, the council being the sole judge as to the appropriate time at which to make any such determination and as to the content of such determination.

18.6.8.2

A firm may state on its letterheads and its other publications in which branch of the law it specialises.

18.7

**Statements as to charges**

18.7.1

What may be stated—

18.7.1.1

An attorney may not state in any publicity that he undertakes specific kinds of work for a specific charge.

18.7.1.2

An attorney may publicise the basis on which he computes his charges and in so doing he shall show unambiguously—

18.7.1.2.1

what services will be provided for on such basis of charging;

18.7.1.2.2

circumstances in which the basis of charging may be altered; and

18.7.1.2.3 whether disbursements and taxes are included or not.
18.7.2

Comparison and criticism of charges

Publicity may not compare an attorney’s charges with those of any other attorney or form of attorneys. Publicity may not criticise the charges of any identifiable attorney or form of attorneys.

18.8

Headings in directories

In a directory or other list which includes the services of persons other than attorneys, an attorney’s entry or listing may appear under a classification other than “attorneys”, provided that—

18.8.1

the appearance under that classification is not misleading;

18.8.2

the attorney is described as an attorney; and

18.8.3

the classification does not require a specific qualification which the attorney does not have.

18.9

Professional stationery

The professional stationery of an attorney or his firm must comply with the requirements of the rules of the Society.

18.10

Description of an attorney’s practice

18.10.1

An attorney’s practice shall be described only as that of an attorney or attorneys.

18.10.2
An attorney may also use the description “notary” and/or “conveyancer”, but only where at least one partner or a professional assistant in the exclusive employ of his firm is entitled to be described as such.

18.10.3

An attorney may not use on his letterhead, a directory, a law list or professional card or any other paper or document or name plate or sign board on which his legal qualifications may appear, the expression “et cetera” or any similar expression or any other qualification or any appointment he may hold, or any occupation he may follow, other than the following: Parliamentary Agent, Patent and Trade Mark Agent, Draftsman of Wills, Estate Planner, Associated Valuer, Valuer, Administrator of Estates, Appraiser, General Agent, Auctioneer, Commissioner of Oaths or an academic qualification conferred on him by a university or university college.

18.11

“Flag advertising”

18.11.1

*Group of attorneys*

It is permissible for independent firms of attorneys to collectively publicise their services under a group name or group logo.

18.11.2

*Definition of “flag advertising”*

In this rule any advertising which contains such group name, group logo or other group promotional material is called “flag advertising”, which term is to include any advertising containing a reference to membership of a group which conducts flag advertising.

18.11.3

*Application to stationery*

The term “flag advertising” is to include the appearance on stationery of any of the features referred to in rule 18.11.2 above.

18.11.4

*Flag advertising by a group*

Any flag advertising by two or more firms of attorneys must be accompanied by—
18.11.4.1

the names of the firms by or on whose behalf the advertising is conducted; and

18.11.4.2

the word “attorney” or “attorneys”.

18.11.5

*Flag advertising by a firm*

Any flag advertising conducted by an individual firm must be accompanied by—

18.11.5.1

the firm’s name; and

18.11.5.2

the word “attorney” or “attorneys”.

18.11.6

*General provision concerning flag advertising*

Any flag advertising must conform to all other provisions of these guidelines.

18.12

*Professional announcements, advertisements for staff and the like*

Any professional announcement, advertisement for staff, advertisement offering agency services, or any other like advertisement by an attorney (including any advertisement in *De Rebus*) must comply with the provisions of this rule.

18.13

*International aspects of publicity*

No publicity for an attorney’s practice may be conducted in a jurisdiction other than the Republic of South Africa in any manner that would contravene either—

18.13.1

the provisions of this rule; or
any restrictions in force in that other jurisdiction concerning lawyers’ publicity.

For the purpose of this sub-rule publicity shall be deemed to be conducted in the jurisdiction in which it is received. However, publicity will not be regarded as being conducted in a jurisdiction in which that publicity would be improper if it is conducted for the purpose of reaching persons in a jurisdiction where the publicity is permitted and its reception in the former jurisdiction is purely coincidental.

18.14

The attorney’s responsibility for publicity

It is the responsibility of an attorney to ensure that all his publicity, and all publicity on his behalf complies with the provisions of this rule. This responsibility may not be delegated. Where an attorney becomes aware of any impropriety in any publicity on his behalf, he must use his best endeavours to have the publicity rectified or withdrawn.

18.15

Interpretation

In this rule—

18.15.1

all references to the rules of the Society in relation to an attorney are references to the rules of the Law Society of the Orange Free State; and

18.15.2

“publicity”, unless the context otherwise indicates, shall mean any form of public dissemination of information and shall include, inter alia, brochures, entries in directories, stationery and press releases promoting an attorney’s practice; and “publicise” shall have a corresponding meaning.

19. DISCIPLINARY RULE

(1) (a) Subject to the provisions of this rule, the Council and/or the Chief Executive Officer and/or the Executive Officer shall determine how often a Disciplinary Committee shall meet.

(b) The Council shall determine the manner in which the Chief Executive Officer, the Executive Officer and the Disciplinary Committee shall discharge their duties.
(c) The Council shall fill any vacancy on any Disciplinary Committee.

(2) Subject to any limitation imposed by a resolution of the Council when assigning its duties, or any variation thereof, the Chief Executive Officer and/or the Executive Officer shall be charged with the following duties, namely—

(a) to consider and investigate any complaint formally made against a practitioner;

(b) before it investigates any complaint, to require a complainant to make his or her complaint formally in writing, and/or to verify it by affidavit;

(c) to require the complainant to furnish such further evidence, written or oral, documentary of otherwise as it may require for the purpose of ensuring that—

(i) the complaint has been formally made; and

(ii) the Chief Executive Officer and/or the Executive Officer and/or the Disciplinary Committee is able to ascertain the precise nature of the complaint

(d) where, in his or her opinion, a *prima facie* case of misconduct on the part of a practitioner has been made out, to furnish the practitioner with such particulars of the complaint as may be necessary to enable that practitioner to know the case he or she has to meet and to call on him or her to furnish a reply to the Chief Executive Officer and/or the Executive Officer within a stipulated time;

(e) to require a practitioner to verify his or her reply referred to in rule 2 (d) by affidavit;

(f) to summarily to dismiss a complaint where he or she is of the opinion that it does not disclose a *prima facie* charge of misconduct or where a complainant has neglected to
comply with the requirements of a Disciplinary Committee and/or the Chief Executive Officer and/or the Executive Officer;

(g)  when, upon a consideration of the complaint and the practitioner’s reply, he or she is of the opinion that no case of misconduct has been made out against the practitioner, to dismiss the complaint and to notify the Council, the complainant and the practitioner accordingly;

(h)  when he or she is of the opinion that a prima facie complaint has been made out against a practitioner, to refer such complaint in accordance with this rule to a Disciplinary Committee;

(i)  to notify the Council, the complainant and the practitioner concerned of his or her finding, and when so authorised by a Disciplinary Committee of the Council, whether generally or specially in any particular case, to publicise such information concerning the finding as may be determined by the Council;

(j)  save to the extent set forth in this rule, to preserve the confidential nature of the proceedings; and

(k)  to do all things necessary to ensure that disciplinary proceedings are conducted justly, expeditiously and in accordance with this rule.

(3)  Subject to any limitation imposed by resolution of the Council when assigning its powers, or any variation thereof, and subject to the provisions of the Act, a Disciplinary Committee shall mutatis mutandis have the powers set out in sub-rule 2 hereof including the following, namely—

(a)  to determine the information, if any, to be furnished by the Chief Executive Officer and/or the Executive Officer to a complainant; or what assistance, if any, shall be given by the Chief Executive Officer and/or the Executive Officer to a complainant who, for good cause, cannot lodge a complaint unaided;

(b)
to investigate mero motu any complaint made by the Council;

(c)

when upon the determination of a complaint, a Disciplinary Committee is of the opinion that prima facie the conduct of the practitioner constitutes misconduct and that a finding of guilt would warrant an application for the striking off of such practitioner from the roll, or his or her suspension from practicing, it shall not make a finding, but it shall make a recommendation to the Council and simultaneously therewith forward the record of the enquiry to the Council for such action as the Council may deem proper;

(d)

in all cases other than those referred to in rule 3 (c), to make a recommendation to the Council to impose such punishment as it deems fit and where after the Chief Executive Officer and/or the Executive Officer will cause it to be carried into effect;

(e)

when, upon a consideration of the complaint and the practitioner’s reply, a Disciplinary Committee is satisfied that the complaint discloses a prima facie case of misconduct on the part of the practitioner, a Disciplinary Committee may—

(aa)

determine the matter summarily without a hearing and impose a punishment; provided that at the same time as it notifies the practitioner in writing of the imposition of such punishment, it shall afford the practitioner the opportunity of demanding within a stipulated time, an enquiry to be conducted in terms of this rule instead of submitting to such summary punishment; or

(bb)

decide to hold a summary enquiry, or a formal enquiry in the manner hereinafter set forth in this rule in which event it may appoint an attorney (other than from amongst the members of the Council) or an advocate to present the case on behalf of the complainant, at the expense of the Society;

(f)

save in a case contemplated by in sub-rule 3, upon the summary determination of a complaint, or at the conclusion of a summary enquiry or the conclusion of a formal enquiry, to find the practitioner—

(i)
not guilty; or

(ii)

(a) guilty of unprofessional conduct; or

(b) guilty of dishonourable conduct; or

(c) guilty of unworthy conduct; or

(d) guilty of any one or more of the above;

(g) if at the conclusion of an enquiry, a Disciplinary Committee is of the opinion that the case is one which is contemplated by the provisions of rule 3 (c), it shall not make any finding but it shall refer the matter to the Council for such action as the Council may deem proper; and

(h) to dispense with any requirements of this rule respecting summonses, notices, affidavits, documents, service or time, in any case where it appears to be just so to do; and/or extend the time for doing anything under this rule.

(4) (a) Whenever a Disciplinary Committee decides in terms of rule (3) (e) (bb) to hold a summary enquiry or a formal enquiry, such enquiry shall be commenced by serving on the practitioner concerned a summons substantially in the form of Schedule A, requiring the attendance of the practitioner.

(b) When holding an enquiry not likely to result in a recommendation that a practitioner be struck off the roll or suspended from practice, a Disciplinary Committee, may, either before or at the commencement of the hearing, offer the practitioner the choice of a summary or formal enquiry.

(c) The practitioner’s choice in terms of rule 4 (b) shall them be recorded; provided that in the event of the practitioner neglecting or refusing to make such choice, he or she shall be deemed to have rejected the offer of summary enquiry.
At a summary enquiry a Disciplinary Committee may dispense with the attendance of a practitioner and in its discretion, determine the complaint on the basis of such written, oral, documentary, or other evidence as it deems necessary for a just and proper determination of the matter: Provided that the practitioner may demand—

(i) to be present during the hearing of any oral evidence;

(ii) to inspect any written, documentary or other evidence to be taken into consideration by the disciplinary committee;

(iii) that any witness testifying before a Disciplinary Committee shall be required at any time during the course of his or her evidence to give his or her evidence on oath and to be subject to cross-examination;

(iv) the right to make written or oral submission in his or her own defence;

(v) that a summons be issued and served at his or her expense to procure the attendance of any witness at any enquiry, save where the Disciplinary Committee is satisfied that such demand has been made for the sole purpose of causing delay.

(5) A practitioner summoned to appear at any enquiry, whether summary or formal, before the Council or a Disciplinary Committee shall be entitled to legal representation.

(6) Subject to provisions of these rules, the Chairperson of a Disciplinary Committee shall determine the manner in which an enquiry, whether summary or formal, shall be conducted. In the event of this rule not providing specifically for any matter he or she shall be guided by the practice and procedure prevailing in a Court of Law.

(7) Subject to the provisions of the Act, this rule shall apply mutatis mutandis to any proceeding against an articled clerk; provided that in such proceedings his or her principal shall also be present at the enquiry, unless excused.

[Rule 19 substituted by GG31083 of 30 May 2008.]

20. ARTICLES OF CLERKSHIP AND CONTRACTS OF SERVICE
(a)

Articles of clerkship and contracts of service shall be substantially in accordance with the relevant forms in Schedules B and C (1) or (2), respectively, and shall contain the whole agreement between the parties. The Council shall have the right to reject articles of clerkship or contracts of service submitted to it for registration which in its opinion do not comply with the Act and/or these rules or which contain any improper or objectionable clause.

Subject to the provisions of the Act, articles of clerkship and contracts of service which contain reasonable barring clauses, shall be accepted for registration.

(b)

An articled clerk shall be entitled to be released by his principal from office duties in order to attend university or other law classes for not more than six hours per week: Provided that during the month immediately preceding any examination for which such clerk is a candidate, he shall be entitled to be released by his principal from all office duties for a reasonable period not exceeding three weeks.

(c)

The hours during which an articled clerk shall be entitled to be released from office duties as aforesaid may be fixed from time to time by the Council.

(d)

An articled clerk who has been released from office duties in order to attend university or other law classes or to attend examinations shall, when so requested by the principal, furnish proof to the satisfaction of the principal that he has attended all such classes or has attended such examinations.


20A.1

Any law clinic which seeks recognition as a law clinic for the purposes of the Act and of these rules shall comply with the following requirements—

20A.1.1

the law clinic shall be properly constituted, organised and controlled to the satisfaction of the Council, either as a centre
for the practical legal education of students in the faculty of law at a university in the Republic, or as a law centre controlled by a non-profit making organization which provides legal services to the public free of charge;

20A.1.2
the law clinic must provide legal services to the public but such services may be rendered only to persons who are not otherwise able to afford them;

20A.1.3
the legal services provided by the law clinic must be rendered free of any direct or indirect charge to the recipient of those services; provided that—

20A.1.3.1
the law clinic may recover from the recipient of such services any amount actually disbursed by it on behalf of the recipient; and

20A.1.3.2
where the law clinic has acted successfully for a litigant in litigation, that law clinic shall be entitled to take cession from such litigant of any order for costs awarded in favour of the litigant and to recover such costs for its own account.

20A.2
the law clinic may not undertake work in connection with—

20A.2.1
the drawing up of a will or other testamentary writing;

20A.2.2
the administration or liquidation or distribution of the estate of any deceased or insolvent person, any mentally disordered person or any person under any legal disability;

20A.2.3
the judicial management or the liquidation of a company or a close corporation;

20A.2.4

the transfer or mortgaging of immovable property and the hypothecation of movables; and

20A.2.5

the lodging or processing of claims under the Multilateral Motor Vehicle Accidents Fund Act, No. 93 of 1989, or any amendment thereof.

20A.3

The name under which the law clinic conducts its activities and its letterheads shall require the prior approval of the Council.

20A.4

Attorneys in the employ of the law clinic may only be remunerated by way of a salary payable by the law clinic or by the university or organization by which it is controlled.

Repealed Act

Act 93 of 1989 has been repealed by s 27 of Act 56 of 1996

20B. EMPLOYMENT OF CANDIDATE ATTORNEY PERFORMING COMMUNITY SERVICE BY ATTORNEY WHO IS EMPLOYED FULL-TIME AT A LAW CLINIC OR AN OFFICE OF THE LEGAL AID BOARD.

20B.1

An attorney wishing to employ a candidate attorney who seeks to perform community service under a contract of service at a law clinic or on behalf of and under the control of the Legal Aid Board, must comply with the following requirements—

20B.1.1

He must be employed full-time at a law clinic or an office of the Legal Aid Board established under section 2 of the Legal Aid Act, 1969 (Act No. 22 of 1969) and he must have so practised or been so employed for a period of three years or for
periods during the preceding four years amounting to three
tears in the aggregate.

20B.2

A candidate attorney performing community service under a contract of
service at a law clinic or on behalf of and under the control of the Legal
Aid Board established under section 2 of the Legal Aid Act, 1969 (Act No.
22 of 1969), shall during the entire period specified in the contract of
service, serve in the office of the law clinic or Legal Aid Board under the
direct personal supervision of his principal, or of an attorney or advocate
who is also employed full-time at the law clinic concerned or at the
relevant office of the Legal Aid Board.

20B.3

The law clinic or office of the Legal Aid Board where such attorney is
employed full-time and where such candidate attorney performs
community service under a contract of service, must comply with the
following requirements—

20B.3.1

it must carry on its activities during normal business hours for
not less than eleven months in any year;

20B.3.2

it must have proper office systems with telephones, typing
facilities, files and filing procedures, a diary system and at
least elementary library facilities;

20B.3.3

it must have a proper bookkeeping system and follow proper
accounting procedures;

20B.3.4

it must handle a reasonably wide range of work to give the
candidate attorney exposure to the kind of problems which a
newly qualified attorney ought to be able to handle
competently during his first year of practice; and

20B.3.5
the Council must certify—

20B.3.5.1

in the case of a law clinic operated in the Orange Free State, that the law clinic concerned complies with the requirements prescribed by the Council for the operation of such clinic; or

20B.3.5.2

in the case of an office of the Legal Aid Board, that such community service is approved by the Minister of Justice for the operation of such office.

20B.4

The Council shall have the right to direct the law clinic or office of the Legal Aid Board to require the candidate attorney to attend a training course approved by the Council in fields of practice which, in the opinion of the Council, are not sufficiently dealt with by the law clinic or office of the Legal Aid Board.

21. CIRCLES

(1) The Council may establish within the Orange Free State circles of members of the Society—

(a)

to promote and foster professional loyalty, professional ethics and sound public relations amongst members and between the profession and the public;

(b)

to discuss and report on matters referred to it by the Council;

(c)

to consider and make representations to the Council upon any matter affecting the profession in its area or in general or the Society;

(d)

to protect and promote the interest of its members.
(2) The area of jurisdiction of a circle shall be as determined by the Council from time to time.

(3) A circle shall have the power to make, and from time to time alter, amend, add to or repeal rules—

(a) for convening and regulating the proceedings of or at meetings and activities of the circle;

(b) for the requirements and obligations of membership of a circle;

(c) for the election of a committee as an Executive of the circle; and

(d) for the determination of the circle committee’s powers and functions.

(4) No circle shall operate nor be recognised by the Council unless its rules have been approved by the Council.

(5) The Council shall have the power to approve, amend, vary or reject the rules of a circle.

(6) No member of the Society shall be compelled to become a member of a circle.

(7) The Council may, on the written application of a circle committee, contribute to the expenses of a circle such amounts for such purposes as the Council in its discretion may approve.

(8) The Council shall have the power to suspend or dissolve a circle if it considers it desirable in the interest of the Society or the profession and to take such decision and action in regard to such suspension or dissolution that it considers just and in the interest of the Society.

(9) Any existing circle of members of the Society or attorneys’ association operating in the Orange Free State shall be subject to the provision of this rule.

22. MISCELLANEOUS
A practitioner is prohibited from assisting an unqualified person directly or indirectly, who does not hold appointment as executor, trustee or liquidator, in the liquidation of an estate or company.

“Unqualified person” for the purposes of this rule shall mean any person other than a practitioner or an admitted or enrolled agent or persons exempted by the provision in section 83 (ii) of the Act, to whom has been entrusted the task of winding up an estate or company in liquidation.

This will not preclude the performance of what is strictly professional work for the benefit of such unqualified person or of the estate which he is administering.

23. DATE OF COMMENCEMENT AND RULES REPEALED

These rules shall come into force on the date of publication thereof in the Government Gazette in terms of section 74(4) of the Act and all rules and/or regulations in force before that date are hereby repealed, save and except that the members of the Council holding office in terms of the repealed rules, shall continue to hold office notwithstanding such repeal.

24. PRO BONO SERVICES

24.1 Definitions

_Pro bono_ services shall include, but not be limited to, the delivery of advice, opinion or assistance in matters, falling within the professional competence of an attorney, conveyancer and notary, to facilitate access to justice for those who cannot afford to pay, through recognised structures, approved in terms of sub-rule 24.3 and identified in terms of sub-rule 24.4.

_Recognised structures_ shall include, but not be limited to, the office of the Registrars of the High Court when issuing _in forma pauperis_ instructions, small claims courts, community (non-commercial) advice offices, university clinics, non-government organisations, the office of the Inspectorate of Prisons, Circle and specialist committees of the Society and structures approved by the Council from time to time in terms of sub-rule 24.6 and identified in terms of sub-rule 24.8.

Those who cannot afford to pay shall be those who ordinarily qualify for assistance in terms of a means test as used by the Legal Aid Board and approved by the Council from time to time.

_A clearing office/desk_ is that office established by the Society for the purpose of the managing and administration of the entire process of accreditation of a
24.2

Practicing members who have practiced for less than 40 years shall, subject to being asked to do so, perform *pro bono* services of not less than 24 hours per calendar year, save that—

24.2.1

an attorney who becomes a practicing member during the course of a year shall perform *pro bono* services equal to not less than 2 hours per month, or part thereof, of practicing member status acquired in the first year of practice;

24.2.2

in the year of publication of this rule, practicing members shall perform *pro bono* services equal to not less than 2 hours per month, or part thereof, from the month of publication to the end of that year.

24.3

Members may refer to the Society, for approval by Council as *pro bono* services, a written description of areas of professional work proposed for recognition as *pro bono* services.

24.4

The Society shall, within 30 days of publication of this rule and from time to time, publish a list of services which, when performed by attorneys at no charge for those who cannot afford to pay, shall be recognised as *pro bono* services capable of being delivered in compliance with the provisions of this rule.

24.5

*Pro bono* services shall be delivered through recognised structures only to those who cannot afford to pay for professional services and who qualify in terms of a means test.

24.6

Members may refer to the Society, for approval by Council as a recognised structure, a written description of a structure proposed for recognition.

24.7
The Society may enter into joint venture agreements with recognised structures to determine the relationship between it and such structure and to set up the rules and procedures in terms of which the clearing process will be applied to enable practitioners to render pro bono work in a structured manner capable of being properly managed and recorded.

24.8

The Society shall, within 30 days of publication of this rule and from time to time, publish a list of recognised structures, including structures with which the Society has concluded joint venture agreements for the delivery of pro bono services.

24.9.1

Members shall submit to the Society a certificate providing full particulars of pro bono services delivered, within 60 days of delivery thereof, failing which, the service shall be treated as not having been rendered in terms of this rule.

24.9.2

The clearing office/desk shall after the practitioner has satisfactorily completed the pro bono mandate, issue a completion certificate to the practitioner verifying the delivery of such service.

24.10

The form of the certificates referred to in sub-rule 24.9 shall be one as approved by the Society from time to time.

24.11

The Society shall keep a record of services delivered per member, which record shall be raised from member certificates. A report of all services rendered shall be extracted annually and shall be retained by the Society. On 1 January of each year, all individual member records shall be updated to show the availability of hours for the new year.

The Society shall report to its members annually at the Annual General Meeting, and shall make such reports generally available, on the total delivery of pro bono services by members.

The Society shall cause particulars of pro bono hours still to be served by members in a calendar year to be published on its website and for reduced hours to be displayed against submission by members of certificates. This information will also be available from the Society, on request. It shall be the responsibility of practicing members to ensure that the Society’s records as to pro bono services rendered are complete so that the correct information is published on the website and generally made available.
Members may elect to deliver pro bono services through a single recognised structure. The Society shall cause a member’s election of the recognised structure through which he/she chooses to deliver his/her pro bono services to be published on its website. This information will also be available from the Society, on request. It shall be the responsibility of the practicing member to notify the Society of his/her election so that this information is published on the website and generally made available.

Disbursements incurred in respect of pro bono services shall be borne by the client, provided that these disbursements may be taxed by a taxing committee of the Society.

It shall be unprofessional conduct for a practicing member who has still to perform pro bono service hours to refuse, with no good cause, to deliver pro bono services.

In the event of the Society receiving a complaint of refusal to deliver pro bono services, with no good cause, it shall be entitled to treat its record of services rendered as complete, save only for services rendered within 60 days of the complaint that are not on record. The member against whom the complaint is made shall be responsible to provide the Society with certificates, relating to such additional services, within 21 days of receipt by the Society of the complaint, failing which, services alleged to have been rendered, but not on record, will be treated as not having been rendered for the purpose of investigating the complaint. Pending investigation of the complaint, the Society shall refer the complainant to another practicing member, for assistance.

Professional standards applicable to services rendered by attorneys shall apply to pro bono services.

[Rule 24 inserted by GG31083 of 30 May 2008.]

Schedule A

SUMMONS IN TERMS OF RULE 19 (4) (a) OF THE RULES OF THE LAW SOCIETY OF THE ORANGE FREE STATE

BEFORE THE DISCIPLINARY COMMITTEE OF THE COUNCIL OF THE LAW SOCIETY, SITTING AT

In the matter of:
AB Complainant

and

CD Practitioner

to: CD of

PLEASE TAKE NOTICE THAT—

1.

AB of Orange Free State has complained to the Law Society of the Orange Free State. The particulars of the said complaint against you, and the charge arising out of it, are set forth in the Annexure hereto marked A.

2.

The day of is the day fixed by the Disciplinary Committee for the hearing, which will take place in Room No at at o’clock in the noon. If you fail to appear, the Disciplinary Committee may, in accordance with rule 19 (4) (d), proceed in your absence.

3.

Your written explanation dated , a copy of which is annexed hereto marked B, may be taken into account at the said enquiry; but, in order to reduce the costs of the hearing, you are invited to inform the Secretary of the Law Society of the Orange Free State, not less than seven days before the said hearing, of any facts set forth in Annexure A which are not in dispute; and in addition you may file such supplementary statement on oath or otherwise as you deem proper.

4.

You are requested to acknowledge the receipt of this summons without delay, but your failure to do so will not in any way invalidate the aforesaid proceedings.

DATED AT

THIS

DAY OF
Schedule B

MEMORANDUM OF AGREEMENT made and entered into by and between
, an attorney of the Supreme Court of South Africa (Orange
Free State Provincial Division), practising as such at    (hereinafter styled the
principal) of the first
part, and

a major, born on

(hereinafter styled the clerk) of the second part.

NOW THESE PRESENTS WITNESS THAT:

1.

The clerk binds himself to the principal, to serve him in the profession
of attorney in the Orange Free State Province, from the date of signature
thereof, for a period of

consecutive years, and the principal accepts the services
of the clerk for the said period.

2.

The clerk undertakes, during the said period, to serve the principal
faithfully, diligently to the best of his ability, to obey and execute the
lawful and reasonable orders of the principal, not to absent himself from
the service of the principal, and to observe that standard of behaviour,
dress and propriety as may be reasonably required by his principal.

3.

The clerk will not divulge any of the secrets of his principal or of his
clients nor spoil, destroy, waste or make away with any of the books,
papers, writings, money, stamps or other property of the principal, nor
his firm or partner nor any of his clients. Should the clerk fail to observe
the foregoing or should the principal or his firm, or partner or client
suffer any loss or damage by the misbehaviour, neglect or improper
conduct of the clerk, the latter shall indemnify the principal and make
good the amount of value thereof.

4.

(a)

The principal will, to the best of his ability and to the utmost of
his skill and knowledge, teach and instruct the clerk or cause him
to be taught and instructed in the profession of an attorney and,
at the expiration of the said term, will use his best endeavours to
cause the clerk to be admitted as an attorney of the Supreme Court, at the cost of the clerk, provided that the clerk shall have faithfully and diligently served his clerkship and shall have fulfilled all other requirements as provided by law.

(b) In order to cause the clerk to be taught and instructed, as set out in paragraph 4 (a) above, the principal shall be obliged once during the period as set out in paragraph 1 above, to grant the clerk unpaid leave to attend a training course in terms of section 7 (5) of the Attorneys Act, 1979, (Act 53 of 1979), as amended.

5. Should the principal at any time during the said term cease to practise as an attorney in the Orange Free State, no liability to the clerk will attach to the principal as a result thereof, but he shall, if the clerk so desires, cede these articles to some fit and proper attorney and shall also, as far as lies in his power, endeavour to find some such other practitioner who shall be willing to accept cession of these articles.

6. Should the clerk fail to comply with any of the obligations imposed by these articles, the principal may summarily terminate these articles and dismiss the clerk from his service.

THUS DONE AND SIGNED AT

Schedule C (1)

MEMORANDUM OF CONTRACT OF SERVICE made and entered into by and between

(hereinafter called the principal), an attorney who is employed full-time at the

law clinic, and which principal complies with the provisions of the definition of “principal” in section 1 of the Attorneys Act, No.53 of 1979, as amended, and which law clinic is duly certified in terms of the provisions of section 3 (1) (f) of the said Act, as amended, and which law clinic is also duly accredited in terms of rule 20A of the rules of the Law Society of the Orange Free State, and

born on

(hereinafter styled the candidate attorney).

NOW THESE PRESENTS WITNESS THAT:

1. The candidate attorney binds himself to serve the principal in the Orange Free State for
a consecutive period of years from the date of signature of this contract of service, and the principal accepts to take the candidate attorney into his service for the said period.

2. The candidate attorney undertakes to serve the principal faithfully and diligently and to the best of his ability during the said period of service. He undertakes to obey and execute all lawful and reasonable orders of the principal, not to absent himself without good cause from the service of the principal, and to observe that standard of behaviour, dress and propriety which may be reasonably required by his principal.

3. The candidate attorney may not divulge any confidential information regarding his principal or the clients of the law clinic. He may not spoil, destroy, waste or do away with any of the books, documents, writings, money, stamps or other property of the law clinic. If the principal, the law clinic or a client of the law clinic suffers any loss or damage caused by the misconduct, negligence or other improper conduct of the candidate attorney, whether through the latter’s failure or omission to observe the above-mentioned requirements or otherwise, he shall indemnify the principal or the law clinic or the client and pay for the loss or the damages which he caused.

4. (a) The principal shall, to the best of his ability, skill and knowledge, teach and instruct the candidate attorney or cause him to be taught and instructed in the profession of attorney. If the candidate attorney has faithfully and diligently served under this contract of service and has fulfilled all other requirements as provided by law, the principal shall, upon the expiration of the said term of service, use all endeavours to obtain the admission of the candidate attorney as an attorney. The costs of such admission shall be borne by the candidate attorney.

(b) In order to cause the candidate attorney to be taught and instructed, as set out in paragraph 4 (a) above, the principal shall be obliged, if the Council of the Law Society of the Orange Free State in terms of rule 20B.4 of the rules of the said Law Society has directed the law clinic to that effect, to require the candidate attorney to attend a training course in terms of section 7 (5) of the Attorneys Act, 1979 (Act No. 53 of 1979), as amended, once during the period set out in paragraph 1 above and to do so during unpaid leave granted to him by the principal for that purpose. Such training course shall first be approved by the Council in terms of the said rule 20B.4.
5. If the principal at any time during the said term of service ceases to be in the full-time employment of the law clinic, no obligation to the candidate attorney shall attach to the principal as a result thereof.

6. If the candidate attorney neglects or fails to comply with any of his obligations in terms of this contract of service, the principal may terminate this contract of service summarily and dismiss the candidate attorney from his service forthwith.

THUS DONE AND SIGNED AT

Schedule C (2)

MEMORANDUM OF CONTRACT OF SERVICE made and entered into by and between

(hereinafter called the principal), an attorney who is employed full-time at the office of the Legal Aid Board, and which principal complies with the provisions of the definition of “principal” in section 1 of the Attorneys Act, No. 53 of 1979, as amended, and which Legal Aid Board was established under section 2 of the Legal Aid Act, 1969 (Act No. 22 of 1969), and which Legal Aid Board has been approved by the Minister of Justice for the purpose of “community service”, as defined in section 1 of the said Attorneys Act, No. 53 of 1979, as amended, and

(born on )

(hereinafter styled the candidate attorney).

NOW THESE PRESENTS WITNESS THAT:

1. The candidate attorney binds himself to serve the principal, in the Orange Free State, for a consecutive period of years from the date of signature of this contract of service, and the principal accepts to take the candidate attorney into his service for the said period.

2. The candidate attorney undertakes to serve the principal faithfully and diligently and to the best of his ability during the said period of service. He undertakes to obey and execute all lawful and reasonable orders of the principal, not to absent himself without good cause from the service of the principal, and to observe that standard of behaviour, dress and propriety which may be reasonably required by his principal.

3.
the candidate attorney may not divulge any confidential information regarding his principal or the clients of the office of the Legal Aid Board. He may not spoil, destroy, waste or do away with any of the books, papers, writings, money, stamps or other property of the office of the Legal Aid Board. If the principal, the office of the Legal Aid Board or a client of the office of the Legal Aid Board suffers any loss or damage caused by the misconduct, negligence or other improper conduct of the candidate attorney, whether through the latter’s failure or omission to observe the above-mentioned requirements or otherwise he shall indemnify the principal or the office of the Legal Aid Board or the client and pay for the loss.

4.

(a)

The principal shall, to the best of his ability, skill and knowledge, teach and instruct the candidate attorney or cause him to be taught and instructed in the profession of attorney. If the candidate attorney has faithfully and diligently served under this contract of service and has fulfilled all other requirements as provided by law, the principal shall, upon the expiration of the said term of service, use all endeavours to obtain the admission of the candidate attorney as an attorney. The costs of such admission shall be borne by the candidate attorney.

(b)

In order to cause the candidate attorney to be taught and instructed, as set out in paragraph 4 (a) above, the principal shall be obliged, if the Council of the Law Society of the Orange Free State in terms of rule 20B.4 of the rules of the said Law Society has directed the office of the Legal Aid Board to that effect, to require the candidate attorney to attend a training course in terms of section 7 (5) of the Attorneys Act, 1979 (Act No. 53 of 1979), as amended, once during the period set out in paragraph 1 above, and to do so during unpaid leave granted to him by the principal for that purpose. Such training course shall first be approved by the Council in terms of the said rule 20B.4.

5.

If the principal at any time during the said term of service ceases to be in the full-time employment of the office of the Legal Aid Board, no obligation to the candidate attorney shall attach to the principal as a result thereof.

6.

If the candidate attorney neglects or fails to comply with any of his obligations in terms of this contract of service, the principal may terminate this contract of service summarily and dismiss the candidate attorney from his service forthwith.

THUS DONE AND SIGNED AT
Rules - The Law Society of the Transvaal

Rules made under the authority of section 74 of the Attorneys Act 53 of 1979, and promulgated in Government Gazette No. 7164 of 1 August 1980 as amended by—

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Part I

1.

DEFINITIONS

In these Rules, unless the context otherwise indicates—

1.1

“Accountant” means a person who is registered as an accountant and auditor in terms of the Public Accountants and Auditors Act, 1951, and who practises as a public accountant as defined in that Act;
1.2

“Accounting records” means the records which a firm is required to keep in terms of rule 68.1.

1.3

“Branch office”, in relation to a practising member, means an office at or from which the firm of which he is the proprietor or a member or by which he is employed practises, but which is not a main office;

1.3A

“Business account transactions” means transactions in regard to which records are required to be kept in terms of rule 68.1.2.

1.4

“Circle” means an association of members formed in terms of section 69 (j) of the Act; (1.17)

1.5

“Council” means the council of the society; (1.13)

1.6

“Court” means the Transvaal Provincial Division; (1.5)

1.7

“Declared member” means, subject to rule 7.2.1.2., a person who has been declared a member in terms of section 57 (2) of the Act for so long as he does not become a practising member; (1.26)

1.8

“Election” means an election of members to the Council in accordance with the relevant provisions of Part IV of these rules; (1.25)

1.9

“Firm” means—

1.9.1
a partnership of practitioners;

1.9.2

da sole practitioner for his own account;

1.9.3

a professional company; who or which in each case conducts
the practice of a practitioner; (1.3)

1.10

“General meeting” means a general meeting of members convened in
accordance with section 68 (a) of the Act; (1.1)

1.11

“Main office”, in relation to a practising member—

1.11.1

means the premises at and from which the practice of the
firm of which he is the proprietor or a member or by which
he is employed 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 those premises as a single composite entity;
and—

1.11.2

includes premises declared or determined as such in terms of
rule 2.1 or rule 2.4 as the case may be. (1.6)

1.12

“Member” means a member of the society in terms of section 57 of the
Act; (1.8)

1.13

“Place of abode” means the place at which a declared member
ordinarily resides; (1.28)

1.14
“Practising member” means a practitioner who is a member in terms of section 57 (1) of the Act; (1.10)

1.15

“President” means the president of the society or the person acting as such in terms of section 63 (4) of the Act; (1.11)

1.16

“Principal place of practice” means the place at which the main office of a practising member is situate, notwithstanding that he may habitually or temporarily practise at or from a branch office; provided that the principal place of practice of a member who is a member of more than one firm or who is the proprietor of one firm and a member of another or others shall be deemed to be the place of the main office of that one of those firms which has its main office closest to his residential address; (1.27)

1.17

“Province” means the Province of the Transvaal; (1.12)

1.18

“Registrar” means the Registrar of the Court; (1.4)

1.19

“Secretary” means the secretary of the society and includes an assistant secretary of the society; (1.16)

1.20

“Society” means the Law Society of the Transvaal; (1.9)

1.21

“Special meeting” means a meeting of members convened in accordance with section 68 (b) of the Act; (1.18)

1.22

“The Act” means the Attorneys Act, 1979; (1.2)

1.22A
“Trust account transactions” means transactions in regard to which records are required to be kept in terms of rule 68.1.3.

1.23

“Trust banking account” means and includes all trust accounts kept by a firm in terms of section 78 (1) of the Act.

1.24

“Trust cash” means any cash held in trust by a firm other than in a trust banking account or a trust investment account.

1.25

“Trust creditor” means a person on whose account money is held or received as contemplated by section 78 (1) or invested as contemplated by section 78 (2) or section 78 (2A) of the Act.

1.26

“Trust investment account” means and includes all accounts kept by a firm in terms of section 78 (2) or section 78 (2A) of the Act.

1.27

“Trust money” means money held or received on account of any person as contemplated by section 78 (1) or invested as contemplated by section 78 (2) or section 78 (2A) of the Act.

1.28

“year” means a year commencing on the 1st July and terminating on the 30th June; (1.7) and other expressions defined in the Act shall bear the respective meanings assigned to them by section 1 of the Act, save that in Parts XII and XIII of these rules the word “practitioner” shall mean any attorney, notary or conveyancer whose name has been placed on the Roll of the Court, whether or not he is a member.

2.1

If a firm at any time administers and controls its practice as a whole from premises in two or more buildings which do not, in the opinion of the council, constitute such a single composite entity as is contemplated in the definition of “main office” in rule 1.11.1 the council may require that firm to declare to it in writing, within a time stipulated by the council,
which one, or more of those buildings as may, in the opinion of the
council, 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.

2.2

The council may make such enquiry, including inspection of the
premises concerned, as it deems fit, and the member 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 rule 2.1.

2.3

A declaration made by a member under rule 2.1 shall remain effective
until such time as he—

2.3.1

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

2.3.2

makes a declaration in terms of rule 2.1 in respect of other
premises.

2.4

Should a firm fail, within the time stipulated by the council, to make a
declaration under rule 2.1, the council may by notice in writing to the
firm determine which of the premises concerned constitute its main
office, whereupon the remaining provisions of this rule 2 shall mutatis
mutandis apply as though those premises had been so declared by the
firm.

Part II
MEMBERS

Register of practitioners and members

3.1

Every person who is admitted and enrolled or readmitted and re-enrolled
as an attorney of the Court or whose name has been placed or again
placed on the Roll of the Court shall within 30 days after the date of his
admission and enrolment or of his readmission and re-enrolment or after the date on which his name has been so placed or again placed on the Roll, as the case may be, lodge with the secretary a statement, and with the Registrar a duplicate of that statement, containing the following information:

3.1.1

his full name, date of birth and residential address;

3.1.2

whether or not he practises or is about to commence practice;

3.1.3

if he does not practise, his business address and postal address and telephone numbers, if any;

3.1.4

if he practises, the address of his main office and its postal address and telephone numbers, if any;

3.1.5

whether he conducts practice—

3.1.5.1

for his own account, and, if so, whether alone or in partnership (stating the full names of his partners) or as a member of a professional company (stating the full names of his co-directors); or

3.1.5.2

as an employee.

3.1.6

if he practises for his own account the address and postal address and telephone numbers, if any, of every branch office and of every building at and from which he practises;
3.1.7

the name under which the firm of which he is the proprietor or a member or by which he is employed conducts practice;

3.1.8

if he is employed by any person who does not practise, the nature of his employment and the name and business address and postal address and telephone numbers, if any, of his employer; and shall, within 30 days of any change taking place in any of the above particulars, lodge with the secretary a statement of such change and with the Registrar a duplicate of that statement.

3.2

The council may require that the information referred to in this rule shall be submitted on a form to be determined by the council, but nothing in this subrule contained shall relieve a member of the duty to comply with the requirements of rule 3.1.

4.1

The secretary shall keep a register, in such form as may be determined by the council, in which he shall maintain a record in relation to each person concerned, of the information lodged with him from time to time in accordance with rule 3.1 and indicating whether such person is a member or not and, if so, whether he is a practising member or a declared member.

4.2

The secretary shall also record in the register in relation to each person concerned—

4.2.1

the date of his admission and enrolment and, where applicable, of his readmission and re-enrolment as an attorney, notary or conveyancer of the Court and, where applicable, the date upon which his name was placed or was again placed on the Roll of the Court and, where applicable, the date upon which he became a practising member or a declared member as the case may be,
4.2.2

where applicable, the date upon which he ceased to be a practising member or a declared member, as the case may be,

4.2.3

where applicable, the date of his removal from the roll of attorneys or of notaries or of conveyancers or of his suspension from practice and the period of the suspension.

5.1

The register referred to in rule 4 shall be kept at the secretariat and shall, during ordinary business hours, be open for inspection, free of charge, by any member, by the Secretary General of the Association of Law Societies of the Republic or any person authorised by him in writing and by the secretary of any other law society referred to in section 56 of the Act or any person authorised by him in writing, and the secretary may furnish any of those persons in writing and free of charge with such information as he may require from the said register.

5.2

Upon payment of such fee as may be fixed by the council the secretary may furnish any person other than the persons referred to in rule 5.1 with a certificate containing some or all of the following information extracted from the register, but with no other information, namely:

5.2.1

the name and address of any practising member;

5.2.2

the name and business address, or where no business address is registered, the residential address, of any declared member;

5.2.3

whether a member has ceased practising or ceased to be a declared member, as the case may be.

6.1
The information appearing in the register referred to in rule 4 shall, in the absence of any manifest error in an entry, for all purposes be deemed to be correct.

6.2

A communication or notice intended for any person whose name is recorded in the register shall, if not delivered to him personally, be posted to him addressed to him at the address entered in the register—

6.2.1

if he is a practising member, as that of his main office, or

6.2.2

if he is a declared member, as that of his own, or, as the case may be, his employer’s business, if disclosed, or

6.2.3

if he is a declared member who has disclosed neither a business address nor the address of an employer, or if he is any other person who does not practise, as his residential address;

6.3

A communication or notice so posted shall be deemed to have been duly and properly received at the time when it would have reached the person to whom it is addressed in the ordinary course of post.

Declaration of persons as members

7.1

In declaring a person to be a member of the society under section 57 (2) of the Act, the council shall have regard, inter alia, to the following considerations:

7.1.1

the nature and length of duration of his employment or of the profession, business or other occupation practised, conducted or engaged in by him;
7.1.2
whether or not he practises or resides outside the province;

7.1.3
where application to be so declared a member is made by
him, the reasons which he advances in support of his
application;

7.1.4
whether, if he is employed, his employer supports or objects
to his admission to membership and, in either case, the
reasons advanced for the support or objection;

7.1.5
whether he would, in the opinion of the council, be a person
whom the council would consider fit and proper to practise in
the province.

7.2
Every such declaration shall be conditional upon—

7.2.1
the person concerned—

7.2.1.1
having, should the council so require, before
being declared a member, furnished the society
with his written acknowledgement that he is
aware that he is bound by the rules of the society
and the ethical code of the profession and that, in
the event of his being so declared, he will be
bound by the rulings and determinations of the
Council;

7.2.1.2
ceasing to be a declared member upon the date of
a written notice to him by the council that,
because of a change of his employment or of his
profession, business or other occupation, or because, in the opinion of the council, there has been a material alteration in the circumstances upon which the council based its decision to declare him a member or because that decision was based upon information which, in the judgment of the council, was erroneous, false or misleading, or on account of conduct on the part of the declared member which in the opinion of the council is unethical or improper, the council deems it desirable that his declared membership should cease;

7.2.2

such further conditions as the council may see fit to impose in writing in declaring him to be a member;

7.2.3

the right of the council from time to time, in its discretion, by means of written communications to the member concerned, to impose such conditions as it could have imposed in terms of rule 7.2.2, or to add to or otherwise vary any such conditions previously imposed.

7.3

Before issuing a notice in terms of rule 7.2.1.2 the council shall afford the member concerned an opportunity to be heard, and, either in the notice itself, or, if so required by him, after the notice has been issued, shall furnish the member concerned with written reasons for its decision.

Information as to whether practitioner practises in the province

8.

Any practitioner who claims or is considered prima facie by the council to be practising in the province shall furnish the council with such information as it may reasonably require to establish whether or not he is a practising member.

Honorary membership

9.1
The council may, by resolution to which every member of the council has signified his written approval, appoint as an honorary member of the society any person who is not a member of the society and whether or not he is or has formerly been a practitioner.

9.2

Any person so appointed shall remain an honorary member of the society during the pleasure of the council, and may, upon invitation by the council, attend meetings and other gatherings of members, but shall have no right of audience, save at the invitation or with the consent of the chairman, nor have a vote at any meeting of members and shall not be liable for the payment of any subscription, levy, fee or other charge, nor shall he be eligible for election to the council.

9.3

The secretary shall record in a separate and clearly distinguishable part of the register referred to in rule 4, the names and addresses of all honorary members.