

(11 August 2023 - to date)

LEGAL PRACTICE ACT 28 OF 2014

(Government Notice 740 in Government Gazette 38022 dated 22 September 2014. Commencement date of Parts 1 and 2 of Chapter 10: 1 February 2015 [Proc. No. R2, Gazette No. 38412 dated 23 January 2015])

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

REGULATIONS UNDER SECTION 109(1)(a)

Government Notice R921 in Government Gazette 41879 dated 31 August 2018. Commencement date: 31 August 2018.

as amended by:

Government Notice R3779 in Government Gazette 49104 dated 11 August 2023. Commencement date: 11 August 2023.

I, Tshililo Michael Masutha, Minister of Justice and Correctional Services hereby, under section 109(1)(a) of the Legal Practice Act, 2014 (Act No. 28 of 2014) and in consultation with the National Forum, make the regulations in the Schedule.

TM Masutha, MP

Minister of Justice and Correctional Services

SCHEDULE

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Prepared by:

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1. Definitions

In these regulations any word or expression to which a meaning has been assigned in the Act has the meaning so assigned to it and, unless the context otherwise indicates—

“chairperson” means the chairperson of the Council;

“Eastern Cape Provincial Council” means the Provincial Council whose area of jurisdiction corresponds with the area under the jurisdiction of the Eastern Cape Division of the High Court of South Africa;

“Free State Provincial Council” means the Provincial Council whose area of jurisdiction corresponds with the area under the jurisdiction of the Free State Division of the High Court of South Africa;

“Gauteng Provincial Council” means the Provincial Council whose area of jurisdiction corresponds with the area under the jurisdiction of the Gauteng Division of the High Court of South Africa;

“KwaZulu-Natal Provincial Council” means the Provincial Council whose area of jurisdiction corresponds with the area under the jurisdiction of the KwaZulu-Natal Division of the High Court of South Africa;

“Limpopo Provincial Council” means the Provincial Council whose area of jurisdiction corresponds with the area under the jurisdiction of the Limpopo Division of the High Court of South Africa;

“Mpumalanga Provincial Council” means the Provincial Council whose area of jurisdiction corresponds with the area under the jurisdiction of the Mpumalanga Division of the High Court of South Africa;

“National Forum” means the National Forum on the Legal Profession established in terms of section 96(1) of the Act;

“Northern Cape Provincial Council” means the Provincial Council whose area of jurisdiction corresponds with the area under the jurisdiction of the Northern Cape Division of the High Court of South Africa;

“North West Provincial Council” means the Provincial Council whose area of jurisdiction corresponds with the area under the jurisdiction of the North West Division of the High Court of South Africa;

“**notional hours**” for purposes of regulations 6 and 7 of these regulations means the notional duration allocated to a learning activity to be undertaken by a candidate legal practitioner in order to achieve a specified learning outcome, irrespective of the actual time taken by that person to achieve that outcome;

“**the Act**” means the Legal Practice Act, 2014 (Act No. 28 of 2014); and

“**Western Cape Provincial Council**” means the Provincial Council whose area of jurisdiction corresponds with the area under the jurisdiction of the Western Cape Division of the High Court of South Africa.

2. Election procedure for election of legal practitioners for purposes of constituting Council

(1) The members of the Council referred to in section 7(1)(a) of the Act must be elected in accordance with the manner determined in these regulations.

(2) The election of members of the Council referred to in subregulation (1) must be conducted under the authority of the Council.

(Regulation 2(2) substituted by regulation 2(a) of GNR 3779 dated 11 August 2023)

(3) Only attorneys and advocates who are admitted to practise and who are enrolled on the Roll of practising legal practitioners contemplated in section 30(3) of the Act may—

(Words preceding regulation 2(3)(a) substituted by regulation 2(b) of GNR 3779 dated 11 August 2023)

(a) be nominated for election to the Council: Provided that attorneys may be nominated only by attorneys and advocates may be nominated only by advocates;

(b) nominate an attorney or advocate, as the case may be, for election to the Council; and

(c) participate in the election of members of the Council referred to in subregulation (1), as provided for in these regulations: Provided that an attorney may vote only for the election of attorneys and an advocate may vote only for the election of advocates, as members of the Council.

(4)

(a) An election for members of the Council must be held, in the manner prescribed in these regulations, every third year following the year in which the first such election was held.

(b) The term of office of the members of the Council referred to in section 7(1)(a) of the Act—

(i) commences on the date of announcement by the chairperson of their election;

(ii) terminates upon the announcement of the results of the next succeeding election for members of the Council, unless terminated earlier in terms of the provisions of the Act; and

- (iii) there may not be an overlap of the terms of office of newly elected members of the Council and those elected members whose terms of office have terminated.
- (c) An election for members of the Council must be conducted by—
 - (i) electronic voting in the manner determined by guidelines published by the Council: Provided that the Council must appoint an independent electoral service provider for the purpose of managing the electronic voting platform;
 - (ii) paper ballot in accordance with the provisions of these regulations; or
 - (iii) both electronic voting and paper ballot.
- (d) The Council must appoint an independent electoral service provider for the purpose of performing the duties assigned to an independent electoral service provider in these regulations.
- (e) Within 90 days prior to, but no later than 60 days prior to, the third anniversary of the date of the announcement of the results of the immediately preceding election of members of the Council, the Council must dispatch a notice to every attorney and every advocate admitted to practice and enrolled on the practising Roll, calling for nominations of eligible attorneys and advocates for election to the Council, such nominations to be received not later than a date stipulated in the notice.
- (f) Should a vacancy become available in the Council, the candidate who in the immediately preceding election received the most electoral votes following the votes received by a member of the Council who received the least votes, and who falls within the same category set out in Annexure A, in the case of attorney members, or Annexure B, in the case of advocate members, as the departing member, must be appointed to fill the vacancy.
- (g) If the person referred to in paragraph (f) is not available to fill that vacancy, the candidate in the immediately preceding election who received the next most electoral votes, and who falls within the categories referred to in paragraph (f), must be appointed to fill the vacancy.
- (h) If no person is available to fill the vacancy the Council must conduct a by-election to fill the vacancy concerned.
- (i) The term of office of the member appointed or elected, as the case may be, to fill a casual vacancy in the Council will terminate on the date on which the office of the member who was replaced by him or her would have terminated: Provided that the member so appointed or elected to fill such a casual vacancy will be eligible for re-election.

(j) The guidelines referred to in paragraph (c)(i) must include—

- (i) the period within which to cast the votes;
- (ii) the platform to be utilized for electronic voting; and
- (iii) directions on the completion of the declaration form and the electronic ballot.

(Regulation 2(4) substituted by regulation 2(c) of GNR 3779 dated 11 August 2023)

(5) A notice referred to in subregulation (4) must —

(a) stipulate a date by which the nominations must be received by the Council, which date may not be earlier than 10 days from the date of the notice;

(b) be sent by email to the email address of every practising legal practitioner, unless a practising legal practitioner has not provided the Council with an email address, in which case the notice must be sent by prepaid post;

(Regulation 2(5)(b) substituted by regulation 2(d) of GNR 3779 dated 11 August 2023)

(c) be published once in the Government Gazette on a date as close as possible to the date of dispatch of the notice;

(d) give details of the number of vacancies on the Council for attorney members and advocate members, respectively; and

(e) draw the attention of legal practitioners to the provisions of section 7(2) and (3) and section 8 of the Act.

(6) A nomination of an attorney for election to the Council must be made by any two other attorneys in the manner prescribed by subregulations (8) and (9).

(7) A nomination of an advocate for election to the Council must be made by any two other advocates in the manner prescribed by subregulations (8) and (9).

(8) Any nomination of an attorney or advocate must be made in a document which provides the following information in respect of each nominee named therein, in not more than 600 words:

(a) His or her name and identity number;

(b) in the case of an attorney, the name of the firm of which he or she is a proprietor or a member or by which he or she is employed, stating also whether he or she is a director, a partner or a professional assistant of that firm;

- (c) in the case of an advocate, whether he or she renders legal services in terms of section 34(2)(a)(i) or section 34(2)(a)(ii) of the Act, and in either case whether or not he or she has the status of Senior Counsel;
 - (d) his or her race, gender, date of admission and enrolment and period in practice;
 - (e) if he or she has a disability and wishes to disclose that fact, a statement to that effect and the nature of the disability;
 - (f) the address of his or her principal place of practice; and
 - (g) his or her knowledge and experience in the matters set out in section 7(2)(e) of the Act.
- (9) The nomination document referred to in subregulation (8) must —
- (a) be signed by the two nominating attorneys or advocates, as the case may be;
 - (b) be endorsed, over the signature of the nominee named therein, by his or her acceptance of the nomination; and
 - (c) contain the nominee's confirmation that —
 - (i) the information given therein is correct; and
 - (ii) he or she is not disqualified in terms of section 8 of the Act from membership of the Council.
- (10)
- (a) Original signed nominations must be lodged with the Council by not later than the date stipulated in the notice referred to in subregulation (5).
 - (b) Any nomination which does not substantially comply with these regulations or which is not lodged within the prescribed time does not qualify to be submitted for voting purposes in terms of these regulations.
- (11) If the number of candidates who are nominated exceeds the number to be elected as attorney members or as advocate members, as the case may be, the Council must, within 14 days after the last day on which nominations are required to be lodged in terms of subregulation (5), publish on the Council's website and send to every attorney or advocate, as the case may be, who is eligible to vote, by email to the legal practitioner's email address or, where the email address of a legal practitioner is not known to the Council, by prepaid post—

- (a) directions to the legal practitioner as to the size and format of the two envelopes to be used by the legal practitioner, where voting is to be by ballot paper;
- (b) a declaration form containing appropriate spaces for—
 - (i) the surname and forenames of the voting legal practitioner;
 - (ii) a statement whether he or she is an attorney or an advocate;
 - (iii) his or her signature and the date of his or her signature; and
 - (iv) a declaration by the legal practitioner above his or her signature that he or she has not already voted in the election concerned;
- (c) a ballot paper, in the case of the election of attorneys, in a form that substantially corresponds with Annexure A to these regulations or, in the case of the election of advocates, in a form that substantially corresponds with Annexure B to these regulations, containing the surnames and forenames in alphabetical order, by surname, of the nominated candidates and providing the information indicated in Annexure A or Annexure B, as the case may be, and nothing more;
- (d) a written notice in the form as the Council may direct—
 - (i) drawing the attention of legal practitioners to the fact that votes may be cast by ballot paper or by electronic means, whichever one or both may be applicable, and that legal practitioners may vote only once in the election and either by ballot paper or by electronic means;
 - (ii) advising the legal practitioner that, if he or she wishes to record a vote by ballot paper, he or she must —
 - (aa) place a cross on the accompanying ballot paper against the name of each candidate for whom the legal practitioner wishes to vote, so as to indicate a vote in favour of not more than the number of candidates for which there are vacancies, and to make no other mark or alteration on the ballot paper;
 - (bb) place the ballot paper in the envelope marked “ballot paper”;
 - (cc) seal the envelope containing the ballot paper;
 - (dd) complete and sign the form of declaration;

- (ee) place the completed and signed declaration, together with the envelope containing the ballot paper, in and seal the envelope marked “voting papers”; and
- (ff) dispatch the envelope marked “voting papers” with its contents to the Council so as to reach the Council not later than a date referred to in the notice; and
- (iii) advising the legal practitioner, if he or she wishes to record his or her vote by electronic means, to follow the guidelines referred to in subregulation (4)(c)(i): Provided that—
 - (aa) an electronic identification system must be developed and established;
 - (bb) legal practitioners will be required to identify themselves and authenticate their identification;
 - (cc) the electronic ballot must exactly resemble the ballot paper referred to in subregulation (11)(c); and
 - (dd) a legal practitioner must be given an overview of all his or her votes and be asked to confirm his or her choice before submitting the electronic ballot.

(Regulation 2(11) substituted by regulation 2(e) of GNR 3779 dated 11 August 2023)

(12) The notice referred to in subregulation (11)(d) must—

- (a) contain a warning that if—
 - (i) a vote is cast in favour of more than the number of names referred to in subregulation (11)(d)(ii)(aa);
 - (ii) any mark or alteration is made on the ballot paper other than the crosses indicating votes in favour of the candidates for whom the legal practitioner votes; or
 - (iii) the declaration referred to in subregulation (11)(b) is not duly completed and signed by the voting legal practitioner,

the ballot paper will be void; and

- (b) draw the attention of legal practitioners to the fact that the profiles of candidates, containing the information set out in subregulation (8), will be published on the website of the Council for a period of 30 days commencing on the date of the written notice referred to in subregulation (11)(d).

(Regulation 2(12) substituted by regulation 2(f) of GNR 3779 dated 11 August 2023)

(13) The Council must send separate notices to attorneys and advocates for purposes of any election in terms of these regulations, and all notices must distinguish clearly whether they are intended for the election of an attorney or for the election of an advocate.

(14)

(a) Within seven days after the last date on which nominations were required to be lodged in terms of subregulation (5), the Council must, subject to paragraph (b), in writing, appoint a legal practitioner who has been practising for a continuous period of more than 15 years, as a referee for the purpose of performing the duties assigned to a referee under these regulations.

(b) A referee may not be —

(i) a candidate for election to the Council in the election concerned;

(ii) a legal practitioner who has nominated a candidate for election to the Council in the election concerned; or

(iii) a member of the Council or of a Provincial Council.

(15) In the case of paper ballots, on each day on which envelopes marked “voting papers” sent to the Council are received by the Council, or if it is not practicable on that day, as soon as practicable thereafter, the chairperson or, if the chairperson has been nominated for election, the executive officer of the Council, must, in the presence of the referee, open each such envelope and remove its contents.

(Regulation 2(15) substituted by regulation 2(g) of GNR 3779 dated 11 August 2023)

(16) The chairperson or, if the chairperson has been nominated for election, the executive officer of the Council, and the referee must together note the name and surname of each legal practitioner who has submitted a declaration and envelope marked “ballot papers”, as well as whether that legal practitioner is an attorney or an advocate, in a voting register kept by the referee.

(Regulation 2(16) substituted by regulation 2(h) of GNR 3779 dated 11 August 2023)

(17)

(a) The chairperson or, if the chairperson has been nominated for election, the executive officer of the Council, and the referee must together-

(i) examine each declaration form; and

(ii) verify, to such extent as may appear necessary, the information contained therein against the records of the Council, and

satisfy themselves that the declaration form has been duly completed and signed by the legal practitioner, failing which it will be regarded as invalid.

- (b) In the event of a disagreement between the chairperson or, if the chairperson has been nominated for election, the executive officer of the Council, and the referee as to the validity or otherwise of any declaration form, the view of the referee prevails and his or her judgment on the matter is final.

(Regulation 2(17) substituted by regulation 2(i) of GNR 3779 dated 11 August 2023)

- (18) The referee must endorse, with his or her signature, each declaration form found to be invalid, with the reason for the invalidity.
- (19) The chairperson or, if the chairperson has been nominated for election, the executive officer of the Council, must, in the presence of the referee, in respect of each declaration form found to be valid, place its accompanying envelope marked "ballot paper" unopened through a slot in a ballot box of a design and construction approved by the Council, one ballot box for ballot papers in respect of attorneys and one ballot box for ballot papers in respect of advocates, which must have been securely locked and sealed in advance by the chairperson.

(Regulation 2(19) substituted by regulation 2(j) of GNR 3779 dated 11 August 2023)

- (20) After placing the last of such envelopes duly received in the ballot box the chairperson or, if the chairperson has been nominated for election, the executive officer of the Council, must, in the presence of the referee, securely seal the slot, and must hand the key to the referee.

(Regulation 2(20) substituted by regulation 2(k) of GNR 3779 dated 11 August 2023)

- (21) The chairperson or, if the chairperson has been nominated for election, the executive officer of the Council, must keep the ballot box in a secure place, locked and sealed as contemplated in subregulations (19) and (20), and must deliver the ballot box in that condition to the scrutineers appointed in terms of subregulation (23) on the day following the date referred to in subregulation (11)(d)(ii)(ff).

(Regulation 2(21) substituted by regulation 2(l) of GNR 3779 dated 11 August 2023)

(22)

- (a) All envelopes marked "ballot paper" which are accompanied by declaration forms which have been found to be invalid may not be placed in the ballot box.
- (b) The chairperson must —
 - (i) in the presence of the referee, replace the envelopes referred to in paragraph (a), marked "ballot paper" unopened, together with their accompanying declaration forms endorsed by the referee as provided in subregulation (18), in the envelopes marked "voting papers" in which they were received;
 - (ii) in the presence of the referee, securely seal all the documents;

- (iii) separately retain the documents, in the same manner as is provided for in subregulations (19) to (21), for a period of three months after the date referred to in subregulation (11)(d)(ii)(ff);

(Regulation 2(22)(b)(iii) substituted by regulation 2(m) of GNR 3779 dated 11 August 2023)

- (iv) after the three month period destroy all the documents, unless ordered otherwise by an order of court: Provided that if there is a dispute regarding the validity of the declaration form, the documents must be retained until the dispute has been resolved; and
- (v) keep a separate record of the number of declarations and envelopes thus retained by him or her.

(23)

- (a) Prior to or on the date referred to in subregulation (11)(d)(ii)(ff)[sic] the Council must, subject to paragraph (b), appoint not less than two legal practitioners and not more than ten legal practitioners, as scrutineers to examine the ballot papers placed in the ballot box and to count the votes received.

(Regulation 2(23)(a) substituted by regulation 2(n) of GNR 3779 dated 11 August 2023)

- (b) A scrutineer may not be —

- (i) a candidate for election to the Council in the election concerned;
- (ii) a legal practitioner who has nominated a candidate for election to the Council in the election concerned;
- (iii) a member of the Council or of a Provincial Council; or
- (iv) the legal practitioner appointed as referee under these regulations.

(24) Upon receipt by the scrutineers of the ballot box they must, with all of them present—

- (a) break the seal;
- (b) open the ballot box;
- (c) remove its contents;
- (d) open each of the envelopes marked “ballot paper” and remove the ballot paper contained therein;

- (e) examine the ballot paper and satisfy themselves of its validity in accordance with these regulations or, if not so satisfied, reject the ballot paper after having endorsed on its reverse over their signatures the reason for its rejection;
 - (f) count the votes recorded in the remaining ballot papers; and
 - (g) record the result in the presence of the chairperson and the referee.
- (25) After complying with the provisions in subregulation (24), the scrutineers must replace all the ballot papers, including those rejected, in the ballot box, lock and re-seal it and hand it to the chairperson for safekeeping.
- (25A)
- (a) On each day on which electronic ballots sent to the Council are received by the Council, or if it is not practicable on that day, as soon as practicable thereafter, the chairperson or, if the chairperson has been nominated for election, the executive officer of the Council, must, together with the referee, examine each electronic declaration form, must verify, to such extent as may appear necessary, the information contained in the electronic declaration form against the records of the Council, and must satisfy themselves that the electronic declaration form has been duly completed and signed by the legal practitioner, failing which it will be regarded as void.
 - (b) In the event of a disagreement between the chairperson or, if the chairperson has been nominated for election, the executive officer of the Council, and the referee as to the validity or otherwise of any electronic declaration form, the view of the referee must prevail and his or her judgment on the matter must be final.
 - (c) The referee must maintain a record of each electronic declaration form found to be invalid, with the reasons for the invalidity, and endorse the record with his or her signature.
 - (d) The chairperson or, if the chairperson has been nominated for election, the executive officer of the Council, and the referee must together note the name and surname of each legal practitioner who has submitted an electronic declaration form and an electronic ballot, as well as whether that legal practitioner is an attorney or an advocate, in a voting register kept by the referee.
 - (e) The chairperson or, if the chairperson has been nominated for election, the executive officer of the Council, must—
 - (i) in the presence of the referee, securely retain or save, in the form and manner approved by the Council, each electronic declaration form, as well as the accompanying electronic ballots which were found to be valid;

(ii) retain each electronic declaration form and electronic ballot in the same manner for a period of three months after the date of closing of casting of votes, whereafter he or she must destroy all such electronic declaration forms and electronic ballots, unless ordered otherwise by an order of court: Provided that should there be a dispute regarding the validity of the electronic declaration form or the electronic ballot, the electronic declaration forms and electronic ballots must be retained until the dispute has been resolved; and

(iii) keep a separate record of the number of electronic declaration forms and electronic ballots retained as contemplated in paragraph (ii).

(f) The independent electoral service provider must count the votes recorded in the electronic voting system and record the result in the presence of the scrutineers and the referee, whereafter the chairperson must securely retain or save the electronic records in the manner determined by the Council in these regulations.

(Regulation 2(25A) inserted by regulation 2(o) of GNR 3779 dated 11 August 2023)

(26)

(a) Subject to paragraph (b), the attorney candidates in the respective categories indicated on the ballot paper who receive the greatest number of votes of attorneys in diminishing order among the attorney candidates are deemed to have been elected as attorney members of the Council in those categories.

(b) If there are insufficient candidates to fill a particular category of attorneys, the Council must co-opt a suitable attorney to fill the vacancy, and the co-opted attorney is deemed to have been elected in accordance with these regulations.

(27)

(a) Subject to paragraph (b), the advocate candidates in the respective categories indicated on the ballot paper who receive the greatest number of votes of advocates in diminishing order among the advocate candidates are deemed to have been elected as advocate members of the Council in those categories.

(b) If there are insufficient candidates to fill a particular category of advocates, the Council must co-opt a suitable advocate to fill the vacancy, and the co-opted advocate is deemed to have been elected in accordance with these regulations.

(28) If there is a tie between two or more candidates, which results in there being uncertainty which of the candidates has been elected in the relevant category, the question which of them is deemed to have been elected must be determined immediately by lot drawn by the scrutineers in the manner determined by the scrutineers.

- (29) Upon completion of the counting of the electronic votes and paper ballots and the scrutiny by the scrutineers, the scrutineers must immediately report the result of the election in writing to the chairperson and referee.

(Regulation 2(29) substituted by regulation 2(p) of GNR 3779 dated 11 August 2023)

- (30) The report referred to in subregulation (29) must be signed by all the scrutineers and contain the following particulars:

- (a) The total number of ballot papers received;
- (b) the number of ballot papers rejected and the grounds of rejection;
- (c) the total number of votes in favour of each candidate in each category;
- (d) the result of any lot drawn in terms of subregulation (28); and
- (e) the names of those candidates who have been elected to the Council.

- (31) The referee must, as soon as possible thereafter, determine whether or not the election was conducted freely and fairly or not, and must issue in writing a signed declaration in that regard to the chairperson.

- (32) The chairperson must, after receipt of the report of the scrutineers referred to in subregulation (29) and the declaration from the referee referred to in subregulation (31)-

- (a) dispatch a notice to every attorney and every advocate admitted to practice and enrolled on the practising Roll, announcing the result of the election;
- (b) publish the result of the election on the Council's website; and
- (c) cause every candidate to be advised on the result of the election.

(Regulation 2(32) substituted by regulation 2(q) of GNR 3779 dated 11 August 2023)

- (33) The report of the scrutineers referred to in subregulation (29) and the declaration from the referee referred to in subregulation (30) constitute conclusive proof of the result of the election.

- (34) The scrutineers must return the ballot box containing the examined ballot papers, which is locked in accordance with subregulations (19) and (20) to the chairperson, together with its key.

- (35) The chairperson or, if the chairperson has been nominated for election, the executive officer of the Council, must retain the ballot box in a secure place in that condition for a period of three months after the date referred to in subregulation (11)(d)(ii)(ff), after which date he or she must break the seal, unlock the box, empty it of its contents and destroy the contents and the valid declaration forms received by

the Council, unless ordered otherwise by an order of court: Provided that should there be a dispute regarding the validity of the electronic declaration form or the electronic ballot, the electronic declaration forms and electronic ballots must be retained until the dispute has been resolved.

(Regulation 2(35) substituted by regulation 2(r) of GNR 3779 dated 11 August 2023)

- (36) If an election is declared to be not free and fair by the referee in terms of subregulation (31), or by a court on application brought within one month of the announcement of the result, the process for the election of members of the Council must be conducted afresh.

3. Establishment of Provincial Councils

- (1) The nine Provincial Councils contemplated in section 23 of the Act are—
- (a) the Eastern Cape Provincial Council with its office in East London;
 - (b) the Free State Provincial Council with its office in Bloemfontein;
 - (c) the Gauteng Provincial Council with its office in Pretoria;
 - (d) the KwaZulu-Natal Provincial Council with its office in Pietermaritzburg[sic];
 - (e) the Limpopo Provincial Council with its office in Polokwane;
 - (f) the Mpumalanga Provincial Council with its office in Nelspruit;
 - (g) the Northern Cape Provincial Council with its office in Kimberley;
 - (h) the North West Provincial Council with its office in Mahikeng; and
 - (i) the Western Cape Provincial Council with its office in Cape Town.
- (2) Every Provincial Council must, upon its establishment, establish at least one committee of the Provincial Council at every centre within the province concerned at which there is a seat of a Division of the High Court but no office of the Provincial Council.
- (3) The committee contemplated in subregulation (2) must consist of two attorneys and two advocates, appointed by the Provincial Council for such periods as may be determined by the Provincial Council to assist it in the exercising of its powers and the performance of its functions.
- (4) The Provincial Council concerned—
- (a) must determine the powers, duties and functions of a committee;

- (b) must designate a member of a committee as chairperson and, if it deems it necessary, may designate a member of a committee as deputy chairperson;
 - (c) may, at any time, remove a member of a committee or dissolve a committee; and
 - (d) may determine the procedure for the conduct of the meetings of a committee.
- (5) The Council must as soon as practically possible give consideration to the transfer of the office of the KwaZulu-Natal Provincial Council to Durban.

4. Composition of Provincial Councils

- (1) The Eastern Cape Provincial Council, Free State Provincial Council, KwaZulu-Natal Provincial Council, Limpopo Provincial Council, Mpumalanga Provincial Council, Northern Cape Provincial Council, North West Provincial Council and Western Cape Provincial Council must consist of ten practising legal practitioners each.
- (2) The Gauteng Provincial Council must consist of twelve practising legal practitioners.
- (3) The composition of the Provincial Councils is as set out in the table below.
- (4) Fifty percent of the legal practitioners serving on any Provincial Council must be female and fifty percent must be male.

5. Powers and functions of Provincial Councils

- (1) A legal practitioner and a candidate legal practitioner who has registered a business address within the area of jurisdiction of a Provincial Council falls within the jurisdiction of that Provincial Council.
- (2) A Provincial Council has the following powers and functions:
 - (a) To establish committees of the Provincial Council to assist it in the exercise of its powers and the performance of its functions, as contemplated in section 23(6) of the Act;
 - (b) to enroll duly admitted legal practitioners within the jurisdiction of that Provincial Council;
 - (c) to maintain the Roll in respect of legal practitioners, notaries and conveyancers within the area of jurisdiction of the Provincial Council;
 - (d) to receive and process applications for admission by persons within the jurisdiction of that Provincial Council to practise as legal practitioners, conveyancers or notaries, pursuant to the provisions of section 24(2) of the Act;
 - (e) to register and administer practical vocational training contracts entered into in terms of these regulations in respect of practical vocational training requirements of candidate legal practitioners within the jurisdiction of that Provincial Council;
 - (f) to receive and process applications by attorneys within the jurisdiction of that Provincial Council, for certificates to appear in the High Court, the Supreme Court of Appeal or the Constitutional Court, as contemplated in section 25(4) of the Act;
 - (g) to receive and process applications by candidate attorneys within the jurisdiction of that Provincial Council for certificates for the right of appearance in terms of section 25(5) of the Act, and to issue such certificates;
 - (h) to receive applications for and grant exemptions to, candidate legal practitioners or legal practitioners within the jurisdiction of that Provincial Council from performing community service, as contemplated in section 29(3) of the Act;
 - (i) to receive from the registrar of the Division of the High Court, and retain, the certified copies of court orders made by the High Court relating to legal practitioners within the jurisdiction of that Provincial Council, as contemplated in section 30(5) of the Act;
 - (j) to cancel or suspend the enrolment of a legal practitioner as contemplated in section 31 of the Act;

- (k) to receive and process applications for conversion of enrolment by legal practitioners, as contemplated in section 32 of the Act;
- (l) to receive applications for, and to approve, the establishment of law clinics, as contemplated by section 34(8) of the Act;
- (m) to establish investigating committees and disciplinary committees, as contemplated in section 37 of the Act;
- (n) to do any ancillary or administrative function that is necessary for the implementation or administration of Chapter 4 of the Act;
- (o) to institute urgent legal proceedings in the High Court in order to suspend a legal practitioner from practice and to obtain alternative interim relief, as contemplated in section 43 of the Act;
- (p) to receive and process applications for the issue of Fidelity Fund certificates to legal practitioners who are obliged to be in possession thereof, as contemplated in section 85 of the Act, and if satisfied as to the matters referred to in section 85(6), to issue the applicant with a Fidelity Fund certificate;
- (q) to inspect, either itself or through its nominee, the accounting records of any trust account practice in order to satisfy itself that the provisions of section 86 and section 87(1) are being complied with, as contemplated in section 87(2) of the Act;
- (r) to apply to the High Court to prohibit any legal practitioner referred to in section 84(1) of the Act from operating in any way on his or her trust account, and for an order appointing a *curator bonis* to administer and control that trust account, as contemplated in section 89 of the Act;
- (s) to apply to the High Court for an order appointing a *curator bonis* to control and administer the trust account of a legal practitioner in the circumstances contemplated in section 90 of the Act; and
- (t) to report to the Council on the exercise of the powers and the performance of the functions referred to in paragraphs (a) to (s) and to provide the information emanating from the exercise of the powers and performance of the functions, as and when required by the Council.

6. Practical vocational training requirements that candidate attorneys must comply with before they can be admitted by the court as legal practitioners

- (1) Any person intending to be admitted and enrolled as an attorney must, after that person has satisfied all the requirements for a degree referred to in sections 26(1)(a) or (b) of the Act serve under a practical vocational training contract with a person referred to in subregulation (5)—

(a) for an uninterrupted period of 24 months, and —

(i) during the service under a practical vocational training contract; or

(ii) within a period of no longer than 12 months after the termination of the practical vocational training contract,

must complete a programme of structured course work of not less than 150 notional hours: Provided that if a candidate attorney fails to complete the programme of structured course work within a period of 36 months after the date of registration of a practical vocational training contract, he or she will be required to repeat the course work programme; or

(b) for an uninterrupted period of 12 months if, prior to the registration of a practical vocational training contract, he or she has completed a programme of structured course work, comprising compulsory modules, of not less than 400 notional hours duration in the aggregate over a period of no longer than six months.

(2) A person referred to in subregulation (1)(a) who has entered into a practical vocational training contract for a period of 24 months may, after having served a period of 12 months under that contract, apply for admission and enrolment as an attorney if he or she has, during the course of that period of 12 months but outside of his or her normal working hours in terms of that contract, completed a programme of structured course work, comprising compulsory modules, of not less than 400 notional hours duration in the aggregate.

(3) Attendance at any training course presented at a Practical Legal Training School of the Law Society of South Africa for purposes of the Attorneys Act, for which the candidate attorney registered before the date referred to in section 120(4) of the Act and in respect of which the required attendance was completed within a period of 12 months after that date is regarded for purposes of these regulations as compliance with the requirements of course work referred to in subregulation (1)(a) and (b).

(4) Subject to the provisions of the Act, any period of service before a candidate attorney has satisfied the requirements of the degrees referred to in 26(1)(a) or (b) of the Act is not regarded as good or sufficient service in terms of a practical vocational training contract.

(5) A candidate attorney may be engaged or retained under a practical vocational training contract by an attorney —

(a) practising for his or her own account;

(b) practising as a partner in a firm of attorneys;

- (c) practising as a member of a juristic entity;
 - (d) practising as state attorney;
 - (e) who has practised as a professional assistant in a firm of attorneys for a period of five years within the preceding six years; or
 - (f) in the full time employ of, or who is a member of —
 - (i) Legal Aid South Africa, established in terms of the Legal Aid South Africa Act, 2014 (Act No. 39 of 2014); or
 - (ii) a legal aid institution which has been approved by the Council for the purpose of engaging candidate attorneys and who is responsible for supervising the training of candidate attorneys so engaged; or
 - (iii) any other institution approved by the Council for the purpose of engaging candidate attorneys and who is responsible for supervising the training of candidate attorneys so engaged.
- (6) An attorney engaging a candidate attorney –
- (a) as contemplated in subregulation (5)(a) to (d) must have practised as an attorney for a period of not less than three years, or for periods of not less than three years in the aggregate, during the preceding four years; and
 - (b) as contemplated in subregulation (f) must have practised as an attorney for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years prior to being engaged by Legal Aid South Africa or the institution concerned.
- (7) Service by a candidate attorney to any attorney while that attorney is not practising or has not practised as provided for in subregulation (5) is not deemed to be service under a practical vocational training contract for purposes of these regulations.
- (8) An attorney referred to in subregulation (5)(a) to (e) may, at no time, have more than three candidate attorneys and an attorney referred to in subregulation (5)(f) may, at no time, have more than six candidate attorneys in the aggregate engaged or retained in terms of a practical vocational training contract.
- (9) When an attorney dies or retires from practice or has been struck off the Roll, any of his or her surviving or remaining partners, any member of the commercial juristic entity of which he or she was a member, or any other attorney employed full time at Legal Aid South Africa or the institution concerned may take

cession of the practical vocational training contract of the candidate attorney, despite the fact that the cessionary may then have more than three or six, as the case may be, candidate attorneys, under contract.

(10) The programme of structured course work referred to in subregulation (1)(a) and (b) must be standardized and uniform throughout the Republic and comprise the following modules:

- (a) constitutional practice;
- (b) professional legal ethics;
- (c) personal injury claims;
- (d) high court practice;
- (e) magistrate's court practice;
- (f) criminal court practice;
- (g) labour dispute resolution;
- (h) alternative dispute resolution
- (i) attorneys' bookkeeping;
- (j) wills and estates;
- (k) matrimonial law;
- (l) legal costs;
- (m) drafting of contracts;
- (n) information and communication technology for practice, and associated aspects of cyber law; and
- (o) introduction to practice management.

(11) The training provided in terms of this regulation must be standardized by the Council in terms of norms and standards.

7. Practical vocational training requirements that pupils must comply with before they can be admitted by the court as legal practitioners

Prepared by:

- (1) A person intending to be admitted and enrolled as an advocate must—
 - (a) serve under a practical vocational training contract with a person referred to in subregulation (4) for an uninterrupted period of 12 months after that person has satisfied all the requirements for a degree referred to in sections 26(1)(a) or (b) of the Act; and
 - (b) prior to or during service under a practical vocational training contract complete a programme of structured course work, comprising compulsory modules, of not less than 400 notional hours duration in the aggregate over a period of no longer than six months.
- (2) Attendance at any training course approved by any existing society of advocates, the National Bar Council of South Africa or the General Council of the Bar for which the pupil registered before the date referred to in section 120(4) of the Act and in respect of which the required attendance was completed within a period of 12 months after that date is regarded for purposes of these regulations as compliance with the requirements of sub-regulation (1)(b).
- (3) Subject to the provisions of the Act, any period of service before the pupil has satisfied the requirements of the degrees referred to in subregulation (1) is not regarded as good or sufficient service in terms of a practical vocational training contract.
- (4) A pupil may be engaged or retained under a practical vocational training contract by an advocate—
 - (a) who is enrolled and practising as such; or
 - (b) in the full time employ of, or who is a member of—
 - (i) Legal Aid South Africa, established in terms of the Legal Aid South Africa Act, 2014 (Act No. 39 of 2014);
 - (ii) a legal aid institution which has been approved by the Council for the purpose of engaging pupils and who is responsible for supervising the training of pupils so engaged; or
 - (iii) any other institution approved by the Council for the purpose of engaging pupils and who is responsible for supervising the training of pupils so engaged.
- (5) An advocate engaging a pupil—
 - (a) as contemplated in subregulation (4)(a) must have practised as an advocate for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years; and

- (b) as contemplated in subregulation (4)(b) must have practised as an advocate for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years prior to being engaged by Legal Aid South Africa or the institution concerned.
- (6) Service by a pupil to an advocate while that advocate is not practising or has not practised as provided for in subregulation (5) is not deemed to be service under a practical vocational training contract for purposes of these regulations.
- (7) An advocate referred to in subregulation (4)(a) may, at no time, have more than one pupil and an advocate referred to in subregulation (4)(b) may, at no time, have more than six pupils in the aggregate engaged or retained in terms of a practical vocational training contract.
- (8) When an advocate dies or retires from practice or has been struck off the Roll any advocate who complies with the requirements of these regulations may take cession of the practical vocational training contract of the pupil, despite the fact that the cessionary may then have more than one or six, as the case may be, pupils, under contract.
- (9) The compulsory course work referred to in subregulation (1) must be standardized and uniform and comprise the following modules:
 - (a) for pupils intending to be admitted as advocates referred to in section 34(2)(b) of the Act, bookkeeping as contemplated in regulation 6(10)(i); *[sic]*
 - (b) advocacy skills, including trial and motion court proceedings and attendance of court proceedings;
 - (c) alternative dispute resolution;
 - (d) civil procedure;
 - (e) criminal procedure;
 - (f) professional conduct and legal ethics of advocates;
 - (g) legal writing and drafting;
 - (h) constitutional law and customary law; and
 - (i) information and communication technology for practice, and associated aspects of cyber law.
- (10) The training provided in terms of this regulation must be standardized by the Council in terms of norms and standards.

8. Right of appearance of pupils in court or any other institution

(1) A pupil is entitled to appear —

(a) in any court, other than the High Court, the Supreme Court of Appeal or the Constitutional Court;
and

(b) before any board, tribunal or similar institution on behalf of any person,

instead of and on behalf of and with the approval of the person under whose supervision he or she is undergoing his or her practical vocational training.

(2) A pupil may appear in a regional division established under section 2 of the Magistrates' Courts Act, 1944, as contemplated in subregulation (1) only if he or she has undergone at least six months of practical vocational training.

9. Mechanism to wind up affairs of National Forum

Immediately prior to the dissolution of the National Forum in terms of section 96(4) of the Act, all liabilities and obligations of the National Forum, of whatever nature, must be settled by the National Forum so that at the date of dissolution, the National Forum has no liabilities or obligations.

ANNEXURE A
(Regulation 2)
BALLOT PAPER - ATTORNEYS

Every attorney who is on the Roll of Practicing Attorneys may vote for a maximum of ten candidates from the candidates listed below.

Please note, however, that in order to comply with section 7(2)(a) of the Legal Practice Act, 2014 (Act No. 28 of 2014) and subject to the availability of the candidates, the four black women, three black men, one white woman and two white men with the highest number of votes in their respective categories will constitute the ten attorneys who will serve as members of the Legal Practice Council.

A short profile of each candidate is available on the Council's website.

A

B

C

When voting, please take into account the provisions of section 7(2) of the Legal Practice Act:

"When constituting the Council, the following factors must, as far as is practicable, be taken into account:

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

NOTE:

The term "Black" has the same meaning as in section 1 of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003), read with the Broad-Based Black Economic Empowerment Amendment Act, 2013 (Act No. 46 of 2013) as a generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent, or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date and such other persons as may be categorised as black persons for purposes of that legislation.

(Annexure A substituted by regulation 3 of GNR 3779 dated 11 August 2023)

ANNEXURE B
(Regulation 2)
BALLOT PAPER - ADVOCATES

Every advocate who is on the Roll of Practising Advocates may vote for a maximum of six candidates from the candidates listed below.

Please note that in order to comply with section 7(2)(a) of the Legal Practice Act, 2014 (Act No. 28 of 2014) and subject to the availability of the candidates, the two black women, two black men, one white woman and one white man with the highest number of votes in their respective categories will constitute the six advocates who will serve as members of the Legal Practice Council.

A short profile of each candidate is available on the Council's website.

A
B
C

When voting, please take into account the provisions of section 7(2) of the Legal Practice Act:

"When constituting the Council, the following factors must, as far as is practicable, be taken into account:

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

NOTE:

The term "Black" has the same meaning as in section 1 of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003), read with the Broad-Based Black Economic Empowerment Amendment Act, 2013 (Act No. 46 of 2013) as a generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent, or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date and such other persons as may be categorised as black persons for purposes of that legislation.

(Annexure B substituted by regulation 4 of GNR 3779 dated 11 August 2023)