Government Gazette

REPUBLIC OF SOUTH AFRICA
IRIPHABLIKHI YOMZANTSI-AFRIKA

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THE PRESIDENCY

No. 740 22 September 2014

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

Act No. 28 of 2014: Legal Practice Act, 2014

OFISI KAMONGAMELI

No. 740 22 September 2014

Esi sisaziso sokuba uMongameli uwamkele lo mthetho ulandelayo nonikezelwa kuluntu jikelele kolu xwebhu:—

Ino 28 ka 2014: nguMthetho Womsebenzi Wobugqwetha, 2014

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(English text signed by the President)
(Assented to 20 September 2014)

ACT

To provide a legislative framework for the transformation and restructuring of the legal profession in line with constitutional imperatives so as to facilitate and enhance an independent legal profession that broadly reflects the diversity and demographics of the Republic; to provide for the establishment, powers and functions of a single South African Legal Practice Council and Provincial Councils in order to regulate the affairs of legal practitioners and to set norms and standards; to provide for the admission and enrolment of legal practitioners; to regulate the professional conduct of legal practitioners so as to ensure accountable conduct; to provide for the establishment of an Office of a Legal Services Ombud and for the appointment, powers and functions of a Legal Services Ombud; to provide for a Legal Practitioners' Fidelity Fund and a Board of Control for the Fidelity Fund; to provide for the establishment, powers and functions of a National Forum on the Legal Profession; and to provide for matters connected therewith.

Preamble

WHEREAS section 22 of the Bill of Rights of the Constitution establishes the right to freedom of trade, occupation and profession, and provides that the practice of a trade, occupation or profession may be regulated by law;

AND BEARING IN MIND THAT—
- the legal profession is regulated by different laws which apply in different parts of the Republic and, as a result thereof, is fragmented and divided;
- access to legal services is not a reality for most South Africans;
- the legal profession is not broadly representative of the demographics of South Africa;
- opportunities for entry into the legal profession are restricted in terms of the current legislative framework;

AND IN ORDER TO—
- provide a legislative framework for the transformation and restructuring of the legal profession into a profession which is broadly representative of the Republic's demographics under a single regulatory body;
- ensure that the values underpinning the Constitution are embraced and that the rule of law is upheld;
- ensure that legal services are accessible;
- regulate the legal profession, in the public interest, by means of a single statute;
- remove any unnecessary or artificial barriers for entry into the legal profession;
- strengthen the independence of the legal profession; and
- ensure the accountability of the legal profession to the public.

(Engelse teks deur die President geteken)
(Goedgekeur op 20 September 2014)

UMTHETHO

Injongo kukuba kubekho umthetho wepalamente wokuba kuguqulwe kananjalo kwakhiwe ngokutsha umsebenzi wobugqwetha ngokuvisisana noko kufunwa nguMgaqo-siseko ukuze umsebenzi wobugqwetha wenziwe ube bheteke kwaye kubonakale kuwo iindidi ngeendidi zabantu boMzantsi-Afrika; kukuba kubekho iBhunga elinye Lomsebenzi Wobugqwetha LaseMzantsi-Afrika kunye nama-Bhunga amaPhondo, kuze kuxelwe amagunya awo nemisebenzi yawo, ukuze ilawuleke imicimbi yamagqwetha, kubekho nemigqaliselo; kukwenzela ukuba kwamkelwe amagqwetha aze abhaliswe; kukulawula ukuziphatha kwamagqwetha emsebenzini wawo ukuze kuqinisekwe ukuba aya kuphendula; kukuba kubekho iOfisi KaNozikhalazo Weenkonzo Zobugqwetha kuze kumiselwe uNozikhalazo Wemisebenzi Yobugqwetha, kuxelwe amagunya akhe nemisebenzi yakhe; kukuba kubekho *iLegal Practitioners' Fidelity Fund neBoard of Control for the Fidelity Fund;* kukuba kubekho iQonga Lomsebenzi Wobugqwetha LaseMzantsi-Afrika; nokulungiselela imicimbi ehlobene noko.

INTSHAYELELO

NJENGOKO isiqendu 22 soMqulu WamaLungelo oMgaqo-siseko similisela ilungelo lokurhweba ngokukhululekileyo, ukuwenza ngokukhululekileyo umsebenzi umntu awufundeleyo, kwaye sikwathi ukurhweba okanye ukwenza umsebenzi umntu awufundeleyo kusenokulawulwa ngumthetho;

NANJENGOKO—
- umsebenzi wobugqwetha ulawulwa yimithetho ngemithetho esebenza kwi-Riphablikhi, othe ngenxa yoko wathi saa;
- ukwenzelwa umsebenzi wobugqwetha kuyinto engenzekiyo kuninzi lwabemi boMzantsi-Afrika;
- umsebenzi wobugqwetha ungabonisi iindidi gabalala zabemi boMzantsi-Afrika;
- amathuba okungena kumsebenzi wobugqwetha emancinane ngokwemithetho yepalamente ekhoyo;

UKUZE KE—
- kubekho umthetho wepalamente wokuguqulwa nokwakhiwa ngokutsha komsebenzi wobugqwetha ube ngumsebenzi ekukho kuwo iindidi gabalala zabemi beRiphablikhi phantsi kwequmrhu elinye eliwulawulayo;
- kuqinisekiswe ukuba izithethe ezisisiseko zoMgaqo-Siseko kuphilwa ngazo nokuthi umthetho uyongama;
- kuqinisekiswe ukuba umsebenzi wobugqwetha uyafikeleleka;
- ulawulwe umsebenzi wobugqwetha, ukuze kuncedakale uluntu, kusenziwa oko ngomthetho wepalamente omnye;
- kusuke imiqobo engeyomfuneko exabe endleleni yokungena kumsebenzi wobugqwetha;
- komelezwe ukuzimela geqe komsebenzi wobugqwetha; nokuze
- kuqinisekiswe ukuba abakumsebenzi wobugqwetha bayaphendula kuluntu.

Parliament of the Republic of South Africa enacts as follows:—

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IPalamente yeRiphablikhi yoMzantsi-Afrika iwis' umthetho ngale ndlela ilandelayo:—

OKUQULETHWE NGULO MTHETHO

Iziqendu

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"Admission of Advocates Act" means the Admission of Advocates Act, 1964 (Act No. 74 of 1964);

"advocate" means a legal practitioner who is admitted and enrolled as such under this Act;

"appeal tribunal" means an appeal tribunal established in terms of section 41;

98. Amagunya eQonga nemisebenzi yalo
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102. Ukuyeka esikhundleni
103. Ukushenxiswa esikhundleni
104. Izithuba kwiQonga nokuvalwa kwazo
105. Iintlanganiso zeQonga
106. Inani elifunekayo lamalungu ukuze ziqhubeke iintlanganiso zeQonga nenkqubo emayilandelwe kwiintlanganiso
107. Izigqibo zeQonga
108. Iimali zeQonga, inkcitho yalo nokuphendula kwalo

iNxalenye 2

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iNxalenye 3

110. Ukupheliswa kwee*Fidelity Fund* zamazwe awayefudula eyiTBVC nokufuduswa kwempahla yawo, amalungelo awo, neembopheleleko zawo zifuduselwa kwi*Legal Practitioners' Fidelity Fund*
111. Okuza kwenzeka kweli xesha lokuwelela kumthetho omtsha mayela nee*Attorneys Fidelity Fund Boards of Control ezikhoyo*
112. Okuza kwenzeka kweli xesha lokuwelela kumthetho omtsha mayela neemfuneko zokufaneleka
113. Okuza kwenzeka kweli xesha lokuwelela kumthetho omtsha mayela neziqinisekiso ze*Fidelity Fund*
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116. Amatyala abengekaqukunjelwa
117. Okuza kwenzeka kweli xesha lokuwelela kumthetho omtsha mayela nemibutho yamagqwetha ekhoyo
118. Ukuchazwa kwentsingiselo yeembekiselo ezithile emthethweni

iNxalenye 4

119. Ukutshitshiswa kwemithetho nokwenziwa utshintsho kwayo, nokulondolozwa kweenxalenye ezithile zayo
120. Igama lawo nokuqalisa kwawo ukusebenza

ISIHLOMELO

Imithetho etshitshiswayo okanye eyenziwe utshintsho

ISAHLUKO 1

UKUCHAZWA KWAMAGAMA, UKUSEBENZA KWALO MTHETHO NENJONGO YAWO

Ukuchazwa kwamagama

1. Kulo Mthetho, ngaphandle kokuba okunye okubhaliweyo kuwo kubonisa ngenye indlela—

"i*Admission of Advocates Act*" yi*Admission of Advocates Act*, 1964 (Umthetho 74 ka-1964);

"igqwetha leejaji" ligqwetha elamkelwe laza labhaliswa ngokwalo Mthetho;

"abachopheli-sibheno" ngabachopheli-sibheno abasekwe ngokwesiqendu 41;

"assessment" means the process under which it is determined whether a candidate legal practitioner has successfully attained the level of competence referred to in section 28;

"attorney" means a legal practitioner who is admitted and enrolled as such under this Act;

"Attorneys Act" means the Attorneys Act, 1979 (Act No. 53 of 1979);

"Auditor-General" means the person appointed as the Auditor-General in terms of section 193 of the Constitution;

"bank" means a bank as defined in section 1 of the Banks Act, 1990 (Act No. 94 of 1990), and registered, otherwise than provisionally, or regarded as having been registered as a bank in terms of Chapter III of that Act;

"Board" means the Legal Practitioners' Fidelity Fund Board established in terms of section 61;

"candidate attorney" means a person undergoing practical vocational training with a view to being admitted and enrolled as an attorney;

"candidate legal practitioner" means a person undergoing practical vocational training, either as a candidate attorney or as a pupil;

"code of conduct" means a written code setting out rules and standards relating to ethics, conduct and practice for legal practitioners and its enforcement through the Council and its structures, which may contain different provisions for advocates and attorneys and different provisions for different categories of legal practitioners;

"Constitution" means the Constitution of the Republic of South Africa, 1996;

"conveyancer" means any practising attorney who is admitted and enrolled to practise as a conveyancer in terms of this Act;

"Council" means the South African Legal Practice Council established in terms of section 4;

"court" means any court in the Republic as defined in section 166 of the Constitution;

"Department" means the Department of Justice and Constitutional Development;

"disciplinary body" means—

(a) an investigating committee;
(b) a disciplinary committee; or
(c) an appeal tribunal, as the case may be;

"Director-General" means the Director-General of the Department;

"Fidelity Fund certificate" means the certificate referred to in section 85;

"financial year" means the financial year of the Fund referred to in section 59;

"Fund" means the Legal Practitioners‘ Fidelity Fund referred to in section 53;

"High Court" means the High Court of South Africa established by section 6 of the Superior Courts Act, (Act No. 10 of 2013), or, if the context indicates otherwise, the Division thereof having jurisdiction;

"justice centre" means an office of Legal Aid South Africa and includes a satellite office;

"law clinic" means a law clinic referred to in section 34(8);

"Legal Aid South Africa" means the Legal Aid Board established in terms of section 2 of the Legal Aid Act, 1969 (Act No. 22 of 1969);

"legal practitioner" means an advocate or attorney admitted and enrolled as such in terms of sections 24 and 30, respectively;

"LLB degree" means a Bachelor of Laws, also referred to as a degree of *baccalaureus legum*, referred to in section 26;

"magistrates' court" means a regional court or a district court established in terms of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944);

"Minister" means the Minister of Justice and Constitutional Development;

"notary" means any practising attorney who is admitted and enrolled to practise as a notary in terms of this Act;

"Ombud" means the person appointed by the President as a Legal Services Ombud in terms of section 47;

"practical vocational training" means training required in terms of this Act to qualify as a candidate attorney or pupil in order to be admitted and enrolled as an attorney or advocate;

"prescribed" means prescribed by regulation and **"prescribe"** has a corresponding meaning;

"uvavanyo" yinkqubo ekuthi kuqondwe ngayo ukuba igqwetha elisengumkhwetha lifikelele kusini na kwinqanaba lobuchule obufunekayo ekuthethwe ngabo kwisiqendu 28;
"igqwetha" ligqwetha elamkelwe laza labhaliswa ngokwalo Mthetho;
"i*Attorneys Act*" yi*Attorneys Act*, 1979 (Umthetho 53 ka-1979);
"uMphicothi-Zimali-Jikelele" ngumntu omiselwe ukuba abe nguMphicothi-Zimali-Jikelele ngokwesiqendu 193 soMgaqo-siseko;
"ibhanki" yibhanki ngendlela echazwe ngayo kwisiqendu 1 se*Banks Act*, 1990 (Umthetho 94 ka-1990), yaza yabhaliswa, kungekuko okwethutyana, okanye yathathwa njengebhaliswe njengebhanki ngokweSahluko III saloo Mthetho;
"iBhodi" yi*Legal Practitioners' Fidelity Fund Board* esekwe ngokwesiqendu 61;
"igqwetha eliqeqeshwayo" ngumntu oqeqeshelwa umsebenzi ngenjongo yokuba amkelwe aze abhaliswe njengegqwetha;
"igqwetha elisengumkhwetha" ngumntu oqeqeshelwa umsebenzi, eza kuba ligqwetha okanye eza kuba ligqwetha leejaji;
"imigqaliselo yokuziphatha" yimigqaliselo ebhaliweyo echaza imigaqo nemilinganiselo yokufanelekileyo nokungafanelekanga, ukuziphatha nokusisithethe samagqwetha nokunyanzeliswa kwaso liBhunga nangamasebe alo, migqaliselo leyo esenokuba nemigaqo engafaniyo kumagqwetha eejaji nakumagqwetha, ize ibe nemigaqo engafaniyo kwiindidi ngeendidi zamagqwetha;
"uMgaqo-siseko" nguMgaqo-siseko weRiphablikhi yoMzantsi-Afrika, 1996;
"igqwetha lonaniselwano ngemizi" ligqwetha elenza umsebenzi wobugqwetha elamkelwe laza labhaliswa ukuba lenze umsebenzi wokubhalisa unaniselwano ngemizi ngokwalo Mthetho;
"iBhunga" liBhunga Lomsebenzi Wobugqwetha LaseMzantsi-Afrika elisekwe ngokwesiqendu 4;
"inkundla" yiyo nayiphi na inkundla kwiRiphablikhi ngendlela echazwe ngayo kwisiqendu 166 soMgaqo-siseko;
"iSebe" liSebe Lobulungisa Nophuhliso LoMgaqo-Siseko;
"iqumrhu lolungiso-similo"—
(a) yikomiti ephandayo;
(b) yikomiti yolungiso-similo; okanye
(c) ngabachopheli-sibheno;
"uMlawuli-Jikelele" nguMlawuli-Jikelele weSebe;
"isiqinisekiso se*Fidelity Fund*" sisiqinisekiso ekuthethwe ngaso kwisiqendu 85;
"unyaka-mali" ngunyaka-mali weNgxowa-Mali ekuthethwe ngawo kwisiqendu 59;
"iNgxowa-Mali" yiLegal Practitioners' Fidelity Fund ekuthethwe ngayo kwisiqendu 53;
"iNkundla Ephakamileyo" yiNkundla Ephakamileyo yoMzantsi-Afrika eyasekwa sisiqendu 6 soMthetho weeNkundla Ezingentla, 2013 (Umthetho 10 ka-2013), okanye, ukuba okubhaliweyo kubonisa ngenye indlela, liCandelo layo elinegunya;
"iziko lobulungisa" ("justice centre") yiofisi yakwaLegal Aid South Africa, kwaye liquka neofisi elisetyana;
"iziko-ncedo lomthetho" liziko-ncedo lomthetho ekuthethwe ngalo kwisiqendu 34(8);
"iLegal Aid South Africa" yiLegal Aid Board eyasekwa ngokwesiqendu 2 se*Legal Aid Act*, 1969 (Umthetho 22 ka-1969);
"igqwetha" ligqwetha leejaji okanye igqwetha elamkelweyo laza labhaliswa ngokwesiqendu 24 nesama-30;
"isidanga seLLB" sisidanga seBachelor of Laws, esikwabizwe ngokuba sisidanga *sebaccalaureus legum* kwisiqendu 26;
"inkundla yemantyi" yinkundla yenqila okanye yesithili eyasekwa ngokwe-*Magistrates' Court Act*, 1944 (Umthetho 32 ka-1944);
"uMphathiswa" nguMphathiswa weSebe Lobulungisa Nophuhliso LoMgaqo-siseko;
"igqwetha lamaxwebhu afungelweyo" lilo naliphi na igqwetha elenza umsebenzi wobugqwetha elamkelweyo laza labhaliswa ukuze lisebenze njengegqwetha lamaxwebhu afungelwweyo ngokwalo Mthetho;
"uNozikhalazo" ngumntu omiselwe nguMongameli ukuba abe nguNozikhalazo Wemisebenzi Yobugqwetha ngokwesiqendu 47;

"Provincial Council" means a Provincial Council established in terms of section 23;
"pupil" means a person undergoing practical vocational training with a view to being admitted and enrolled as an advocate;
"Republic" means the Republic of South Africa;
"Roll" means the Roll of Legal Practitioners referred to in section 30(3);
"rules"—
(a) means the rules of the Council;
(b) for the purposes of sections 48(3)*(a)* and *(d)* and 52(1), means the rules of the Legal Services Ombud; and
(c) for the purposes of sections 63(1)*(e)* and *(f)*, means the rules of the Board;
"South African Human Rights Commission" means the South African Human Rights Commission referred to in Chapter 9 of the Constitution;
"state advocate" means a person who has been admitted and enrolled as an advocate in terms of this Act, and who is appointed by the National Prosecuting Authority of South Africa as a state advocate in terms of the National Prosecuting Authority Act, 1998 (Act No. 32 of 1998);
"state attorney" means a person who has been admitted and enrolled as an attorney in terms of this Act, and who is appointed as a state attorney in terms of the State Attorney Act, 1957 (Act No 56 of 1957);
"this Act" includes any regulation, rule or notice made or issued in terms of this Act; and
"trust account practice" means a practice conducted by—
(a) one or more attorneys who are; or
(b) an advocate referred to in section 34(2)*(b)* who is, in terms of this Act, required to hold a Fidelity Fund certificate.

Application of Act

2. This Act is applicable to all legal practitioners and all candidate legal practitioners.

Purpose of Act

3. The purpose of this Act is to—
(a) provide a legislative framework for the transformation and restructuring of the legal profession that embraces the values underpinning the Constitution and ensures that the rule of law is upheld;
(b) broaden access to justice by putting in place—
(i) a mechanism to determine fees chargeable by legal practitioners for legal services rendered that are within the reach of the citizenry;
(ii) measures to provide for the rendering of community service by candidate legal practitioners and practising legal practitioners; and
(iii) measures that provide equal opportunities for all aspirant legal practitioners in order to have a legal profession that broadly reflects the demographics of the Republic;
(c) create a single unified statutory body to regulate the affairs of all legal practitioners and all candidate legal practitioners in pursuit of the goal of an accountable, efficient and independent legal profession;
(d) protect and promote the public interest;
(e) provide for the establishment of an Office of Legal Services Ombud;
(f) provide a fair, effective, efficient and transparent procedure for the resolution of complaints against legal practitioners and candidate legal practitioners; and
(g) create a framework for the—

"ukuqeqeshelwa umsebenzi" luqeqesho olufunekayo ngokwalo Mthetho ukuze afaneleke oqeqeshelwa ukuba ligqwetha okanye oqeqeshelwa ukuba ligqwetha leejaji ukuze amkelwe aze abhaliselwe ukuba ligqwetha okanye ukuba ligqwetha leejaji;

"efunekayo" lithetha efunwa ngummiselo, lize elithi **"ukufuna"** libe kwanaloo ntsingiselo;

"iBhunga lePhondo" liBhunga lePhondo elisekwe ngokwesiqendu 23;

"oza kuba ligqwetha leejaji" ngumntu ofumana ukuqeqeshelwa umsebenzi ngenjongo yokuba amkelwe aze abhaliswe njengegqwetha leejaji;

"iRiphablikhi" yiRiphablikhi yoMzantsi-Afrika;

"uLuhlu" luLuhlu Lwamagqwetha ekuthethwe ngalo kwisiqendu 30(3);

"imigaqo"—

(a) yimigaqo yebhunga;

(b) ngenjongo yokusebenza kwesiqendu 48(3)*(a)* no-*(d)* nesama-52(1), yimigaqo kaNozikhalazo Weenkonzo Zomthetho; kananjalo

(c) ngenjongo yokusebenza kwesiqendu 63(1)*(e)* no-*(f)*, yimigaqo yebhodi;

"iKomishoni yamaLungelo oLuntu yaseMzantsi-Afrika" yiKomishoni yamaLungelo oLuntu yaseMzantsi-Afrika ekuthethwe ngayo kwiSahluko 9 soMgaqo-siseko;

"umtshutshisi weNkundla Ephakamileyo" ngumntu othe wamkelwa waza wabhaliswa njengegqwetha leejaji ngokwalo Mthetho, noqeshwe liGunya Elitshutshisayo Jikelele laseMzantsi-Afrika njengomtshutshisi weNkundla Ephakamileyo ngok*National Prosecuting Act, 1998 (Umthetho 32 ka-1998);*

"igqwetha likarhulumente" ngumntu othe wamkelwa waza wabhaliswa njengegqwetha ngokwalo Mthetho, noqeshelwe ukuba ligqwetha likarhulumente ngokwe*State of Attorney Act, 1957 (Umthetho* 56 ka-1957);

"lo Mthetho" liquka nawuphi na ummiselo, umgaqo okanye isihlokomiso esikhutshwe ngokwalo Mthetho; lize elithi

"iofisi yobugqwetha yeemali zokuphathiswa" yiofisi yobugqwetha—

(a) yegqwetha elinye okanye aliqela; okanye

(b) yegqwetha lejaji ekuthethwe ngalo kwisiqendu 34(2)*(b)* ekufuneka ngokwalo Mthetho libe nesiqinisekiso se*Fidelity Fund.*

Ukusebenza kwalo Mthetho

2. Lo Mthetho usebenza kuwo onke amagqwetha nakuwo onke amagqwetha asengabakhwetha.

Injongo yalo Mthetho

3. Injongo yalo Mthetho—

(a) kukuba kubekho umthetho wepalamente wokuguqulwa nokwakhiwa ngokutsha komsebenzi wobugqwetha ohambisana nezithethe ezisisiseko zoMgaqo-Siseko noqinisekisa ukuba umthetho uyasebenza;

(b) kukwenza ukuba kufikeleleke kakhudwana kubulungisa ngokwenza ukuba kubekho—

   (i) icebo lokuqingqa iimali ezibizwa ngamagqwetha ngemisebenzi yobugqwetha ayenzileyo zibe zezinokufikelelwa ngabemi;

   (ii) amanyathelo okusetyenzelwa koluntu ngamagqwetha asengabakhwetha nangamagqwetha asel' esebenza;

   (iii) amanyathelo abanik' amathuba alinganayo bonke abanqwenela ukuba ngamagqwetha ukuze kumsebenzi wobugqwetha kubonakale iindidi gabalala zabemi beRiphablikhi;

(c) kukuba kubekho iqumrhu elinye elidibeneyo elisekwe ngumthetho wepalamente lokulawula imicimbi yawo onke amagqwetha namagqwetha asengabakhwetha ukuze abakumsebenzi wobugqwetha bamanyane, baphendule, besebenza ngempumelelo kwaye bezimele geqe;

(d) kukukhusela nokukhuthaza oko kuluncedo eluntwini;

(e) kukuba kubekho iOfisi kaNozikhalazo Wemisebenzi Yobugqwetha;

(f) kukuba kubekho inkqubo engakhalazisiyo, esebenza ngempumelelo, etyibilikayo, neselubala yokusonjululwa kwezikhalazo ezikhalazela amagqwetha namagqwetha asengabakhwetha;

(g) kubekho nendlela—

(i) development and maintenance of appropriate professional and ethical norms and standards for the rendering of legal services by legal practitioners and candidate legal practitioners;
(ii) regulation of the admission and enrolment of legal practitioners; and
(iii) development of adequate training programmes for legal practitioners and candidate legal practitioners.

CHAPTER 2

SOUTH AFRICAN LEGAL PRACTICE COUNCIL

Part 1

Establishment, powers and functions of South African Legal Practice Council

Establishment of Council

4. The South African Legal Practice Council is hereby established as a body corporate with full legal capacity, and exercises jurisdiction over all legal practitioners and candidate legal practitioners as contemplated in this Act.

Objects of Council

5. The objects of the Council are to—
(a) facilitate the realisation of the goal of a transformed and restructured legal profession that is accountable, efficient and independent;
(b) ensure that fees charged by legal practitioners for legal services rendered are reasonable and promote access to legal services, thereby enhancing access to justice;
(c) promote and protect the public interest;
(d) regulate all legal practitioners and all candidate legal practitioners;
(e) preserve and uphold the independence of the legal profession;
(f) enhance and maintain the integrity and status of the legal profession;
(g) determine, enhance and maintain appropriate standards of professional practice and ethical conduct of all legal practitioners and all candidate legal practitioners;
(h) promote high standards of legal education and training, and compulsory post-qualification professional development;
(i) promote access to the legal profession, in pursuit of a legal profession that broadly reflects the demographics of the Republic;
(j) ensure accessible and sustainable training of law graduates aspiring to be admitted and enrolled as legal practitioners;
(k) uphold and advance the rule of law, the administration of justice, and the Constitution of the Republic; and
(l) give effect to the provisions of this Act in order to achieve the purpose of this Act, as set out in section 3.

Powers and functions of Council

6. (1) *(a)* In order to achieve its objects referred to in section 5, and, having due regard to the Constitution, applicable legislation and the inputs of the Ombud and Parliament, the Council may—
(i) acquire or hire movable or immovable property;
(ii) develop, hypothecate, let, sell or otherwise dispose of its movable or immovable property;
(iii) make donations and grants in support of projects related to its objects;
(iv) perform any act relating to its financial affairs as may be necessary;

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(i) yokuphuculwa nokulondolozwa kwemigaqo efanelekileyo yokuziphatha ekwenziweni komsebenzi wobugqwetha ngamagqwetha;
(ii) yokulawulwa kokwamkelwa nokubhaliswa kwamagqwetha; nakanjalo
(iii) yokuphuculwa koqeqesho olwaneleyo lwamagqwetha namagqwetha asengabakhwetha.

ISAHLUKO 2

IBHUNGA LOMSEBENZI WOBUGQWETHA LASEMZANTSI-AFRIKA

iNxalenye 1

Ukusekwa kweBhunga Lomsebenzi Wobugqwetha LaseMzantsi-Afrika, amagunya alo nemisebenzi yalo

Ukusekwa kweBhunga

4. Ngokwenjenje kusekwa iBhunga Lomsebenzi Wobugqwetha LaseMzantsi-Afrika njengequmrhu elinamagunya apheleleyo omthetho, nelinegunya phezu kwawo onke amagqwetha namagqwetha asengabakhwetha ngendlela ekucingwa ngayo kulo Mthetho.

Iinjongo zeli Bhunga

5. Iinjongo zeli Bhunga—
(a) kukuphumelelisa umnqweno wokuba kubekho inguqu kwabakumsebenzi wobugqwetha, badityaniswe, baphendule, basebenze ngempumelelo kwaye bezimele geqe;
(b) kukuqinisekisa ukuba iimali ezibizwa ngamagqwetha ngemisebenzi yobugqwetha ayenzileyo ziyafikeleleka kwaye zibenza bakwazi abantu ukwenzelwa imisebenzi yobugqwetha, ngaloo ndlela kwenziwa kube lula ngakumbi ukufumana ubulungisa;
(c) kukukhuthaza nokukhusela okuza kuba luncedo kuluntu;
(d) kukuwalawula onke amagqwetha nawo onke amagqwetha asengabakhwetha ;
(e) kukuba babe soloko bezimele geqe abakumsebenzi wobugqwetha;
(f) kukunyusa umgangatho wabakumsebenzi wobugqwetha nokuze uhlale ukuloo mgangatho;
(g) kukwenza isigqibo ngemilinganiselo efanelekileyo yabakumsebenzi wobugqwetha nangendlela yokuziphatha yabo bonke abakumsebenzi wobugqwetha nabo bonke abakumsebenzi wobukhankatha ebugqwetheni;
(h) kukunyusa umgangatho woqeqesho, nokunye ukuxhotyiswa ngezakhono okusisinyanzelo emva kokuba umntu ethe waligqwetha;
(i) kukwenza ukuba bakwazi ukungena kumsebenzi wobugqwetha abafuna ukungena, ukuze kumsebenzi wobugqwetha kubekho zonke iindidi gabalala zabemi beRiphablikhi;
(j) kukuqinisekisa ukuba bayakufumana ukuqeqeshwa abaphumelele izifundo zomthetho abanqwenela ukwamkelwa nokubhaliswa njengamagqwetha;
(k) kukuphakamisa ukongama komthetho, ukusingathwa kobulungisa nokuphakamisa uMgaqo-Siseko weRiphablikhi; kananjalo
(l) kukuphumelelisa okutshiwo ngulo Mthetho khon' ukuze ifezeke injongo yalo Mthetho, njengoko ichazwe kwisiqendu 3.

Amagunya eBhunga nemisebenzi yalo

6. (1) *(a)* Ukuze iBhunga lizifeze iinjongo zalo ekuthethwe ngazo kwisiqendu 5, kwaye, licingela uMgaqo-Siseko nomthetho onokuthi usebenze kule meko kunye noko kutshiwo nguNozikhalazo nayiPalamente, linokuthi—
(i) lizuze okanye liqeshe impahla enokufuduswa okanye engenakufuduswa;
(ii) liyiphucule impahla yalo enokufuduswa okanye engenakufuduswa, libambise ngayo, liyiqeshe, liyithengise okanye lahlukane nayo nokuba kungayiphi na indlela;
(iii) lenze iminikelo nezipho lixhasa amaphulo ahlobene neenjongo zalo;
(iv) lenze nasiphi na isenzo esinokuthi sifumenek ngokumayela nemeko yalo yemali;

(v) institute or defend legal proceedings on behalf of the Council;
(vi) impose monetary penalties;
(vii) invest Council funds;
(viii) borrow or raise money;
(ix) insure against any risk;
(x) delegate any of its powers and functions to its committees or Provincial Councils, subject to any conditions it may impose, which delegation does not—
(aa) divest the Council of the power or function so delegated; and
(bb) preclude the Council from varying or setting aside any decision made under a delegation;
(xi) provide financial support to organisations or institutions providing legal education and training, including legal education and training for purposes of compulsory post-qualification professional development, with the object of enhancing the standards of legal services and increasing access to justice;
(xii) provide financial support to legal practitioners, organisations or institutions for the purposes of providing work-place training opportunities for candidate legal practitioners;
(xiii) provide financial support to non-profit organisations and institutions promoting access to justice for poor people; and
(xiv) pay for services rendered at the request of the Council with the object of enhancing the professional standards of legal practitioners.

(b) In order to achieve its objects referred to in section 5, and having due regard to the Constitution, applicable legislation and the inputs of the Ombud and Parliament, the Council must—
(i) develop norms and standards to guide the conduct of legal practitioners, candidate legal practitioners and the legal profession;
(ii) advise the Minister with regard to matters concerning the legal profession and legal practice;
(iii) do all things necessary for the proper and effective performance of its functions or the exercise of its powers;
(iv) pay out of pocket expenses to Council members; and
(v) develop programmes in order to empower historically disadvantaged legal practitioners, as well as candidate legal practitioners.

(2) The Council, in order to perform its functions properly—
(a) must employ an executive officer and such officials or staff as may be necessary to enable it to carry out its functions and determine the remuneration and other conditions of service of its officials and staff;
(b) may establish, promote, arrange, administer or assist in the establishment, promotion, arrangement or administration of insurance, medical-aid, pension, provident or benevolent schemes for the benefit of its officials and staff and the dependants of such officials and staff;
(c) may conclude agreements with any person or organisation for the performance of any particular act or particular work or the rendering of particular services for the purposes of furthering the objects of the Council;
(d) may enter into contracts in connection with the performance of its functions or the exercise of its powers;
(e) may pay an honorarium or an allowance to any person to cover expenses reasonably incurred by him or her in connection with any act performed at the request of the Council or in terms of its directions on behalf of or for the benefit of the Council and the furtherance of its objects; and
(f) may publish or cause to be published periodicals, pamphlets and other printed material for the benefit of legal practitioners or the public.

(3) The Council must, subject to this Act—
(a) enrol a duly admitted legal practitioner as such; and
(b) keep a Roll of legal practitioners and decide on—
(i) the form of the certificates and the Roll to be kept;
(ii) the maintenance of the Roll or issuing of certificates; and

(v) liqalise inyathelo lomthetho okanye lizikhusele kwinyathelo lomthetho egameni leBhunga;
(vi) likhuphe izohlwayo eziyimali;
(vii) lilondoloze ngendlela enenzuzo iimali zeBhunga;
(viii) liboleke okanye liqokelele imali;
(ix) likhusele impahla yalo kwingozi esenokwenzeka;
(x) amagunya alo nemisebenzi yalo liyiphathise iikomiti zalo okanye amaBhunga amaPhondo, kuxhomekeke kwimiqathango elinokuthi liyibeke, kube oko kuphathisa—
(aa) kungalohluthi iBhunga igunya eliliphathisileyo okanye umsebenzi eliwuphathisileyo; kananjalo
(bb) kungalithinteli iBhunga ekwenzeni utshintsho kwisigqibo okanye ekusijikeni isigqibo esenziwe ngokuphathiswa;
(xi) lixhase ngemali imibutho okanye amaziko anika uqeqesho lomsebenzi wobugqwetha, kuquka noqeqesho lomsebenzi olusisinyanzelo lwasemva kokuba engenile umntu ebugqwetheni, ngenjongo yokunyusa umgangatho womsebenzi wobugqwetha nokwenza kube lula ukufumana ubulungisa;
(xii) lixhase ngemali amagqwetha, imibutho okanye amaziko ngenjongo yokuveza amathuba okuqeqeshelwa emsebenzini kwamagqwetha asengabakhwetha;
(xiii) lixhase ngemali imibutho engeyokarhulumente ekhuthaza ukufunyanwa kobulungisa ngabantu abangamahlwempu; kananjalo
(xiv) lihlawulele imisebenzi eyenziweyo ngokucelwa liBhunga ngenjongo yokunyusa umgangatho wamagqwetha.

(b) Ukuze iBhunga lizifeze iinjongo zalo ekuthethwe ngazo kwisiqendu 5, kwaye licingela uMgaqo-siseko nemithetho yepalamente esebenza kule meko, nezimvo ezivela kuNozikhalazo nakwiPalamente, iBhunga—
(i) malithi gqi nemigaqo yokunqwanqwada ukuziphatha kwamagqwetha namagqwetha asengabakhwetha nomsebenzi wobugqwetha;
(ii) malicebise uMphathiswa ngemicimbi engomsebenzi wobugqwetha;
(iii) malenze konke okuyimfuneko ukuze liyenze kakuhle imisebenzi yalo okanye ukuze lilisebenzise kakuhle igunya lalo;
(iv) malihlawule amalungu eBhunga iindleko angene kuzo ekhupha kwiipokotho zawo; kananjalo
(v) malithi gqi neendlela zokuphucula amagqwetha awayefudula ehlelelekile kwakunye namagqwetha asengabakhwetha.

(2) Ukuze iBhunga liyenze ngokufanelekileyo imisebenzi yalo—
(a) maliqeshe igosa eliphezulu elingumququzeleli kunye namanye amagosa nabasebenzi abanokuthi bafuneke ukuze likwazi ukuyiphumeza imisebenzi yalo, kwaye malenze isigqibo ngemivuzo neminye imiqathango yokusebenza kwamagosa alo nabasebenzi;
(b) malisungule i-inshorensi, i*medical aid* nomhlala-phantsi okanye likhuthaze ukusungulwa kwezi zinto okanye lincedise ekusungulweni kwazo, ukuze kuncedakale amagosa alo nabasebenzi kunye nabantwana bamagosa nabasebenzi;
(c) linokungena kwizivumelwano kunye nawuphi na umntu okanye umbutho ukuze kwenziwe isenzo esithile okanye umsebenzi othile ngenjongo yokuqhubela phambili iinjongo zeBhunga;
(d) linokungena kwizivumelwano zokwenziwa kwemisebenzi yalo okanye zokusetyenziswa kwamagunya alo;
(e) lisenokuhlawula nawuphi na umntu imalana yokubuyelwa ziindleko angene kuzo ekwenzeni nasiphi na isenzo esenziwe ngokucelwa liBhunga okanye ngemiyalelo yalo ukuze kuncedakale lona, kuphunyezwe neenjongo zalo; kananjalo
(f) lisenokupapasha okanye lenze ukuba omnye umntu apapashe oolindixesha, amaphetshana nokunye okushicilelweyo ngenjongo yokuba kuncedakale amagqwetha okanye uluntu.

(3) Phantsi kokulawulwa ngulo Mthetho, iBhunga—
(a) malilibhalise igqwetha elithe lamkelwa ngokufanelekileyo njengegqwetha; lize
(b) ligcine uLuhlu lwamagqwetha abhalisiweyo lize ligqibe—
(i) ngohlobo emazibe lulo iziqinisekiso noLuhlu omalugcinwe;
(ii) ngokulondolozwa koLuhlu okanye ngokukhutshwa kweziqinisekiso; kananjalo

(iii) the reviewing of the Roll and the manner in which alterations may be made to the Roll.

(4) The Council must, in the rules, with regard to fees and charges which are payable to the Council, determine—

(a) application fees as provided for in this Act;

(b) annual fees, or portion thereof, in respect of a part of a year, payable to the Council by legal practitioners for Fidelity Fund certificates: Provided that any determination made in terms of this paragraph must be made in consultation with the Board;

(c) annual fees payable by all legal practitioners who are admitted and enrolled in terms of section 24(1) as practising legal practitioners;

(d) the date on which any fee is payable;

(e) the fees, or portion thereof, payable in respect of any examination conducted by the Council or on behalf of the Council; and

(f) any other fee or charge it considers necessary, as contemplated in this Act.

(5) The Council, with regard to education in law and legal practice generally—

(a) may, subject to sections 5 and 7 of the Higher Education Act, 1997 (Act No. 101 of 1997), conduct visits to any educational institution which has a department, school or faculty of law;

(b) may advise the Council on Higher Education established in terms of the Higher Education Act, 1997, regarding matters relevant to education in law, including the desirability of including in the LLB curriculum a form of community service to be undertaken by all law students;

(c) may consult with the South African Qualifications Authority established by the National Qualifications Framework Act, 2008 (Act No. 67 of 2008), or any structure established by it, to determine competency standards for the purposes of registration;

(d) may conduct any examination for the purposes of practical vocational training;

(e) may determine, after consultation with relevant role-players and legal practitioners in general, conditions relating to the nature and extent of continuing education and training, including compulsory post-qualification professional development;

(f) must, in the prescribed manner, create a mechanism to—

(i) provide appropriate legal education and training, having due regard to our inherited legacy and new constitutional dispensation; and

(ii) offer legal education and training to aspiring and newly appointed legal practitioners, as well as continued training for experienced legal practitioners;

(g) may accredit training institutions that offer—

(i) practical vocational training courses which contribute towards the qualification of legal practitioners and candidate legal practitioners; and

(ii) compulsory post-qualification professional development;

(h) must report annually to the Minister on—

(i) the number of new candidate legal practitioners registered as such in terms of section 27 and the number of new legal practitioners enrolled with the Council in terms of section 30;

(ii) the effectiveness of the training requirements for entry into the profession;

(iii) measures adopted to enhance entry into the profession, including the remuneration of candidate legal practitioners and continuing legal education to develop skills of legal practitioners; and

(iv) progress made on the implementation of the programmes contemplated in subsection (1)*(b)*(v) to empower historically disadvantaged legal practitioners and candidate legal practitioners,

and the Council may make recommendations to the Minister regarding legislative and other interventions to improve access to the profession and access to justice broadly and the Minister must thereupon table that report in Parliament; and

(iii) ngokuqwalaselwa ngokutsha koLuhlu nendlela olunokuthi lwenziwe ngayo utshintsho kuLuhlu.

(4) Ngokubhekisele kwiimali emazihlawulwe kwiBhunga, iBhunga malithi, kwimigaqo, lenze isigqibo—

(a) ngemirhumo yokwenz' isicelo ngendlela ekuxelwe ngayo kulo Mthetho;

(b) ngemirhumo yonyaka, okanye inxalenye yayo, mayela nenxalenye yonyaka, emayihlawulwe kwiBhunga ngamagqwetha eyihlawulela iziqinisekiso ze*Fidelity Fund*, kodwa ke, nasiphi na isigqibo esenziwe ngokwesi siqendu masenziwe ngokubonisana neBhodi;

(c) ngemirhumo yonyaka emayihlawulwe ngawo onke amagqwetha athe amkelwa aza abhaliswa ngokwesiqendu 24(1) njengamagqwetha awenza umsebenzi wobugqwetha;

(d) ngomhla omawuhlawulwe ngawo umrhumo;

(e) ngemirhumo, okanye inxalenye yayo, emayihlawulelwe uviwo oluqhutywa liBhunga okanye egameni leBhunga; kananjalo

(f) nangawo nawuphi na umrhumo ongomnye eliwubona uyimfuneko, njengoko kuxelwe kulo Mthetho.

(5) Ngokubhekisele kwimfundo yomthetho nokwenziwa komsebenzi wobugqwetha ngokubanzi, iBhunga—

(a) linokuthi, ngokulawulwa sisiqendu 5 nese-7 se*Higher Education Act*, 1997 (Umthetho 101 ka-1997), lityelele naliphi na iziko lemfundo elinesebe lomthetho, isikolo somthetho okanye icandelo lomthetho;

(b) lisenokucebisa iBhunga leMfundo Ephakamileyo elisekwe ngokwe*Higher Education Act*, ka-1997, mayela nemicimbi ephathelele kwimfundo yomthetho, kuquka nomnqweno wokuba kwizifundo zeLLB kuqukwe nohlobo oluthile lokusebenzela uluntu omakwenziwe ngabafundi abafunda umthetho;

(c) lisenokubonisana neSouth African Qualifications Authority eyasekwa yi*National Qualifications Framework Act*, 2008 (Umthetho 67 ka-2008), okanye libonisane neziko elasekwa ngulo mthetho, ukuze lenze isigqibo ngomgangatho wesakhono omawufikelelwe ukuze umntu abhaliswe;

(d) lisenokuqhuba uviwo ngenjongo yokuqeqeshelwa umsebenzi;

(e) lisenokuthi, emva kokubonisana nabathabathi-nxaxheba abayintloko namagqwetha ngokubanzi, lenze isigqibo ngeemeko ezimayela nobunjani nobungakanani bemfundo eqhubekayo noqeqesho, kuquka nokuziphucula okusisinyanzelo emva kokuba umntu ethe waligqwetha;

(f) malithi, ngendlela efunekayo, lidale indlela—

(i) yokunika imfundo efanelekileyo ehambisana noqeqesho, kukhunjulwa imeko yethu esayizuz' ilifa nenkqubo entsha yoMgaqo-Siseko; lize

(ii) libanike imfundo yomthetho noqeqesho abanqwenel' ukuba ngamagqwetha nabasandul' ukuba ngamagqwetha, kananjalo liwanike uqeqesho oluqhubekayo amagqwetha anamava;

(g) lisenokuwangqina njengavunyiweyo amaziko oqeqesho anika—

(i) izifundo zokuqeqeshelwa umsebenzi ezincedisayo ekufanelekeni kwamagqwetha namagqwetha asengabakhwetha; kananjalo

(ii) noncedo olusisinyanzelo lokuphucula umgangatho emsebenzini emva kokufaneleka;

(h) malenze ingxelo qho ngonyaka kuMphathiswa—

(i) ngenani elitsha labasandul' ukufumana izidanga zomthetho ababhaliswe kwiBhunga;

(ii) ngokuba nempumelelo kweemfuneko zoqeqesho zokungena kulo msebenzi;

(iii) ngamanyathelo athathiweyo okukhuthaza ukungena kulo msebenzi, kuquka nokuhlawulwa imivuzo kwamagqwetha asengabakhwetha nemfundo yomthetho eqhubekayo yokuphucula izakhono zamagqwetha; kananjalo

(iv) nangenkqubela eyenziweyo ekuzenzeni zisebenze iinkqubo ezixelwe kwisiqendu (1)*(b)*(v) zokuphucula amagqwetha namagqwetha asengabakhwetha abefudula ehlelelekile,

ukuba lenze izindululo kuMphathiswa ngecebo elikukuwis' imithetho nangamanye amacebo okuphucula ukungena kulo msebenzi nokufumana ubulungisa ngokubanzi; kananjalo

(i) must, at the request of the Minister, advise the Minister on multi-disciplinary legal practices which the Minister may consider for the purposes of developing policies and legislative and other interventions in respect of multi-disciplinary legal practices.

Composition of Council

7. (1) The Council consists of the following members:

(a) 16 legal practitioners, comprising of 10 practising attorneys and six practising advocates, elected in accordance with the procedure prescribed by the Minister—
  (i) in terms of section 97(1)*(a)*(i); or
  (ii) in terms of this section, in consultation with the Council, if the procedure referred to in subparagraph (i) requires revision after the commencement of Chapter 2;

(b) two teachers of law, one being a dean of a faculty of law at a university in the Republic and the other being a teacher of law, designated in the prescribed manner;

(c) subject to subsection (3), three fit and proper persons designated by the Minister, who, in the opinion of the Minister and by virtue of their knowledge and experience, are able to assist the Council in achieving its objects;

(d) one person designated by Legal Aid South Africa; and

(e) one person designated by the Board, who need not necessarily be a legal practitioner.

(2) 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.

(3) A person referred to subsection (1)*(c)* may not be designated as a member of the Council if he or she—

(a) is a public servant;

(b) is a member of Parliament, any provincial legislature or any municipal council; or

(c) is an office-bearer or employee of any party, movement or organisation of a party-political nature.

Membership of Council

8. (1) A member of the Council must—

(a) be a South African citizen;

(b) be a fit and proper person; and

(c) subscribe to the objects of the Council.

(2) The following persons are disqualified from becoming or remaining members of the Council:

(a) An unrehabilitated insolvent;

(b) a person declared to be of unsound mind by a court of the Republic;

(c) a person who has been convicted in a court of first instance—

(i) malithi, ngokucelwa nguMphathiswa, lazise uMphathiswa ngemisebenzi eyahluka-hlukeneyo enokwenziwa kumsebenzi wobugqwetha anokuthi uMphathiswa ayiqwalasele ngenjongo yokuphucula iinkqubo namacebo okuwis' imithetho namanye amacebo mayela nemisebenzi eyahluka-hlukeneyo kumsebenzi wobugqwetha.

Indlela elakhiwe ngayo iBhunga

7. (1) IBhunga linala malungu alandelayo:
(a) amagqwetha ali-16, ekukho kuwo amagqwetha ali-10 awenza umsebenzi wobugqwetha kunye namagqwetha eejaji amathandathu awenza umsebenzi wamagqwetha eejaji, anyulwe ngokwenkqubo efunwa nguMphathiswa—
(i) ngokwesiqendu 97(1)*(a)*(i); okanye
(ii) ngokwesi siqendu, ngokubonisana neBhunga, ukuba inkqubo ekuthethwe ngayo kwisiqendwana (i) ifuna ukutshintshwa emva kokuqalisa kweSahluko 2 ukusebenza;
(b) abahlohli ababini bezifundo zomthetho, omnye eyintloko yecandelo lomthetho kwiyunivesithi ekwiRiphablikhi, omnye engumfundisi womthetho, ochongwe ngendlela efunekayo;
(c) ngokulawulwa sisiqendwana (3), abantu abathathu abafanelekileyo abachongwe nguMphathiswa abangakwazi, ngokoluvo loMphathiswa nangenxa yolwazi lwabo namava abo, ukunceda iBhunga lifezekise iinjongo zalo;
(d) nomntu omnye ochongwe yiLegal Aid South Africa; kunye
(e) nomntu omnye ochongwe yiBhodi, ekungekho mfuneko yokuba abe ligqwetha.

(2) Xa kuyilwa iBhunga, makuthi kangangoko kunokwenzeka kuthatyathelw' ingqalelo ezi zinto zilandelayo:
(a) ubume babemi boMzantsi-Afrika ngokweentlanga nangokwesini;
(b) iinjongo zeBhunga;
(c) ukumelwa kwabantu abaneziphene;
(d) ukumelwa kwamaphondo; kananjalo
(e) amava nolwazi—
(i) ngokwenzelwa kwabantu umsebenzi wobugqwetha;
(ii) ngemigaqo yokukhuthaza ukufumana ubulungisa;
(iii) ngemfundo yomthetho noqeqesho;
(iv) ngezinto ezimayela nabafuna uncedo lomthetho;
(v) ngamatyala embambano nawolwaphulo-mthetho nokusebenza kweenkundla nabachopheli-matyala gabalala;
(vi) ngokugcinwa komgangatho uphezulu ngabantu abenzela uluntu uncedo lomthetho;
(vii) ngokusingathwa kwezikhalazo; kunye
(viii) nangomthetho wokhuphiswano.

(3) Umntu ekuthethwe ngaye kwisiqendwana (1)*(c)* akanakuchongwa abe lilungu leBhunga ukuba—
(a) usebenzela urhulumente;
(b) ulilungu lePalamente, okanye ulilungu lendlu yowiso-mthetho yephondo, okanye ulilungu lebhunga likamasipala; okanye
(c) unesikhundla okanye ungumqeshwa wombutho ongowopolitiko.

Ukuba lilungu leBhunga

8. Ilungu leBhunga—
(a) malibe ngummi waseMzantsi-Afrika;
(b) malibe ngumntu ofanelekileyo; kananjalo
(c) malihambisane neenjongo zeBhunga.

(2) Abantu abalandelayo abafaneleki ukuba ngamalungu eBhunga okanye ukuqhubeka bengamalungu alo:
(a) umntu ovakaliswe yinkundla engongakwaziyo ukuhlawula amatyala akhe kwaye engekaphumi kuloo meko;
(b) umntu ovakaliswe yinkundla yalapha kwiRiphablikhi engongaphilanga ngengqondo; okanye
(c) umntu ofunyaniswe enetyala lokwaphul' umthetho yinkundla eliqale kuyo ityala—

(i) of an offence and sentenced to more than 12 months' imprisonment without the option of a fine; or

(ii) of an offence, which involves any element of dishonesty, either in the Republic, or outside the Republic if the conduct constituting the offence would have been an offence in the Republic, other than a conviction for an offence committed prior to 27 April 1994 associated with political objectives: Provided that if the person in question lodges an appeal against the conviction or sentence, he or she must be suspended from office by the Council as contemplated in section 12, pending the outcome of the appeal: Provided further that he or she may be replaced by the designating body, or in the case of a member referred to in section 7(1)*(a)*, elected in terms of the procedure referred to in that section;

(d) a person who has been removed from office in terms of section 12; or

(e) a member of the Board or any of its committees.

Chairperson and deputy chairperson of Council

9. (1) At the first meeting of the Council, the members of the Council must elect and appoint a chairperson and deputy chairperson from among themselves.

(2) The chairperson and the deputy chairperson hold office for a period of three years from the date of their election and may be re-elected and re-appointed for one further term, unless such chairperson or deputy chairperson resigns or ceases to be a member of the Council.

(3) The deputy chairperson must, if the chairperson is absent or is for any reason unable to act as chairperson, perform all the functions and exercise all the powers of the chairperson.

(4) If both the chairperson and deputy chairperson are absent from any meeting, the members present must elect a person from among themselves to preside at that meeting and the person so presiding must, during that meeting and until the chairperson or deputy chairperson resumes duty, perform all the functions and exercise all the powers of the chairperson.

(5) If both the chairperson and deputy chairperson have been given leave of absence, the members of the Council must elect a person from among themselves to act as chairperson until the chairperson or deputy chairperson resumes duty or is removed from office in terms of section 12.

(6) If the office of chairperson or deputy chairperson becomes vacant, the members of the Council must, at the first meeting thereafter or as soon as possible thereafter, elect from among themselves a new chairperson or deputy chairperson, as the case may be.

(7) A chairperson and deputy chairperson may vacate office as such, without relinquishing his or her membership of the Council, unless his or her membership has been terminated in accordance with section 11.

Term of office of members of Council

10. A member of the Council holds office for a term of three years, but may serve as a member for one further term if he or she is again so elected or designated, as the case may be.

Termination of office

11. (1) A person ceases to be a member of the Council when that person—

(a) is no longer eligible in terms of section 8 to be a member;

(b) resigns;

(c) is removed from office in terms of section 12;

(d) in the case of a legal practitioner referred to in section 7(1)*(a)*, ceases to be a practising legal practitioner, for whatever reason; or

(e) is appointed as a judicial officer.

(2) A member may resign after giving at least three months' written notice to the Council, but the Council may, on good cause shown, accept a shorter period.

(i) waza wagwetywa ukuvalelwa entolongweni ixesha elingaphezu kweenyanga ezili-12 engakhethiswanga fayini; okanye

(ii) wafunyaniswa enetyala elibandakanya ukungathembeki, nokuba kulapha kwiRiphablikhi okanye ngaphandle kwemida yayo, ukuba isenzo eso esikukwaphul' umthetho besiya kuba kukwaphul' umthetho kwiRiphablikhi, ngaphandle kokuba ufunyaniswe enetyala lokwaphul' umthetho ngaphambi komhla wama-27 kuEpreli 1994 kulityala lopolitiko, kodwa ke, ukuba loo mntu uyabhena nxamnye nokufunyaniswa kwakhe enetyala okanye nxamnye nesigwebo, makanqunyanyiswe esikhundleni liBhunga njengoko kuxelwe kwisiqendu 12, kude kwaziwe isiphumo sesibheno, kodwa ke, indawo yakhe inokuthatyathwa ngomnye ivalwa liqumrhu elimchongileyo, okanye ke xa kulilungu ekuthethwe ngalo kwisiqendu 7(1)*(a)* unokunyulwa ngokwenkqubo ekuthethwe ngayo kweso siqendu;

(d) umntu oshenxisiweyo esikhundleni ngokwesiqendu 12; okanye

(e) ilungu leBhodi okanye lenye yeekomiti zayo.

Usihlalo nosekela-sihlalo weBhunga

9. (1) Kwintlanganiso yokuqala yeBhunga, amalungu eBhunga makanyule azer amisele usihlalo nosekela-sihlalo emnyula phakathi kwawo.

(2) Usihlalo nosekela-sihlalo baba sesikhundleni iminyaka emithathu ukususela kumhla wokunyulwa kwabo, kwaye banokunyulwa kwakhona baze bamiselwe kwakhona esinye kwakhona isihlandlo, ngaphandle kokuba loo sihlalo okanye usekela-sihlalo uyaziyekela okanye uyayeka ukuba lilungu leBhunga.

(3) Ukuba usihlalo akekho okanye ngaso nasiphi na isizathu akakwazi ukuba ngusihlalo, usekela-sihlalo makayenze yonke imisebenzi kwaye awasebenzise onke amagunya kasihlalo.

(4) Ukuba bobabini usihlalo nosekela-sihlalo abekho entlanganisweni, amalungu akhoyo makanyule umntu phakathi kwawo ukuba ongamele kuloo ntlanganiso, kwaye makathi loo mntu wongamelayo enze yonke imisebenzi kasihlalo, kananjalo asebenzise onke amagunya kasihlalo kuloo ntlanganiso de abe usihlalo okanye usekela-sihlalo uyathabathisa kwakhona emsebenzini.

(5) Ukuba bobabini usihlalo nosekela-sihlalo banikwe ikhefu lokungabikho, amalungu eBhunga makanyule umntu phakathi kwawo ukuba abambele usihlalo de usihlalo okanye usekela-sihlalo athabathise kwakhona emsebenzini okanye ashenxiswe esikhundleni ngokwesiqendu 12.

(6) Ukuba isikhundla sikasihlalo okanye sikasekela-sihlalo sithi singabi namntu, amalungu eBhunga makathi kwintlanganiso yokuqala emva koko okanye kamsinya kangangoko kunokwenzeka anyule phakathi kwawo usihlalo okanye usekela-sihlalo omtsha.

(7) Usihlalo nosekela-sihlalo banokusishiya isikhundla sokuba ngusihlalo okanye sokuba ngusekela-sihlalo, bengakuyekanga ukuba lilungu leBhunga, ngaphandle kokuba bayekisiwe ukuba ngamalungu ngokwesiqendu 11.

Ixesha lokuba sesikhundleni kwamalungu eBhunga

10. Ilungu leBhunga liba sesikhundleni ixesha eliyiminyaka emithathu, kodwa linokukhonza esinye isihlandlo esinye ukuba lithe lanyulwa okanye lachongwa kwakhona.

Ukuyeka ukuba sesikhundleni

11. (1) Umntu uyayeka ukuba lilungu leBhunga xa—

(a) engasafaneleki ngokwesiqendu 8 ukuba lilungu;

(b) eziyekela;

(c) eshenxiswa esikhundleni ngokwesiqendu 12;

(d) kuligqwetha ekuthethwe ngalo kwisiqendu 7(1)*(a)*, eyeka ukwenza umsebenzi wobugqwetha, nokuba kungasiphi na isizathu; okanye

(e) emiselwa njnegoimchopheli-matyala enkundleni.

(2) Ilungu linokuziyekela esikhundleni emva kokunika iBhunga inotisi ebhaliweyo ubuncinane yeenyanga ezintathu, kodwa iBhunga linokulamkela ixesha elifutshane kunelo xa kubekwe isizathu esivakalayo.

Removal from office

12. (1) The Council may remove a member of the Council from office on account of—

(a) a finding by a disciplinary committee in terms of section 40 of any serious misconduct as set out in the code of conduct contemplated in section 36 on the part of a legal practitioner;

(b) incapacity or incompetency which, in the opinion of the Council, debars him or her from serving as a member of the Council;

(c) absence from three consecutive meetings of the Council without the permission of the chairperson, except on good cause shown;

(d) a request by the body which or person who elected or designated that member in terms of section 7, on good cause shown by the body or person in question; or

(e) his or her becoming disqualified to remain as a member of the Council as contemplated in section 8(2).

(2) If the Council has commenced proceedings for the removal of a member, it may suspend that member from office.

(3) A member who is suspended from office may not perform or exercise any of the powers or functions of that office or receive any allowances.

(4) The Council must follow due process of law if it intends to remove or suspend a member from office, as determined by the Council in the rules.

Vacancies in Council and filling thereof

13. (1) A vacancy in the Council occurs when—

(a) the term of office of a member expires or terminates as contemplated in section 11;

(b) a member dies;

(c) a member is removed from office as contemplated in section 12; or

(d) the resignation of a member takes effect.

(2) A vacancy must be filled as soon as practicably possible in accordance with the provisions of section 7.

(3) Any person appointed to fill a vacancy holds office for the unexpired portion of the term of the vacating member.

(4) No decision taken by the Council or act performed under the authority of the Council is invalid merely by reason of a vacancy on the Council, if the decision was taken or the act was authorised, subject to sections 16 and 17.

Dissolution of Council

14. (1) If the Minister loses confidence in the ability of the Council to perform its functions effectively and efficiently, the Minister must—

(a) provide the Council with his or her reasons;

(b) give the Council a reasonable opportunity to respond to those reasons; and

(c) afford the Council a hearing on any submissions received.

(2) If, after taking the steps provided for in subsection (1), the Minister still does not have confidence in the ability of the Council to perform its functions effectively and efficiently, he or she must request the Ombud to conduct an investigation and make recommendations to him or her.

(3) If, after receiving the recommendations from the Ombud as contemplated in subsection (2), the Minister still has concerns in the ability of the Council to perform its functions effectively and efficiently, and the Minister is of the view that it is in the best interests of the administration of justice that the Council be dissolved, he or she must, in order to do so, approach the High Court with an application for an order dissolving the Council, together with any terms or conditions that the court deems appropriate.

(4) *(a)* If the Minister dissolves the Council pursuant to a court order contemplated in subsection (3), the Minister must, having regard to the provisions of section 7, appoint an interim Council, consisting of at least seven persons and give effect to any conditions or terms contained in the court order.

(b) The interim Council must be appointed within 21 days after the dissolution of the Council and must be appointed for a period determined by the Minister or the court, which period may not exceed six months.

Ukushenxiswa esikhundleni

12. (1) IBhunga linokulikhupha esikhundleni ilungu lalo ngenxa—
(a) yokufunyaniswa kwalo linetyala yikomiti yolungiso-similo ngokwesiqendu 40 ngaso nasiphi na isenzo esigwenxa kakhulu esixelwe kwimigqaliselo yokuziphatha ekwisiqendu 36, xa kuligqwetha;
(b) yokungabi nampilo okanye ukungawazi umsebenzi walo, okuthi, ngokokubona kweBhunga, kulithintele ekukhonzeni njengelungu leBhunga;
(c) yokungabikho kwiintlanganiso zeBhunga zide zibe ntathu zilandelana ngaphandle kwemvume kasihlalo, ngaphandle kokuba libeke isizathu esivakalayo;
(d) yesicelo sequmrhu okanye somntu owalinyulayo okanye owalichongayo elo lungu ngokwesiqendu 7, ngesizathu esivakalayo esinikwe liqumrhu okanye ngumntu lowo; okanye
(e) yokungafaneleki kwalo ukuqhubeka lililungu leBhunga njengoko kuxelwe kwisiqendu 8(2).

(2) Ukuba iBhunga liqalise inyathelo lokushenxisa ilungu, linokulinqumamisa elo lungu.

(3) Ilungu elinqunyanyisiweyo alivumelekanga ukuba lenze imisebenzi yesikhundla salo okanye lisebenzise amagunya esikhundla salo okanye lifumane iimalana ezithile.

(4) IBhunga malilandele inkqubo efanelekileyo yomthetho ukuba linenjongo yokushenxisa okanye yokunqumamisa ilungu esikhundleni, ngokwesigqibo seBhunga kwimigaqo.

Izithuba kwiBhunga nokuvalwa kwazo

13. (1) Isithuba kwiBhunga sibakho xa—
(a) ixesha lokuba sesikhundleni kwelungu lifikelela esiphelweni okanye liphela ngendlela exelwe kwisiqendu 11;
(b) lisifa ilungu;
(c) ilungu lishenxiswa esikhundleni ngendlela exelwe kwisiqendu 12; okanye
(d) liziyekela.

(2) Isithuba masivalwe kamsinya kangangoko kunokwenzeka ngokwesiqendu 7.

(3) Nawuphi na umntu omiselweyo ukuba avale isithuba uba sesikhundleni elo xesha lingagqitywanga lilungu eliphumileyo.

(4) Isigqibo esithatyathwe liBhunga okanye isenzo esenziwe ngegunya leBhunga asibi sesiphuthileyo ngenxa nje yokuba bekukho isithuba kwiBhunga, ukuba isigqibo eso sithatyathwe okanye isenzo eso sigunyazwe ngokulawulwa sisiqendu 16 nese-17.

Ukubhangiswa kweBhunga

14. (1) Ukuba uMphathiswa uphelelwa kukulithemba iBhunga ukuba lingakwazi ukuyenza imisebenzi yalo ngempumelelo nangokutyibilikayo—
(a) makalinike iBhunga izizathu zoko;
(b) makalinike ithuba elaneleyo lokuphendula kwezo zizathu; aze
(c) aliphulaphule kuko nakuphi elikutshoyo.

(2) Ukuba, nasemva kokuba ethabathe amanyathelo akwisiqendwana (1), uMphathiswa akakabi nakulithemba iBhunga ukuba lingakwazi ukuyenza imisebenzi yalo ngempumelelo nangokutyibilikayo, makacele uNozikhalazo ukuba aphande aze adlulisele izindululo kuye uMphathiswa.

(3) Ukuba, nasemva kokuba efumene izindululo ezivela kuNozikhalazo njengoko kuxelwe kwisiqendwana (2), uMphathiswa usaxhalabile ngokukwazi kweBhunga ukwenza imisebenzi yalo ngempumelelo nangokutyibilikayo, abe uMphathiswa enoluvo lokuba kuya kuba bubulungisa ukuba libhangiswe iBhunga, makaye kwiNkundla Ephakamileyo acele ukuba libhangiswe iBhunga, kubekho imiqathango eyibona ifanelekile inkundla.

(4) *(a)* Ukuba uMphathiswa uyalibhangisa iBhunga emva kokuba efumene umyalelo wenkundla ngokwesiqendwana (3) makathi, ecingela oko kutshiwo sisiqendu 7, amisele iBhunga lethutyana, elinabantu abasixhenxe ubuncinane, aze aphumeze nayiphi na imiqathango ekumyalelo wenkundla.

(b) IBhunga lethutyana malimiselwe zingaphelanga iintsuku ezingama-21 libhangisiwe iBhunga, kwaye malimiselwe ithuba lexesha eligqitywe nguMphathiswa okanye yinkundla, thuba elo lexesha emalingagqithi kwiinyanga ezintandathu.

(5) *(a)* The Minister must from among the members of the interim Council designate a chairperson of the interim Council.

(b) The interim Council must elect a deputy chairperson from among its members and the deputy chairperson holds office for such period as the interim Council may determine at the time of his or her election.

(6) The chairperson of the interim Council may, at any time of his or her own accord, or must, at the written request of not fewer than five members, convene a special meeting of the interim Council.

(7) Five members of the interim Council form a quorum for a meeting of the interim Council.

(8) Sections 15, 16, 17, 18, and 21 apply with the necessary changes required by the context in respect of the interim Council.

Part 2

Operation of Council

Meetings of Council

15. (1) The Council must hold at least four meetings in each year at venues to be determined by the Council and may, in addition, hold any further meetings as the Council may determine.

(2) The Council must meet as soon as practicable after the appointment of its members.

Quorum and procedure at meetings of Council

16. (1) The majority of the members of the Council constitutes a quorum at any meeting of the Council.

(2) The Council must in the rules determine a procedure for convening meetings and the procedure for the conduct of meetings.

(3) The Council must keep a record of its proceedings.

Decisions of Council

17. (1) A decision of the majority of the members of the Council constitutes a decision of the Council.

(2) In the event of a deadlock in the voting the chairperson has a casting vote in addition to a deliberative vote.

Committees of Council

18. (1) The Council may—

(a) establish one or more committees, consisting of—

(i) members of the Council only; or

(ii) members of the Council and any other suitable persons except employees of the Council, to assist the Council in the exercise of its powers and performance of its functions; and

(b) dissolve a committee at any time.

(2) The Council—

(a) must determine the powers and functions of a committee;

(b) must appoint a member of a committee as chairperson of such committee;

(c) may, after complying with due process of law, remove a member of a committee at any time; and

(d) may determine a committee's procedure.

(3) The Council must, in the rules, determine the procedure for the conduct of meetings of a committee.

Executive officer and employees of Council

19. (1) The Council must appoint an executive officer for the Council, who is the accounting officer of the Council.

(5) *(a)* UMphathiswa makachonge usihlalo weBhunga lethutyana kumalungu eBhunga lethutyana.
(b) IBhunga lethutyana malinyule usekela-sihlalo kumalungu alo, aze ke usekela-sihlalo abe sesikhundleni ithuba lexesha elinokuthi ligqitywe liBhunga lethutyana ngexesha lokunyulwa kwakhe.

(6) Usihlalo weBhunga lethutyana usenokuthi abize intlanganiso nangaliphi na ixesha ngesigqibo esisesakhe, kodwa makabize intlanganiso ekhethekileyo yeBhunga lethutyana xa icelwe ngokubhala ngamalungu angekho ngaphantsi kwesihlanu.

(7) Inani elifunekayo lamalungu ukuze iqhubeke intlanganiso yeBhunga lethutyana ngamalungu amahlanu.

(8) Mayela neBhunga lethutyana siyasebenza isiqendu 15, 16, 17, 18 nesama-21 kubekho nje utshintsho olunokuthi lufuneke.

iNxalenye 2

Ukusebenza kweBhunga

Iintlanganiso zeBhunga

15. (1) IBhunga malibe neentlanganiso ezine ubuncinane kunyaka ngamnye kwiindawo emazigqitywe liBhunga, kodwa ukongezelela apho, linokuba nezinye iintlanganiso ezingaphezu koko ngokokubona kweBhunga.

(2) IBhunga malidibane kamsinya kangangoko kunokwenzeka emva kokumiselwa kwamalungu alo.

Inani elifunekayo lamalungu ukuze ziqhubeke iintlanganiso zeBhunga nendlela yokuqhutywa kweentlanganiso

16. (1) Inani elifunekayo lamalungu ukuze iqhubeke nayiphi na intlanganiso yeBhunga luninzi lwamalungu.

(2) IBhunga malenze isigqibo ngenkqubo yokubiza intlanganiso nenkqubo yokuqhutywa kweentlanganiso.

(3) IBhunga maligcine ingxelo yokuqhubekileyo.

Izigqibo zeBhunga

17. (1) Isigqibo soninzi lwamalungu akhoyo kwintlanganiso siba sisigqibo seBhunga.

(2) Xa kuthe kwaxinga ekuvoteni, usihlalo uba nelungelo lokuvota ukongezelela kwilungelo lakhe lokuthabath' inxaxheba kwiingxoxo.

Iikomiti zeBhunga

18. (1) IBhunga—
(a) lisenokuba nekomiti enye okanye ezingaphezu koko, ekukho kuzo—
  (i) amalungu eBhunga kuphela; okanye
  (ii) amalungu eBhunga kunye nabaphi na abanye abantu abafanelekileyo ngaphandle kwabaqeshwa beBhunga, ukuba bancedise iBhunga ekwenzeni imisebenzi yalo okanye ekusebenziseni amagunya alo; kananjalo
(b) linokuthi liyibhangise ikomiti nangaliphi na ixesha.

(2) IBhunga—
(a) malenze isigqibo ngamagunya ekomiti nangemisebenzi yalo;
(b) malimisele ilungu lekomiti libe ngusihlalo waloo komiti;
(c) linokuthi, emva kokuba likwenzile konke okufanelekileyo okufunwa ngumthetho, lilishenxise ilungu lekomiti nangaliphi na ixesha; kananjalo
(d) linokwenza isigqibo ngenkqubo yekomiti.

(3) IBhunga malithi, kwimigaqo, lenze isigqibo ngenkqubo yokuqhutywa kweentlanganiso zekomiti.

Igosa eliphezululu eliququzelelayo nabaqeshwa beBhunga

19. (1) IBhunga malimisele igosa eliphezulu eliququzelelayo, eliligosa ekuphendula lona leBhunga.

(2) The executive officer must, in addition to such function as may be assigned to him or her in terms of this Act—

(a) perform or exercise any powers and functions assigned to him or her by the Council;

(b) supervise the employees of the Council; and

(c) account for the assets and liabilities of the Council.

(3) The Council may appoint any other employees it deems necessary to assist the executive officer in the performance of his or her functions.

(4) The procedure for the appointment of the executive officer and other employees of the Council must be determined by the Council in terms of the rules.

(5) The need for the staff of the Council to reflect the racial and gender composition of South Africa must, as far as is practicable, be considered when the executive officer and other employees of the Council are appointed in terms of this section.

(6) The Council must, in the rules, determine the conditions of service of the executive officer and the other employees of the Council.

Executive committee of Council

20. (1) The Council must establish an executive committee and determine its powers and functions in the rules.

(2) The executive committee consists of—

(a) the chairperson and deputy chairperson of the Council; and

(b) five other members appointed by the Council.

(3) The need for the executive committee to reflect—

(a) the racial and gender composition of South Africa; and

(b) representation of attorneys and advocates, as well as provincial representation,

must, as far as is practicable, be considered when the executive committee is established in terms of subsection (1).

(4) The executive committee is responsible for the day to day functioning and administration of the Council in between meetings of the Council.

(5) The Council may direct the executive committee to perform such tasks as executive committee considers appropriate.

(6) A member of the executive committee holds office for so long as he or she is a member of the Council, unless he or she is removed as a member of the executive committee by the Council, or until his or her membership of the Council terminates in terms of this Act.

(7) *(a)* The chairperson of the Council is *ex officio* chairperson of the executive committee.

(b) The deputy chairperson of the Council is *ex officio* deputy chairperson of the executive committee.

(8) The executive committee may meet as often as it deems necessary and dispose of its business in the manner it considers appropriate.

(9) *(a)* The majority of the members of the executive committee constitutes a quorum at any of its meetings.

(b) The executive committee must determine a procedure in the rules for convening meetings and the procedure for the conduct of meetings.

(c) The executive committee must keep a record of its proceedings.

(d) A decision of the majority of the members present at a meeting constitutes the decision of the executive committee.

(e) In the event of a deadlock in the voting the chairperson has a casting vote in addition to a deliberative vote.

Delegation of powers and assignment of functions of Council

21. (1) The Council may resolve to delegate any of its powers or assign any of its functions to—

(a) a member of the Council;

(b) a committee of the Council;

(c) the executive committee;

(d) a Provincial Council; or

(e) the executive officer or an employee of the Council.

(2) A delegation or assignment in terms of subsection (1)—

(a) is subject to any conditions and directions as the Council may impose; and

(2) Ukongezelela kumsebenzi elinokuthi liwabelwe ngokwalo Mthetho, igosa eliphezulu eliququzelelayo—

(a) malenze nayiphi na imisebenzi eliyabelweyo okanye lisebenzise nawaphi na amagunya eliwabelweyo liBhunga;

(b) malibe liliso phezu kwabaqeshwa beBhunga; kwaye

(c) maliphendule ngempahla yeBhunga nangamatyala elingene kulo iBhunga.

(3) IBhunga linokuqesha abanye abasebenzi elikubona kufanelekile ukubaqesha ukuze bancedise igosa eliphezulu eliququzelelayo ekwenzeni imisebenzi yalo.

(4) Inkqubo yokumiselwa kwegosa eliphezulu eliququzelelayo nokuqeshwa kwabanye abasebenzi beBhunga mayigqitywe liBhunga ngokwemigaqo.

(5) Imfuneko yokuba kubasebenzi beBhunga kubekho iintlanga zoMzantsi-Afrika namadoda nabafazi mayithi, kangangoko kunokwenzeka, iqwalaselwe xa kuqeshwa igosa eliququzelelayo nabanye abaqeshwa beBhunga ngokwesi siqendu.

(6) Kwimigaqo, iBhunga malenze isigqibo ngemiqathango yokusebenza kwegosa eliphezulu eliququzelelayo nabanye abasebenzi beBhunga.

Ikomiti eququzelelayo yeBhunga

20. (1) IBhunga malibe nekomiti eququzelelayo lize lenze isigqibo ngamagunya alo nemisebenzi yalo.

(2) Ikomiti eququzelelayo mayibe—

(a) nosihlalo nosekela-sihlalo weBhunga; kananjalo

(b) namanye amalungu amahlanu amiselwe liBhunga.

(3) Imfuneko yokuba kwikomiti eququzelelayo—

(a) kubekho iintlanga zoMzantsi-Afrika namadoda nabafazi; kananjalo

(b) kumelwe amagqwetha namagqwetha eejaji kwakunye namaphondo mayithi, kangangoko kunokwenzeka, icingelwe xa kumiselwa ikomiti eququzelelayo ngokwesiqendwana (1).

(4) Umsebenzi wekomiti eququzelelayo kukujongana nemisebenzi yemihla ngemihla yeBhunga kumaxesha aphakathi kwenye intlanganiso nenye intlanganiso.

(5) IBhunga lisenokuyalela ikomiti eququzelelayo ukuba yenze imisebenzi ekubona kufanelekile ukuba yenziwe.

(6) Ilungu lekomiti eququzelelayo liba sesikhundleni ngalo lonke ixesha lililungu leBhunga, ngaphandle kokuba lishenxisiwe liBhunga ekubeni lilungu lekomiti eququzelelayo, okanye ubulungu balo kwiBhunga buphelile ngokwalo Mthetho.

(7) *(a)* Usihlalo weBhunga ungusihlalo wekomiti eququzelelayo ngenxa yesikhundla sakhe.

(b) Usekela-sihlalo weBhunga ungusekela-sihlalo wekomiti eququzelelayo ngenxa yesikhundla sakhe.

(8) Ikomiti eququzelelayo inokuhlangana izihlandlo ezibona ziyimfuneko ize iyigqibe imisebenzi yayo ngendlela eyibona ifanelekile.

(9) *(a)* Inani elifunekayo ukuze ziqhubeke iintlanganiso zekomiti eququzelelayo luninzi lwamalungu ayo kuyo nayiphi na intlanganiso yayo.

(b) Ikomiti eququzelelayo mayenze isigqibo ngenkqubo kwimigaqo yayo yokubiza iintlanganiso nenkqubo yokuqhutywa kweentlanganiso zayo.

(c) Ikomiti eququzelelayo mayigcine irekhodi yeentlanganiso zayo.

(d) Isigqibo soninzi lwamalungu akhoyo kwintlanganiso sisigqibo sekomiti eququzelelayo.

(e) Xa kuthi kwenzeke inkal' ixing' etyeni xa kuvotwa, usihlalo uba nelungelo lokuvota ukongezelela kwilungelo lakhe lokuthabath' inxaxheba kwiingxoxo.

IBhunga liphathisa abanye amagunya alo libabele nemisebenzi

21. (1) IBhunga linokugqiba kwelokuba amagunya alo liwaphathise okanye imisebenzi yalo liyabele—

(a) ilungu leBhunga;

(b) ikomiti yeBhunga;

(c) ikomiti eququzelelayo;

(d) iBhunga lePhondo; okanye

(e) igosa eliququzelelayo okanye umqeshwa weBhunga.

(2) Ukuphathiswa okanye ukwabelwa ngokwesiqendwana (1)—

(a) kulawulwa yimiqathango nemiyalelo enokuthi ivele kwiBhunga; kwaye

(b) does not divest the Council of the responsibility for the exercise of the power or the performance of the duty or function.

(3) The Council may confirm, vary or revoke any decision taken in consequence of a delegation or assignment, but no variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

Finances, expenditure and accountability of Council

22. (1) The funds of the Council consist of—

(a) fees, including subscription fees payable in terms of this Act;

(b) an annual appropriation made by the Fund, the amount of which is determined by the Board after consultation with the Council; and

(c) any other monies received by the Council in terms of this Act or accruing to the Council from any other source.

(2) Expenditure incidental to the exercise of the powers or the performance of the functions of the Council in terms of this Act or any other law must be defrayed from the funds of the Council.

(3) The executive officer—

(a) must deposit all monies received by the Council with a bank approved by the Council;

(b) may invest any monies of the Council which are not required for immediate use with a bank approved by the Council or in such other manner as the Council may determine in the rules;

(c) is charged with the responsibility of accounting for money received or paid out for or on account of the Council; and

(d) must cause the necessary accounting and other related records to be kept, including proper records of all the assets and liabilities of the Council.

(4) The records referred to in subsection (3)*(d)* must be audited by a registered accountant and auditor appointed by the Council.

Establishment of Provincial Councils

23. (1) The Council must, subject to subsection (2) and progressively, establish a Provincial Council in every province of the Republic and may delegate to the Provincial Councils such powers and functions which, in the interests of the legal profession are better performed at provincial level.

(2) *(a)* The Council must, at the commencement of Chapter 2, establish at least four Provincial Councils and the following factors must be taken into account:

(i) There may not be more than one Provincial Council per province;

(ii) the location of the seats of the Divisions of the High Court;

(iii) the efficient attainment of the Council's objects;

(iv) availability of resources, cost-effectiveness and feasibility;

(v) the interests of legal practitioners and candidate legal practitioners;

(vi) provincial needs, interests and sensitivities; and

(vii) the interests of the public.

(b) The Minister must prescribe the areas of jurisdiction of the Provincial Councils in consultation with the Council.

(c) If a Provincial Council has not been established in a specific province the Council must determine under which Provincial Council that province falls.

(3) The Provincial Councils must carry out any powers and perform any functions as may be determined by the Council or set out in this Act.

(4) Provincial Councils must be elected in accordance with a procedure determined by the Council in the rules.

(5) Provincial Councils must be constituted in such a manner so as to reflect the proportion of attorneys and advocates in the area of jurisdiction of the Provincial Council concerned.

(6) A Provincial Council may establish one or more committees to assist it in the exercise of its powers and the performance of its functions.

(b) akulohluthi iBhunga imbopheleleko yokulisebenzisa ngokwalo igunya eliliphathisileyo okanye yokuwenza ngokwalo umsebenzi eliwabeleyo.

(3) IBhunga lisenokuthi livumelane nesigqibo esithathiweyo ngulowo limphathisileyo okanye limabeleyo, okanye lisitshintshe, okanye lisirhoxise, kodwa ukutshintshwa okanye ukurhoxiswa kwesigqibo akunakuwohlutha amalungelo aye afumaneka ngenxa yesigqibo.

Iimali, iinkcitho nokuphendula kweBhunga

22. Iimali zeBhunga—

(a) yimirhumo ehlawulwa ngokwalo Mthetho;

(b) lulwabiwo-mali lwaminyaka yonke olwenziwa yiNgxowa-mali, ubungakanani balo obugqitywa yiBhodi emva kokubonisana neBhunga; kananjalo

(c) nazo zonke ezinye iimali ezifunyanwa liBhunga ngokwalo Mthetho okanye efunyanwa liBhunga komnye umthombo.

(2) Inkcitho ethi ibekho ngokusetyenziswa kwamagunya eBhunga nangokwenziwa kwemisebenzi yalo ngokwalo Mthetho okanye nawuphi na omnye umthetho mayihlawulwe ithathwa kwiimali zeBhunga.

(3) Igosa eliphezulu eliququzelelayo—

(a) malizifake zonke iimali ezifunyenwe liBhunga kwibhanki evunywe liBhunga;

(b) linokuthi naziphi na iimali ezingayi kusetyenziswa kwangoku lizifake kwibhanki evunywe liBhunga ngenjongo yokuba zizale, okanye lizigcine ngendlela enokuthi igqitwe liBhunga kwimigaqo;

(c) linikwe umsebenzi wokuphendula ngemali efunyenweyo okanye ehlawulweyo egameni leBhunga; kananjalo

(d) malenze ukuba kugcinwe iirekhodi zobalo-mali nezinye, kuquka neerekhodi ezifanelekileyo zayo yonke impahla yeBhunga namatyala alo.

(4) Iirekhodi ekuthethwe ngazo kwisiqendwana (3)*(d)* maziphicothwe ngumbalizimali obhalisiweyo nangumphicothi-zimali omiselwe liBhunga.

Ukusekwa kwamaBhunga amaPhondo

23. (1) IBhunga malithi, ngokulawulwa sisiqendwana (2) nangokuthe ngcembe, liseke iBhunga lePhondo kwiphondo ngalinye leRiphablikhi, kwaye lisenokuthi amaBhunga amaPhondo liwaphathise amagunya nemisebenzi ekubonakala ukuba kubhetele abe kumaphondo ukuze kuncedakale abakumsebenzi wobugqwetha.

(2) *(a)* Makuthi sisakuqalisa ukusebenza iSahluko 2 iBhunga liseke ubuncinane amaBhunga amaPhondo amane, kuze kucingelwe ezi zinto zilandelayo:

(i) akuvumelekanga ukuba abe ngaphezu kwelinye amaBhunga ePhondo kwiphondo ngalinye;

(ii) indawo akuyo amakomkhulu amaCandelo eNkundla Ephakamileyo;

(iii) ukufezekiswa ngokutyibilikayo kweenjongo zeBhunga;

(iv) ukufumaneka kobuncwane, ukufikeleleka kwamaxabiso, nokuba nako ukwenzeka;

(v) okuza kuba luncedo kumagqwetha nakumagqwetha asengabakhwetha;

(vi) okudingwa ngamaphondo, okuza kuba lucedo kuwo, nezinto ezi-ethe-ethe emazicingelwe;

(vii) nokuza kuba luncedo kuluntu.

(b) UMphathiswa makaxele imimandla anegunya phezu kwayo amaBhunga amaPhondo ebonisana namaBhunga.

(3) AmaBhunga amaPhondo makasebenzise amagunya enze nemisebenzi enokuthi igqitywe liBhunga okanye ichazwe kulo Mthetho.

(4) AmaBhunga amaPhondo makanyulwe ngokwenkqubo egqitywe liBhunga kwimigaqo.

(5) AmaBhunga amaPhondo makakhiwe ngendlela yokuba abonise ubungakanani bamagqwetha namagqwetha eejaji kummandla ophethwe liBhunga lePhondo laloo ndawo.

(6) IBhunga lePhondo lingaseka ikomiti enye okanye eziliqela zokulincedisa ekusebenziseni amagunya alo nasekwenzeni imisebenzi yalo.

(7) A committee contemplated in subsection (6) may consist of only attorneys or only advocates to deal with matters relating exclusively to the attorneys' or advocates' professions, respectively.

CHAPTER 3

REGULATION OF LEGAL PRACTITIONERS AND CANDIDATE LEGAL PRACTITIONERS

Admission and enrolment

24. (1) A person may only practise as a legal practitioner if he or she is admitted and enrolled to practise as such in terms of this Act.

(2) The High Court must admit to practise and authorise to be enrolled as a legal practitioner, conveyancer or notary or any person who, upon application, satisfies the court that he or she—

(a) is duly qualified as set out in section 26;
(b) is a—
  (i) South African citizen; or
  (ii) permanent resident in the Republic;
(c) is a fit and proper person to be so admitted; and
(d) has served a copy of the application on the Council, containing the information as determined in the rules within the time period determined in the rules.

(3) Subject to subsection (1), the Minister may, in consultation with the Minister of Trade and Industry and after consultation with the Council, and having regard to any relevant international commitments of the Government of the Republic, make regulations in respect of admission and enrolment to—

(a) determine the right of foreign legal practitioners to appear in courts in the Republic and to practise as legal practitioners in the Republic; or
(b) give effect to any mutual recognition agreement to which the Republic is a party, regulating—
  (i) the provision of legal services by foreign legal practitioners; or
  (ii) the admission and enrolment of foreign legal practitioners.

Right of appearance of legal practitioners and candidate legal practitioners

25. (1) Any person who has been admitted and enrolled to practise as a legal practitioner in terms of this Act, is entitled to practise throughout the Republic, unless his or her name has been ordered to be struck off the Roll or he or she is subject to an order suspending him or her from practising.

(2) A legal practitioner, whether practising as an advocate or an attorney, has the right to appear on behalf of any person in any court in the Republic or before any board, tribunal or similar institution, subject to subsections (3) and (4) or any other law.

(3) An attorney who wishes to appear in the High Court, the Supreme Court of Appeal or the Constitutional Court must apply to the registrar of the Division of the High Court in which he or she was admitted and enrolled as an attorney for a prescribed certificate to the effect that the applicant has the right to appear in the High Court, the Supreme Court of Appeal or the Constitutional Court and which the registrar must issue if he or she is satisfied that the attorney—

(a) (i) has been practising as an attorney for a continuous period of not less than three years: Provided that this period may be reduced in accordance with rules made by the Council if the attorney has undergone a trial advocacy training programme approved by the Council as set out in the Rules;
  (ii) is in possession of an LLB degree; and

(7) Ikomiti exelwe kwisiqendwana (6) amalungu ayo kungaba ngamagqwetha kuphela okanye kube ngamagqwetha eejaji kuphela ukuze isingathe imicimbi yamagqwetha kuphela okanye yamagqwetha eejaji kuphela.

ISAHLUKO 3

UKULAWULWA KWAMAGQWETHA NAMAGQWETHA ASENGABAKHWETHA

Ukwamkelwa nokubhaliswa

24. (1) Umntu unokusebenza njengegqwetha kuphela ukuba wamkelwe waza wabhaliswa ngokwalo Mthetho.

(2) INkundla Ephakamileyo mayamkele umntu ngenjongo yokuba asebenze njengegqwetha kwaye imgunyaze ukuba abhaliswe njengegqwetha ukuba uthi, akuba enze isicelo, ayanelise inkundla kwinto yokuba—

(a) uyakufanelekela oko ngendlela ekuchazwe ngayo kwisiqendu 26;
(b) ungu—
   (i) ungummi waseMzantsi-Afrika;
   (ii) ungumhlali osisigxina kwiRiphablikhi;
(c) ungumntu ofanelekileyo ukuba amkelwe; kananjalo
(d) ikopi yesicelo sakhe uyinike iBhunga, inengcombolo efunwa kwimigaqo, lingaphelanga ixesha elifunwa kwimigaqo.

(3) UMphathiswa unokuthi, ngokulawulwa sisiqendwana (1), ebonisana noMphathiswa Worhwebo Noshishino, nasemva kokuba ebonisene neBhunga, kwaye ecingela naziphi na iimbopheleleko anazo uRhulumente weRiphablikhi namanye amazwe, enze imimiselo mayela nokwamkelwa nokubhaliswa—

(a) ngenjongo yokwenza isigqibo ngelungelo lamagqwetha akwamanye amazwe lokumel' umntu kwiinkundla zalapha kwiRiphablikhi nokusebenza njengamagqwetha kwiRiphablikhi; okanye
(b) ngenjongo yokuphumeza nasiphi na isivumelwano sokusebenzelana engene kuso iRiphablikhi, esilawula—
   (i) ukwenziwa kwemisebenzi yobugqwetha ngamagqwetha akwamanye amazwe; okanye
   (ii) ukwamkelwa nokubhaliswa kwamagqwetha akwamanye amazwe.

Ilungelo lokumel' umntu enkundleni lamagqwetha namagqwetha asengabakhwetha

25. (1) Nawuphi na umntu othe wamkelwa waza wabhaliswa ukuba asebenze njengegqwetha ngokwalo Mthetho, unelungelo lokusebenza naphi na kwiRiphablikhi, ngaphandle kokuba kuye kwayalelwa ukuba igama lakhe licinywe kuLuhlu okanye kukho umyalelo omnqumamisayo ekusebenzeni.

(2) Igqwetha, nokuba lisebenza njengegqwetha leejaji okanye njengegqwetha, linelungelo lokumela nawuphi na umntu nakuyiphi na inkundla kwiRiphablikhi, okanye phambi kwayo nayiphi na ibhodi, okanye abachopheli-matyala okanye okunye okunjalo, ngokulawulwa sisiqendwana (3) nesesi-(4) okanye ngokulawulwa ngomnye umthetho.

(3) Igqwetha elinqwenela ukumel' umntu phambi kweNkundla Ephakamileyo, okanye phambi kweNkundla Ephakamileyo Yezibheno, okanye phambi kweNkundla YoMgaqo-siseko, malenz' isicelo kumgcini-zifayile weCandelo leNkundla Ephakamileyo elamkelwa laza labhaliswa kuyo elo gqwetha, kusisicelo sesiqinisekiso esithi umenzi-sicelo unelungelo lokumel' umntu phambi kweNkundla Ephakamileyo, okanye phambi kweNkundla Ephakamileyo Yezibheno, okanye phambi kweNkundla YoMgaqo-siseko, siqinisekiso eso ekufuneka ukuba umgciniz-zifayile asikhuphe xa anelisekile kwinto yokuba elo gqwetha—

(a) (i) belisebenza njengegqwetha okanye belisebenzel' uluntu njengegqwetha kwiziko-ncedo lomthetho ngendlela ekufunwa ngayo kwi*Attotneys Act* ixesha elinganqamkiyo elingekho ngaphantsi kweminyaka emithathu, kodwa ke eli xesha lisengancitshiswa ngokwemigaqo equlunqwe liBhunga ukuba igqwetha elo lifumene uqeqesho lokulingwa njengegqwetha leejaji oluvunywe liBhunga ngendlela exelwe kwimiGaqo;
   (ii) lisidanga seLLB;

(iii) has not had his or her name struck off the Roll or has not been suspended from practice or that there are no proceedings pending to strike the applicant's name from the Roll or to suspend him or her; or

(b) has gained appropriate relevant experience, as may be prescribed by the Minister in consultation with the Council, if the attorney complies with paragraph *(a)*(iii).

(4) *(a)* An attorney wishing to apply for a certificate contemplated in subsection (3) must serve a copy of the application on the Council, containing the information as determined in the rules within the time period determined in the rules.

(b) A registrar of a Division of the High Court who issues a certificate referred to in subsection (3) must immediately submit a certified copy thereof to the Council.

(5) *(a)* A candidate attorney is, subject to paragraph *(b)*, entitled to appear—

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

(ii) before any board, tribunal or similar institution on behalf of any person, instead of and on behalf of the person under whose supervision he or she is undergoing his or her practical vocational training.

(b) A candidate attorney may only appear in a regional division established under section 2 of the Magistrates' Courts Act, 1944 (Act No.32 of 1944), as contemplated in paragraph *(a)* if he or she has previously practised as an advocate for at least one year or has undergone at least one year of practical vocational training.

Minimum qualifications and practical vocational training

26. (1) A person qualifies to be admitted and enrolled as a legal practitioner, if that person has—

(a) satisfied all the requirements for the LLB degree obtained at any university registered in the Republic, after pursuing for that degree—

(i) a course of study of not less than four years; or

(ii) a course of study of not less than five years if the LLB degree is preceded by a bachelor's degree other than the LLB degree, as determined in the rules of the university in question and approved by the Council; or

(b) subject to section 24(2)*(b)*, satisfied all the requirements for a law degree obtained in a foreign country, which is equivalent to the LLB degree and recognised by the South African Qualifications Authority established by the National Qualifications Framework Act, 2008 (Act No. 67 of 2008); and

(c) undergone all the practical vocational training requirements as a candidate legal practitioner prescribed by the Minister, including—

(i) community service as contemplated in section 29, and

(ii) a legal practice management course for candidate legal practitioners who intend to practise as attorneys or as advocates referred to in section 34(2)*(b)*; and

(d) passed a competency-based examination or assessment for candidate legal practitioners as may be determined in the rules.

(2) An attorney qualifies to be enrolled as a conveyancer, if he or she has passed a competency-based examination or assessment of conveyancers as determined in the rules by the Council.

(3) An attorney qualifies to be enrolled as a notary, if he or she has passed a competency-based examination or assessment for notaries as determined in the rules by the Council.

Practical vocational training

27. (1) The Council must in the rules, determine the minimum conditions and procedures for the registration and administration of practical vocational training.

(iii) igama lakhe alicinywanga kuLuhlu okanye akanqunyanyiswanga ekusebenzeni okanye manyathelo athuku-thukuzayo okuba licinywe igama lakhe kuLuhlu okanye anqunyanyiswe; okanye

(b) uzuze amava afanelekileyo, anokuthi afunwe nguMphathiswa ebonisana neBhunga, ukuba igqwetha elo liyafaneleka ngokwesiqendu *(c)*.

(4) *(a)* Igqwetha elinqwenela ukwenz' isicelo sesiqinisekiso esixelwe kwisiqendwana (3) malinike iBhunga ikopi yesicelo, sibe nengcombolo egqitywe kwimigaqo lingekapheli ixesha eligqitywe kwimigaqo.

(b) Umgcini-zifayile weCandelo leNkundla Ephakamileyo okhupha isiqinisekiso ekuthethwe ngaso kwisiqendwana (3) makanike iBhunga ikopi esethifayiweyo yesiqinisekiso ngoko nangoko.

(5) *(a)* Ngokulawulwa sisiqendu *(b)*, igqwetha elisengumkhwetha linelungelo lokumel' umntu—

(i) kuyo nayiphi na inkundla, ngaphandle kwakwiNkundla Ephakamileyo, nakwiNkundla Ephakamileyo Yezibheno, nakwiNkundla YoMgaqo-siseko; kananjalo

(ii) naphambi kwayo nayiphi na ibhodi okanye abachopheli-matyala okanye okunye okunjalo, angamela nomntu obeza kumelwa ngulowo angumkhwetha phantsi kwakhe.

(b) Igqwetha elisengumkhwetha lingamel' umntu kwinkundla yenqila esekwe ngokwesiqendu 2 se*Magistrates' Court Act*, 1944 (Umthetho 32 ka-1944) kuphela ngendlela exelwe kwisiqendu *(a)* ukuba lakhe laligqwetha leejaji ngaphambili ubuncinane ixesha elingunyaka okanye liqeqeshwe ubuncinane unyaka kumsebenzi wobugqwetha.

Eyona mfundo iphantsi ifunekayo nokuqeqeshelwa umsebenzi

26. (1) Umntu uyakufanelekela ukuba amkelwe aze abhaliswe njengegqwetha ukuba—

(a) uzifezile zonke izinto ezifunekayo zesidanga seLLB asifumene kuyo nayiphi in iyunivesithi ebhaliswe kwiRiphablikhi, emva kokufundela eso sidanga—

(i) izifundo ezitsala ixesha elingekho ngaphantsi kweminyaka emine; okanye

(ii) izifundo ezitsala ezitsala ixesha elingekho ngaphantsi kweminyaka emihlanu ukuba isidanga seLLB usifundele emva kwesidanga seBachelor esingeyiyo iLLB, ngokwemigaqo yeyunivesithi leyo ethe yavunywa naliBhunga; okanye

(b) ngokulawulwa sisiqendu 24(2)*(b)*, uzifezile zonke izinto ezifuna sisidanga somthetho asifumene kwelinye ilizwe, esilinganayo nesidanga seLLB, saza savunywa yiSouth African Qualifications Authority eyasekwa yi*National Qualifications Framework Act*, 2008 (Umthetho 67 ka-2008); kananjalo

(c) ukufumene konke ukuqeqeshelwa umsebenzi njengegqwetha elisengumkhwetha, okufunwa nguMphathiswa, kuquka—

(i) ukusebenzela uluntu, njengoko kuxelwe kwisiqendu 29; kananjalo

(ii) nesifundo sokuwuphatha umsebenzi wobugqwetha esilungiselelwe amagqwetha asengabakhwetha azimisele ukuba ngamagqwetha okanye ukuba ngamagqwetha eejaji ekuthethwe ngawo kwisiqendu 34(2)*(b)*; kwaye

(d) uluphumelele uvavanyo lokukwazi ukusebenza olulungiselelwe amagqwetha asengabakhwetha, uvavanyo ekunokuthi kwenziwe isigqibo ngalo kwimigaqo.

(2) Igqwetha lifanelekela ukuba libhaliswe njengegqwetha lonaniselwano ngemizi ukuba liluphumelele uvavanyo lokukwazi ukuwenza umsebenzi wamagqwetha onaniselwano ngemizi ngendlela egqitywe kwimigaqo liBhunga.

(3) Igqwetha lifanelekela ukuba libhaliswe njengegqwetha lamaxwebhu afungelweyo ukuba liluphumelele uvavanyo lokukwazi ukuwenza umsebenzi wamagqwetha amaxwebhu afungelweyo ngendlela egqitywe kwimigaqo liBhunga.

Ukuqeqeshelwa umsebenzi

27. (1) Kwimigaqo, iBhunga maligqibe ngeyona miqathango mincinane neenkqubo ekubhaliselweni ukuqeqeshelwa umsebenzi.

(2) The rules contemplated in subsection (1) must regulate the payment of remuneration, allowances or stipends to all candidate legal practitioners, including the minimum amount payable.

Assessment of practical vocational training

28. (1) The Council must, in the rules, determine a procedure and issue directions pertaining to the assessment of persons undergoing practical vocational training.

(2) The purpose of assessment in terms of subsection (1) is to establish whether, in the opinion of the Council, the person has attained an adequate level of competence as determined in the rules, for admission and enrolment as a legal practitioner.

(3) The assessment referred to in subsection (1) must be carried out by the Council or an appropriate institution or organisation engaged by the Council to conduct the assessment on its behalf.

(4) The Council must, in the rules, determine the criteria for a person, institution, organisation or association to qualify to conduct an assessment in terms of this section.

Community service

29.(1) The Minister must, after consultation with the Council, prescribe the requirements for community service from a date to be determined by the Minister, and such requirements may include—

(a) community service as a component of practical vocational training by candidate legal practitioners; or

(b) a minimum period of recurring community service by practising legal practitioners upon which continued enrolment as a legal practitioner is dependent.

(2) Community service for the purposes of this section may include, but is not limited, to the following:

(a) Service in the State, approved by the Minister, in consultation with the Council;

(b) service at the South African Human Rights Commission;

(c) service, without any remuneration, as a judicial officer in the case of legal practitioners, including as a commissioner in the small claims courts;

(d) the provision of legal education and training on behalf of the Council, or on behalf of an academic institution or non-governmental organisation; or

(e) any other service which the candidate legal practitioner or the legal practitioner may want to perform, with the approval of the Minister.

(3) The Council may, on application and on good cause shown, exempt any candidate legal practitioner or legal practitioner from performing community service, as set out in the rules.

Enrolment with Council

30. (1) *(a)* A person duly admitted by the High Court and authorised to be enrolled to practise as a legal practitioner must apply to the Council in the manner determined in the rules, for the enrolment of his or her name on the Roll.

(b) The application referred to in paragraph *(a)* must—

(i) be accompanied by the fee determined in the rules;

(ii) indicate whether the applicant intends to practise as an attorney or an advocate and, in the case of an advocate, whether he or she intends practising with or without a Fidelity Fund certificate; and

(iii) be submitted to the Council in the manner determined in the rules through the Provincial Council where the legal practitioner intends to practise.

(2) The Council must enrol the applicant as an attorney, advocate, notary or conveyancer, as the case may be, if he or she complies with the provisions of this Act.

(3) The Council must keep a Roll of Legal Practitioners, as determined in the rules, which must reflect—

(a) the particulars of practising and non-practising legal practitioners and, in the case of advocates, whether they practise with or without a Fidelity Fund certificate;

(2) Imigaqo exelwe kwisiqendwana (1) mayilawule ukuhlawulwa komvuzo, iimalana ezisecaleni okanye umvuzwana kuwo onke amagqwetha asengabakhwetha, ilawule nokuthi mayingabi ngaphantsi kwamalini eyona mali ihlawulwayo.

Uvavanyo emva kokuqeqeshelwa umsebenzi

28. (1) Kwimigaqo, iBhunga maligqibe ngenkqubo yokuvavanywa kwabantu abaqeqeshelwa umsebenzi lize likhuphe imiyalelo ephathelene noko.

(2) Injongo yovavanyo ngokwesiqendwana (1) kukuqonda ukuba, ngokokubona, kweBhunga, umntu lowo ufikelele kwinqanaba elaneleyo kusini na lokukwazi ukuwenza umsebenzi ngendlela ekufunekayo ngayo kwimigaqo, ukuze amkelwe aze abhaliswe njengegqwetha.

(3) Uvavanyo ekuthethwe ngalo kwisiqendwana (1) maluqhutywe liBhunga okanye ngumbutho ofanelekileyo ofunwe liBhunga ukuba wenze uvavanyo egameni lalo.

(4) Kwimigaqo, iBhunga maligqibe ngezinto ezifunekayo ukuze umntu okanye umbutho ufanelekele ukuqhuba uvavanyo ngokwesi siqendu.

Ukusebenzela uluntu

29. (1) Emva kokubonisana neBhunga, uMphathiswa makaxele iimfuneko zokusebenzela uluntu ukususela kumhla omawugqitywe nguMphathiswa, kwaye ezo mfuneko zisengaquka—

(a) ukusebenzela uluntu njengenxalenye yokuqeqeshelwa umsebenzi ngamagwetha asengabakhwetha; okanye

(b) elona xesha lifutshane lokusebenzel' uluntu okuman' ukuphindwa okuxhomekeke kuko ukubhaliswa okuqhubekayo njengegqwetha.

(2) Ukusebenzela uluntu, ngokwenjongo yesi siqendu, kungaquka:

(a) ukusebenza kurhulumente, okuvunywe nguMphathiswa, ebonisana neBhunga;

(b) ukusebenza kwiKomisoni Yamalungelo Oluntu YaseMzantsi-Afrika;

(c) xa uligqwetha, ukusebenza ungahlawulwa njengomchopheli-matyala, kuquka nokuba ngumchopheli-matyala kwinkundla yamabango amancinane;

(d) ukufundisa abanye umthetho nokubaqeqesha kuwo, ukwenza oko egameni leBhunga, okanye egameni leziko lemfundo okanye umbutho ongengokarhulumente; okanye

(e) nawuphi na umnye umsebenzi igqwetha elisengumkhwetha okanye igqwetha elisengafuna ukuwenza, ngokuvunyelwa nguMphathiswa.

(3) Xa kwenziwe isicelo kwaza kwaxelwa isizathu esivakalayo, iBhunga lisengalikhulula igqwetha okanye igqwetha elisengumkhwetha kwisinkqamangelo sokusebenzela uluntu, ngendlea exelwe kwimigaqo.

Ukubhalisa kwiBhunga

30. (1) *(a)* Umntu owamkelwe ngokufanelekileyo yiNkundla Ephakamileyo njengegqwetha waza wagunyazwa ukuba abhaliswe makenze isicelo kwiBhunga ngendlela egqitywe kwimigaqo, sokubhalisa igama lakhe kuLuhlu.

(b) Isicelo ekuthethwe ngaso kwisiqendu *(a)*—

(i) masiphelekwe ngumrhumo oqingqwe kwimigaqo;

(ii) masibonise ukuba umenzi-sicelo ufuna ukusebenza njengegqwetha okanye njengegqwetha leejaji kusini na, kuze kuthi ukuba ufuna ukusebenza njengegqwetha leejaji, sibonise ukuba ufuna ukusebenza enesiqinisekiso seFidelity Fund kusini na okanye engenaso; kananjalo

(iii) masisiwe kwiBhunga ngendlela egqitywe kwimigaqo, sisiwe ngeBhunga lePhondo elifuna ukusebenza kuyo igqwetha elo.

(2) IBhunga malimbhalise umenzi-sicelo njengegqwetha, okanye njengegqwetha leejaji, okanye njengegqwetha lamaxwebhu afungelweyo, okanye njengegqwetha lonaniselwano ngemizi, ukuba likwenzile okufunwa ngulo Mthetho.

(3) IBhunga malibe noLuhlu Lwamagqwetha, ngendlela ekugqitywe ngayo kwimigaqo, Luhlu olo omalubonise—

(a) iinkcukacha zamagqwetha akumsebenzi wobugqwetha nangekhoyo kuwo, kuze kuthi xa kungamagqwetha eejaji, lubonise ukuba igqwetha leejaji lisebenza lesinesiqinisekiso seFidelity Fund kusini na okanye lingenaso;

- *(b)* the name of every person admitted as a legal practitioner in terms of this Act and the particulars of the order of court in terms of which he or she was admitted;
- *(c)* the name of every person readmitted as a legal practitioner and the particulars of the order of court in terms of which he or she was readmitted;
- *(d)* the names of all persons who were admitted and enrolled as legal practitioners before the commencement of this Act, and the particulars of the orders of court admitting them;
- *(e)* the particulars of any order of court in terms of which any legal practitioner has been suspended, whether the order was made before or after the commencement of this Act, or particulars of any court order in terms of which the name of any such person has been ordered to be struck off the Roll;
- *(f)* any conversion of enrolment as contemplated in section 32;
- *(g)* any amendment or endorsement against the enrolment of a legal practitioner as contemplated in section 40(3)*(a)*(v);
- *(h)* the particulars of every attorney who has been issued with a certificate relating to right of appearance in the High Court, the Supreme Court of Appeal and the Constitutional Court referred to in section 25(3); and
- *(i)* the particulars of every advocate who practises with a Fidelity Fund certificate as contemplated in section 34(2)*(b)*.

(4) Any document issued by the Council in terms of which it is certified that—

- *(a)* a person has been admitted and enrolled to practise as a legal practitioner;
- *(b)* a person has been readmitted to practise as a legal practitioner;
- *(c)* a person has been suspended from practice as a legal practitioner; or
- *(d)* the name of a person has been struck off the Roll,

is, on its mere production, *prima facie* proof of the facts stated therein.

(5) The registrar of the Division of the High Court which makes an order—

- *(a)* admitting and authorising a person to practise and be enrolled as a legal practitioner;
- *(b)* readmitting and authorising a person to practise and be enrolled as a legal practitioner; or
- *(c)* that the name of a person be struck off the Roll or that suspends a person from practice as a legal practitioner under this Act or any other law,

must immediately, after the making of that order, forward a certified copy thereof to the Council through the Provincial Council having jurisdiction.

(6) The Roll referred to in subsection (3) must be—

- *(a)* published on the website of the Council;
- *(b)* updated every month by the Council; and
- *(c)* available for inspection by members of the public during business hours of the Council and Provincial Councils.

Cancellation and suspension of enrolment

31. (1) *(a)* The Council must cancel or suspend the enrolment of a legal practitioner if the High Court orders that his or her name be struck off the Roll or that he or she be suspended from practice.

(b) The Council may cancel or suspend the enrolment of a legal practitioner if he or she has erroneously been enrolled, or has been enrolled on information that is subsequently proved to be false.

(2) The Council must, before cancellation or suspension of enrolment of a legal practitioner in the case of subsection (1)*(b)*, notify such legal practitioner and give him or her an opportunity to be heard.

(3) The Council must, as determined in the rules, notify the person referred to in subsection (1) of the cancellation or suspension of enrolment.

(4) The Council must, at the written request of any enrolled legal practitioner, cancel his or her enrolment and remove his or her name from the Roll or from the Roll of practising legal practitioners, as indicated by the legal practitioner in question, but where an investigation into any alleged improper conduct by that person is in progress or is to be held, the enrolment may not be cancelled until the investigation has been concluded.

(5) Despite the cancellation or suspension of the enrolment of a person in terms of this section, that person remains liable for any fee, arrears or penalty imposed by the Council for the period that he or she was enrolled.

(b) igama lomntu ngamnye owamkelwe njengegqwetha ngokwalo Mthetho, neenkcukacha zomyalelo wenkundla awathi wamkelwa ngawo;
(c) igama lomntu ngamnye othe wamkelwa ngokutsha njengegqwetha, neenkcukacha zomyalelo wenkundla awathi wamkelwa ngokutsha ngawo;
(d) amagama abo bonke abantu abathi bamkelwa baza babhaliswa njengamagqwetha ngaphambi kokuqalisa kwalo Mthetho ukusebenza, neenkcukacha zemiyalelo yenkundla eyayibamkela;
(e) iinkcukacha zomyalelo wenkundla elithe ngawo igqwetha lanqunyanyiswa, kungakhathaliseki ukuba umyalelo lowo wenziwa ngaphambi kokuqalisa kwalo Mthetho ukusebenza okanye ngemva kwawo, okanye iinkcukacha zomyalelo wenkundla ekwathi ngawo umntu wacinywa kuLuhlu;
(f) ukutshintshwa kohlobo lwegqwetha umntu awayebhaliswe elilo;
(g) utshintsho okanye amagama abhaliweyo nxamnye nokubhaliswa kwegqwetha njengoko kuxelwe kwisiqendu 40(3)*(a)*(v);
(h) iinkcukacha zegqwetha ngalinye elikhutshelwe isiqinisekiso sokumel' umntu kwiNkundla Ephakamileyo, nakwiNkundla Ephakamileyo Yezibheno, nakwiNkundla YoMgaqo-siseko ekuthethwe ngaso kwisiqendu 25(3);
(i) neenkcukacha zegqwetha leejaji ngalinye elisebenza linesiqinisekiso seFidelity Fund ngendlela exelwe kwisiqendu 34(2)*(b)*.

(4) Naluphi na uxwebhu olukhutshwe liBhunga ekuqinisekiswa ngalo ukuba—
(a) umntu wamkelwe waza wabhaliswa ukuba asebenze njengegqwetha;
(b) umntu wamkelwe ngokutsha ukuba asebenze njengegqwetha;
(c) umntu unqunyanyisiwe ekusebenzeni njengegqwetha; okanye
(d) igama lomntu licinyiwe kuLuhlu,

luthi, ngokuvezwa nje, lube bubungqina kungembiwanga nzulu bezinto ezithethiweyo apho kulo.

(5) Umgcini-zifayile weCandelo leNkundla Ephakamileyo elikhupha umyalelo—
(a) wokwamkelwa nogunyaza umntu ukuba abhaliswe aze asebenze njengegqwetha;
(b) wokwamkelwa ngokutsha nogunyaza ukuba abhaliswe aze asebenze njengegqwetha; okanye
(c) wokucinywa kwegama lomntu kuLuhlu okanye wokunqunyanyiswa komntu ekusebenzeni njengegqwetha ngokwalo Mthetho okanye omnye umthetho,

makathi ngoko nangoko usakukhutshwa loo myalelo athumele ikopi esethifayiweyo yawo kwiBhunga esebenzisa iBhunga lePhondo elinegunya apho.

(6) ULuhlu ekuthethwe ngalo kwisiqendwana (3)—
(a) malupapashwe kwiwebhsayithi yeBhunga;
(b) iBhunga maliyenze ihambisane namaxesha qho ngenyanga; kananjalo
(c) uluntu malube nako ukuyihlola ngamaxesha omsebenzi eBhunga nawamaBhunga amaPhondo.

Ukunqunyanyiswa nokucinywa kwegama lobhalisiweyo

31. (1) *(a)* IBhunga malilinqumamise igqwetha okanye lilicime kuLuhlu ukuba iNkundla Ephakamileyo iyalela ukuba igama lakhe licinywe kuLuhlu okanye linqunyanyiswe ekusebenzeni.

(b) IBhunga lingalicima igama legqwetha ebelibhalisiwe okanye lilinqumamise ukuba igqwetha libhaliswe ngempazamo, okanye libhaliswe ngokwengcombolo ethe kamva yafumaniseka ukuba ibubuxoki.

(2) Ngaphambi kokuba iBhunga lilinqumamise igqwetha okanye lilicime igama lalo kuLuhlu, malilazise igqwetha kwaye lilinike ithuba lokuphendula.

(3) Ngendlela ekugqitywe ngayo kwimigaqo, iBhunga malilazise igqwetha ekuthethwe ngalo kwisiqendwana (1) ngokucinywa kwalo kuLuhlu okanye ngokunqunyanyiswa kwalo.

(4) Ngesicelo esibhaliweyo segqwetha elibhalisiweyo, iBhunga malilicime igama legqwetha kuLuhlu okanye kuLuhlu lwamagama asebenza njengamagqwetha, ngokokucela kwegqwetha, kodwa xa kuqhubeka uphando okanye kuza kubakho uphando ngesenzo esingafanelekanga ekuthiwa senziwe lelo gqwetha, akuvumelekanga ukuba licinywe igama lalo de lube lugqityiwe uphando.

(5) Nangona sele licinyiwe igama legqwetha okanye sele linqunyanyisiwe ngokwesi siqendu, elo gqwetha lisafanele liyihlawule nayiphi na imali elisemva ngayo ekuhlawuleni ityala, okanye isohlwayo elisinikwe liBhunga kwithuba ebeliligqwetha elibhalisiweyo ngalo.

Conversion of enrolment

32. (1) *(a)* A legal practitioner may, at any time, as determined in the rules and upon payment of the fee determined by the Council in the rules, apply to the Council to convert his or her enrolment as an attorney to that of an advocate and *vice versa*.

(b) An advocate practising as such referred to in section 34(2)*(a)*(i) may, at any time, as determined in the rules and upon payment of the fee determined by the Council in the rules, apply to the Council for the conversion of his or her enrolment to that of an advocate practising as such referred to in section 34(2)*(a)*(ii) and *vice versa.*

(2) The Council may impose any conditions as it considers appropriate to give effect to the conversion and the provisions of this Act relating to enrolment.

(3) The Council may make rules setting out the circumstances under which a legal practitioner can apply for the conversion of his or her enrolment and any requirements such legal practitioner must comply with.

Authority to render legal services

33. (1) Subject to any other law no person other than a legal practitioner who has been admitted and enrolled as such in terms of this Act may, in expectation of any fee, commission, gain or reward—

(a) appear in any court of law or before any board, tribunal or similar institution in which only legal practitioners are entitled to appear; or

(b) draw up or execute any instruments or documents relating to or required or intended for use in any action, suit or other proceedings in a court of civil or criminal jurisdiction within the Republic.

(2) No person other than a legal practitioner may hold himself or herself out as a legal practitioner or make any representation or use any type or description indicating or implying that he or she is a legal practitioner.

(3) No person may in expectation of any fee, commission, gain or reward, directly or indirectly, perform any act or render any service which in terms of any other law may only be done by an advocate, attorney, conveyancer or notary, unless that person is an advocate, attorney, conveyancer or notary, as the case may be.

(4) A legal practitioner who is struck off the Roll or suspended from practice may not—

(a) render services as a legal practitioner directly or indirectly for his or her own account, or in partnership, or association with any other person, or as a member of a legal practice; or

(b) be employed by, or otherwise be engaged, in a legal practice without the prior written consent of the Council, which consent may not be unreasonably withheld, and such consent may be granted on such terms and conditions as the Council may determine.

Forms of legal practice

34. (1) An attorney may render legal services in expectation of any fee, commission, gain, or reward as contemplated in this Act or any other applicable law, upon receipt of a request directly from the public for that service.

(2) *(a)* An advocate may render legal services in expectation of a fee, commission, gain or reward as contemplated in this Act or any other applicable law—

(i) upon receipt of a brief from an attorney; or

(ii) upon receipt of a request directly from a member of the public or from a justice centre for that service, subject to paragraph *(b).*

Ukuguqulwa kobhaliso

32. (1) *(a)* Igqwetha linokuthi nangaliphi na ixesha, ngendlela egqitywe kwimigaqo, nasemva kokuhlawula umrhumo ogqitywe liBhunga kwimigaqo, lenze isicelo kwiBhunga sokuba kuguqulwe ubhaliso lwalo njengegqwetha libe ligqwetha leejaji okanye kuguqulwe ubhaliso lwalo njengegqwetha leejaji libe ligqwetha.

(b) Igqwetha leejaji elisebenza njengegqwetha leejaji ekuthethwe ngalo kwisiqendu 34(2)*(a)*(i) linokuthi, nangaliphi na ixesha, ngendlela egqitywe kwimigaqo nasemva kokuhlawula umrhumo ogqitywe liBhunga kwimigaqo, lenze isicelo kwiBhunga sokuba kuguqulwe ubhaliso lwalo kube kokwegqwetha leejaji elisebenza njengegqwetha leejaji ekuthethwe ngalo kwisiqendu 34(2)*(a)*(ii).

(2) IBhunga lingabeka nayiphi na imiqathango eliyibona ifanelekile ukuphumelelisa olo guqulo nokutshiwo ngulo Mthetho okumayela nokubhaliswa.

(3) IBhunga lisenokuqulunqa imigaqo echaza iimeko elinokuthi kuzo igqwetha lenze isicelo sokuguqulwa kokubhaliswa kwalo kunye neemfuneko emalihlangabezane nazo elo gqwetha.

Igunya lokwenza imisebenzi yobugqwetha

33. (1) Ngokulawulwa nguwo nawuphi na umthetho ongomnye, akukho mntu uvumelekileyo ngaphandle kwegqwetha elamkelweyo laza labhaliswa ngokwalo Mthetho onokuthi, elindele ukuhlawulwa, okanye elindele ukufumana ikhomishini, okanye inzuzo okanye umvuzo—

(a) avele nakuyiphi na inkundla yomthetho okanye phambi kwebhodi okanye phambi kwesigqeba sabachopheli-tyala okanye okunye okunjalo, ekungamagqwetha kuphela anelungelo lokuvela apho; okanye

(b) abhale amaxwebhu okanye awaphumeze, kungamaxwebhu angawokusetyenziswa nakuliphi na inyathelo lomthetho okanye isimangalo kwinkundla yamatyala embambano okanye yamatyala olwaphulo-mthetho kwiRiphablikhi.

(2) Akukho mntu ngaphandle kwegqwetha onokuzenza igqwetha okanye asebenzise into emchaza njengegqwetha okanye eyenza kucingwe ukuba uligqwetha.

(3) Akukho mntu onokuthi, elindele ukuhlalwulwa, okanye ukufumana ikhomishini, okanye inzuzo okanye umvuzo, enze ngokungqalileyo okanye ngokungangqalanga nasiphi na isenzo okanye umsebenzi onokuthi, ngokutsho komthetho, wenziwe kuphela ligqwetha leejaji, okanye ligqwetha, okanye ligqwetha lonaniselwano ngemizi okanye ligqwetha lamaxwebhu afungelweyo, ngaphandle kokuba loo mntu uligqwetha leejaji, okanye uligqwetha, okanye uligqwetha lonaniselwano ngemizi okanye uligqwetha lwamaxwebhu afungelweyo.

(4) Igqwetha elicinyiweyo kuLuhlu okanye elinqunyanyisiweyo ekusebenzeni alivumelekanga ukuba—

(a) lenze imisebenzi yobugqwetha ngokungqalileyo okanye ngokungangqalanga, lisebenzela lona siqu, okanye lisebenzela abanye elingamahlakani nabo emsebenzini; okanye

(b) liqeshwe kumsebenzi wobugqwetha ngaphandle kwemvume ebhaliweyo yeBhunga, mvume leyo ekungavumelekanga ukuba kwaliwe nayo ngesizathu esingavakaliyo, kwaye loo mvume inokunikwa ngemigqaliselo nemiqathango enokuthi igqitywe liBhunga.

Iintlobo zomsebenzi wobugqwetha

34. (1) Igqwetha linokwenza umsebenzi wobugqwetha lilindele ukuhlawulwa intlawulo, okanye lilindele ukufumana ikhomishini, okanye inzuzo okanye umvuzo ngendlela exelwe kulo Mthetho okanye nawuphi na omnye osebenzayo kule meko, lisakufumana isicelo esivela ngqo emntwini ofuna ukwenzelwa loo msebenzi.

(2) *(a)* Igqwetha leejaji linokwenza umsebenzi wobugqwetha lilindele ukuhlawulwa intlawulo, okanye ukufumana ikhomishini, okanye inzuzo okanye umvuzo ngendlela exelwe kulo Mthetho okanye ngokomnye umthetho osebenzayo kule meko—

(i) lisakunikwa umsebenzi ligqwetha; okanye

(ii) lisakufumana isicelo esivela ngqo emntwini okanye esivela kwiziko elicelela abantu amagqwetha, befuna ukwenzelwa loo msebenzi, ngokulawulwa sisiqendu *(b)*.

(b) An advocate contemplated in paragraph *(a)*(ii) may only render those legal services rendered by advocates before the commencement of this Act as determined by the Council in the rules, if he or she—

(i) is in possession of a Fidelity Fund certificate and conducts his or her practice in accordance with the relevant provisions of Chapter 7, with particular reference to sections 84, 85, 86 and 87;

(ii) has notified the Council thereof in terms of section 30(1)*(b)*(ii).

(c) An advocate may render legal services in criminal or civil matters in expectation of a fee, commission, gain or reward as contemplated in this Act or any other applicable law upon receipt of a request directly from a justice centre for that service, in which event the provisions of paragraph *(b)* do not apply.

(3) The Council must make rules relating to the briefing of advocates—

(a) by attorneys; and

(b) directly by members of the public.

(4) The Council must make rules relating to the instruction of attorneys.

(5) Attorneys may only practise—

(a) for their own account;

(b) as part of a commercial juristic entity referred to in subsection (7) and as such, may only make over to, share or divide any portion of their professional fee whether by way of partnership, commission, allowance, or otherwise with an attorney;

(c) as part of a law clinic established in terms of subsection (8);

(d) as part of Legal Aid South Africa; or

(e) as an attorney in the full-time employment of the State as a state attorney or the South African Human Rights Commission.

(6) Advocates may only practise—

(a) for their own account and as such may not make over to, share or divide any portion of their professional fee whether by way of partnership, commission, allowance or otherwise;

(b) as part of a law clinic established in terms of subsection (8);

(c) as part of Legal Aid South Africa; or

(d) as an advocate in the full-time employment of the State as a state advocate or the South African Human Rights Commission.

(7) A commercial juristic entity may be established to conduct a legal practice provided that, in terms of its founding documents—

(a) its shareholding, partnership or membership as the case may be, is comprised exclusively of attorneys;

(b) provision is made for legal services to be rendered only by or under the supervision of admitted and enrolled attorneys; and

(c) all present and past shareholders, partners or members, as the case may be, are liable jointly and severally together with the commercial juristic entity for—

(i) the debts and liabilities of the commercial juristic entity as are or were contracted during their period of office; and

(ii) in respect of any theft committed during their period of office.

(8) *(a)* Subject to the approval of the Council in terms of the rules, a law clinic may be established by—

(i) a non-profit juristic entity registered in terms of the Non-profit Organisations Act, 1997 (Act No. 71 of 1997), to conduct a legal practice if, in terms of its founding documents—

(aa) the majority of its members of its governing body is comprised of legal practitioners; and

(bb) upon its winding-up, dissolution or voluntary deregistration, any asset remaining after all liabilities have been met, are transferred to another non-profit organisation having similar objectives to it; or

(b) Igqwetha leejaji elixelwe kwisiqendu *(a)*(ii) linokwenza kuphela loo misebenzi yomthetho eyayisenziwa ngamagqwetha eejaji ngaphambi kokuqalisa kwalo Mthetho ukusebenza ngendlela egqitywe liBhunga kwimigaqo, ukuba elo gqwetha—

(i) linesiqinisekiso se*Fidelity Fund* kwaye liwenza umsebenzi walo ngokoko kutshiwo ziinxalenye zeSahluko 7 ezichaphazela amagqwetha eejaji, ngakumbi isiqendu 84, 85, 86 nesama-87;

(ii) lilazisile iBhunga ngako oko ngokwesiqendu 30(1)*(b)*(ii).

(c) Igqwetha leejaji linokwenza umsebenzi womthetho kumatyala olwaphulo-mthetho okanye awembambano lilindele intlawulo, ikomishoni, inzuzo okanye umvuzo ngendlela exelwe kulo Mthetho okanye omnye umthetho osebenzayo kule meko lisakufumana isicelo esivela ngqo kwiziko elicelela abantu amagqwetha, isisicelo sokwenza loo msebenzi, ekuya kuthi xa kunjalo ke okutshiwo sisiqendu *(b)* kungasebenzi.

(3) IBhunga maliqulunqe imigaqo yokunikwa umsebenzi kwamagqwetha eejaji—

(a) ngamagqwetha; kananjalo

(b) naluluntu.

(4) IBhunga maliqulunqe imigaqo mayela nokunikwa kwamagqwetha umsebenzi.

(5) Amagqwetha avumeleke kuphela ukuba—

(a) asebenzele isiqu sawo;

(b) asebenze eyinxalenye yenkampani yorhwebo ekuthethwe ngayo kwisiqendwana (7), kwaye anokuthi xa esebenza ngolo hlobo adlulisele kwelinye igqwetha inxalenye yentlawulo ayifumeneyo, okanye ahlulelane ngayo, nokuba akwenza oko engamahlakani emsebenzini wobugqwetha, esahlulelana ikhomishini okanye imalana engamaqithiqithi;

(c) eyinxalenye yeziko-ncedo lomthetho esekwe ngokwesiqendwana (8);

(d) eyinxalenye yeLegal Aid South Africa; okanye

(e) eligqwetha eliqeshwe ngokupheleleyo ngurhulumente okanye yiKomishoni Yamalungelo Oluntu YaseMzantsi-Afrika.

(6) Amagqwetha eejaji avumeleke kuphela ukuba—

(a) asebenzele isiqu sawo kwaye xa esebenza ngolo hlobo akavumelekanga ukuba adlulisele kwelinye igqwetha leejaji inxalenye yentlawulo ayifumeneyo, okanye ahlulelane ngayo, akwenze oko engamahlakani emsebenzini wobugqwetha, ahlulelane ikhomishini okanye imalana engamaqithiqithi;

(b) eyinxalenye yeziko-ncedo lomthetho elisekwe ngokwesiqendwana (8);

(c) eyinxalenye yeLegal Aid South Africa; okanye

(d) njengoMtshutshisi weNkundla Ephakamileyo oqeshwe ngokupheleleyo ngurhulumente okanye yiKomishoni Yamalungelo Oluntu YaseMzantsi-Afrika.

(7) Inkampani yorhwebo isenokusekwa ngenjongo yokuba yenze umsebenzi wobugqwetha, kodwa kuxhomekeke ekubeni, ngokwamaxwebhu okusekwa kwayo—

(a) abantu abanezabelo kuyo, abantu abangamahlakani okanye abangamalungu bonke bangamagqwetha;

(b) imisebenzi yobugqwetha inokwenziwa kuphela phantsi kweliso lamagqwetha awamkelweyo aza abhaliswa; kananjalo

(c) bonke abanini-zabelo bangoku nabexesha elidlulileyo, amahlakani okanye amalungu, babophelelekile xa bebonke okanye umntu ngamnye, kunye nenkampani yorhwebo—

(i) ukuba bahlawule amatyala enkampani yorhwebo ngokwesivumelwano abangene kuso okanye ababengene kuso xa babesasebenza; kananjalo

(ii) ngobusela obenziwe ngexesha bebesasebenza.

(8) *(a)* Kuxhomekeke ekubeni kuyavunywa kusini na liBhunga ngokwemigaqo, kungasekwa iziko-ncedo lomthetho—

(i) yinkampani engeyoyanzuzo ebhaliswe ngokwe*Non-profit Organisations Act*, 1997 (Umthetho 71 ka-1997), yenze umsebenzi wobugqwetha ukuba, kumaxwebhu okusekwa kwayo—

(aa) uninzi lwamalungu equmrhu layo elilawulayo ngamagqwetha; kwaye

(bb) kusakusongwa impahla yayo, okanye isakuchithwa, okanye isakucinywa ekubhalisweni ngokuzithandela kwayo, nabuphi na ubuncwane obuseleyo emva kokuba kuhlawulwe amatyala, ubuncwane obuseleyo budluliselwa kwenye inkampani engeyoyanzuzo eneenjongo ezifanayo; okanye

(ii) any university in the Republic if it is constituted and governed as part of the faculty of law at that university,

and is subject to the provisions of paragraphs *(b)* and *(c)*.

(b) A law clinic referred to in paragraph *(a)*—
- (i) may only render legal services if those services are rendered by or under the supervision of attorneys;
- (ii) may not make over to, share or divide any portion of its professional fee whether by way of partnership, commission, allowance or otherwise;
- (iii) may not distribute any of its income or property to its members, governors or employees, except as reasonable compensation for services rendered;
- (iv) may only engage candidate legal practitioners if it complies with the requirements determined by the Council in the rules; and
- (v) may not render those legal services determined by the Council in the rules.

(c) Legal services rendered by a law clinic referred to in paragraph *(a)*—
- (i) must be accessible to the public; and
- (ii) must, subject to section 92, be rendered to the recipient of those services free of charge, except that the law clinic may recover any amounts actually disbursed on behalf of the recipient of the services.

(9) The Council must, within two years after the commencement of Chapter 2 of this Act, investigate and make recommendations to the Minister on—
- *(a)* the creation of other forms of legal practice, including—
  - (i) limited liability legal practices;
  - (ii) multi-disciplinary practices; and
- *(b)* the statutory recognition of paralegals,

taking into account best international practices, the public interest and the interests of the legal profession, with the view to legislative and other interventions in order to improve access to the legal profession and access to justice generally.

Fees in respect legal services

35. (1) Until the investigation contemplated in subsection (4) has been completed and the recommendations contained therein have been implemented by the Minister, fees in respect of litigious and non-litigious legal services rendered by legal practitioners, juristic entities, law clinics or Legal Aid South Africa referred to in section 34 must be in accordance with the tariffs made by the Rules Board for Courts of Law established by section 2 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985).

(2) The Rules Board for Courts of Law must, when determining the tariffs as contemplated in subsection (1), take into account—
- *(a)* the importance, significance, complexity and expertise of the legal services required;
- *(b)* the seniority and experience of the legal practitioner concerned, as determined in this Act;
- *(c)* the volume of work required and time spent in respect of the legal services rendered; and
- *(d)* the financial implications of the matter at hand.

(3) Despite any other law to the contrary, nothing in this section precludes any user of litigious or non-litigious legal services, on his or her own initiative, from agreeing with a legal practitioner in writing, to pay fees for the services in question in excess of or below any tariffs determined as contemplated in this section.

(4) The South African Law Reform Commission must, within two years after the commencement of Chapter 2 of this Act, investigate and report back to the Minister with recommendations on the following:
- *(a)* The manner in which to address the circumstances giving rise to legal fees that are unattainable for most people;
- *(b)* legislative and other interventions in order to improve access to justice by the members of the public;

(ii) yiyo nayiphi na iyunivesithi kwiRiphablikhi ukuba ilawulwa njengenxalenye yecandelo lomthetho kuloo yunivesithi,

kwaye ilawulwa koko kutshiwo sisiqendu *(b)* no-*(c)*.

(b) Naliphi na iziko-ncedo lomthetho ekuthethwe ngalo kwisiqendu *(a)*—

(i) linokwenza imisebenzi yomthetho kuphela ukuba loo misebenzi yenziwa ngamagqwetha okanye liyenza phantsi kweliso lamagqwetha;

(ii) alivumelekanga ukuba lahlulelane ngentlawulo eliyifumeneyo, enoba kungobuqabane, ngekomishini, okanye ngenye indlela;

(iii) alivumelekanga ukuba ingeniso yalo liyinike amalungu alo, abalawuli balo okanye abaqeshwa balo, ngaphandle kokuba oko likwenza kuyimbuyiselo efanelekileyo ngomsebenzi owenziweyo; kananjalo

(iv) linokusebenzisa amagqwetha asengabakhwetha kuphela ukuba likwenza oko ngokweemfuneko ezigqitywe liBhunga kwimigaqo; kananjalo

(v) alivumelekanga ukuba lenze imisebenzi yomthetho engavunywanga liBhunga kwimigaqo.

(c) Imisebenzi yomthetho eyenziwa liziko-ncedo lomthetho ekuthethwe ngalo kwisiqendu *(a)*—

(i) mayibe nokufunyanwa luluntu; kwaye

(ii) ngokulawulwa sisiqendu 92, mayenzelwe umntu simahla, ngaphandle nje kokuthi iziko-ncedo lomthetho livumelekile ukuba libuyelwe ziimali ezisetyenziswe ngqo egameni lomntu owenzelwe yena umsebenzi.

(9) Ingekapheli iminyaka emibini siqalile ukusebenza iSahluko 2 salo Mthetho, iBhunga maliphande lize lenze izindululo lizibhekise kuMphathiswa—

(a) ngokudalwa kwezinye iintlobo zomsebenzi wobugqwetha, kuquka—

(i) imisebenzi yobugqwetha enomda kubutyala; kwaye

(ii) imisebenzi entlantlu-ninzi;

(b) nokwamkelwa ngokomthetho wepalamente kwabawufundele abawugqiba umthetho, kucingelwa iindlela zokwenza ezizezona zilungileyo ehlabathini liphela, ukulungelwa koluntu nokulungelwa komsebenzi wobugqwetha, ngenjongo yokuba kungenelelwe ngemithetho yepalamente nangezinye iindlela ukuze kuphuculwe ukufunyanwa kwemisebenzi yobugqwetha nokufunyanwa kobulungisa gabalala.

Iimali zokuhlawulela umsebenzi wobugqwetha

35. (1) De lube uphando oluxelwe kwisiqendwana (4) lugqityiwe zaza nezindululo eziqulethwe apho zasetyenziswa nguMphathiswa ngokuthi enze imimiselo, emva kokuba ebonisene neBhunga, iimali zokuhlawulela umsebenzi owenziwe ngamagqwetha, ziinkampani, ngamaziko-ncedo lomthetho okanye yiLegal Aid South Arica ekuthethwe ngazo kwisiqendu 34, ezo mali mazibe ngokwemiyinge equlunqwe yiRules Board for Courts of Law eyasekwa sisiqendu 2 se*Rules Board for Courts of Law Act*, 1985 (Umthetho 107 ka-1985).

(2) *IRules Board for Courts of Law* mayithi, xa isenza isigqibo ngemiyinge njengoko kuxelwe kwisiqendwana (1), icingele—

(a) ukubaluleka, ukuntsonkotha, nobuchule obufunwa nguloo msebenzi;

(b) inqanaba elikulo igqwetha elo namava elinawo, ngendlela egqitywe kulo Mthetho;

(c) ubungakanani bomsebenzi ekufuneka wenziwe, nexesha elithathwa nguloo msebenzi; kwaye

(d) nendlela loo msebenzi ozichaphazela ngayo iimali.

(3) Kungakhathaliseki ukuba uthini na omnye umthetho otsho okuchasene noku, akukho nto kwesi siqendu ethintela umntu owenzelwa umsebenzi ligqwetha ingumsebenzi ongenguwo owokumangalelana, ukungena kwisivumelwano esibhaliweyo negqwetha elo sokuba uza kulihlawula imali engaphezu okanye engezantsi kwaleyo iqingqiweyo kwimiyinge ngokwesi siqendu.

(4) IKomishoni Yokwenz' Iinguqu Kumthetho WaseMzantsi-Afrika mayithi, ingaphelanga iminyaka emibini siqalile ukusebenza iSahluko 2 salo Mthetho, iphande ize yenz' ingxelo kuMphathiswa kunye nezindululo ezimayela noku kulandelayo:

(a) indlela yokujongana neemeko ezibangela ukungakwazi kwabantu abaninzi ukuzifikelela iimali ezifunwa ngamagqwetha;

(b) iindlela ezinjengokuwis' imithetho epalamente nezinye iindlela zokwenza kube bhetele ukufunyanwa kobulungisa luluntu;

(c) the desirability of establishing a mechanism which will be responsible for determining fees and tariffs payable to legal practitioners;
(d) the composition of the mechanism contemplated in paragraph *(c)* and the processes it should follow in determining fees or tariffs;
(e) the desirability of giving users of legal services the option of voluntarily agreeing to pay fees for legal services less or in excess of any amount that may be set by the mechanism contemplated in paragraph *(c)*; and
(f) the obligation by a legal practitioner to conclude a mandatory fee arrangement with a client when that client secures that legal practitioner's services.

(5) In conducting the investigation referred to in subsection (4), the South African Law Reform Commission must take the following into consideration:
(a) Best international practices;
(b) the public interest;
(c) the interests of the legal profession; and
(d) the use of contingency fee agreements as provided for in the Contingency Fees Act, 1997 (Act No. 66 of 1997).

(6) The Minister may by notice in the *Gazette* determine maximum tariffs payable to legal practitioners who are instructed by any State Department or Provincial or Local Government in any matter.

(7) When any attorney or an advocate referred to in section 34(2)*(b)* first receives instructions from a client for the rendering of litigious or non-litigious legal services, or as soon as practically possible thereafter, that attorney or advocate must provide the client with a cost estimate notice, in writing, specifying all particulars relating to the envisaged costs of the legal services, including the following:
(a) The likely financial implications including fees, charges, disbursements and other costs;
(b) the attorney's or advocate's hourly fee rate and an explanation to the client of his or her right to negotiate the fees payable to the attorney or advocate;
(c) an outline of the work to be done in respect of each stage of the litigation process, where applicable;
(d) the likelihood of engaging an advocate, as well as an explanation of the different fees that can be charged by different advocates, depending on aspects such as seniority or expertise; and
(e) if the matter involves litigation, the legal and financial consequences of the client's withdrawal from the litigation as well as the costs recovery regime.

(8) Any attorney or an advocate referred to in section 34(2)*(b)* must, in addition to providing the client with a written cost estimate notice as contemplated in subsection (7), also verbally explain to the client every aspect contained in that notice, as well as any other relevant aspect relating to the costs of the legal services to be rendered.

(9) A client must, in writing, agree to the envisaged legal services by that attorney or advocate referred to in section 34(2)*(b)* and the incurring of the estimated costs as set out in the notice contemplated in subsection (7).

(10) Non-compliance by any attorney or an advocate referred to in section 34(2)*(b)* with the provisions of this section constitutes misconduct.

(11) If any attorney or an advocate referred to in section 34(2)*(b)* does not comply with the provisions of this section, the client is not required to pay any legal costs to that attorney or advocate until the Council has reviewed the matter and made a determination regarding amounts to be paid.

(12) The provisions of this section do not preclude the use of contingency fee agreements as provided for in the Contingency Fees Act, 1997 (Act No. 66 of 1997).

(c) ukunqweneleka kokuthi gqi necebo eliza kuqingqa iimali emazihlawulwe amagqwetha;
(d) ubunjani becebo elixelwe kwisiqendu *(c)* neenkqubo emazilandelwe lilo ekugqibeni ngeemali zokuhlawula amagqwetha;
(e) ukunqweneleka kokunika abantu abasebenzisa amagqwetha ithuba lokuzikhethela ukuvuma ngokuzithandela ukuhlawula imali engaphezu okanye enganeno kwaleyo eqingqwe licebo elixelwe kwisiqendu *(c)*; kananjalo
(f) ukunyanzeleka kwegqwetha ukuba lingene kwisivumelwano sentlawulo esisisinyanzelo nomntu xa loo mntu eze kufuna ukusetyenzelwa lelo gqwetha.

(5) Ekwenzeni uphando oluxelwe kwisiqendwana (4), iKomishoni Yokwenz' Iinguqu Kumthetho WaseMzansti-Afrika mayicingele oku kulandelayo:
(a) iindlela zokwenza ezizezona zilungileyo ehlabathini;
(b) okuza kuba luncedo kuluntu;
(c) okuza kuba luncedo kumsebenzi wobugqwetha; kananjalo
(d) nokusetyenziswa kwezivumelwano zokuhlawulwa xa liphumelele ityala ekuthethwe ngazo kwi*Contingency Fees Act*, 1997 (Umthetho 66 ka-1997).

(6) UMphathiswa unokuthi ngokukhuph' isihlokomiso ku*Shicilelo-Mithetho* aqingqe imali angenakugqitha kuyo amagqwetha xa ehlawulisa enikwe umsebenzi liSebe likarhulumente okanye ngurhulumente wephondo okanye wasekuhlaleni.

(7) Xa igqwetha okanye igqwetha leejaji ekuthethwe ngalo kwisiqendu 34(2)*(b)* lifumana imiyalelo emntwini yokwenzelwa umsebenzi ongowokumangalela omnye okanye ongenguwo owokumangalela omnye, okanye kamsinya kangangoko kunokwenzeka emva koko, elo gqwetha okanye elo gqwetha leejaji malinike loo mntu uqikelelo lweendleko zibhalwe phantsi, olunazo zonke iinkcukacha zezo ndleko, kuquka noku kulandelayo:
(a) iimali ekusenokwenzeka zifuneke, ezinjengentlawulo, okanye iindleko;
(b) imali ebizwa ligqwetha ngeyure okanye ebizwa ligqwetha leejaji ngeyure, nokuchazela umntu lowo ilungelo lakhe lokubonisana negqwetha okanye igqwetha leejaji ngemali ebizwayo;
(c) ukucaciswa komsebenzi oza kwenziwa kwinqanaba ngalinye lenkqubo yokumangalelana, apho kunokwenzeka khona oku;
(d) into yokuba kusengasetyenziswa igqwetha leejaji, kuchazwe neemali ngeemali ezisengafunwa ngamagqwetha eejaji ahlukahlukeneyo, kuxhomekeka kwiminyaka yawo yamava nobuchule bawo;
(e) ukuba umsebenzi ubandakanya ukumangalela umntu, iziphumo zokurhoxa eziya kubakho ngokwasemthethweni nangokwasemalini.

(8) Igqwetha okanye igqwetha leejaji ekuthethwe ngalo kwisiqendu 34(2)*(b)* malithi, ukongezelela ekunikeni umntu uqikelelo olubhaliweyo lweendleko njengoko kuxelwe kwisiqendwana (7), limchazele nangomlomo konke okubhaliweyo kwakunye nokunye okumayela neendleko.

(9) Umntu oze kufuna uncedo egqwetheni makathi, ngokubhala, abonise ukuba uyakuvuma aza kwenzelwa lelo gqwetha okanye igqwetha leejaji ekuthethwe ngalo kwisiqendu 34(2)*(b)* nokuthi uza kungena kwezo ndleko ezibhaliweyo njengoko kuxelwe kwisiqendwana (7).

(10) Ukuba igqwetha okanye igqwetha leejaji ekuthethwe ngalo kwisiqendu 34(2)*(b)* alikwenzi okufunwa sesi siqendu lenza ubugwenxa.

(11) Ukuba igqwetha okanye igqwetha leejaji ekuthethwe ngalo kwisiqendu 34(2)*(b)* alikwenzi okutshiwo sesi siqendu, akukho mfuneko yokuba umntu oze kufuna uncedo alihlawule elo ggqwetha okanye igqwetha leejaji de libe iBhunga liluqwalasele udaba laza lenza isigqibo ngemali emayihlawulwe.

(12) Okutshiwo sesi siqendu akukuthinteli ukusetyenziswa kwezivumelwano zokuhlawula xa ityala liphumelele njengoko kutshiwo kwi*Contingency Fees Act*, 1997 (Umthetho 66 ka-1997).

CHAPTER 4

PROFESSIONAL CONDUCT AND ESTABLISHMENT OF DISCIPLINARY BODIES

Code of conduct

36. (1) The Council must develop a code of conduct that applies to all legal practitioners and all candidate legal practitioners and may review and amend such code of conduct.

(2) The code of conduct serves as the prevailing standard of conduct, which legal practitioners, candidate legal practitioners and juristic entities must adhere to, and failure to do so constitutes misconduct.

(3) The Council must take all reasonable steps to—

(a) publicise the existence of the code of conduct;

(b) inform members of the public of the contents of the code of conduct, including its enforcement procedures; and

(c) inform members of the public of how and where to obtain a copy thereof.

(4) The code of conduct and every subsequent amendment must be published in the *Gazette* and the rules.

(5) Before the Council publishes a code of conduct or any amendment thereof under this section, the Council must publish a draft of the proposed code of conduct in the *Gazette* together with a notice, calling on interested persons to comment in writing within a period stated in the notice, which may not be less than 30 days from the date of publication of the notice.

Establishment of disciplinary bodies

37. (1) The Council must, when necessary, establish investigating committees, consisting of a person or persons appointed by the Council to conduct investigations of all complaints of misconduct against legal practitioners, candidate legal practitioners or juristic entities.

(2) *(a)* An investigating committee may, for the purposes of conducting an investigation contemplated in subsection (1), direct any legal practitioner or an employee of that legal practitioner to produce for inspection any book, document or article which is in the possession, custody or under the control of that legal practitioner or employee which relates to the complaint in question: Provided that the investigating committee may make copies of such book, document or article and remove the copies from the premises of that legal practitioner.

(b) The legal practitioner referred to in paragraph *(a)* or employee in question may not, subject to the provisions of any other law, refuse to produce the book, document or article, even though he or she is of the opinion that it contains confidential information belonging to or concerning his or her client.

(c) Any person who performs any function under this subsection, may not disclose any information which he or she obtained in the performance of such a function, except—

(i) for the purposes of the investigation or a hearing by a disciplinary body;

(ii) to any person authorised thereto by the Council or the Board who, of necessity, requires it for the performance of his or her functions under this Act;

(iii) if he or she is a person who, of necessity, supplies it in the performance of his or her functions under this Act;

(iv) when required to do so by order of a court of law; or

(v) at the written request of the Ombud.

(3) An investigating committee must, after investigating a complaint, if it is satisfied that—

(a) the legal practitioner, or the candidate legal practitioner concerned may, on the basis of available *prima facie* evidence, be guilty of misconduct that, in terms

ISAHLUKO 4

UKUZIPHATHA OKUFANELE IGQWETHA NOKUSEKWA KWAMAQUMRHU OKULUNGIS' IZIMILO

Imigqaliselo yokuziphatha

36. (1) IBhunga maliqulunqe imigqaliselo yokuziphatha esebenza kuwo onke amagqwetha nawo onke amagqwetha asengabakhwetha kwaye linokubuye liyiqwalasele ngokutsha loo migqaliselo yokuziphatha.

(2) Imigqaliselo yokuziphatha iyeyona milinganiselo yokuziphatha yongamileyo afanele ukuba amagqwetha, amagqwetha asengabakhwetha neenkampani ezenz' umsebenzi wobugqwetha zingaphambuki kuyo, ekuthi ukuphambuka kuyo kube kukuziphatha gwenxa.

(3) IBhunga malithabathe onke amanyathelo afanelekileyo—

(a) ukubenza baziwe ubukho bemigqaliselo yokuziphatha;

(b) ukwazisa uluntu okuqulethwe yimigqaliselo yokuziphatha, kuquka neendlela zokunyanzelisa ukuthotyelwa kwayo; kwaye

(c) nokwazisa uluntu ukuthi lungayifumana njani, phi, ikopi yayo.

(4) Imigqaliselo yokuziphatha notshintsho ngalunye oluthi lwenziwe mayipapashwe ku*Shicilelo-Mithetho* nakwimigaqo.

(5) Ngaphambi kokuba iBhunga liyipapashe imigqaliselo yokuziphatha okanye utshintsho olwenziweyo kuyo ngokwesi siqendu, malipapashe imigqaliselo yokuziphatha ecetywayo iseluvavanyo ku*Shicilelo-Mithetho* kunye nesihlokomiso esihlab' ikhwelo kubo bonke abantu abanomdla ukuba bavakalise izimvo zabo ngokubhala, lingaphelanga ixesha elixeliweyo kwisihlokomiso, elingenakuba ngaphantsi kweentsuku ezingama-30 ukususela kumhla wokupapashwa kwesihlokomiso.

Ukusekwa kwamaqumrhu olungiso-similo

37. (1) IBhunga malithi xa kuyimfuneko liseke iikomiti zophando, ekukho kuzo umntu okanye abantu abamiselwe liBhunga, ziphande zonke izikhalazo zokuziphatha gwenxa kwamagqwetha, okanye kwamagqwetha asengabakhwetha okanye kweenkampani ezenz' umsebenzi wobugqwetha.

(2) *(a)* Ikomiti yophando inokuthi, ngenjongo yokwenza uphando oluxelwe kwisiqendwana (1), iyalele naliphi na igqwetha okanye umqeshwa welo gqwetha aveze ngenjongo yokuba ihlolwe nayiphi na incwadi, uxwebhu okanye inqaku elikwelo gqwetha okanye umqeshwa walo, ekuyinto emayela nesikhalazo eso, kodwa ke, ikomiti ephanayo inokwenza iikopi zaloo ncwadi, okanye uxwebhu okanye inqaku, ize izisuse iikopi ngaphakathi kwamasango elo gqwetha.

(b) Igqwetha ekuthethwe ngalo kwisiqendu *(a)* okanye umqeshwa akavumelekanga, kodwa kuxhomekeke kokutshiwo yeminye imithetho, akavumelekanga ukuba ale ukuveza incwadi, okanye uxwebhu okanye inqaku, nangona enoluvo lokuba ezi zinto zinengcombolo eyimfihlo engomntu ofuna uncedo kulo.

(c) Nawuphi na umntu owenza nawuphi na umsebenzi ngokwesi siqendwana, akavumelekanga ukuba adandalazise ingcombolo ayifumene xa ebesenza loo msebenzi, ngaphandle kokuba—

(i) kungenjongo yophando okanye ukuchotshelwa kwetyala lolungiso-similo;

(ii) idandalaziswa kumntu ogunyaziweyo liBhunga okanye yiBhodi ekunyanzelekileyo ukuba ayifumane ingcombolo leyo ukuze akwazi ukuyenza imisebenzi yakhe;

(iii) ungumntu oyikhuphayo ingcombolo leyo xa esenza imisebenzi yakhe ngokwalo Mthetho;

(iv) kufuneka ukuba ayidandalazise ngokomyalelo wenkundla yomthetho;

(v) uyidandalazisa xa ecelwe nguNozikhalazo; okanye

(vi) kungesicelo esibhaliweyo seGunya Lotshutshiso Jikelele okanye ke elinye igunya eliyifunayo loo ngcombolo ukuze likwazi ukuphanda ukuze liqalise ukutshutshisa.

(3) Ikomiti yophando mayithi, emva kokuba iphande isikhalazo, ukuba ayithandabuzi ukuba—

(a) igqwetha elo okanye igqwetha elisengumkhwetha linokuthi, ngokobungqina obukhoyo kungadanga kwembiwe nzulu, libe netyala ebeliya kuthi, ngokwemigqaliselo yokuziphatha, kufuneke ukuba liphandwe, iludlulisele

of the code of conduct, warrants misconduct proceedings, refer the matter to the Council for adjudication by a disciplinary committee; or

(b) the complaint should be dismissed on the grounds that the conduct in question does not necessarily warrant misconduct proceedings, as set out in the code of conduct, it must dismiss the complaint, inform the Council, the complainant and the legal practitioner, candidate legal practitioner or juristic entity of its finding and the reasons for it, whereafter the complainant may appeal in terms of section 41, if the complainant is aggrieved by—
  (i) the manner in which the investigating committee conducted its investigation; or
  (ii) the outcome of the investigating committee.

(4) The Council must, when necessary, establish disciplinary committees, consisting of at least three persons, to adjudicate complaints against legal practitioners and candidate legal practitioners referred to it in terms of subsection (3)*(a)*, and must also designate one of those persons as chairperson thereof, who may not be a lay person referred to in subsection (5)*(e)*(ii).

(5) When establishing disciplinary committees the following factors must, as far as is practicable, be taken into account:

(a) the racial and gender composition of South Africa;
(b) the ease of access by persons necessary for the finalisation of the matters in question;
(c) the need to promote the efficient resolution of complaints made in terms of this Act;
(d) national and provincial demographics;
(e) the need to include—
  (i) an advocate and an attorney, or failing which, there must be at least—
    (aa) one advocate, in the event of the legal practitioner being an advocate or in the event of the candidate legal practitioner being a pupil; and
    (bb) one attorney, in the event of the legal practitioner being an attorney or in the event of the candidate legal practitioner being a candidate attorney; and
  (ii) at least one lay person drawn by the Council from a list of persons established and maintained by the Office of the Ombud who has been approved by the Office of the Ombud, as being suitable to serve on disciplinary committees and who is paid an allowance for this purpose determined by the Council and published in the *Gazette*;
(f) the need to provide a cost-effective disciplinary system; and
(g) the requirements of administrative justice.

Procedure for dealing with complaints of misconduct and procedure to be followed in disciplinary hearing

38. (1) The Council must make rules to determine the procedure to be followed by disciplinary bodies established in terms of section 37 for dealing with all complaints of misconduct relating to legal practitioners, whether practising as an advocate, an attorney, a candidate legal practitioner or a juristic entity, and such complaints must be lodged in writing with the Council.

(2) Before the Council makes any rule contemplated in subsection (1) or amends any rule, the Council must publish a draft of the proposed rule or proposed amendment in the *Gazette* together with a notice, calling on interested persons to comment in writing within a period stated in the notice, which may not be less than 30 days from the date of publication of the notice.

(3) Particulars of all disciplinary hearings, including the particulars of—

(a) the allegations of misconduct being dealt with;
(b) the members of the disciplinary committees in question;
(c) the legal practitioners, candidate legal practitioners or juristic entities involved in the dispute; and
(d) the outcome thereof and any sanction imposed in terms of section 40(3), if applicable, must, subject to subsection (4)*(a)*, be—
  (i) published on the website of the Council;
  (ii) updated, at least, once every month by the Council; and

udaba kwiBhunga ukuze kwenziwe isigqibo ngalo yikomiti yolungiso-similo; okanye

(b) isikhalazo sifanele sichithe ngesizathu sokuba isenzo eso asifunisi ukuba kuhlalelwe ityala ngendlela ekuxelwe ngayo kwimigqaliselo yokuziphatha, mayisichithe isikhalazo, ilazise iBhunga, nommangali, negqwetha okanye igqwetha elisengumkhwetha okanye inkampani eyenz' umsebenzi wobugqwetha, imazise ngoko ikufumanisileyo nezizathu zoko, ekuya kuthi emva koko ummangali abhene xa ethanda ngokwesiqendu 41, ukuba ummangali ukhwiniswa—
   (i) yindlela ikomiti yophando ephande ngayo; okanye
   (ii) sisiphumo sekomiti ephandayo.

(4) IBhunga malithi xa kuyimfuneko liseke iikomiti zolungiso-similo, ezimalungu mathathu ubuncinane, ekuthethwe ngazo kwisiqendwana (3)*(a)* ukuba zichophele izikhalazo ekukhalazelwa kuzo amagqwetha namagqwetha asengabakhwetha, kwaye mazichonge omnye waloo malungu abe ngusihlalo, omakangabi ngumntu ongawufundelanga umthetho ekuthethwe ngaye kwisiqendwana (5)*(e)*(ii).

(5) Xa kusekwa iikomiti zolungiso-similo, makucingelwe ezi zinto zilandelayo kangangoko kunokwenzeka:

(a) ubume boMzantsi-Afrika ngokweentlanga namadoda namabhinqa;
(b) ubulula bokufikelela kwabantu kwezo komiti ukuze kuqosheliswe imicimbi esingethwe zizo;
(c) imfuneko yokukhuthaza ukusonjululwa ngokutyibilikayo kwezikhalazo ezifakwe ngokwalo Mthetho;
(d) ubume elizweni jikelele nangokwamaphondo;
(e) imfuneko yokuquka—
   (i) igqwetha leejaji negqwetha;
      (aa) igqwetha leejaji elinye, xa igqwetha elo kuligqwetha leejaji, okanye xa igqwetha elisengumkhwetha; kwakunye
      (bb) negqwetha elinye, xa igqwetha elo kuligqwetha, okanye xa igqwetha elisengumkhwetha kuligqwetha elisengumkhwetha; kwakunye
   (ii) ubuncinane umntu omnye ongawufundelanga umthetho otsalwe liBhunga kuluhlu lwabantu olugcinwe yiOfisi kaNozikhalazo, kungumntu ofanelekayo ukukhonza kwiikomiti zolungiso-similo, nohlawulwa imalana yale njongo, kuyimalana egqitywe liBhunga yaza yapapashwa ku*Shicilelo-Mithetho*;
(f) imfuneko yokuba kungabi nazindleko ukulungiswa kwezimilo;
(g) neemfuneko zobulungisa kulawulo.

Inkqubo yokusingatha izikhalazo zokuziphatha gwenxa nenkqubo yokulandelwa xa kuchotshelwa ityala lolungiso-similo

38. (1) IBhunga maliqulunqe imigaqo yenkqubo emayilandelwe ngamaqumrhu olungiso-similo asekwe ngokwesiqendu 37 yokusingatha zonke izikhalazo zokuziphatha gwenxa kwamagqwetha, nokuba ngamagqwetha eejaji okanye ngamagqwetha, okanye ngamagqwetha asengabakhwetha okanye ziinkampani ezenz' umsebenzi wobugqwetha, kwaye izikhalazo mazibhalwe zize zinikwe iBhunga.

(2) Ngaphambi kokuba iBhunga liqulunqe imigaqo exelwe kwisiqendwana (1) okanye lenze utshintsho kumgaqo, maliyipapashe iseluvavanyo okanye lipapashe utshintsho olucetywayo ku*Shicilelo-Mithetho* kunye nesihlokomiso, lihlab' ikhwelo kubantu abachaphazelekayo ukuba bavakalise izimvo lingaphelanga ixesha elixelwe kwisihlokomiso, xesha elo elingenakuba ngaphantsi kweentsuku ezingama-30 ukususela kumhla wokupapashwa kwesihlokomiso.

(3) Iinkcukacha zawo onke amatyala olungiso-similo, kuquka neenkcukacha—

(a) nezityholo zokuziphatha gwenxa ezisingethweyo;
(b) amalungu ekomiti yolungiso-similo;
(c) amagqwetha, amagqwetha asengabakhwetha okanye iinkampani ezibandakanyekileyo kwimbambano; kananjalo
(d) nesiphumo setyala, nesohlwayo ngokwesiqendu 40(3), ukuba simele sibekho, ezo zinto zimele ukuba, ngokulawulwa sisiqendwana (4)*(a)*—
   (i) zipapashwe kwiwebhsayithi yeBhunga;
   (ii) zenziwe zihambisane namaxesha ubuncinane kanye inyanga nganye, liBhunga; kananjalo

(iii) available for inspection by members of the public during business hours of the Council and relevant Provincial Councils.

(4) *(a)* The proceedings of all disciplinary hearings are open to the public, unless the chairperson of a disciplinary committee directs otherwise, on good cause shown, on application by a person having an interest in the matter, whereafter the provisions of section 154(1) to (5) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), apply with the necessary changes required by the context.

(b) The complainant in the matter is entitled to be present during all proceedings in a disciplinary hearing relating to his or her complaint in the same manner as a complainant in criminal proceedings.

(5) *(a)* A decision of the majority of the members present at a disciplinary hearing constitutes the decision of a disciplinary committee.

(b) In the event of a deadlock in the voting, the chairperson has a casting vote, in addition to a deliberative vote.

Disciplinary hearing

39. (1) A disciplinary committee must conduct disciplinary hearings subject to the provisions of this section and the rules determined by the Council, as contemplated in section 38.

(2) A disciplinary committee may, for the purposes of this section, appoint a person to assist it in the performance of its functions.

(3) *(a)* A disciplinary committee may, for the purposes of a hearing, subpoena any person who—

(i) in its opinion may be able to give material information concerning the subject of the hearing; or

(ii) it suspects or believes has in his or her possession or custody or under his or her control any book, document or object which has any bearing on the subject of the hearing,

to appear before it at the time and place specified in the subpoena, to be questioned or to produce a book, document or object.

(b) A subpoena issued in terms of paragraph *(a)*, must be—

(i) in the form determined in the rules;

(ii) signed by the chairperson of a disciplinary committee or, in his or her absence, any member of that committee; and

(iii) served on the person concerned as determined in the rules.

(4) A disciplinary committee may retain a book, document or object produced in terms of subsection (3) for the duration of the hearing.

(5) The chairperson of a disciplinary committee may call upon and administer an oath to, or take an affirmation from, any witness at the hearing who was subpoenaed in terms of subsection (3).

(6) At a hearing the person charged—

(a) (i) may be present at the hearing of the proceedings;

(ii) may be assisted or represented by another person or a legal practitioner in conducting his or her defence proceedings;

(iii) has the right to be heard;

(iv) may call witnesses;

(v) may cross-examine any person called as a witness in support of the charge; and

(vi) may have access to any book, document or object produced in evidence; and

(b) (i) may admit at any time before conviction that he or she is guilty of the charge; and

(ii) may, in the case where he or she makes an admission in terms of subparagraph (i), be deemed to be guilty of misconduct as charged.

(7) *(a)* A witness who has been subpoenaed may not—

(i) without sufficient cause, fail to attend the hearing at the time and place specified in the subpoena;

(ii) refuse to be sworn in or to be affirmed as a witness;

(iii) without sufficient cause, fail to answer fully and satisfactorily to the best of his or her knowledge all questions lawfully put to him or her; or

(iv) fail to produce any book, document or object in his or her possession or custody or under his or her control which he or she has been required to produce.

(iii) zibe kwindawo ezinako ukuthi zihlolwe luluntu ngexesha lomsebenzi leBhunga nelamaBhunga amaPhondo.

(4) *(a)* Ukuchotshelwa kwawo onke amatyala olungiso-similo kuvuleleke lonke uluntu ukuba luphulaphule, ngaphandle kokuba usihlalo wekomiti yolungiso-similo uyalela ngenye indlela, ngesizathu esivakalayo, xa kuthe kwacelwa ngumntu ochaphazelekayo kwityala, ekuya kuthi emva koko okutshiwo sisiqendu 154(1) ukuya kwesesi-(5) se*Criminal Procedure Act*, 1997 (Umthetho 51 ka-1977), kusebenze, kubekho nje utshintsho olunokuthi lufuneke.

(b) Ummangali unelungelo lokubakho kuko konke ukuchotshelwa kwetyala lesimangalo sakhe njengokuba kuba njalo ngommangali kwityala lolwaphulo-mthetho.

(5) *(a)* Isigqibo soninzi lwamalungu akhoyo ekuchotshelweni kwetyala sisigqibo sekomiti yolungiso-similo.

(b) Xa inkal' ixing' etyeni ekuvoteni, usihlalo uba nelungelo lokuvota ukongezelela kwilungelo lakhe lokuthabath' inxaxheba kwiingxoxo.

Ukuchotshelwa kwetyala lolungiso-similo

39. (1) Ikomiti yolungiso-similo mayiwuchophele umcimbi wolungiso-similo ngokulawulwa koko kutshiwo sesi siqendu nayimigaqo equlunqwe liBhunga, njengoko kuxelwe kwisiqendu 38.

(2) Ngenjongo yokusebenza kwesi siqendu, ikomiti yolungiso-similo inokuthi iqeshe umntu ukuba ancedise ekwenzeni kwayo imisebenzi yayo.

(3) *(a)* Ngenjongo yokuchophel' ulungiso-similo, ikomiti yolungiso-similo inokubiza nawuphi na umntu—

(i) onokuthi ngokokubona kwayo abe nako ukunika ingcombolo ebalulekileyo ngomcimbi ochotshelwayo; okanye

(ii) erhanela okanye ekholelwa ukuba unencwadi, uxwebhu okanye into enento yokwenza nomcimbi ochotshelwayo,

ukuba avele phambi kwayo kwindawo nangexesha elixelwe kwincwadi embizayo, ukuze abuzwe imibuzo okanye avelise incwadi, uxwebhu okanye into.

(b) Incwadi ebiza umntu ekhutshwe ngokwesiqendu *(a)*—

(i) mayibe kwimo exelwe kwimigaqo;

(ii) mayityikitywe ngusihlalo wekomiti yolungiso-similo okanye, ukuba akekho, ityikitywe naleliphi na ilungu laloo komiti; kananjalo

(iii) inikwe umntu emayinikwe yena ngendlela exelwe kwimigaqo.

(4) Ikomiti yolungiso-similo inokuthi iyigcine incwadi, uxwebhu okanye into eveliswe ngokwesiqendwana (3) ngalo lonke ixesha kusaqhubeka ukuchotshelwa komcimbi.

(5) Usihlalo wekomiti yolungiso-similo unokuthi ekuchotshelweni komcimbi wolungiso-similo acele naliphi na ingqina ukuba lifunge, okanye lenze isibhambathiso sokutheth' inyaniso, kulingqina elibizwe ngencwadi ngokwesiqendwana (3).

(6) Ekuchotshelweni komcimbi wolungiso-similo, umntu omangalelweyo—

(a) (i) unokuthi abekho ekuchotshelweni komcimbi;

(ii) unokuthi ancediswe okanye amelwe ngomnye umntu okanye ligqwetha ekuzithetheleleni;

(iii) unelungelo lokuphulaphulwa;

(iv) unokuthi abize amangqina;

(v) unokuthi ancine nawuphi na umntu obizelwe ukuba abe lingqina exhasa isimangalo;

(vi) unokuwafunda amaxwebhu aveliswe njengobungqina;

(b) (i) unokulivuma ityala nangaliphi na ixesha ngaphambi kokuba afunyaniswe enetyala; kwaye

(ii) unokuthi, xa elivuma ityala ngokwesiqendu *(g)*, athathwe njengonetyala lokuziphatha gwenxa nanjengoko ebemangalelwe ngako oko.

(7) *(a)* Ingqina elibizwe ngencwadi alivumelekanga ukuba—

(i) kungekho sizathu sivakalayo, lingabikho ekuchotshelweni komcimbi kwindawo nangexesha elixeliweyo kwincwadi elibizayo;

(ii) lale ukufungiswa okanye ukwenz' isibhambathiso sokutheth' inyaniso njengengqina;

(iii) kungekho sizathu sivakalayo, lingayiphenduli ngokupheleleyo nangokwanelisayo kangangoko linako yonke imibuzo eliyibuzwayo; okanye

(iv) lale ukuvelisa incwadi, uxwebhu okanye into ekuthiwe maliyivelise.

(b) A witness who has been subpoenaed must remain in attendance until excused by the chairperson of the disciplinary committee from further attendance.

(c) A witness who has been subpoenaed may request that the names of the members of the disciplinary committee be made available to him or her.

(d) The law relating to privilege, as applicable to a witness subpoenaed to give evidence or to produce a book, document or object in a civil trial before a court of law applies, with the necessary changes, in relation to the examination of, or the production of any book, document or object, to any person called in terms of this section as a witness.

(e) A witness may not, after having been sworn in or having been affirmed as a witness, give a false statement on any matter, knowing that answer or statement to be false.

(f) A person may not prevent another person from complying with a subpoena or from giving evidence or producing a book, document or object which he or she is in terms of this section required to give or produce.

(8) The record of evidence which has a bearing on a charge before a disciplinary committee, and which was presented before any commission which investigated an event or conduct is admissible without further evidence being led if—

(a) the record is accompanied by a certificate from the chairperson of the body or commission; and

(b) the certificate certifies that the investigation was lawful, reasonable and procedurally fair.

(9) If the misconduct with which the legal practitioner, candidate legal practitioner or juristic entity is charged amounts to an offence of which he, she or it has been convicted by a court of law, a certified copy of the record of the trial and conviction by that court is, on the identification of the legal practitioner, candidate legal practitioner or juristic entity as the accused person referred to in the record, sufficient proof of the commission by him or her or it of that offence, unless the conviction has been set aside by a superior court.

Proceedings after disciplinary hearing and sanctions

40. (1) *(a)* After the conclusion of a hearing a disciplinary committee must, within 30 days, decide whether or not the legal practitioner, candidate legal practitioner or juristic entity is guilty of misconduct.

(b) If a disciplinary committee finds that the legal practitioner, candidate legal practitioner or juristic entity is guilty of misconduct it must—

(i) inform the legal practitioner, candidate legal practitioner or representative of the juristic entity and the Council and Provincial Council of the finding; and

(ii) inform the legal practitioner, candidate legal practitioner or representative of the juristic entity of the right of appeal as provided for in terms of section 41.

(2) A legal practitioner, candidate legal practitioner or representative of a juristic entity found guilty of misconduct in terms of this section may—

(a) address a disciplinary committee in mitigation of sentence; and

(b) call witnesses to give evidence on his or her behalf in mitigation of sentence.

(3) If found guilty of misconduct, the disciplinary committee concerned may call witnesses to give evidence in aggravation of sentence and may—

(a) in the case of a legal practitioner—

(i) order him or her to pay compensation, with or without interest to the complainant, which order is subject to confirmation by an order of any court having jurisdiction in the circumstances in the prescribed manner, on application by the Council;

(b) Ingqina elibiziweyo ngencwadi malihlale lingahambi de likhululwe ngusihlalo wekomiti yolungiso-similo.

(c) Ingqina elibiziweyo ngencwadi linokucela ukuba laziswe amagama amalungu ekomiti yolungiso-similo.

(d) Umthetho wokugcinwa kwemfihlo, ngendlela osebenza ngayo kwingqina elibizelwe ukunika ubungqina okanye ukuvelisa incwadi, uxwebhu okanye kwityala lembambano phambi kwenkundla yomthetho, uyasebenza nalapha, kubekho nje utshintsho olunokuthi lube luyimfuneko, ngokuphathelele ekunikweni kobungqina ngumntu, ekuvelisweni kwencwadi, koxwebhu okanye kwento, ngokwesi siqendu.

(e) Ingqina alivumelekanga ukuba lithi, emva kokuba lifungisiwe okanye lenz' isibhambathiso sokutheth' inyaniso njengengqina, lithethe ubuxoki ngawo nawuphi na umcimbi, lisazi ukuba oko likuthethayo kububuxoki.

(f) Umntu akavumelekanga ukuba athintele omnye umntu enze okufunwa yincwadi embizel' enkundleni, okanye amthintele ekunikeni ubungqina okanye ekuveliseni incwadi, uxwebhu okanye into ekufuneka eyivelisile ngokwesi siqendu, okanye ubungqina ekufuneka ebunikile ngokwesi siqendu.

(8) Irekhodi yobungqina obunento yokwenza nesimangalo esiphambi kwekomiti yolungiso-similo, neyathiwa thaca phambi kwayo nayiphi ikomishoni eyayiphanda ngesiganeko okanye ngokuziphatha komntu, yamkelekile kungakhange kunikwe obunye ubungqina ukuba—

(a) irekhodi leyo iphelekwa sisiqinisekiso esivela kusihlalo wequmrhu okanye wekomishoni; sibe

(b) isiqinisekiso eso siqinisekisa ukuba uphando belusemthethweni, lunokubonelela kwaye lunobulungisa ngokwenkqubo elandelweyo.

(9) Ukuba ukuziphatha okugwenxa elimangalelwe ngako igqwetha, okanye igqwetha elisengumkhwetha okanye inkampani eyenz' umsebenzi wobugqwetha sisimangalo elifunyaniswe linetyala ngaso igqwetha yinkundla yomthetho, okanye efunyenwe inetyala ngaso inkampani eyenz' umsebenzi wobugqwetha, isiqinisekiso esisethifayiweyo serekhodi yokuxoxwa kwetyala nokufunyaniswa komntu enetyala yiloo nkundla kuya kuthi, kusakucaca ukuba umntu omangalelweyo ligqwetha, okanye ligqwetha elisengumkhwetha okanye yinkampani eyenz' umsebenzi wobugqwetha ekuthethwe ngayo kwirekhodi, oko kuthathwe njengobungqina obaneleyo bokuba usenzile eso senzo sikukona, ngaphandle kokuba ukufunyaniswa kwakhe enetyala kukhatyiwe yinkundla engentla.

Okwenzekayo emva kokuchotshelwa kolungiso-similo nezohlwayo

40. (1) *(a)* Emva kokuba kuqukunjelwe ukuchotshelwa kolungiso-similo, ikomiti yolungiso-similo mayithi zingaphelanga iintsuku ezingama-30 yenze isigqibo mayela nokuba linetyala lokuziphatha gwenxa kusini na igqwetha, okanye igqwetha elisengumkhwetha okanye inkampani eyenz' umsebenzi wobugqwetha.

(b) Ukuba ikomiti yolungiso-similo ifumanisa ukuba igqwetha, okanye igqwetha elisengumkhwetha okanye inkampani eyenz' umsebenzi wobugqwetha inetyala lokuziphatha gwenxa—

(i) mayilazise ngokufunyanisiweyo igqwetha, okanye igqwetha elisengumkhwetha okanye ummeli wenkampani eyenz' umsebenzi wobugqwetha, kunye neBhunga neBhunga lePhondo; kananjalo

(ii) imazise ngelungelo lokubhena lowo ubandakanyekileyo, ngokwesiqendu 41.

(2) Igqwetha, okanye igqwetha elisengumkhwetha okanye ummeli wenkampani eyenz' umsebenzi wobugqwetha ofunyaniswe enetyala ngokwesi siqendu—

(a) unokuzicengela phambi kwekomiti yolungiso-similo ukuze anyenyiselw' isigwebo; kananjalo

(b) unokubiza namangqina anik' ubungqina egameni lakhe ukuze anyenyiselw' isigwebo.

(3) Ukuba umntu ufunyaniswe enetyala lokuziphatha gwenxa, ikomiti yolungiso-similo isenokuthi ibize amangqina anike ubungqina obuza kwenza ukuba isigwebo sibe qatha, kwaye isenokuthi—

(a) xa kuligqwetha—

(i) iliyalele ukuba ihlawule ummangali imbuyekezo, inenzala okanye ingenanzala, myalelo lowo oxhomekeke ekubeni ugunyazwe ngumyalelo wenkundla enegunya kuloo meko, ngendlela exeliweyo, xa kuceliwe liBhunga;

(ii) impose upon him or her a fine, payable to the Council, not exceeding the amount determined from time to time by the Minister by notice in the *Gazette*, on the advice of the Council;

(iii) temporarily suspend him or her from practising or from engaging in any particular aspect of the practice of law, pending the finalisation of an application referred to in subparagraph (iv)*(bb)*;

(iv) advise the Council to apply to the High Court for—

(aa) an order striking his or her name from the Roll;

(bb) an order suspending him or her from practice;

(cc) an interdict prohibiting him or her from dealing with trust monies; or

(dd) any other appropriate relief;

(v) advise the Council to amend or endorse his or her enrolment;

(vi) order that his or her Fidelity Fund certificate be withdrawn, where applicable;

(vii) warn him or her against certain conduct and order that such warning be endorsed against his or her enrolment; or

(viii) caution or reprimand him or her;

(b) in the case of a juristic entity—

(i) order it to pay compensation, with or without interest, to the complainant, which order is subject to confirmation by an order of any court having jurisdiction in the circumstances in the prescribed manner on application by the Council;

(ii) impose upon it a fine, payable to the Council, not exceeding the amount determined from time to time by the Minister by notice in the *Gazette*, on the advice of the Council;

(iii) warn it against certain conduct;

(iv) advise the Council to apply to the High Court for the winding up of the juristic entity; or

(v) caution or reprimand it; or

(c) in the case of a candidate legal practitioner—

(i) cancel or suspend his or her practical vocational training;

(ii) impose upon him or her a fine, payable to the Council, not exceeding the amount determined from time to time by the Minister by notice in the *Gazette*, on the advice of the Council; or

(iii) caution or reprimand him or her.

(4) *(a)* A disciplinary committee may—

(i) impose any combination of the sanctions in either subsection (3)*(a)*, *(b)* or *(c)*; and

(ii) postpone the taking of any steps or suspend the imposition of any sanction on conditions as it may determine.

(b) In addition to the sanctions referred to in subsection (3), a disciplinary committee may order the legal practitioner, candidate legal practitioner or juristic entity to pay the cost of the investigation or the disciplinary hearing.

(5) *(a)* If the taking of any steps or the imposition of any sanction has been postponed or suspended for a particular period, and if at the end of that period the disciplinary committee is satisfied that the legal practitioner, candidate legal practitioner or juristic entity concerned has substantially observed all the relevant conditions, the disciplinary committee must indicate in writing that no further steps will be taken or that the sanction will not be imposed.

(b) If a legal practitioner, candidate legal practitioner or juristic entity fails to comply with any conditions determined in terms of this section, the disciplinary committee may impose a sanction for non-compliance or execute the sanction originally imposed, unless the legal practitioner, candidate legal practitioner or juristic entity satisfies the disciplinary committee that the non-compliance was due to circumstances beyond his or her or its control, in which case the disciplinary committee may set further conditions as it deems fit.

(6) Any court with civil jurisdiction may, on the application of a disciplinary committee, grant an order for the recovery from the legal practitioner, candidate legal

(ii) ilihlawulise ifayini emayihlawulwe kwiBhunga, engagqithiyo kwisixa esiman' ukuqingqwa nguMphathiswa, ngokucetyiswa liBhunga, esithi sipapashwe ku*Shicilelo-Mithetho*;

(iii) ilinqumamise okwexeshana ekusebenzeni njengegqwetha okanye ekwenzeni uhlobo oluthile lomsebenzi kumsebenzi wobugqwetha de sibe siqoshelisiwe isicelo ekuthethwe ngaso kwisiqendwana (iv)*(bb)*;

(iv) icebise iBhunga ukuba lenze isicelo kwiNkundla Ephakamileyo licela—

(aa) umyalelo wokucinywa kwegama lelo gqwetha kuLuhlu;

(bb) umyalelo wokunqunyanyiswa kwalo ekusebenzeni njengegqwetha;

(cc) isithintelo esilithintelayo igqwetha elo ekuphatheni iimali zokuphathiswa; okanye

(dd) naluphi na olunye uswazi olufanelekileyo;

(v) icebise iBhunga ukuba lenze utshintsho ekubhalisweni kwelo gqwetha;

(vi) iyalele ukuba isiqinisekiso salo seNgxowa-Mali-Ntembeko sohluthwe, kwimeko okusebenzayo kuyo oku;

(vii) ililumkise igqwetha elo lingakwenzi ukuziphatha gwenxa okuthile lize liyalele ukuba oko kulunyukiswa kubhalwe kumaxwebhu elibhaliswe kuwo igqwetha elo; okanye

(viii) ililumkise okanye ilingxolise igqwetha elo;

(b) xa kuyinkampani eyenz' umsebenzi wobugqwetha—

(i) iyalele ukuba ihlawule ummangali imbuyekezo, inenzala okanye ingenanzala, myalelo lowo oxhomekeke ekubeni ugunyazwe ngumyalelo wenkundla enegunya kuloo meko, ngendlela efunekayo, xa kuceliwe liBhunga;

(ii) ilihlawulise ifayini, emayihlawulwe kwiBhunga, engagqithiyo kwisixa esiman' ukuqingqwa nguMphathiswa, ngokucetyiswa liBhunga, esithi sipapashwe ku*Shicilelo-Mithetho*;

(iii) iyilumkise ukuba ingakwenzi ukuziphatha gwenxa okuthile;

(iv) icebise iBhunga lenze isicelo kwiNkundla Ephakamileyo sokuba kuthinjwe impahla yaloo nkampani eyenz' umsebenzi wobugqwetha; okanye

(v) iyilumkise okanye iyingxolise; okanye

(c) xa kuligqwetha elisengumkhwetha—

(i) iliyekise okanye ilinqumamise ekuqeqeshelweni umsebenzi;

(ii) ilihlawulise ifayini emayihlawulwe kwiBhunga engagqithiyo kwisixa esiman' ukuqingqwa nguMphathiswa, ngokucetyiswa liBhunga, esithi sipapashwe ku*Shicilelo-Mithetho*; okanye

(iii) ililumkise okanye ilingxolise.

(4) *(a)* Ikomiti yolungiso-similo inokuthi—

(i) yohlwaye ngentlanganisela yezohlwayo ezikwisiqendwana (3)*(a)*, *(b)* okanye *(c)*; ize

(ii) ikubekel' eliny' ixesha ukuthatyathwa kwamanyathelo athile okanye ikuxhome ukuwiswa kwesohlwayo ngemiqathango enokuthi igqitywe yiyo.

(b) Ukongezelela kwizohlwayo ekuthethwe ngazo kwisiqendwana (3), ikomiti yolungiso-similo inokuyalela igqwetha, okanye igqwetha elisengumkhwetha okanye inkampani eyenz' umsebenzi wobugqwetha ukuba ihlawule iindleko zophando okanye zokuhlalelwa kwetyala.

(5) *(a)* Ukuba ukuthatyathwa kwamanyathelo okanye ukuwiswa kwesohlwayo kubekelwe eliny' ixesha okanye kuxhonyiwe kude kuphele ixesha elithile, kwaye ukuba ekupheleni kwelo xesha ikomiti yolungiso-similo yanelisekile kwinto yokuba igqwetha, okanye igqwetha elisengumkhwetha okanye inkampani eyenz' umsebenzi wobugqwetha ithe yayithobela yonke imiqathango, ikomiti yolungiso-similo mayibhale ithi akusekho manyathelo aza kuthatyathwa okanye ithi isohlwayo asisayi kuwiswa.

(b) Ukuba igqwetha, okanye igqwetha elisengumkhwetha okanye inkampani eyenz' umsebenzi wobugqwetha ayikwenzi okufunwa yimiqathango ebekiweyo ngokwesi siqendu, ikomiti yolungiso-similo inokuwis' isohlwayo sokungakwenzi okufunwayo, okanye isiphumeze isohlwayo ebesiwiswe ekuqaleni, ngaphandle kokuba igqwetha elo, okanye igqwetha elisengumkhwetha okanye inkampani eyenz' umsebenzi wobugqwetha iyayanelisa ikomiti yolungiso-similo kwinto yokuba ukungakwenzi okufunekayo kube ngenxa yeemeko ezingaphaya kwamandla, ekuya kuthi xa kunjalo ikomiti ibeke eminye imiqathango ngendlela ebona ngayo.

(6) Kusakwenziwa isicelo yikomiti yolungiso-similo, nayiphi na inkundla enegunya kummandla lowo inokukhupha umyalelo oceliweyo wokuba kufunyanwe kwigqwetha

practitioner or juristic entity concerned of any amount such legal practitioner, candidate legal practitioner or juristic entity failed to pay in accordance with a sanction imposed in terms of this section, together with any interest thereon, after which the order so granted has the effect of a civil judgment of that court and must be executed in accordance with the law applicable in that court.

(7) *(a)* At the conclusion of a disciplinary hearing a disciplinary committee must notify the complainant, the Council and the Provincial Council in writing of the outcome of the hearing.

(b) If a disciplinary committee finds that the legal practitioner, candidate legal practitioner or juristic entity is not guilty of misconduct it must inform the complainant of the right of appeal as provided for in terms of section 41.

(8) The Council must give effect to the advice and decision of a disciplinary committee.

Appeal against conduct or finding of disciplinary committee

41. (1) *(a)* Subject to section 44, a legal practitioner, candidate legal practitioner or juristic entity may, as determined in the rules and within 30 days of being informed of the decision by a disciplinary committee, lodge an appeal with an appeal tribunal established in terms of subsection (2) against a finding of misconduct by the disciplinary committee or against the sanction imposed, or both.

(b) A complainant who is aggrieved by—

(i) the manner in which an investigating committee conducted its investigation or the outcome of the investigating committee as referred to in section 37(3)*(b)*; or

(ii) the outcome of a disciplinary hearing referred to in section 40, may, as determined in the rules and within 30 days of being informed of the decision by the investigating committee or the disciplinary committee, as the case may be, lodge an appeal with an appeal tribunal established in terms of subsection (2) against any conduct or finding of the investigating committee or disciplinary committee, as the case may be.

(2) *(a)* An appeal tribunal must consist of not less than three and not more than five persons appointed by the Council, one of whom the Council must designate as chairperson officer thereof.

(b) The members of the appeal tribunal must include at least—

(i) one advocate and one attorney; and

(ii) one lay person drawn by the Council from a list of persons established and maintained by the Office of the Ombud who has been approved by the Office of the Ombud, as being suitable to serve on appeal tribunals and who is paid an allowance for this purpose determined by the Council and published in the *Gazette*.

(c) The members of the appeal tribunal must, subject to paragraph *(b)*(ii), be legally qualified with relevant expertise and may not be persons who were involved in any investigation or proceedings which gave rise to the appeal.

(d) A decision of the majority of the members present at any proceedings of an appeal tribunal constitutes the decision of the appeal tribunal.

(e) In the event of a deadlock in the voting, the chairperson of the appeal tribunal has a casting vote, in addition to a deliberative vote.

(3) An appeal tribunal may—

(a) dismiss the appeal against the finding of an investigating committee or a disciplinary committee and confirm the finding or sanction or both; or

(b) uphold the appeal against the decision of a disciplinary committee wholly or in part and set aside or vary the finding or sanction or both.

(4) If a legal practitioner, candidate legal practitioner or juristic entity who or which has been found guilty of misconduct lodges an appeal in terms of subsection (1), the decision of the disciplinary committee may not be enforced before the appeal tribunal has decided the appeal.

elo, okanye kwigqwetha elisengumkhwetha okanye kwinkampani eyenz' umsebenzi wobugqwetha, kufunyanwe isixa-mali eye ayasihlawula ngokwesohlwayo esiwisiweyo ngokwesi siqendu, kongezwe inzala ngaphezulu, ekuya kuthi emva koko loo myalelo usebenze njengomyalelo wenkundla kwityala lembambano kwaye kuya kufuneka uphunyezwe ngokomthetho osebenzayo kuloo nkundla.

(7) *(a)* Kusakuqukunjelwa ukuhlalelwa kwetyala, ikomiti yolungiso-similo mayazise ngencwadi ummangali, neBhunga, neBhunga lePhondo, ibazisa ngesiphumo sokuhlalelwa kwalo.

(b) Ukuba ikomiti yolungiso-similo ifumanisa ukuba igqwetha, okanye igqwetha elisengumkhwetha okanye inkampani ayinalo ityala, mayimazise ummangali ngelungelo lokubhena njengoko kuxelwe kwisiqendu 41.

(8) IBhunga maliliphumeze icebiso nesigqibo sekomiti yolungiso-similo.

Ukubhena nxamnye nesenzo sekomiti yolungiso-similo okanye nxamnye nekufumanisileyo

41. (1) *(a)* Ngokulawulwa sisiqendu 44, igqwetha, okanye igqwetha elisengumkhwetha okanye inkampani eyenz' umsebenzi wobugqwetha banokuthi, ngendlela echazwe kwimigaqo kwaye zingaphelanga iintsuku ezingama-30 bazisiwe ngesigqibo sekomiti yolungiso-similo, babhenele kubachopheli-sibheno abasekwe ngokwesiqendwana (2) nxamnye nokufunyanisiweyo yikomiti yolungiso-similo okanye nxamnye nesohlwayo, okanye nxamnye nako kokubini.

(b) Ummangali okhwiniswayo—

(i) yindlela ephande ngayo ikomiti yophando okanye okhwiniswa sisiphumo sekomiti yophando ekuthethwe ngayo kwisiqendu 37(3)*(b)*; okanye

(ii) sisiphumo sokuchotshelwa kwetyala ekuthethwe ngako kwisiqendu 40, unokuthi, ngendlela egqitywe kwimigaqo kwaye zingekapheli iintsuku ezingama-30 azisiwe ngesigqibo yikomiti yophando okanye yikomiti yolungiso-similo, unokuthi afake isibheno kubachopheli-sibheno abasekwe ngokwesiqendwana (2), ebhena nxamnye nesenzo sekomiti yophando okanye sekomiti yolungiso-similo okanye nxamnye noko ikufumanisileyo.

(2) *(a)* Abachopheli-sibheno makube ngabantu abangekho ngaphantsi kwesithathu kodwa bangabi ngaphezu kwesihlanu, bemiselwe liBhunga, omnye wabo achongwe liBhunga ukuba abe ngusihlalo.

(b) Kubachopheli-sibheno makubekho ubuncinane—

(i) igqwetha leejaji elinye negqwetha elinye;

(ii) nomntu omnye ongawufundelanga umthetho otsalwe liBhunga kuluhlu lwabantu olugcinwe yiOfisi kaNozikhalazo oluye lwavunywa yiOfisi kaNozikhalazo, engumntu ofanelekileyo ukuba akhonze kubachopheli-sibheno, ehlawulwa imalana yale njongo, kuyimalana egqitywe liBhunga yaza yapapashwa ku*Shicilelo-Mithetho*.

(c) Ngokulawulwa sisiqendu *(b)*(ii), abachopheli-sibheno makube ngabantu abafundele umthetho, bekwanobuchule obufunekayo, kwaye akunakuba ngabantu ababephanda okanye ababechophele ityala, phando olo olube ngunozala wesibheno okanye tyala elo elibe ngunozala wesibheno.

(d) Isigqibo soninzi lwamalungu akhoyo kuso nasiphi na isibheno sisigqibo sabachopheli-sibheno.

(e) Xa inkal' ixing' etyeni xa kuvotwa, usihlalo wabachopheli-sibheno uba nelungelo lokuvota ukongezelela kwilungelo lakhe lokuthabath' inxaxheba kwiingxoxo.

(3) Abachopheli-sibheno—

(a) basenokusikhaba isibheno ekubhenwa kuso nxamnye nokufunyaniswe yikomiti yophando okanye yikomiti yolungiso-similo baze bavumelane noko kufunyanisiweyo okanye bavumelane nesohlwayo, okanye bavumelane nako kokubini; okanye

(b) bavumelane nesibheno nxamnye nesigqibo sekomiti yolungiso-similo, bevumelana naso sonke okanye inxalenye yaso, baze bakukhabe okanye bakutshintshe okufunyanisiweyo okanye isohlwayo, okanye kokubini.

(4) Ukuba igqwetha, okanye igqwetha elisengumkhwetha okanye inkampani eyenz' umsebenzi wobugqwetha efunyaniswe inetyala okanye abafunyaniswe benetyala lokuziphatha gwenxa bayabhena ngokwesiqendwana (1), isigqibo sekomiti yolungiso-similo asinakunyanzeliswa ngaphambi kokwenziwa kwesigqibo sesibheno ngabachopheli-sibheno.

(5) The provisions of section 38(3) are applicable with the changes required by the context in respect of appeal tribunals.

Monitoring by Legal Services Ombud

42. The Ombud may monitor—
- *(a)* the investigation of complaints by investigating committees;
- *(b)* the conduct of disciplinary committees during disciplinary hearings; and
- *(c)* the conduct of appeal tribunals during appeal proceedings.

Urgent legal proceedings

43. Despite the provisions of this Chapter, if upon considering a complaint, a disciplinary body is satisfied that a legal practitioner has misappropriated trust monies or is guilty of other serious misconduct, it must inform the Council thereof with the view to the Council instituting urgent legal proceedings in the High Court to suspend the legal practitioner from practice and to obtain alternative interim relief.

Powers of High Court

44. (1) The provisions of this Act do not derogate in any way from the power of the High Court to adjudicate upon and make orders in respect of matters concerning the conduct of a legal practitioner, candidate legal practitioner or a juristic entity.

(2) Nothing contained in this Act precludes a complainant or a legal practitioner, candidate legal practitioner or juristic entity from applying to the High Court for appropriate relief in connection with any complaint or charge of misconduct against a legal practitioner, candidate legal practitioner or juristic entity or in connection with any decision of a disciplinary body, the Ombud or the Council in connection with such complaint or charge.

CHAPTER 5

LEGAL SERVICES OMBUD

Establishment of Office of Legal Services Ombud

45. (1) The Office of the Legal Services Ombud for the Republic is hereby established, as a juristic person.

(2) *(a)* The Ombud must, in consultation with the Minister, determine the seat of the Office of the Ombud.

(b) The Office of the Ombud may, with the approval of the Minister, also conduct its activities away from its seat.

Objects of Ombud

46. The objects of the Ombud are to—
- *(a)* protect and promote the public interest in relation to the rendering of legal services as contemplated in this Act;
- *(b)* ensure the fair, efficient and effective investigation of complaints of alleged misconduct against legal practitioners;
- *(c)* promote high standards of integrity in the legal profession; and
- *(d)* promote the independence of the legal profession.

Appointment and independence of Legal Services Ombud

47. (1) The President must, as soon as practicable after the commencement of this Act, appoint a judge discharged from active service in terms of the Judges' Remuneration and

(5) Okutshiwo sisiqendu 38(3) kuyasebenza, kubekho utshintsho olunokuthi lufuneke ngokubhekiselele kubachopheli-sibheno.

Ukubekw' esweni nguNozikhalazo Wemisebenzi Yobugqwetha

42. UNozikhalazo unokubek' esweni—
(a) ukuphandwa kwesikhalazo yikomiti ephandayo;
(b) nendlela eyenza ngayo izinto ikomiti yolungiso-similo ngexesha lokuhlalelwa kwetyala; kwaye
(c) nendlela abenza ngayo izinto abachopheli-zibheno xa bachophele izibheno.

Amanyathelo omthetho angxamisekileyo

43. Nangona sisitsho oku sikutshoyo esi Sahluko, ukuba ekuqwalaseleni isikhalazo, iqumrhu lolungiso-similo lanelisekile kwinto yokuba igqwetha lizityile iimali eliziphathisiweyo okanye linetyala lokunye ukuziphatha gwenxa okubi kakhulu, iqumrhu lolungiso-similo malazise iBhunga ngako oko ngenjongo yokuba iBhunga lifake isicelo esingxamisekileyo kwiNkundla Ephakamileyo sokuba linqunyanyiswe elo gqwetha ekusebenzeni njengegqwetha nokuze kufumaneke uncedo olulonye lwexeshana.

Amagunya eNkundla Ephakamileyo

44. (1) Okutshiwo ngulo Mthetho akulohluthi nangayiphi na indlela igunya leNkundla Ephakamileyo lokuchophela lize likhuphe imiyalelo ngemicimbi engokuziphatha kwegqwetha, okanye kwegqwetha elisengumkhwetha okanye kwenkampani yomthetho eyenz' umsebenzi wobugqwetha.

(2) Akukho nto equlethwe kulo Mthetho ethintela ummangali okanye igqwetha, okanye igqwetha elisengumkhwetha okanye inkampani eyenz' umsebenzi wobugqwetha ekwenzeni isicelo kwiNkundla Ephakamileyo efun' uncedo olufanelekileyo mayela nesikhalazo okanye isimangalo sokuziphatha gwenxa kwegqwetha, okanye kwegqwetha elisengumkhwetha okanye kwenkampani eyenz' umsebenzi wobugqwetha, okanye efun' uncedo olufanelekileyo mayela nesigqibo sequmrhu lolungiso-similo, sikaNozikhalazo okanye seBhunga.

ISAHLUKO 5

UNOZIKHALAZO WEMISEBENZI YOBUGQWETHA

Ukusekwa kweOfisi kaNozikhalazo Wemisebenzi Yobugqwetha

45. (1) Ngokwenjenje kusekwa iOfisi kaNozikhalazo Wemisebenzi Yobugqwetha weRiphablikhi, njengeziko elinokuma phambi kwenkundla.

(2) *(a)* Ebonisana noMphathiswa, uNozikhalazo makagqibe ngendawo eya kuzinza kuyo iOfisi kaNozikhalazo Wemisebenzi Yobugqwetha.

(b) Ngemvume yoMphathiswa, iOfisi kaNozikhalazo Wemisebenzi Yobugqwetha inokuyenzela imisebenzi yayo nakwezinye iindawo ezingekuko apho izinze khona.

Iinjongo zobukho bukaNozikhalazo

46. Iinjongo zobukho bukaNozikhalazo—
(a) kukukhusela uluntu ekwenziweni kwemisebenzi yobugqwetha njengoko kuxelwe kulo Mthetho;
(b) kukuqinisekisa ukuba izikhalazo zokuziphatha gwenxa kwamagqwetha ziphandwa ngendlela engakhalazisiyo, etyibilikayo nephumelelayo;
(c) kukukhuthaza ukuxhonywa komgangatho ngabakumsebenzi wobugqwetha; kananjalo
(d) kukukhuthaza ukuzimela geqe kwabakumsebenzi wobugqwetha.

Ukumiselwa kukaNozikhalazo nokuzimela geqe kwakhe

47. (1) Kwakamsinya emva kokuqalisa kwalo Mthetho ukusebenza, uMongameli makamisele ijaji eseyikumhlalaphantsi ngokwe*Judges' Remuneration and Conditions*

Conditions of Employment Act, 2001 (Act No. 47 of 2001) as Legal Services Ombud.

(2) The Ombud is independent and subject only to the Constitution and the law and he or she must be impartial and exercise his or her powers and perform his or her functions without fear, favour or prejudice.

(3) The Council must assist and protect the Ombud to ensure his or her independence, impartiality, dignity and effectiveness.

(4) No person may interfere with the functioning of the Ombud.

Powers and functions of Ombud

48. (1) *(a)* In addition to the other powers and functions conferred on or assigned to him or her in this Act, and for the purposes of achieving the objects referred to in section 46, the Ombud is competent to investigate, on his or her own initiative or on receipt of a complaint, any alleged—

- (i) maladministration in the application of this Act;
- (ii) abuse or unjustifiable exercise of power or unfair or other improper conduct or undue delay in performing a function in terms of this Act;
- (iii) act or omission which results in unlawful or improper prejudice to any person,

which the Ombud considers may affect the integrity and independence of the legal profession and public perceptions in respect thereof.

(b) The Ombud may, in carrying out the powers and functions contemplated in paragraph *(a)*, in his or her sole discretion, endeavour to resolve any dispute or rectify any act or omission by—

- (i) mediation, conciliation or negotiation;
- (ii) advising, where necessary, any person regarding appropriate remedies; or
- (iii) any other means that may be expedient in the circumstances.

(c) At any time prior to, during, or after an investigation referred to in paragraph *(a)*, the Ombud may if he or she—

- (i) is of the opinion that the facts disclose the commission of an offence by any person, bring the matter to the notice of the relevant authority charged with prosecutions; or
- (ii) deems it advisable, refer any matter which has a bearing on an investigation to the appropriate body or authority affected by it or make an appropriate recommendation regarding the redress of the prejudice in question or make any other appropriate recommendation that the Ombud deems expedient to the affected body or authority; or
- (iii) is of the opinion that there is substance in any complaint made and that the prejudice to the complainant or any other person adversely affected by the act or omission in question is substantial and has the potential of affecting the integrity and independence of the legal profession and public perceptions in respect thereof, do anything necessary to enable proceedings to be taken to a competent court for the necessary relief or direct or assist in directing a complainant to an appropriate forum.

(2) For the purposes of an investigation the Ombud may—

- *(a)* summon any person who may be able to furnish any information on the subject of the investigation or who has in his or her possession or under his or her control any book, document or other object relating to the investigation, to appear before the Ombud at a time and place specified in the summons, to be questioned or to produce that book, document or other object; and
- *(b)* designate a person to question that person, under oath or affirmation administered by the Ombud, and examine or retain for further examination or for safe custody the book, document or other object in question.

(3) A summons referred to in subsection (2) must—

- *(a)* be in the form determined in the rules;
- *(b)* contain particulars of the matter in connection with which the person concerned is required to appear before the Ombud;
- *(c)* be signed by the Ombud or a person authorised by him or her; and
- *(d)* be served as determined in the rules.

of Employment Act, 2001 (Umthetho 47 ka-2001), ibe nguNozikhalazo Wemisebenzi Yobugqwetha.

(2) UNozikhalazo uzimele geqe, ulawulwa kuphela nguMgaqo-Siseko nangumthetho, kwaye makabe ngongakhethi buso kwaye awasebenzise amagunya akhe, ayenze nemisebenzi yakhe engenaloyiko, engazami kukholisa mntu okanye ukumona.

(3) IBhunga malimncedise kwaye limkhusele uNozikhalazo ukuqinisekisa ukuba uzimele geqe, akakhethi buso, unesidima kwaye usebenza ngokuphumelelayo.

(4) Akukho mntu onokuphazamisana nokusebenza kukaNozikhalazo.

Amagunya kaNozikhalazo nemisebenzi yakhe

48. (1) *(a)* Ukongezelela kwamanye amagunya athiwe jize wona nemisebenzi abelwe yona kulo Mthetho, nangenjongo yokuba azifeze iinjongo ekuthethwe ngazo kwisiqendu 46, uNozikhalazo unegunya lokuphanda, ekwenza oko ngokunokwakhe okanye esakufumana isikhalazo, aphande—

(i) nabuphi na ubugwenxa obubikwayo ekusetyenzisweni kwalo Mthetho;

(ii) ukusetyenziswa kakubi kwegunya okanye ngendlela engathethelelekiyo, okanye esinye isenzo esingafanelekanga, okanye ukulibaziseka okungathethelelekiyo ekwenzeni umsebenzi omawenziwe ngokwalo Mthetho;

(iii) ukwenziwa kwesenzo okanye ukungenziwa kwesenzo emasenziwe okuthi kubangele ubunzima emntwini,

okujongwa nguNozikhalazo njengokunokuthi kuchaphazele ukuthembeka nokuzimela geqe komsebenzi wobugqwetha nendlela ojongwa ngayo luluhlu.

(b) UNozikhalazo unokuthi xa esebenzisa amagunya esenza nemisebenzi exelwe kwisiqendu *(a)*, ekwenza oko ngokusebenzisa okwakhe ukuqonda, azame ukusombulula imbambano okanye alungise isenzo esenziweyo okanye alungise ukungenziwa kwesenzo ebesimele ukwenziwa—

(i) ngokulamla, ngokuxolelanisa okanye ngokuthetha-thethana;

(ii) ngokucebisa umntu, xa kunokwenzeka, emcebisa ngoncedo olufanelekileyo anokulufumana; okanye

(iii) nangayiphi na indlela ebonakala isebenziseka kwimeko leyo.

(c) Nanini na phambi kophando, okanye ngexesha lokuqhubeka kwalo, okanye emva kwalo uphando ekuthethwe ngalo kwisiqendu *(a)*, uNozikhalazo unokuthi—

(i) xa enoluvo lokuba izibakala zibonisa ukuba kwenziwe isenzo esikukona, azise igunya elifanelekileyo eliphathiswe umsebenzi wokutshutshisa; okanye

(ii) xa ekubona kububulumko ukwenza njalo, adlulisele naluphi na udaba alubona lunento yokwenza nophando, aludlulisele kwiqumrhu okanye kwigunya elifanelekileyo, okanye enze isindululo esifanelekileyo ngokuthi ungalungiswa njani umonakalo, okanye enze isindululo uNozikhalazo asibona sifanelekile, esibhekisa kwiqumrhu okanye igunya elifanelekileyo; okanye

(iii) xa enoluvo lokuba sinesihlahla isikhalazo esenziweyo, nokuthi ungamkhulu umonakalo kumntu ochaphazelekayo, yaye kunokwenzeka ukuba kuchaphazeleke ukuthembeka nokuzimela geqe komsebenzi wobugqwetha nendlela ojongwa ngayo luluntu, unokwenza nantoni na eyimfuneko yokwenza ukuba udaba lusiwe kwinkundla efanelekileyo okanye ancedise ummangali ukumsa kwindawo efanelekileyo yoncedo.

(2) Ngenjongo yokuphanda, uNozikhalazo unokuthi—

(a) athumelele umsila wengwe nawuphi na umntu ongakwazi ukunika ingcombolo ngombandela ophandwayo okanye onencwadi okanye uxwebhu okanye enye into ephathelele kuphando, ukuze avele phambi kukaNozikhalazo ngexesha elixelwe nakwindawo exelwe kumsila wengwe lowo, ukuze abuze imibuzo okanye avelise loo ncwadi, okanye uxwebhu okanye enye into; kananjalo

(b) achonge umntu oza kumbuza imibuzo loo mntu, efungiswe nguNozikhalazo okanye wamenzisa isibhambathiso sokutheth' inyaniso, aze ayiphonononge okanye ayigcinele ukuba iphinde iphononongwe incwadi leyo okanye ilondolozwe, okanye uxwebhu olo okanye enye into.

(3) Umsila wengwe ekuthethwe ngawo kwisiqendwana (2)—

(a) mawube kwimo echazwe kwimigaqo;

(b) mawube neenkcukacha zomcimbi umntu lowo afunelwa ukuba avele ngokunxulumene nawo phambi kukaNozikhalazo;

(c) mawutyikitywe nguNozikhalazo okanye ngumntu ogunyazwe nguye; kwaye

(d) makawunikwe umntu ngendlela echazwe kwimigaqo.

(4) *(a)* The law regarding privilege as applicable to a witness summoned to give evidence in a criminal case in a magistrate's court applies in relation to the questioning of a person in terms of subsection (2), and that person is not entitled to refuse to answer any question on the ground that the answer might expose him or her to a criminal charge.

(b) No evidence regarding any questions and answers referred to in paragraph *(a)* are admissible in any criminal proceedings, except in criminal proceedings where the person concerned stands trial on a charge contemplated in section 319(3) of the Criminal Procedure Act, 1955 (Act No. 56 of 1955).

(5) A person appearing before the Ombud by virtue of subsection (2)—

(a) may be assisted at his or her examination by a legal representative; and

(b) is entitled to any witness fees as he or she would be entitled if he or she were a witness for the State in criminal proceedings in a magistrates' court.

(6) *(a)* The Ombud may, subject to paragraph *(b)*, in the manner he or she deems fit, make known to any person or body any report or finding, point of view or recommendation in respect of a matter investigated by him or her.

(b) The report or finding, point of view or recommendation in respect of an investigation by the Ombud must, when he or she deems it fit but as soon as possible, be made available to the complainant and to any person or body implicated thereby.

(c) Any report or finding, point of view or recommendation in respect of an investigation by the Ombud must be open to the public, unless the Ombud is of the opinion that exceptional circumstances require that the report, finding, point of view or recommendation be kept confidential.

Term of office of Ombud

49. The Ombud holds office for a period of seven years but may serve for one further term of seven years.

Acting Ombud and filling of vacancies

50. (1) If the office of Ombud becomes vacant, the President must, subject to this Chapter, appoint a judge discharged from active service in terms of the Judges' Remuneration and Conditions of Employment Act, 2001 (Act No. 47 of 2001), to that office.

(2) Whenever the Ombud is for any reason unable to exercise or perform his or her powers or functions, or when the appointment of a judge referred to in subsection (1) to the office of Ombud is pending, the President may, subject to this Chapter, appoint a person as acting Ombud to exercise the powers and perform the powers and functions of the Ombud.

(3) The President must determine the remuneration, allowances and other terms and conditions of service and service benefits of the acting Legal Services Ombud, after consultation with the Minister and the Minister of Finance.

Staff, finances and accountability of Office of Ombud

51. (1) In order to perform its functions the Ombud must—

(a) employ a director as the administrative head of the Office of the Ombud;

(b) employ such administrative staff as may be necessary; and

(c) enter into contracts with service providers and accept liability for the expenses incurred as a result of such services being rendered.

(2) The Ombud must appoint a director for an agreed term not exceeding five years which may be renewed for one additional term not exceeding five years and on the

(4) *(a)* Umthetho wokugcinwa kwento iyimfihlo ngendlela osebenza ngayo kwingqina elibizelwe ukunik' ubungqina kwityala lolwaphulo-mthetho kwinkundla yemantyi, uyasebenza ekubuzweni komntu imibuzo ngokwesiqendwana (2), kwaye loo mntu akanalo ilungelo lokwala ukuphendula umbuzo ngesizathu sokuba impendulo isenokumbeka emngciphekweni wokumangalelwa ngolwaphulo-mthetho.

(b) Ubungqina obususelwa kwimibuzo neempendulo ekuthethwe ngazo kwisiqendu *(a)* abamkeleki nakokuphi na ukuxoxwa kwetyala lolwaphulo-mthetho, ngaphandle kwaxa kuxoxwa ityala lolwaphulo-mthetho apho umntu lowo emangalelwe ngesimangalo esixelwe kwisiqendu 319(3) se*Criminal Procedure Act*, 1955 (Umthetho 56 ka-1955).

(5) Umntu ovela phambi koNozikhalazo ngokwesiqendwana (2)—

(a) unokuncediswa ligqwetha ekungcanjazisweni kwakhe ngemibuzo yokunik' ubungqina; kwaye

(b) unelungelo lokufumana uncedo lwemali olunikwa amangqina kanye njengokuba ebeya kuba nelungelo lokulufumana ukuba ebelingqina ngakwicala lomtshutshisi kwityala lolwaphulo-mthetho kwinkundla yemantyi.

(6) *(a)* Ngokulawulwa sisiqendu *(b)*, uNozikhalazo unokuthi ngendlela ayibona ifanelekileyo, azise nawuphi na umntu okanye iqumrhu, emazisa ngengxelo okanye okufunyanisiweyo, okanye ngoluvo okanye ngesindululo mayela nodaba oluphandwa nguye.

(b) Ingxelo okanye okufunyanisiweyo, okanye uluvo okanye isindululo mayela nophando olwenziwe nguNozikhalazo malwenziwe lube nokufunyanwa ngummangali nanguye nabani na ogama lakhe likhankanyiweyo, kwenziwe kube nokufunyanwa ngexesha alibona lifanelekile, kodwa ngokukhawuleza kangangoko kunokwenzeka.

(c) Ingxelo okanye okufunyanisiweyo, uluvo okanye isindululo mayela nophando olwenziwe nguNozikhalazo mayibe nokufundwa luluntu, ngaphandle kokuba uNozikhalazo ubona ukuba kukho iimeko ezingaqhelekanga ezifunisa ukuba mayigcinwe iyimfihlo.

Ixesha lokuba sesikhundleni likaNozikhalazo

49. UNozikhalazo uba sesikhundleni ixesha eliyiminyaka esixhenxe, kodwa angaphinda akhonze elinye ixesha eliyiminyaka esixhenxe.

UNozikhalazo obambeleyo nokuvalwa kwesithuba

50. (1) Xa isikhundla sikaNozikhalazo sithi singabi namntu, ngokulawulwa sesi Sahluko, uMongameli makaqeshe ijaji esele ikumhlalaphantsi ngokwe*Judges' Remuneration and Conditions of Employment Act*, 2001 (Umthetho 47 ka-2001), kweso sikhundla.

(2) Nanini na xa nangasiphi na isizathu uNozikhalazo engakwazi ukusebenzisa amagunya akhe okanye ukwenza imisebenzi yakhe, okanye xa kusalindwe ukuba kuqeshwe ijaji exelwe kwisiqendwana (1) kwisikhundla sokuba nguNozikhalazo, uMongameli unokuthi, ngokulawulwa sesi Sahluko, aqeshe umntu abe nguNozikhalazo Wemisebenzi Yobugqwetha olibambela ukuba asebenzise amagunya enze nemisebenzi kaNozikhalazo.

(3) UMongameli makenze isigqibo ngomvuzo, ngeemalana ezisecaleni nangemigqaliselo nemiqathango yokusebenza nangamaqithiqithi asemsebenzini kaNozikhalazo Wemisebenzi Yobugqwetha olibambela, emva kokubonisana noMphathiswa noMphathiswa weeMali.

Abasebenzi beOfisi kaNozikhalazo Wemisebenzi Yobugqwetha, iimali zayo nokuphendula kwayo

51. (1) Ukuze enze imisebenzi yakhe, uNozikhalazo—

(a) makaqeshe uMlawuli njengentloko yeOfisi kaNozikhalazo Wemisebenzi Yobugqwetha;

(b) makaqeshe abasebenzi bemisebenzi yolawulo ngokwemfuneko; kananjalo

(c) makangene kwizivumelwano nabaniki-nkonzo kwaye akwamkele ukuthi uza kuhlawula neendleko ekungenwe kuzo ngenxa yokunikwa kwezo nkonzo.

(2) UNozikhalazo makaqeshe uMlawuli ixesha ekuvunyelenweyo ngalo elingagqithiyo kwiminyaka emihlanu, elinokuthi lihlaziywe esinye isihlandlo esi-

conditions as the Minister, in consultation with the Minister of Finance, may determine.

(3) The Director, as the administrative head and chief executive officer of the Office of the Ombud, is responsible for the general administration of the Office, and must—

(a) manage and direct the activities of the Office of the Ombud, subject to the direction of the Ombud;

(b) appoint and supervise the administrative staff of the Office of the Ombud; and

(c) provide quarterly management reports to the Director-General.

(4) *(a)* The Minister must, after consultation with the Minister of Finance, determine the Director's remuneration, allowances, benefits and other terms and conditions of employment.

(b) The Minister must, after consultation with the Minister of Finance, determine the staff establishment of the Office, the remuneration, allowances, benefits, and other terms and conditions of appointment of the members of staff.

(5) Expenditure in connection with the administration and functioning of the Office of the Legal Services Ombud must be defrayed from money appropriated by Parliament for this purpose.

(6) Monies appropriated by Parliament for this purpose—

(a) constitute earmarked funds on the departmental vote; and

(b) may not be used by the Department for any other purpose unless the Ombud has been consulted and the National Treasury approves.

(7) Subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999), the Director-General—

(a) is charged with the responsibility of accounting for money received or paid out for or on account of the administration and functioning of the Office of the Ombud in accordance with National Treasury regulations; and

(b) must cause the necessary accounting and other related records to be kept, which must be audited by the Auditor-General.

(8) The financial year of the Office is the period of 1 April in any year to 31 March in the following year, except that the first financial year of the Office of the Ombud begins on the date on which this Chapter comes into operation, as contemplated subsection (13), and ends on 31 March of the following year.

(9) The Office of the Ombud may invest or deposit money that is not immediately required for contingencies or current expenditure—

(a) in a call account or short-term fixed deposit with any registered bank or financial institution in the Republic; or

(b) in an investment account with the Corporation for Public Deposits established by section 2 of the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984).

(10) Within six months after the end of each financial year, the Director must prepare financial statements in accordance with established accounting practice, principles and procedures, comprising—

(a) a statement, with suitable and sufficient particulars, reflecting the income and expenditure of the Office of the Ombud during the preceding financial year; and

(b) a balance sheet showing the state of its assets, liabilities and financial position as at the end of that financial year.

(11) The Auditor-General must audit the financial statements of the Office each year.

(12) The Office of the Ombud may, after consultation with the Minister and the Minister of Finance—

(a) acquire and alienate movable and immovable property; and

(b) hire and let movable and immovable property.

(13) *(a)* The Office of the Ombud must commence with its functions as from a date fixed by the Minister by notice in the *Gazette*.

ngagqithiyo kwiminyaka emihlanu, ngemiqathango enokuthi igqitywe nguMphathiswa, ebonisana noMphathiswa weeMali.

(3) UMlawuli, njengentloko yemisebenzi yolawulo negosa eliyintloko eliququzelelayo leOfisi kaNozikhalazo Wemisebenzi Yobugqwetha, umsebenzi wakhe ngumsebenzi wolawulo jikelele weOfisi, kwaye—

(a) makaphathe, kananjalo alawule imisebenzi yeOfisi kaNozikhalazo Wemisebenzi Yobugqwetha, ngokulawulwa lulwalathiso alunikwa liBhunga;

(b) makaqeshe abasebenzi bomsebenzi wolawulo beOfisi kaNozikhalazo Wemisebenzi Yobugqwetha aze abe liliso phezu kwabo;

(c) makanike uMlawuli-Jikelele weSebe Lobulungisa iingxelo zolawulo qho ngekota.

(4) *(a)* Emva kokubonisana noMphathiswa weeMali, uMphathiswa makenz' isigqibo ngomvuzo woMlawuli, nangeemalana ezisecaleni, nangamaqithiqithi nangeminye imigqaliselo nemiqathango yokuqeshwa kwakhe.

(b) Emva kokubonisana noMphathiswa weeMali, uMphathiswa makenz' isigqibo ngobungakanani babasebenzi beOfisi, ngomvuzo womsebenzi ngamnye, nangeemalana ezisecaleni, nangamaqithiqithi nangeminye imigqaliselo nemiqathango yokuqeshwa kwakhe.

(5) Inkcitho yolawulo nokusebenza kweOfisi kaNozikhalazo Wemisebenzi Yobugqwetha mayihlawulelwe kwimali eyabelwe le njongo yiPalamente.

(6) Iimali ezabelwe le njongo yiPalamente—

(a) ziimali ezabelwe injongo ethile kwisabelo-mali seSebe; kwaye

(b) azivumelekanga ukuba zisetyenziselwe enye injongo liSebe ngaphandle kokuba kuboniswene noNozikhalazo yaza yavuma iNxili Yesizwe (National Treasury).

(7) Ngokulawulwa yi*Public Finance Management Act*, 1999 (Umthetho 1 ka-1999), uMlawuli-Jikelele—

(a) uthwaliswe uxanduva lokuphendula ngemali efunyenwe okanye ehlawulelwe ukusebenza kweOfisi kaNozikhalazo Wemisebenzi Yobugqwetha ngokwemimiselo yeNxili yeSizwe; kwaye

(b) makenze ukuba iirekhodi eziyimfuneko zemali nezinye ezihlobene noko zigcinwe, ziphicothwe nguMphicothi-Zimali-Jikelele.

(8) Unyaka-mali weOfisi lithuba eliqala ngowoku-1 kuEpreli nakuwuphi na unyaka ukuya kowama-31 kuMatshi kunyaka olandelayo, ngaphandle nje kwento yokuba unyaka-mali wokuqala weOfisi uqala ngomhla esiqala ngawo ukusebenza esi Sahluko, njengoko kuxelwe kwisiqendwana (13), uze uphele ngowama-31 kuMatshi wonyaka olandelayo.

(9) IOfisi kaNozikhalazo Wemisebenzi Yobugqwetha isenokuyigcina imali engafuneki ngokukhawuleza isenzela iimeko zikaxakeka okanye inkcitho yangoku—

(a) iyigcina kwi-akhawunti enokukhutshwa nanini na kuyo okanye kwi-akhawunti yolondolozo lwexesha elifutshane kuyo nayiphi na ibhanki ebhalisiweyo okanye iziko lemali elikwiRiphablikhi; okanye

(b) kwi-akhawunti yolondolozo ekwiCorporation for Public Deposits eyasekwa sisiqendu 2 se*Corporation for Public Deposits Act*, 1984 (Umthetho 46 ka-1984).

(10) Zingaphelanga iinyanga ezintandathu uphelile unyaka-mali ngamnye, uMlawuli makenze iziteyitimente zemali ngokwenkqubo yobalo-mali eyaziwayo, nangokwemigaqo neenkqubo, kubekho phakathi kwazo—

(a) isiteyitimenti, esineenkcukacha ezifanelekileyo nezaneleyo, esibonisa ingeniso nenkcitho yeOfisi kaNozikhalazo Wemisebenzi Yobugqwetha kunyaka-mali owandulelayo; kunye

(b) noxwebhu olubonisa ubume bempahla yayo, amatyala engene kuwo nokuma kwayo ngokwasemalini ekupheleni kwaloo nyaka-mali.

(11) UMphicothi-Zimali-Jikelele makaziphicothe iziteyitimenti zemali zeOfisi nyaka ngamnye.

(12) IOfisi kaNozikhalazo Wemisebenzi Yobugqwetha unokuthi, emva kokubonisana noMphathiswa noMphathiswa Weemali—

(a) izuze impahla enokufuduswa nengenakufuduswa ize yahlukane nayo; kananjalo

(b) isenokuqesha iqeshise ngempahla enokufuduswa nengenakufuduswa.

(13) *(a)* IOfisi kaNozikhalazo Wemisebenzi Yobugqwetha mayiqalise imisebenzi yayo ukususela kumhla ogqitywe nguMphathiswa ngokwenza isihlokomiso ku*Shicilelo-Mithetho*.

(b) Before the date so fixed, the necessary arrangements must be made for the Office of the Ombud to be accommodated, equipped and staffed in order to perform its functions properly.

Annual report

52. (1) The Office of the Ombud must prepare and submit to the Minister an annual report as determined in the rules within six months after the end of the financial year of the Office of the Ombud.

(2) The annual report referred to in subsection (1) must include the following documents:

(a) The audited financial statements prepared in terms of this Act;
(b) the report of the Auditor-General prepared in terms of this Act;
(c) a report of the activities undertaken in terms of the functions of the Ombud set out in this Chapter; and
(d) a statement of the progress made during the preceding year towards achieving the objects of this Chapter.

(3) The Minister must table in Parliament each annual report submitted in terms of this Chapter.

CHAPTER 6

LEGAL PRACTITIONERS' FIDELITY FUND

Part 1

Establishment of Fund and founding provisions

Continued existence of Attorneys Fidelity Fund

53. (1) Despite the provisions of section 119, the Attorneys Fidelity Fund established by section 25 of the Attorneys Act continues to exist as a juristic person under the name Legal Practitioners' Fidelity Fund.

(2) The Fund acts through the Board.

Revenue of Fund

54. The Fund consists of—

(a) each amount which, immediately prior to the date referred to in section 120(4), is or was payable to or held on account of the Fund, and which is paid on or after such date of commencement;
(b) annual contributions paid by applicants for the issue of Fidelity Fund certificates and any interest on, or penalties in respect of, overdue contributions;
(c) interest paid to the Fund in terms of this Act;
(d) income obtained from investments of the Fund;
(e) money recovered by or on behalf of the Fund in terms of this Act;
(f) money received by or on behalf of the Fund from any insurer;
(g) any other money lawfully paid into the Fund; and
(h) any other money accruing to the Fund from any other source.

Liability of Fund

55. (1) The Fund is liable to reimburse persons who suffer pecuniary loss, not exceeding the amount determined by the Minister from time to time by notice in the *Gazette*, as a result of theft of any money or other property given in trust to a trust account practice in the course of the practice of the attorney or an advocate referred to in section 34(2)*(b)* as such, if the theft is committed—

(b) Ngaphambi kokuba kufike loo mhla ugqityiweyo, makwenziwe amalungiselelo ayimfuneko okuba iOfisi kaNozikhalazo Wemisebenzi Yobugqwetha ixhotyiswe inikwe nabasebenzi ukuze iyenze ngokufanelekileyo imisebenzi yayo.

Ingxelo yonyaka

52. (1) IOfisi kaNozikhalazo Wemisebenzi Yobugqwetha mayiqulunqe ingxelo yonyaka ize iyinike uMphathiswa ngendlela ekufunwa ngayo kwimigaqo zingaphelanga iinyanga ezintandathu uphelile unyaka-mali weOfisi kaNozikhalazo Wemisebenzi Yobugqwetha.

(2) Ingxelo yonyaka ekuthethwe ngayo kwisiqendwana (1) mayiquke la maxwebhu alandelayo:

(a) iziteyitimenti zemali eziphicothiweyo ezenziwe ngokwalo Mthetho;
(b) ingxelo yoMphicothi-Zimali-Jikelele eyenziwe ngokwalo Mthetho;
(c) ingxelo ngezinto ezenziweyo ezenziwe ngokwemisebenzi kaNozikhalazo echazwe kwesi siqendu; kunye
(d) nenkcazelo ngenkqubela eyenziwe kunyaka ongaphambili ekufezekiseni iinjongo zesi Sahluko.

(3) UMphathiswa makayithi thaca ePalamente ingxelo yonyaka nganye engeniswe ngokwesi Sahluko.

ISAHLUKO 6

IFIDELITY FUND YAMAGQWETHA

Inxalenye 1

Ukusekwa kweNgxowa-Mali neziseko zayo

Iqhubeka ikho i*Attorneys Fidelity Fund*

53. (1) Nangona sisitsho oku sikutshoyo isiqendu 119, iqhubeka ikho *iAttorneys Fidelity Fund* eyasekwa sisiqendu 25 se*Attorneys Act* njengomntu onokuma phambi kwenkundla, phantsi kwegama elithi *iFidelity Fund* Yamagqwetha.

(2) Le Ngxowa-Mali isebenza ngeBhodi.

Ingeniso yeNgxowa-Mali

54. Le Ngxowa-Mali yakhiwe—

(a) ngesixa ngasinye, ngaphambi komhla ekuthethwe ngawo kwisiqendu 120(4), esasimele sihlawulwe kwiNgxowa-Mali okanye esasigcinelwe iNgxowa-Mali, nesihlawulwa ngaloo mhla wokuqalisa okanye emva kwawo;
(b) iminikelo yaminyaka le ehlawulwa ngabenzi-sicelo yokukhutshwa kweziqinisekiso *zeFidelity Fund* kunye nenzala, okanye izohlwayo, eyenziwa yimikhonto edlulelwe lixesha;
(c) inzala ehlawulwa kule Ngxowa-Mali ngokwalo Mthetho;
(d) ingeniso ezuzwe kutyalo-mali lweNgxowa-Mali;
(e) imali efunyenwe yiNgxowa-Mali okanye efunyenwe egameni leNgxowa-Mali ngokwalo Mthetho;
(f) imali efunyenwe yiNgxowa-Mali okanye efunyenwe egameni leNgxowa-Mali ivela nakuyiphi na inkampani ye-inshorensi;
(g) nayiphi na enye imali ehlawulwe kule Ngxowa-Mali ngokusemthethweni; kunye
(h) nayiphi na enye imali emayibe yeyale Ngxowa-Mali nokuba ivela phi na.

Oko imele ikwenze le Ngxowa-Mali

55. (1) Le Ngxowa-Mali imele ibuyisele abantu abathi balahlekelwe yimali, engangqithiyo kwisixa esiman' ukuqingqwa nguMphathiswa ngokukhuph' isihlokomiso ku*Shicilelo-Mithetho*, ibabuyisele ngenxa yokubelwa imali okanye enye impahla ebimele ukuba ingene kwi-akhawunti yeemali zokuphathiswa zegqwetha okanye zegqwetha leejaji ekuthethwe ngalo kwisiqendu 34(2)*(b)*, ukuba ubusela obo benziwe—

(a) by an attorney in that practice or advocate, or any person employed by that practice or supervised by that attorney or advocate;
(b) by an attorney or person acting as executor or administrator in the estate of a deceased person; or
(c) by an attorney or person employed by that attorney who is a trustee in an insolvent estate or in any other similar capacity,

excluding a curator to a financial institution in terms of the Banks Act, 1990 (Act No. 94 of 1990) or a liquidator of a mutual bank in terms of the Mutual Banks Act, 1993 (Act No. 124 of 1993).

Limitation of liability of Fund

56. (1) The Fund is not liable in respect of any loss suffered—
(a) by a family member or a member of the household of any attorney or an advocate referred to in section 34(2)*(b)* who committed the theft;
(b) by any partner or co-director in the trust account practice in which the theft occurs;
(c) as a result of theft committed by an attorney or advocate whose fidelity has been otherwise guaranteed by a person, either in general or in respect of a particular transaction, to the extent to which it is covered by the guarantee;
(d) by any person as a result of any theft committed after the victim of the theft received notice in writing from the Council or the Board warning against the use or continued use of the legal services of the trust account practice concerned or the giving of any money or property in trust to that trust account practice and the person in question has failed to take reasonable steps after being so warned; or
(e) by any person as a result of theft of money which any attorney or an advocate referred to in section 34(2)*(b)* has been instructed to invest on behalf of such person.

(2) A claim for reimbursement as provided for in section 55 is limited—
(a) in the case of money given in trust to a trust account practice, to the amount actually handed over, without interest, unless interest has been earned and given in trust to the practice, or unless the Board, in its discretion, decides to pay interest; and
(b) in the case of securities or other property, to an amount equal to the average market value of such securities or property at the date when written demand is first made for their delivery, or if there is no average market value, the fair market value of such securities or other property as at that date, without interest.

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

(4) Subsection (1)*(e)* does not apply to money which an attorney is authorised to invest where the attorney acts in his or her capacity as executor, trustee or curator, or in any similar capacity, excluding a curator to a financial institution in terms of the Banks Act, 1990 (Act No. 94 of 1990), or liquidator of a mutual bank in terms of the Mutual Banks Act, 1993 (Act No. 124 of 1993).

(5) Subject to subsection (6), an attorney or advocate must be regarded as having been instructed to invest money for the purposes of subsection (1)*(e)*, where a person—
(a) who entrusts money to the attorney or advocate; or
(b) for whom the attorney or advocate holds money,

instructs the attorney or advocate to invest all or some of that money in a specified investment or in an investment of the attorney's or advocate's choice.

(6) For the purposes of subsection (1)*(e)* an attorney or advocate is regarded as not having been instructed to invest money if he or she is instructed by a person—
(a) to pay the money into a trust account, if that payment is for the purpose of investing the money in that account on a temporary or interim basis only, pending the conclusion or implementation of any particular matter or transaction which is already in existence or about to come into existence at the

(a) ligqwetha okanye ligqwetha leejaji kuloo ofisi yalo, okanye benziwe nguye nawuphi na umntu oqeshwe yiloo ofisi okanye osebenza phantsi kwelo gqwetha okanye igqwetha leejaji;
(b) ligqwetha okanye ngumntu ophathiswe ilifa lomntu ongasekhoyo; okanye
(c) ligqwetha okanye ngumntu oqeshwe lelo gqwetha ophathiswe ilifa lomntu ongakwaziyo ukuhlawulwa amatyala akhe, okanye okwimeko enjengaleyo,

ngaphandle komntu ophathiswe kwiziko lomsebenzi wemali ngokwe*Banks Act*, 1990 (Umthetho 94 ka-1990), okanye umthimbi webhanki eyintlanganisela ngokwe*Mutual Banks Act*, 1993 (Umthetho 124 ka-1993).

Umda kwizinto emele izenze le Ngxowa-Mali

56. (1) Le Ngxowa-Mali ayinaluxanduva lokuhlawula ngelahleko efunyenwe—
(a) lilungu losapho legqwetha okanye legqwetha leejaji ekuthethwe ngalo kwisiqendu 34(2)*(b)* elifunyaniswa linetyala lobusela;
(b) liqabane legqwetha elibileyo;
(c) ngenxa yobusela obenziwe lisela elikuthembeka kwalo kuye kwaqinisekiswa ngumntu othile, ngokubanzi okanye ngokumayela nomsebenzi othile, kuxhomekeke ekubeni isiqinisekiso eso sokuthembeka siphela phi na;
(d) nguye nawuphi na umntu ngenxa yobusela obenziwe emva kokuba obelweyo efumene isaziso esibhaliweyo esivela kwiBhunga okanye kwiBhodi simlumkisa ngokusebenzisa okanye ngokuqhubeka esebenzisa iinkonzo zobugqwetha ze-ofisi yelo gqwetha okanye simlumkisa ngophathisa i-ofisi yelo gqwetha imali okanye impahla, waza loo mntu akathabatha manyathelo afanelekileyo emva kokuba elunyukisiwe; okanye
(e) nguye nawuphi na umntu ngenxa yobusela bemali eliye igqwetha ngo kwesiqendu 34(2)*(b)* lacelwa ukuba liyilondoloze ngenjongo yokuba izale egameni laloo mntu.

(2) Ukufun' imbuyiselo ngendlela ekuchazwe ngayo kwisiqendu 55 kuphelela—
(a) xa kuyimali ebikhutshelwe ukuba ifakwe kwi-akhawunti yegqwetha yeemali zokuphathiswa, kuphelela kwisixa esikhutshiweyo, kungabikho nzala, ngaphandle kokuba inzala iye yazuzwa yaza yaphathiswa iofisi yegqwetha, okanye ngaphandle kokuba iBhodi, ngokubona kwayo, igqiba kwelokuba ihlawule inzala; kuze kuthi
(b) xa kuzizibambiso okanye enye impahla, kuphelela kwisixa esilingana nexabiso eliphakathi nje lezo zibambiso ngomhla ekuthi kufunwe ngawo ukuba zinikezelwe, kuze kuthi ke ukuba alikho ixabiso eliphakathi nje, kube lixabiso eliphakathi nje lezo zibambiso okanye enye impahla ngaloo mhla, kungabikho nzala.

(3) Kuphela yimali eseleyo kwilahleko alahlekelwe yiyo umntu emva kokuba kutsalwe isixa sayo yonke imali okanye amaqithiqithi azuzwe nguloo mntu kuwo nawuphi na umthombolo ongeyiyo iNgxowa-Mali, enokuthi ifunwe kwiNgxowa-Mali.

(4) Isiqendwana (1)*(e)* asisebenzi kwimali eligunyaziweyo igqwetha ukuba liyilondoloze ngenjongo yokuba izale xa igqwetha lisebenza ngokwesikhundla salo sokuba ngumabi-lifa, okanye umntu ophathisiweyo, okanye ngaso nasiphi na isikhundla, ngaphandle komntu ophathisiweyo weziko lezimali ngokwe*Banks Act*, 1990 (Umthetho 94 ka-1990), okanye umthimbi webhanki eyintlanganisela ngokwe*Mutual Banks Act*, 1993 (Umthetho 124 ka-1993).

(5) Ngokulawulwa sisiqendwana (6), igqwetha okanye igqwetha leejaji malithathwe njengeliyalelwe ukuba liyilondoloze imali ngenjongo yokuba izale ngokwenjogno yokusebenza kwesiqendwana (1)*(e)*, xa umntu—
(a) ophathisa igqwetha okanye igqwetha leejaji imali; okanye
(b) igqwetha okanye igqwetha leejaji elimphathele imali,

eyalela igqwetha okanye igqwetha leejaji ukuba liyilondoloze yonke okanye inxalenye yayo loo mali ngenjongo yokuba izale kulondolozo oluxelwe ngumntu lowo okanye kulondolozo olukhethwe ligqwetha okanye ligqwetha leejaji.

(6) Ngenjongo yokusebenza kwesiqendwana (1)*(e)*, igqwetha lithathwa njengelingayalelwanga ukuba liyigcine ngenjongo yokuba izale imali ukuba liyalelwe ngumntu—
(a) ukuba liyifake loo mali kwi-akhawunti yeemali zokuphathiswa, ukuba loo mali ifakwayo injongo yayo kukuba izale kuloo akhawunti okwexeshana kuphela, kude kube kuqosheliswe umcimbi othile osele ukho okanye oza kubakho kungekudala, ngexesha okwenzeka ngayo ukufakwa kwemali

time that the investment is made and in respect of which investment the attorney or advocate exercises exclusive control as trustee, agent or stakeholder, or in any fiduciary capacity;

(b) to lend money on behalf of that person to give effect to a loan agreement where that person, being the lender—
  (i) specifies the borrower to whom the money is to be lent;
  (ii) has not been introduced to the borrower by the attorney for the purpose of making that loan; and
  (iii) is advised by the attorney in respect of the terms and conditions of the loan agreement; or

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

(7) An attorney or advocate who has been instructed to invest money as provided for in subsection (5) must, as soon as practicable after he or she has received that instruction, but prior to the receipt of the money to be invested, notify the person giving the instruction of the provisions of subsection (1)*(e)* in the form and manner determined by the Board in terms of subsection (8).

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

(9) For purposes of subsection (1)*(a)*, "family member", in relation to any person, means his or her parent, parent-in-law, sibling, child, including an adopted child or a step-child, or spouse (whether by statutory, customary or religious law), and including a life partner who is a person living with that person as if they were married to each other.

Purpose and application of Fund

57. (1) Subject to the provisions of this Act, the Fund must be utilised for the following purposes:

(a) Meeting the liability of the Fund referred to in section 55;

(b) paying expenses incurred in operating the Board and the Fund, including the payment of remuneration or allowances and other service benefits to employees;

(c) paying expenses incurred by the Board in investigating and establishing the validity of claims contemplated in section 55;

(d) paying all expenses and legal costs incurred by the Board for the purpose of recovering money from the persons whose wrongful conduct gave rise to the claim;

(e) refunding the costs or any portion thereof incurred by a claimant in establishing a claim or attempting to recover the whole or a portion of the claim from the person whose wrongful conduct gave rise to the claim;

(f) paying legal expenses incurred in defending a claim made against the Fund, or otherwise incurred in relation to the Fund;

(g) paying premiums in respect of contracts of insurance entered into in terms of sections 76 and 77;

(h) paying allowances to members of the Board in relation to their services or their reasonable travelling and accommodation expenses incurred in relation to the affairs of the Board and the Fund to be determined in consultation with the Council;

(i) paying fees and expenses to the Council or its structures in respect of any function performed as agents for the Fund;

(j) making an annual appropriation to the Council in terms of section 22(1)*(b)*;

ngenjongo yokuba izale, libe elo gqwetha okanye elo gqwetha leejaji kulilo kuphela elinegunya phezu kwaloo mali izaliswayo njengomntu ophathisiweyo, okanye ongumthunywa okanye ongumthabathi-nxaxheba, okanye ongummeli womnye;

(b) ukuba abolekise ngemali egameni laloo mntu ukuze kufezeke isivumelwano sokubolekwa imali, kwimeko apho loo mntu, engumbolekisi—
  (i) amxelayo umbolekwa;
  (ii) igqwetha lingamazisanga kumbolekwa ngenjongo yokwenza loo mali-mboleko; nalapho
  (iii) exelelwe ligqwetha ukuba ithini imigqaliselo nemiqathango yeso sivumelwano semali-mboleko; okanye

(c) ukuba lisebenzise imali ukuze kuphunyezwe isivumelwano ayinxalenye yaso loo mntu, kube kungesiso isivumelwano esiyimali-mboleko okanye esiphumeza imali-mboleko ewela ngaphantsi kokuchazwa sisiqendu *(b)*.

(7) Igqwetha okanye igqwetha leejaji eliyalelwe ukuba ligcine imali ngenjongo yokuba izale njengoko kuchazwe kwisiqendwana (5) malithi, kamsinya kangangoko kunokwenzeka lakuba liwufumene umyalelo otshoyo, kodwa lingekayifumani imali eza kugcinwa ngenjongo yokuba izale, limazise umntu oliyalelayo ngokutshiwo sisiqendwana (1)*(e)* ngendlela egqitywe yiBhodi ngokwesiqendwana (8).

(8) Ngenjongo yokusebenza kwesiqendwana (7), iBhodi mayikhuphe imiyalelo exela indlela emasikhutshwe ngayo isaziso ekuthethwe ngaso kweso siqendwana, kwaye inokuthi iman' ukuyiqwalasela ngokutsha loo miyalelo ize, ukuba kuyimfuneko, iyitshintshe.

(9) Ngenjongo yokusebenza kwesiqendwana (1)*(a)*, igama elithi "ilungu losapho"libhekisela kumzali womntu, umzali wenkosikazi okanye umzali womyeni, umntakwabomntu, umntwana womntu, kuquka nomntwana ocholiweyo wamenza owakho okanye umntwana ozalwa yinkosikazi yakho yodwa okanye ngumyeni wakho yedwa, okanye owakwakho (nokuba ngowomtshato wesilungu, okanye wesintu, okanye wecawa), kuquka neqabane lomntu lobomi bonke ukuba bahlala ngokungathi batshatile.

Injongo yale Ngxowa-Mali nokusetyenziswa kwayo

57. (1) Ngokulawulwa koko kutshiwo ngulo Mthetho, le Ngxowa-Mali mayisetyenziselwe iinjongo ezilandelayo:

(a) ukufeza okufanele kwenziwe yile Ngxowa-Mali ekuthethwe ngako kwisiqendu 55;

(b) ukuhlawula iindleko ekungenwe kuzo ekusebenzeni kweBhodi neNgxowa-Mali, kuquka nokuhlawulwa kwabaqeshwa imivuzo okanye iimalana ezisecaleni namanye amaqithiqithi;

(c) ukuhlawula iindleko ekungenwe kuzo yiBhodi ekuphandeni ukufunwa kweembuyekezo nasekuqinisekiseni ubunyaniso bazo njengoko kuxelwe kwisiqendu 55;

(d) ukuhlawula zonke iindleko neendleko zomthetho ekungenwe kuzo yiBhodi ngenjongo yokufuna imali kubantu abasenzo sabo siphosakeleyo sibangele kubekho ukufunwa kwembuyekezo;

(e) ukumbuyisela imali yeendleko okanye inxalenye yayo umntu ofun' imbuyekezo xa efun' imbuyekezo okanye ezama ukubuyelwa yiyo yonke okanye yinxalenye yembuyekezo kumntu osenzo sakhe siphosakeleyo sibangele ukuba kubekho ukufunwa kwembuyekezo;

(f) ukuhlawula iindleko zomthetho ekungenwe kuzo ekuzikhuseleni ekufunweni kwembuyekezo kwiNgxowa-Mali, okanye ekungenwe kuzo ngokumayela neNgxowa-Mali;

(g) ukuhlawula izavenge zezivumelwano ze-inshorensi ekungenwe kuzo ngokwesiqendu 76 nesama-77;

(h) ukuhlawula amalungu eBhodi iimali zesibonelelo ngemisebenzi ayenzileyo okanye ngeendleko zohambo nezendawo yokuhlala angene kuzo xa esingethe imicimbi yeBhodi neyeNgxowa-Mali, mali ezo emazigqitywe ngokubonisana neBhunga;

(i) ukuhlawula kwiBhunga okanye kwizakhiwo zalo imirhumo neendleko ngomsebenzi owenziwe njengomthunywa weNgxowa-Mali;

(j) ukwenza isabelo-mali sonyaka ngamnye kwiBhunga ngokwesiqendu 22(1)*(b)*;

(k) paying costs relating to the detection or prevention of theft of trust money; and

(l) paying interest in relation to section 55.

(2) Subject to the provisions of this Act, the Fund may be utilised for the following purposes:

(a) refunding the bank charges or any portion thereof paid by any attorney or an advocate referred to in section 34(2)*(b)*in relation to the keeping of a trust account referred to in section 86(2) and (3);

(b) paying expenses relating to any function performed in terms of this Act;

(c) paying the audit and inspection costs or a portion thereof incurred by an attorney or advocate in relation to the obtaining of a Fidelity Fund certificate; and

(d) paying bursaries and loans to students, candidate legal practitioners and legal practitioners for the purposes of legal education and research.

Legal Practitioners' Fidelity Fund Account

58. (1) Money of the Fund must be deposited into a banking account held by the Fund at an institution registered as a bank, to the credit of an account to be known as the Legal Practitioners' Fidelity Fund Account.

(2) The Board may invest money which is deposited in terms of subsection (1) and which is not immediately required for the purposes mentioned in this Act.

Financial year of Fund

59. The financial year of the Fund is determined by the Board.

Fund exempt from certain tax and insurance laws

60. (1) The revenue of the Fund is exempt from the provisions of any law relating to the payment of income tax or any other tax or levy by the State.

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

Part 2

Operation of Fund

Establishment of Board

61. (1) A Legal Practitioners' Fidelity Fund Board is hereby established to manage and administer the Fund.

(2) The Fund must be held in trust by the Board for the purposes mentioned in this Act.

Composition of Board

62. (1) The Board consists of the following persons:

(a) Five legal practitioners, one of whom must be an advocate referred to in section 34(2)*(b)*, elected in accordance with a procedure determined in the rules by the Council in consultation with the Board;

(b) two persons, designated by the Council, who, by virtue of their qualifications, expertise and experience in the field of finance, and whose names are submitted by the Independent Regulatory Board of Auditors or its successor; and

(c) two fit and proper persons designated by the Minister.

(2) The need for the Board to reflect—

(a) the racial and gender composition of South Africa;

(b) representation of persons with disabilities; and

(c) provincial representation,

must, as far as is practicable, be considered when the Board is constituted as contemplated in subsection (1).

(k) ukuhlawula iindleko zokubhaqwa nokuthintelwa kobusela bemali yokuphathiswa;

(l) nokuhlawula inzala ngokwesiqendu 55.

(2) Ngokulawulwa koko kutshiwo ngulo Mthetho, le Ngxowa-mali inokusetyenziselwa ezi njongo zilanelayo:

(a) ukubuyisela iimali ezitsalwe yibhanki okanye iinxalenye yazo, ezihlawulwe ligqwetha okanye ligqwetha leejaji ekuthethwe ngalo kwisiqendu 34(2)*(b)* mayela nokugcinwa kwe-akhawunti yeemali zokuphathiswa ekuthethwe ngayo kwisiqendu 86(2) nese-(3);

(b) ukuhlawula iindleko ezimayela nomsebenzi owenziwe ngokwalo Mthetho;

(c) ukuhlawula iindleko zokuphicothwa kwezimali okanye inxalenye yezimali ekungenwe kuzo ligqwetha okanye ligqwetha leejaji mayela nokufumana isiqinisekiso se*Fidelity Fund*;

(d) nokuhlawula iibhasari neemali-mboleko ezinikwa abafundi, amagqwetha asengabakhwetha namagqwetha ngenjongo yokuba bafundiswe umthetho nophengululo.

I-Akhawunti yeFidelity Fund Yamagqwetha

58. (1) Imali yeNgxowa-Mali mayifakwe kwi-akhawunti yebhanki egcinwe yiNgxowa-Mali kwiziko elibhaliswe njengebhanki, ibe yeye-akhawunti eyaziwa ngokuba yi-Akhawunti YeFidelity Fund Yamagqwetha.

(2) IBhodi inokuyilondoloza ngenjongo yokuba izale imali efakwe ngokwesiqendwana (1) xa ingafuneki ngokukhawuleza ngeenjongo ezixelwe kulo Mthetho.

Unyaka-mali wale Ngxowa-Mali

59. Unyaka-mali wale Ngxowa-Mali ugqitywa yiBhodi.

Le Ngxowa-mali ikhululekile kwimithetho ethile yerhafu ne-inshorensi

60. (1) Ingeniso yale Ngxowa-Mali ikhululekile kokutshiwo nguwo nawuphi na umthetho okumayela nokuhlawulwa kwerhafu yengeniso okanye nayiphi na enye irhafu efunwa ngurhulumente.

(2) Nakuphi na okutshiwo nguwo nawuphi na mthetho okuphathelele kwi-inshorensi (ngaphandle komthetho we-inshorensi yesinyanzelo yabasebenzi) okanye okutshiwo ngokhuseleko, akusebenzi kule Ngxowa-Mali.

iCandelo 2

Ukusetyenziswa kwale Ngxowa-Mali

Ukusekwa kweBhodi

61. (1) Ngokwenjenje kusekwa iBhodi yeFidelity Fund Yamagqwetha yokulawula le Ngxowa-Mali.

(2) Le Ngxowa-Mali mayiphathiswe iBhodi ngeenjongo ezixelwe kulo Mthetho.

Indlela eyakhiwe ngayo iBhodi

62. (1) IBhodi inaba bantu balandelayo:

(a) amagqwetha amahlanu, elinye lawo emakube ligqwetha leejaji ekuthethwe ngalo kwisiqendu 34(2)*(b)*, elinyulwe ngokwenkqubo egqitywe liBhunga libonisana neBhodi;

(b) abantu ababini, abachongwe liBhunga abathe, ngenxa yemfundo yabo, nobuchule babo namava abo kumba wezimali, nabamagama abo angeniswa yi-Independent Regulatory Board of Auditors okanye lilandela layo; kunye

(c) nabantu ababini abafanelekileyo abachongwe nguMphathiswa.

(2) Imfuneko yokuba kwiBhodi—

(a) kubonakale ubume beentlanga zoMzantsi-Afrika namadoda namabhinqa;

(b) bamelwe nabantu abaneziphene; kwaye

(c) amelwe namaphondo,

mayicingelwe kangangoko kunokwenzeka xa kubunjwa iBhodi njengoko kuxelwe kwisiqendwana (1).

Powers and functions of Board

63. (1) In addition to the powers conferred upon it in this Act, and in the furtherance of the purpose of the Fund, the Board may—

(a) invest any monies which are not required for immediate use in government and other securities as may be prescribed by regulation, as provided for in section 72(3);
(b) insure itself against risk;
(c) conclude agreements;
(d) institute or defend legal proceedings;
(e) as determined in the rules, inspect or cause to be inspected the accounts of any attorney or an advocate referred to in section 34(2)*(b)*;
(f) make rules relating to—
  (i) contributions to the Fund and the issuing and costs of Fidelity Fund certificates;
  (ii) the procedure for the appointment of the executive officer and other employees; and
  (iii) any other matter concerning the Fund;
(g) make an arrangement with any bank for the keeping of trust accounts opened in terms of section 86(2) and for the investment of money in separate trust savings or other interest bearing accounts opened in terms of section 86(3) and (4) to provide for one or more of the following:
  (i) The payment of interest to the Fund on the whole or any part of the money deposited in terms of section 86(2) and the money invested in terms of section 86(3) and (4), as contemplated in section 86(5);
  (ii) the manner in which the Fund is informed of amounts held in the accounts opened in terms of section 86(2), (3) and (4);
  (iii) the auditing of interest calculations and account balances in the accounts opened in terms of section 86(2), (3) and (4) in the bank accounts; and
  (iv) any other relevant matter;
(h) consider claims against the Fund;
(i) through any person authorised thereto in writing by the chairperson of the Board, institute a prosecution for the misappropriation or theft of property or trust money, and the provisions of the laws relating to private prosecutions apply to such prosecution as if the Board is a public body;
(j) delegate to any of its employees the duty, subject to conditions that may be imposed by the Board, to consider any claims against the Fund; and
(k) generally take any other steps and perform any other acts as may be necessary for or conducive to the achievement of the objects of the Fund.

(2) The Board must appoint an executive officer to—

(a) perform or exercise the powers and functions determined by the Board;
(b) supervise the employees of the Board; and
(c) account for the assets and liabilities of the Board.

(3) The Board may appoint any other employees as it deems necessary to assist the executive officer.

(4) The procedure for the appointment of the executive officer and other employees must be determined by the Board.

(5) The need for the staff of the Board to reflect—

(a) the racial and gender composition of South Africa; and
(b) representation of persons with disabilities,

must, as far as is practicable, be considered when the executive officer and other employees are appointed in terms of this section.

(6) The Board must determine the conditions of service of the executive officer and the other employees of the Board.

Amagunya eBhodi nemisebenzi yayo

63. (1) Ukongezelela kumagunya iBhodi ethiwe jize wona kulo Mthetho, nokuze kuphunyezwe injongo yayo iNgxowa-Mali le, iBhodi inokuthi—

(a) ilondoloze naziphi na iimali ezingafuneki ngokukhawuleza izilondoloze kurhulumente nakwezinye iindawo ezikhuselekileyo, ngendlela enokuthi ifunwe ngummiselo, njengoko kuxelwe kwisiqendu 72(3);

(b) izikhusele nge-inshorensi kuyo nayiphi na ingozi enokuthi ihle;

(c) ingene kwizivumelwano;

(d) iqalise amanyathelo omthetho okanye izikhusele kuwo;

(e) ngendlela echazwe kwimigaqo, ihlole ii-akhawunti zegqwetha okanye igqwetha leejaji ekuthethwe ngalo kwisiqendu 34(2)*(b)* nokuba leliphi na okanye isebenzise omnye umntu azihlole;

(f) iqulunqe imigaqo—

(i) ngemikhonto ebinzwa kule Ngxowa-Mali nangokukhutshwa kweziqinisekiso zeFidelity Fund neendleko zako;

(ii) ngenkqubo yokumiselwa kwegosa eliphezulu eliququzelelayo nabanye abaqeshwa; kananjalo

(iii) nangawo nawuphi na omnye umcimbi ongeNgxowa-Mali;

(g) ivumelane nayo nayiphi na ibhanki ngokugcinwa kwee-akhawunti zeemali zokuphathiswa ezivulwe ngokwesiqendu 86(2) nangokulondolozwa kwemali kwezinye ii-akhawunti ezizezinye zogcino-mali okanye ezinye ezithi zibe nenzala ezivulwe ngokwesiqendu 86(3) nese-(4) ukuze kwenzeke okunye koku kulandelayo:

(i) ukuhlawulwa kwenzala kwiNgxowa-Mali ngayo yonke okanye ngenxalenye yemali efakwe ngokwesiqendu 86(2) nemali elondolozwe ngenjongo yokuba izale ngokwesiqendu 86(3) nese-(4), njengoko kuxelwe kwisiqendu 86(5);

(ii) indlela eyaziswa ngayo iNgxowa-Mali ngeemali ezikwii-akhawunti ezivulwe ngokwesiqendu 86(2), (3) nese-(4);

(iii) ukuphicothwa kokubalwa kwenzala neemali eziseleyo kwii-akhawunti ezivulwe ngokwesiqendu 86(2), (3) nese-(4); kunye

(iv) nawo nawuphi na omnye umcimbi ofanelekileyo;

(h) iqwalasele ukufunwa kwembuyekezo kwiNgxowa-Mali;

(i) ngokusebenzisa nawuphi na umntu ogunyazwe ngencwadi ngusihlalo, iqalise inyathelo lokutshutshisa ngokusetyenziswa kakubi okanye ngokubiwa kwempahla okanye kwemali yokuphathiswa, kwaye ke okutshiwo yimithetho ephathelele ekutshutshisweni ngumtshutshisi ongenguye okarhulumente kuyasebenza koko kutshutshisa ngokungathi iBhodi liqumrhu likarhulumente;

(j) iphathise nawuphi na kubaqeshwa bayo umsebenzi wokuqwalasela kokufunwa kwembuyekezo kwiNgxowa-Mali, kodwa ngokulawulwa yimiqathango enokuthi ibekwe yiBhodi;

(k) ithabathe nawaphi na amanyathelo angamanye kwaye yenze naziphi na izenzo ezizezinye ezinokuthi zibe yimfuneko ukuze kufezeke iinjongo zale Ngxowa-Mali.

(2) IBhodi mayimisele igosa eliphezulu eliququzelelayo—

(a) lokusebenzisa amagunya nokwenza imisebenzi egqitywe yiBhodi;

(b) lokuba liliso phezu kwabaqeshwa beBhodi; kunye

(c) nelokuphendula ngempahla nangamatyala eBhodi.

(3) IBhodi inokuqesha abanye abaqeshwa xa ibona kuyimfuneko, bancedise igosa eliphezulu eliququzelelayo.

(4) Inkqubo yokumiselwa kwegosa eliphezulu eliququzelelayo neyokuqeshwa kwabanye abaqeshwa mayigqitywe yiBhodi.

(5) Imfuneko yokuba kubasebenzi beBhodi—

(a) kubonakale ubume beentlanga zoMzantsi-Afrika namadoda namabhinqa; kananjalo

(b) kubekho nabantu abaneziphene,

mayicingelwe kangangoko kunokwenzeka xa kuqeshwa igosa eliququzelelayo nabanye abaqeshwa ngokwesi siqendu.

(6) IBhodi mayenze isigqibo ngemiqathango yokusebenza yegosa eliphezulu eliququzelelayo neyabanye abaqeshwa beBhodi.

Membership of Board

64. (1) A member of the Board must—
- *(a)* be a South African citizen;
- *(b)* be a fit and proper person; and
- *(c)* subscribe to the objects of the Board.

(2) The following persons are disqualified from becoming or remaining members of the Board:
- *(a)* An unrehabilitated insolvent;
- *(b)* a person declared to be of unsound mind by a court of the Republic;
- *(c)* a person who has been convicted in a court of first instance—
  - (i) of an offence and sentenced to more than 12 months' imprisonment without the option of a fine; or
  - (ii) of an offence, which involves any element of dishonesty, either in the Republic or outside the Republic, if the conduct constituting the offence would have been an offence in the Republic, other than a conviction for an offence committed prior to 27 April 1994 associated with political objectives: Provided that if the person in question lodges an appeal against the conviction or sentence, he or she may be suspended from office by the Board as contemplated in section 69, pending the outcome of the appeal: Provided further that he or she may be replaced by the designating body, or in the case of a member referred to in section 62(1)*(a)*, elected in terms of the procedure referred to in that section;
- *(d)* a person who has been removed from office in terms of section 69; and
- *(e)* a member of the Council or any of its committees.

Chairperson and deputy chairperson of Board

65. (1) At the first meeting of the Board, the members of the Board must elect and appoint a chairperson and deputy chairperson from among themselves.

(2) The chairperson and deputy chairperson hold office for a period of three years from the date of their election and may be re-elected and re-appointed for one further term, unless such chairperson or deputy chairperson resigns or ceases to be a member of the Board.

(3) The deputy chairperson must, if the chairperson is absent or is for any reason unable to act as chairperson, perform all the functions and exercise all the powers of the chairperson.

(4) If both the chairperson and deputy chairperson are absent from any meeting, the members present must elect a person from among themselves to preside at that meeting and the person so presiding must, during that meeting and until the chairperson or deputy chairperson resumes duty, perform all the functions and exercise all the powers of the chairperson.

(5) If both the chairperson and deputy chairperson have been given leave of absence, the members of the Board must elect a person from among themselves to act as chairperson until the chairperson or deputy chairperson resumes duty or is removed from office in terms of section 69.

(6) If the office of chairperson or deputy chairperson becomes vacant, the members of the Board must, at the first meeting thereafter or as soon as possible thereafter, elect from among themselves a new chairperson or deputy chairperson, as the case may be.

(7) A chairperson and deputy chairperson may vacate office as such, without relinquishing his or her membership of the Board, unless his or her membership has been terminated in accordance with section 68.

Vacancies in Board and filling thereof

66. (1) A vacancy in the Board occurs when—
- *(a)* the term of office of a member expires or terminates as contemplated in section 68;

Ukuba lilungu leBhodi

64. (1) Ilungu leBhodi—
(a) malibe ngummi waseMzantsi-Afrika;
(b) malibe ngumntu ofanelekileyo; kwaye
(c) malihambisane neenjongo zeBhodi.

(2) Abantu abalandelayo abafaneleki ukuba babe ngamalungu eBhodi okanye ukuba baqhubeke bengawo:
(a) umntu ovakaliswe yinkundla engakwazi ukuhlawula amatyala akhe kwaye engekaphumi kuloo meko;
(b) umntu ovakaliswe yinkundla yakwiRiphablikhi engongaphilanga engqondweni;
(c) umntu ofunyaniswe enetyala kwinkundla eliqala kuyo ityala lokwaphul' umthetho—
(i) waza wagwetywa ukuvalelwa entolongweni ixesha elingaphezu kweenyanga ezili-12 engakhethiswa fayini; okanye
(ii) efunyaniswa enetyala lesenzo esikukona esibandakanya ukungathembeki, apha kwiRiphablikhi, okanye ngaphandle kwemida yeRiphablikhi, ukuba isenzo esikukwaphul' umthetho besiya kuba kukwaphul' umthetho apha kwiRiphablikhi, kube kungekuko ukufunyaniswa enetyala lokwaphul' umthetho okwenzeka ngaphambi komhla wama-27 kuEpreli 1994 okunento yokwenza neenjongo zopolitiko, kodwa ke, ukuba loo mntu uyabhena nxamnye nokufunyaniswa kwakhe enetyala okanye nxamnye nesigwebo, unokuthi anqunyanyiswe esikhundleni yiBhodi njengoko kuxelwe kwisiqendu 69, kude kucace isiphumo sesibheno, kwaye indawo yakhe linokuthi iqumrhu elichongayo liyivale ngomnye umntu, okanye ke xa kulilungu ekuthethwe ngalo kwisiqendu 62(1)*(a)*, kunokuthi kunyulwe elinye ngokwenkqubo ekuthethwe ngayo kweso siqendu;
(d) umntu osishiyileyo isikhundla sakhe ngokwesiqendu 69; kwaye
(e) nelungu leBhunga okanye leekomiti zalo.

Usihlalo nosekela-sihlalo weBhodi

65. (1) Kwintlanganiso yokuqala yeBhodi, amalungu eBhodi makanyule phakathi kwawo usihlalo nosekela-sihlalo aze abamisele.

(2) Usihlalo nosekela-sihlalo baba sesikhundleni ixesha eliyiminyaka emithathu ukususela kwixesha lokunyulwa kwabo kwaye basenokunyulwa kwakhona baze bamiselwe kwakhona esinye isihlandlo, ngaphandle kokuba loo sihlalo okanye usekela-sihlalo uyaziyekela ngokwakhe okanye ayeke ukuba lilungu leBhodi.

(3) Ukuba usihlalo akekho okanye ngesizathu esithile akangebi nako ukuba ngusihlalo, usekela-sihlalo makenze yonke imisebenzi kwaye asebenzise onke amagunya kasihlalo.

(4) Ukuba bobabini usihlalo nosekela-sihlalo abekho kwintlanganiso, amalungu akhoyo makanyule omnye wawo ongamele kuloo ntlanganiso, kuze kuthi ke loo mntu wongameleyo ayenze yonke imisebenzi, awasebenzise onke namagunya kasihlalo, ade abuye usihlalo okanye usekela-sihlalo.

(5) Ukuba bobabini usihlalo nosekela-sihlalo banikwe ikhefu lokungabikho, amalungu eBhodi makanyule omnye wawo abambele usihlalo de abuye usihlalo okanye usekela-sihlalo okanye de abe ushenxisiwe esikhundleni ngokwesiqendu 69.

(6) Ukuba sithi isikhundla sikasihlalo okanye sikasekela-sihlalo singabi namntu, amalungu eBhodi makathi kwintlanganiso yokuqala okanye kamsinya kangangoko kunokwenzeka emva koko, anyule omnye wawo abe ngusihlalo omtsha okanye usekela-sihlalo omtsha.

(7) Usihlalo nosekela-sihlalo bangaziyeka izikhundla zabo, kodwa bengayekanga ukuba ngaalungu eBhodi, ngaphandle kokuba ubulungu babo buphelisiwe ngokwesiqendu 68.

Izithuba kwiBhodi nokuvalwa kwazo

66. (1) Isithuba kwiBhodi sidaleka xa—
(a) ixesha lokuba sesikhundleni kwelungu lifika esiphelweni okanye liphela ngendlela exelwe kwisiqendu 68;

(b) a member dies;
(c) a member is removed from office as contemplated in section 69; or
(d) the resignation of a member takes effect.

(2) A vacancy in the Board must be filled as soon as practicably possible in accordance with the provisions of section 62.

(3) Any person appointed to fill a vacancy holds office for the unexpired portion of the term of the vacating member.

(4) No decision taken by the Board or act performed under the authority of the Board is invalid merely by reason of a vacancy on the Board, if the decision was taken or the act was authorised, subject to section 70.

Term of office of members of Board

67. (1) A member of the Board holds office for a term of three years, but may serve as a member for one further term if he or she is again so elected or designated, as the case may be.

(2) Despite subsection (1), a member remains in office after the expiry of his or her term of office until the commencement of the term of office of his or her successor.

Termination of office

68. (1) A person ceases to be a member of the Board when that person—
(a) is no longer eligible in terms of section 64 to be a member;
(b) resigns;
(c) is removed from office in terms of section 69;
(d) in the case of a legal practitioner referred to in section 62(1)*(a)*, ceases to be a practising legal practitioner, for whatever reason; or
(e) is appointed as a judicial officer.

(2) A member may resign after giving at least three months' written notice to the Board, but the Board may, on good cause shown, accept a shorter period.

Removal from office

69. (1) The Board may remove a member of the Board from office on account of—
(a) a finding by a disciplinary committee in terms of section 40 of any serious misconduct as set out in the code of conduct contemplated in section 36 on the part of a legal practitioner;
(b) incapacity and incompetence which, in the opinion of the Board, debars him or her from serving as a member of the Board;
(c) absence from three consecutive meetings of the Board without the permission of the chairperson, except on good cause shown; or
(d) a request by the body which or person who elected or designated that member in terms of section 62, on good cause shown by the body or person in question; or
(e) his or her becoming disqualified to remain as a member of the Board as contemplated in section 64(2).

(2) If the Board has commenced proceedings for the removal of a member, it may suspend that member from office.

(3) A member who is suspended from office may not perform or exercise any of the powers or functions of that office or receive any allowances.

(4) The Board must follow due process of law if it intends to remove or suspend a member from office, as determined by the Board in the rules contemplated in section 63(1)*(f)*.

Meetings and resolutions of Board

70. (1) *(a)* The Board may meet at any place in the Republic.

(b) The Board must, as soon as practicable after the appointment of its members, meet for the first time at the time and place determined by the Minister and thereafter at such times and places determined by the Board.

(b) ilungu lisifa;
(c) ilungu lishenxiswa esikhundleni ngendlela exelwe kwisiqendu 69; okanye
(d) ukuziyekela kwelungu kuqalisa ukusebenza.

(2) Isithuba kwiBhodi masivalwe kamsinya kangangoko kunokwenzeka ngokwesiqendu 62.

(3) Nawuphi na umntu omiselweyo ukuba avale isithuba uba sesikhundleni ixesha elingagqitywanga lilungu eliphumileyo.

(4) Isigqibo esithathwe yiBhodi okanye isenzo esenziwe ngegunya leBhodi asibi sesiphuthileyo ngenxa nje yokuba bekukho isithuba kwiBhodi, ukuba isigqibo eso okanye isenzo eso besigunyaziwe, ngokulawulwa sisiqendu 70.

Ixesha lokuba sesikhundleni kwamalungu eBhodi

67. (1) Ilungu leBhodi liba sesikhundleni ixesha eliyiminyaka emithathu, kodwa lingakhonza njengelungu esinye kwakhona isihlandlo ukuba ukuba liphinde lanyulwa okanye lachongwa.

(2) Nangona sisitsho oku sikutshoyo isiqendwana (1), ilungu liqhubeka lisesikhundleni lakuba liphelile ixesha lalo kude kuqalise ixesha lalowo uthabatha indawo yalo.

Ukuyekiswa esikhundleni

68. (1) Umntu uyayeka ukuba lilungu leBhodi xa—
(a) engasafaneleki ukuba lilungu ngokwesiqendu 64;
(b) eziyekela;
(c) eshenxiswa ngokwesiqendu 69;
(d) xa kuligqwetha ekuthethwe ngalo kwisiqendu 62(1)*(a)*, uyayeka ukuba lilungu xa eyeka ukusebenza njengegqwetha, nokuba kungasiphi na isizathu; okanye
(e) emiselwa njengomchopheli-matyala.

(2) Ilungu linokuziyekela ngokwalo emva kokunika iBhodi inotisi ebhaliweyo yeenyanga ezintathu ubuncinane, kodwa xa kukho isizathu esivakalayo iBhodi inokuyamkela inotisi yexesha elifutshane kunelo.

Ukushenxiswa esikhundleni

69. (1) IBhodi ingalishenxisa ilungu leBhodi esikhundleni ngenxa—
(a) yokuba ikomiti yolungiso-similo ifumanise ngokwesiqendu 40 ukuba igqwetha lenze isenzo esibi kakhulu esixelwe kwimigqaliselo yokuziphatha exelwe kwisiqendu 36;
(b) yokungabi nampilo nokungakwazi ukuwenza umsebenzi okuthi, ngokubona kweBhodi, kumthintele ekukhonzeni njengelungu leBhodi;
(c) yokungabikho kwiintlanganiso zeBhodi zide zibe ntathu zilandelana, engenamvume kasihlalo, ngaphandle kokuba unesizathu esivakalayo;
(d) yesicelo sequmrhu okanye somntu owanyula okanye owachonga elo lungu ngokwesiqendu 62, ngesizathu esivakalayo esivela kwelo qumrhu okanye kuloo mntu; okanye
(e) yokungafaneleki kwakhe ukuba lilungu leBhodi ngendlela exelwe kwisiqendu 64(2).

(2) Ukuba iBhodi iqalise amanyathelo okulishenxisa ilungu, ingalinqumamisa esikhundleni.

(3) Ilungu elinqunyanyisiweyo alivumelekanga ukuba lenze nayiphi na imisebenzi okanye lisebenzise nawaphi na amagunya eso sikhundla okanye lifumane iimalana.

(4) IBhodi mayilandele inkqubo efanelekileyo yomthetho ukuba inenjongo yokulishenxisa okanye yokulinqumamisa ilungu esikhundleni, ngendlela egqitywe yiBhodi kwimigaqo exelwe kwisiqendu 63(1)*(f)*.

Iintlanganiso zeBhodi nezigqibo zayo

70. (1) *(a)* IBhodi inokuhlanganisana naphi na kwiRiphablikhi.

(b) Kamsinya kangangoko kunokwenzeka emva kokumiselwa kwamalungu ayo, iBhodi mayihlangane okokuqala kwindawo nangexesha eligqitywe nguMphathiswa, ize emva koko ihlangane kwiindawo nangamaxesha agqitywe yiBhodi.

(2) The majority of the members of the Board constitutes a quorum at any meeting of the Board.

(3) When the chairperson is absent or is not able to perform his or her functions, the deputy chairperson must act as chairperson, and if both the chairperson and deputy chairperson are absent or are not able to perform their functions, the members present must elect one from among themselves to preside at that meeting.

(4) A decision of the majority of the members constitutes a decision of the Board and in the event of an equality of votes the person presiding at the meeting has a casting vote in addition to a deliberative vote.

(5) A resolution in writing of the Board signed by all its members is regarded as if it had been passed at a meeting of the Board.

(6) The Board must determine the procedure for calling a meeting and the procedure to be followed at the meeting.

(7) In any advice or recommendation to the Minister, the minority views of any one or more members of the Board, as well as any report of a committee appointed in terms of section 71, must be included.

(8) The Board must keep a record of its proceedings.

Committees of Board

71. (1) The Board—

(a) must appoint an executive committee consisting of the chairperson, deputy chairperson and two other members of the Board, one of whom must be an advocate referred to in section 34(2)*(b)*;

(b) may appoint committees relating to matters falling within the scope of its powers and functions, the members of which may be members of the Board or other persons;

(c) may in writing, delegate to the executive committee or other committee any powers and functions as it may determine; and

(d) may direct the executive committee or other committee, either generally or in a specific case, to advise the Board.

(2) *(a)* The Board must elect and appoint a chairperson of a committee.

(b) The chairperson of the Board is *ex officio* chairperson of the executive committee referred to in subsection (1)*(a)* and the deputy chairperson of the Board is *ex officio* deputy chairperson of the executive committee referred to in subsection (1)*(a)*.

(3) A committee exercises its powers and performs its functions in accordance with any policy directions of the Board.

(4) The Board may at any time dissolve any committee.

(5) The provisions of section 70 apply, with the necessary changes, to a meeting of a committee.

(6) The Board is not divested of any power or function delegated to a committee, and may amend or rescind a decision of a committee.

Certificate in respect of liabilities of Fund and investment of money in Fund

72. (1) The Board must appoint an actuary to make recommendations to it on or before 31 March in any year regarding the amount which, in that actuary's opinion, will be required during the next ensuing year ending on 31 December, for the purposes of meeting the obligations of the Fund in terms of section 55, and the actuary must furnish the Board on or before the first-mentioned date with a certificate setting out the amount so recommended.

(2) The Board must, within 30 days after receipt of the certificate referred to in subsection (1), determine the amount required in the ensuing year for the purposes referred to in subsection (1).

(3) Any amount determined in terms of subsection (2) that is not immediately required for the purposes referred to in subsection (1) in any financial year must be invested in government and other securities as may be prescribed by regulation.

(2) Inani elifunekayo ukuze ziqhubeke iintlanganiso zeBhodi luninzi lwamalungu ayo.

(3) Xa usihlalo engekho okanye engakwazi ukwenza imisebenzi yakhe, usekela-sihlalo makabambele njengosihlalo, kuze kuthi ukuba bobabini usihlalo nosekela-sihlalo abekho okanye abakwazi ukwenza imisebenzi yabo, amalungu anyule elinye phakathi kwawo longamele kuloo ntlanganiso.

(4) Isigqibo soninzi lwamalungu akhoyo kwintlanganiso siba sisigqibo seBhodi, kuze kuthi xa iivoti zilingana macala, umntu owongamelayo kwintlanganiso abe nelungelo lokuvota ukongezelela kwilungelo lokuthabath' inxaxheba kwiingxoxo.

(5) Isigqibo esibhaliweyo seBhodi esityikitywe ngawo onke amalungu ayo sithathwa ngokungathi siphunyezwe kwintlanganiso yeBhodi.

(6) IBhodi mayenze isigqibo ngenkqubo yokubiza intlanganiso nangenkqubo yokulandelwa kwintlanganiso.

(7) Kulo naliphi na icebiso okanye isindululo esiya kuMphathiswa, izimvo ezahlukileyo zelungu elinye okanye zamalungu ambalwa eBhodi, kwakunye nengxelo yekomiti emiselwe ngokwesiqendu 71, maziqukwe nazo.

(8) IBhodi mayigcine irekhodi yeentlanganiso zayo.

Iikomiti zeBhodi

71. (1) IBhodi—

(a) mayimisele ikomiti eququzelelayo ekukho kuyo usihlalo, usekela-sihlalo namanye amalungu amabini eBhodi, emakuthi kuwo elinye kube ligqwetha leejaji ekuthethwe ngalo kwisiqendu 34(2)*(b)*;

(b) inokuthi imisele iikomiti zemicimbi ewela phantsi kwegunya layo nemisebenzi yayo, amalungu ezo komiti kunokuba ngamalungu eBhodi okanye kube ngabanye abantu;

(c) inokuthi, ngokubhala, iwaphathise amagunya ayo nemisebenzi yayo ngokokubona kwayo, iwaphathisa ikomiti eququzelelayo okanye enye ikomiti;

(d) inokuthi iyalele ikomiti eququzelelayo okanye enye ikomiti ukuba icebise iBhodi kwimicimbi ngokubanzi okanye kumcimbi othile.

(2) *(a)* IBhodi mayinyule usihlalo wekomiti ize immisele.

(b) Usihlalo weBhodi ungusihlalo wekomiti eququzelelayo ngenxa yesikhundla sakhe, ikomiti eququzelelayo ekuthethwe ngayo kwisiqendwana (1)*(a)*, kwaye usekela-sihlalo weBhodi ungusekela-sihlalo wekomiti eququzelelayo ngenxa yesikhundla sakhe, ikomiti eququzelelayo ekuthethwe ngayo kwisiqendwana (1)*(a)*.

(3) Ikomiti isebenzisa amagunya ayo, yenze nemisebenzi yayo ngokwemiyalelo yenkqubo yeBhodi.

(4) IBhodi inokubhangisa nayiphi na ikomiti nangaliphi na ixesha.

(5) Okutshiwo sisiqendu 70 kuyasebenza kwintlanganiso yekomiti, kubekho nje utshintsho olunokuthi lufuneke.

(6) IBhodi ayiphulukwa ligunya eliphathise ikomiti okanye ngumsebenzi ewuphathise ikomiti, kwaye isenokwenza utshintsho kwisigqibo sekomiti okanye isitshitshise nje kwaphela.

Isiqinisekiso ngezinto emele izenze iNgxowa-Mali nokulondolozwa kwemali kuyo

72. (1) IBhodi mayiqeshe ingcali yobalo-mali ukuze yenze izindululo eziza kuyo ngomhla wama-31 kuMatshi okanye ngaphambi kwawo, nakuwuphi na unyaka, isenza izindululo ngesixa-mali esiya kuthi, ngokoluvo lwayo ingcali yobalo-mali, sifuneke kunyaka olandelayo ophela ngowama-31 kuDisemba, ukuze zifezeke iinjongo zeNgxowa-Mali ngokwesiqendu 55, ize ke ingcali yobalo-mali inike iBhodi isiqinisekiso esixela isixa-mali esindululwayo, ikwenza oko ngaphambi komhla wama-31 kuMatshi.

(2) Zingaphelanga iintsuku ezingama-30 isifumene isiqinisekiso ekuthethwe ngaso kwisiqendwana (1), iBhodi mayenze isigqibo ngesixa-mali esiza kufuneka kunyaka olandelayo ngenjongo ekuthethwe ngayo kwisiqendwana (1).

(3) Nasiphi na isixa-mali ekugqitywe ngaso ngokwesiqendwana (2) esingafuneki kwangoko ngenjongo ekuthethwe ngayo kwisiqendwana (1) nakuwuphi na unyaka-mali, masilondolozwe kurhulumente nakwezinye iindawo ezikhuselekileyo ngenjongo yokuba sizale, ngendlela enokuthi ifunwe ngummiselo.

Annual review by actuary

73. (1) Within three months after the end of each financial year, the actuary referred to in section 72(1) must review the financial soundness of the Fund and submit an actuarial valuation report to the Board and the Minister.

(2) The actuarial valuation report must contain—

(a) a statement—
  (i) reflecting the actuarial value of the assets and liabilities of the Fund;
  (ii) on the financial soundness of the Fund; and
  (iii) on whether in the financial year concerned, a surplus or deficit was present in the Fund and, if a deficit is present, specifying the amount required to enable the Fund to meet its obligations; and

(b) an indication of—
  (i) the basis and method used to value the assets and liabilities of the Fund;
  (ii) any changes to the basis and method used to value the Fund as compared with the actuarial report of the previous year;
  (iii) any special consideration or restriction that the Board brought to the attention or made applicable to the actuary in performing the function in terms of this section; and
  (iv) any explanatory note on any matter relevant to obtaining a true and meaningful reflection of the financial state of the Fund.

(3) The Board must submit a report to the Minister if, at any stage after having regard to the assets and liabilities of the Fund, the value of the assets of the Fund is insufficient or is not increasing at a sufficient rate to meet payments for benefits that may be reasonably anticipated, and the Minister must immediately submit that report to Parliament.

Contributions to Fund by legal practitioners

74. (1) *(a)* Subject to the provisions of this section, every attorney, practising on his or her own account or in partnership, and every advocate referred to in section 34(2)*(b)*, must, annually when he or she applies for a Fidelity Fund certificate, pay to the Council—
  (i) the amount as may be fixed by the Board from time to time in respect of the cost of group professional indemnity insurance arranged by the Board pursuant to the provisions of section 77(2); and
  (ii) any other non-refundable amount as may be fixed by the Board from time to time.

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

(2) A legal practitioner referred to in subsection (1) *(a)* who applies under section 85(1) for the first time for a Fidelity Fund certificate must pay to the Fund, in addition to any contributions payable in terms of subsection (1), any single non-refundable contribution as the Board may determine.

(3) The Board may require a legal practitioner referred to in subsection (1)*(a)* in respect of whom the Fund has been applied as a result of any of the circumstances referred to in section 57, to pay an additional annual contribution to the Fund of such amount and for any period as the Board may determine.

(4) *(a)* A legal practitioner referred to in subsection (1)*(a)* who is not in possession of a Fidelity Fund certificate and who intends to commence to practise on his or her own account, in partnership or in a juristic entity, must, before commencing to practise, give notice of his or her intention to the Council and thereafter becomes liable to pay to the Fund the amount of the contribution referred to in subsections (1) and (2).

(b) A legal practitioner referred to in subsection (1)*(a)* who is in possession of a Fidelity Fund certificate but who intends to commence to practise for his or her own account, in partnership or in a juristic entity in the area of jurisdiction of a Division of

Ukuqwalaselwa ngokutsha yingcali yobal-mali

73. (1) Zingaphelanga iinyanga ezintathu uphelile unyaka-mali ngamnye, ingcali yobalo-mali ekuthethwe ngayo kwisiqendu 72(1) mayiqwalasele ngokutsha ukuba imi kakuhle na ngokwasemalini iNgxowa-Mali, ize ingenise ingxelo yokuhlolwa kwayo kwiBhodi nakuMphathiswa.

(2) Ingxelo yokuhlolwa yingcali yobalo-mali mayibe—

(a) nesiteyitimenti—

(i) esibonisa ixabiso lempahla yeNgxowa-Mali namatyala ayo, ngokokubala kwengcali yobalo-mali;

(ii) ngokuma kweNgxowa-Mali ngokwasemalini; kwaye

(iii) mayela nokuba kuloo nyaka-mali, kuye kwabakho ukratya wemali okanye ukunqongophala kwayo kusini na kwiNgxowa-Mali, kuze kuthi ukuba kuye kwabakho ukunqongophala, kuxelwe isixa-mali esifunekayo ukuze iNgxowa-Mali ikwazi ukufeza izinto emele izenze; kunye

(b) nento ebonisa—

(i) indlela esetyenzisiweyo ukufumana ixabiso lempahla enayo iNgxowa-Mali namatyala enawo;

(ii) utshintsho kwindlela esetyenzisiweyo yokufumana ixabiso lezinto zeNgxowa-Mali xa lithelekiswa nengxelo yengcali yobalo-mali yonyaka ongaphambili;

(iii) ukubonelela okukhethekileyo okanye umqathango ethe iBhodi yawuzisa engqalelweni yengcali yobalo-mali okanye yawenza wasebenza kuyo ekwenzeni umsebenzi ngokwesi siqendu; kunye

(iv) nengcaciso ngawo nawuphi na umcimbi ofanelekileyo obonisa imeko eyiyo yemeko yezimali yeNgxowa-Mali.

(3) Ukuba nanini na emva kokuba iqwalasele ixabiso lempahla yeNgxowa-Mali namatyala enawo kubonakala ukuba ixabiso lempahla yeNgxowa-Mali alanelanga okanye alandi ngesantya esaneleyo ukuze lihlangabezane nokuhlawulwa kwamaqithiqithi alindelekileyo, iBhodi mayingenise ingxelo kuMphathiswa , aze yena uMphathiswa ayingenise loo ngxelo kamsinya kwiPalamente.

Iminikelo ebinzwa ngamagqwetha kwiNgxowa-Mali

74. (1) *(a)* Ngokulawulwa kokutshiwo kwesi siqendu, igqwetha ngalinye, lizisebenzela lodwa okanye lilihlakani nelinye, kunye negqwetha leejaji ngalinye ekuthethwe ngalo kwisiqendu 34(2)*(b)*, malithi qho ngonyaka xa lisenza isicelo sesiqinisekiso seFidelity Fund, lihlawule kwiBhunga—

(i) isixa-mali esinokuthi siman' ukuqingqwa yiBhodi, isesendleko ye-inshorensi yobugqwetha efunwe yiBhodi ngokwesiqendu 77(2); kunye

(ii) naso nasiphi na esinye isixa-mali esingenakubuyiselwa kosikhuphileyo esinokuthi siman' ukuqingqwa yiBhodi.

(b) Naliphi na igqwetha ekuthethwe ngalo kwisiqendu *(a)* eliqalisa ukusebenza ngomhla woku-1 kuJulayi okanye emva kwaloo mhla nangawuphi na unyaka, malihlawulele loo nyaka isiqingatha somnikelo omawuhlawulwe ngokwesiqendu *(a)* ungowaloo nyaka.

(2) Igqwetha ekuthethwe ngalo kwisiqendwana (1)*(a)* eliqalayo ukwenza isicelo ngokwesiqendu 85(1) lisenza isicelo sesiqinisekiso seFidelity Fund malihlawule kwiNgxowa-Mali umnikelo omnye ongenakubuyiselwa kumniniwo onokuthi uman' ukuqingqwa yiBhodi, ukongezelela nakuyiphi na iminikelo emayihlawulwe ngokwesiqendwana (1).

(3) IBhodi isengafuna ukuba igqwetha ekuthethwe ngalo kwisiqendwana (1)*(a)* eliye lancedwa ngeNgxowa-Mali ngenxa yeemeko ekuthethwe ngazo kwisiqendu 57, lihlawule omnye kwakhona umnikelo waminyaka le kwiNgxowa-Mali, usisixa-mali esinokuthi siqingqwe yiBhodi, nobude bexesha obunokuthi buqingqwe yiBhodi.

(4) *(a)* Igqwetha ekuthethwe ngalo kwisiqendwana (1)*(a)* elingenaso isiqinisekiso seFidelity Fund libe linenjongo yokuqalisa ukuzisebenzela lilodwa, okanye lilihlakani nelinye, okanye kwinkampani eyenz' umsebenzi wobugqwetha, malithi ngaphambi kokuba liqalise ukusebenza, lazise iBhunga ngaloo njongo, lize ke emva koko lihlawule kwiNgxowa-Mali umnikelo ekuthethwe ngawo kwisiqendwana (1) nese-(2).

(b) Igqwetha ekuthethwe ngalo kwisiqendwana (1)*(a)* elinesiqinisekiso seFidelity Fund kodwa elinenjongo yokuzisebenzela lilodwa, okanye lilihlakani nelinye, okanye likwinkanpani yamagqwetha, kummandla ophantsi kweCandelo leNkundla

the High Court other than that in which he or she usually practises for his or her own account or in partnership, must give notice of his or her intention to the Council.

(5) All contributions payable under this section must be paid to the Council, and the Council must remit the contributions to the Board within seven days of receipt thereof.

Audit

75. (1) The accounts of the Fund must be audited by a registered accountant and auditor appointed by the Board.

(2) A person appointed under subsection (1) must, in respect of each financial year of the Fund, draw up a balance sheet and income statement of the Fund and immediately submit certified copies thereof, together with his or her report thereon, to the chairperson of the Board and to the Council.

(3) Within one month of receiving the audited financial statements, the Board must submit an annual report to the Council and the Minister which must at least set out and contain—

(a) the total number of persons who made claims in terms of this Act;
(b) the total number of legal practitioners who paid contributions in terms of this Act;
(c) the total number of persons who were paid claims and the monetary value of claims paid in terms of this Act; and
(d) any other matters as may be prescribed by the Minister.

Re-insurance

76. (1) The Board may, in its discretion, enter into a contract with any person or corporation carrying on fidelity insurance business in terms of which the Fund will be indemnified to the extent and in the manner provided in that contract against liability to pay claims under this Act.

(2) A contract referred to in subsection (1) must be entered into in respect of legal practitioners referred to in section 84(1).

(3) A claimant against the Board does not have any right—

(a) of action against any person or corporation with whom a contract of indemnity has been entered into in terms of this section; or
(b) to any money paid by the insurer in accordance with that contract.

(4) Any money paid by an insurer in accordance with a contract of indemnity must be paid into the Fund for appropriation by the Board.

Provision of insurance cover and suretyships

77. (1) The Board may—

(a) acquire or form and administer a public company; or
(b) together with any other person or institution, establish a scheme, underwritten by a registered insurer,

in order to provide insurance cover, subject to the provisions of the Short Term Insurance Act, 1998 (Act No. 53 of 1998), to legal practitioners referred to in section 84(1) in respect of any claims which may arise from the professional conduct of those legal practitioners.

(2) The Board may enter into a contract with a company or scheme referred to in subsection (1), or any company carrying on professional indemnity insurance business, for the provision of group professional indemnity insurance to legal practitioners referred to in section 84(1) to the extent and in the manner provided in the contract.

(3) The Board may enter into deeds of suretyship to the satisfaction of the Master of the High Court having jurisdiction in order to provide security on behalf of an attorney in respect of work done by that attorney as—

(a) executor in the estate of a deceased person;
(b) a trustee in an insolvent estate;
(c) a curator to the person or property in the case of a person who is unable to manage his or her own affairs; or

Ephakamileyo ongenguwo lowo asebenzela kuwo eyedwa okanye enehlakani lakhe, malazise iBhunga ngenjongo yalo yokusebenza.

(5) Yonke iminikelo emayihlawulwe ngokwesi siqendu mayihlawulwe kwiBhunga, lize iBhunga liyidlulisele iminikelo kwiBhodi zingaphelanga iintsuku ezisixhenxe liyifumene.

Ukuphicothwa kwezimali

75. (1) Iimali zeNgxowa-Mali maziphicothwe ngumbali-zimali obhalisiweyo nangumphicothi-zimali omiselwe yiBhodi.

(2) Umntu omiselwe ngokwesiqendwana (1) makathi kunyaka-mali ngamnye weNgxowa-Mali enze uxwebhu olubonisa imali ekhoyo nesiteyitimenti sengeniso seNgxowa-Mali aze ngoko nangoko angenise iikopi ezisethifayiweyo zazo, kunye nengxelo yakhe ngazo, ezingenisa kusihlalo weBhodi nakwiBhunga.

(3) Ingaphelanga inyanga izifumene iziteyitimenti zemali eziphicothiweyo, iBhodi mayingenise ingxelo yaminyaka le kwiBhunga nakuMphathiswa, ngxelo leyo ubuncinane emayibonise—

(a) inani elipheleleyo labantu abaye bafun' imbuyekezo ngokwalo Mthetho;
(b) inani elipheleleyo lamagqwetha athe ahlawula iminikelo ngokwalo Mthetho;
(c) inani elipheleleyo labantu abathe bahlawulw' imbuyekezo nokuthi ibe yimalini loo mbuyekezo ngokwalo Mthetho; kunye
(d) nayiphi na eminye imicimbi enokuthi ifunwe nguMphathiswa.

Ukufakwa kwi-inshorensi kwakhona

76. (1) IBhodi inokuthi, ngokubona kwayo, ingene kwisivumelwano kunye naye nawuphi na umntu okanye inkampani ekushishino lwe-inshorensi ekuya kuthi ngeso sivumelwano iNgxowa-Mali ikhululeke ngendlela exeliweyo kweso sivumelwano kuxanduva lokuhlawula ukufunwa kwembuyekezo ngokwalo Mthetho.

(2) Isivumelwano ekuthethwe ngaso kwisiqendwana (1) makungenwe kuso xa kungamagqwetha ekuthethwe ngawo kwisiqendu 84(1).

(3) Umntu ofun' imbuyekezo kwiBhodi akanalo ilungelo—

(a) lokufun' imbuyekezo kuye nawuphi na umntu okanye inkampani ekungenwe kwisivumelwano nayo sokukhululeka kuxanduva ngokwesi siqendu; okanye
(b) lokufumana imali ehlawulwe yinkampani ye-inshorensi ngokweso sivumelwano.

(4) Nayiphi na imali ehlawulwa yinkampani ye-inshorensi ngokwesivumelwano sokukhululeka kuxanduva mayihlawulwe kwiNgxowa-Mali ukuze isetyenziswe yiBhodi.

Ukunikwa inkuselo ye-inshorensi neziqinisekiso

77. (1) IBhodi isenokuthi—

(a) izuze inkampani okanye iyakhe, ize iyilawule; okanye
(b) ikunye nomnye umntu okanye umbutho, iseke i-inshorensi, ephantsi kwenkampani ye-inshorensi ebhalisiweyo,

ukuze inike inkuselo ye-inshorensi, ngokulawulwa koko kutshiwo yi*Short Term Insurance Act*, 1998 (Umthetho 53 ka-1998), iyinika amagqwetha ekuthethwe ngawo kwisiqendu 84(1)xa kunokuthi kubekho abantu abafun' imbuyekezo ngenxa yokwenziwe ngaloo magqwetha emsebenzini wawo.

(2) IBhodi isenokungena kwisivumelwano nenkampani okanye ne-inshorensi ekuthethwe ngayo kwisiqendwana (1), okanye nayiphi na inkampani ekushishino lwe-inshorensi yokukhulula kuxanduva, ukuze inike amagqwetha ekuthethwe ngawo kwisiqendu 84(1) i-inshorensi ngendlela exelwe kweso sivumelwano.

(3) IBhodi isenokungena kwizivumelwano zeziqinisekiso ngendlela eyanelisa uMgcini-Mafa weNkundla Ephakamileyo enegunya kuloo mmandla ukuze kukhuseleke igqwetha ngomsebenzi eliwenzileyo—

(a) njengomntu ophathiswe ilifa lomntu oswelekileyo;
(b) njengomntu ophathiswe impahla yomntu ongakwaziyo ukuhlawula amatyala akhe;
(c) njengomntu ophathiswe impahla yomntu ongakwaziyo ukuziphathela ngokwakhe imicimbi yakhe; okanye

(d) in case of any other similar capacity, by any other person in such capacity where an attorney acts as agent for the person concerned.

(4) The Board may levy premiums and fees for the provision of any insurance or security through any scheme established or public company administered by it in terms of the provisions of this Act or legislation repealed by this Act.

Part 3

Claims against Fund

Procedure for instituting claims against Fund

78. (1) No person has a claim against the Fund in respect of any theft contemplated in section 55, unless—

(a) written notice of the claim is given to the Council and to the Board within three months after the claimant became aware of the theft or, by the exercise of reasonable care, should have become aware of the theft; and

(b) within six months after a written demand has been sent to him or her by the Board, the claimant furnishes the Board with proof as the Board may reasonably require.

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

Actions against Fund

79. (1) The Fund is not obliged to pay any portion of a claim which could reasonably be recovered from any other person liable.

(2) The Fund may pay all reasonable expenses and legal costs incurred by a claimant in exhausting his or her rights of action against another person.

(3) The Fund may, in its discretion, before deciding whether to make full payment of a claim or any part of it, make an interim payment to the claimant of a portion of the amount for which his or her claim has been admitted.

(4) Any action against the Fund in respect of loss suffered by any person as a result of theft committed by a legal practitioner referred to in section 84(1), candidate attorney or employee of any such legal practitioner or juristic entity, must be instituted within one year of the date of a notification directed to that person or his or her legal representative by the Fund, informing him or her that the Fund rejects the claim to which the action relates.

(5) In any action against the Fund all defences which would have been available to the person against whom the claim arose, are available to the Fund.

(6) Any action against the Fund may, subject to the provisions of this Act, be brought in any court having jurisdiction in respect of the claim.

Subrogation

80. On payment out of the Fund of money in settlement in whole or in part of any claim under this Chapter, the Fund is subrogated, to the extent of the payment, to all rights and legal remedies of the claimant against any legal practitioner referred to in section 84(1) or person in relation to whom the claim arose, or in the event of his or her death or insolvency or other legal disability, against any person having authority to administer his or her estate.

Claims against future revenue of Fund

81. (1) If the Fund at any time has insufficient assets to settle all claims and judgments,

(d) nakuyiphi na imeko enjengezi, apho igqwetha lingumntu ophathisiweyo womntu othile.

(4) IBhodi isenokufuna imirhumo ukuze kubekho i-inshorensi ngenkampani elawulwa yiyo ngokokutsho kwalo Mthetho okanye ngokokutsho komthetho wepalamente otshitshiswa ngulo Mthetho.

iNxalenye 3

Imbuyekezo efunwa kwiNgxowa-Mali

Inkqubo yokufun' imbuyekezo kwiNgxowa-Mali

78. (1) Akukho mntu onokufun' imbuyekezo kwiNgxowa-Mali ngobusela obuxelwe kwisiqendu 55, ngaphandle kokuba—

(a) iBhunga neBhodi banikwa isaziso esibhaliweyo zingaphelanga iinyanga ezintathu ofun' imbuyekezo azile ngobusela obo, okanye zingaphelanga iinyanga ezintathu ebefanel' ukuba wazile ukuba ebenenkathalo; kwaye

(b) zingaphelanga iinyanga ezintandathu iBhodi imfune ubungqina ngokumbhalela, uyayinika iBhodi ubungqina enokuthi ibufune.

(2) Ukuba iBhodi iyaneliseka kwinto yokuba, xa kucingelwa zonke iimeko, ukufunwa kwembuyekezo kwenziwe okanye ubungqina obufunwa yiyo bunikiwe kungadlulanga xesha lide kakhulu, inokuthi ngokubona kwayo ilolule naliphi na ixesha kumaxesha ekuthethwe ngawo kwisiqendwana (1).

Amanayathelo athatyathelwa iNgxowa-Mali

79. (1) INgxowa-Mali ayinyanzelekanga ukuba ihlawule nkqu neqhekeza lembuyekezo ebisenokufunwa komnye umntu omakahlawule.

(2) INgxowa-Mali isenokuzihlawulela zonke iindleko ezifanelekileyo neendleko zomthetho ekungenwe kuzo ngulowo ufun' imbuyekezo ekuwasebenziseni kwakhe onke amalungelo akhe okuthabathela omny' umntu inyathelo.

(3) INgxowa-Mali inokuthi, ngokubona kwayo, ngaphambi kokuba yenz' isigqibo sokuba iyihlawule yonke kusini na imbuyekezo efunwayo okanye ihlawula inxalenye yayo, yenze intlawulo yexeshana kumntu ofun' imbuyekezo, ihlawula inxalenye yembuyekezo ebuvumayo ubutyala ngayo.

(4) Naliphi na inyathelo elithatyathelwa iNgxowa-Mali ngelahleko athe wanayo umntu ngenxa yobusela obenziwe ligqwetha ekuthethwe ngalo kwisiqendu 84(1), okanye ligqwetha elisengumkhwetha, okanye ngumqeshwa wegqwetha okanye yinkampani eyenz' umsebenzi wobugqwetha, malithatyathwe ungaphelanga unyaka ukususela kumhla wokwaziswa onikwe loo mntu okanye onikwe igqwetha lakhe yiNgxowa-Mali, esaziswa ukuba iNgxowa-Mali iyakukhaba ukufunwa kwembuyekezo.

(5) Kulo naliphi na inyathelo elithatyathelwa iNgxowa-Mali, zonke iindlela zokuzithethelela ebeziya kuba zezomntu ekufunwa kuye imbuyekezo, zikwazezeNgxowa-Mali.

(6) Naliphi na inyathelo elithatyathelwa iNgxowa-Mali linokuthi, ngokulawulwa kokutshiwo ngulo Mthetho, liziswe phambi kwayo nayiphi na inkundla enegunya kwelo nyathelo lokufunwa kwembuyekezo.

Ukuthatyathwa kwamalungelo omnye umntu

80. Isakuba iNgxowa-Mali iyihlawule yonke okanye inxalenye yembuyekezo efunwayo ngokwesi Sahluko, iNgxowa-Mali iwathabathela kuyo onke amalungelo namancedo omthetho omntu ofun' imbuyekezo ngegqwetha ekuthethwe ngalo kwisiqendu 84(1) okanye umntu obangele ukuba kufunw' imbuyekezo, okanye xa ethe wasweleka okanye akakwazi ukuhlawula amatyala akhe, iwathabathela kuyo onke amalungelo namancedo omthetho nxamnye nomntu onegunya lokuphatha ilifa lalowo uswelekileyo.

Ukufun' imbuyekezo kwimali eseza kungeniswa yeNgxowa-Mali

81. (1) Ukuba nangaliphi na ixesha iNgxowa-Mali ithi ingabi nabo ubuncwane obaneleyo bokuhlawula zonke iimbuyekezo ezifunwayo nemiyalelo, mazithi ezo

the claims and judgments must, to the extent to which they are not settled, be charged against future revenue of the Fund.

(2) The Board may determine the order in which claims and judgments referred to in terms of subsection (1) are settled, and may, if the revenue of the Fund is not sufficient to settle all claims in full, settle any claim or judgment in whole or in part.

(3) Without limiting its discretion, the Board must, in applying the Fund towards the settlement of claims and judgments, consider the following:

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

(b) subject to paragraph *(a)*, the full settlement of relatively small claims, except in exceptional circumstances, before relatively large claims are settled to a greater extent than the small claims; and

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

Indemnification in respect of certain acts

82. No action for damages may be instituted—

(a) against the Fund, the Board or any member, official or employee of the Board in respect of anything done in the *bona fide* exercise or performance of its or his or her powers or functions in terms of the provisions of this Act; or

(b) against the Council, a member of the Council or official or employee thereof, in respect of any notification issued in good faith for the purposes of section 79(4).

Preservation and disposal of records and documents in possession of Board

83. (1) Any record or document in possession of the Board relating to any claim instituted against the Fund must, subject to the provisions of subsection (2), be preserved at the office of the Board.

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

CHAPTER 7

HANDLING OF TRUST MONIES

Obligations of legal practitioner relating to handling of trust monies

84. (1) Every attorney or any advocate referred to in section 34(2)*(b)*, other than a legal practitioner in the full-time employ of the South African Human Rights Commission or the State as a state attorney or state advocate and who practises or is deemed to practise—

(a) for his or her own account either alone or in partnership; or

(b) as a director of a practice which is a juristic entity,

must be in possession of a Fidelity Fund certificate.

(2) No legal practitioner referred to in subsection (1) or person employed or supervised by that legal practitioner may receive or hold funds or property belonging to any person unless the legal practitioner concerned is in possession of a Fidelity Fund certificate.

(3) The provisions of subsections (1) and (2) apply to a deposit taken on account of fees or disbursements in respect of legal services to be rendered.

mbuyekezo naloo miyalelo ingahlawulwanga, zihlawulwe kuthatyathwa kwimali eseza kungeniswa yengxowa-Mali.

(2) IBhodi isenokwenza isigqibo ngolandelelwano eziya kuthi zihlawulwe ngalo iimbuyekezo ezifunwayo nemiyalelo ekuthethwe ngazo kwisiqendwana (1), kwaye ukuba ingeniso yeNgxowa-Mali ayanele ukuzihlawula ngokupheleleyo zonke iimbuyekezo, inokuthi iyihlawule imbuyekezo okanye umyalelo ngokupheleleyo okanye inxalenye.

(3) Ekusebenziseni iNgxowa-Mali ekuhlawuleni iimbuyekezo nemiyalelo, iBhodi, kungekuko ukuba isikelwa umda ekusebenziseni okwayo ukuqonda, mayiqwalasele okulandelayo:

(a) ubungakanani bokusokola obuya kuviwa okanye ekunokwenzeka buviwe ngabantu abafun' imbuyekezo xa kunokuthi imbuyekezo abayifunayo kwiNgxowa-Mali ingahlawulwa yonke okanye inxalenye yayo;

(b) ngokulawulwa sisiqendu *(a)*, iimbuyekezo ezincinane noko zihlawulwe ngokupheleleyo kuqala ngaphambi kokuba kuhlawulwe iimbuyekezo ezinkulu, ngaphandle kokuba kukho iimeko ezingaqhelekanga ezifunisa ukuba kungenziwa njalo; kwaye

(c) kwiimeko ezifanayo, mayiqwalasele ukuba iimbuyekezo ezacelwa kuqala zibe zezokuqala ngokwemihla eyakhutshwa ngayo imiyalelo yokuhlawula okanye ngokwemihla ezavunywa ngazo iimbuyekezo yiBhodi.

Ukungabi nabutyala ngezenzo ezithile

82. Akukho nyathelo ngomonakalo elinokuthatyathelwa—

(a) iNgxowa-Mali, okanye iBhodi okanye naliphi na ilungu layo, okanye igosa layo okanye umqeshwa wayo, ngokumayela nantoni na ayenze ebesebenzisa amagunya akhe okanye esenza imisebenzi yakhe ngentliziyo entle ngokwalo Mthetho; okanye

(b) iBhunga, ilungu leBhunga okanye igosa okanye umqeshwa walo, ngokumayela nesaziso esikhutshwe ngentliziyo entle ngokwesiqendu 79(4).

Ukulondolozwa nokulahlwa kwamaxwebhu akwiBhodi

83. (1) Nayiphi na irekhodi okanye uxwebhu olukwiBhodi olumayela nembuyekezo efunwa kwiNgxowa-Mali malulondolozwe kwi-ofisi yeBhodi, kodwa ngokulawulwa sisiqendwana (2).

(2) Emva kokuphela kweminyaka emihlanu ukususela kumhla eyahlawulwa ngayo imbuyekezo yiBhodi okanye yachotshelwa yinkundla okanye ayabi saba nakunyanzeliswa ngenxa yokuphelelwa lixesha, iBhodi inokuyalela ukuba irekhodi okanye uxwebhu olumayela naloo mbuyekezo lusiwe kwenye indawo yokugcinwa kwalo okanye lutshatyalaliswe okanye lulahlwe.

ISAHLUKO 7

UKUSINGATHWA KWEEMALI ZOKUPHATHISWA

Iimbopheleleko elinazo igqwetha ekusingatheni iimali eliziphathisiweyo

84. (1) Igqwetha ngalinye okanye igqwetha leejaji ngalinye ekuthethwe ngalo kwisiqendu 34(2)*(b)*, ngaphandle kwegqwetha eliqeshwe ngokupheleleyo yiKomishoni Yamalungelo Oluntu YaseMzantsi-Afrika okanye ngurhulumente, njengegqwetha likarhulumente, njengomtshutshisi kwiNkundla Ephakamileyo, njengomcebisi karhulumente emthethweni, okanye nokuba kungayiphi na indlela, nelithathwa—

(a) njengelizisebenzela lodwa okanye njengelilihlakani nelinye; okanye

(b) njengomlawuli wenkampani eyenz' umsebenzi wobugqwetha,

malibe nesiqinisekiso se*Fidelity Fund*.

(2) Akukho gqwetha ekuthethwe ngalo kwisiqendwana (1) okanye mntu uqeshwe ligqwetha okanye uphantsi kweliso legqwetha ovumelekileyo ukuba afumane iimali okanye agcine iimali okanye impahla eyeyomnye umntu ngaphandle kokuba elo gqwetha linesiqinisekiso se*Fidelity Fund*.

(3) Okutshiwo sisiqendwana (1) nese-(2) kuyasebenza kwidiphozithi ethathelwe iimali zokuhlawula ngemisebenzi eliza kuyenza.

(4) A Fidelity Fund certificate must indicate that the legal practitioner concerned is obliged to practise subject to the provisions of this Act, and the fact that such a legal practitioner holds such a certificate must be endorsed against his or her enrolment by the Council.

(5) A legal practitioner referred to in subsection (1) who—

(a) transfers from one practice to another; or

(b) ceases to practise,

must give notice of this fact to the Council and comply with the Council's relevant requirements in relation to the closure of that legal practitioner's trust account and in the case of paragraph *(b)* return his or her certificate to the Council.

(6) The Council may withdraw a Fidelity Fund certificate and, where necessary, obtain an interdict against the legal practitioner concerned if he or she fails to comply with the provisions of this Act or in any way acts unlawfully or unethically.

(7) The provisions of this section do not apply to a legal practitioner who practises in the full time employ of Legal Aid South Africa on a permanent basis.

(8) An advocate, other than an advocate referred to in section 34(2)*(b)*, may not receive or hold money or property belonging to any person in the course of that advocate's practice or in respect of any instruction issued to the advocate by an attorney or a member of the public.

(9) No legal practitioner in the full-time employ of the South African Human Rights Commission or the State as a state attorney, state advocate, state law adviser or in any other professional capacity may receive or keep money or property belonging to any person, except during the course of employment of such legal practitioner with the State or the South African Human Rights Commission and in such case only on behalf of the South African Human Rights Commission or the State and for no other purpose.

Application for and issue of Fidelity Fund certificates

85. (1) *(a)* A legal practitioner who is obliged in terms of section 84(1) to be in possession of a Fidelity Fund certificate must apply to the Council for such a certificate as determined in the rules.

(b) Every legal practitioner referred to in paragraph *(a)* who, for the first time, practises as such, must, within the period and after payment of the fee determined by the Council in the rules, complete a legal practice management course approved by the Council determined in the rules.

(2) An application in terms of subsection (1)*(a)* must be accompanied by the contribution payable by applicants as determined in the rules.

(3) The Council must, in consultation with the Board, determine the amount of the contribution for the ensuing year, if any, and in the event of a contribution being charged, give notice thereof by publication in the *Gazette*.

(4) In determining the amount of the contribution, the Council and the Board must take into account—

(a) the value of the Fund;

(b) the extent of the expenses and liabilities which the Fund is likely to incur in the ensuing years; and

(c) the actuarial valuation report referred to in section 73(2).

(5) The Council may, in consultation with the Board, and taking into account the performance of community service which promotes access to justice—

(a) exempt a category of legal practitioners referred to in subsection (1) from paying the whole or part of the contribution; or

(b) exempt a particular legal practitioner referred to in subsection (1) from paying the whole or part of the contribution after consideration of a written application from that legal practitioner, if the Council is satisfied that there is good reason to do so.

(6) Upon receipt of an application in terms of subsection (1) the Council must, if it is satisfied that the applicant has—

(a) complied with the provisions of this Chapter;

(b) paid the required contribution to the Fund;

(4) Isiqinisekiso se*Fidelity Fund* masithi igqwetha elo linyanzelekile ukuba lisebenze ngokulawulwa kokutshiwo ngulo Mthetho, kwaye into yokuba igqwetha linaso eso siqinisekiso mayibhalwe phantsi xa libhaliswa liBhunga.

(5) Igqwetha ekuthethwe ngalo kwisiqendwana (1)—

(a) elifudukayo ukusuka kwenye i-ofisi yobugqwetha ukuya kwenye; okanye

(b) eliyekayo ukusebenza njengegqwetha,

malazise iBhunga ngako oku lize likwenze okufunwa liBhunga mayela nokuvalwa kwe-akhawunti yeemali zokuphathiswa zelo gqwetha, kuze kuthi xa kusenzeka okuxelwe kwisiqendu *(b)*, libuyisele isiqinisekiso salo kwiBhunga.

(6) IBhunga lisenokusirhoxisa isiqinisekiso seFidelity Fund lize, apho kuyimfuneko khona, lifumanele igqwetha umyalelo wenkundla ukuba igqwetha alikwenzi okufunwa ngulo Mthetho, okanye ukuba ngandlel' ithile lenza ngokungekho mthethweni okanye ngokunxamnye nemigaqo yobugqwetha.

(7) Okutshiwo kwesi siqendu akusebenzi kwigqwetha eliqeshwe ngokupheleleyo yiLegal Aid South Africa ngokusisigxina.

(8) Igqwetha leejaji, elingelilo igqwetha leejaji ekuthethwe ngalo kwisiqendu 34(2)*(b)*, alivumelekanga ukuba lifumane okanye ligcine imali okanye impahla eyeyomnye umntu ngalo lonke ixesha lokusebenza kwalo njengegqwetha leejaji okanye xa linikwe umsebenzi ligqwetha okanye ngumntu.

(9) Akukho gqwetha eliqeshwe ngokupheleleyo ngurhulumente njengegqwetha leKomishoni Yamalungelo Oluntu YaseMzantsi-Afrika okanye likarhulumente,okanye njengegqwetha likarhulumente, okanye njengomtshutshisi kwiNkundla Ephakamileyo, okanye njengomcebisi karhulumente emthethweni, okanye nakuwuphi na omnye umsebenzi elivumelekileyo ukuba lifumane okanye ligcine imali okanye impahla eyeyomnye umntu, ngaphandle kokuba kungexesha loko kuqeshwa kwelo gqwetha ngurhulumente okanye yiKomishoni Yamalungelo Oluntu YaseMzantsi-Afrika, likwenza oko kuphela egameni leKomishoni Yamalungelo Oluntu YaseMzantsi-Afrika okanye likarhulumente, kwaye lingakwenzeli enye injongo.

Ukwenziwa kwesicelo seziqinisekiso zeFidelity Fund nokukhutshwa kwazo

85. (1) *(a)* Igqwetha elinyanzelekileyo ngokwesiqendu 84(1) ukuba libe nesiqinisekiso se*Fidelity Fund*, malenze isicelo sokuba neso siqinisekiso ngendlela ekufunwa ngayo kwimigaqo.

(b) Igqwetha ngalinye ekuthethwe ngalo kwisiqendu *(a)* eliqalayo ukusebenza njengegqwetha, malithi lingekapheli ixesha eliqingqwe liBhunga kwimigaqo, emva kokuba lihlawule umrhumo oqingqwe liBhunga kwimigaqo, lizifunde lizigqibe izifundo zokuphathwa komsebenzi wobugqwetha ezivunywe liBhunga, ezikwimigaqo.

(2) Isicelo esingokwesiqendwana (1)*(a)* masiphelekwe ngumrhumo ohlawulwa ngabenzi-sicelo ngendlela ekufunwa ngayo kwimigaqo.

(3) Ngokubonisana neBhodi, iBhunga malenze isigqibo ngobungakanani bomrhumo wonyaka olandelayo, ukuba uza kubakho, kuze kuthi ke ukuba uyafunwa, lenze isaziso soko ngokusipapasha ku*Shicilelo-Mithetho*.

(4) Ekwenzeni isigqibo ngobungakanani bomrhumo, iBhunga neBhodi mabacingele—

(a) ixabiso leNgxowa-Mali;

(b) ubungakanani beendleko namatyala ekunokwenzeka ukuba ingene kuwo iNgxowa-Mali kwiminyaka elandelayo; kunye

(c) nengxelo yophononongo yengcali yobalo-mali ekuthethwe ngayo kwisiqendu 73(2).

(5) Ngokubonisana neBhodi, nangokucingela ukusebenzela uluntu okukhuthaza ukufunyanwa kobulungisa, iBhunga—

(a) lisenokuwakhulula amagqwetha ekuthethwe ngawo kwisiqendwana (1) akudidi oluthile ekuhlawuleni wonke umnikelo okanye inxalenye yawo; okanye

(b) lisenokulikhulula igqwetha elithile ekuthethwe ngalo kwisiqendwana (1) kwisiqendu ekuhlawuleni wonke umnikelo okanye inxalenye yawo emva kokuqwalasela isicelo esibhaliweyo esivela kwelo gqwetha, ukuba iBhunga lanelisekile kwinto yokuba kukho isizathu esivakalayo sokwenza njalo.

(6) Ukuba iBhunga lanelisekile kwinto yokuba umenzi-sicelo ngokwemimiselo yecandelwahna (1) iBhunga kufuneka, ukuba liyaneliseka ukuba umenzi-sicelo—

(a) ukwenzile okufunwa sesi Sahluko;

(b) uwuhlawule umrhumo ofunekayo kwiNgxowa-Mali;

(c) discharged all liabilities in respect of enrolment fees; and
(d) completed the application form as determined in the rules in every respect,
immediately issue to the applicant a Fidelity Fund certificate that is determined in the rules.

(7) A Fidelity Fund certificate is valid until 31 December of the year in respect of which it was issued.

(8) A document purporting to be a Fidelity Fund certificate which has been issued contrary to the provisions of this Act is null and void and must be returned to the Council on demand.

Trust accounts

86. (1) Every legal practitioner referred to in section 84(1) must operate a trust account.

(2) Every trust account practice must keep a trust account at a bank with which the Fund has made an arrangement as provided for in section 63(1)*(g)* and must deposit therein, as soon as possible after receipt thereof, money held by such practice on behalf of any person.

(3) A trust account practice may, of its own accord, invest in a separate trust savings account or other interest-bearing account any money which is not immediately required for any particular purpose.

(4) A trust account practice may, on the instructions of any person, open a separate trust savings account or other interest-bearing account for the purpose of investing therein any money deposited in the trust account of that practice, on behalf of such person over which the practice exercises exclusive control as trustee, agent or stakeholder or in any other fiduciary capacity.

(5) Interest accrued on money deposited in terms of this section must, in the case of money deposited in terms of—

(a) subsections (2) and (3), be paid over to the Fund and vests in the Fund; and
(b) subsection (4), be paid over to the person referred to in that subsection: Provided that 5% of the interest accrued on money in terms of this paragraph must be paid over to the Fund and vests in the Fund.

(6) A legal practitioner referred to in section 84(1) may not deposit money in terms of subsection (2), nor invest money in terms of subsections (3) and (4) in accounts held at a bank which is not a party to an arrangement as provided for in section 63(1)*(g)*, unless prior written consent of the Fund has been obtained.

(7) A legal practitioner referred to in section 84(1) must comply with the terms of an arrangement concluded between a bank and the Fund as provided for in section 63(1)*(g)*.

Accounting

87. (1) A trust account practice must keep proper accounting records containing particulars and information in respect of—

(a) money received and paid on its own account;
(b) any money received, held or paid on account of any person;
(c) money invested in a trust account or other interest-bearing account referred to in section 86; and
(d) any interest on money so invested which is paid over or credited to it.

(2) *(a)* The Council or the Board may, itself or through its nominee, at the cost of the Council or the Board, inspect the accounting records of any trust account practice in order to satisfy itself that the provisions of section 86 and subsection (1) are being complied with.

(b) If on an inspection it is found that these provisions have not been complied with, the Council or the Board may write up the accounting records of the trust account

(c) ukwenzile konke ekufuneka ekwenzile mayela nemirhumo yokubhalisa; kwaye

(d) uyizalisile ifomu yesicelo ngendlela efunwayo yimigaqo, iBhunga malithi lisakufumana isicelo sakhe ngokwesiqendwana (1), ngoko nangoko linike umenzi-sicelo isiqinisekiso sefidelity Fund ngendlela ekufunwa ngayo kwimigaqo.

(7) Isiqinisekiso seFidelity Fund sisebenza kude kube ngumhla wama-31 kuDisemba wonyaka esikhutshwe ngawo.

(8) Uxwebhu olubonakala ngathi sisiqinisekiso se*Fidelity Fund* esikhutshwe ngokunxamnye nokutshiwo ngulo Mthetho, siphuthile, kwaye masibuyiselwe kwiBhunga sisakufunwa.

Ii-akhawunti zemali yokuphathiswa

86. (1) Igqwetha ngalinye ekuthethwe ngalo kwisiqendu 84(1) malibe ne-akhawunti yeemali zokuphathiswa.

(2) I-ofisi nganye yobugqwetha mayibe ne-akhawunti yeemali zokuphathiswa kwibhanki ethe iNgxowa-Mali yenza isivumelwano nayo ngendlela ekuxelwe ngayo kwisiqendu 63(1)*(g)*, kwaye mayifake kuloo akhawunti imali enayo eyeyomnye umntu, iyifake ngokukhawuleza kangangoko kunokwenzeka emva kokuba iyifumene.

(3) I-ofisi yobugqwetha esebenzisa i-akhawunti yeemali zokuphathiswa inokuthi, ngokuzithandela, iyilondoloze imali kwenye i-akhawunti yolondolozo-mali yeemali zokuphathiswa okanye kwenye i-akhawunti ezala inzala, xa kuyimali engazi kufuneka kwakamsinya ifunekela injongo ethile.

(4) I-ofisi yobugqwetha esebenzisa i-akhawunti yeemali zokuphathiswa inokuthi, ngokuyalelwa ngumntu, ivule enye i-akhawunti yolondolozo-mali yeemali zokuphathiswa okanye enye i-akhawunti ezala inzala ngenjongo yokuyizalisa apho imali yaloo ofisi yobugqwetha, iyeyomnye umntu loo ofisi yobugqwetha engumthunywa wakhe.

(5) Inzala efumanekileyo ngemali efakwe ngokwesi siqendu mayithi, xa kuyimali efakwe kwi-akhawunti—

(a) ngokwesiqendwana (2) nese-(3), inikwe iNgxowa-Mali ize ibe yeyeNgxowa-Mali; kuze kuthi

(b) xa kuyimali efakwe kwi-akhawunti ngokwesiqendwana (4), inikwe umntu ekuthethwe ngaye kweso siqendwana, kodwa ke, isi-5% senzala ethe yabakho ngokwesi siqendu, inikwe iNgxowa-Mali ize ibe yeyeNgxowa-Mali .

(6) Igqwetha ekuthethwe ngalo kwisiqendu 84(1) alivumelekanga ukuba lifake imali kwi-akhawunti ngokwesiqendwana (2), lingavumelekanga kananjalo ukuba lilondoloze imali ngenjongo yokuyizalisa ngokwesiqendwana (3) nese-(4) kwii-akhawunti ezikwibhanki engekho kwisivumelwano njengoko kutshiwo kwisiqendu 63(1)*(g)*, ngaphandle kwaxa kuqale kwafunyanwa imvume ebhaliweyo yeNgxowa-Mali kusengaphambili.

(7) Igqwetha ekuthethwe ngalo kwisiqendu 84(1) malikwenze okufunwa yimiqathango yesivumelwano ekungenwe kuso yibhanki nayiNgxowa-Mali njengoko kutshiwo kwisiqendu 63(1)*(g)*.

Ukuphendula ngayo

87. (1) I-ofisi yobugqwetha esebenzisa i-akhawunti yeemali zokuphathiswa mayigcine iirekhodi ezichanileyo zemali ezineenkcukacha nengcombolo—

(a) ngemali efunyenweyo yaza yakhutshelwa ezayo izizathu;

(b) ngemali efunyenweyo, yagcinwa okanye yakhutshwa ngesizathu somnye umntu;

(c) ngemali elondolozwe kwi-akhawunti yeemali zokuphathiswa ngenjongo yokuyizalisa okanye elondolozwe kwenye i-akhawunti ezala inzala ekuthethwe ngayo kwisiqendu 86; kananjalo

(d) nangenzala ezalwe yimali elondoloziweyo.

(2) *(a)* IBhunga okanye iBhodi inokuthi, yona ngokwayo okanye ngokusebenzisa lowo imkhethileyo, ngeendleko zeBhunga okanye zeBhodi, ihlole iirekhodi zemali zayo nayiphi na i-ofisi yobugqwetha esebenzisa i-akhawunti yeemali zokuphathiswa ukuze izanelise kwinto yokuba okutshiwo sisiqendu 86 nasisiqendwana (1) kuyenziwa.

(b) Ukuba kuthi xa kuhlolwa kufumaniseke ukuba okutshiwoyo akwenziwanga, iBhunga okanye iBhodi isenokuzibhala ngokwayo iirekhodi ze-ofisi yobugqwetha

practice and recover the costs of the inspection and the writing up of the accounting records from the trust account practice concerned.

(3) For the purposes of subsections (1) and (2), ''accounting records'' include any record or document kept by or in the custody or under the control of any trust account practice which relates to—

(a) money held in trust;

(b) money invested in terms of section 86(2), (3) or (4) and interest thereon;

(c) any estate of a deceased person or any insolvent estate or any estate placed under curatorship, in respect of which an attorney in the trust account practice is the executor, trustee or curator or which he or she administers on behalf of the executor, trustee or curator; or

(d) the affairs of the trust account practice.

(4) *(a)* Any money held in the trust account of a trust account practice in respect of which the identity of the owner is unknown or which is unclaimed after one year, must, after the second annual closing of the accounting records of the trust account practice following the date upon which those funds were deposited in the trust account of the trust account practice, be paid over to the Fund by the trust account practice.

(b) Nothing in this subsection deprives the owner of the money contemplated in paragraph *(a)* of the right to claim from the Fund any portion as he or she may prove an entitlement to.

(5) *(a)* Despite section 37(2)*(a)*, any attorney or an advocate referred to in section 34(2)*(b)* or an employee of a trust account practice must, at the request of the Council or the Board, or the person authorised thereto by the Council or the Board, produce for inspection a book, document or article which is in the possession, custody or under the control of that legal practitioner or such employee, which book, document or article relates to the trust account practice or former trust account practice of such attorney or advocate: Provided that the Council or the Board or person authorised by the Council or the Board may make copies of such book, document or article and remove the copies from the premises of that attorney, advocate or trust account practice.

(b) The legal practitioner referred to in paragraph *(a)* or employee in question may not, subject to the provisions of any other law, refuse to produce the book, document or article, even though he or she is of the opinion that it contains confidential information belonging to or concerning his or her client.

(6) Any person who performs any function under this section, may not disclose any information which he or she obtained in the performance of such a function except—

(a) for the purposes of an investigation or hearing by a disciplinary body;

(b) to any person authorised thereto by the Council or the Board who of necessity requires it for the performance of his or her functions under this Act;

(c) if he or she is a person who of necessity supplies it in the performance of his or her functions under this Act;

(d) when required to do so by order of a court of law;

(e) at the written request of the Ombud; or

(f) at the written request of the National Prosecuting Authority or any competent authority which requires it for the institution of an investigation with a view to the institution of any criminal prosecution.

Trust money and trust property of trust account practice

88. (1) *(a)* Subject to paragraph *(b)*, an amount standing to the credit of any trust account of any trust account practice—

(i) does not form part of the assets of the trust account practice or of any attorney, partner or member thereof or of any advocate referred to in section 34(2)*(b)*; and

(ii) may not be attached by the creditor of any such trust account practice, attorney, partner or member or advocate.

(b) Any excess remaining after all claims of persons whose money has, or should have been deposited or invested in a trust account referred to in paragraph *(a)*, and all claims

esebenzisa i-akhawunti yeemali zokuphathiswa ize izifune iindleko zokuhlolwa nezokubhalwa kweerekhodi zemali kuloo ofisi yobugqwetha echaphazelekayo esebenzisa i-akhawunti yeemali zokuphathiswa.

(3) Ngenjongo yokusebenza kwesiqendwana (1) nese-(2), igama elithi ‘‘iirekhodi zemali’’ liquka nayiphi na irekhodi okanye uxwebhu egcinwe yi-ofisi yobugqwetha esebenzisa i-akhawunti yeemali zokuphathiswa—

(a) eyeyemali ephathisiweyo;

(b) eyeyemali elondolozwe ngokwesiqendu 86(2), (3) okanye (4) nenzala yayo;

(c) eyeyelifa lomntu oswelekileyo okanye impahla yomntu ongakwaziyo ukuhlawula amatyala akhe okanye impahla yomntu ebekwe phantsi kweliso lomnye, ephathiswe igqwetha elikwi-ofisi yobugqwetha esebenzisa i-akhawunti yeemali zokuphathiswa; okanye

(d) eyeyemicimbi ye-ofisi yobugqwetha esebenzisa i-akhawunti yeemali zokuphathiswa.

(4) *(a)* Nayiphi na imali egcinwe kwi-akhawunti yegqwetha yeemali zokuphathiswa ekungaziwayo ukuba ungubani umniniyo, okanye engalandwanga emva konyaka omnye, mayidluliselwe kwiNgxowa-Mali yi-ofisi yobugqwetha esebenzisa i-akhawunti yeemali zobugqwetha, ikwenza oko emva kokuvalwa kwesibini kwaminyaka le kweerekhodi zemali ze-ofisi yobugqwetha esebenzisa iimali zokuphathiswa okulandela umhla ezathi ngawo ezo mali zafakwa kwi-akhawunti yeemali zokuphathiswa ze-ofisi yobugqwetha esebenzisa i-akhawunti yeemali zokuphathiswa.

(b) Akukho nto kwesi siqendwana emohluthayo umnini-mali oxelwe kwisiqendu *(a)* ilungelo lokufun’ imbuyekezo kwiNgxowa-Mali ngayo nayiphi na inxalenye anokuthi eze nobungqina bokuba unelungelo lokuyifumana.

(5) *(a)* Nangona sisitsho oku sikutshoyo isiqendu 37(2)*(a)*, igqwetha okanye igqwetha leejaji ekuthethwe ngalo kwisiqendu 34(2)*(b)* okanye umqeshwa we-ofisi yobugqwetha esebenzisa i-akhawunti yeemali zokuphathiswa makathi, esakucelwa liBhunga okanye yiBhodi okanye ngumntu ogunyanziweyo liBhunga okanye yiBhodi, aveze incwadi, okanye uxwebhu okanye into ekuye, ukuba ihlolwe, kananjalo iBhunga okanye iBhodi okanye umntu ogunyaziweyo liBhunga okanye yiBhodi unokwenza iikopi zaloo ncwadi, okanye uxwebhu okanye into aze emke nazo iikopi kwii-ofisi zelo gqwetha okanye igqwetha leejaji.

(b) Ngokulawulwa kokutshiwo nangowuphi na omnye umthetho, igqwetha ekuthethwe ngalo kwisiqendu *(a)* okanye umqeshwa walo akavumelekanga ukuba ale ukuveza incwadi, okanye uxwebhu okanye into, nkqu nokuba unoluvo lokuba luqulethe ingcombolo eyimfihlo eyeyomntu wakhe oze kufuna uncedo egqwetheni.

(6) Nawuphi na umntu owenza umsebenzi ngokwesi siqendu akavumelekanga ukuba adandalazise ingcombolo ayifumene xa ebesenza loo msebenzi ngaphandle kokuba—

(a) uwenza ngenjongo yophando okanye ngenjongo yokuhlalelwa komcimbi liqumrhu lolungiso-similo;

(b) uyidandalazisa kumntu ogunyaziweyo liBhunga okanye yiBhodi oyifunela ukuba enze imisebenzi yakhe engokwalo Mthetho;

(c) ungumntu oyinika loo ngcombolo xa esenza imisebenzi yakhe engokwalo Mthetho;

(d) uyidandalazisa xa efunwa ukuba enze njalo ngumyalelo wenkundla yomthetho;

(e) ngesicelo esibhaliweyo sikaNozikhalazo; okanye

(f) ngesicelo esibhaliweyo seGunya Lotshutshiso Lezwelonke okanye naliphi na igunya elifanelekileyo eliyifunela uphando ngenjongo yokuqalisa ukutshutshisa.

Imali yokuphathiswa nempahla yokuphathiswa

88. (1) *(a)* Ngokulawulwa sisiqendu *(b)*, imali eyeye-akhawunti yobugqwetha yeemali zokuphathiswa—

(i) ayiyonxalenye yeempahla ze-ofisi yobugqwetha okanye zehlakani legqwetha okanye zegqwetha leejaji ekuthethwe ngalo kwisiqendu 34(2)*(b)*; kwaye

(ii) ayinakuthinjwa ngumntu otyalwa imali yiloo ofisi yobugqwetha, okanye otyalwa imali ligqwetha okanye lihlakani lalo okanye ligqwetha leejaji.

(b) Nantoni na eseleyo emva kokuba kukhutshwe zonke iimali zembuyekezo zabantu abamali ibifakwe okanye ebimele ukuba ifakwe kwi-akhawunti yeemali zokuphathiswa ekuthethwe ngayo kwisiqendu *(a)*, nako konke ukufunwa kwembuyekezo ngenzala

in respect of interest on money so invested, are deemed to form part of the assets of the trust account practice concerned.

(2) Trust property which is registered in the name of a trust account practice, or jointly in the name of an attorney or trust account practice and any other person in a capacity as administrator, trustee, curator or agent, does not form part of the assets of that attorney or trust account practice or other person.

Court may prohibit operation of trust account

89. The High Court may, on application made by the Council or the Board, and on good cause shown, prohibit any legal practitioner referred to in section 84(1) from operating in any way on his or her trust account, and may appoint a *curator bonis* to control and administer that trust account, with any rights, powers and functions in relation thereto as the court may deem fit.

Appointment of *curator bonis* in respect of trust account

90. (1) If any legal practitioner referred to in section 84(1)—

(a) dies;

(b) becomes insolvent;

(c) is struck off the Roll or suspended from practice;

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

(e) abandons his or her practice or ceases to practise,

the High Court may, on application made by the Council, Board or by any person having an interest in the trust account of that legal practitioner or trust account practice, appoint a *curator bonis* to control and administer that account, with any rights, powers and functions as the court may deem fit.

(2) Where the legal practitioner contemplated in subsection (1) is an attorney and was practising in partnership or as a member of a company with another attorney or attorneys, the court must allow the trust account to remain under the control of the remaining partners or members, unless there is good reason not to do so.

(3) If a trust account practice is sequestrated, liquidated or placed under business rescue procedures, whether provisionally or finally, the court may, on application made by the Council, Board or by any person having an interest in the trust account of that practice, appoint a *curator bonis* to control and administer that account, with any rights, powers and functions as the court may deem fit.

(4) The court may only grant an application provided for in subsection (1) or (2), on good cause shown by the Council, Board or any other person concerned, and after having given the trust account practice an opportunity to respond in writing to the application.

(5) Nothing in this section or section 89 may be construed as preventing any attorney who was practising in partnership with a legal practitioner referred to in subsection (1) who is an attorney, from operating on the trust account of the partnership.

Rights of banks in respect of trust accounts

91. (1) *(a)* Any bank at which a trust account practice keeps its trust account, or any separate account forming part of a trust account, is not, by reason only of the name or style by which the account concerned is distinguished, deemed to have knowledge that the trust account practice is not entitled to all money paid into that account or with which that account is credited.

(b) The provisions of paragraph *(a)* do not relieve the bank from any liability or obligation which legally exists and to which it would be subject apart from the provisions of this Act.

(2) Despite subsection (1), a bank at which a trust account practice keeps its trust account, or any separate account forming part of a trust account, does not, in respect of

yemali ebilondoloziwe, ithathwa njengeyinxalenye yeempahla zaloo-ofisi yobugqwetha esebenzisa i-akhawunti yeemali zokuphathiswa.

(2) Impahla yokuphathiswa ebhaliswe egameni le-ofisi yobugqwetha esebenzisa i-akhawunti yeemali zokuphathiswa, okanye ebhaliswe kokubini egameni legqwetha kunye nomnye umntu ongumlawuli, okanye ongumntu ophathisiweyo okanye ongumthunywa womnye, ayibi yinxalenye yeempahla zelo gqwetha okanye ze-ofisi yobugqwetha okanye zaloo mntu ungomnye.

Inkundla isenokukwalela ukusetyenziswa kwe-akhawunti yeemali zokuphathiswa

89. Kusakwenziwa isicelo liBhunga okanye yiBhodi, ngesizathu esivakalayo, iNkundla Ephakamileyo isenokwalela igqwetha ekuthethwe ngalo kwisiqendu 84(1) elisebenzisa i-akhawunti yeemali zokuphathiswa ukuba lingayisebenzisi i-akhawunti yalo, kwaye isenokumisela umntu oza kuba liliso ukuba kube nguye olawula loo akhawunti yeemali zokuphathiswa, abe namalungelo ngayo, namagunya nemisebenzi enokuthi inkundla ikubone kufanelekile ukuba abe nawo.

Ukumiselwa komntu oza kuba liliso kwi-akhawunti yeemali zokuphathiswa

90. (1) Ukuba igqwetha ekuthethwe ngalo kwisiqendu 84(1)—

(a) lithi life;

(b) lithi livakaliswe yinkundla njengomntu ongakwaziyo ukuhlawula amatyala akhe;

(c) lithi licinywe igama lalo kuLuhlu okanye linqunyanyiswe ekusebenzeni;

(d) lithi livakaliswe yinkundla lingumntu ongakwaziyo ukuziphathela ngokwakhe imicimbi yakhe; okanye

(e) liyayeka ukusebenza njengegqwetha,

kusakwenziwa isicelo liBhunga okanye yiBhodi okanye nguye nawuphi na umntu ochaphazelekayo kuloo akhawunti yeemali zokuphathiswa zelo gqwetha okanye zalo ofisi yobugqwetha, iNkundla Ephakamileyo isenokumisela umntu oza kuba liliso ukuba alawule loo akhawunti, abe namalungelo namagunya nemisebenzi enokuthi inkundla ikubone kufanelekile ukuba abe nawo.

(2) Kwimeko apho igqwetha elixelwe kwisiqendwana (1) lalisebenza lilihlakani lelinye okanye lililungu lenkampani kunye nelinye igqwetha okanye amagqwetha, inkundla mayivumele i-akhawunti yeemali zokuphathiswa ukuba ihlale iphantsi kolawulo lwamahlakani aseleyo okanye lwamalungu enkampani aseleyo, ngaphandle kokuba kukho isizathu esivakalayo sokungenzi njalo.

(3) Ukuba i-akhawunti yeemali zokuphathiswa iyathinjwa okanye ibekwa phantsi kweenkqubo zokuhlangul' ishishini, kungakhathaliseki ukuba oko kwenzeka okwexeshana okanye ngokusisigxina, iNkundla Ephakamileyo inokuthi, kusakwenziwa isicelo liBhunga okanye yiBhodi okanye ngomnye umntu ochaphazelekayo yiloo akhawunti yeemali zokuphathiswa, imisele umntu oza kuba liliso ukuba alawule loo akhawunti, abe namalungelo namagunya nemisebenzi enokuthi inkundla ikubone kufanelekile ukuba abe nawo.

(4) Inkundla inokusivuma isicelo njengoko kutshiwo kwisiqendwana (1) okanye (2) kuphela xa kukho isizathu esivakalayo esibekwa liBhunga okanye yiBhodi okanye ngomnye umntu ochaphazelekayo, kwaye isivuma kuphela emva kokuba eyinike loo ofisi yobugqwetha esebenzisa i-akhawunti yeemali zokuphathiswa ithuba lokusiphendula isicelo eso ngokubhala.

(5) Akukho nto kwesi siqendu okanye kwisiqendu 89 enokuthi ithathwe njengethintela igqwetha ebelisebenza lilihlakani lelinye ekuthethwe ngalo kwisiqendwana (1) ekusebenziseni i-akhawunti yeemali zokuphathiswa zamahlakani.

Amalungelo eebhanki kwii-akhawunti zeemali zokuphathiswa

91. (1) *(a)* Nayiphi na ibhanki ekugcinwa kuyo imali yiofisi yobugqwetha ayithi ngenxa nje yegama elisetyenziswa yiloo akhawunti, okanye ngenxa yohlobo eyaziwa ngalo loo akhawunti, ithathwe ngokuthi iyazi loo bhanki ukuthi i-ofisi yobugqwetha ayinalungelo layo yonke imali efakwe kuloo akhawunti.

(b) Okutshiwo sisiqendu *(a)* akuyikhululi ibhanki nakuluphi na uxanduva olukhoyo ngokomthetho nebiya kuba nalo ukuba okutshiwo ngulo Mthetho bekungekho.

(2) Nangona sisitsho oku sikutshoyo isiqendwana (1), ibhanki ekugcinwa kuyo imali yiofisi yobugqwetha yeemali zokuphathiswa, okanye nayiphi na i-akhawunti esecaleni

any liability of the trust account practice to that bank not being a liability arising out of, or in connection with, any such account, have or obtain any recourse or right, whether by way of set-off, counter-claim, charge or otherwise, against money standing to the credit of that account.

(3) This section does not—

(a) deprive any bank of any existing right;

(b) take away or affect any claim, lien, counter-claim, right of set-off, or charge of any kind which a trust account practice has against, or on, any money held or received on account of any person; or

(c) relieve any trust account practice which has invested any money referred to in subsection (1) in a trust or other interest-bearing account referred to in section 86, of any liability in respect thereof.

(4) Any bank at which a trust account practice keeps its trust account or any separate account forming part of its trust account, must, if so directed by the Council or the Board, furnish the Council or the Board with a signed statement of that account for the period determined by the Council.

CHAPTER 8

GENERAL PROVISIONS

Recovery of costs by legal practitioners rendering free legal services

92. (1) Whenever in any legal proceedings or any dispute in respect of which legal services are rendered for free to a litigant or other person by a legal practitioner or law clinic, and costs become payable to that litigant or other person in terms of a judgment of the court or a settlement, or otherwise, that litigant or other person must be deemed to have ceded his or her rights to the costs to that legal practitioner, law clinic or practice.

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

(i) the person liable for those costs; and

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

that the legal services are being or have been rendered for free by that legal practitioner, law clinic or practice.

(b) Where notice has been given as provided for in paragraph *(a)*, the legal practitioner, law clinic or practice concerned may proceed in his or her or its own name, or the name of his or her practice, to have those costs taxed, where appropriate, and to recover them, without being formally substituted for the litigant or person referred to in subsection (1).

(3) The costs referred to in subsection (1) must be calculated and the bill of costs, if any, must be taxed as if the litigant or person to whom the legal services were rendered by the legal practitioner, law clinic or practice actually incurred the costs of obtaining the services of the legal practitioner, law clinic or practice acting on his or her or its behalf in the proceedings or dispute concerned.

Offences and penalties

93. (1) Any person who, in a practice, without the written consent of the Council, employs in any capacity any person who has been struck off the Roll or suspended from practice, while that person remains struck off or suspended, commits an offence and is liable on conviction to a fine or imprisonment for a period not exceeding one year.

(2) Any person who contravenes the provisions of section 33 commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

eyinxalenye ye-akhawunti yeemali zokuphathiswa, ayithi, ngokumayela nobutyala enabo loo ofisi yobugqwetha kuloo bhanki, ingebobutyala obunento yokwenza naloo akhawunti, ayithi izuze ilungelo lokufumana kwimali ekuloo akhawunti, nokuba kukho into engu-ina-ethe, ekukufunwa kwembuyekezo okuvela macal' omabini, okanye enye into.

(3) Esi siqendu—

(a) asiyohluthi ibhanki ilungelo ebelikho kakade;

(b) asilohluthi okanye asikuchaphazeli ukufunwa kwembuyekezo, isibambiso, ukufunwa kwembuyekezo macal' omabini, ilungelo elingu-ina-ethe, okanye naliphi na ilungelo i-ofisi yobugqwetha enalo kwimali egciniweyo okanye efunyenweyo iyeyomntu;

(c) asiyikhululi nayiphi na i-ofisi yobugqwetha elondoloze imali ekuthethwe ngayo kwisiqendwana (1) kwi-akhawunti yeemali zokuphathiswa kwenye i-akhawunti ezala inzala ekuthethwe ngayo kwisiqendu 86, asiyikhululi kubutyala enokuba nabo mayela nayo.

(4) Nayiphi na ibhanki ekugcinwa kuyo imali yiofisi yobugqwetha yeemali zokuphathiswa okanye nayiphi na i-akhawunti esecaleni eyinxalenye ye-akhawunti yeemali zokuphathiswa mayithi, ukuba iyalelwe ukuba yenze njalo liBhunga okanye yiBhodi, inike iBhunga okanye iBhodi isiteyitimenti esityikityiweyo saloo akhawunti sobude bexesha elifunwa liBhunga.

ISAHLUKO 8

OKUTSHIWO NGULO MTHETHO GABALALA

Ukubuyelwa yimali yeendleko kwamagqwetha awenz' umsebenzi wobugqwetha simahla

92. (1) Nanini na xa kwityala lasenkundleni okanye kwimbambano athi umntu enzelwe umsebenzi wobugqwetha ligqwetha okanye liziko-ncedo lomthetho, simahla, kuze kufuneke ahlawulwe iindleko loo mntu ngokwesigqibo senkundla, okanye ngesivumelwano okanye ngenye indlela, loo mntu makathathwe njengonikezele ngamalungelo akhe kwiindleko zelo gqwetha, okanye zeziko-ncedo lobugqwetha, okanye kwiindleko zaloo ofisi yobugqwetha.

(2) *(a)* Umntu ekuthethwe ngaye kwisiqendwana (1) okanye igqwetha okanye iziko-ncedo lobugqwetha, unokuthi nangaliphi na ixesha ngaphambi kokuhlawulwa kweendleko ekuthethwe ngazo kwisiqendwana (1), amnike isaziso esibhaliweyo—

(i) umntu omakahlawule ezo ndleko; kwakunye

(ii) nomgcini-zifayile okanye umabhalane wenkundla,

esithi umsebenzi wobugqwetha owenziwayo okanye owenziweyo wenziwa okanye wenziwe simahla lelo gqwetha okanye yiloo ofisi yobugqwetha.

(b) Xa umntu enikwe isaziso ngendlela etshiwo kwisiqendu *(a)*, igqwetha linokuthi liqhubeke egameni lalo, okanye egameni le-ofisi yalo, lenze ukuba ezo ndleko zihlolwe kuze kususwe ezingafanelekanga ukuba zikho, xa kufanelekile, lize libuyelwe yimali yazo lingathatyathelwang' indawo ngumnntu ekuthethwe ngaye kwisiqendwana (1).

(3) Iindleko ekuthethwe ngazo kwisiqendwana (1) mazibalwe zize zihlolwe, kususwe ezingafanelekanga ukuba zikho, ngokungathi umntu owenzelwe umsebenzi wobugqwetha ligqwetha okanye liziko-ncedo lobugqwetha ungenile kwiindleko zokwenzelwa umsebenzi wobugqwetha ligqwetha okanye liziko-ncedo lomthetho elimmeleyo kwityalaokanye kwimbambano ekhoyo.

Izenzo ezikukona nezohlwayo

93. (1) Nawuphi na umntu othi, ngaphandle kwemvume ebhaliweyo yeBhunga, aqeshe umntu ogama lakhe licinyiweyo kuLuhlu okanye onqunyanyisiweyo ekusebenzeni, abe loo mntu lisacinyiwe igama lakhe kuLuhlu okanye abe esanqunyanyisiwe, waphul' umntu, kwaye esakufunyaniswa enetyala, uya kugwetywa ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kunyaka.

(2) Nawuphi na umntu owaphula okutshiwo sisiqendu 33 waphul' umthetho, kwaye esakufunyaniswa enetyala uya kugwetywa ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka emibini okanye agwetywe kokubini ifayini nokuvalelwa entolongweni.

(3) Any legal practitioner who contravenes any of the provisions of section 34 commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both such fine and imprisonment

(4) Any person who—

(a) fails to comply with the provisions of section 39(7)*(a)*(i), (ii), (iii) or (iv);

(b) contravenes section 39(7)*(b)*, *(e)* or *(f)*; or

(c) obstructs or hinders any person in the performance of his or her functions under section 39,

commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding one year.

(5) Any person who has been summoned to appear before the Ombud in terms of section 48 and who—

(a) without sufficient cause fails to appear at the time and place specified in the summons or to remain in attendance until he or she is excused by the Ombud from further attendance;

(b) at his or her appearance before the Ombud—

(i) fails to produce a book, document or other object in his or her possession or under his or her control which he or she has been summoned to produce; or

(ii) refuses to take an oath or to make an affirmation after he or she has been asked by the Ombud to do so; and

(c) having taken an oath or having made an affirmation—

(i) fails to answer fully and to the best of his or her ability any question lawfully put to him or her; or

(ii) gives false evidence knowing that evidence to be false or not knowing or not believing it to be true,

commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding one year.

(6) Any attorney or advocate who contravenes section 56(7) commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding two years.

(7) A claimant who fails to co-operate with the Fund in the exercise of its subrogated rights as contemplated in section 80, commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding two years.

(8) Any person who contravenes sections 84(1) or (2) or section 34, in rendering legal services—

(a) commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding two years or to both such fine and imprisonment;

(b) is on conviction liable to be struck off the Roll; and

(c) is not entitled to any fee, reward or reimbursement in respect of the legal services rendered.

(9) Any person who—

(a) refuses or fails to produce a book, document or any article in terms of section 37(2)*(a)* or *(b)* or 87(5);

(b) contravenes section 37(2)*(c)* or 87(6); or

(c) obstructs or hinders any person in the performance of his or her functions under those provisions,

commits an offence and is liable on conviction to a fine or to imprisonment for a period not exceeding one year.

CHAPTER 9

REGULATIONS AND RULES

Regulations

94. (1) The Minister may, and where required in the circumstances, must, subject to subsection (2), make regulations relating to—

(a) the establishment of a mechanism to provide appropriate legal education and training as contemplated in section 6(5)*(f)*;

(3) Naliphi na igqwetha elaphula okutshiwo sisiqendu 34 laphul' umthetho, kwaye lisakufunyaniswa linetyala liya kugwetywa ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka emibini okanye ligwetywe kokubini ifayini nokuvalelwa entolongweni.

(4) Nawuphi na umntu—

(a) ongakwenziyo okufunwa sisiqendu 39(7)*(a)*(i), (ii), (iii) okanye (iv);

(b) owaphul' isiqendu 39(7)*(b)*, *(e)* okanye *(f)*; okanye

(c) othintela omnye umntu ekwenzeni imisebenzi yakhe engokwesiqendu 39,

waphul' umthetho, kwaye esakufunyaniswa enetyala uya kugwetywa ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kunyaka.

(5) Nawuphi na umntu obizelwe ukuba avele phambi koNozikhalazo ngokwesiqendu 48, nothi—

(a) engenasizathu sivakala ngokwaneleyo angaveli ngexesha nakwindawo exeliweyo kumsila wengwe, okanye othi evelile angahlali alinde de akhululwe nguNozikhalazo;

(b) xa evelile phambi koNozikhalazo—

(i) angayivezi incwadi okanye uxwebhu okanye enye into ekuye abizelwe ukuba ayiveze; okanye

(ii) ale ukufunga okanye ukwenza isibhambathiso sokutheth' inyaniso esakucelwa nguNozikhalazo ukuba enze njalo; nothi

(c) xa efungile okanye wenza isibhambathiso sokutheth' inyaniso—

(i) angayiphenduli ngokupheleleyo nangokunyanisekileyo imibuzo ayibuzwayo; okanye

(ii) anike ubungqina obububuxoki esazi ukuba obo bungqina bububuxoki okanye engabukholelwa kwayena ukuba buyinyaniso,

waphul' umthetho, kwaye esakufunyaniswa enetyala uya kugwetywa ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kunyaka.

(6) Naliphi na igqwetha okanye igqwetha leejaji elaphula isiqendu 56(7) laphul' umthetho, kwaye lisakufunyaniswa linetyala liya kugwetywa ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka emibini.

(7) Umntu ofun' imbuyiselo ongasebenzisaniyo neNgxowa-Mali ekusebenziseni kwayo amalungelo athatyathelw' indawo ngamanye njengoko kuxelwe kwisiqendu 80, waphul' umthetho, kwaye esakufunyaniswa enetyala uya kugwetywa ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka emibini.

(8) Nawuphi na umntu owaphula isiqendu 84(1) okanye (2) okanye isiqendu 34 xa esenza imisebenzi yobugqwetha—

(a) waphul' umthetho, kwaye esakufunyaniswa enetyala uya kugwetywa ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kwiminyaka emibini okanye agwetywe kokubini ifayini nokuvalelwa entolongweni;

(b) uya kuthi akufunyaniswa enetyala acinywe kuLuhlu; kwaye

(c) akanalungelo lakufumana mali, mvuzo okanye kubuyiselwa iindleko ngomsebenzi wobugqwetha awenzileyo.

(9) Nawuphi na umntu—

(a) owalayo okanye owoyisakalayo ukuveza incwadi okanye uxwebhu okanye enye into ngokwesiqendu 37(2)*(a)* okanye *(b)* okanye ngokwesiqendu 87(5); okanye

(b) owaphula isiqendu 37(2)*(c)* okanye isiqendu 87(6); okanye

(c) othintela omnye umntu ekwenzeni imisebenzi yakhe engokwezo ziqendu,

waphul' umthetho, kwaye esakufunyaniswa enetyala uya kugwetywa ifayini okanye ukuvalelwa entolongweni ixesha elingagqithiyo kunyaka.

ISAHLUKO 9

IMIMISELO NEMIGAQO

Imimiselo

94. (1) UMphathiswa usenokuthi enze imimiselo, kwaye xa iimeko zinyanzelisa, makayenze, kodwa ngokulawulwa sisiqendwana (2), kuyimimiselo—

(a) engokuthi gqi necebo lokufundisa nokuqeqesha ngokufanelekileyo kumsebenzi wobugqwetha njengoko kuxelwe kwisiqendu 6(5)*(f)*;

(b) the establishment of a mechanism to monitor progress on the implementation of the programmes relating to the empowerment of historically disadvantaged legal practitioners as well as historically disadvantaged candidate legal practitioners referred to in section 6(5)*(h)*(iv);
(c) a procedure for the election of legal practitioners to the Council as contemplated in section 7(1)*(a)*;
(d) the manner in which teachers of law are designated for purposes of the Council as contemplated in section 7(1)*(b)*;
(e) the areas of jurisdiction of Provincial Councils as contemplated in section 23(2)*(b)*;
(f) the admission and enrolment of foreign legal practitioners as contemplated in section 24(3);
(g) the certificate to be issued by the registrar of a Division of the High Court to the effect that an attorney has the right to appear in the High Court, the Supreme Court of Appeal or the Constitutional Court as contemplated in section 25(3);
(h) appropriate relevant experience as contemplated in section 25(3)*(b)*;
(i) the practical vocational training requirements for candidate legal practitioners as contemplated in section 26(1)*(c)*;
(j) the rendering of community service as contemplated in section 29(1);
(k) the implementation of recommendations emanating from the investigation of the South African Law Reform Commission in respect of fees as contemplated in section 35;
(l) the manner in which an application is made to court for purposes of section 40(3)*(a)*(i) and *(b)*(i);
(m) government and other securities in which the Board can invest surplus funds as contemplated in sections 63(1)*(a)* and 72(3);
(n) the matters to be included in the annual report submitted to the Council and Minister as contemplated in section 75(3)*(d)*;
(o) any other matter in respect of which regulations may or must be made in terms of this Act; or
(p) any other ancillary or administrative matter that is necessary to be prescribed for the proper implementation or administration of this Act.

(2) The regulations contemplated in subsection (1) must—
(a) in the case of subsection (1)*(a)* to *(l)* and *(o)* and *(p)*, be made after consultation with the Council, unless otherwise indicated; and
(b) in the case of subsection (1)*(m)* and *(n)*, be made after consultation with the Council and the Board.

(3) Any regulation made under subsection (1) must, before publication thereof in the *Gazette*, be approved by Parliament.

Rules

95. (1) The Council may, and where required in the circumstances, must by publication in the *Gazette*, make rules relating to—
(a) the fees and charges payable to the Council as contemplated in section 6(4);
(b) the procedures to be followed before a member of the Council is removed or suspended from office as contemplated in section 12(4);
(c) the procedure for convening meetings of the Council and the procedure for the conduct of meetings as contemplated in section 16(2);
(d) the procedure for the conduct of meetings of committees of the Council as contemplated in section 18(3);
(e) the procedure for the appointment of the executive officer and other employees of the Council as contemplated in section 19(4);
(f) the conditions of service of the executive officer and other employees of the Council as contemplated in section 19(6);
(g) the establishment of an executive committee and the determination of its powers and functions as contemplated in section 20(1);
(h) the procedure for convening meetings of the executive committee and the procedure for the conduct of meetings as contemplated in section 20(9)*(b)*;

(b) engokuthi gqi necebo lokubek' esweni inkqubela engokuncedwa kwamagqwetha abesoloko ehlelelekile kwakunye namagqwetha asengabakhwetha ekuthethwe ngawo kwisiqendu 6(5)*(h)*(iv);

(c) engendlela yokunyulelwa kwamagqwetha kwiBhunga njengoko kuxelwe kwisiqendu 7(1)*(a)*;

(d) emayela nendlela abanokuthi abahlohli bezifundo zomthetho bachongwe ngenjongo yokuba kwiBhunga njengoko kuxelwe kwisiqendu 7(1)*(b)*;

(e) nemimandla anegunya kuyo amaBhunga amaPhoondo njengoko kuxelwe kwisiqendu 23(2)*(b)*;

(f) nokwamkelwa nokubhaliswa kwamagqwetha amanye amazwe njengoko kuxelwe kwisiqendu 24(3);

(g) emayela nesiqinisekiso emasikhutshwe ngumgcini-zifayile weCandelo leNkundla Ephakamileyo esithi igqwetha linelungelo lokuvela kwiNkundla Ephakamileyo, kwiNkundla Ephakamileyo yeZibheno okanye kwiNkundla YoMgaqo-siseko njengoko kuxelwe kwisiqendu 25(3);

(h) namava afanelekileyo njengoko kuxelwe kwisiqendu 25(3)*(b)*;

(i) emayela neemfuneko zokuqeqeshelwa umsebenzi zamagqwetha asengabakhwetha njengoko kuxelwe kwisiqendu 26(1)*(c)*;

(j) emayela nokusetyenzelwa koluntu njengoko kuxelwe kwisiqendu 29(1);

(k) nokusetyenziswa kwezindululo ezibekho ngenxa yophando olwenziwe yiKomishoni Yokuguqulwa Komthetho WaseMzantsi-Afrika mayela neemali emazihlawulwe njengoko kuxelwe kwisiqendu 35;

(l) engendlela emasenziwe ngayo isicelo esibhekiswa enkundleni ngokwenjongo yesiqendu 40(3)*(a)*(i) no-*(b)*(i);

(m) emayela norhulumente nezinye iindawo ezikhuselekileyo enokuthi iBhodi ilondoloze iimali ezithe kratya, zizale, njengoko kuxelwe kwisiqendu 63(1)*(a)* no-72(3);

(n) emayela nezinto emaziqukwe kwingxelo yonyaka engeniswa kwiBhunga nakuMphathiswa njengoko kuxelwe kwisiqendu 75(3)*(d)*;

(o) emayela nayo nayiphi na into ekunokuthi kwenziwe imimiselo ngayo okanye emakwenziwe imimiselo ngayo ngokwalo Mthetho; okanye

(p) emayela nayiphi na enye into enxulumene noku okanye engeyolawulo ekuyimfuneko ukuba kwenziwe ummiselo ngayo ukuze usebenze kakuhle lo Mthetho.

(2) Imimiselo exelwe kwisiqendwana (1) mayithi—

(a) xa kuyeyesiqendwana (1)*(a)* ukuya ku-*(l)* no-*(o)* no-*(p)*, yenziwe emva kokubonisana neBhunga, ngaphandle kokuba kuboniswe ngenye indlela; ize

(b) xa kuyeyesiqendwana (1)*(m)* no-*(n)*, yenziwe emva kokubonisana neBhunga neBodi.

(3) Nawuphi na ummiselo owenziwayo ngokwesiqendwana (1) mawuthi ngaphambi kokuba ushicilelwe ku*Shicilelo-Mithetho* uvunywe yiPalamente.

Imigaqo

95. (1) IBhunga lisenokuthi liqulunqe imigaqo, kwaye xa iimeko zinyanzelisa, maliyiqulunqe imigaqo liyipapashe ku*Shicilelo-Mithetho*, kuyimigaqo—

(a) engemirhumo emayihlawulwe kwiBhunga mjengoko kuxelwe kwisiqendu 6(4);

(b) engeenkqubo emazilandelwe ngaphambi kokuba ilungu leQumrhu lishenxiswe okanye linqunyanyiswe njengoko kuxelwe kwisiqendu 12(4);

(c) engendlela yokubiza iintlanganiso zeBhunga nenkqubo yokuziqhuba iintlanganiso njengoko kuxelwe kwisiqendu 16(2);

(d) engendlela yokuqhuba iintlanganiso zeekomiti zeBhunga njengoko kuxelwe kwisiqendu 18(3);

(e) engendlela yokuqeshwa kwegosa eliququzelelayo nabanye abaqeshwa beBhunga njengoko kuxelwe kwisiqendu 19(4);

(f) engemiqathango yokusebenza kwegosa eliququzelelayo nabanye abaqeshwa beBhunga njengoko kuxelwe kwisiqendu 19(6);

(g) engokusekwa kwekomiti eququzelelayo nokwenziwa kwesigqibo ngamagunya ayo nemisebenzi yayo njengoko kuxelwe kwisiqendu 20(1);

(h) engendlela yokubiza iintlanganiso zekomiti eququzelelayo nendlela yokuziqhuba iintlanganiso njengoko kuxelwe kwisiqendu 20(9)*(b)*;

(i) the investment of monies of the Council which are not required for immediate use as contemplated in section 22(3)*(b)*;

(j) a procedure for the election of Provincial Councils as contemplated in section 23(4);

(k) the information which must be submitted to the Council when a person applies to court for admission as a legal practitioner and the time period within which that information must be submitted as contemplated in section 24(2)*(d)*;

(l) the period of practice as an attorney and the advocacy training programme as contemplated in the proviso to section 25(3)*(a)*;

(m) the information which must be submitted to the Council when an attorney applies to the registrar of a Division of the High Court for a certificate for the right to appear in the High Court, the Supreme Court of Appeal or the Constitutional Court and the time period within which that information must be submitted as contemplated in section 25(4)*(a)*;

(n) competency—based examinations or assessments for candidate legal practitioners, conveyancers or notaries as contemplated in section 26(1)*(d)*, (2) and (3) ;

(o) the minimum conditions and procedures for the registration and administration of practical vocational training and the payment of remuneration, allowances or stipends to all candidate legal practitioners as contemplated in section 27;

(p) procedures and directions pertaining to the assessment of persons undergoing practical vocational training as contemplated in section 28(1);

(q) the level of competence to be achieved for the admission and enrolment of a person as a legal practitioner as contemplated in section 28(2);

(r) the criteria for a person, institution, organisation or association to qualify to conduct the assessment of practical vocational training as contemplated in section 28(4);

(s) the exemption of any candidate legal practitioner or legal practitioner from performing community service as contemplated in section 29(3);

(t) the manner in which an application by a person admitted by the court as a legal practitioner must be submitted to the Council through the Provincial Council in question for the enrolment of his or her name on the Roll as contemplated in section 30(1)*(a)*and *(b)*(iii);

(u) the fee to be paid by a person applying to the Council for enrolment as contemplated in section 30(1)*(b)*(i);

(v) the manner in which the Council must keep the Roll of legal practitioners as contemplated in section 30(3);

(w) the notification by the Council of a person of the cancellation or suspension of his or her enrolment as contemplated in section 31(3);

(x) the manner in which an application must be made by a legal practitioner to the Council for the conversion of his or her enrolment as an attorney to that of an advocate and *vice versa* and the fee payable as contemplated in section 32(1)*(a)*;

(y) the manner in which an application must be made by an advocate practising as such referred to in section 34(2)*(a)*(i) to the Council, for the conversion of his or her enrolment to that of an advocate practising as such referred to in section 34(2)*(a)*(ii) and *vice versa* as contemplated in section 32(1)*(b)*;

(z) the circumstances in which a legal practitioner can apply for the conversion of his or her enrolment and the requirements that must be complied with as contemplated in section 32(3);

*(z*A*)* those legal services that may be rendered by an advocate as contemplated in section 34(2)*(b)*;

*(z*B*)* the briefing of advocates by attorneys and the briefing of advocates directly by members of the public as contemplated in section 34(3);

(i) engokulondolozwa kweemali zeBhunga ngendlela eza kuba nenzala, kuziimali ezingazukhawuleza zisetyenziswe njengoko kuxelwe kwisiqendu 22(3)*(b)*;

(j) engendlela yokunyula amaBhunga amaPhondo njengoko kuxelwe kwisiqendu 23(4);

(k) engengcombolo emayithunyelwe kwiBhunga xa umntu esenz' isicelo enkundleni sokwamkelwa njengegqwetha, nexesha emalingapheli ingekathunyelwa loo ngcombolo njengoko kuxelwe kwisiqendu 24(2)*(d)*;

(l) engobude bexesha lokusebenza njengegqwetha noqeqesho lobugqwetha njengoko kuxelwe kwisiqendu esingemeko yoxhomekeko sama-25(3)*(a)*;

(m) engengcombolo emayithunyelwe kwiBhunga xa igqwetha lisenz' isicelo kuMgcini-zifayile weCandelo leNkundla Ephakamileyo sokufumana isiqinisekiso selungelo lokumela abantu kwiNkundla Ephakamileyo, kwiNkundla Ephakamileyo yeZibheno okanye kwiNkundla yoMgaqo-siseko, nexesha emalingapheli ingekathunyelwa loo ngcombolo njengoko kuxelwe kwisiqendu 25(4)*(a)*;

(n) engokukwazi ukuwenza umsebenzi—okusekelwe kwiimviwo okanye kwiimvavanyo zamagqwetha asengabakhwetha, amagqwetha onaniselwano ngemizi, okanye amagqwetha amaxwebhu afungelweyo njengoko kuxelwe kwisiqendu 26(1)*(d)* no-(2) no-(3);

(o) engemiqathango yokuqala neendlela zokubhaliswa nokulawulwa koqeqesho lomsebenzi nokuhlawulwa kwemivuzo, iimalana ezisecaleni okanye umvuzwana ongephi kuwo onke amagqwetha asengabakhwetha njengoko kuxelwe kwisiqendu 27;

(p) engeendlela nemiyalelo ephathelele ekuhlolweni kwabantu abaqeqeshelwa umsebenzi njengoko kwisiqendu 28(1);

(q) engobuchule obufunekayo ukuze umntu amkelwe aze abhaliswe njengegqwetha njengoko kuxelwe kwisiqendu 28(2) ;

(r) engeemfuneko zokuba umntu okanye umbutho ufanelekele ukuhlola uqeqesho lomsebenzi njengoko kuxelwe kwisiqendu 28(4);

(s) engokukhululwa kwegqwetha elisengumkhwetha okanye engokukhululwa kwegqwetha kwisinkqamangelo sokusebenzela uluntu njengoko kuxelwe kwisiqendu 29(3);

(t) engendlela emasithi ngayo isicelo somntu owamkelwe yinkundla njengegqwetha sibhekiswe kwiBhunga ngeBhunga lePhondo elichaphazelekayo ukuze kubhaliwe laloo mntu kuLuhlu njengoko kuxelwe kwisiqendu 30(1)*(a)* no-*(b)*(iii);

(u) engomrhumo omawuhlawulwe ngumntu owenz' isicelo kwiBhunga isesokubhaliswa njengoko kuxelwe kwisiqendu 30(1)*(b)*(i);

(v) engendlela yokugcinwa koLuhlu lwamagqwetha liBhunga njengoko kuxelwe kwisiqendu 30(3);

(w) engokwaziswa komntu liBhunga ngokurhoxiswa okanye ukunqunyanyiswa kokubhaliswa kwakhe njengoko kuxelwe kwisiqendu 31(3);

(x) engendlela emalithi ngayo igqwetha lenze isicelo kwiBhunga sokuguqula ukubhaliswa kwalo njengegqwetha libhaliswe njengegqwetha leejaji okanye igqwetha leejaji libhaliswe njengegqwetha nomrhumo omawuhlawulwe njengoko kuxelwe kwisiqendu 32(1)*(a)*;

(y) engendlela emalithi ngayo igqwetha leejaji elisebenza njengegqwetha leejaji ekuthethwe ngalo kwisiqendu 34(2)*(a)*(i) lenze isicelo kwiBhunga sokuba kuguqulwe ukubhaliswa kwalo kube kokwegqwetha leejaji elisebenza njengegqwetha leejaji ekuthethwe ngalo kwisiqendu 34(2)*(a)*(ii), okanye ekuthethwe ngalo kwisiqendu 34(2)*(a)*(ii) libe lelisebenza njengelo kuthethwe ngalo kwisiqendu 34(2)*(a)*(i), njengoko kuxelwe kwisiqendu 32(1)*(b)*;

(z) engeemeko elinokuthi kuzo igqwetha lenz' isicelo sokuguqulwa kokubhaliswa kwalo neemfuneko ekufuneka lihlangabezane nazo njengoko kuxelwe kwisiqendu 32(3);

*(z*A*)* engezo nkonzo zobugqwetha ezinokwenziwa ligqwetha leejaji njengoko kuxelwe kwisiqendu 34(2)*(b)*;

*(z*B*)* engokunikwa kwegqwetha leejaji umsebenzi liwunikwa ligqwetha, nengokunikwa kwegqwetha leejaji umsebenzi liwunikwa ngqo ngabantu njengoko kuxelwe kwisiqendu 34(3);

*(z*C*)* the instruction of attorneys as contemplated in section 34(4);

*(z*D*)* the approval for the establishment of law clinics as contemplated in section 34(8)*(a)*;

*(z*E*)* the requirements for the engagement of candidate legal practitioners by law clinics as contemplated in section 34(8)*(b)*(iv);

*(z*F*)* those legal services which may not be rendered by law clinics as contemplated in section 34(8)*(b)*(v);

*(z*G*)* the procedure to be followed by disciplinary bodies for dealing with complaints of misconduct as contemplated in sections 38(1) and 39(1);

*(z*H*)* the form of a subpoena and the manner of service thereof as contemplated in section 39(3)*(b)*(i) and (iii);

*(z*I*)* the manner in which a legal practitioner, candidate legal practitioner, juristic entity or complainant may lodge an appeal to an appeal tribunal as contemplated in section 41(1)*(a)* and *(b)*;

*(z*J*)* a procedure for the election of legal practitioners to the Board as contemplated in section 62(1)*(a)*, in consultation with the Board;

*(z*K*)* applications to the Council by legal practitioners for Fidelity Fund certificates as contemplated in section 85(1)*(a)*;

*(z*L*)* the legal practice management course to be completed by first time attorneys and advocates referred to in section 34(2)*(b)* and the fee payable in respect thereof as contemplated in section 85(1)*(b)*;

*(z*M*)* the contribution payable by persons applying for Fidelity Fund certificates as contemplated in section 85(2);

*(z*N*)* the form of the application for Fidelity Fund certificates as contemplated in section 85(6)*(d)*; or

*(z*O*)* any other matter in respect of which rules may or must be made in terms of this Act;

(2) The Legal Services Ombud must, by publication in the *Gazette*, make rules relating to—

(a) the form of a summons and the manner of service thereof as contemplated in section 48(3)*(a)* and *(d)*;

(b) the preparation and submission of the annual report of the Office of the Ombud to the Minister as contemplated in section 52(1); and

(c) any other matter concerning the Office of the Legal Services Ombud.

(3) The Board must, by publication in the *Gazette*, make rules relating to—

(a) the inspection of trust accounts of attorneys and advocates referred to in section 34(2)*(b)* as contemplated in section 63(1)*(e)*; and

(b) contributions to the Fund and the issuing and costs of Fidelity Fund certificates, the procedure for the appointment of the executive officer and other employees of the Fund or any other matter concerning the Fund as contemplated in section 63(1)*(f)*.

(4) *(a)* Before the Council, the Ombud or the Board makes any rule under this section, the Council, the Ombud or the Board, as the case may be, must publish a draft of the proposed rule in the *Gazette* together with a notice, calling on interested persons to comment in writing within a period stated in the notice, which may not be less than 30 days from the date of publication of the notice.

(b) If the Council, the Ombud or the Board alters the draft rules as a result of any comments, it need not publish those alterations before making the rule.

(5) The Council, the Ombud or the Board may, if circumstances necessitate the publication of a rule without giving notice provided for in subsection (4)*(a)*, publish that rule without prior publication of a draft as provided for in subsection (4), provided that the notice of publication states—

(a) the reason why circumstances necessitated that publication without prior publication of a draft as provided for in subsection (4); and

(zC) engokunikwa umsebenzi kwamagqwetha njengoko kuxelwe kwisiqendu 34(4);

(zD) engokuvunywa kokusekwa kwamaziko oncedo lomthetho njengoko kuxelwe kwisiqendu 34(8)*(a)*;

(zE) engeemfuneko zokusetyenziswa kwamagqwetha asengabakhwetha ngamaziko oncedo lomthetho njengoko kuxelwe kwisiqendu 34(8)*(b)*(iv);

(zF) emayela nezo nkonzo zobugqwetha ezingenakwenziwa ngamaziko oncedo lomthetho njengoko kuxelwe kwisiqendu 34(8)*(b)*(v);

(zG) emayela nenkqubo emayilandelwe ngamaqumrhu olungiso-similo xa kukho izikhalazo zokuziphatha gwenxa njengoko kuxelwe kwisiqendu 38(1) nesama-39(1);

(zH) emayela nohlobo lomsila wengwe nendlela yokuwusa emntwini njengoko kuxelwe kwisiqendu 39(3)*(b)*(i) no-(iii);

(zI) emayela nendlela elinokuthi ngayo igqwetha, okanye igqwetha elisengumkhwetha, okanye inkampani yamagqwetha okanye ummangali afak' isibheno kubachopheli-sibheno njengoko kuxelwe kwisiqendu 41(1)*(a)* no-*(b)*;

(zJ) emayela nendlela yokunyulwa kwamagqwetha abe kwiBhodi njengoko kuxelwe kwisiqendu 62(1)*(a)*, ngokubonisana neBhodi;

(zK) emayela nezicelo ezenziwa ngamagqwetha zisiya kwiBhunga zokufumana iziqinisekiso zeFidelity Fund njengoko kuxelwe kwisiqendu 85(1)*(a)*;

(zL) emayela nesifundo sokuphathwa komsebenzi wobugqwetha emasiphunyelelwe ngamagqwetha aqalayo ukuba ngamagqwetha namagqwetha eejaji aqalayo ukuba ngamagqwetha eejaji ekuthethwe ngawo kwisiqendu 34(2)*(b)* nomrhumo omawuhlawulwe mayela noko njengoko kuxelwe kwisiqendu 85(1)*(b)*;

(zM) emayela nomrhumo omawuhlawulwe ngabantu abenza izicelo zeziqinisekiso zeFidelity Fund njengoko kuxelwe kwisiqendu 85(2);

(zN) emayela nefomu yokwenz' isicelo seziqinisekiso zeFidelity Fund njengoko kuxelwe kwisiqendu 85(6)*(d)*; okanye

(zO) engawo nawuphi na umcimbi ekunokuthi kwenziwe okanye ekunyanzelekileyo ukuba kwenziwe imigaqo ngawo ngokwalo Mthetho.

(2) UNozikhalazo Wemisebenzi Yobugqwetha makathi, ngokupapasha ku*Shicilelo-Mithetho*, aqulunqe imigaqo emayela—

(a) nohlobo lomsila wengwe nendlela omawusiwe ngayo emntwini njengoko kuxelwe kwisiqendu 48(3)*(a)* no-*(d)*;

(b) nokuqulunqwa nokungeniswa kwengxelo yonyaka yeOfisi kaNozikhalazo eyingenisa kuMphathiswa njengoko kuxelwe kwisiqendu 52(1); kwakunye

(c) nawuphi na omnye umcimbi ongeOfisi kaNozikhalazo Wemisebenzi Yobugqwetha.

(3) IBhodi mayithi, ngokupapasha ku*Shicilelo-Mithetho*, iqulunqe imigaqo emayela—

(a) nokuhlolwa kwee-akhawunti zemali yokuphathiswa zamagqwetha namagqwetha eejaji ekuthethwe ngazo kwisiqendui 34(2)*(b)* njengoko kuxelwe kwisiqendu 63(1)*(e)*;

(b) neminikelo eya kwiFund, nokukhutshwa kwakunye neendleko zeziqinisekiso zeFidelity Fund, indlela emaliqeshwe ngayo igosa eliphezulu eliququzelelayo nabanye abaqeshwa beFund okanye nawuphi na omnye umcimbi ongeFund njengoko kuxelwe kwisiqendu 63(1)*(f)*.

(4) *(a)* Ngaphambi kokuba iBhunga liqulunqe nawuphi na umgaqo ngokwesi siqendu, maliwupapashe useluvavanyo ku*Shicilelo-Mithetho* kunye nesaziso, lihlab' ikhwelo kubantu abachaphazelekayo ukuba bavakalise izimvo ngokubhala lingaphelanga ixesha elixelwe kwisaziso, elingenakuba ngaphantsi kweentsuku ezingama-30 ukususela kumhla wokupapashwa kwesaziso.

(b) Ukuba iBhunga lithi liyitshintshe imigaqo eseluvavanyo ngenxa yezimvo ezifunyenweyo, akukho mfuneko yokuba ilupapashe olo tshintsho ngaphambi kokuba iwuqulunqe umgaqo.

(5) Ukuba iimeko zifunisa ukuba upapashwe umgaqo ngaphandle kokwenza isaziso njengoko kutshiwo kwisiqendwana (4)*(a)*, iBhunga linokuthi liwupapashe loo mgaqo lingaqalanga lawupapasha useluvavanyo njengoko kutshiwo kwisiqendwana (4), kodwa oko kuxhomekeke ekubeni isaziso sokupapashwa—

(a) siyasixela isizathu esifunise ukuba kupapashwe kungaqalwanga kwapapashwa umgaqo oseluvavanyo njengoko kutshiwo kwisiqendwana (4);

(b) that any person who is aggrieved by the rule may make representations to the Council, the Ombud or the Board, as the case may be, within a period stated in the notice, which may not be less than 30 days from the date of publication of the notice.

CHAPTER 10

NATIONAL FORUM AND TRANSITIONAL PROVISIONS

Part 1

National Forum on Legal Profession

96. (1) A National Forum on the Legal Profession (hereafter referred to as the ''National Forum'') is hereby established as a body corporate with full legal capacity and comprising of the following members:

(a) 16 legal practitioners, namely—
  (i) eight attorneys designated by the Law Society of South Africa, two of which represent the Black Lawyers Association, two of which represent the National Association of Democratic Lawyers, one of which represents the Law Society of the Cape of Good Hope, one of which represents the Law Society of the Orange Free State, one of which represents the Law Society of the Transvaal and one of which represents the Natal Law Society;
  (ii) five advocates designated by the General Council of the Bar of South Africa;
  (iii) one advocate designated by the National Bar Council of South Africa;
  (iv) one advocate designated by the National Forum of Advocates; and
  (v) one advocate designated by Advocates for Transformation;

(b) one teacher of law designated by the South African Law Deans Association;

(c) subject to subsection (3), two persons who, in the opinion of the Minister, are fit and proper persons who have knowledge of the legal profession, designated by the Minister;

(d) one person designated by Legal Aid South Africa; and

(e) one person designated by the Board.

(2) The need for the National Forum to reflect—

(a) the racial and gender composition of South Africa;

(b) representation of persons with disabilities; and

(c) provincial representation,

must, as far as is practicable, be considered when the National Forum is established in terms of this section, in addition to the terms of reference of the National Forum.

(3) A person referred to in subsection (1)*(c)* may not be designated as a member of the National Forum if he or she—

(a) is a public servant;

(b) is a member of Parliament, any provincial legislature or any municipal council; or

(c) is an office-bearer or employee of any party, movement or organisation of a party-political nature.

(4) The duration of the National Forum is for a period not exceeding three years and it ceases to exist on the date of commencement of Chapter 2.

(5) Subject to sections 99, 102 and 103, members of the National Forum hold office for the three year duration of the National Forum.

Terms of reference of National Forum

97. (1) The National Forum must, within 24 months after the commencement of this Chapter—

(a) make recommendations to the Minister on the following:
  (i) An election procedure for purposes of constituting the Council;
  (ii) the establishment of the Provincial Councils and their areas of jurisdiction, taking into account the factors referred to in section 23(2)*(a)*;
  (iii) the composition, powers and functions of the Provincial Councils;
  (iv) the manner in which the Provincial Councils must be elected;

(b) siyatsho ukuthi nawuphi na umntu okhwiniswayo ngumgaqo unokutsho afuna ukukutsho kwiBhunga, kuNozikhalazo okanye kwiBhodi, lingaphelanga ixesha elixelwe kwisaziso, elingenakuba ngaphantsi kweentsuku ezingama-30 ukususela kumhla wokupapashwa kwesaziso.

ISAHLUKO 10

IQONGA NOKUZA KWENZEKA OKWETHUTYANA

iNxalenye 1

IQonga Lomsebenzi Wobugqwetha

96. (1) Ngokwenjenje kusekwa iQonga Lomsebenzi Wobugqwetha (emva koku eliza kubizwa ngokuba liQonga) njengequmrhu elinamagunya apheleleyo omthetho elimalungu alandelayo:

(a) amagqwetha ali-16, ngolu hlobo—

(i) amagqwetha asibhozo achongwe nguMbutho Wamagqwetha WaseMzantsi-Afrika (Law Society of South Africa), amabini kuwo emela iBlack Lawyers Association, amabini kuwo emela iNational Association of Democratic Lawyers, elinye kuwo limela iLaw Society of the Cape of Good Hope, elinye kuwo limela iLaw Society of the Orange Free State, elinye kuwo limela iLaw Society of the Transvaal, elinye kuwo limela iNatal Law Society;

(ii) amagqwetha eejaji amahlanu achongwe yiGeneral Council of the Bar of South Africa;

(iii) igqwetha leejaji elinye elichongwe yiNational Bar Council of South Africa;

(iv) igqwetha leejaji elinye elichongwe yiNational Forum of Advocates;

(v) negqwetha leejaji elinye elichongwe yiAdvocates for Transformation;

(b) umhlohli wezifundo zomthetho omnye ochongwe yiSouth African Law Deans Association;

(c) ngokulawulwa sisiqendwana (3), abantu ababini ababonwa nguMphathiswa ngoluvo lwakhe bengabantu abafanelekileyo abanolwazi lomsebenzi wobugqwetha, abachongwe nguMphathiswa;

(d) umntu omnye ochongwe yiLegal Aid South Africa;

(e) nomntu omnye ochongwe yiBhodi.

(2) Imfuneko yokuba kwiQonga kubonakale—

(a) ubume boMzantsi-Afrika ngokweentlanga namadoda nabafazi;

(b) ukumelwa kwabantu abaneziphene;

(c) nokumelwa kwamaphondo,

makuthi kangangoko kunokwenzeka kucingelwe xa kusekwa iQonga ngokwesi siqendu, ukongezelela kwimiyalelo enikwe iQonga.

(3) Umntu ekuthethwe ngaye kwisiqendwana (1)*(c)* akanakuchongwa abe lilungu leQonga ukuba—

(a) usebenzela urhulumente;

(b) ulilungu lePalamente, okanye ilungu lendlu yowiso-mthetho, okanye unguceba; okanye

(c) unesikhundla okanye ungumqeshwa wombutho wopolitiko.

(4) Ixesha lobukho beQonga lixesha elingagqithiyo kwiminyaka emithathu, kwaye liyeka ukubakho ngomhla esiqalisa ngawo ukusebenza iSahluko 2.

(5) Ngokulawulwa sisiqendu 99, 102 nese-103, amalungu eQonga aba sesikhundleni elo xesha eliyiminyaka emithathu lobukho beBhunga Lethutyana.

Imida yomsebenzi weQonga

97. (1) Zingaphelanga iinyanga ezingama-24 siqalile ukusebenza esi Sahluko, iQonga—

(a) malenze izindululo kuMphathiswa ngezinto ezilandelayo:

(i) inkqubo yokunyula ngenjongo yokusungula iBhunga;

(ii) ukusekwa kwamaBhunga amaPhondo okuqala nemimandla anegunya phezu kwayo, kucingelwa izinto ezixelwe kwisiqendu 23(2)*(a)* ;

(iii) ubume, amagunya, nemisebenzi yamaBhunga amaPhondo nemisebenzi yawo;

(iv) indlela amakanyulwe ngayo amaBhunga amaPhondo okuqala;

(v) all the practical vocational training requirements that candidate attorneys or pupils must comply with before they can be admitted by the court as a legal practitioners;

(vi) the right of appearance of a candidate legal practitioner in court or any other institution; and

(vii) a mechanism to wind up the affairs of the National Forum;

(b) prepare and publish a code of conduct for legal practitioners, candidate legal practitioners and juristic entities; and

(c) make rules, as provided for in section 109(2).

(2) *(a)* The National Forum must, within 24 months of the commencement of this Chapter, negotiate with and reach an agreement with the law societies referred to in section 56 of the Attorneys Act and any other similar statutory bodies still regulating the legal profession established in the former homelands, in respect of the transfer of their assets, rights, liabilities, obligations and staff, to the Council or Provincial Councils.

(b) The provisions of paragraph *(a)* do not preclude any non-statutory bodies or voluntary associations which are involved in the regulation of legal practitioners or matters dealt with in this Act, from negotiating and reaching an agreement with the National Forum in respect of the transfer of their assets, rights, liabilities, obligations and staff, to the Council or Provincial Councils.

(3) Section 197 of the Labour Relations Act, 1995 (Act No. 66 of 1995), applies in respect of the transfer of the staff contemplated in subsection (2).

(4) If an agreement contemplated in subsection (2) cannot be reached by the parties concerned, any of the parties may agree to refer the matter to arbitration in terms of the Arbitration Act, 1965 (Act No. 42 of 1965).

(5) The Minister may extend the period of 24 months contemplated in subsections (1) and (2) if he or she deems it necessary.

Powers and functions of National Forum

98. (1) The National Forum may do all that is necessary or expedient to carry out its terms of reference referred to in section 97, including the following, having due regard to the Constitution and applicable legislation where appropriate and relevant:

(a) Establish one or more committees, including an executive committee, consisting of members of the National Forum only, or members of the National Forum and staff members or other persons, to assist the National Forum in—

(i) the performance or exercise of its powers and functions;

(ii) determining the powers and functions of a committee;

(iii) appointing a chairperson and deputy chairperson of a committee;

(iv) determining procedures for the functioning of committees; and

(b) delegate in writing any of its powers and functions to its committees, subject to any conditions it may impose, which delegation does not—

(i) divest the National Forum of the power or function so delegated; and

(ii) preclude the National Forum from varying or setting aside any decision made under a delegation.

(2) The National Forum must, in consultation with the Director-General—

(a) appoint an executive officer to perform or exercise the powers and functions determined by the National Forum and supervise the staff of the National Forum;

(b) employ or second from existing governance structures in the legal profession, so many staff members as may be necessary to enable it to carry out its functions;

(c) conclude agreements with any person or organisation for the performance of any particular act or any particular work or the rendering of services for the purpose of furthering the objects of the National Forum;

(d) enter into contracts in connection with the performance of its functions or the exercise of its powers;

(e) determine the remuneration and other conditions of service of staff members; and

(v) zonke izinto ezifunekayo zokuqeqeshelwa umsebenzi amakabe nazo amagqwetha asengabakhwetha ngaphambi kokuba abe nokwamkelwa yinkundla njengamagqwetha;

(vi) ilungelo legqwetha elisengumkhwetha lokumel' umntu phambi kwenkundla okanye phambi kwalo naliphi na iqumrhu;

(vii) necebo lokuqoshelisa imicimbi yeQonga;

(b) maliqulunqe imigqaliselo yokuziphatha lize liyipapashe iyeyamagqwetha, namagqwetha asengabakhwetha neenkampani ezenz' umsebenzi wobugqwetha; kananjalo

(c) liqulunqe imigaqo, njengoko kutshiwo kwisiqendu 109(2).

(2) *(a)* Zingaphelanga iinyanga ezingama-24 siqalise ukusebenza esi Sahluko, iQonga malifikelele kwisivumelwano nemibutho yamagqwetha ekuthethwe ngayo kwisiqendu 56 *seAttorneys Act* kunye nawo nawaphi na amanye amaqumrhu anjengaleyo esalawula umsebenzi wobugqwetha eyayisekwe kumaphandle, mayela nokufuduselwa kwiBhunga okanye kumaBhunga amaPhondo, kufuduselwa impahla yabo, namalungelo abo, namatyala abo, neembopheleleko abanazo, nabasebenzi babo.

(b) Okutshiwo sisiqendu *(a)* akuwakhupheli ngaphandle amaqumrhu angakhiwanga ngokwemithetho yepalamente okanye imibutho yokuzithandela ebandakanyekileyo ekulawulweni kwamagqwetha okuthethwe ngako kulo Mthetho, akuyithinteli ekubonisaneni ize ifikelele kwisivumelwano neQonga ngokufuduswa kwempahla, kwamalungelo, kwamatyala, kweembopheleleko nabasebenzi, befuduselwa kwiBhunga okanye kumaBhunga amaPhondo.

(3) Isiqendu 197 se*Labour Relations Act*, 1995 (Umthetho 66 ka-1995), siyasebenza ekufudusweni kwabasebenzi okuxelwe kwisiqendwana (2).

(4) Ukuba akufikeki kwisivumelwano esixelwe kwisiqendwana (2) ngabo babandakanyekileyo, nabani na obandakanyekileyo unokuvuma ukuwusa umcimbi kulamlo olungathandisi-mntu ngokwe*Arbitration Act*, 1965 (Umthetho 42 ka-1965).

(5) UMphathiswa unokulolula ixesha eliziinyanga ezingama-24 elixelwe kwisiqendwana (1) nese-(2) xa ekubona kuyimfuneko.

Amagunya eQonga nemisebenzi yalo

98. (1) IQonga linokwenza konke okuyimfuneko okanye okufanelekileyo ukuphumeza imisebenzi engaphakathi kwemida yalo ekuthethwe ngayo kwisiqendu 97, kuquka oku kulandelayo, kucingelwa uMgaqo-Siseko nemithetho yepalamente esebenzayo kuloo meko, xa kufanelekile:

(a) liseke ikomiti okanye iikomiti, kuquka nekomiti eququzelelayo, enamalungu eQonga kuphela, okanye amalungu eQonga nabasebenzi okanye abanye abantu, ukuba bancedise iQonga—

(i) ekusebenziseni amagunya alo okanye ekwenzeni imisebenzi yalo;

(ii) ekwenzeni isigqibo ngamagunya ekomiti nangemisebenzi yayo;

(iii) ekumiseleni usihlalo nosekela-sihlalo wekomiti;

(iv) nasekwenzeni isigqibo ngeenkqubo zokusebenza kweekomiti; kananjalo

(b) liwaphathise iikomiti zalo amagunya alo nemisebenzi yalo, kubekho imiqathango elinokuthi liyibeke, kodwa oko kuphathisa kube—

(i) kungalohluthi iQonga igunya eliliphathisileyo okanye umsebenzi eliwuphathisileyo;

(ii) kungalithinteli iQonga ekwenzeni utshintsho kwisigqibo okanye ekusikhabeni isigqibo esenziwe ngabo libaphathisileyo.

(2) Ngokubonisana noMlawuli-Jikelele, iQonga—

(a) malimisele igosa eliququzelelayo ukuba lisebenzise amagunya okanye lenze imisebenzi egqitywe liQonga, lize libe liliso nasekusebenzeni kwabasebenzi beQonga;

(b) maliqeshe abasebenzi okanye libaboleke kwii-ofisi zikarhulumente ezikhoyo ezenza umsebenzi womthetho, babe linani eliyimfuneko ukuze likwazi ukwenza imisebenzi yalo;

(c) malingene kwizivumelwano kunye naye nawuphi na umntu okanye umbutho ukuze lenze nasiphi na isenzo okanye umsebenzi ukuze kufezeke iinjongo zeQonga;

(d) malingene kwizivumelwano ukuze kwenzeke imisebenzi yalo, kusebenziseke namagunya alo;

(e) malenze isigqibo ngemivuzo neminye imibandela yokusebenza kwabasebenzi; kananjalo

(f) pay an honorarium or an allowance to any person to cover expenses reasonably incurred by him or her in connection with any act performed at the request of the National Forum or in terms of its directions on behalf of the National Forum and the furtherance of its objects.

(3) The National Forum must, taking into account the provisions of this Act, conduct a cost analysis of the operation of the Council and Provincial Councils and make recommendations to the Minister for consideration by Parliament as contemplated in subsection (4), on the funding thereof, with a view to the effective and efficient implementation of the Act.

(4) The National Forum must, after its establishment, report to the Minister every six months on its activities and the Minister must, immediately on receipt thereof, submit the report to Parliament.

Membership of National Forum

99. (1) A member of the National Forum must—

(a) be a South African citizen; and

(b) be a fit and proper person.

(2) The following persons are disqualified from becoming or remaining members of the National Forum:

(a) An unrehabilitated insolvent;

(b) a person declared to be of unsound mind by a court of the Republic;

(c) a person who has been convicted in a court of first instance—

(i) of an offence and sentenced to more than 12 months' imprisonment without the option of a fine; or

(ii) of an offence which involves any element of dishonesty,

either in the Republic, or outside the Republic if the conduct constituting the offence would have been an offence in the Republic, other than a conviction for an offence committed prior to 27 April 1994 associated with political objectives: Provided that if the person in question lodges an appeal against the conviction or sentence, he or she may be suspended from office by the National Forum as contemplated in section 103, until the appeal has been determined: Provided further that he or she may be replaced by the designating body; or

(d) a person who has been removed from office in terms of section 103.

Chairperson and deputy chairperson National Forum

100. (1) The Minister must, after consultation with the members of the National Forum, at its first meeting, designate one of the members as chairperson and another as deputy chairperson.

(2) The chairperson and the deputy chairperson, subject to section 99, hold office for the duration of the National Forum.

(3) The deputy chairperson must, if the chairperson is absent or is for any reason unable to act as chairperson, perform all the functions and exercise all the powers of the chairperson.

(4) If both the chairperson and deputy chairperson are absent from any meeting, the members present must elect a person from among themselves to preside at that meeting and the person so presiding must, during that meeting and until the chairperson and deputy chairperson resumes duty, perform all the functions and exercise all the powers of the chairperson.

(5) If both the chairperson and deputy chairperson have been given leave of absence, the members of the National Forum must elect one person from among themselves to act as chairperson until either the chairperson or deputy chairperson resumes duty or is removed from office in terms of section 103.

(6) If the office of the chairperson or deputy chairperson becomes vacant, the Minister must, after consultation with the members of the National Forum at the first meeting thereafter or as soon as possible thereafter, designate one of the members of the National Forum as chairperson or deputy chairperson, as the case may be.

(7) A chairperson and deputy chairperson may vacate office as such, without relinquishing his or her membership of the National Forum, unless his or her membership has been terminated in accordance with section 102.

(f) limhlawule imalana ethile nawuphi na umntu ukuze ahlawule iindleko angene kuzo ngokufanelekileyo xa ebesenza isenzo asenze ngokucelwa liQonga okanye ngokuyalelwa lilo ukuze kufezeke iinjongo zalo.

(3) IQonga malithi, licingela okutshiwo ngulo Mthetho, liphonononge iindleko zokusebenza kweBhunga namaBhunga amaPhondo lize izindululo lizibhekise kuMphathiswa ukuze ziqwalaselwe yiPalamente njengoko kuxelwe kwisiqendwana (4), mayela nokuxhaswa kwalo ngemali, ukuze usebenze ngokutyibilikayo nangempumelelo lo Mthetho.

(4) Emva kokusekwa kwalo iQonga malinike ingxelo kuMphathiswa qho emva kweenyanga ezintandathu libike oko belikwenza, aze yena uMphathiswa, ngoko nangoko esakuyifuymana, ayidlulisele ePalamente.

Ukuba lilungu leQonga

99. (1) Ilungu leQonga malibe—

(a) ngummi waseMzantsi-Afrika; kwaye libe

(b) ngumntu ofanelekileyo.

(2) Abantu abalandelayo abafaneleki ukuba babe ngamalungu eQonga okanye ukuba baqhubeke bengawo:

(a) umntu ovakaliswe yinkundla engakwazi ukuhlawula amatyala akhe kwaye engekaphumi kuloo meko;

(b) umntu ovakaliswe yinkundla yeRiphablikhi engogula ngengqondo;

(c) umntu ofunyaniswe enetyala kwinkundla elaqala kuyo ityala—

(i) waza wagwetywa ukuvalelwa entolongweni ixesha elingaphezu kweenyanga ezili-12 engakhethiswanga fayini; okanye

(ii) ilityala elibandakanya ukungathembeki,

apha kwiRiphablikhi okanye ngaphaya kwemida yeRiphablikhi, ukuba isenzo awasenzayo besiya kuba kukwaphul' umthetho kwiRiphablikhi, kube kungekuko ukufunyaniswa enetyala lokwaphul' umthetho awakwenza ngaphambi komhla wama-27 kuEpreli 1994 ngeenjongo zopolitiko, kodwa ke, ukuba loo mntu uyabhena nxamnye nokufunyaniswa kwakhe enetyala okanye nxamnye nesigwebo, anganqunyanyiswa esikhundleni liQonga njengoko kuxelwe kwisiqendu 103 de kufikelelwe kwisigqibo ngesibheno, kodwa ke xa kunjalo iqumrhu elichongayo linokuyivala ngomnye indawo yakhe; kwaye

(d) umntu oshenxisiweyo kwisikhundla sakhe ngokwesiqendu 103.

Usihlalo nosekela-sihlalo weQonga

100. (1) Emva kokubonisana namalungu eQonga, uMphathiswa makachonge elinye ilungu libe ngusihlalo, elinye libe ngusekela-sihlalo, ekwenza oko kwintlanganiso yokuqala yeQonga.

(2) Ngokulawulwa sisiqendu 99, usihlalo nosekela-sihlalo baba sesikhundleni ngalo lonke ixesha likho iQonga.

(3) Ukuba usihlalo akekho okanye ngaso nasiphi na isizathu akakwazi ukuba ngusihlalo, usekela-sihlalo makasebenzise onke amagunya kasihlalo, kananjalo enze yonke imisebenzi kasihlalo.

(4) Ukuba bobabini usihlalo nosekela-sihlalo banikwe ikhefu, amalungu eQonga makanyule omnye phakathi kwawo ukuba abambele usihlalo de usihlalo nosekela-sihlalo bathabathise kwakhona emsebenzini okanye baphume esikhundleni.

(5) Ukuba bobabini usihlalo nosekela-sihlalo abekho kwintlanganiso, amalungu akhoyo makanyule omnye wawo ukuba ongamele kuloo ntlanganiso, aze ke umntu owongamelayo asebenzise onke amagunya kwaye enze yonke imisebenzi kasihlalo ngexesha laloo ntlanganiso ade usihlalo nosekela-sihlalo bathabathise kwakhona emsebenzini okanye bashenxiswe esikhundleni ngokwesiqendu 103.

(6) Ukuba isikhundla sikasihlalo okanye sikasekela-sihlalo sithi singabi namntu, uMphathiswa makathi, emva kokubonisana namalungu eQonga, kwintlanganiso yokuqala okanye ke kamsinya emva koko, achonge phakathi kwawo usihlalo omtsha nosekela-sihlalo omtsha.

(7) Usekela-sihlalo nosekela-sihlalo banokuphuma ezikhundleni zabo, babe bengayekanya ukuba ngamalungu eQonga ngaphandle kokuba ubulungu bakhe buphelisiwe ngokwesiqendu 102.

Term of office

101. A member of the National Forum holds office for the duration of the National Forum.

Termination of office

102. (1) A person ceases to be a member of the National Forum when that person—

(a) is no longer eligible in terms of section 99 to be a member;

(b) resigns;

(c) is removed from office in terms of section 103;

(d) in the case of a legal practitioner referred to in section 96(1)*(a)*, ceases to be a practising legal practitioner, for whatever reason; or

(e) is appointed as a judicial officer.

(2) A member may resign after giving at least three months' written notice to the National Forum, but the National Forum may, on good cause shown, accept a shorter period.

Removal from office

103. (1) The National Forum may remove a member from office on account of—

(a) a finding of any misconduct under any Act or code which regulates the conduct of the member in question, which, in the opinion of the National Forum, debars him or her from serving as a member of the National Forum;

(b) incapacity or incompetency which, in the opinion of the National Forum, debars him or her from serving as a member of the National Forum;

(c) absence from three consecutive meetings of the National Forum without the permission of the chairperson, except on good cause shown; or

(d) a request by the body which or person who designated or elected that member in terms of section 96, on good cause shown by the body or person in question, upon confirmation by the High Court.

(2) If the National Forum has commenced proceedings for the removal of a member it may suspend that member from office.

(3) A member who is suspended from office may not perform or exercise any of the powers or functions of that office or receive any allowances.

(4) The National Forum must follow due process of law if it intends to remove a member for office, as determined by the National Forum in the rules contemplated in section 109.

Vacancies in National Forum and filling thereof

104. (1) A vacancy in the National Forum occurs when—

(a) a member dies;

(b) a member terminates office in terms of section 102;

(c) a member is removed from office in terms of section 103; or

(d) a member's resignation takes effect.

(2) A vacancy must be filled as soon as practicably possible in accordance with the provisions of section 96.

(3) Any person appointed to fill a vacancy holds office for the unexpired portion of the term of the vacating member.

(4) No decision taken by the National Forum or act performed under the authority of the National Forum is invalid merely by reason of a vacancy on the National Forum, if the decision was taken or the act was authorised, subject to sections 106 and 107.

Meetings of National Forum

105. (1) The National Forum must hold at least four meetings in each year at venues to be determined by the National Forum and may, in addition, hold any further meetings as the National Forum may, from time to time, determine.

(2) The National Forum must, as soon as practicable after the appointment of its members, meet for the first time at the time and place determined by the Minister.

Ixesha lokuba sesikhundleni

101. Ilungu leQonga liba sesikhundleni ngalo lonke ixesha leQonga.

Ukuyeka esikhundleni

102. (1) Umntu uyayeka ukuba lilungu leQonga xa loo mntu—

(a) engasafaneleki ngokwesiqendu 99 ukuba abe lilungu;

(b) eyeka;

(c) eshenxisiwe esikhundleni ngokwesiqendu 103;

(d) xa eligqwetha ekuthethwe ngalo kwisiqendu 96(1)*(a)*, xa eyeka ukusebenza njengegqwetha nokuba kungasiphi na isizathu; okanye

(e) emiselwe waba ngumchopheli-matyala.

(2) Ilungu lingaziyekela emva kokuba linike iQonga inotisi ebhaliweyo yeenyanga ezintathu ubuncinane, kodwa iQonga linokuyamkela inotisi yexesha elinganeno kwelo xa kukho isizathu esivakalayo.

Ukushenxiswa esikhundleni

103. (1) IQonga lingalishenxisa ilungu esikhundleni ngenxa—

(a) yokufunyaniswa kwalo lenze isenzo esigwenxa ngokutsho kwawo nawuphi na uMthetho okanye imigqaliselo yokuziphatha elawula ukuziphatha kwelo lungu, okuthi, ngokubona kweQonga, kulithintele elo lungu ekukhonzeni njengelungu leQonga;

(b) yokungavumi kwempilo okanye ukungawazi umsebenzi, okuthi, ngokubona kweQonga, kulithintele ekukhonzeni njengelungu leQonga;

(c) yokungabikho kwiintlanganiso zeQonga zide zibe ntathu zilandelana lingenayo imvume kasihlalo, ngaphandle kokuba ke linesizathu esivakalayo; okanye

(d) yesicelo sequmrhu elachonga okanye lanyula elo lungu okanye somntu owachonga okanye wanyula elo lungu ngokwesiqendu 96, ngesizathu esivakalayo esivela kwelo qumrhu okanye kuloo mntu, yaza iNkundla Ephakamileyo yavumelana naso.

(2) Ukuba iQonga liqalise amanyathelo okulishenxisa ilungu, linokulinqumamisa elo lungu.

(3) Ilungu elinqunyanyisiweyo alivumelekanga ukuba lisebenzise amagunya eso sikhundla okanye lenze imisebenzi yeso sikhundla okanye lifumane iimalana ezithile.

(4) IQonga malilandele inkqubo efanelekileyo yomthetho ukuba linenjongo yokushenxisa ilungu esikhundleni, ngendlela egqitywe liQonga kwimigaqo ngokwesiqendu 109.

Izithuba kwiQonga nokuvalwa kwazo

104. (1) Isithuba kwiQonga sidaleka xa—

(a) ilungu lisifa;

(b) ilungu liyeka esikhundleni ngokwesiqendu 102;

(c) ilungu lishenxiswa esikhundleni ngokwesiqendu 103; okanye

(d) ukuziyekela kwalo kuqalisa.

(2) Masivalwe isithuba kamsinya kangangoko kunokwenzeka ngokwesiqendu 96.

(3) Nawuphi na umntu omiselwe ukuba avale isithuba uba sesikhundleni elo xesha elingagqitywanga lilungu eliphumileyo.

(4) Isigqibo esithatyathwe liQonga okanye isenzo esenziwe ngegunya leQonga asibi sesiphuthileyo ngenxa nje yokuba bekukho isithuba kwiQonga, ukuba isigqibo eso okanye isenzo eso besigunyaziwe, kodwa ngokulawulwa sisiqendu 106 nese-107.

Iintlanganiso zeQonga

105. (1) IQonga malibe neentlanganiso ezine ubuncinane kunyaka ngamnye kwiindawo ezigqitywe liBhunga Lethutyana, kwaye linokuthi, ukongezelela kwezi, libe nezinye iintlanganiso ngokwendlela eliman' ukubona ngayo iQonga.

(2) Kamsinya kangangoko kunokwenzeka emva kokumiselwa kwamalungu alo, iQonga malidibane okokuqala kwindawo egqitywe nguMphathiswa nangexesha eligqitywe nguye.

(3) The National Forum must, before its dissolution, meet with the Council contemplated in section 4 for the purposes of handing over.

Quorum and procedure at meetings of National Forum

106. (1) The majority of the members of the National Forum constitutes a quorum at any meeting of the National Forum.

(2) The National Forum must determine a procedure in the rules contemplated in section 109 for convening meetings and the procedure for the conduct of meetings.

(3) The National Forum must keep a record of its proceedings.

Decisions of National Forum

107. (1) The decision of the majority of the members constitutes a decision of the National Forum.

(2) In the event of a deadlock in the voting the chairperson has a casting vote in addition to a deliberative vote.

Finances, expenditure and accountability of National Forum

108. (1) Expenditure incidental to the exercise of the powers or the performance of the powers and functions of the National Forum must be defrayed from the funds of the National Forum.

(2) The funds of the National Forum consist of—

(a) monies defrayed from the budget vote of the Department for the purpose contemplated in subsection (1); and

(b) any other monies received by the National Forum or accruing to the National Forum from any other source, including disbursements made by existing law societies as may be agreed upon.

(3) Out-of-pocket expenses incurred by members of the National Forum in exercising their powers or carrying out their functions under this Chapter are borne by the body which or person who designated or elected that member.

(4) The Director-General, as the accounting officer of the Department, is responsible for the funds referred to in subsection (2)*(a)*.

Part 2

Rules and regulations

109. (1) *(a)* The Minister must, within six months after receiving recommendations from the National Forum as provided for in section 97(1)*(a)*, make regulations by publication in the *Gazette,* in consultation with the National Forum, in order to give effect to the recommendations of the National Forum as contemplated in section 97(1)*(a)*.

(b) If the National Forum fails to make recommendations as provided for in paragraph *(a)*, within the timeframe provided for in section 97, the Minister must, within six months, make the regulations in question, after consultation with the National Forum.

(c) Any regulation made under this subsection must, before publication thereof in the *Gazette*, be approved by Parliament.

(2) *(a)* The National Forum must, within 24 months after the commencement of this Chapter, make rules by publication in the *Gazette* in respect of the following:

(i) A competency-based examination or assessment for candidate legal practitioners, conveyancers and notaries;

(ii) the minimum conditions and procedures for the registration and administration of practical vocational training;

(iii) the procedure and directions pertaining to the assessment of persons undergoing practical vocational training;

(iv) the criteria for a person, institution, organisation or association to qualify to conduct an assessment;

(v) the procedures to be followed by disciplinary bodies;

(vi) the manner and form in which complaints of misconduct relating to legal practitioners, candidate legal practitioners or juristic entities must be lodged with the Council; and

(3) Ngaphambi kokuba libhangiswe iQonga, malidibane neBhunga elixelwe kwisiqendu 4 ngenjongo yokunikezel' iintambo kulo.

Inani elifunekayo lamalungu ukuze ziqhubeke iintlanganiso zeQonga nenkqubo emayilandelwe kwiintlanganiso

106. (1) Inani elifunekayo lamalungu ukuze ziqhubeke iintlanganiso zeQonga luninzi lwawo kuyo nayiphi na intlanganiso yeQonga.

(2) IQonga malenze isigqibo ngenkqubo yokulandelwa ekubizeni iintlanganiso nenkqubo yokulandelwa yokuziqhuba.

(3) IQonga maligcine irekhodi yeentlanganiso zalo.

Izigqibo zeQonga

107. (1) Isigqibo soninzi lwamalungu akhoyo kwintlanganiso siba sisigqibo seQonga.

(2) Xa inkal' ixing' etyeni kwiivoti, usihlalo uba nelungelo lokuvota ukongezelela kwilungelo lokuthabath' inxaxheba kwiingxoxo.

Iimali zeQonga, inkcitho yalo nokuphendula kwalo

108. (1) Inkcitho ethi ibekho ngokusetyenziswa kwamagunya eQonga nangokwenziwa kwemisebenzi yalo mayihlawulwe kuthatyathwa kwiimali zeQonga.

(2) Iimali zeQonga zibakho—

(a) ngeemali ezithathwe kwisabelo semali seSebe ngenjongo exelwe kwisiqendwana (1); kwaye

(b) nangezinye iimali ezifunyenwe liQonga okanye eziba zezeQonga zivela nakuwuphi na omnye umthombo, kuquka neemali ezivela kwimibutho yamagqwetha ekhoyo ngokwendlela ekunokuthi kuvunyelwane ngayo.

(3) Iindleko eziphuma epokothweni ekungenwe kuzo ngamalungu eQonga ekusebenziseni kwawo amagunya awo okanye ekwenzeni kwawo imisebenzi yawo ngokwesi Sahluko, zithwalwa liqumrhu okanye ngumntu owachonga elo lungu, okanye owalinyulayo okanye walimisela.

(4) UMlawuli-Jikelele, njengegosa leSebe emaliphendule, unoxanduva lokusingatha iimali ekuthethwe ngazo kwisiqendwana (2)*(a)*.

iNxalenye 2

Imigaqo nemimiselo

109. (1) *(a)* Zingaphelanga iinyanga ezintandathu efumene izindululo ezivela kwiQonga njengoko kutshiwo kwisiqendu 97(1)*(a)*, uMphathiswa makenze imimiselo ngokuyipapasha ku*Shicilelo-Mithetho*, ekwenza oko ngokubonisana neQonga, ukuze aphumeze izindululo zeQonga njengoko kuxelwe kwisiqendu 97(1)*(a)*.

(b) Ukuba iQonga alizenzanga izindululo njengoko kutshiwo kwisiqendu *(a)* lingaphelanga ixesha elitshiwo kwisiqendu 97, uMphathiswa makayenze loo mimiselo zingaphelanga iinyanga ezintandathu, emva kokubonisana neQonga.

(c) Nawuphi na ummiselo owenziweyo ngokwesi siqendwana mawuvunywe yiPalamente ngaphambi kokuba upapashwe ku*Shicilelo-Mithetho.*

(2) *(a)* Zingaphelanga iinyanga ezingama-24 siqalile ukusebenza esi Sahluko, iQonga malenze imigaqo ngokuyipapasha ku*Shicilelo-Mithetho*, mayela noku kulandelayo:

(i) iimviwo zokuvavanya ubuchule bamagqwetha asengabakhwetha, zokuvavanya ubuchule bamagqwetha onaniselwano ngemizi okanye zokuvavanya ubuchule bamagqwetha amaxwebhu afungelweyo;

(ii) eyona miqathango mincinane nendlela yokubhalisela ukuqeqeshelwa umsebenzi;

(iii) indlela yokuvavanywa nemiyalelo yokuvavanywa kwabantu abaqeqeshelwa umsebenzi;

(iv) izinto ezifunekayo ukuze umntu afanelekele okanye umbutho ufanelekele ukuvavanya abebeqeqeshelwa umsebenzi;

(v) iinkqubo emazilandelwe ngamaqumrhu olungiso-similo;

(vi) indlela ezinokuthi zifakwe ngayo izikhalazo zokuziphatha gwenxa kwamagqwetha, kwamagqwetha asengabakhwetha, okanye kweenkampani ezenz' umsebenzi wobugqwetha, zifakwa kwiBhunga; kunye

(vii) any other matter in respect of which rules must be made in terms of this Chapter.

(b) Before the National Forum makes any rule under this subsection, it must publish a draft of the proposed rule in the *Gazette* together with a notice, calling on interested persons to comment in writing within a period stated in the notice, which may not be less than 30 days from the date of publication of the notice.

(c) If the National Forum alters the draft rules as a result of any comments, it need not publish those alterations before making the rule.

(d) The National Forum may, if circumstances necessitate the publication of a rule without giving notice, as provided for in paragraph *(b)*, publish that rule without prior publication of a draft as provided for in paragraph *(b)*, provided that the notice of publication states—

(i) the reason why circumstances necessitated that publication without prior publication of a draft as provided for in paragraph *(b)*; and

(ii) that any person who is aggrieved by the rule may make representations to the National Forum within a period stated in the notice, which may not be less than 30 days from the date of publication of the notice.

Part 3

Abolition of Fidelity Funds of former TBVC States and transfer of assets, rights, liabilities and obligations to Legal Practitioners' Fidelity Fund

110. (1) For the purposes of this Part, **"law society"** means a law society referred to in section 56 of the Attorneys Act.

(2) The—

(a) Attorneys Fidelity Fund referred to in section 26(1) of the Attorneys, Notaries and Conveyancers Act, 1984 (Act No. 29 of 1984), of the former Republic of Bophuthatswana; and

(b) Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund referred to in section 25 of the Attorneys Act, 1987 (Act No. 42 of 1987), of the former Republic of Venda,

cease to exist on the date referred to in section 120(4) and all assets, rights, liabilities and obligations which, on that date, vested in any of the said Funds, vest from that date in the Fund referred to in section 53(1).

Transitional provisions in relation to existing Attorneys Fidelity Fund Board of Control

111. The—

(a) Attorneys Fidelity Fund Board of Control referred to in section 27 of the Attorneys Act;

(b) Attorneys Fidelity Fund Board of Control referred to in section 26(3) of the Attorneys, Notaries and Conveyancers Act, 1984 (Act No. 29 of 1984), of the former Republic of Bophuthatswana; and

(c) Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund Board of Control referred to in section 27 of the Attorneys Act, 1987 (Act No. 42 of 1987), of the former Republic of Venda,

and any committee of any such Board of Control appointed in terms of any such law and which existed immediately before the date referred to in section 120(4), cease to exist on that date and all assets, rights, liabilities and obligations which, on that date vested in any of the Boards referred to in paragraphs *(a)*, *(b)* and *(c)*, vest in the Board referred to in section 61.

(vii) nalo naluphi na olunye udaba emakuqulunqwe imigaqo ngalo ngokwesi Sahluko.

(b) Ngaphambi kokuba iQonga liqulunqe nawuphi na umgaqo ngokwesi siqendwana, maliwupapashe useluvavanyo ku*Shicilelo-Mithetho* kunye nesihlokomiso, lihlab' ikhwelo kubantu abachaphazelekayo ukuba bavakalise uluvo ngokubhala lingaphelanga ixesha elixelwe kwisihlokomiso, elingenakuba ngaphantsi kweentsuku ezingama-30 ukususela kumhla wokupapashwa kwesihlokomiso.

(c) Ukuba iQonga lithi liyitshintshe imigaqo eseluvavanyo ngenxa yezimvo ezifunyenweyo, akukho mfuneko yokuba lilupapashe olo tshintsho ngaphambi kokuba liwuqulunqe umgaqo.

(d) Ukuba iimeko zifunisa ukuba upapashwe umgaqo ngaphandle kokwenza isihlokomiso njengoko kutshiwo kwisiqendu *(b)*, iQonga linokuthi liwupapashe loo mgaqo lingaqalanga lawupapasha useluvavanyo njengoko kutshiwo kwisiqendu *(b)*, kodwa oko kuxhomekeke ekubeni isihlokomiso sokupapashwa—

(i) siyasixela isizathu esifunise ukuba kupapashwe kungaqalwanga kwapapashwa umgaqo oseluvavanyo njengoko kutshiwo kwisiqendu *(b)*;

(ii) siyatsho ukuthi nawuphi na umntu okhwiniswayo ngumgaqo unokutsho afuna ukukutsho kwiQonga lingaphelanga ixesha elixelwe kwisihlokomiso, elingenakuba ngaphantsi kweentsuku ezingama-30 ukususela kumhla wokupapashwa kwesihlokomiso.

iNxalenye 3

Ukupheliswa kweeFidelity Fund zamazwe awayefudula eyiTBVC nokufuduswa kwempahla yazo, namalungelo azo, neembopheleleko zazo, zifuduselwa kwiFidelity Fund Yamagqwetha

110. (1) Ngenjongo yokusebenza kwale Nxalenye, **"umbutho wamagqwetha" ("law society")** ngumbutho wamagqwetha ekuthethwe ngawo kwisiqendu 56 se*Attorneys Act*.

(2) *(a)* I-Attorneys Fidelity Fund ekuthethwe ngayo kwisiqendu 26(1) se*Attorneys, Notaries and Conveyancers Act*, 1984 (Umthetho 29 ka-1984), yeRiphablikhi eyaphelayo yaseBophuthatswana; kwaye

(b) I-Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund ekuthethwe ngayo kwisiqendu 25 se*Attorneys Act*, 1987 (Umthetho 42 ka-1987), yeRiphablikhi eyaphelayo yakwaVenda,

iyayeka ukubakho ngomhla ekuthethwe ngawo kwisiqendu 120(4), ize yonke impahla, namalungelo, namatyala neembopheleleko ezazizezale Ngxowa-Mali ngaloo mhla, zibe zezeNgxowa-Mali ekuthethwe ngayo kwisiqendu 53(1) ukususela ngaloo mhla.

Okuza kwenzeka kweli xesha lokuwelela kumthetho omtsha mayela neeAttorneys Fidelity Fund Boards of Control ezikhoyo

111. *(a)* I-Attorneys Fidelity Fund Board of Control ekuthethwe ngayo kwisiqendu 27 se*Attorneys Act*;

(b) I-Attorneys Fidelity Fund Board of Control ekuthethwe ngayo kwisiqendu 26(3) se*Attorneys, Notaries and Conveyancers Act*, 1984 (Umthetho 29 ka-1984), yeRiphablikhi eyaphelayo yaseBophuthatswana;

(c) I-Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund Board of Control ekuthethwe ngayo kwisiqendu 27 se*Attorneys Act*, 1987 (Umthetho 42 ka-1987), yeRiphablikhi eyaphelayo yakwaVenda,

kunye nayo nayiphi na ikomiti yayo eyamiselwa ngokwaloo mthetho, neyayikho ngaphambi komhla ekuthethwe ngawo kwisiqendu 120(4), iyayeka ukubakho ngaloo mhla, ize yonke impahla, namalungelo, namatyala neembopheleleko ezazizezezi Bhodi kuthethwe ngazo kwisiqendu *(a)*, *(b)* okanye *(c)*, zibe zezeBhodi ekuthethwe ngayo kwisiqendu 61.

Transitional provisions in relation to qualifications

112. (1) Notwithstanding anything to the contrary in this Act—

(a) (i) the training course presented at a Practical Legal Training School of the Law Society of South Africa, for purposes of the Attorneys Act; or

(ii) any other training course approved by any existing society or the General Council of the Bar,

before the date referred to in section 120(4) for the purpose of training persons to qualify as legal practitioners, must be regarded as having been presented or approved pursuant to the regulations pertaining to practical vocational training in terms of this Act; and

(b) any period of practical vocational training undergone with an attorney or advocate before the date referred to in section 120(4) must be regarded as having been a period of practical vocational training under supervision of a legal practitioner.

(2) Any person upon whom the degree *baccalaureus procurationis* was conferred by a university of the Republic, is regarded as being qualified to be admitted by the court and enrolled as an attorney by the Council as if he or she held the degree *baccalaureus legum*, if all the other requirements in the Attorneys Act are complied with: Provided that such person has not later than 1 January 1999 registered for the first-mentioned degree.

Transitional provisions relating to Fidelity Fund certificates

113. Any attorney who is in terms of section 84(1) required to be in possession of a Fidelity Fund certificate and who, at the date referred to in section 120(4), is not in possession of such a certificate issued in terms of any law repealed by this Act, must, within 60 days after the said date, apply for such a certificate.

Existing advocates, attorneys, conveyancers and notaries

114. (1) Any person who has been admitted by the High Court and authorised to be enrolled as an advocate, attorney, conveyancer or notary in terms of any Act in the former Republic of South Africa and former homelands which is still applicable before the date referred to in section 120(4), must be regarded as having been admitted to practice and, where applicable, subject to any condition imposed by the High Court, must be enrolled as a legal practitioner, conveyancer or notary in terms of this Act, subject to the terms of any order of court whereby any such person has been suspended from practice as an advocate, attorney, conveyancer or notary.

(2) Every person who, in terms of subsection (1), is regarded as having been admitted and authorised to practise and to be enrolled as a legal practitioner, conveyancer or notary, must be enrolled as a legal practitioner, conveyancer or notary on the Roll, and for that purpose—

(a) the registrar of every Division of the High Court must as soon as possible after the appointment of the Council's executive officer, furnish him or her with the name of every person whose name appears on the roll of attorneys, roll of conveyancers or roll of notaries of that Division and with particulars of the order of court in terms of which every such person was admitted to practise as an attorney, conveyancer or notary and of any order of court, if any, in terms

Okuza kwenzeka kweli xesha lokuwelela kumthetho omtsha mayela neemfuneko zokufaneleka

112. (1) Kungakhathaliseki ukuba kuthini na okunye okubhaliweyo okuphikisana nalo Mthetho—

(a) (i) uqeqesho olufunyanwa kwiPractical Legal Training School yoMbutho Wamagqwetha oMzantsi-Afrika, ngenjongo yokusebenza kwe*Attorneys Act*; okanye

(ii) naluphi na olunye uqeqesho oluvunyiweyo nguwo nawuphi na umbutho okhoyo oluvunywe yiGeneral Council of the Bar, ngaphambi komhla ekuthethwe ngawo kwisiqendu 120(4) ngenjongo yokuqeqesha abantu ukuba bafanelekele ukuba ngamagqwetha, maluthathwe ngokuthi lufunyenwe okanye luvunywe ngokwemimiselo yokuqeqeshelwa umsebenzi; kananjalo

(b) naliphi na ixesha lokuqeqeshelwa umsebenzi phantsi kwegqwetha okanye phantsi kwegqwetha leejaji ngaphambi komhla ekuthethwe ngawo kwisiqendu 120(4) malithathwe ngokuthi kube lixesha lokuqeqeshelwa umsebenzi phantsi kweliso legqwetha.

(2) Nawuphi na umntu owathiwa jize isidanga se*baccalaureus procurationis* yiyunivesithi yeRiphablikhi, uthathwa ngokuthi uyakufanelekela ukwamkelwa yinkundla nokubhaliswa liBhunga njengegqwetha ngokungathi unesidanga se*baccalaureus legum*, ukuba zonke ezinye iimfuneko *ezikwiAttorneys Act* kuyahlangatyezwana nazo, kodwa ke kuxhomekeke ekubeni loo mntu akathanga emva komhla woku-1 kuJanuwari 1999 wabhalisela isidanga esikhankanywe kuqala.

Okuza kwenzeka kweli xesha lokuwelela kumthetho omtsha mayela neziqinisekiso zeFidelity Fund

113. Naliphi na igqwetha ekufuneka ukuba ngokwesiqendu 84(1) libe nesiqinisekiso seFidelity Fund nelithi, ngomhla ekuthethwe ngawo kwisiqendu 120(4), libe lingenaso eso siqinisekiso esikhutshwe ngokwawo nawuphi na umthetho otshitshiswe ngulo Mthetho, malenze isicelo seso siqinisekiso zingaphelanga iintsuku ezingama-60 ukususela kuloo mhla.

Amagqwetha eejaji akhoyo ngoku, namagqwetha akhoyo ngoku, namagqwetha onaniselwano ngemizi akhoyo nawamaxwebhu afungelweyo akhoyo ngoku

114. (1) Nawuphi na umntu oye wamkelwa yiNkundla Ephakamileyo waza wagunyazwa ukuba abbhaliswe njengegqwetha leejaji, okanye njengegqwetha, okanye njengegqwetha lonaniselwano ngemizi, okanye njengegqwetha lamaxwebhu afungelweyo ngokwawo nawuphi na uMthetho kwiRiphablikhi yoMzantsi-Afrika yamandulo nakwimimandla eyayisaziwa njengamaphandle, mthetho lowo osasebenzayo ngaphambi komhla ekuthethwe ngawo kwisiqendu 120(4), makathathwe njengowamkelweyo ukuba asebenze njengegqwetha kwaye, kwimeko okusebenza kuyo oku, ngokulawulwa ngumqathango obekwe yiNkundla Ephakamileyo, makabhaliswe njengegqwetha, okanye njengegqwetha lonaniselwano ngemizi okanye njengegqwetha lamaxwebhu afungelweyo ngokwalo Mthetho, ngokulawulwa yimiqathango yomyalelo wenkundla athi ngayo loo mntu abe unqunyanyisiwe ekusebenzeni njengegqwetha leejaji, okanye njengegqwetha, okanye njengegqwetha lonaniselwano ngemizi okanye njengegqwetha lamaxwebhu afungelweyo.

(2) Wonke umntu othathwa, ngokwesiqendwana (1), njengowamkelweyo wagunyazwa ukuba asebenze njengegqwetha, okanye njengegqwetha lonaniselwano ngemizi, okanye njengegqwetha lamaxwebhu afungelweyo, makabhaliswe kuluhlu njengegqwetha elinjalo, kwaye ngaloo njongo—

(a) uMgcini-Zifayile weCandelo leNkundla Ephakamileyo nganye makathi kamsinya kangangoko kunokwenzeka lakuba limiselwe igosa eliphezulu eliququzelelayo leBhunga, alinike igama lomntu wonke ogama lakhe livelayo kuluhlu lwamagqwetha, okanye lwamagqwetha onaniselwano ngemizi okanye lwamagqwetha amaxwebhu afungelweyo eloo Candelo kunye neenkcukacha zomyalelo wenkundla awathi ngazo loo mntu wamkelwa ukuba asebenze njengegqwetha, okanye njengegqwetha lonaniselwano ngemizi okanye njengegqwetha lamaxwebhu afungelweyo, alinike kunye nomyalelo wenkundla, ukuba ukho, athe ngawo loo mntu wanqunyanyiswa

of which any such person has been suspended from practice as an attorney, conveyancer or notary;

(b) the Director-General must as soon as possible after the appointment of the Council's executive officer, furnish him or her with the name of every person whose name appears on the roll of advocates and with particulars of the order of court in terms of which every such person was admitted to practise as an advocate and of any order of court, if any, in terms of which any such person has been suspended from practice as an advocate; and

(c) the law societies existing immediately prior to the date referred to in section 120(4) in terms of the Attorneys Act or any other law, must as soon as possible after the appointment of the Council's executive officer, furnish him or her with the name of every person whose name appears on the roll of attorneys, roll of conveyancers or roll of notaries of that society and with particulars of the order of court in terms of which every such person was admitted to practise as an attorney, conveyancer or notary and of any order of court, if any, in terms of which any such person has been suspended from practice as an attorney, conveyancer or notary.

(3) The Council must compile and consolidate the rolls of the existing practising and non-practising advocates, attorneys, conveyancers and notaries contemplated in subsection (2)*(a)*, *(b)* or *(c)* into the Roll referred to in section 30(3).

(4) Every person who, on the date referred to in section 120(4), has the status of senior counsel retains that status after the commencement of this Act.

Persons entitled to be admitted and enrolled as advocates, attorneys, conveyancers or notaries

115. Any person who, immediately before the date referred to in section 120(4), was entitled to be admitted and enrolled as an advocate, attorney, conveyancer or notary is, after that date, entitled to be admitted and enrolled as such in terms of this Act.

Pending proceedings

116. (1) Any enquiry in terms of any law repealed by this Act into the alleged unprofessional or dishonourable or unworthy conduct of a legal practitioner which has not been concluded at the date referred to in section 120(4), must be referred to the Council which must treat the matter as it deems appropriate.

(2) Any proceedings in respect of the suspension of any person from practice as an advocate, attorney, conveyancer or notary or in respect of the removal of the name of any person from the roll of advocates, attorneys, conveyancers or notaries which have been instituted in terms of any law repealed by this Act, and which have not been concluded at the date referred to in section 120(4), must be continued and concluded as if that law had not been repealed, and for that purpose a reference in the provisions relating to such suspension or removal, to the General Council of the Bar of South Africa, any Bar Council, any Society of Advocates, any society or the State Attorney must be construed as a reference to the Council.

ekusebenzeni njengegqwetha, okanye njengegqwetha lonaniselwano ngemizi okanye njengegqwetha lamaxwebhu afungelweyo;

(b) uMlawuli-Jikelele weSebe Lobulungisa Nophuhliso LoMgaqo-Siseko makathi kamsinya kangangoko kunokwenzeka lakuba limiselwe igosa eliphezulu eliququzelelayo leBhunga, alinike igama lomntu wonke ogama lakhe livelayo kuluhlu lwamagqwetha eejaji, kunye neenkcukacha zomyalelo wenkundla awathi ngazo loo mntu wamkelwa ukuba asebenze njengegqwetha leejaji, alinike kunye nomyalelo wenkundla, ukuba ukho, athe ngawo loo mntu wanqunyanyiswa ekusebenzeni njengegqwetha leejaji; kananjalo

(c) imibutho yamagqwetha ekhoyo ngaphambi komhla ekuthethwe ngawo kwisiqendu 120(4) ngokwe*Attorneys Act* okanye omnye umthetho, mayithi kamsinya kangangoko kunokwenzeka lakuba limiselwe igosa eliphezulu eliququzelelayo leBhunga, ilinike igama lomntu wonke ogama lakhe livelayo kuluhlu lwamagqwetha, okanye kuluhlu lwamagqwetha onaniselwano ngemizi, okanye kuluhlu lwamagqwetha amaxwebhu afungelweyo aloo mbutho, kunye neenkcukacha zomyalelo wenkundla awathi ngawo loo mntu wamkelwa ukuba asebenze njengegqwetha, okanye njengegqwetha lonaniselwano ngemizi okanye njengegqwetha lamaxwebhu omthetho, kunye nomyalelo wenkundla, ukuba ukho, awathi ngawo loo mntu wanqunyanyiswa ekusebenzeni njengegqwetha, okanye njengegqwetha lonaniselwano ngemizi okanye njengegqwetha lamaxwebhu afungelweyo.

(3) IBhunga maliqulunqe izintlu zamagqwetha eejaji, nezamagqwetha, nezamagqwetha onaniselwano ngemizi, nezamagqwetha amaxwebhu afungelweyo akhoyo ngoku asebenza njengamagqwetha nangasebenziyo njengamagqwetha axelwe kwisiqendwana (2)*(a)*, *(b)* okanye *(c)* lize lizidibanise ezi zintlu kuLuhlu ekuthethwe ngalo kwisiqendu 30(3).

(4) Wonke umntu okwiwonga lokuba ligqwetha leejaji elilikhwahla ngomhla ekuthethwe ngawo kwisiqendu 120(4), uhlala ekwelo wonga emva kokuqalisa kwalo Mthetho ukusebenza.

Abantu abanelungelo lokwamkelwa baze babhaliswe njengamagqwetha eejaji, okanye njengamagqwetha, okanye njengamagqwetha onaniselwano ngemizi okanye njengamagqwetha amaxwebhu afungelweyo

115. Nawuphi na umntu owayenelungelo ngaphambi komhla ekuthethwe ngawo kwisiqendu 120(4), lokwamkelwa nokubhaliswa njengegqwetha leejaji, okanye njengegqwetha, okanye njengegqwetha lonaniselwano ngemizi, okanye njengegqwetha lamaxwebhu afungelweyo, unelungelo, nasemva kwaloo mhla, lokwamkelwa nokubhaliswa njengonjalo ngokwalo Mthetho.

Amatyala abengekaqukunjelwa

116. (1) Naluphi na uphando obelusenziwa ngokomthetho otshitshisiweyo ngulo Mthetho, iluphando lokuziphatha gwenxa kwegqwetha, olungaqosheliswanga xa kubetha umhla ekuthethwe ngawo kwisiqendu 120(4), malubhekiswe kwiBhunga, eliya kuthi lona liwusingathe loo mcimbi ngendlela eliyibona ifanelekile.

(2) Naliphi na ityala lokunqunyanyiswa komntu ekusebenzeni njengegqwetha leejaji, okanye njengegqwetha, okanye njengegqwetha lonaniselwano ngemizi, okanye njengegqwetha lamaxwebhu afungelweyo, okanye ityala lokucinywa kwegama lomntu kuluhlu lwamagqwetha eejaji, okanye kuluhlu lwamagqwetha, okanye kuluhlu lwamagqwetha onaniselwano ngemizi, okanye kuluhlu lwamagqwetha amaxwebhu afungelweyo, tyala elo eliqaliswe ngokomthetho otshitshisiweyo ngulo Mthetho, elingaqosheliswanga xa kubetha umhla ekuthethwe ngawo kwisiqendu 120(4), maliqhubeke lize liqukunjelwe ngokungathi awutshitshiswanga loo mthetho, kwaye ngenxa yaloo njongo, xa ngokumayela noko kunqunyanyiswa okanye oko kucinywa kwegama kuluhlu kuthethwa ngeGeneral Council of the Bar of South Africa, okanye kuthethwa ngayo nayiphi na iBar Council, okanye kuthethwa ngayo nayiphi na iSociety of Advocates, okanye kuthethwa ngawo nawuphi na umbutho okanye kuthethwa ngeState Attorney, makuthathwe ngokuthi kuthethwa ngeBhunga.

Transitional provisions relating to existing law societies

117. The existing law societies must continue to perform their powers and functions until the commencement of Chapter 2.

Interpretation of certain references in laws

118. Subject to the provisions of this Act, a reference in any other law to—

(a) an advocate, a counsel or an attorney, must be construed as a reference to a legal practitioner in this Act;

(b) a conveyancer admitted in terms of any law repealed by this Act, must be construed as a reference to a conveyancer enrolled in terms of section 30;

(c) a notary admitted in terms of any law repealed by this Act, must be construed as a reference to a notary enrolled in terms of section 30;

(d) senior counsel, must be construed as a reference to the status of senior counsel as it existed prior to the commencement of this Act; and

(e) the General Council of the Bar of South Africa, the Association of Law Societies of the Republic of South Africa, the Law Society of South Africa, a law society or similar reference made in any law repealed by this Act, must be construed as a reference to the Council.

Part 4

Repeal and amendment of laws, and savings

119. (1) *(a)* Subject to paragraph *(b)* and subsection (2), the laws specified in the Schedule are hereby repealed or amended to the extent indicated in the third column thereof.

(b) Paragraph *(a)* takes effect on the date referred to in section 120(4).

(2) Any—

(a) regulation made under any law referred to in subsection (1) and in force immediately before the date referred to in section 120(4); and

(b) rule, code, notice, order, instruction, prohibition, authorisation, permission, consent, exemption, certificate or document promulgated, issued, given or granted and any other steps taken in terms of any such law immediately before the date referred to in section 120(4) and having the force of law,

remain in force, except in so far as it is inconsistent with any of the provisions of this Act, until amended or revoked by the competent authority under the provisions of this Act.

(3) Anything done in terms of a law repealed or amended by this Act—

(a) remains valid if it is consistent with this Act, until repealed or overridden; and

(b) is deemed to have been done in terms of the corresponding provision of this Act.

(4) A Provincial Council contemplated in section 97(1)*(a)*(ii) continues to exist and is deemed to have been established by the Council in terms of this Act.

Short title and commencement

120. (1) This Act is called the Legal Practice Act, 2014.

(2) Chapter 10 comes into operation on a date fixed by the President by proclamation in the *Gazette*.

Okuza kwenzeka kweli xesha lokuwelela kumthetho omtsha mayela nemibutho yamagqwetha ekhoyo

117. Imibutho yamagqwetha ekhoyo mayiqhubeke isebenzisa amagunya ayo isenza nemisebenzi yayo side siqalise ukusebenza iSahluko 2.

Ukuchazwa kwentsingiselo yeembekiselo ezithile emthethweni

118. Ngokulawulwa kokutshiwo ngulo Mthetho, xa nakuwuphi na umthetho kuthethwa—

(a) ngegqwetha leejaji okanye ngegqwetha, makuthathwe ngokuthi kuthethwa ngegqwetha kulo Mthetho;

(b) ngegqwetha lonaniselwano ngemizi elamkelwe ngokomthetho otshitshisiweyo ngulo Mthetho, makuthathwe ngokuthi kuthethwa ngegqwetha lonaniselwano ngemizi elibhaliswe ngokwesiqendu 30;

(c) ngegqwetha lamaxwebhu afungelweyo ngokomthetho otshitshisiweyo ngulo Mthetho, makuthathwe ngokuthi kuthethwa ngegqwetha elibhaliswe ngokwesiqendu 30;

(d) ngegqwetha leejaji elilikhwahla, makuthathwe ngokuthi kuthethwa ngegqwetha elikwiwonga lokuba ligqwetha leejaji elilikhwahla njengoko belikho kakade ngaphambi kokuqalisa kwalo Mthetho ukusebenza; kuze xa kuthethwa

(e) ngeGeneral Council of the Bar of South Africa, okanye ngeAssociation of Law Societies of the Republic of South Africa, okanye ngeLaw Society of South Africa, okanye ngombutho wamagqwetha okanye into enjengaleyo kuwo nawuphi na umthetho otshitshisiweyo ngulo Mthetho, makuthathwe ngokuthi kuthethwa ngeBhunga.

iNxalenye 4

Ukutshitshiswa kwemithetho, nokwenziwa kotshintsho kuyo, nokulondolozwa kwemithetho ethile

119. (1) *(a)* Ngokulawulwa sisiqendu *(b)* nasisiqendwana (2), imithetho exeliweyo kwiSihlomelo iyatshitshiswa okanye yenziwa utshintsho, ubungakanani bokutshitshiswa kwayo kuboniswe kumhlathi wesithathu waso.

(b) Isiqendu *(a)* siqala ukusebenza ngomhla ekuthethwe ngawo kwisiqendu 120(4).

(2) Nawuphi na—

(a) ummiselo owenziwe phantsi komthetho ekuthethwe ngawo kwisiqendwana (1), nobusebenza ngaphambi komhla ekuthethwe ngawo kwisiqendu 120(4);

(b) nomgaqo, okanye imigqaliselo, okanye isihlokomiso, okanye umyalelo, okanye isalelo, okanye isigunyazo, okanye imvume, okanye ukukhululwa kwimbophelelko, okanye isiqinisekiso okanye uxwebhu olupapashiweyo, olukhutshiweyo, kunye nawo nawaphi na amanyathelo athathwe ngokomthetho obusebenza ngaphambi komhla ekuthethwe ngawo kwisiqendu 120(4) kwaye unegunya lomthetho,

ezo zinto ziqhubeka zisebenza, ngaphandle kwezo nxalenye ezingavisisaniyo noko kutshiwo kulo Mthetho, ziqhubeka zisebenza de zenziwe utshintsho okanye zitshitshiswe ligunya elinegunya lokukwenza oko ngokwalo Mthetho.

(3) Nantoni na eyenziwe ngokomthetho otshitshiswe okanye owenziwe utshintsho ngulo Mthetho—

(a) iqhubeka isemthethweni ukuba iyavisisana nalo Mthetho, de ibe itshitshisiwe okanye yathatyathelw' indawo yenye; kwaye

(b) ithathwa ngokuthi yenziwe ngokwenxalenye yalo Mthetho ehambisana nayo.

(4) IBhunga lePhondo elixelwe kwisiqendu 97(1)*(a)*(ii) liyaqhubeka likho kwaye lithathwa njengelisekwe liBhunga ngokwalo Mthetho.

Igama lawo nokuqalisa kwawo ukusebenza

120. (1) Lo Mthetho ubizwa ngokuba nguMthetho Womsebenzi Wobugqwetha, ka-2014.

(2) ISahluko 10 siqalisa ukusebenza ngomhla ogqitywe nguMongameli ngokwenza isihlokomiso ku*Shicilelo-Mithetho.*

(3) Chapter 2 comes into operation three years after the date of commencement of Chapter 10 or on any earlier date fixed by the President by proclamation in the *Gazette*.

(4) The remaining provisions of this Act come into operation on a date, after the commencement of Chapter 2, fixed by the President by proclamation in the *Gazette*.

(3) ISahluko 2 siqalisa ukusebenza emva kweminyaka emithathu siqalile ukusebenza iSahluko 10 okanye ngawo nawuphi na umhla ogqitywe nguMongameli ngokwenza isihlokomiso ku*Shicilelo-Mithetho.*

(4) Iinxalenye eziseleyo zalo Mthetho ziqalisa ukusebenza ngomhla ogqitywe nguMongameli ngokwenza isihlokomiso ku*Shicilelo-Mithetho*, sakuba siqalile ukusebenza iSahluko 2.

SCHEDULE

(Laws repealed or amended by section 119)

No. and year of law	**Short title**	**Extent of repeal**
Act No. 24 of 1926	Natal Conveyancers Act, 1926	The whole
Act No. 23 of 1934 (Transkei)	Attorneys, Notaries and Conveyancers Admission,1934	The whole
Act No. 19 of 1941	Attorneys' Admission Amendment and Legal Practitioners' Fidelity Fund Act, 1941	The whole
Act No. 93 of 1962	General Law Further Amendment Act, 1962	Sections 35, 36, 37 and 38
Act No. 74 of 1964	Admission of Advocates Act, 1964	The whole
Act No. 74 of 1964 (Transkei)	Admission of Advocates Act, 1964	The whole
Act No. 74 of 1964 (Bophuthatswana)	Admission of Advocates Act, 1964	The whole
Act No. 74 of 1964 (Venda)	Admission of Advocates Act, 1964	The whole
Act No. 74 of 1964 (Ciskei)	Admission of Advocates Act, 1964	The whole
Act No. 53 of 1979	Attorneys Act, 1979	The whole
Act No. 53 of 1979 (Ciskei)	Attorneys Act, 1979	The whole
Act No. 29 of 1984 (Bophuthatswana)	Attorneys, Notaries and Conveyancers Act, 1984	The whole
Act No. 42 of 1987 (Venda)	Attorneys Act, 1987	The whole
Act No. 114 of 1993	Recognition of Foreign Legal Qualifications and Practice Act, 1993	The whole
Act No. 33 of 1995	Admission of Legal Practitioners Act, 1995	The whole
Act No. 62 of 1995	Right of Appearance in Courts Act, 1995	The whole

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ISIHLOMELO

(Imithetho etshitshiswa sisiqendu 119)

Inombolo yomthetho nonyaka wawo	**Igama lawo elifutshane**	**Indawo etshitshiswayo**
UMthetho 24 ka-1926	i*Natal Conveyancers Act*, ka-1926	Wonke
UMthetho 24 ka-1934 (waseTranskei)	i*Attorneys, Notaries and Conveyancers Admission Act*, ka-1934	Wonke
UMthetho 19 ka-1941	i*Attorneys' Admission Amendment and Legal Practitioners' Fidelity Fund Act*, ka-1941	Wonke
UMthetho 93 ka-1962	i*General Law Further Amendment Act*, ka-1962	isiqendu 35, 36, 37 nesama-38
UMthetho 74 ka-1964	i*Admission of Advocates Act*, ka-1964	Wonke
UMthetho 74 ka-1964 (waseTranskei)	i*Admission of Advocates Act*, ka-1964	Wonke
UMthetho 74 ka-1964 (waseBophuthatswana)	i*Admission of Advocates Act*, ka-1964	Wonke
UMthetho 74 ka-1964 (wakwaVenda)	i*Admission of Advocates Act*, ka-1964	Wonke
UMthetho 74 ka-1964 (waseCiskei)	i*Admission of Advocates Act*, ka-1964	Wonke
UMthetho 53 ka-1979	i*Attorneys Act*, ka-1979	Wonke
UMthetho 53 ka-1979 (waseCiskei)	i*Attorneys Act*, ka-1979	Wonke
UMthetho 29 ka-1984 (waseBophuthatswana)	i*Attorneys, Notaries and Conveyancers Act*, ka-1984	Wonke
UMthetho 42 ka-1987 (wakwaVenda)	i*Attorneys Act*, ka-1987	Wonke
UMthetho 114 ka-1993	i*Recognition of Foreign Legal Qualifications and Practice Act*, ka-1993	Wonke
UMthetho 33 ka-1995	i*Admission of Legal Practitioners Act*, ka-1995	Wonke
UMthetho 62 ka-1995	i*Rights of Appearance in Courts Act*, ka-1995	Wonke