

**Regulations under section 109(1)(a) read with section 97(1) of  
the Legal Practice Act, 28 of 2014**

It is hereby certified that, acting under the powers conferred by section 109(1)(a) of the Legal Practice Act, 28 of 2014, the Minister of Justice and Constitutional Development has made the following regulations in connection with the matters referred to therein.

**Election of legal practitioners as members of the Legal Practice Council**

1. The members of the Council referred to in section 7(1)(a) of the Act shall be elected in the manner determined in these regulations.
2. An election for members of the Council shall be held, in the manner prescribed in these regulations, in every third year after the year in which the first such election is held. Subject to regulation 23, the first election in terms of these regulations shall be held during November 2017 for the election of members of the Council to take office on the coming into effect of Chapter 2 Of the Act. The term of office of those members of the Council who are referred to in section 7(1)(a) of the Act shall run from 1 February in the year in which they are elected to 31 January of the year in which their term of office terminates.

**[Drafting note: these amendments depend on the Legal Practice Act being amended as proposed by the National Forum].**

3. During September of each year in which an election is to be held, or at such other time as the Council may determine, the Council shall despatch a notice to every attorney and every advocate admitted to practice and enrolled on the practising roll calling for nominations of attorneys and advocates for election to the Council, such nominations to be received not later than a date stipulated in the notice but in any event not earlier than ten days from the date of the notice. The notice -
  - 3.1 shall be sent by email to the email address of the legal practitioner concerned; where no email address has been provided to the Council by the legal practitioner concerned the notice shall be sent by prepaid post;
  - 3.2 shall be published in the English language once in a journal published by the legal profession for attorneys practising in South Africa and once in a journal published by the legal profession for advocates practising in South Africa;

- 3.3 shall be published once in the government gazette on a date as close as possible to the date of dispatch of the notice;
- 3.4 shall give details of the number of vacancies on the Council for attorney members and advocate members respectively;
- 3.5 shall draw the attention of legal practitioners to the provisions of sections 7(2) and, 7(3) and section 8 of the Act.
4. Any two attorneys admitted to practice and enrolled on the practising roll may, in the manner prescribed, nominate any eligible attorney (other than themselves) as a member of the Council for the then ensuing period of office.
5. Any two advocates admitted to practice and enrolled on the practising roll may, in the manner prescribed, nominate any eligible advocate (other than themselves) as an advocate member of the Council for the then ensuing period of office.
6. Any such nomination shall be made over the signature of the two nominating individuals in a document which shall provide the following information in relation to each nominee named therein, in not more than 600 words and in such format as the Council may require-
  - 6.1 his or her name;
  - 6.2 in the case of an attorney, the name of the firm of which he or she is a proprietor or a member or by which he or she is employed, stating also the status of that attorney within the firm;
  - 6.3 in the case of an advocate, whether he or she renders legal services in terms of section 34(1)(2)(a)(i) or section 34(2)a)(ii) of the Act, and in either case whether or not he or she has the status of Senior Counsel.
  - 6.4 his or her race, gender, date of admission and enrolment and period in practice;
  - 6.5 if he or she suffers from a disability and wishes to disclose that fact, a statement to that effect and the nature of the disability;
  - 6.6 the address of his or her principal place of practice; and
  - 6.7 his or her knowledge and experience in the matters set out in section 7(2)(e) of the Act

and on which shall be endorsed, over the signature of each nominee named therein, the acceptance of nomination by that nominee and his or her confirmation that the information given therein is correct and that he or she is not disqualified in terms of section 7(3) and section 8 of the Act from membership of the Council.

7. Originally signed nominations must be lodged with the Council by not later than the date stipulated in the notice referred to in regulation 3. Any nomination which does not comply substantially with the provisions of this regulation or which is not lodged within the prescribed time must not be recognised.
8. If the number of candidates who are nominated exceeds the number to be elected as attorney members or as advocate members, as the case may be, the Council must, within 14 days after the last day on which nominations are required to be lodged in terms of regulation 3, send to every legal practitioner eligible to vote, by email to the legal practitioner's email address or, where the legal practitioner has not appointed an email address, by prepaid post -
  - 8.1 an envelope on which the address of the Council is printed, together with the words "voting papers", or, where the communication is by email, directions to the legal practitioner as to the size and format of an envelope to be created by the legal practitioner;
  - 8.2 a smaller envelope on which is printed the words "ballot paper" and nothing else, or where the communication is by email, directions to the legal practitioner as to the size and format of an envelope to be created by the legal practitioner;
  - 8.3 a printed declaration in such form as the Council may direct containing appropriate spaces for -
    - 8.3.1 the surname and forenames of the voting legal practitioner and a statement whether he or she is an attorney or an advocate;
    - 8.3.2 the date of signature by that legal practitioner and that legal practitioner's signature;
    - 8.3.3 a declaration by the legal practitioner above his or her signature that he or she has not already voted in the election concerned;
  - 8.4 a ballot paper, substantially in the form of Schedule 1 (in the case of the election of attorney members) or Schedule 2 (in the case of the election of advocate members), containing the surnames and forenames in alphabetical order by surname of the

nominated candidates and providing the information indicated in Schedule 1 or Schedule 2, as the case may be, and nothing more;

8.5 a written notice in such form as the Council may direct -

8.5.1 requesting the legal practitioner, if he or she wishes to record a vote -

8.5.1.1 place a cross on the accompanying ballot paper against the name of each candidate for whom the legal practitioner wishes to vote and so as to indicate a vote in favour of not more than the number of candidates for which there are vacancies, and to make no other mark or alteration on the ballot paper;

8.5.1.2 to place the ballot paper in the envelope marked "ballot paper";

8.5.1.3 to seal the envelope containing the ballot paper;

8.5.1.4 to complete and sign the form of declaration;

8.5.1.5 to place a completed and signed declaration, together with the envelope containing the ballot paper in and seal the envelope marked "voting papers";

8.5.1.6 to despatch the envelope marked "voting papers" with its contents to the Council so as to reach the Council not later than a date referred to in the notice;

8.5.2 drawing the attention of legal practitioners to the fact that the profiles of candidates, containing the information set out in regulation 6, will be published on the website of the Council for a period of 30 days commencing on the date of the written notice referred to in regulation 8.5.

9. The notice referred to in regulation 8.5 shall contain a warning that if a vote is cast in favour of more than the number of names referred to in regulation 8.5.1.1, or if any mark or alteration is made on the ballot paper other than the cross indicating a vote in favour of the candidates for whom the legal practitioner intends to vote, or if the declaration referred to in regulation 8.3 is not duly completed and signed by the voter, the ballot paper will be void.

10. The Council shall despatch separate notices to attorneys and advocates for purposes of any election in terms of these regulations, and all notifications shall distinguish clearly as

to whether they are intended for the election of an attorney or for the election of an advocate.

11. Within 7 days after the last date on which nominations were required to be lodged in terms of regulation 3 the chairperson of the Council ("the chairperson") shall in writing appoint a legal practitioner of more than fifteen years standing as a referee for the purpose of performing the duties assigned to a referee under these regulations. The referee shall not be a candidate for office or a legal practitioner who has nominated a candidate, or a member of the Council or of a Provincial Council, as the case may be.
12. On each day on which envelopes marked "voting papers" despatched to the Council are received by the Council, or if it is not practicable on that day, as soon as practicable thereafter, the chairperson shall, in the presence of the referee, open each such envelope and remove its contents. The chairperson and the referee shall then together examine each declaration form, shall verify, to such extent as may appear necessary, the information contained therein against the records of the Council and shall satisfy themselves that the declaration form has been duly completed and signed by the legal practitioner, failing which it will be regarded as invalid. In the event of a disagreement between the chairperson and the referee as to the validity or otherwise of any form of declaration, the view of the referee shall prevail and his or her judgment on the matter shall be final. The referee shall endorse with his or her signature each form of declaration found to be invalid, with the reason for the invalidity. The chairperson and the referee shall together note the name and surname of each legal practitioner who has submitted a declaration and envelope marked "ballot papers", as well as whether that legal practitioner is an attorney or an advocate, in a voting register kept by the referee.
13. The chairperson shall, in the presence of the referee, in respect of each declaration form found to be valid, place its accompanying envelope marked "ballot paper" unopened through a slot in a ballot box of a design and construction approved by the Council, which shall have been securely locked and sealed in advance by the chairperson. After placing the last of such envelopes duly received in the ballot box the chairperson shall, in the presence of the referee, securely seal the slot, and shall hand the key to the referee. The chairperson shall securely retain the ballot box, locked and sealed as aforesaid, and shall deliver the ballot box in that condition to the scrutinizers appointed in terms of regulation 15 on the day following the day referred to in regulation 8.5.1.6. Separate ballot boxes shall be kept for ballot papers in respect of attorneys and advocates respectively.

14. An envelope marked "ballot paper" which is accompanied by a form of declaration which has been found to be invalid shall not be placed in the ballot box but the chairperson shall, in the presence of the referee, replace in the envelope marked "voting papers" in which it was received each such envelope marked "ballot paper" unopened, together with its accompanying form of declaration endorsed by the referee as provided in regulation 122, shall securely seal all those documents and shall separately retain them, in the same manner *mutatis mutandis* as is provided for in regulation 13, for a period of three months after the date referred to in regulation 8.5.1.6. The chairperson shall thereafter destroy all of them unless ordered otherwise by an order of court; provided that if there should be a dispute regarding the validity of the form of declaration the documents shall be retained until the dispute has been resolved. The chairperson shall keep a separate record of the number of declarations and envelopes thus retained by him.
15. Prior to or on the date referred to in regulation 8.5.1.6 the Council shall appoint as scrutinizers to examine the ballot papers placed in the ballot box and of counting the votes received, not less than two legal practitioners, not being candidates for office or legal practitioners who have nominated candidates or who are members of the Council or of a Provincial Council, and none of whom shall be the legal practitioner appointed as referee under these regulations. Upon receipt by the scrutinizers of the ballot box they shall break the seal, open the ballot box and remove its contents. They shall then open each of the envelopes marked "ballot paper", remove the ballot paper contained therein, examine the ballot paper and satisfy themselves of its validity in accordance with these regulations or, if not so satisfied, reject the ballot paper after having endorsed on its reverse over their signatures the reason for its rejection. They shall then count the votes recorded in the remaining ballot papers and record the result in the presence of the chairperson and the referee. Thereafter they shall replace all the ballot papers, including those rejected, in the ballot box and shall lock and re-seal it, and hand it to the chairperson for safekeeping.
16. The number of attorney candidates in the respective categories indicated on the ballot paper who received the greatest number of votes of attorneys in diminishing order among the attorney candidates shall be deemed to have been elected as attorney members of the Council in those categories, and the advocate candidates in the respective categories indicated on the ballot paper who received the greatest number of votes of advocates in diminishing order among the advocate candidates shall be deemed to have been elected as advocate members of the Council in those categories.
17. If there is a tie between two or more candidates having the result of leaving undecided which of the candidates has been elected, in the relevant category, the question as to

which of them shall be deemed elected shall be determined immediately by lot drawn by the scrutinizers in the manner determined by them.

18. Upon completion of their scrutiny the scrutinizers shall immediately report the result of the election in writing to the chairperson and referee. The referee shall immediately determine whether the election was conducted freely and fairly, and shall issue a signed declaration in that regard to the chairperson. The report shall be signed by all of the scrutinizers and shall contain the following particulars:
  - 18.1 the total number of ballot papers received by them;
  - 18.2 the numbers of ballot papers rejected and the grounds of rejection;
  - 18.3 the total number of votes in favour of each candidate in each category;
  - 18.4 the result of any lot drawn in terms of regulation 17;
  - 18.5 the names of those candidates who are deemed to have been elected.
19. The chairperson shall, after receipt of the report of the scrutinizers and a declaration in terms of regulation 18 that the election was conducted freely and fairly, cause each candidate to be advised of the result of the election.
20. The report of the scrutinizers together with a declaration from the referee in terms of regulation 18 that the election was conducted freely and fairly shall be conclusive as to the result of the election, notwithstanding any informality.
21. The scrutinizers, having completed their scrutiny, shall return the ballot box containing the examined ballot papers and which is locked in accordance with regulation 15 to the chairperson, together with its key. The chairperson shall securely retain the ballot box in that condition for a period of three months after the date referred to in regulation 8.5.1.6 and shall thereupon break the seal, unlock the box, empty it of its contents and destroy the contents. The chairperson shall then also destroy all the valid declaration forms received by the Council.
22. If an election is declared to be not free and fair by the referee in terms of regulation 18, or by a court on application brought within one month of the announcement of the result, the process for the election of members of the Council shall be conducted afresh.
23. The first election of members of the Council shall be conducted under the authority of the National Forum on the Legal Profession established in terms of section 96(1) of the Act. These regulations will apply, with the necessary changes required by the context, to the

first election, and a reference in these regulations to "the Council" and to the "chairperson" will be deemed to be a reference to executive committee of the National Forum and to the chairperson of the National Forum respectively.

## Schedule 1

### Legal Practice Council

#### Ballot Paper - Attorneys

Every attorney who is on the roll of practising attorneys may vote for a maximum of ten candidates from the candidates listed below. Please note, however, that in order to comply with section 7(2)(a) of the Legal Practice Act 28 of 2014 (subject to the availability of the candidates) the four black<sup>1</sup> women, three black men, one white woman and two white men with the highest number of votes in their respective categories will constitute the ten attorneys who will serve as members of the Legal Practice Council. A short profile of each candidate is available at [www.lpc.org.za](http://www.lpc.org.za).

A  
B  
C  
D  
E  
F  
G  
H  
I  
J  
K  
L

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

*S7(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;*

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<sup>1</sup> Black is used as defined in section 1 of the Broad-Based Black Economic Empowerment Act 53 of 2003, read with the Broad-Based Black Economic Empowerment Amendment Act 46 of 2013 as a generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent, or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date and such other persons as may be categorised as black persons for purposes of that legislation.

- (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.*

**Schedule 2**

**Legal Practice Council**

**Ballot Paper - Advocates**

Every advocate who is on the roll of practising advocate may vote for a maximum of six candidates from the candidates listed below. Please note, however, that in order to comply with section 7(2)(a) of the Legal Practice Act 28 of 2014 (subject to the availability of the candidates) the two black<sup>1</sup> women, two black men, one white woman and one white man with the highest number of votes in their respective categories will constitute the six advocates who will serve as members of the Legal Practice Council. A short profile of each candidate is available at [www.lpc.org.za](http://www.lpc.org.za).

- A**
- B**
- C**
- D**
- E**
- F**
- G**
- H**
- I**
- J**
- K**
- L**

**When voting, please take into account the provisions of section 7(2) of the Legal Practice Act:**  
*S7(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;*

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<sup>1</sup> Black is used as defined in section 1 of the Broad-Based Black Economic Empowerment Act 53 of 2003, read with the Broad-Based Black Economic Empowerment Amendment Act 46 of 2013 as a generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent, or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date and such other persons as may be categorised as black persons for purposes of that legislation.

- (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.*

**Regulations under section 109(1)(a) read with section 97(1) of  
the Legal Practice Act, 28 of 2014**

It is hereby certified that, acting under the powers conferred by section 109(1)(a) of the Legal Practice Act, 28 of 2014, the Minister of Justice and Constitutional Development, acting in consultation with the National Forum on the Legal Profession, has made the following regulations in connection with the matters referred to therein.

**Establishment of Provincial Councils and areas of jurisdiction**

**1. Definitions**

In these regulations, unless the context otherwise indicates -

- 1.1 "The Act" means the Legal Practice Act, 28 of 2014;
- 1.2 words and phrases defined in the Act shall have the same meanings assigned to them in these regulations.

**2. Establishment of Provincial Councils**

- 2.1 At the commencement of Chapter 2 of the Act the Council must establish nine Provincial Councils having jurisdiction in the areas designated in regulation 3.
- 2.2 Until otherwise determined by the Council, the Provincial Councils shall be composed of such individuals as are referred to in rule 16 of the rules of the Council made under the authority of section 95(1) of the Act, read with section 109(3) of the Act.

**3. Areas of jurisdiction**

The areas of jurisdiction of the Provincial Councils established in terms of regulation 2.1 shall coincide with the provincial boundaries of the province for which the Provincial Council is established.

**4. Location of offices of Provincial Councils**

Upon the establishment of further Provincial Councils, as contemplated in regulation 2.2, the office of the Provincial Council in respect of the province concerned shall be situated in the following centres:

- 4.1 Gauteng: Pretoria;
- 4.2 Western Cape: Cape Town;
- 4.3 Free State: Bloemfontein;
- 4.4 KwaZulu-Natal: Durban;
- 4.5 Mpumalanga: Nelspruit.
- 4.6 Eastern Cape: East London;
- 4.7 Limpopo: Polokwane
- 4.8 North West: Mahikeng
- 4.9 Northern Cape: Kimberley.

**5. Committees of the Provincial Council**

Every Provincial Council shall, upon its establishment, establish a committee of the Provincial Council at every centre within the province concerned at which there is a High Court but no office of the Provincial Council. Any such committee shall consist of two attorneys and two advocates, appointed by the Provincial Council for such periods as may be determined by the Provincial Council, and who shall have such powers and functions as are delegated to them by the Provincial Council.

The South African Legal Practice Council

Rules

made under the authority of section 95(1) of the Legal Practice Act, 28 of 2014

## **PART IV**

### **PROVINCIAL COUNCILS**

#### **16. Election of Provincial Councils [section 95(1)(j) read with section 23(4)]**

- 16.1. A Provincial Council shall consist of such number of members as the Council may determine from time to time, elected in accordance with the provisions of this rule. A member of a Provincial Council shall hold 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.
- 16.2. Until otherwise determined by the Council, every Provincial Council other than the Gauteng Provincial Council will comprise six attorneys and four advocates, and the Gauteng Provincial Council will comprise eight attorneys and four advocates, constituted in accordance with the principles set out in schedule 1 (in the case of attorney members) or schedule 2 (in the case of advocate members) respectively.
- 16.3. The provisions of sections 7(3), 8, 11 and 12 of the Act shall apply, with the necessary changes required by the context, to members of a Provincial Council.
- 16.4. Within 60 days after a Provincial Council has been established by the Council in terms of the Act the Council shall organise the holding of the first election for members of that Provincial Council. In respect of such election -
  - 16.4.1. the provisions of this rule will apply;
  - 16.4.2. a member of the Council who wishes to make himself or herself available for election as a member of the Provincial Council in whose area of jurisdiction he or she practises shall not be involved in any way in the conduct of the election of members of that Provincial Council.

- 16.5. An election for members of a Provincial Council shall be held, in the manner prescribed in these rules, in every third year after the year in which the first such election is held. The term of office of members of the Provincial shall run from the date of their election to the third anniversary of that date; provided that in the case of a member elected to fill a casual vacancy in the Provincial Council, the term of office of that member shall terminate on the date on which the office of the member replaced by him or her would have terminated. The member elected to fill a casual vacancy shall be eligible for re-election.
- 16.6. During September of each year in which an election is to be held, or at such other time as the Council may determine, the Council shall despatch a notice to every attorney and every advocate admitted to practice and enrolled on the practising roll in the area of jurisdiction of the Provincial Council concerned calling for nominations of attorneys and advocates for election to the Provincial Council, such nominations to be received not later than a date stipulated in the notice but in any event not earlier than ten days from the date of the notice. The notice –
- 16.6.1. shall be sent by email to the email address of the legal practitioner concerned; where no email address has been provided to the Council by the legal practitioner concerned the notice shall be sent by prepaid post;
- 16.6.2. shall be published in the English language once in a journal published by the legal profession for attorneys practising in South Africa and once in a journal published by the legal profession for advocates practising in South Africa;
- 16.6.3. shall be published once in the government gazette on a date as close as possible to the date of dispatch of the notice;
- 16.6.4. shall give details of the number of vacancies on the Provincial Council for attorney members and advocate members respectively.
- 16.7. Any two attorneys admitted to practice and enrolled on the practising roll and practising within the area of jurisdiction of the Provincial Council may, in the manner prescribed in this rule, nominate any eligible attorney (other

than themselves) as an attorney member of the Provincial Council for the then ensuing period of office.

16.8. Any two advocates admitted to practice and enrolled on the practising roll and practising within the area of jurisdiction of the Provincial Council may, in the manner prescribed in this rule, nominate any eligible advocate (other than themselves) as an advocate member of the Provincial Council for the then ensuing period of office.

16.9. Any such nomination shall be made over the signature of the two nominating individuals in a document which shall provide the following information in relation to each nominee named therein, in not more than 600 words and in such format as the Council may require -

16.9.1. his or her name;

16.9.2. In the case of an attorney, the name of the firm of which he or she is a proprietor or a member or by which he or she is employed, stating also the status of that attorney within the firm;

16.9.3. in the case of an advocate, whether he or she renders legal services in terms of section 34(1)(2)(a)(i) or section 34(2)a)(ii) of the Act, and in either case whether or not he or she has the status of Senior Counsel.

16.9.4. his or her race, gender, date of admission and enrolment and period in practice;

16.9.5. if he or she suffers from a disability and wishes to disclose that fact, a statement to that effect and the nature of the disability;

16.9.6. the address of his or her principal place of practice

and on which shall be endorsed, over the signature of each nominee named therein, the acceptance of nomination by that nominee and his or her confirmation that the information given therein is correct and that he or she is not disqualified from membership of the Provincial Council.

- 16.10. Originally signed nominations must be lodged with the Provincial Council by not later than the date stipulated in the notice referred to in rule 16.6. Any nomination which does not comply substantially with the provisions of this rule or which is not lodged within the prescribed time must not be recognised.
- 16.11. If no greater number of candidates is nominated than the number to be elected, then the candidates who are nominated will be deemed to have been elected.
- 16.12. If the number of candidates who are nominated exceeds the number to be elected as attorney members or as advocate members, as the case may be, the Council must, within 10 days after the last day on which nominations are required to be lodged in terms of rule 16.6, send to every legal practitioner eligible to vote, by email to the legal practitioner's email address or, where the legal practitioner has not appointed an email address, by prepaid post -
- 16.12.1. an envelope on which the address of the Council is printed, together with the words "voting papers", or, where the communication is by email, directions to the legal practitioner as to the size and format of an envelope to be used by the legal practitioner;
- 16.12.2. a smaller envelope on which is printed the words "ballot paper" and nothing else, or where the communication is by email, directions to the legal practitioner as to the size and format of an envelope to be created by the legal practitioner;
- 16.12.3. a printed declaration in such form as the Council may direct containing appropriate spaces for -
- 16.12.3.1. the surname and forenames of the voting legal practitioner and a statement whether he or she is an attorney or an advocate;
- 16.12.3.2. the date of signature by that legal practitioner and that legal practitioner's signature;

- 16.12.3.3. a declaration by the legal practitioner above his or her signature that he or she has not already voted in the election concerned;
- 16.12.4. a ballot paper, substantially in the form of Schedule 1 (in the case of the election of attorney members) or Schedule 2 (in the case of the election of advocate members), containing the surnames and forenames in alphabetical order by surname of the nominated candidates and providing the information indicated in Schedule 1 or Schedule 2, as the case may be, and nothing more;
- 16.12.5. a written notice in such form as the Provincial Council may direct
  - 16.12.5.1. requesting the legal practitioner, if he or she wishes to record a vote -
    - 16.12.5.1.1. place a cross on the accompanying ballot paper against the name of each candidate for whom the legal practitioner wishes to vote and so as to indicate a vote in favour of not more than the number of candidates for which there are vacancies, and to make no other mark or alteration on the ballot paper;
    - 16.12.5.1.2 to place the ballot paper in the envelope marked "ballot paper";
    - 16.12.5.1.3 to seal the envelope containing the ballot paper;
    - 16.12.5.1.4 to complete and sign the form of declaration;
    - 16.12.5.1.5 to place a completed and signed declaration, together with the envelope containing the ballot paper in and seal the envelope marked "voting papers";

16.12.5.1.6 to despatch the envelope marked "voting papers" with its contents to the Council so as to reach the Council not later than a date referred to in the notice;

16.12.5.2 drawing the attention of legal practitioners to the fact that the profiles of candidates, containing the information set out in rule 16.9, will be published on the website of the Council for a period of 30 days commencing on the date of the written notice referred to in rule 16.12.5.

- 16.13 The notice referred to in rule 16.12.5 shall contain a warning that if a vote is cast in favour of more than the number of names referred to in rule 16.12.5.1.1, or if any mark or alteration is made on the ballot paper other than the cross indicating a vote in favour of the candidates for whom the legal practitioner intends to vote, or if the declaration referred to in rule 16.12.3 is not duly completed and signed by the voter, the ballot paper will be void.
- 16.14 The Council shall despatch separate notices to attorneys and advocates for purposes of any election in terms of this rule, and all notifications shall distinguish clearly as to whether they are intended for the election of an attorney or for the election of an advocate.
- 16.15 Within 7 days after the last date on which nominations were required to be lodged in terms of rule 16.6 the chairperson of the Council ("the chairperson") shall in writing appoint a legal practitioner of more than fifteen years standing as a referee for the purpose of performing the duties assigned to a referee under these rules . The referee shall not be a candidate for office or a legal practitioner who has nominated a candidate, or a member of the Council or of a Provincial Council, as the case may be.
- 16.6 On each day on which envelopes marked "voting papers" despatched to the Provincial Council are received by the Council, or if it is not practicable on that day, as soon as practicable thereafter, the chairperson shall, in the presence of the referee, open each such envelope and remove its contents. The chairperson and the referee shall then together examine

each declaration form, shall verify, to such extent as may appear necessary, the information contained therein against the records of the Council and shall satisfy themselves that the declaration form has been duly completed and signed by the legal practitioner, failing which it will be regarded as invalid. In the event of a disagreement between the chairperson and the referee as to the validity or otherwise of any form of declaration, the view of the referee shall prevail and his or her judgment on the matter shall be final. The referee shall endorse with his or her signature each form of declaration found to be invalid, with the reason for the invalidity. The chairperson and the referee shall together note the name and surname of each legal practitioner who has submitted a declaration and envelope marked "ballot papers", as well as whether that legal practitioner is an attorney or an advocate, in a voting register kept by the referee.

- 16.17 The chairperson shall, in the presence of the referee, in respect of each declaration form found to be valid, place its accompanying envelope marked "ballot paper" unopened through a slot in a ballot box of a design and construction approved by the Council, which shall have been securely locked and sealed in advance by the chairperson and of which the chairperson. After placing the last of such envelopes duly received in the ballot box the chairperson shall, in the presence of the referee, securely seal the slot, and shall hand the key to the referee. The chairperson shall securely retain the ballot box, locked and sealed as aforesaid, and shall deliver the ballot box in that condition to the scrutinizers appointed in terms of rule 16.19 on the day following the day referred to in rule 16.12.5.1.6. Separate ballot boxes shall be kept for ballot papers in respect of attorneys and advocates respectively.
- 16.18 An envelope marked "ballot paper" which is accompanied by a form of declaration which has been found to be invalid shall not be placed in the ballot box but the chairperson shall, in the presence of the referee, replace in the envelope marked "voting papers" in which it was received each such envelope marked "ballot paper" unopened, together with its accompanying form of declaration endorsed by the referee as provided in rule 16.16, shall securely seal all those documents and shall separately retain them in the same manner *mutatis mutandis*, as is provided for in rule 16.17, for a

period of three months after the date referred to in rule 16.12.5.1.6. The chairperson shall thereafter destroy all of them unless ordered otherwise by an order of court; provided that if there should be a dispute regarding the validity of the form of declaration the documents shall be retained until the dispute has been resolved. The chairperson shall keep a separate record of the number of declarations and envelopes thus retained by him.

16.19 Prior to or on the date referred to in rule 13.12.5.16 the Council shall appoint as scrutinizers to examine the ballot papers placed in the ballot box and of counting the votes received, not less than two legal practitioners, not being candidates for office or legal practitioners who have nominated candidates or who are members of the Council or of a Provincial Council, and none of whom shall be the legal practitioner appointed as referee under these rules. Upon receipt by the scrutinizers of the ballot box they shall break the seal, open the ballot box and remove its contents. They shall then open each of the envelopes marked "ballot paper", remove the ballot paper contained therein, examine the ballot paper and satisfy themselves of its validity in accordance with these rules or, if not so satisfied, reject the ballot paper after having endorsed on its reverse over their signatures the reason for its rejection. They shall then count the votes recorded in the remaining ballot papers and record the result in the presence of the chairperson and the referee. Thereafter they shall replace all the ballot papers, including those rejected, in the ballot box and shall lock and re-seal it, and hand it to the chairperson for safekeeping.

16.20 The number of attorney candidates in the respective categories indicated on the ballot paper who received the greatest number of votes of attorneys in diminishing order among the attorney candidates shall be deemed to have been elected as attorney members of the Provincial Council in those categories, and the advocate candidates in the respective categories indicated on the ballot paper who received the greatest number of votes of advocates in diminishing order among the advocate candidates shall be deemed to have been elected as advocate members of the Provincial Council in those categories. If there are insufficient candidates to fill a particular category the Council shall co-opt a suitable candidate to fill the

vacancy, and the co-opted candidate shall be deemed to have been elected in accordance with these rules.

16.21 If there is a tie between two or more candidates having the result of leaving undecided which of the candidates has been elected, in the relevant category, the question as to which of them shall be deemed elected shall be determined immediately by lot drawn by the scrutinizers in the manner determined by them.

16.22 Upon completion of their scrutiny the scrutinizers shall immediately report the result of the election in writing to the chairperson and referee. The referee shall immediately determine whether the election was conducted freely and fairly, and shall issue a signed declaration in that regard to the chairperson. The report shall be signed by all of the scrutinizers and shall contain the following particulars:

16.22.1 the total number of ballot papers received by them;

16.22.2 the numbers of ballot papers rejected and the grounds of rejection;

16.22.3 the total number of votes in favour of each candidate in each category;

16.22.4 the result of any lot drawn in terms of rule 16.21;

16.22.5 the names of those candidates who are deemed to have been elected.

16.23 The chairperson shall, after receipt of the report of the scrutinizers and a declaration in terms of rule 16.22 that the election was conducted freely and fairly, cause each candidate to be advised of the result of the election.

16.24 The report of the scrutinizers together with a declaration from the referee in terms of rule 16.22 that the election was conducted freely and fairly shall be conclusive as to the result of the election, notwithstanding any informality.

16.25 The scrutinizers, having completed their scrutiny, shall return the ballot box containing the examined ballot papers and which is locked in accordance

with rule 16.19 to the chairperson, together with its key. The chairperson shall securely retain the ballot box in that condition for a period of three months after the date referred to in rule 16.12.5.1.6 and shall thereupon break the seal, unlock the box, empty it of its contents and destroy the contents. The chairperson shall then also destroy all the valid declaration forms received by the Council.

- 16.26 If an election is declared to be not free and fair by the referee in terms of rule 16.22, or by a court on application brought within one month of the announcement of the result, the process for the election of members of the Provincial Council shall be conducted afresh.

**Provincial Council of [●]**

**Ballot Paper - Attorneys**

**(for use in elections for all Provincial Councils except for the Gauteng Provincial Council)**

Every attorney who is on the roll of practising attorneys and who practises within the area of jurisdiction of the Provincial Council may vote for a maximum of six candidates from the candidates listed below. Please note, however, that in order to achieve an appropriate balance of race and gender in relation to the composition of the Provincial Council, and subject to the availability of candidates, the following individuals will constitute the six attorneys who will serve as members of the Provincial Council:

1. the two black women<sup>1</sup> with the highest number of votes in this category;
2. the two black men with the highest number of votes in this category;
3. the white woman with the highest number of votes in this category;
4. the white man with the highest number of votes in this category.

A short profile of each candidate is available at [www.lpc.co.za](http://www.lpc.co.za).

**A**  
**B**  
**C**  
**D**  
**E**  
**F**  
**G**

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<sup>1</sup> Black is used as defined in section 1 of the Broad-Based Black Economic Empowerment Act 53 of 2003, read with the Broad-Based Black Economic Empowerment Amendment Act 46 of 2013 as a generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent, or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date and such other persons as may be categorised as black persons for purposes of that legislation.

*When voting, please take into account the following considerations in relation to the constitution of the Provincial Council:*

- (a) the racial and gender composition of South Africa;*
- (b) representation of persons with disabilities; and*
- (c) 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.*

**Provincial Council of [●]**

**Ballot Paper - Advocates**

**(for use in elections for all Provincial Councils except for the Gauteng Provincial Council)**

Every advocate who is on the roll of practising advocates and who practises within the area of jurisdiction of the Provincial Council may vote for a maximum of four candidates from the candidates listed below. Please note, however, that in order to achieve an appropriate balance of race and gender in relation to the composition of the Provincial Council, and subject to the availability of candidates, the following individuals will constitute the four advocates who will serve as members of the Provincial Council:

1. the black woman<sup>2</sup> with the highest number of votes in this category;
2. the black man with the highest number of votes in this category;
3. the white woman with the highest number of votes in this category;
4. the white man with the highest number of votes in this category.

A short profile of each candidate is available at [www.lpc.co.za](http://www.lpc.co.za).

**A**  
**B**  
**C**  
**D**  
**E**  
**F**  
**G**

*When voting, please take into account the following considerations in relation to the constitution of the Provincial Council:*

- (a) the racial and gender composition of South Africa;*
- (b) representation of persons with disabilities; and*
- (c) experience and knowledge of—*

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<sup>2</sup> Black is used as defined in section 1 of the Broad-Based Black Economic Empowerment Act 53 of 2003, read with the Broad-Based Black Economic Empowerment Amendment Act 46 of 2013 as a generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent, or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date and such other persons as may be categorised as black persons for purposes of that legislation.

- (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.*

**Provincial Council of Gauteng**

**Ballot Paper - Attorneys**

**(only for use in elections for the Gauteng Provincial Council)**

Every attorney who is on the roll of practising attorneys and who practises within the area of jurisdiction of the Provincial Council may vote for a maximum of eight candidates from the candidates listed below. Please note, however, that in order to achieve an appropriate balance of race and gender in relation to the composition of the Provincial Council, and subject to the availability of candidates, the following individuals will constitute the eight attorneys who will serve as members of the Provincial Council:

1. the two black women<sup>3</sup> with the highest number of votes in this category;
2. the two black men with the highest number of votes in this category;
3. the two white women with the highest number of votes in this category;
4. the two white men with the highest number of votes in this category.

A short profile of each candidate is available at [www.lpc.co.za](http://www.lpc.co.za).

**A**  
**B**  
**C**  
**D**  
**E**  
**F**  
**G**  
**H**

*When voting, please take into account the following considerations in relation to the constitution of the Provincial Council:*

- (a) the racial and gender composition of South Africa;*
- (b) representation of persons with disabilities; and*
- (c) experience and knowledge of—*

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<sup>3</sup> Black is used as defined in section 1 of the Broad-Based Black Economic Empowerment Act 53 of 2003, read with the Broad-Based Black Economic Empowerment Amendment Act 46 of 2013 as a generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent, or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date and such other persons as may be categorised as black persons for purposes of that legislation.

- (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.*

**Provincial Council of Gauteng**

**Ballot Paper - Advocates**

**(only for use in elections for the Gauteng Provincial Council)**

Every advocate who is on the roll of practising advocates and who practises within the area of jurisdiction of the Provincial Council may vote for a maximum of four candidates from the candidates listed below. Please note, however, that in order to achieve an appropriate balance of race and gender in relation to the composition of the Provincial Council, and subject to the availability of candidates, the following individuals will constitute the four advocates who will serve as members of the Provincial Council:

1. the black woman<sup>4</sup> with the highest number of votes in this category; the black man with the highest number of votes in this category;
2. the white woman with the highest number of votes in this category;
3. the white man with the highest number of votes in this category.

A short profile of each candidate is available at [www.lpc.co.za](http://www.lpc.co.za).

**A**  
**B**  
**C**  
**D**  
**E**  
**F**  
**G**

*When voting, please take into account the following considerations in relation to the constitution of the Provincial Council:*

- (a) the racial and gender composition of South Africa;*
- (b) representation of persons with disabilities; and*
- (c) experience and knowledge of—*
  - (i) the provision of legal services;*
  - (ii) the principles of promoting access to justice;*

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<sup>4</sup> Black is used as defined in section 1 of the Broad-Based Black Economic Empowerment Act 53 of 2003, read with the Broad-Based Black Economic Empowerment Amendment Act 46 of 2013 as a generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent, or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date and such other persons as may be categorised as black persons for purposes of that legislation.

- (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.*

**Regulations under section 109(1)(a) read with section 97(1) of  
the Legal Practice Act, 28 of 2014**

It is hereby certified that, acting under the powers conferred by section 109(1)(a) of the Legal Practice Act, 28 of 2014, the Minister of Justice and Constitutional Development, acting in consultation with the National Forum on the Legal Profession, has made the following regulations in connection with the matters referred to therein.

**The composition, powers and functions of the Provincial Councils**

**1. Definitions**

In these regulations, unless the context otherwise indicates -

- 1.1 "The Act" means the Legal Practice Act, 28 of 2014;
- 1.2 words and phrases defined in the Act shall have the same meanings assigned to them in these regulations.

**2. Composition of the Provincial Councils**

Until otherwise determined by the Council the composition of each Provincial Council shall be as set out in the following table, elected in accordance with the provisions of rule 16 of the rules of the Council made under the authority of section 95(1) of the Act, read with section 109(3) of the Act:

<b>Composition of Provincial Councils</b>									
	EC	FS	GP	KZN	LP	MP	NC	NW	WC
Attorneys - Black	4	4	4	4	4	4	4	4	4
Attorneys - White	2	2	4	2	2	2	2	2	2
Advocates - Black	2	2	2	2	2	2	2	2	2
Advocates - White	2	2	2	2	2	2	2	2	2
Total Legal Practitioners	10	10	12	10	10	10	10	10	10

In terms of the provisions of rule 16, one-half of the legal practitioners serving each Provincial Council will be female and one-half will be male.

### 3. Powers and functions of Provincial Councils

Until otherwise determined by the Council, the following powers and functions shall be delegated in terms of section 23(1) of the Act to a Provincial Council in respect of legal practitioners who have registered a physical address within the area of jurisdiction of the Provincial Council:

- 3.1 the enrolment of duly admitted legal practitioners, and the maintenance of a roll of legal practitioners, in terms of section 6(3) of the Act;
- 3.2 to receive and process applications for admission by individuals to practise as legal practitioners, conveyancers or notaries, pursuant to the provisions of section 24(2) of the Act;
- 3.3 the registration and administration of practical vocational training contracts entered into pursuant to regulations made by the Minister in respect of practical vocational training requirements of candidate legal practitioners;
- 3.4 to receive and process applications by attorneys applying for certificates to appear in the High Court, the Supreme Court of Appeal or the Constitutional Court, as contemplated in section 25(4) of the Act;
- 3.5 to receive and process applications by candidate legal practitioners for certificates for the right of appearance in terms of section 25(5) of the Act, and to issue such certificates.
- 3.6 to establish committees of the Provincial Council to assist it in the exercise of its powers and the performance of its functions, as contemplated in section 23(6) of the Act, and to further delegate to any such committee any of the powers and functions delegated to the Provincial Council by the Council;
- 3.7 to receive applications for and, on good cause shown, grant exemption to candidate legal practitioners or legal practitioners from performing community service, as contemplated in section 29(3) of the Act;
- 3.8 to receive from the registrar of the High Court, and retain, the certified copies of court orders made by the High Court, as contemplated in section 30(5) of the Act;

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- 3.9 to maintain the roll of legal practitioners in respect of legal practitioners, notaries and conveyancers within the area of jurisdiction of the Provincial Council, and to provide updated information in relation to the roll to the Council;
- 3.10 to cancel or suspend the enrolment of a legal practitioner in the circumstances contemplated in section 31 of the Act, subject to compliance by the Provincial Council with the provisions of section 31;
- 3.11 to receive and process applications for conversion of enrolment by legal practitioners, as contemplated in section 32 of the Act;
- 3.12 to receive applications for, and to approve, the establishment of law clinics, as contemplated by section 34(8) of the Act, subject to compliance with the provisions of that section;
- 3.13 to establish investigating committees and disciplinary committees, as contemplated in section 37 of the Act;
- 3.14 to conduct disciplinary hearings, as contemplated by section 39 of the Act and, for purposes of a hearing, subpoena persons to appear before the disciplinary committee, as contemplated in section 39(3) of the Act;
- 3.15 to institute urgent in legal proceedings in the High Court to suspend a legal practitioner from practice and to obtain alternative interim relief, in the circumstances contemplated in section 43 of the Act;
- 3.16 to receive and process applications for the issue of fidelity fund certificates to legal practitioners who are obliged to be in possession of a fidelity fund certificate, as contemplated in section 85 of the Act, and if satisfied as to the matters referred to in section 85(6), to issue the applicant with a fidelity fund certificate;
- 3.17 as contemplated in section 87(2) of the Act, to inspect, either itself or through its nominee, the accounting records of any trust account practice in order to satisfy itself that the provisions of section 86 and section 87(1) are being complied with;
- 3.18 to apply to the High Court to prohibit any legal practitioner referred to in section 84(1) of the Act from operating in any way on his or her trust account, and for an order appointing a curator bonis to administer and control that trust account, as contemplated in section 89 of the Act;

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3.19 to apply to the High Court for an order appointing a curator bonis to control and administer the trust account of a legal practitioner in the circumstances contemplated in section 90 of the Act.

4. **Further delegation not prohibited**

Nothing in these regulations prohibits the Council from delegating further powers and functions to a Provincial Council pursuant to the powers given to the Council in section 6(1)(a)(x) of the Act.

**Law Society of South Africa**

**Recommendation to the Minister of Justice and Constitutional Development  
in terms of section 97(1)(a)(v) of the Legal Practice Act, 28 of 2014**

**Regulations made under section 26(1)(c) of the Legal Practice Act, 28 of 2014**

**Practical vocational training requirements for candidate legal practitioners**

**1. Duration of practical vocational training**

- 1.1 Any person intending to be admitted and enrolled as a candidate legal practitioner must -
- 1.1.1 serve under a practical vocational training contract for a period of twelve months after that person has satisfied all the requirements for a degree referred to in sections 26(1)(a) or (b) of the Act; and
- 1.1.2 complete, to the satisfaction of the Council, during the service under a practical vocational training contract or within a period of not longer than twelve months after the termination of the practical vocational training contract, a full time period of structured course work, comprising compulsory modules on specific topics of not less than 400 notional hours duration in the aggregate over a period of not longer than six months.
- 1.2 For purposes of regulation 1.1.2 a notional hour of structured course work shall mean the notional duration allocated by the Council to a learning activity to be undertaken by a student to achieve a specified learning outcome, irrespective of the actual time taken by the individual to achieve that outcome.
- 1.3 The course of structured course work may be completed during the period of service under a practical vocational training contract, or separately therefrom, but a candidate legal practitioner may not embark on a course of structured course work before he or she has entered into a practical vocational training contract.
- 1.4 Subject to the provision of the Act, any period of service before the candidate has satisfied the requirements of the degrees referred to in regulation 1.1.1 shall not be regarded as good or sufficient service in terms of a practical vocational training contract, unless the Council otherwise determines in any particular case.

1.5 The Council may, on application and on good cause shown, and subject to such conditions as the Council may impose, reduce the duration of practical vocational training in any particular case.

## 2. Regulation of practical vocational training

2.1 The training of candidate legal practitioner, and service under a practical vocational training contract, shall be regulated by rules made by the Council from time to time.

2.2 Course work and workplace training must be in compliance with standards determined from time to time by the Council in the rules.

## 3. By whom candidate legal practitioners may be engaged

### 3.1 Candidate attorneys

3.1.1 A candidate attorney may be engaged or retained under a practical vocational training contract only -

3.1.1.1 by a person practising the profession of an attorney for his own account;

3.1.1.2 by a person practising the profession of an attorney as a partner in a firm of attorneys;

3.1.1.3 by a person practising the profession of an attorney as a member of a juristic entity;

3.1.1.4 by a person practising the profession of an attorney as State Attorney or as Deputy State Attorney in the office of the State Attorney or any branch thereof;

3.1.1.5 by a person practising the profession of an attorney if he or she is an attorney who has practised as a professional assistant in a firm for a period of five years within the preceding six years;

3.1.1.6 by a registered legal practitioner in the full time employ of a legal aid institution which has been approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged; or;

3.1.1.7 by a registered legal practitioner in the full time employ of any other institution approved by the Council for the purpose of engaging

candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged.

- 3.1.2 The person engaging the candidate attorney, as contemplated in regulation 3.1, must -
- 3.1.2.1 if that person is an attorney, save in the case of an attorney referred to in regulation 3.1.1.5, have practised as an attorney for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years;
- 3.1.2.2 in the case of an attorney referred to in regulation 3.1.1.5, have practised for the period specified in that regulation;
- 3.1.2.3 in the case of a registered legal practitioner referred to in regulations 3.1.1.6 and 3.1.1.7 who is an advocate, have practised in that capacity for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years.
- 3.1.3 Service by a candidate attorney to any legal practitioner while that legal practitioner is not practising the profession as described in regulation 3.1.1 shall not be deemed to be good or sufficient service for purposes of these regulations.
- 3.1.4 An attorney shall at no time have more than three candidate attorneys (and in the case of attorneys employed by entities referred to in regulations 3.1.1.6 and 3.1.1.7, six candidate attorneys or pupils in the aggregate) engaged or retained in terms of a practical vocational training contract: provided that -
- 3.1.4.1 on the death or retirement from practice of any attorney (or legal practitioner in the case of entities referred to in regulations 3.1.1.6, 3.1.1.7, 3.2.1.2 and 3.2.1.3) any of his or her surviving or remaining partners, any member of the commercial juristic entity of which he or she was a member, or any other person who as a legal practitioner is employed full time at the entity concerned; or
- 3.1.4.2 where an attorney has been debarred by the Council from continuing with a practical vocational training contract, any of his or her partners, any other member of the commercial juristic entity of which he or she is a member or (in the case of entities referred to in regulations 3.1.1.6 and

3.1.1.7) any other person who as a legal practitioner who is employed full time at the entity concerned

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

## 3.2 Pupils

3.2.1 A pupil may be engaged or retained under a practical vocational training contract only -

3.2.1.1 by an admitted advocate in practice;

3.2.1.2 by a registered legal practitioner in the full time employ of a legal aid institution which has been approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged; or

3.2.1.3 by a registered legal practitioner in the full time employ of any other institution approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged.

3.2.2 The person engaging the pupil, as contemplated in regulation 3.2.1 must -

3.2.2.1 if that person is an advocate, have practised in that capacity for a period not less than three years, or for periods of not less than three years in the aggregate during the preceding four years; or

3.2.2.2 in the case of a registered legal practitioner referred to in regulations 3.2.1.2 and 3.2.1.3 who is an advocate, have practised in that capacity for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years.

3.2.3 Service by a pupil to a legal practitioner while that legal practitioner is not practising the profession as described in regulation 3.2.2.1 shall not be deemed to be good or sufficient service for purposes of these regulations.

3.2.4 An advocate shall at no time have more than one pupil (and in the case of advocates employed by entities referred to in regulations 3.1.16, 3.1.1.7,

3.2.1.2 and 3.2.1.3, six candidate attorneys or pupils in the aggregate) engaged or retained in terms of a practical vocational training contract: provided that on the death or retirement from practice of an advocate or in the event of an advocate being debarred by the Council from continuing with a practical vocational training contract, any other qualifying advocate may take session of the practical vocational training contract of the pupil for the period of the contract still remaining.

#### 4. **Course work**

4.1 The course work programme to be attended by candidate legal practitioners shall comprise all of the following modules, attendance of which will be compulsory for candidate legal practitioners intending to be admitted as legal practitioners:

4.1.1 legal accounting for legal practitioners:

4.1.1.1 special legal accounting for advocates (pupils only, other than pupils wishing to be admitted as advocates referred to in section 34(2)(b) of the Act);

4.1.1.2 special legal accounting for attorneys and for advocates referred to in section 34(2)(b) of the Act;

4.1.2 advocacy skills, including trial and motion court proceedings;

4.1.3 alternative dispute resolution;

4.1.4 civil procedure;

4.1.5 criminal procedure;

4.1.6 professional conduct and legal ethics;

4.1.7 legal writing and drafting.

4.1.8 constitution of law and customary law;

4.1.9 information and communication technology for practice, and associated aspects of cyber law;

4.1.10 administration of estates.

4.2 The hours to be devoted to each of the modules referred to in regulation 4.1 by a candidate legal practitioner shall be as determined from time to time by the Council,

but the aggregate duration of attendance on modules by a candidate attorney or a pupil shall be not less than 400 notional hours.

- 4.3 Any module of course work may be presented through lectures, seminars or any forms of learning requiring the physical presence of a candidate legal practitioner, or in appropriate circumstances may be presented through approved distance-learning method or digital transmission, telephone or video conference link, audio-tape or electronic network. Course work may be presented during working hours or after hours.
- 4.4 All providers of structured course work for purposes of practical vocational training must be accredited by the Council and must have an appropriate level of experience to be able to impart knowledge and skills to candidate legal practitioners.
- 4.5 If a candidate legal practitioner fails to complete, to the satisfaction of the Council, a full time period of structured course work, as required in regulation 1.1.2, within a period of three years after the date of registration of a practical vocational training contract, he or she will be required to repeat the course work program to enable him or her to qualify for admission as a legal practitioner.

## 5. **Assessment**

Candidate legal practitioners will be subject to continuing assessment during their periods of practical vocational training, in relation to both their attendance at the course work program and during their service under a practical vocational training contract, in accordance with procedures determined by the Council. Any such assessment shall be in addition to, and apart from, the assessment of candidate legal practitioners as contemplated in section 28 of the Act.

**General Council of the Bar and Advocates for Transformation**

**Recommendation to the Minister of Justice and Constitutional Development  
in terms of section 97(1)(a)(v) of the Legal Practice Act, 28 of 2014**

**Regulations made under section 26(1)(c) of the Legal Practice Act, 28 of 2014**

**Practical vocational training requirements for candidate legal practitioners**

**1. Candidate attorneys**

**1.1 Duration of practical vocational training**

1.1.1 Any person intending to be admitted and enrolled as an attorney must -

1.1.1.1 serve under a practical vocational training contract for a period of twelve months after that person has satisfied all the requirements for a degree referred to in sections 26(1)(a) or (b) of the Act; and

1.1.1.2 complete, to the satisfaction of the Council, during the service under a practical vocational training contract or within a period of not longer than twelve months after the termination of the practical vocational training contract, a full time period of structured course work, comprising compulsory modules on specific topics of not less than 400 notional hours duration in the aggregate over a period of not longer than six months.

1.1.2 For purposes of regulation 1.1.1.2 a notional hour of structured course work shall mean the notional duration allocated by the Council to a learning activity to be undertaken by a student to achieve a specified learning outcome, irrespective of the actual time taken by the individual to achieve that outcome.

1.1.3 The course of structured course work may be completed during the period of service under a practical vocational training contract, or separately therefrom, but a candidate attorney may not embark on a course of structured course work before he or she has entered into a practical vocational training contract.

1.1.4 Subject to the provision of the Act, any period of service before the candidate attorney has satisfied the requirements of the degrees referred to in regulation

1.1.1.1 shall not be regarded as good or sufficient service in terms of a practical vocational training contract, unless the Council otherwise determines in any particular case.

1.1.5 The Council may, on application and on good cause shown, and subject to such conditions as the Council may impose, reduce the duration of practical vocational training in any particular case.

**1.2 By whom candidate attorneys may be engaged**

1.2.1 A candidate attorney may be engaged or retained under a practical vocational training contract only -

1.2.1.1 by a person practising the profession of an attorney for his own account;

1.2.1.2 by a person practising the profession of an attorney as a partner in a firm of attorneys;

1.2.1.3 by a person practising the profession of an attorney as a member of a juristic entity;

1.2.1.4 by a person practising the profession of an attorney as State Attorney or as Deputy State Attorney in the office of the State Attorney or any branch thereof;

1.2.1.5 by a person practising the profession of an attorney if he or she is an attorney who has practised as a professional assistant in a firm for a period of five years within the preceding six years;

1.2.1.6 by a registered legal practitioner in the full time employ of a legal aid institution which has been approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged; or

1.2.1.7 by a registered legal practitioner in the full time employ of any other institution approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged.

1.2.2 The person engaging the candidate attorney, as contemplated in regulation 1.2.1, must -

- 1.2.2.1 if that person is an attorney, save in the case of an attorney referred to in regulation 1.2.1.5, have practised as an attorney for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years;
- 1.2.2.2 in the case of an attorney referred to in regulation 1.2.1.5, have practised for the period specified in that regulation;
- 1.2.2.3 in the case of a registered legal practitioner referred to in regulations 1.2.1.6 and 1.2.1.7 who is an advocate, have practised in that capacity for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years prior to being engaged by the entity concerned.
- 1.2.3 Service by a candidate attorney to any legal practitioner while that legal practitioner is not practising or has not practised the profession as described in regulation 1.2.1 shall not be deemed to be good or sufficient service for purposes of these regulations.
- 1.2.4 An attorney shall at no time have more than three candidate attorneys (and in the case of attorneys employed by entities referred to in regulations 1.2.1.6 and 1.2.1.7, six candidate attorneys or pupils in the aggregate) engaged or retained in terms of a practical vocational training contract: provided that -
- 1.2.4.1 on the death or retirement from practice of any attorney (or legal practitioner in the case of entities referred to in regulations 1.2.1.6, 1.2.1.7, 2.2.1.2 and 2.2.1.3) any of his or her surviving or remaining partners, any member of the commercial juristic entity of which he or she was a member, or any other person who as a legal practitioner is employed full time at the entity concerned; or
- 1.2.4.2 where an attorney has been debarred by the Council from continuing with a practical vocational training contract, any of his or her partners, any other member of the commercial juristic entity of which he or she is a member or (in the case of entities referred to in regulations 3.1.1.6 and 3.1.1.7) any other person who as a legal practitioner who is employed full time at the entity concerned
- may take cession of the practical vocational training contract of the candidate attorney, despite the fact that the cessionary may then have more than three

candidate attorneys (or more than six candidate attorneys, as the case may be) under contract.

### 1.3 **Course work for candidate attorneys**

The course work programme to be attended by candidate attorneys shall comprise all of the following modules, attendance of which will be compulsory for candidate attorneys:

- 1.3.1 legal accounting for attorneys;
- 1.3.2 advocacy skills, including trial and motion court proceedings;
- 1.3.3 alternative dispute resolution;
- 1.3.4 civil procedure;
- 1.3.5 criminal procedure;
- 1.3.6 professional conduct and legal ethics;
- 1.3.7 legal writing and drafting.
- 1.3.8 constitutional law and customary law;
- 1.3.9 information and communication technology for practice, and associated aspects of cyber law;
- 1.3.10 administration of estates.

## 2. **Pupils**

### 2.1 **Duration of practical vocational training**

- 2.1.1 Any person intending to be admitted and enrolled as an advocate must -
  - 2.1.1.1 serve under a practical vocational training contract for a period of not less than six months after that person has satisfied all the requirements for a degree referred to in sections 26(1)(a) or (b) of the Act; and
  - 2.1.1.2 complete, to the satisfaction of the Council, during the service under a practical vocational training contract, a period of structured course work, comprising compulsory modules of specific topics of not less than 400

notional hours duration in the aggregate over a period of not longer than six months.

2.1.2 Any pupil may, instead of serving under a practical vocational training contract on a full-time basis for a period of six months, as provided for in regulation 2.1.1.1, elect to complete the practical vocational training on a part-time basis over a period of twelve months, provided that he or she completes a period of structured course work of not less than 400 notional hours duration in the aggregate during that period.

2.1.3 The provisions of regulations 1.1.2, 1.1.3, 1.1.4 and 1.1.5 will apply, with the necessary changes required by the context, to practical vocational training of pupils.

## 2.2 **By whom pupils may be engaged**

2.2.1 A pupil may be engaged or retained under a practical vocational training contract only -

2.2.1.1 by an admitted advocate in practice;

2.2.1.2 by a registered legal practitioner in the full time employ of a legal aid institution which has been approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged; or

2.2.1.3 by a registered legal practitioner in the full time employ of any other institution approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged.

2.2.2 The person engaging the pupil, as contemplated in regulation 2.2.1 must -

2.2.2.1 if that person is an advocate, have practised in that capacity for a period not less than three years, or for periods of not less than three years in the aggregate during the preceding four years; or

2.2.2.2 in the case of a registered legal practitioner referred to in regulations 2.2.1.2 and 2.2.1.3, have practised in that capacity for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years prior to being engaged by the entity concerned.

2.2.3 Service by a pupil to a legal practitioner while that legal practitioner is not practising or has not practised the profession as described in regulation 2.2.1 shall not be deemed to be good or sufficient service for purposes of these regulations.

2.2.4 An advocate shall at no time have more than one pupil (and in the case of advocates employed by entities referred to in regulations 12.1.6, 1.2.1.7, 2.2.1.2 and 2.2.1.3, six candidate attorneys or pupils in the aggregate) engaged or retained in terms of a practical vocational training contract: provided that on the death or retirement from practice of an advocate or in the event of an advocate being debarred by the Council from continuing with a practical vocational training contract, any other qualifying advocate may take session of the practical vocational training contract of the pupil for the period of the contract still remaining.

### 2.3 **Course work for pupils**

The course work program to be attended by pupils shall comprise all of the following modules, attendance of which will be compulsory for pupils:

2.3.1 legal accounting for pupils:

2.3.1.1 special legal accounting for pupils other than pupils wishing to be admitted as advocates referred to in section 34(2)(b) of the Act;

2.3.1.2 special legal accounting for advocates referred to in section 34(2)(b) of the Act;

2.3.2 advocacy skills, including trial and motion court proceedings;

2.3.3 alternative dispute resolution;

2.3.4 civil procedure;

2.3.5 criminal procedure;

2.3.6 professional conduct and legal ethics;

2.3.7 legal writing and drafting;

2.3.8 constitutional law and customary law;

- 2.3.9 information and communication technology for practice, and associated aspects of cyber law.

**[Details of these modules are subject to confirmation by the GCB and AFT].**

### **3. Regulation of practical vocational training**

- 3.1 The training of a candidate legal practitioner, and service under a practical vocational training contract, shall be regulated by rules made by the Council from time to time.
- 3.2 Course work and workplace training must be in compliance with standards determined from time to time by the Council in the rules.

### **4. General provisions**

- 4.1 The hours to be devoted to each of the modules referred to in regulations 1.3 and 2.3 by a candidate legal practitioner shall be as determined from time to time by the Council, but the aggregate duration of attendance on modules by a candidate attorney or a pupil shall be not less than 400 notional hours.
- 4.2 Any module of course work may be presented through lectures, seminars or any forms of learning requiring the physical presence of a candidate legal practitioner, or in appropriate circumstances may be presented through approved distance-learning method or digital transmission, telephone or video conference link, audio-tape or electronic network. Course work may be presented during working hours or after hours.
- 4.3 All providers of structured course work for purposes of practical vocational training must be accredited by the Council and must have an appropriate level of experience to be able to impart knowledge and skills to candidate legal practitioners.
- 4.4 If a candidate legal practitioner fails to complete, to the satisfaction of the Council, a period of structured course work, as required in regulations 1.1.1.2 or 2.1.1.2. as the case may be within a period of three years after the date of registration of a practical vocational training contract, he or she will be required to repeat the course work program to enable him or her to qualify for admission as a legal practitioner.

5. **Assessment**

Candidate legal practitioners will be subject to continuing assessment during their periods of practical vocational training, in relation to both their attendance at the course work program and during their service under a practical vocational training contract, in accordance with procedures determined by the Council. Any such assessment shall be in addition to, and apart from, the assessment of candidate legal practitioners as contemplated in section 28 of the Act.

**Draft regulations based on the NFA Proposal**

**National Forum on the Legal Profession**

**Recommendation to the Minister of Justice and Constitutional Development  
in terms of section 97(1)(a)(v) of the Legal Practice Act, 28 of 2014**

**Regulations made under section 26(1)(c) of the Legal Practice Act, 28 of 2014**

**Practical vocational training requirements for candidate legal practitioners**

**1. Candidate attorneys**

**1.1 Duration of practical vocational training**

1.1.1 Any person intending to be admitted and enrolled as an attorney must -

1.1.1.1 serve under a practical vocational training contract for a period of twelve months after that person has satisfied all the requirements for a degree referred to in sections 26(1)(a) or (b) of the Act; and

1.1.1.2 complete, to the satisfaction of the Council, during the service under a practical vocational training contract or within a period of not longer than twelve months after the termination of the practical vocational training contract, a full time period of structured course work, comprising compulsory modules on specific topics of not less than 400 notional hours duration in the aggregate over a period of not longer than six months.

1.1.2 For purposes of regulation 1.1.1.2 a notional hour of structured course work shall mean the notional duration allocated by the Council to a learning activity to be undertaken by a student to achieve a specified learning outcome, irrespective of the actual time taken by the individual to achieve that outcome.

1.1.3 The course of structured course work may be completed during the period of service under a practical vocational training contract, or separately therefrom, but a candidate attorney may not embark on a course of structured course work before he or she has entered into a practical vocational training contract.

- 1.1.4 Subject to the provision of the Act, any period of service under a practical vocational training contract before the candidate attorney has satisfied the requirements of the degrees referred to in regulation 1.1.1.1 shall not be regarded as good or sufficient service in terms of a practical vocational training contract, unless the Council otherwise determines in any particular case.
- 1.1.5 The Council may, on application and on good cause shown, and subject to such conditions as the Council may impose, reduce the duration of practical vocational training in any particular case.
- 1.2 **By whom candidate attorneys may be engaged**
- 1.2.1 A candidate attorney may be engaged or retained under a practical vocational training contract only -
- 1.2.1.1 by a person practising the profession of an attorney for his own account;
- 1.2.1.2 by a person practising the profession of an attorney as a partner in a firm of attorneys;
- 1.2.1.3 by a person practising the profession of an attorney as a member of a juristic entity;
- 1.2.1.4 by a person practising the profession of an attorney as State Attorney or as Deputy State Attorney in the office of the State Attorney or any branch thereof;
- 1.2.1.5 by a person practising the profession of an attorney if he or she is an attorney who has practised as a professional assistant in a firm for a period of five years within the preceding six years;
- 1.2.1.6 by a registered legal practitioner in the full time employ of a legal aid institution which has been approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged; or
- 1.2.1.7 by a registered legal practitioner in the full time employ of any other institution approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged.

- 1.2.2 The person engaging the candidate attorney, as contemplated in regulation 1.2.1, must -
- 1.2.2.1 if that person is an attorney, save in the case of an attorney referred to in regulation 1.2.1.5, have practised as an attorney for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years;
- 1.2.2.2 in the case of an attorney referred to in regulation 1.2.1.5, have practised for the period specified in that regulation;
- 1.2.2.3 in the case of a registered legal practitioner referred to in regulations 1.2.1.6 and 1.2.1.7 who is an advocate, have practised in that capacity for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years prior to being engaged by the entity concerned.
- 1.2.3 Service by a candidate attorney to any legal practitioner while that legal practitioner is not practising or has not practised the profession as described in regulation 1.2.1 shall not be deemed to be good or sufficient service for purposes of these regulations.
- 1.2.4 An attorney shall at no time have more than three candidate attorneys (and in the case of attorneys employed by entities referred to in regulations 1.2.1.6 and 1.2.1.7, six candidate attorneys or pupils in the aggregate) engaged or retained in terms of a practical vocational training contract: provided that -
- 1.2.4.1 on the death or retirement from practice of any attorney (or legal practitioner in the case of entities referred to in regulations 1.2.1.6, 1.2.1.7, 2.2.1.2 and 2.2.1.3) any of his or her surviving or remaining partners, any member of the commercial juristic entity of which he or she was a member, or any other person who as a legal practitioner is employed full time at the entity concerned; or
- 1.2.4.2 where an attorney has been debarred by the Council from continuing with a practical vocational training contract, any of his or her partners, any other member of the commercial juristic entity of which he or she is a member or (in the case of entities referred to in regulations 3.1.1.6 and 3.1.1.7) any other person who as a legal practitioner who is employed full time at the entity concerned

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

### 1.3 **Course work for candidate attorneys**

The course work programme to be attended by candidate attorneys shall comprise all of the following modules, attendance of which will be compulsory for candidate attorneys:

- 1.3.1 Legal accounting for attorneys;
- 1.3.2 Advocacy skills, including trial and motion court proceedings;
- 1.3.3 Alternative dispute resolution;
- 1.3.4 Civil procedure;
- 1.3.5 Criminal procedure;
- 1.3.6 Professional conduct and legal ethics;
- 1.3.7 Legal writing and drafting.
- 1.3.8 Constitutional law and customary law;
- 1.3.9 Information and communication technology for practice, and associated aspects of cyber law;
- 1.3.10 Administration of estates.

## 2. **Pupils**

### 2.1 **Duration of practical vocational training**

- 2.1.1 Any person intending to be admitted and enrolled as an advocate must -
  - 2.1.1.1 serve under a practical vocational training contract for a period of not less than six months after that person has satisfied all the requirements for a degree referred to in sections 26(1)(a) or (b) of the Act; and

- 2.1.1.2 complete, to the satisfaction of the Council, during the service under a practical vocational training contract, a period of structured course work, comprising compulsory modules of specific topics of not less than 400 notional hours duration in the aggregate over a period of not longer than six months, as well as compulsory attendance as an observer of proceedings in the High Court and in the magistrates' courts.
- 2.1.2 An entity referred to in regulation 2.2.1, if so authorised by the Council, may on good cause shown and on application by any pupil, exempt that pupil from attendance of any modules forming part of the structured course work, or any court attendances, if it is of the opinion that that pupil has prior learning or experience which would prima facie enable the pupil successfully to undergo assessments or examinations without having attended those modules or having attended court.
- 2.1.3 The provisions of regulations 1.1.2, 1.1.3, 1.1.4 and 1.1.5 will apply, with the necessary changes required by the context, to practical vocational training of pupils.
- 2.2 **By whom pupils may be engaged**
- 2.2.1 A pupil may be engaged or retained under a practical vocational training contract only by an entity accredited by the Council to provide practical vocational training specifically to pupils in accordance with the requirements laid down by the Council.
- 2.2.2 The persons engaged by the entities referred to in regulation 2.2.1 to provide practical vocational training to pupils must be under the supervision of an advocate who has practised in that capacity for a period of not less than three years or for periods of not less than three years in the aggregate during the preceding four years.
- 2.2.3 Unless the provisions of regulation 2.1.2 apply, service by a pupil otherwise than under a contract of practical vocational training in terms of regulation 2.2.1 shall not be deemed to be good or sufficient service for purposes of these regulations.
- 2.2.4 An entity referred to in regulation 2.2.1 shall at no time have more than the number of pupils engaged or retained in terms of a practical vocational training contract than is permitted under the terms of accreditation determined by the Council.

### 2.3 **Course work for pupils**

The course work program to be attended by pupils shall comprise all of the following modules, attendance of which will be compulsory for pupils unless they are specifically exempt therefrom:

- 2.3.1 Legal accounting for pupils:
  - 2.3.1.1 Special legal accounting for pupils other than pupils wishing to be admitted as advocates referred to in section 34(2)(b) of the Act;
  - 2.3.1.2 Special legal accounting for advocates referred to in section 34(2)(b) of the Act;
- 2.3.2 Professional ethics;
- 2.3.3 Practice directives, being the directives applicable in the relevant division of the High Court where the pupil would be expected to practise, as well as directives of the Supreme Court of Appeal and the Constitutional Court;
- 2.3.4 Advocacy skills in the widest sense.
- 2.3.5 Civil practice: Motion court.
- 2.3.6 Civil procedure: Action procedure.
- 2.3.7 Criminal law practice.
  - 2.3.7.1 applications relevant to criminal trials, including applications to compel the furnishing of further particulars of charges, discovery of documents by the State, the referral of accused persons for psychiatric evaluation, recusal and special entries;
  - 2.3.7.2 inquests. .
- 2.3.8 Legal drafting.
- 2.3.9 Appeals.
- 2.3.10 Reviews.

## 2.4 **Court attendance by pupils**

Every pupil shall be required, during the course of his or her pupillage, unless exempted therefrom, to attend court proceedings as an observer prior to his or her undertaking any examination or assessment, which attendance will be compulsory and will be under the supervision of a practising advocate appointed by the entity referred to in regulation 2.2.1. The court proceedings to be attended by a pupil shall comprise at least the following:

- 2.4.1 High Court criminal trials (seven court days);
- 2.4.2 magistrates' court civil trials, which should include not less than two divorce matters (seven court days);
- 2.4.3 High Court application hearings, which should include opposed and unopposed applications (seven court days);
- 2.4.4 High Court civil trials (seven court days);
- 2.4.5 magistrates' court criminal trials (district or regional courts), which shall include at least two bail applications, one of which must be an opposed bail application (seven court days);
- 2.4.6 magistrates' court applications, which shall include opposed and unopposed applications (seven court days).

## 3. **Regulation of practical vocational training**

- 3.1 The training of a candidate legal practitioner, and service under a practical vocational training contract, shall be regulated by rules made by the Council from time to time.
- 3.2 Course work and workplace training must be in compliance with standards determined from time to time by the Council in the rules.

## 4. **General provisions**

- 4.1 The hours to be devoted to each of the modules referred to in regulations 1.3 and 2.3 by a candidate legal practitioner shall be as determined from time to time by the Council, but the aggregate duration of attendance on modules by a candidate

attorney or a pupil shall be not less than 400 notional hours in the case of candidate attorney and not less than 400 notional hours in the case of a pupil.

- 4.2 Any module of course work may be presented through lectures, seminars or any forms of learning requiring the physical presence of a candidate legal practitioner, or in appropriate circumstances may be presented through approved distance-learning method or digital transmission, telephone or video conference link, audio-tape or electronic network. Course work may be presented during working hours or after hours.
- 4.3 All providers of structured course work for purposes of practical vocational training must be accredited by the Council and must have an appropriate level of experience to be able to impart knowledge and skills to candidate legal practitioners.
- 4.4 If a candidate legal practitioner fails to complete, to the satisfaction of the Council, a period of structured course work, as required in regulations 1.1.1.2 or 2.1.1.2, as the case may be, within a period of three years after the date of registration of a practical vocational training contract, he or she will be required to repeat the course work program to enable him or her to qualify for admission as a legal practitioner.

## 5. **Assessment**

Candidate legal practitioners will be subject to continuing assessment during their periods of practical vocational training, in relation to both their attendance at the course work program and during their service under a practical vocational training contract, in accordance with procedures determined by the Council.

**Compromise PVT Proposal – 1 October 2017**

**National Forum on the Legal Profession**

**Recommendation to the Minister of Justice and Constitutional Development  
in terms of section 97(1)(a)(v) of the Legal Practice Act, 28 of 2014**

**Regulations made under section 26(1)(c) of the Legal Practice Act, 28 of 2014**

**Practical vocational training requirements for candidate legal practitioners**

**1. Candidate attorneys**

**1.1 Duration of practical vocational training**

1.1.1 Any person intending to be admitted and enrolled as an attorney must -

1.1.1.1 serve under a practical vocational training contract with a person referred to in regulation 1.2 for a period of [●] months after that person has satisfied all the requirements for a degree referred to in sections 26(1)(a) or (b) of the Act; and

1.1.1.2 complete, to the satisfaction of the Council, during the service under a practical vocational training contract or within a period of not longer than twelve months after the termination of the practical vocational training contract, a programme of structured course work, comprising compulsory modules on specific topics, of not less than 400 notional hours duration in the aggregate over a period of not longer than six months.

1.1.2 For purposes of regulation 1.1.1.2 a notional hour of structured course work shall mean the notional duration allocated by the Council to a learning activity to be undertaken by a student to achieve a specified learning outcome, irrespective of the actual time taken by the individual to achieve that outcome.

1.1.3 The course of structured course work may be completed during the period of service under a practical vocational training contract, or separately therefrom, but a candidate attorney may not embark on a course of structured course work before he or she has entered into a practical vocational training contract.

- 1.1.4 Subject to the provision of the Act, any period of service before the candidate attorney has satisfied the requirements of the degrees referred to in regulation 1.1.1.1 shall not be regarded as good or sufficient service in terms of a practical vocational training contract, unless the Council otherwise determines in any particular case.
- 1.1.5 The Council may, on application and on good cause shown, and subject to such conditions as the Council may impose, reduce the duration of practical vocational training in any particular case, or may exempt a candidate attorney from attendance at any modules forming part of the structured course work if it is of the opinion that the candidate attorney has prior learning or experience which would enable the candidate attorney successfully to undergo assessment or examination without having attended those modules.
- 1.2 **By whom candidate attorneys may be engaged**
- 1.2.1 A candidate attorney may be engaged or retained under a practical vocational training contract only -
- 1.2.1.1 by a person practising the profession of an attorney for his own account;
- 1.2.1.2 by a person practising the profession of an attorney as a partner in a firm of attorneys;
- 1.2.1.3 by a person practising the profession of an attorney as a member of a juristic entity;
- 1.2.1.4 by a person practising the profession of an attorney as State Attorney or as Deputy State Attorney in the office of the State Attorney or any branch thereof;
- 1.2.1.5 by a person practising the profession of an attorney if he or she is an attorney who has practised as a professional assistant in a firm for a period of five years within the preceding six years;
- 1.2.1.6 by a registered legal practitioner in the full time employ of a legal aid institution which has been approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged; or
- 1.2.1.7 By a registered legal practitioner in the full time employ of any other institution approved by the Council for the purpose of engaging

candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged.

- 1.2.2 The person engaging the candidate attorney, as contemplated in regulation 1.2.1, must -
- if that person is an attorney, save in the case of an attorney referred to in regulation 1.2.1.5, have practised as an attorney for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years;
- 1.2.2.1 in the case of an attorney referred to in regulation 1.2.1.5, have practised for the period specified in that regulation;
- 1.2.2.2 in the case of a registered legal practitioner referred to in regulations 1.2.1.6 and 1.2.1.7 who is an advocate, have practised in that capacity for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years prior to being engaged by the entity concerned.
- 1.2.3 Service by a candidate attorney to any legal practitioner while that legal practitioner is not practising or has not practised the profession as described in regulation 1.2.1 shall not be deemed to be good or sufficient service for purposes of these regulations.
- 1.2.4 An attorney shall at no time have more than three candidate attorneys (and in the case of attorneys employed by entities referred to in regulations 1.2.1.6 and 1.2.1.7, six candidate attorneys or pupils in the aggregate) engaged or retained in terms of a practical vocational training contract: provided that -
- 1.2.4.1 on the death or retirement from practice of any attorney (or legal practitioner in the case of entities referred to in regulations 1.2.1.6, 1.2.1.7, 2.2.1.2 and 2.2.1.3) any of his or her surviving or remaining partners, any member of the commercial juristic entity of which he or she was a member, or any other person who as a legal practitioner is employed full time at the entity concerned; or
  - 1.2.4.2 where an attorney has been debarred by the Council from continuing with a practical vocational training contract, any of his or her partners, any other member of the commercial juristic entity of which he or she is a member or (in the case of entities referred to in regulations 3.1.1.6 and

3.1.1.7) any other person who as a legal practitioner who is employed full time at the entity concerned

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

### 1.3 **Course work for candidate attorneys**

1.3.1 The course work programme to be attended by candidate attorneys shall comprise all of the following modules, completion of which will be a requirement for candidate attorneys intending to be admitted and enrolled as attorneys:

1.3.1.1 legal accounting for attorneys;

1.3.1.2 advocacy skills, including trial and motion court proceedings;

1.3.1.3 alternative dispute resolution;

1.3.1.4 civil procedure;

1.3.1.5 criminal procedure;

1.3.1.6 professional conduct and legal ethics of attorneys;

1.3.1.7 legal writing and drafting.

1.3.1.8 constitutional law and customary law;

1.3.1.9 information and communication technology for practice, and associated aspects of cyber law;

1.3.1.10 administration of estates.

1.3.2 The course work modules referred to in regulations 1.3.1.1, 1.3.1.6 and 1.3.1.10 are applicable only to candidate attorneys. All other course work modules will be attended by candidate attorneys and pupils.

## 2. Pupils

### 2.1 Duration of practical vocational training

2.1.1 Any person intending to be admitted and enrolled as an advocate must -

2.1.1.1 serve under a practical vocational training contract continuous for a period of not less than [●] months after that person has satisfied all the requirements for a degree referred to in sections 26(1)(a) or (b) of the Act; and

2.1.1.2 complete, to the satisfaction of the Council, during the service under a practical vocational training contract, a period of structured course work, comprising compulsory modules of specific topics of not less than 400 notional hours duration in the aggregate over a period of not longer than six months.

2.1.2 Any pupil may, instead of serving under a practical vocational training contract on a full-time basis for a period of six months, as provided for in regulation 2.1.1.1, elect to complete the practical vocational training on a part-time basis over a period of [●] months, provided that he or she completes a period of structured course work of not less than 400 notional hours duration in the aggregate during that period.

2.1.3 The provisions of regulations 1.1.2, 1.1.3, 1.1.4 and 1.1.5 will apply, with the necessary changes required by the context, to practical vocational training of pupils.

### 2.2 By whom pupils may be engaged

2.2.1 A pupil may be engaged or retained under a practical vocational training contract only -

2.2.1.1 by an admitted advocate in practice;

2.2.1.2 by a registered legal practitioner in the full time employ of a legal aid institution which has been approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged;

2.2.1.3 by a registered legal practitioner in the full time employ of any other institution approved by the Council for the purpose of engaging

candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged; or

- 2.2.1.4 By an entity accredited by the Council to provide practical vocational training specifically to pupils in accordance with requirements laid down by the Council.
- 2.2.2 The person or entity engaging the pupil, as contemplated in regulation 2.2.1 must -
- 2.2.2.1 if that person is an advocate, have practised in that capacity for a period not less than three years, or for periods of not less than three years in the aggregate during the preceding four years;
- 2.2.2.2 in the case of a registered legal practitioner referred to in regulations 2.2.1.2 and 2.2.1.3, have practised in that capacity for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years prior to being engaged by the entity concerned; or
- 2.2.2.3 in the case of an entity referred to in regulation 2.2.1.4, be under the supervision of an advocate who has practised in that capacity for a period of not less than three years or for periods of not less than three years in the aggregate during the preceding four years.
- 2.2.3 Service by a pupil otherwise than under a contract of practical vocational training in terms of 2.2.1 shall not be deemed to be good or sufficient service for purposes of these regulations.
- 2.2.4 An advocate shall at no time have more than one pupil (and in the case of advocates employed by entities referred to in regulations 1.2.1.6, 1.2.1.7, 2.2.1.2, 2.2.1.3 and 2.2.1.4, six candidate attorneys or pupils in the aggregate) engaged or retained in terms of a practical vocational training contract: provided that on the death or retirement from practice of an advocate or in the event of an advocate being debarred by the Council from continuing with a practical vocational training contract, any other qualifying advocate may take cession of the practical vocational training contract of the pupil for the period of the contract still remaining.

### 2.3 Course work for pupils

2.3.1 The course work program to be attended by pupils shall comprise all of the following modules, completion of which will be a requirement for pupils intending to be admitted and enrolled as advocates:

2.3.1.1 legal accounting for pupils:

2.3.1.1.1 special legal accounting for pupils other than pupils wishing to be admitted as advocates referred to in section 34(2)(b) of the Act;

2.3.1.1.2 special legal accounting for advocates referred to in section 34(2)(b) of the Act;

2.3.1.2 advocacy skills, including trial and motion court proceedings;

2.3.1.3 alternative dispute resolution;

2.3.1.4 civil procedure;

2.3.1.5 criminal procedure;

2.3.1.6 professional conduct and legal ethics of advocates;

2.3.1.7 legal writing and drafting;

2.3.1.8 constitutional law and customary law;

2.3.1.9 information and communication technology for practice, and associated aspects of cyber law.

**[Details of these modules are subject to confirmation by the GCB and AFT and by the NFA].**

2.3.2 The course work modules referred to in regulations 2.3.1.1 and 2.3.1.6 are applicable only to pupils. All other coursework modules are applicable to pupils and candidate attorneys.

### 3. Regulation of practical vocational training

3.1 The training of a candidate legal practitioner, and service under a practical vocational training contract, shall be regulated by rules made by the Council from time to time.

- 3.2 Course work and workplace training must be in compliance with standards determined from time to time by the Council in the rules.

**4. General provisions**

- 4.1 The hours to be devoted to each of the modules referred to in regulations 1.3 and 2.3 by a candidate legal practitioner shall be as determined from time to time by the Council, but the aggregate duration of attendance on modules by a candidate attorney or a pupil shall be not less than 400 notional hours.
- 4.2 Any module of course work may be presented through lectures, seminars or any forms of learning requiring the physical presence of a candidate legal practitioner, or in appropriate circumstances may be presented through approved distance-learning method or digital transmission, telephone or video conference link, audio-tape or electronic network. Course work may be presented during working hours or after hours.
- 4.3 All providers of structured course work for purposes of practical vocational training must be accredited by the Council and must have an appropriate level of experience to be able to impart the required knowledge and skills to candidate legal practitioners.
- 4.4 If a candidate legal practitioner fails to complete, to the satisfaction of the Council, a period of structured course work, as required in regulations 1.1.1.2 or 2.1.1.2. as the case may be, within a period of three years after the date of registration of a practical vocational training contract, he or she will be required to repeat the course work program to enable him or her to qualify for admission as a legal practitioner.

**5. Assessment**

Candidate legal practitioners will be subject to continuing assessment during their periods of practical vocational training, in relation to both their attendance at the course work programme and during their service under a practical vocational training contract, in accordance with procedures determined by the Council. Any such assessment shall be in addition to, and apart from, the assessment of candidate legal practitioners as contemplated in section 28 of the Act.

**Regulations under section 109(1)(a) read with section 97(1) of  
the Legal Practice Act, 28 of 2014**

It is hereby certified that, acting under the powers conferred by section 109(1)(a) of the Legal Practice Act, 28 of 2014, the Minister of Justice and Constitutional Development, acting in consultation with the National Forum on the Legal Profession, has made the following regulations in connection with the matters referred to therein.

**The right of appearance of candidate legal practitioners**

**1. Definitions**

In these regulations, unless the context otherwise indicates -

- 1.1 "The Act" means the Legal Practice Act, 28 of 2014;
- 1.2 words and phrases defined in the Act shall have the same meanings assigned to them in these regulations.

**2. Candidate attorneys**

- 2.1 A candidate attorney is, subject to regulation 2.2, entitled to appear -
  - 2.1.1 in any court, other than the High Court, the Supreme Court of Appeal or the Constitutional Court; and
  - 2.1.2 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.
- 2.2 A candidate attorney may appear in a regional division established under section 2 of the Magistrates' Courts Act, 1944 (Act 32 of 1944), as contemplated in regulation 2.1, only 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.
- 2.3 A candidate attorney is entitled to be remunerated for any appearance in terms of regulation 2.1 as provided for in terms of the rules.

APPENDIX "F"

RECOMMENDATIONS:

3. Pupils

3.1 A pupil is entitled to appear -

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

3.1.2 before any board, tribunal or similar institution on behalf of any person

subject to the approval of the person under whose supervision he or she is undergoing his or her practical vocational training.

3.2 A pupil is entitled to be remunerated for any appearance in terms of regulation 3.1 as provided for in terms of the rules.

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**Regulations under section 109(1)(a) read with section 97(1) of  
the Legal Practice Act, 28 of 2014**

It is hereby certified that, acting under the powers conferred by section 109(1)(a) of the Legal Practice Act, 28 of 2014, the Minister of Justice and Constitutional Development, acting in consultation with the National Forum on the Legal Profession, has made the following regulations in connection with the matters referred to therein.

**Winding up of the affairs of the National Forum**

**1. Definitions**

In these regulations, unless the context otherwise indicates -

- 1.1 "The Act" means the Legal Practice Act, 28 of 2014;
- 1.2 words and phrases defined in the Act shall have the same meanings assigned to them in these regulations.

**2. Dissolution of National Forum**

The National Forum shall be dissolved and shall cease to exist on the date referred to in section 96(4) of the Act.

**3. Liabilities and obligations**

Immediately prior to its dissolution all liabilities and obligations of the National Forum, of whatever nature, shall be settled by the National Forum so that at the date of dissolution the National Forum shall have no liabilities or obligations.

**4. Assets and surplus funds**

All assets of the National Forum, and all funds held by the National Forum, remaining after settlement of the liabilities and obligations in terms of regulation 3, shall be delivered to or paid to the Council immediately following the settlement of the liabilities and obligations of the National Forum.

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5. **Staff**

The employment of all employees of the National Forum shall, on dissolution of the National Forum be transferred to the Council.

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**RECOMMENDATION 8: APPENDIX H****PROPOSED INCOME MODEL**

<b>ALL Legal Practitioners</b>	<b>Practicing</b>	<b>Non Practising</b>	<b>Total</b>
Attorneys	<b>25 000</b>	<b>10 000</b>	35 000
Advocates	<b>4 000</b>	<b>4 000</b>	8 000
<b>Total</b>	29 000	14 000	43 000
<b>Practising Legal Professionals</b>			
	<b>Number</b>	<b>Rate</b>	<b>Total</b>
Levies	29 000	<b>3 500</b>	101 500 000
Certificates, etc.	29 000	<b>600</b>	17 400 000
<b>Total</b>			118 900 000
<b>Non Practising Legal Professionals</b>			
	<b>Number</b>	<b>Rate</b>	<b>Total</b>
Levies	14 000	<b>800</b>	11 200 000
Certificates, etc.	14 000	<b>R -</b>	R -
<b>Total</b>			11 200 000
Sub Total			130 100 000
<b>AFF</b>	<b>Actuarial valuation</b>		<b>R 75 000 000</b>
	<b>Curatorship</b>		<b>R 5 000 000</b>
	<b>Inspection</b>		<b>R 2 500 000</b>
	<b>Striking off</b>		<b>R 7 500 000</b>
			<b>R 90 000 000</b>
<b>TOTAL INCOME</b>			<b>R 220 100 000</b>
<b>EXPENDITURE</b>			
<b>Scenario 1</b>			<b>R 214 442 731</b>
<b>Income less expenditure (Surplus)</b>			<b>R 5 657 269</b>



