

# **CONSTITUTION OF LIMPOPO SOCIETY OF ADVOCATES**

**ORIGINALLY ADOPTED - 16 OCTOBER 2014**

**DATE OF AMENDMENT: -29 OCTOBER 2021**

**AS AMENDED BY:**

## **LIMPOPO SOCIETY OF ADVOCATES FIRST AMENDMENT**

### **PURPOSE**

*To provide for the change of name for the Society; the introduction of a Group system within the Society; and to provide for matters incidental thereto.*

## **Definitions**

“Advocates Group” means:

- (a) A group of Advocates that has been approved, authorised or may in the future be approved by the Bar Council to operate as constituent member of the Society;
- (b) In which membership is limited to practicing and honorary members of the Society; and
- (c) Which are, at the date of the adoption of this Constitution:
  - (i) Group G20;
  - (ii) Platinum Group;
  - (iii) Thabure Group;
  - (iv) Justice Bernard Ngoepe Group; and
  - (v) Thohoyandou Group

“Member” means an advocate who is recognised for the time being by the Council as normally practising in the Limpopo Province provided that no person shall be recognised who:

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

“Council” means a committee of the Society elected for the time being in office to administer the Society’s affairs.

“Limpopo Society of Advocates” means a voluntary association of advocates constituted of members who are affiliated and practicing from premises or offices approved by the Bar Council which are situated in the Limpopo Province.

“General Bar Council” or “GCB” means the General Council of the Bar of South Africa as constituted at Johannesburg on the 21<sup>st</sup> September 1946.

“Legal Practice Council” or “LPC” means a Council established in terms of the Legal Practice Act No. 28 of 2014.

“Society” means the Limpopo Society of Advocates which was established in terms of the original Constitution on 16 October 2014.

## CHAPTER 1

### Establishment, objects and duties of Society

- (vi) A Society is hereby established and it shall be called Limpopo Society of Advocates.
- (vii) The objects of the Society are:
  - (a) To advance, oversee and protect the common interests of the Society and its members, including the interest of pupil members in their professional training endeavours or aspirations;
  - (b) As *custos morum* of the legal profession under the auspices of the Legal Practice Council and the General Council, to supervise the conduct of members and of pupil members;
  - (c) The consideration and promotion of improvements in the advocacy teaching and practice of the law and in the administration of justice;
  - (d) To be a Constituent member of the GCB, and to collaborate with and to assist in the furtherance and promotion of its objects;

- (e) To make donations to such persons or bodies as the Bar Council may approve; and
  - (f) To advance transformation in the legal profession.
4. Duties and responsibilities of the Society and its members.
- (a) The Society and its members shall abide by and conform to:
    - (i) the Legal Practice Act No. 28 of 2014 ('the Act');
    - (ii) decisions or resolutions taken by the Legal Practice Council ('LPC'); and
    - (ii) binding decisions or resolutions of the GCB; and
  - (b) The Bar Council shall participate in the activities of the GCB and shall, from time to time appoint representatives to present the views or resolutions of the Society at meeting organised by the GCB.
  - (c) The reasonable travelling and out of pocket expenses of representatives attending meetings of the GCB meetings and other events shall be paid out of the funds of the Society.

## **CHAPTER 2**

### **Governance of the Society**

5. Management of the administrative affairs of the Society vests in the Bar Council. Management of the Groups vests in the Groups Management structures:
- (a) The Groups may adopt their respective constitutions which are not in conflict with the ethos, objects and spirit of this constitution.
  - (b) The Groups are prohibited from accepting as members those advocates who are not members of the Society. Groups have the obligation to collect monthly subscriptions

from their members on behalf of the Society and pay over to the Society in composite amount by no later than the tenth of each month.

- (c) The Bar Council may in appropriate cases and circumstances when same so warrant place under administration a Group which is mismanaged or a Group which threatens the unity and objects of the Society for a period on not more than six months.
  - (d) This period may be extended for a period of not more than three months at a time, until such time that elections of new management of the Group have been conducted.
6. The Bar Council consisting of at least nine (9) but not more than twelve (12) members elected annually at an annual general meeting of the Society. The chairpersons of the Groups mentioned above and those to be formed and duly approved by the Bar Council shall by virtue of their leadership of their respective Groups be ex officio members of the Bar Council with no voting powers.
7. The Bar Council shall be deemed to be fully constituted notwithstanding any vacancy in the number of its members, provided that the remaining number of members in the Bar Council constitute a quorum.
8. 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 ('AGM'), 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, and the nominee shall sign to signify his or her acceptance of the nomination; provided that a nomination shall not be accepted by the Secretary without the signature of the nominee.
  - (c) Not less than one week before the AGM the Secretary shall publish on the notice boards in the Common Room, if any, and/or the Library, if any, and/or through written notices placed in the pigeonholes of members, a list of members whose nomination have been accepted.

- (d) Notwithstanding any such nomination and consent, a person who is nominated shall be entitled to withdraw his or her candidature at any time prior to or during AGM.
- (e) If there are more nominations than the number required to be elected the Secretary shall, not less than four days before the AGM, deliver to each member, or his clerk, a ballot paper, containing a list of nominated members standing to be elected into the Bar Council.
- (f) Members shall record their votes on the ballot paper, which may be handed to the Secretary not later than three days after the AGM serving Chairperson shall appoint scrutineers, who shall oversee the election process and announce the result during or within three days from the date of the elective AGM.
- (g) Office bearers of the Bar Council shall be constituted of:
  - (i) Chairperson;
  - (ii) Deputy Chairperson;
  - (iii) Honorary Secretary;
  - (iv) Deputy Honorary Secretary;
  - (v) Treasurer;
  - (vi) Seven additional members;
  - (vii) chairpersons of Groups, who are ex officio members of the Bar Council.

9. The election of members of the Bar Council shall be by majority vote at the AGM.

10. If at the close of the nominations period there are fewer nominations than the number to be elected, balloting shall be deferred until the next meeting, at which meeting the Chairperson shall call for and accept further nominations.

11. Should it happen that after further nominations there are still fewer nominations than the number to be elected the Chairperson shall forthwith declare the nominees to be duly elected.
12. Notwithstanding the election procedure set out in this Constitution the members of the Society may, prior to the voting, agree on a simplified democratic manner of electing its office bearers.
13. Bar Council assumes office immediately after announcement of the election results.
14. The members of the Bar Council vacate their positions annually on the completion of the election; provided that vacating members of Bar Council shall be eligible for re-election.
15. The Bar Council at its first meeting after election shall elect from its ranks, the office bearers referred to in clause 8(g) above, who shall hold office for a period of one year.
16. Leaders or chairpersons of Groups approved by the Society are *ex officio* members of Bar Council with no voting rights.
17. The Bar Council may co-opt a member of the Society to serve as a member of the Bar Council to fill a vacancy that may arise during the course of the year and the member shall acquire full voting rights until the next annual election of members of the Bar Council.
18. The Bar Council may when circumstances so warrant, co-opt any member of the Society in good standing to serve in the Bar Council or perform any task that may be delegated to the member.
19. The Bar Council shall, subject to any directions that may be given at an AGM, have the following powers and duties to:
  - (a) adopt regulations and give such rulings as are necessary in its opinion for giving effect to the provisions of this Constitution.
  - (b) adopt rules and to give such rulings relating to the members and pupils in their professional capacity as it may from time to time deem advisable, and in

particular to specify the books or records which shall be kept by members in respect of their professional activities.

- (c) 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.
- (e) to hear and settle disputes between members and other persons relating to fees due to any member or as to any other matter affecting their professional relations.
- (f) maintain a list of defaulting attorneys and to prescribe sanctions in regard to such attorneys in their relationship with members of the Society.
- (g) regulate and control the finances of the Society.
- (h) submit any matter for decision or opinion to the General Council.
- (i) make contracts on behalf of the Association in regard to the Society's affairs and property.
- (j) appoint sub-committees from members to assist the Bar Council in carrying out the objects of the Society.
- (k) 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, need financial assistance and qualify to be assisted from the 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) admit qualifying members to the society.
- (n) represent the Society in Court and other legal proceedings as may be permitted by law in regard to any matter affecting the Society or any of its members,



- (o) regulate and control access to and the use of the Bar Library and the Bar Common Room, whichever is available.
  - (p) 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) regulate and control Bar Council offices, and in particular:
    - (i) to occupy, lease and/or sub-lease premises for the purposes of providing suitable accommodation for staff and members, where necessary.
    - (ii) to require members to occupy chambers only in a building or buildings approved by the Bar Council.
  - (r) perform such other functions as may necessary or incidental, in its opinion, to further the objects of the Society.
20. 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 Society duly convened in terms of this Constitution.
21. 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.
22. 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.
23. The Bar Council may delegate any of its functions to a [C]sub-committee of not less than two members but the Bar Council may at any time terminate or modify such delegation.

24. The Bar Council shall meet once every month or on such other additional times as it may decide.
25. The Chairperson, or in his absence, the Deputy Chairperson, or in his absence the senior member present shall preside.
26. The quorum for all meetings of the Bar Council shall be fifty percent plus one, provided that the Chairperson shall have a deliberative as well as a casting vote. The presence or absence of ex officio members does not affect the quorum and are not counted for purposes of determining the *quorum*.
27. The Bar Council shall keep minutes of all meetings, but such shall not be available for inspection by members or pupils except with the express consent of the Bar Council.

### **Chapter 3**

#### **Membership and pupillage**

##### **Eligibility for membership of the Society.**

28. Subject to proof of good character to the satisfaction of the Bar Council, a person who:
  - (a) is duly enrolled as an advocate in terms of the provisions of the Legal Practice Act, 2014; and
  - (b) has successfully undergone pupillage offered by the Society or any constituent members of the General Council.
  - (c) practises or intends to practice as an advocate in the Limpopo Province.is eligible for membership of the Society.
29. Membership of the Society shall either be on full-time or on door membership basis.
30. A person who wishes to be admitted as a member of the Society shall apply in writing to the Bar Council c/o of the Bar Chairperson, which, on being satisfied that the applicant complies with the requirements of Legal Practice Act, 2014, the provisions of this

constitution and that he/she is a fit and proper person to become a member of the Society, may admit such person to membership.

31. A person who is accepted a member of the Society shall take membership in one of its existing Groups, failing which the members shall be assigned door membership at the discretion of the Bar Council.

#### **Associate membership**

32. Council may admit as an associate member any person who:

- (a) is enrolled as an advocate of the High Court of South Africa; and
- (b) has passed pupillage and/or LPC examinations.
- (c) is either a full-time member of the teaching staff of a Law Faculty or Department of an accredited institution of higher learning.
- (d) practices as an advocate in an area of Limpopo which is not the seat of a High Court.
- (e) is a member in good standing at another Bar in South Africa.
- (f) is unable to practise full-time as an advocate but wishes to practise on a part-time basis in Limpopo.
- (g) is a person of good character.
- (h) accepts the constitution of the Society and is willing to submit himself to its disciplinary procedures; and
- (i) has applied in writing to be so admitted.

33. An associate member:

- (i) shall be required to pay such fees and subscriptions as the Council may determine;

- (ii) may be required to take up chambers or to share chambers in any of the Society's approved Groups;
- (iii) shall be entitled to attend meetings of the Society and to vote on resolutions but may not vote in the election of members of the Council;
- (iv) shall be expected to attend the annual dinner hosted by the Chairperson of the Society and such other functions available to members of the Society;
- (v) shall upon acceptance as an associate member sign the register of members.

34. An advocate who:

- (a) has satisfied the Bar Council that he has complied with the requirements of the Society relating to the pupillage or vocational training of advocates or those of another Society which is a member of the General Council and which has been approved by the Council, or who has been exempted wholly or in part there from; and
- (b) is prepared to accept this Constitution and the obligations imposed by it -

may apply for membership of the Society by submitting a written application to the Secretary of the Bar Council who shall table the application at the next meeting of the Bar Council for consideration or deliberation.

35. Should Council be satisfied that the applicant possesses the necessary qualifications and is fit and proper, Council may admit him or her as a member of the Society and the Secretary shall forthwith notify the applicant that he may become a member subject to his signing the roll and paying the annual subscription prescribed in terms of this Constitution.

36. On complying with such notification (including the signing of the roll of members), the applicant shall become a member.

37. A person shall only become a member upon signing the roll of members, provided, however, that where the applicant has, at any time, been admitted as an attorney, Council shall not authorise his admission to membership unless it is satisfied that he or she 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.
38. A Dean of the School of Law of the University of, at its two campuses, shall be honorary members of the Society.
39. A General Meeting of the Society may bestow honorary membership to a person who has achieved distinction in the practice of law or the administration of justice.
40. Honorary membership shall not confer voting or any rights under this Constitution.
41. 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.
42. The appeal provisions of 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.
43. The Secretary shall open and maintain in Bar Council offices situated in Polokwane a roll of members.
44. The roll shall be kept up to date by the Secretary by deleting the names of advocates who have ceased to be members and by permitting other persons to become members in terms of this Constitution.
45. Members shall become bound by the provisions of this Constitution and be deemed to consent to the obligations imposed in it upon signing the roll.
46. The roll shall be headed:

*"I, the undersigned, having read the Constitution of the Limpopo Society of Advocates, undertake to abide [but that] by the Constitution and by all decisions and actions lawfully taken in accordance with its provisions."*

47. Except 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.

#### **Cessation of membership**

48. Membership of the Society shall cease:

- (a) upon resignation duly accepted by the Bar Council;
- (b) upon expulsion to give effect to the provisions Constitution;
- (c) where a member ceases to be a referral advocate;

provided that where a member has been expelled from the Society, he or she shall have the right of appeal and provided further that cessation of membership shall not affect such member's liability for fees due owing and payable to the Society.

#### **Meeting of members**

49. Meetings of members of the Society shall be held:

- (a) once a year during the month of October or such other date as the Bar Council may determine, and such meeting shall be known as the annual General Meeting;
- (b) when convened or called for by the Bar Council to address a special matter which cannot be deferred until;

- (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.
50. A member is entitled to vote at a meeting of the Society, which is presided upon by the Chairperson, or in his absence the Deputy-Chairperson.
51. A quorum at all general meetings of the Society shall be thirty (30) members in attendance at such meeting.
52. If, within half an hour after the time appointed for the meeting, the quorum is not met, the meeting, if convened upon the requisition of members, shall be dissolved, but in any other case it shall stand adjourned to a date 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*.
53. The business of any meeting shall be specified in the notice convening the meeting, or in an agenda for such meeting, and such other business as the Chairperson may allow having regard to the notice convening the meeting.
54. 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.

### **Pupillage**

55. The Society shall annually admit a number of eligible persons into pupillage programme as may be approved by the LPC and as contemplated in ss 26 to 29 of the Legal Practice Act.

56. A person wishing to undergo pupillage training at the Society shall apply to the Council, c/o Bar Administrator, which application shall be considered by Council or its assigned sub-committee.
57. The procedure for consideration of applications for pupillage shall be fair and transparent as may be determined from time to time by the relevant sub-committee of Council.
58. During period of pupillage a pupil shall:
- (a) be assigned a mentor for purposes of continuous practical training;
  - (b) pay the prescribed registration fees, and shall be entitled to have access to the Bar Council facilities such as the Library and Common Room, if any;
  - (c) not be entitled to accept work 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;
  - (d) not be entitled to attend or vote at any general meeting of the Society; and
  - (e) comply with all the requirements relating to pupillage or vocational training applicable for advocates.
59. A pupil is not a member of the Society and shall not be entitled to any of the rights enjoyed exclusively by members.

#### **Chapter 4**

##### **Members conduct**

60. Members shall uphold the standard of professionalism, discipline and ethics required for advocates in terms of the Legal Practice Act and its regulations;
61. As may be requested or assigned by the LPC:



- (a) The Bar Council may enquire into the professional conduct of any member or pupil whenever allegations of professional misconduct have been levelled against such member.
- (b) Shall report an allegation of serious professional misconduct levelled against a member to the LPC.
- (c) Where an allegation of professional misconduct has been made against a member, the Bar Council may investigate the seriousness of the allegation and, if deemed serious, report the misconduct to the LPC as contemplated in (b) above.
- (d) When investigating an allegation of misconduct, the Bar Council may delegate such function to a member or a committee of members who shall report findings and recommendations to the Bar Council.
- (e) 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.
- (f) If the Bar Council, having investigated the professional conduct of a member or pupil, or having received a report from the member or committee of members to whom the function was delegated, decides that the member or pupil is guilty of professional misconduct, it may admonish, suspend or expel such member or pupil from the Society: provided that no member or pupil shall be suspended or expelled without being given an opportunity to make representations why he or she should not be suspended or expelled.
- (g) It shall be the duty of every member and pupil [member] to furnish to the Bar Council or its delegated member or committee of members information as he or she may be called upon to furnish and to produce books, documents or other record may be necessary for purposes of the investigation.
- (h) No member or pupil shall be relieved of his obligations under sub-clause (g) above 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.

62. A member or pupil 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.
63. Upon receipt of such notice the Secretary shall forward it to the Secretary of the General Council, together with all documents, notes or transcription of evidence relating to the matter.

## **Chapter 5**

### **Finances and property**

64. The Society shall be funded through membership fees determined by the Bar Council from time to time.
65. The property and funds of the Society shall be administered by the Bar Council which shall be capable of suing and being sued on behalf of the Society by the name of the Society.
66. A member shall be liable to pay fees determined by the Bar Council referred to in clause 64 above, which shall be made of:
  - (a) an annual subscription by way of 12 equal monthly instalments commencing 10<sup>th</sup> January and thereafter on the 10<sup>th</sup> 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) contributions to the Bar Benevolent Fund as and when required by the Bar Council.
67. The Society shall open and maintain a banking account in the name of the Limpopo Society of Advocates, or its predecessor, with a banking institution as the Bar Council shall determine.

68. The Chairperson and two other members shall be signatories in all banking transactions on behalf of the Bar Council.

## **Chapter 6**

### **Miscellaneous**

69. Any matter affecting the Bar or any member or pupil or other advocate within the jurisdiction of the Limpopo Division of the High Court 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 as it may deem fit.
70. Not less than seven days before the Annual General Meeting the Bar Council shall present to the members a report dealing with matters affecting the Bar, the financial position of the Society and generally the activities of the Bar Council during the year.
71. A copy of such report, if any, shall be made available to members by the Secretary upon request.
72. A notice sent by or on behalf of the Bar Council to a member or pupil or deposited in a member's pigeon hole shall be deemed to have been duly sent and received for the purposes of this Constitution.
73. This Constitution may be amended by a decision of the Society taken at a General Meeting duly convened in terms of this Constitution.
74. The code of Professional Conduct and Ethics issued in terms of the Legal Practice Act and/or issued by the General Council, from time to time, have binding effect on the members.
75. Profits of gains made by Society shall be used by the Society solely for investment or for the attainment of its objects set out in this Constitution, and no part of such profits or gains shall be distributed to members or any other person.
76. 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.

77. This is the **Constitution of the Limpopo Society of Advocates** and comes into operation on the date of its adoption at a General Meeting of the Society.

A handwritten signature in black ink, appearing to read 'W.R. Mokhare', written over a horizontal line.

**CHAIRPERSON**

**W.R. MOKHARE SC**

29/10/2021