

CONSTITUTION OF
THE POLOKWANE SOCIETY OF ADVOCATES
(AS ADOPTED AT A SPECIAL GENERAL MEETING OF MEMBERS HELD ON 16
OCTOBER 2014,
AT BLUE VALLEY COUNTRY CLUB, MIDRAND)

I. NAME AND OBJECTS

1. The name of the society shall be “THE POLOKWANE SOCIETY OF ADVOCATES” (hereinafter referred to as “the Society”).
2. In this constitution unless the context otherwise requires “Society” means the POLOKWANE SOCIETY OF ADVOCATES.

“Bar Council” means the Bar Council of the Society for the time being in office.

“Advocates who normally practice in the LIMPOPO PROVINCE” means those advocates who are recognised for the time being by the bar Council as normally practising in the LIMPOPO PROVINCE provided that no person shall be recognised who:

- (a) does not occupy chambers in POLOKWANE or any other place approved by the Association.
- (b) does not hold himself available to undertake work appertaining to an advocate on behalf of the public; and
- (c) is not willing and available to accept the normal duties of the profession including legal aid or pro deo work.

“LIMPOPO BAR” means those advocates who normally practice in the LIMPOPO PROVINCE.

“General Council” means the General Council of the Bar of South Africa as constituted at Johannesburg on the 21st September 1946.

“Member” or “members” means a member or the members, as the case may be, for the time being of the Association.

3. The objects of the Society are:-

- (a) The protection of the interests of the POLOKWANE SOCIETY OF ADVOCATES and of members and pupil members in their professional capacity;
- (b) The supervision of the conduct of members and of pupil members;
- (c) The consideration and promotion of improvements in the teaching and practice of the law and in the administration of justice;
- (d) To be a Constituent Bar of the General Council, and to collaborate with and to assist in the furtherance and promotion of such Council's objects;
- (e) To make donations to such persons or bodies as the Bar in a general meeting may approve.
- (f) To advance transformation in the legal profession.

4. (a) The Society and its members shall abide by and conform to lawful decisions of the General Council.

- (b) The Bar Council shall from time to time appoint representatives to represent the Society of the General Council. Such representatives need not be members of the Association, but must be members of a constituent bar of the General Council. The reasonable travelling and out of pocket expenses of representatives attending meetings of the General Council shall be paid out of the funds of the Association.

II. **MEMBERS**

5. (a) Subject to proof of good character to the satisfaction of the bar Council, any person who is duly enrolled as an advocate of the Supreme Court of SOUTH AFRICA and who normally practises or intends to practice as an advocate in the LIMPOPO PROVINCE and who does not practice otherwise than as an advocate, shall be eligible for membership of the Association.

- (b) After the 31st January 1973, any person not being a member of the Association at the said date who:
- (i) has filed an application either before or after the said date to be enrolled as an advocate of the supreme Court of Bophuthatswana or a division of the LIMPOPO Province;
 - (ii) intends to practice as an advocate in the LIMPOPO Province; and
 - (iii) will not practice otherwise than as an advocate

Shall be eligible for pupil membership of the Association as from the date on which his application was filed with the Registrar of the Supreme Court at POLOKWANE.

- (c) any person wishing to be admitted as a pupil member of the Association shall apply in writing to the Bar Council, which, on being satisfied that the applicant complies with the requirements of sub paragraph (b) and that he/she is a fit and proper person to become a pupil member of the Association, may admit such person to pupil membership.
- (d) During his period of pupil membership a pupil member shall:
- (i) subject to the payment of the prescribed fees, have access to the Library and Common Room, if any;
 - (ii) not be entitled to accept briefs from attorneys or to act as an advocate, save to the extent and in the circumstances which may be provided for from time to time by the Bar Council;
 - (iii) not be entitled to attend or vote at any general meeting of the Society;
 - (iv) comply with all the requirements relating to training as an advocate which may from time to time be laid down by the General Council and approved by the Bar Council.

- (e) The bar Council may admit as an associate member any person who:
- (i) is enrolled as an advocate of the High Court of South Africa; and
 - (ii) has passed the Bar examination; and
 - (iii) is either a full time member of the teaching staff of a Law Faculty or Department of an accredited institution of higher learning;
 - (iv) practices as an advocate in an area of the LIMPOPO which is not the seat of a High Court; or
 - (v) is a member in good standing at another Bar in South Africa; or
 - (vi) is unable to practise full-time as an advocate but wishes to practise on a part-time basis in the LIMPOPO; and
 - (vii) is a person of good character; and
 - (viii) accepts the constitution of the POLOKWANE SOCIETY OF ADVOCATES and is willing to submit himself to its disciplinary procedures; and
 - (ix) has applied in writing to be so admitted.
- (f) An associate member:
- (i) shall be required to pay such fees and subscriptions as the Bar Council may determine;
 - (ii) may be required to take up chambers or to share chambers in POLOKWANE;
 - (iii) shall be entitled to attend meetings of the Bar and to vote on resolutions but may not vote in the election of members of the Bar Council;

- (iv) shall be expected to attend the annual Bar dinner and such other functions available to members of the bar;
 - (v) shall upon acceptance as an associate member sign the register of members.
6. (a) Every advocate who:
- (i) has satisfied the Bar Council that he has complied with the requirements of the Association relating to the practical training of advocates or those of any Association which is a member of the General Council and which has been approved by the Association or that he has been exempted wholly or in part there from; and
 - (ii) is prepared to accept this Constitution and the obligations imposed therein as binding on him;

may take application for membership of the Association in writing to the Secretary of the Association who shall submit the application to the next meeting of the Bar Council. In the event of the Bar Council being of the opinion that the applicant possesses the necessary qualifications and is on good character, the Bar Council shall authorise his admission to membership of the Association and the Secretary shall forthwith notify the applicant that he may become a member subject to his signing the roll and paying the subscription for the current year prescribed in Clause 29. On complying with such notification (including the signing of the roll of members), the applicant shall become a member. No person shall become a member until he has duly signed the roll of members, provided, however, that where the applicant has, at any time, been admitted as an attorney, the Bar Council shall not authorise his admission to membership unless satisfied that he shall have ceased to have any capital invested in the business with which he was previously connected, or to be in any way interested therein, and provided that he has made a declaration to that effect in his application for admission to membership.

- (b) The Attorney General of Acting Attorney General as well as the Dean of the School of Law of the University of LIMPOPO shall be honorary members of the Association.

(c) a General Meeting of the Association may elect Honorary Membership any other persons who have achieved distinction in the practice of law or the administration of justice. Honorary Membership shall not confer any rights under this Constitution.

7. If the Bar Council decides not to authorise any applicant's admission as a pupil member or as a member, the Secretary shall forthwith notify the applicant who shall be entitled to appeal against such decision to the General Council. The provisions of Clause 23 shall apply, with the necessary changes, to such appeal. If the General Council on such appeal so decides the Applicant shall be entitled to become a pupil member or a member as the case may be on the same conditions and as though his admission were authorised by the Bar Council.

8. The Secretary shall open and maintain in POLOKWANE a roll of members. The roll shall be kept up to date by the Secretary by deleting the names of those who have ceased to be members and by permitting other persons to become members in terms of this Constitution. Upon signing the roll of members the signatories shall become bound by the provisions of this Constitution and be deemed to consent to the obligations imposed thereunder. The roll shall be headed:

"We, the undersigned, having read the Constitution of the POLOKWANE SOCIETY OF ADVOCATES, undertake to abide but that Constitution (and any amendments thereof as and when duly made) and by all decisions and actions lawfully taken thereunder."

9. (a) Save with the special consent of the Bar Council no member shall hold a brief with or act professionally in any way in the Republic with any advocate who is not a practising member of the Society or a member of the General Council of South Africa or a constituent Bar or, in Natal, with a person with whom the members of the Natal Constituent Bar may not hold a brief, provided that a member may hold a brief in a criminal matter for the State with an officer of the State.

(b) Save with the special consent of the Bar Council no member shall occupy chambers in any building not approved for such purpose by the Bar Council.

10. Membership of the society shall cease:-

- (a) upon resignation duly accepted by the Bar Council;
- (b) upon expulsion in the manner prescribed by this Constitution;
- (c) if the Bar Council so decides on the ground that the member is no longer an advocate who normally practises in the LIMPOPO province;
- (d) if the Bar Council decides that the member has lost the necessary qualification for membership prescribed in Clauses 5 and 6.

Provided that in the case of (c) and (d) the member shall have the same right of appeal (with the necessary changes) as in the case of expulsion, and provided further that cessation of membership shall in no way affect the member's liability for amounts owing to the Society or for any actions or conduct during his membership.

III. **BAR COUNCIL**

12. The property and management of the affairs of the Society shall be vested in the Bar Council consisting of three or more members elected annually. The Bar Council shall be deemed to be fully constituted notwithstanding any vacancy in the number of its members.

13. The election of members of the Bar Council shall take place in the following manner:-

- (a) Not less than three weeks before the date of the Annual General Meeting, the Secretary shall by notice to the members call for nominations which shall be handed in to the Secretary not less than two weeks before the said meeting.
- (b) Nominations shall be in writing and shall be signed by the proposer. No nomination shall be accepted by the Secretary unless consent to his nomination is signified in writing signed by the nominee.
- (c) Not less than one week before the Annual General Meeting the Secretary shall publish on the notice boards in the Common Room, if any, and/or the

Library, if any, and/or written notice placed in the pigeon hole of every member a list of members whose nomination have been accepted.

- (d) Notwithstanding any such nomination and consent, any person nominated shall be entitled to withdraw his candidature ant any time more than four days before the Annual General Meeting.
- (e) If there are more nominations than the number required to be elected the Secretary shall, not less than four days before the Annual General Meeting, deliver to each member, or his clerk, a ballot paper, containing a list of members as nominated.
- (f) Members shall record their votes on the ballot paper, which may be handed to the Secretary not later than three days after the Annual General Meeting. The serving Chairperson shall appoint scrutineers, who shall announce the result after the aforesaid period of three days has elapsed.
- (g) There shall be at least four members of the Bar Council and not more than 10 members constituted as follows:
 Chairperson; (Silk)
 Deputy Chairperson; (Silk) 50% Silks
 Hon Secretary; and 50% juniors
 Treasurer and three additional members.

all of whom shall be elected by majority vote at the annual general meeting.

- (h) If at the close of the nominations as provided for in sub-clause (a) there are fewer nominations than the number to be elected, balloting shall be deferred until the annual General Meeting, at which meeting the Chairperson shall call for and accept further nominations. If as a result of such further nominations there are not more nominations than the number to be elected the Chairperson shall forthwith declare the nominees to be duly elected.
- (i) Notwithstanding the election procedure set out in Clauses (a) to (h) (above) the members of the Society may, prior to the voting, agree on a simplified democratic manner of electing its office bearers.

14. The members of the Bar Council shall retire annually on the completion of the election of the incoming Bar Council. All retiring members shall be eligible for re-election.
15. The Bar Council at its first meeting after election shall elect one of its members as Chairperson, one as Deputy-Chairperson, and one as Secretary of the Bar Council for the ensuing year and may from time to time fill any casual vacancy in such offices.
16. In the event of the death of resignation of any member of the Bar Council, the Bar Council may appoint someone to serve as a member until the next annual election in due course of members of the Bar Council. In the event of incapacity or absence of any member of the Bar Council, the Bar Council may appoint someone to serve as a member during such incapacity of absence.
17. The Bar Council may appoint such an official or officials as it may from time to time consider necessary on such terms as it may decide or to co-opt any member to serve with it for a specified task or tasks.
18. (i) The Bar Council shall, subject to any directions that may be given to it by the Society in a General Meeting, have the following powers and duties:-
 - (a) To frame such regulations and give such rulings as are necessary in its opinion for giving effect to the provisions of this Constitution.
 - (b) To frame such rules and to give such rulings relating to the members and pupil members in their professional capacity as it from time to time may deem advisable, and in particular to specify the books or records which shall be kept by members in respect of their professional activities.
 - (c) To represent the members of the Society in any matter of general concern to the Society, to exercise control over all members in matters affecting their professional status, rights privileges and conduct and subject to the provisions of this constitution, to take such action as it deems fit.
 - (d) To draw up minimum scales of fees for members.

- (e) to hear and settle disputes between members and other persons as to fees due to any member or as to any other matter affecting their professional relations.
- (f) To maintain a list of defaulting attorneys and to prescribe sanctions in regard to such attorneys in their relationship with members of the Society.
- (g) To regulate and control the finances of the Society.
- (h) To submit any matter for decision or opinion to the General Council.
- (i) To make contracts on behalf of the Association in regard to the Society's affairs and property.
- (j) To appoint sub-committees from members to assist the Bar Council in carrying out the objects of the Society.
- (k) To establish and maintain a Bar Benevolent Fund and Sick Benefit Fund for purposes of assisting members and ex-members of the Society and members of their families and employees and ex-employees of the association who, in its opinion, are in need of financial assistance and ought to receive assistance from such fund.
- (l) Subject to the provisions of this Constitution, to maintain discipline among members and to prescribe and enforce sanctions for breaches of discipline.
- (m) to decide whether a person has the necessary qualifications prescribed by this Constitution for admission as a member.
- (n) To represent the Society in Court and in legal proceedings insofar as may be permitted by law in regard to any matter affecting the Society or any of its members,

- (o) To regulate and control access to and the use of the Bar Library and the Bar Common Room, if any.
 - (p) To establish and maintain an entertainment fund to which all members shall contribute an amount of money as may be determined by the Society from time to time and to use the monies thereof at the discretion of the Bar Council in paying for Bar functions.
 - (q) To regulate and control the chambers occupied by members, and in particular:-
 - (aa) to occupy, lease and sub-lease premises for the purposes of providing suitable accommodation for members;
 - (bb) to require members to occupy chambers only in a building or buildings approved by the Bar Council.
 - (r) To take up as Lessee any accommodation for the purpose of subletting such accommodation and to levy contributions from members in respect thereof and to let accommodation taken and controlled in Council's leased chambers.
 - (s) To make loans from the funds of the Society to such persons and upon such terms and conditions as the Bar Council sees fit.
 - (t) to do all such other things as may, in its opinion, further the objects of the Society or are necessary for or incidental to the carrying out of those objects or the above mentioned powers.
- (ii) All regulations, rulings and decisions made and actions taken in pursuance of the above powers shall be of force and effect unless and until set aside by a General Meeting of the Association duly convened in terms of this Constitution.
- (iii) Nothing in this clause shall be deemed to override the power of the Society in General Meeting to exercise any of the functions of the Bar Council or to take any action it may think fit within the scope of the Constitution.

- (iv) No member of the Bar Council or any member of the Society to whom the Bar Council has delegated any of its functions, shall be liable in damages or otherwise for any loss, damage or misfortune whatsoever which shall happen in the execution of such functions, or in relation thereto or arising therefrom, and every such member of the Bar Council or member of the Society against all liability, loss or expense incurred by him as such.
19. The Bar Council may delegate any of its functions to a Committee of not less than two of the members of such Council but the Bar Council may at any time terminate or modify such delegation.
20. The Bar Council shall meet from time to time as it may decide. The Chairperson, or in his absence, the Deputy Chairperson, or in his absence the senior member present shall preside. The quorum for all meetings shall be two and the Chairperson shall have a deliberative as well as a casting vote.
21. The Bar Council shall keep minutes of all meetings but such shall not be available for inspection by members or pupil members except with the consent of the Bar Council.

IV DISCIPLINE

22. (a) The Bar Council shall enquire into the professional conduct of any member or pupil member whenever it is in the opinion of the Bar Council desirable to do so. The Bar Council may delegate the aforesaid functions to any one or more members of the Society whether or not such members are members of the Bar Council. The member or members to whom the functions have been delegated shall be obliged to report the results of such enquiry and any recommendations which may be made to the Bar Council.
- (b) The procedure to be followed in such an investigation shall, in each case, be determined by the Bar Council or the member or members conducting the inquiry, in accordance with the nature of the matter to be investigated.
- (c) If the Bar Council, having conducted an inquiry into the professional conduct of a member or pupil member, or having received a report from the member or members to whom its functions in that regard were delegated, decides that

the member or pupil member has been guilty of conduct which in its opinion is professional misconduct, it may admonish, suspend or expel such member or pupil member provided that no member or pupil member shall be suspended or expelled unless the majority of members of the Bar Council or the members conducting the inquiry shall vote in favour thereof.

- (d) No member shall be disqualified from taking part in any such investigation or decision referred to in this clause by reason merely of the fact that he has received information, otherwise than in the course of the investigation, about any matter forming the subject matter of the investigation.
 - (e) It shall be the duty of every member and pupil member to furnish to the Bar Council or a member or members to whom the functions have been delegated under sub-clause (a) hereof, all such information as he may be called upon to furnish and to produce to the Bar Council or such member or members all such books, documents or other record as he may be called upon to produce.
 - (f) No member or pupil member shall be relieved of his obligations under sub-clause (e) hereof, by reason of the fact that the information, books, documents or records called for will or may relate to his own conduct in respect of which no charge has yet been formulated.
23. Any member or pupil member against whom any decision has been made by the Bar Council in terms of the preceding clause, and, with the leave of the Bar Council, any other person interested in such decision may, by notice in writing to the Secretary within seven days after notification of such decision, appeal against the decision to the General Council. Upon receipt of such notice the Secretary shall forward it to the Secretary of the General Council, together with all documents and notes of evidence relating to the matter. Thereafter the General Council shall proceed to determine the appeal in accordance with the bye-laws and/or the specific requirements of the General Council whose decision on the appeal shall be final and binding on the Society and all persons affected.

V MEETING OF MEMBERS

24. Meetings of members of the Society shall be held:-

- (a) once a year during the month of February such date as the Bar Council shall decide, such meeting being the annual General Meeting;
 - (b) when so ordered by the Bar Council;
 - (c) on a requisition signed by more than half the number of members and handed in to the Secretary stating the purpose for which the meeting is required, on a date to be fixed by the Bar Council.
25. (a) At all meetings every member shall be entitled to vote, and the Chairperson, or in his absence the Deputy-Chairperson, or in his absence the senior member present shall preside and have a deliberative and casting vote. The quorum shall be more than half the number on the roll.
- (b) If, within half an hour after the time appointed for the meeting, the 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 7 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 on the time appointed for the meeting, the members present shall be a quorum.
26. The business of any meeting shall be such business as is specially mentioned in the notice convening the meeting and such other business as the Chairperson may allow having regard to the notice convening the meeting.
27. At least seven days' clear notice shall be given of every meeting of members provided that in cases of urgency and if the matter to be considered is not a proposed amendment to this constitution, shorter notice may be given subject to the approval of two members of the Bar Council. All such notices shall be in writing or print, and shall be sent to every member, provided that no action of the meeting shall be invalidated by the mere fact that such notice has not been received by any member.

VI FINANCE

28. The property and funds of the Society shall be vested in the Bar Council which shall be capable of suing and being sued on behalf of the Society by the name of the POLOKWANE SOCIETY OF ADVOCATES. The Secretary for the time being shall

accept services of process, and when authorised thereto by the Bar Council, sign all necessary powers for that purpose.

29. Each member shall be liable to pay in such amounts as the Bar Council shall fix:-
- (a) an annual subscription by way of 12 equal monthly instalments commencing 10th January and thereafter on the 10th of each successive month in each year; provided that any member shall at any time be entitled to pay any number of instalments in advance; and
 - (b) contributes to the Bar Benevolent Fund as and when required by the Bar Council.
30. The Secretary shall open and maintain a banking account in the name of the POLOKWANE SOCIETY OF ADVOCATES in such bank as the Bar Council shall determine, which shall also decide how the banking account shall be operated upon.

VII GENERAL

31. Any matter affecting the Bar or any member or pupil member or other advocate in this division may be brought before the Bar Council in writing by any person, and the Bar Council may, subject to the provisions of this Constitution take such actions there on as it shall deem fit.
32. Not less than seven days before the Annual General Meeting the Bar Council shall present to the members a report dealing with matter affecting the Bar, the financial position of the Society and generally the activities of the Bar Council during the year. A copy of such report shall be sent by the Secretary to each member.
33. All notices of the Society sent to member's or pupil member's chambers or deposited in their pigeon holes shall be deemed to have been duly sent for the purposes of this Constitution.
34. This Constitution may be amended by a decision of the Society as a General Meeting duly convened in terms of this Constitution.

35. (a) All Resolutions of the Society and/or Bar Council rulings and instructions heretofore binding under the Constitution of the Society of Bophuthatswana adopted on 16 march 1981 shall *mutatis mutandis* remain in operation and binding on members as though made under this Constitution except insofar as they are at variance with this Constitution and until rescinded in terms of this Constitution.
- (b) The code of Professional Conduct and Ethics laid down by the General Council in January 1972, as amended, will remain in force in respect of all members.
36. (a) any profits of gains made by Society shall be used by the Society solely for investment or for the attainment of its objects hereinbefore set out, and no part of such profits or gains shall be distributed to members or any other person.
- (b) In the event of the Society being dissolved, all assets of the Society remaining after satisfaction of its liabilities shall be transferred to some other association or associations having objects similar to those of the Society.

Chairperson
W.R MOKHARI SC
CONVENER