IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION - JOHANNESBURG

In the application for admission as *Amici Curiae* of

JOHANNESBURG ATTORNEYS' ASSOCIATION	First Applicant
PRETORIA ATTORNEYS' ASSOCIATION	Second Applicant
GAUTENG ATTORNEYS' ASSOCIATION	Third Applicant

In re: the *Ex Parte* Applications for the admission and enrolment of the undermentioned Applicants as Advocates of the High Court of South Africa:

GOOSEN ROELINE	**Case Number**: 2018/36880 **Applicant**
HATLANE MATIMBA MICHEAL	**Case Number**: 2018/32920 **Applicant**
SABELA SIMPHIWE MIKHAYELL	**Case Number**: 2018/36882 **Applicant**
PILLAY RAVINDRARAN NARASINGAM	**Case Number**: 2018/37067 **Applicant**
BUSISIWE MOLEFE	**Case Number**: 2018/36820 **Applicant**

MPHO NEMUTANZHELA	**Case Number**: 2018/36209 **Applicant**
MARSHNI RAJKUMAR	**Case Number**: 2018/36823 **Applicant**
MOTLANTHE KGAUGELO DAVID	**Case Number**: 2018/21884 **Applicant**
NQOBIZITHA MAHOLE MLILO	**Case Number**: 2018/36876 **Applicant**
MAMONEUWA EUNICE MADUNA	**Case Number**: 2018/36318 **Applicant**

FOUNDING AFFIDAVIT TO APPLICATION FOR ADMISISON AS *AMICI CURIAE*

I, the undersigned,

JACQUES TARICA

do hereby declare under oath as follows:

1. I am an adult male practicing attorney of this Honourable Court, duly admitted as such on the 13 June 1978.

2. I am the co-vice chairperson of the Johannesburg Attorneys' Association ("JAA") and an executive committee member of the Gauteng Attorneys' Association ("GAA"). I am duly authorized to act in this matter on behalf of these two organizations. I am also authorized to act herein on behalf of the Pretoria Attorneys' Association ("PAA").

3. Due to the time limits under which this application for admission as *amici* is being served and the holiday season, I was unable to obtain resolutions of the JAA, GAA and PAA in confirmation of the above. I will serve and file same as soon as they are available (which will be in January 2019).

4. In the interim, however, I attach hereto:
   4.1. As annexure **JT1**, an email by the chairperson of the JAA and co-chairperson of the GAA (Chantelle Gladwin-Wood) confirming that I am authorized to depose to this affidavit and to launch this application on behalf of these two organizations; and
   4.2. As annexures **JT2** and **JT3** respectively, an email read with a WhatsApp text message by the chairperson of the PAA and co-chairperson of the GAA (Tiaan Joubert) in terms whereof he has authorized me to depose to this affidavit and launch this application on behalf of these two organizations.

PARTIES

5. The JAA is a voluntary association established before 1935 by way of its Constitution (a copy of the present version of which is attached as annexure **JT4**). Its principal place of business is Room 028 High Court Building, Von Brandis Square, corners Von Brandis / Pritchard / Smal Streets, Johannesburg. It operates in the greater Johannesburg area to serve the interests of the candidate attorneys and attorneys practicing within its area of jurisdiction.

6. The PAA is a voluntary association established in 1946 by way of its Constitution (a copy of the present version of which is attached as annexure **JT5**). Its principal place of business is Room 5.15, High Court Building, Madiba Street, Pretoria. It

operates in the greater Pretoria area to serve the interests of the candidate attorneys and attorneys practicing within its area of jurisdiction.

7. The GAA is a voluntary association established in August 2018 by way of its Constitution (a copy of the present version of which is attached as annexure **JT6**). Its principal place of business is Room 028 High Court Building, Von Brandis Square, corner Von Brandis / Pritchard / Smal Streets, Johannesburg. It operates in the greater Gauteng area to serve the interests of the candidate attorneys and attorneys practicing within its area of jurisdiction.

NATURE OF APPLICATION AND *LOCUS STANDI*

8. This is an application for the admission of the JAA, PAA and GAA as *amici curiae* in the applications by ten prospective advocates for their admission under the case numbers referred to above. For the purposes of convenience I will refer to these ten applications as "the Admission Applications". The existence of the Admission Applications was brought to the attention of the Applicants by the Judge President, who caused notice of the Practice Directive dated 7 December 2018 dealing with the matter to be served on the Applicants, inviting them to apply for admission as *amici* ("the Practice Directive").

9. As will become clear from the below, the JAA, PAA and GAA ("the Applicants") are all voluntary associations which exist for the stated purpose of promoting and protecting the interests of attorneys and candidate attorneys practicing within their respective jurisdictions. Copies of each of their Constitutions are attached as annexures **JT4, JT5 and JT6** respectively.

10. I will demonstrate below that the legal issues being considered in the Admission Applications affect attorneys in a similar way to that in which they affect advocates. It is accordingly respectfully submitted that the Applicants (and all attorneys and candidate attorneys represented by the Applicants) have a direct and material interest in the outcome of the Admission Applications, and that

accordingly the Applicants have *locus standi* to bring this application before this Honourable Court.

11. I further submit that in terms of section 16A of the Uniform Rules of Court the Applicants qualify as "interested parties" that are permitted (in terms of such rule) to apply for admission as *amicus* in this matter, provided that such party can satisfy the Court that it meets the requirements of an *amicus* as prescribed in terms of that rule (which I will do below). I thus further submit that the Applicants have standing to approach this Honourable Court on this basis.

12. I am advised to pray for condonation for any failure to have complied with the strict requirements of Rule 16A of the Uniform Rules, inasmuch as in doing so the Applicants are complying with the Practice Directive issued by the Judge President, or inasmuch as the Applicants have (due to the time constraints under which this application was filed under) have omitted to comply with any other relevant law/directive.

THE LEGAL ISSUES IN THE ADVOCATES' ADMISSION APPLICATIONS

13. The Judge President of the above Honourable Court set out the relevant legal issues at paragraphs 4 – 6 of the Practice Directive as being (briefly) the following:

13.1 do advocates applying for admission after the commencement of the Legal Practice Act 28 of 2014 ("the LPA") need to comply with the "additional" requirements set out in sections 24 to 29 of the LPA (which requirements have been newly introduced and were not applicable under the "old order legislation") (namely the Advocates Admission Act 74 of 1964 – "the Advocates Admission Act");

13.2 if so, whether section 115 of the LPA "saves" the situation inasmuch as it can and should be interpreted to mean that certain applications for admission as an advocate filed by a certain date are to be dealt with in terms of the old order legislation and not under the LPA. In this regard

it is questioned whether there would be a "cut-off" date for applications to be dealt with under the old order legislation;

13.3 whether an attorney who has already been admitted and enrolled as such needs to remove themselves from the roll of attorneys before doing the practical legal training required to be admitted as an advocate in terms of the LPA;

13.4 whether an attorney who has already been admitted and enrolled as such needs to do the practical legal training required for admission as an advocate; and

13.5 whether it is competent for the Legal Practice Council to prescribe practical training for a person who has already been admitted and enrolled as an attorney to undergo before they can apply to be admitted as an advocate.

RELEVANCE OF THE LEGAL ISSUES IN THE ADVOCATES' ADMISSION APPLICATIONS TO ATTORNEYS

14. The issues contained in paragraphs 13.3 – 13.5 above directly affect the ability of candidate attorneys to be admitted and enrolled in terms of the LPA, and it is submitted that in relation to these issues no further justification for the admission of the Applicants in this regard need be advanced.

15. The issues contained in paragraphs 13.1 and 13.2, however, are set out in the Practice Directive in a manner that indicates that they apply only to advocates. It is the considered view of the Applicants, however, that the same issues apply to candidate attorneys (as to pupil advocates) inasmuch as candidate attorneys are also required to fulfill additional requirements under the LPA that they were not previously required to fulfill under the old order legislation.

16. To wit, section 26(c) introduces the requirement for a candidate attorney (or pupil) to have completed "practical vocational training" as prescribed by the Minister,

which includes "community service" as specified in section 29, and a "legal practice management course".

17. Section 26(d) additionally provides for candidate legal practitioners to have passed a "competency-based examination or assessment" before admission.

18. Although it was required of attorneys under the old order legislation governing them (namely the Attorneys Act 53 of 1979) that attorneys pass their 'board exams' (which would qualify as "a competency-based examination or assessment) before being admitted[1] and that they do 'articles'[2] (which would qualify as "practical vocational training", it was not previously a requirement that they do "community service" or complete a "legal practice management course" to be admitted as an attorney.

19. It was, however, a requirement that an admitted and enrolled attorney who wanted to practice 'for his/her own account' as a partner or director of a firm do a practice management course[3], but in this application we are not considering the case of an admitted and enrolled attorney wanting to practice for his/her own account but rather that of a candidate attorney or pupil wanting to be admitted as an attorney or advocate as the case may be.

20. It is accordingly submitted that candidate attorneys face the same problem as advocates inasmuch as they are required to fulfill additional requirements under the LPA to that required under the old order legislation. For this reason, the Applicants seek to be admitted as *amici* in order to make submissions to this Court in relation to the sections of the LPA insofar as they relate to the additional requirements affecting candidate attorneys.

21. To the extent that the Honourable Court is of the view that it is not appropriate or permitted for it to consider the issue of how candidate attorneys are affected by the "additional requirements" because this issue is not already before the Court on the papers in the abovementioned case numbers, it is respectfully requested

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[1] Section 14 of the Attorneys Act.
[2] Section 2 of the Attorneys Act.
[3] Section 13B of the Attorneys Act.

that the Honourable Court instruct the Applicants to file an application to intervene.

22. The Applicants respectfully submit that they are unable to reflect meaningfully in the matter in relation to how advocates are affected by the "additional requirements" as they are not seized with the issue in practice, and as such they will decline to deal with this issue insofar as it affects advocates in their submissions.

23. The Applicants respectfully submit that they can provide a unique perspective on the relevant legal issues as they were established to and operate with the main object of promoting and protecting the interests of attorneys. None of the parties to the Admission Applications, nor any of the interested parties cited in the Judge President's Practice Directive, can provide this perspective. It is thus submitted that the submissions by the Applicants will be of assistance to the Court and will be different to that of the other parties.

SUCCINCT SUMMARY OF SUBMISSIONS BY APPLICANTS IF ADMITTED AS *AMICI*

THE RELEVANT LAW

24. The relevant provisions of the LPA are sections 24, 26 – 29, 30 and 32 and 115.

25. The relevant provisions of the Attorneys Act are sections 2, 13 and 13A.

26. They are not cited herein so as to comply with Rule 16A which requires that these submissions "succinctly" set out the legal argument to be advanced by the Applicants. They will be more fully set out in the Heads of Argument filed for the hearing of the matter.

"ADDITIONAL REQUIREMENTS"

27. As explained above, candidate attorneys wishing to be admitted and enrolled as attorneys after 1 November 2018 are required under section 26 read with section 29 of the LPA (in addition to all other requirements that were previously in place in

terms of the Attorneys Act[4]) to do community service as prescribed by the Minister, and to do a legal practice management course.

28. Of course it remains the prerogative of the Legislature to prescribe additional requirements for their admission, should it deem this appropriate, and one cannot complain about these purely for the reason that they create an additional burden on candidate attorneys.

29. That, however, is not the complaint or issue *in casu*. The crux of the legal problem facing candidate attorneys who are doing articles already and were already articled as at 1 November 2018, is that they might be unable to meet the "additional requirements" prescribed by sections 26 and 29 of the LPA, and as such may not qualify to be admitted even though they had (up to 1 November 2018) duly and faithfully organized their affairs and spent up to 7 or more years of their lives planning and working towards being admitted as an attorney.

30. This is problematic for several categories of candidates:-

30.1 Those who completed their articles before 1 November 2018 and who would have (but for the additional requirements) have qualified for admission on or after 1 November 2018;

30.2 Those who are completing their articles after 1 November 2018 (most notably candidates completing their articles around the end of the 2018 financial year) and who, but for the additional requirements, would have qualified for admission in the new year of 2019, and who were planning to take up employment on the basis of their ability to be admitted as an attorney; and

30.3 Those who are still busy doing their articles and who will complete them after 1 November 2018, and who are in a situation where their employer (already having entered into the contract of articles and already having entered into an employment agreement with the said candidate) is

[4] Sections 2 and 14 of the Attorneys Act.

unwilling or unable to provide the candidate with the leave, or funding, to complete the additional requirements.

31. There may also be other categories of candidates not mentioned above.

32. The above categories of candidates are in the invidious position of having planned for their admission based on the "old" requirements in the Attorneys Act, only to find that (as from 1 November 2018) they are unable to be admitted after articles, without doing "community service" and a practice management course, in the situation where they might not be able to do these things.

COMMUNITY SERVICE

33. It is submitted that the wording of sections 26 and 29 of the LPA indicate unequivocally that candidates must complete the prescribed community service unless an exemption is granted in terms of section 29(3).

34. At present, however, there is no "community service" prescribed by the Minister (when the LPA provides in section 29 that the Minister "must" publish same). Although section 29 includes a list of types of service that would qualify as "community service", section 29 does not prescribe the length of time that such service must be completed for, and section 29 does not itself "prescribe" this service. Only once the Minister publishes the relevant regulations will this service be prescribed. The result is that there is no way in which any candidate wishing to be admitted can comply with this requirement.

35. Section 29(3) provides that the Legal Practice Council may, on good cause shown, exempt any legal practitioner from having to do community service. Rule 26 of the South African Legal Practice Council Rules (published 20 July 2018) ("the Legal Practice Council Rules") also prescribes that the Legal Practice Council may publish rules relating to the exemption of practitioners.

36. Regulation 5 of the Regulations published under section 109 of the Legal Practice Act (on 31 August 2018) (hereinafter "the Section 109 Regulations") provides that

the Provincial Legal Council can exempt a candidate from community service as contemplated in section 29(3) of the LPA. One possible solution to the problem would be for the Legal Practice Council to issue a blanket exemption to all candidates in South Africa until such time as the Minister has published the regulations prescribing the duration of the service, and further until such time as the categories of candidates referred to above herein have been given an opportunity to do that service. Alternatively the exemption could be issued by the Provincial Councils for candidates in their respective jurisdictions.

37. That being said, the Minister has been dilatory in this regard, as has the Legal Practice Council (and more so its predecessor the National Forum) and both (it is submitted) should publish these regulations with all due haste to bring certainty to the industry and the Courts.

38. It is submitted, however, that it would not do away with the problem for the Minister to publish regulations pertaining to same, because the categories of candidates referred to herein would still not be able to be admitted until compliance therewith (which would mean that they cannot be admitted for, most likely, several months, thereby delaying their ability to secure employment as an attorney and delaying their ability to earn a living in relation to such employment). This is all the more reason for the Legal Practice Council to come to the aid of candidates.

LEGAL PRACTICE MANAGEMENT COURSE

39. To the best of our knowledge there is no *prescribed* practice management course for attorneys as of yet, although there has been one available from LEAD for several years for attorneys wishing to practice for their own account. To the extent that this practice management course is found by the Court to satisfy the requirement of the LPA, candidates at least have an opportunity to comply with such requirement.

40. It is worth noting, however, that candidates who have just completed their articles at the end of the 2018 year and who have secured employment in the 2019 year on the basis of their ability to be admitted, will now not be able to take up that employment without an amendment to the terms of their employment agreement

to delay the date at which the candidates must be admitted by (which some employers might not accommodate). These candidates must now do the practice management course before they can be admitted, and (seeing that there are probably thousands needing to do the same thing), it might be several months if LEAD is not able to offer places to all of them for the course.

41. It might also be that these candidates cannot afford to do the additional training, if they have now finished their articles and their principles did not provide that training during their articles. Their future employers (who were previously looking to take them on as admitted attorneys) also might not agree to foot the bill for the additional training. As such, if these candidates cannot afford to foot the bill themselves, they might find themselves unable to be admitted unless they can secure some kind of financial assistance.

42. The manner in which the LPA was implemented has left much to be desired and one wonders how those making these decisions could have overlooked such a basic concept, and why they thought it appropriate to introduce such an obstacle to admission to these poor candidates without creating transitional arrangements or some kind of phasing in system that would have alleviated the burden on the most vulnerable persons in the attorneys profession.

43. One must question whether, if the operative provisions of the LPA in relation to the practice management course commenced in November 2018 before the termination of a contract of articles, this does not impose a requirement on the principal to pay for the candidate to do the practice management course. However, one must also question whether there should be some sort of continuance of the contract of articles (and contract of employment – because they are two completely separate things) in such a circumstance, because the candidate will be unlikely to find other employment as an attorney whilst waiting to do the practice management course and although the candidate could cede to another principal willing to take them on for a shorter duration than the full term of articles (such as for 6 months or a year, purely to do the practice management course) it is unlikely that many principals will be willing to take on such candidates, invest money in them and then see them go to another firm when they are ready to be admitted.

44. The above is not a criticism of principals who are unsure of how to act in light of the implementation of the LPA, nor is it an admonishment of principals who have not already paid (or who do not have the funds to pay) for their 'old' candidates (who have now finished articles) or for the candidates of other principals to do the training. It is merely an observation as to how the Applicants assume most principals will act, given the large pool of candidates looking for articles and given that most attorneys' firms in South Africa (over 80%) are single practitioners, who literally cannot afford unbudgeted expenses of several thousands of rand, especially where they are not going to translate to a continued investment in the human capital of that firm.

45. Although the LPA and Rule 27 provide that an exemption can be obtained at the discretion of the Legal Practice Council, this is not a feasible solution for candidates because the exemption is only available where the Legal Practice Council is of the view that the person applying has sufficient experience to forego the course, or where the person applying has a qualification of a similar nature.

46. To the extent that the Court agrees with the assessment of the situation above, inasmuch as the manner in which the requirements of the Legal Practice Act regarding a practice management course severely restrict the ability of candidates who were 23 months into their contract of articles of 24 months and who had (at that time) completed all of the requirements for being admitted and who expected to be admitted after completing 24 months, it is respectfully submitted that this constitutes a violation of the right of such candidates to ply their trade as enshrined in the Constitution[5].

47. It must also be borne in mind that the notice published in the Government Gazette that brought the relevant sections of the LPA into operation, was published on 29 October 2018, and brought the relevant sections into operation on the 30th of October and 1st of November 2018, giving the legal profession the grand total of one to two days to implement these provisions. It is submitted that this act of bringing these laws into force with only one or two days' notice violates the principle of certainty in our law, and the rule of law, because attorneys and

[5] The Constitution of the Republic of South Africa 108 of 1996 (as amended).

candidates could not possibly have been able to comply with the law (as it existed in its current form, without proper transitional arrangements or phasing in periods or appropriate exemptions).

48. To the extent that the Court is not inclined to agree with the Applicants' interpretation of section 115 dealt with below, the Court is enjoined to provide just and equitable relief to such candidates, in whatever form the Court is inclined to grant. The Applicants are unable, at this time, to offer a solution (other than section 115, as below) and hope that the submissions of the other parties will be of assistance in this regard.

DOES SECTION 115 OF THE LPA "SAVE" THE SITUATION?

49. Section 115 provides as follows:

> **Persons entitled to be admitted and enrolled as advocates, attorneys, conveyancers or notaries**
> **115.** Any person who, immediately before the date referred to in section 120(4), was entitled to be admitted and enrolled as an advocate, attorney, conveyancer or notary is, after that date, entitled to be admitted and enrolled as such in terms of this Act.

50. The relevant date at which the operative sections commenced, was 1 November 2018.

51. On the face of it section 115 provides that any person (which would include a pupil advocate and candidate attorney) who was "entitled" to be admitted and enrolled (having satisfied the requirements of the old order legislation for admission) as at 31October 2018, is "entitled" under the LPA to be admitted and enrolled.

52. The question that must be posed is what "entitled" means. Does it mean that the person had satisfied all of the requirements for training, having passed exams, etc, only? Or does it in addition require that such person had filed an application to be admitted? Does it require that the application had completed its inspection period by the date in question (with or without negative comments from the law society or bar council concerned)? Or does it require that (all of the aforegoing having been done) a date for hearing of the admission application had been obtained by 31 October 2018?

53. The Admission Advocates had all filed their applications and (it is presumed, based on the papers) that they had lain for inspection by the 31 October 2018 date. Some had obtained a date for hearing by the 31 October 2018. The papers that have been made available do not indicate whether any comments of any nature were received from the bar council.

54. It is submitted that in this context the word "entitled" was used to convey that the persons who were applying for admission/enrolment had satisfied all of the requirements for admission as expressed in the old order legislation, and had the right or entitlement, at the relevant time, to apply to Court for admission.

55. There are two reasons why the Applicants are of the view the word "entitled" should not be interpreted to include such applicant already having filed an application or obtained a hearing date.

55.1 An advocate (or attorney) could apply for admission/enrolment at any time, even if said person had not met the requirements in terms of the old order legislation. The application to court would simply not have been granted if the relevant requirements were not met. In addition a court retains the discretion to admit an attorney or advocate, and could exercise that discretion to decline the application for a myriad of reasons, including (but not limited to) that the Court is not satisfied that the person is fit and proper, that the Court is not satisfied that the applicant has the required training or has experience or has passed the relevant exams, that the applicant's qualification does not meet the requirements of the legislation, or that the papers are not in order or some rule of court or practice directive was not complied with. Seen in this light, the "entitlement" that flows from section 115 is not an entitlement to make an application to Court, nor is it an entitlement to be admitted without the court applying its mind and discretion. It is an entitlement to a proper consideration by the Court of whether the applicants have met the requirements of the applicable legislation, when application is made, no more and no less. Seen in this light, it becomes clear that the

application itself is not part of any entitlement that would flow from the applicants having satisfied the requirements for admission/enrolment. It is merely the mechanism through which their "right" to be admitted/enrolled is given effect to.

55.2 If the legislature wanted to limit the "entitlement" of persons who had met the requirements of the old order legislation to be admitted in terms of same after 31 October 2018 to only those who had already made application to court to be admitted, it should have said that. In the absence of this being expressly prescribed one must apply the rule of interpretation that calls for the least restrictive or prejudicial interpretation to be applied, meaning that the word "entitled" should not be understood as allowing only those who had already made application at 31 October 2018 to avail themselves of this section. This will cause the least amount of harm to the greatest number of people.

56. It is accordingly submitted that any pupil or candidate that had, at 31 October 2018, satisfied the requirements of the old order legislation to be admitted as an advocate or attorney respectively, would have the right in terms of the LPA to apply to Court for admission based on the requirements in the old order legislation, for admission. To this end, the Court should admit such persons even if they have not complied with the "additional requirements" for admission imposed by the LPA, which in the case of advocates includes community service and in the case of attorneys includes community service and a practice management course.

57. The Practice Directive enjoined the Applicants to consider whether there should be any time limit for persons who met the requirements of the old order legislation to be admitted in terms of same. It is submitted in this regard that there is no such restriction. Had the legislature intended to limit the right of such persons (from being able to apply indefinitely, to only being able to apply within a certain time period), it should have expressly stated this. Applying the rule that the interpretation should cause as little harm as possible, one reaches the conclusion that the section should not be interpreted to include a time limit. The legislature can always impose one through an amendment to the LPA should it deem this

necessary (after due notice has been given to the profession such that those affected can make the necessary arrangements).

CONVERSION OF ENROLMENT: ATTORNEY TO ADVOCATE

58. The Practice Directive enjoined the *amici* to consider three questions related to the 'conversion' of enrolment of practitioners. They have been paraphrased as follows:-

58.1 whether an attorney who has already been admitted and enrolled as such needs to remove themselves from them roll of attorneys before doing the practical legal training required to be admitted as an advocate in terms of the LPA;

58.2 whether an attorney who has already been admitted and enrolled as such needs to do the practical legal training required for admission as an advocate; and

58.3 whether it is competent for the Legal Practice Council to prescribe practical training for a person who has already been admitted and enrolled as an attorney to undergo before they can apply to be admitted as an advocate.

59. It is clear from these questions that the focus is on an attorney converting to an advocate and not *vice versa*. Although the Applicants foresee problems in the future with the reverse situation (and would ideally like to dispose of all of these similar issues as the same time in one application) at this stage this issue is not before the Court on the papers as they stand. The Applicants request that the Court deal with this issue simultaneously and afford all parties the opportunity to file additional affidavits in relation to same, such that all of the "admission issues" insofar as they relate to both advocates and attorneys can be dealt with as expeditiously as possible, bearing in mind that there will be hundreds (if not thousands) of candidates who have just finished articles in December 2018 seeking admission in early 2019.

60. The LPA deals with conversion in section 32. Apart from permitting practitioners to apply for conversion and from allowing the Legal Practice Council to impose conditions for the conversion, section 32 is rather unhelpful in answering the questions posed by the Practice Directive.

61. Part VII of the Rules is more instructive. It deals with conversion and the keeping of rolls (the two concepts being inextricably linked). Rule 30 deals with conversion specifically. It provides that application for conversion must be made not to Court, but to the Legal Practice Council (which keeps the registers of practitioners, called rolls, "separately" for attorneys, advocates, notaries and conveyancers in terms of Rule 28). It appears from Rule 30 that no application is made to Court at all, and that it is the Legal Practice Council who, in its discretion, consents to the conversion. Upon having consented, it then removes the applicant's name from the one roll and puts it on the other roll.

62. If the Applicants' understanding of the conversion procedure contained in the LPA is correct, this means that there is no need for a second admission application to Court to "convert" the enrolment. This would also mean that the question as to whether an attorney who wants to convert to an advocate needs to remove themselves from the roll of attorneys before doing the training required for advocates, is answered in the negative – because the conversion procedure described in Rule 30 provides that the conversion application be submitted to the Legal Practice Council and if it is satisfied that the attorney is entitled to convert to an advocate, the Legal Practice Council will then remove the attorney's name from the roll of attorneys and put it onto the roll of advocates.

63. The second issue relates to the training required by an attorney wishing to convert to an advocate. The Section 109 Regulations deal with this issue, as do the Rules. There are two components to the "training". The first is 'service' with a 'mentor' and the second is engagement with the content of the law listed as modules. The former is practical and occurs as a matter of course during the scope of the pupil/candidates' employment, whereas the latter is theoretical as is part of the "structured course work" to be completed as formal education. What is key in relation to these requirements as set out in the Section 109 Regulations, is that they

appear in the sections with headings describing the requirements to be "admitted by the court". There is no indication in the Section 109 Regulations that these requirements apply to the situation where a practitioner applies to convert their enrolment – which is done through application to the Legal Practice Council and not through the Courts.

64. Rule 30.4.3.2 provides further that an attorney wishing to convert to an advocate must prove to the satisfaction of the Legal Practice Council that he or she has

> "undergone such specialised training in advocacy as is required by pupils for admission as advocates, other than training in terms of a contract for the provision of practical vocational training under the supervision of a training supervisor, as provided for in the rules".

65. This rule appears to indicate that the legislature did not intend the requirements for practical legal training for advocates to apply to attorneys wishing to convert to advocates – rather, it intended that the Legal Practice Council be satisfied that some other kind of training (namely "such specialized training in advocacy as is required by pupils for admission as advocates") have been completed. This kind of training is not prescribed anywhere as needing to have been formally completed through a recognized institution, and it is expressly stated as not being that which is provided under practical vocational training. As such, it may very well comprise of training and experience completed during the attorney's own practice by appearing in court, drafting documents, and generally doing the work of an advocate, supervised by other advocates or senior attorneys who do that kind of work.

66. The lists of modules that the "compulsory work" to be completed by pupils and candidates respectively must cover, are found in regulations 7(9) and 6(10) respectively (of the Section 109 Regulations). It is apparent that the work to be covered by candidates in preparation for admission as an attorney is very different, and appears to be more comprehensive, to that required by pupils for admission as an advocate. It thus appears that attorneys must do more comprehensive training (inasmuch as their period of vocational training is normally longer and the list of modules that they must complete is more comprehensive) than for advocates. That being said, the Legal Practice Council has the discretion (in terms of Rule 30) to allow a conversion if it is satisfied that the practitioner is "entitled" to convert and the Legal Practice Council could (in order to satisfy itself

in this regard) call for detail on the experience of the attorney in areas of practice that are considered unique to advocates, such as advocacy experience, alternative dispute resolution, drafting of pleadings, etc. The Legal Practice Council could also (should it deem fit) call for proof that the attorney is versed in the ethics of the advocate's profession.

67. To the extent that the Court or Legal Practice Council finds that this "specialized training" is something other than the "practical vocational training" and is not capable of consisting of experience and training acquired by the attorney during the scope of his/her employment as an attorney, and to the extent that precisely what this is, is not prescribed, it is submitted that the situation should be rectified immediately by way of appropriate regulation. In addition, to the extent that this "specialized training" comprises of anything that (once prescribed) is unavailable (due to a lack of such formal training programs existing, or space in such programs) this would arguably constitute a violation of an attorney's right to apply for conversion as stipulated in the LPA.

68. The last question posed by the Practice Directive is whether it is competent for the Legal Practice Council to prescribe that attorneys wishing to convert to advocates undergo the practical legal training required of pupils wishing to be admitted as advocates. It is submitted that this question need not be considered because (as above) the LPA, read with the Rules and Regulations, do not actually prescribe that an attorney wishing to convert needs to do the training that pupils do – in fact, properly construed it says that they do not. It only says that they need to satisfy the Legal Practice Council that they have undergone the "specialized training in advocacy" as would be required of pupils *(other than the practical vocational training)*.

69. To the extent that the Court finds that the "specialized training in advocacy" is not the practical vocational training, nor experience/skills acquired whilst practicing as an attorney, it is submitted that the Legal Practice Council does have the competence to require attorneys to do additional training because it is permitted in terms of section 32 of the LPA to impose any conditions it sees fit for conversion.

70. It is worth noting that the LPA requires that advocates wanting to be enrolled as attorneys must, after their admission as advocates, do a practice management course and pass the bookkeeping exam, before they can be enrolled as attorneys. It would thus be in keeping with the aim of the relevant provisions (which is simply to ensure that the persons practicing as such have the relevant skill to do so) to impose conditions requiring that attorneys wishing to be enrolled as advocates prove that they have the relevant advocacy skills to do so.

CONDONATION OF LATE FILING, AND ANY OTHER ERRORS OR OMISSIONS

71. This application is being filed three court days later than the deadline imposed in the Practice Directive, due to the difficulties experienced by the Applicants in arranging for same at an earlier date, the executive committee members being on holiday at a special time of year that attorneys reserve for family and traditionally resent an encroachment upon.

72. The Applicants apologize unreservedly for this delay, and respectfully request that the Court condone the late filing.

73. Whilst the Applicants have hereinbefore advanced legal argument in support of this application, for the same difficulties referred to at paragraph 71 above, the Applicants humbly request the above Honourable Court to allow them to file their Heads of Argument in support of this application by 14h00 on or before the 11 January 2019.

74. Moreover, to the extent that the Applicants have failed to comply with any other law or requirement in terms of the filing, service, or substantive legal requirements relating to the content or form of this application, they apologize and they respectfully request that any such drafting errors or omissions be condoned.

WHEREFORE THE APPLICANTS PRAY THAT THEY BE ADMITTED AS *AMICI* IN TERMS OF THE NOTICE OF MOTION TO WHICH THIS AFFIDAVIT IS ATTACHED

JACQUES TARICA

I certify that the abovenamed Deponent appeared before me, and, on being asked by me, declared that he knows and understands the contents of this Affidavit, that he has no objection to taking this Oath and the he considers it to be binding on his conscience, and thereafter he uttered the following words: **"I swear that the contents of this Affidavit are true, so help me God"**, and then he signed the sworn Affidavit before me at Linden SAPS on this the 27 day of 12 2018.

0028857-4 T.M
Sgt MABASO

COMMISSIONER OF OATHS

FULL NAMES : THANDEKILE MURIEL MABASO

ADDRESS : 30 Boundary rd
Robindale

CAPACITY : Sgt

SOUTH AFRICAN POLICE SERVICE
COMMUNITY SERVICE CENTRE
2018 -12- 27
C.S.C
LINDEN
SUID-AFRIKAANSE POLISIEDIENS

JT 1

Jacques Tarica

From: Chantelle Gladwin-Wood <gladwin-wood@schindlers.co.za>
Sent: 27 December, 2018 9:48 AM
To: jtarica@global.co.za; Raeesah Thomas; Chantelle Gladwin-Wood; tiaan@joubertlaw.co.za
Subject: Authorization to depose to affidavit and launch application - JAA and GAA

Dear Jacques

As the chairperson of the Johannesburg Attorneys' Association (JAA) and co-chairperson of the Gauteng Attorneys' Association (GAA) I authorize you to depose to an affidavit and launch an application for the JAA and GAA (and Pretoria Attorneys' Association) to apply to be admitted as amici in the matter of the 'advocates' admission'.

You are further authorized to sign any/all documents and do any/all things necessary to give effect to the above.

Having confirmed the above with my co-chairperson of the GAA, Mr Tiaan Joubert, telephonically, I am copying him on this email as confirmation thereof.

Many thanks for your continued assistance Jacques. As always it is greatly appreciated.

Sent from my iPhone

Chantelle Gladwin-Wood

2nd Floor, 3 Melrose Boulevard
Melrose Arch, Johannesburg
Docex 10, Hyde Park
P O Box 10909, Johannesburg, 2000
Website: www.schindlers.co.za
Tel: +27(11) 448-9600
Direct Tel: 011 448 9678
Direct fax:
Emergency/Bail: +27 83 631 2023

SCHINDLERS
attorneys

Please note that our offices will be closed from 21 December 2018 and will reopen on 7 January 2019
Should you require assistance during this period please contact
General – 083 631 2023 or Conveyancing – 083 703 600
We wish you a Happy and Safe Festive Season

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JT 2

Jacques Tarica

From: Tiaan Joubert <tiaan@joubertlaw.co.za>
Sent: 26 December, 2018 9:08 PM
To: Chantelle Gladwin-Wood
Cc: jtarica@global.co.za; Raeesah Thomas
Subject: Re: GAAPAAJAA application for admission as amicus - 24 Dec 2018 - v 3.1

Hallo Chantelle and Jacques,

As the chairperson of the PAA and co-chairperson of the GAA I confirm that the PAA and GAA will support the application of the JAA and the affidavit deposed to by Jacques Tarica, in principle.

I have forwarded the draft to the executive of the PAA. The PAA, and probably the GAA, will only be able to provide a resolution in the new year.

Regards,
Tiaan Joubert

TIAAN JOUBERT
PROKUREURS / ATTORNEYS

Adres / Address: Centaur House, Ingersolstraat 38 Ingersol Street
Lynnwood Glen, 0081
Tel:012 368 1643 / 087 351 4878
Faks / Fax:086 510 6736
Posbus / P.O. Box
90274, Garsfontein, 0042
E-pos / E-mail: tiaan@joubertlaw.co.za

On 24 Dec 2018, at 17:34, Chantelle Gladwin-Wood <gladwin-wood@schindlers.co.za> wrote:

Dear all

Updated version of the affidavit – with Jacques changes included.

Tiaan, how do you feel about the GAA and PAA being a part of it?

Kind regards

Chantelle Gladwin-Wood

2nd Floor, 3 Melrose Boulevard
Melrose Arch, Johannesburg
Docex 10, Hyde Park
P O Box 10909, Johannesburg, 2000
Website: www.schindlers.co.za
Tel: +27(11) 448-9600
Direct Tel: 011 448 9678

Direct fax:
Emergency/Bail: +27 83 631 2023

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attorneys

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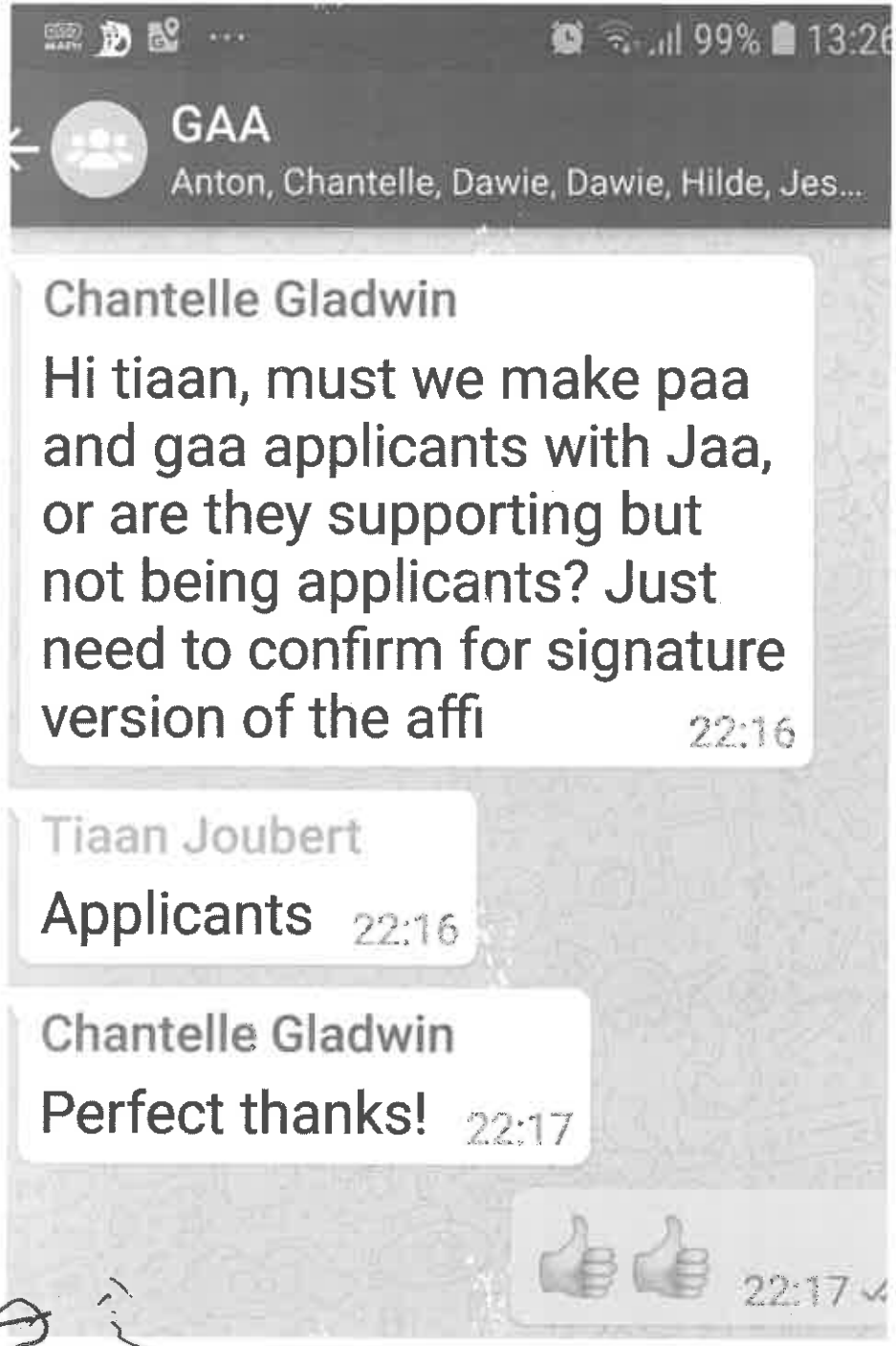
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GAA
Anton, Chantelle, Dawie, Dawie, Hilde, Jes...
Chantelle Gladwin
Hi tiaan, must we make paa and gaa applicants with Jaa, or are they supporting but not being applicants? Just need to confirm for signature version of the affi
22:16
Tiaan Joubert
Applicants
22:16
Chantelle Gladwin
Perfect thanks!
22:17
22:17

info@jaa.org.za (mailto:info@jaa.org.za) 011-337-7269
(https://www.facebook.com/Johannesburg-Attorneys-Association-1739072046358900/)
(http://www.twitter.com/JAA_RSA)
(http://www.linkedin.com/company/JohannesburgAttorneysAssociation)



Constitution

1. NAME The name of the Association is the JOHANNESBURG ATTORNEYS ASSOCIATION.

2. OFFICES The offices of the Association shall be in Johannesburg.

3. OBJECTS The objects of the Association are the following:

a. to co-operate with the Incorporated Law Societies and Law Councils. (*As amended at the General Meeting on 15 October 1998*);
b. to watch and advance the interests of the legal profession;
c. to establish closer relations and associations between members of the legal profession;
d. to foster legal studies;
e. to co-operate with other associations or societies;
f. to provide assistance to any members or past members or the families of any members or past members, who are in distress or are, for any reason, in need of such assistance, and to apply any funds of the Association for that purpose and to raise and collect any additional or special funds that may be required for that purpose;

g. to mediate between members and adjust and settle differences between them, whenever called upon to do so by members;

h. to express its views on matters of common concern to its members and to make representations on behalf of its members to any and all bodies and/or organisations including Law Societies and Law Councils, provided that in doing so the Association will not express its views or make representation on matters not directly or indirectly affecting its members of their practises. (*As amended at a General Meeting on 15 October 1998*);

i. to acquire rights or privileges which the Association may regard as necessary or convenient for its purposes;

j. to purchase, take on lease, hire or otherwise acquire, any movable or immovable property and to erect buildings thereon, and to sell, improve or lease or otherwise deal with all or any of the property or assets of the Association;

k. to invest moneys of the Association upon such securities and unit trusts as may be from time to time determined. (*As amended at the Annual General Meeting of 7 November 2002*);

l. to raise or borrow money from time to time in such manner as the Association may think fit and to mortgage or hypothecate all or any of the property of the Association present as well as future;

m. to become incorporated or registered under the Companies Act, 1973, or any amendment thereof, or under any Act dealing with the incorporation of Societies of this kind;

n. to sponsor and supervise the making by members of gifts or donations in money or in kind to any person or organisation approved by the Committee;

o. to do all such other things as are incidental or conducive to the attainment of these objects;

p. to conduct lectures, symposia, seminars and study courses for its members;

q. to establish machinery for the settlement of disputes between members and between members and their clients concerning fees;

r. from time to time, at the discretion of the Committee, to make donations to institutions, bodies corporate, welfare organisations and/or universities where this is considered necessary to further the interests of the profession or of its members. Provided that the Association shall not be permitted to distribute any of its profits or gains to any person, but shall be required to utilise its funds solely for investment or the objects for which it has been established; and upon its winding-up or liquidation, it shall be obliged to give or transfer its assets remaining after the satisfaction of its liabilities to some Association or Society with objects similar to those of the Association;

s. to act in the general interest of members of the public who presently utilise and in future will utilise the services of practicing attorneys so as to ensure that state mechanisms, including the Constitution of the Republic of South Africa, Act 108 of 1996, fundamental human rights, legislation, the judicial system, the common law and the Rule of Law are maintained, upheld and developed in such a manner as to ensure the maximum protection of the lawful interests of such members of the public;

t. to act in the general interest of members of the profession so as to ensure that state mechanisms, including the Constitution of the Republic of South Africa, Act 108 of 1996, fundamental human rights, legislation, the judicial system, the common law and the Rule of Law are maintained, upheld and developed in such a manner as to ensure the maximum protection of the general well-being of the profession, including safeguarding of the interest of attorneys in their freedom to make their skills available to those requiring their legal expertise, in a profitable manner;

u. to engage the Association in legal proceedings in any capacity which the committee may deem necessary so as to advance, protect, uphold or develop the objects and interests of the Association and/or the interests of its members.

4. MEMBERSHIP The following persons shall be eligible for membership:

a. Attorneys practising in the Johannesburg area and any attorney, wherever his/her office may be situated in the Gauteng area, whose practice required attendance in the Johannesburg area. (*As amended at the Annual General Meeting on 20 September 1995*).

b. Attorneys employed by such attorneys.

c. Clerks serving articles of clerkship with such attorneys.

5. SUBSCRIPTIONS

a. An annual subscription, the amount of which shall be determined by the Committee with due consideration to the rate of inflation an to the requirements of the Association, and of which notice shall be given to members before the end of April each year, shall be paid by each member except those who are serving articles of clerkship. (*As amended at Extraordinary General Meeting of 12 April 1994*).

b. The financial year of the Association shall commence on the 1st day of June of each year and subscriptions shall be due and payable on such date.

6. MANAGEMENT

a. The affairs of the Association shall be managed by a committee of twelve, all of whom shall be elected from those members referred to in Rule 4(a) and 4(b) and the Annual General Meeting of the Association or any other General Meeting specially called for

such purpose. Each committee member shall hold office for a two year period, but the retiring members shall be eligible for re-election. (*As amended at Annual Meeting of 23 October 2003*).

b. (i) At the first meeting following the every year's Annual General Meeting, the Committee shall elect a Chairman, Vice-Chairman, Secretary and Treasurer, provided that no member of the Committee shall hold office as Chairman for more than three consecutive years, if any of these offices shall become vacant between elections, the Committee shall be entitled to fill the vacancy.(ii) All existing office-bearers and sub-committee members shall hold office until the formal appointments are made at the first committee meeting after the Annual General Meeting.
c. All nominations for the Committee shall be in writing and shall be forwarded, with the nominee's acceptance, to the Secretary not less than twenty-one days before the date of the Annual General Meeting and the names of the persons nominated shall be notified to members not less than fourteen days before the date of the meeting. (*As amended at the Annual General Meeting of 7 November 2002*).
d. In the event of any vacancy or vacancies occurring on the Committee the remaining members of the Committee shall have the power to fill any such vacancy or vacancies. The member so elected shall hold office on the same terms as the member whose place he takes and shall serve only until the next Annual General Meeting.
e. The Committee shall be entitled to co-opt not more than two members, who shall be members of the Association referred to in Rule 4(a) and 4(b), and who shall hold office on the same terms as the other members of the Committee and shall serve only until the next Annual General Meeting. At a committee meeting five members shall be required to form a quorum.
f. Any member who misses 3 (three) consecutive meetings of the Committee, without leave of absence, shall automatically be disqualified from office and the Committee shall be entitled to replace such member in terms of Rule 6(d). Any member attending less than 50% (fifty per cent) of Committee meetings from the date of election to the next Annual General Meeting, without prior leave of absence from the Committee, shall not be eligible to stand again for re-election to the Committee in the following year. (*As amended at General Meeting of 15 October 1998*).
g. The composition of the Committee shall be limited to no more than 2 (two) representatives of any one law firm. In the event of a law firm nominating more than two persons for election to the Committee, then only the two candidates who receive the most votes, in a contested election, will be eligible for membership of the Committee and, in the event of an uncontested election, the new Committee of the Association will, on a basis of votes, elect which two members of that firm take their place on the Committee. (*As amended at General Meeting of 3 November 2004*).

7. POWER AND DUTIES OF THE COMMITTEE The Committee shall conduct all the affairs of the Association and be entitled to do all matters and things not specially required to be done at a General Meeting or not expressly requiring to be otherwise performed. Without limiting their rights of management, the Committee shall have the following special powers:

a. to convene meetings;
b. to appoint, remove and determine the duties, salaries and remuneration of servants;
c. to hold and have the custody and control of the funds and other property of the Association;
d. to open a banking account which shall be operated on by the signatures of any two of the Chairman, Vice-Chairman, Treasurer or Secretary for the time being, or the secretary employed by the Committee;
e. to appoint sub-committees and delegate any of its powers to such sub-committees;
f. subject to the Constitution for the time being in force, to do all other things that it may consider conducive to the interests or good management or the promotion of its objects;
g. to review the annual subscription payable in terms of clause 5 of the Constitution, from time to time, the Committee being empowered at its discretion to increase the subscriptions as it deems fit, due regard being given to the rate of inflation and the requirements of the Association. (*As amended at Extraordinary Meeting on 12 April 1994*).

8. MEETINGS

a. The Committee shall have full power and authority at any time to call Special Meetings of the Association of which at least seven days notice shall be given. (*As amended at the Annual General Meeting of 7 November 2002*).
b. An Annual General Meeting shall be held not later than 30 November in each and every year, at which –(i) the election of the Committee shall take place;(ii) the report of the Committee together with the Balance Sheet and Accounts shall be presented; and(iii) any other business shall be dealt with of which notice is given to members not less than fourteen days before the date of the meeting. (*As amended at the Annual General Meeting of 7 November 2002*).
c. Notice convening the Annual General Meeting shall be given to members not less than 14 (fourteen) days before such meeting.
d. A quorum of members shall be not less than 15 (fifteen) of the members referred to in Rule 4(a) and 4(b). Should there be no quorum present at any Annual or Special General Meeting, the meeting shall, subject to Rule 8(e), stand adjourned until a date to be agreed upon at such meeting (for which those present shall be a quorum) and at

such resumed meeting those present shall form a quorum regardless of the number. At least seven days notice of such adjournment shall be given to members.

e. Upon receipt of a requisition signed by not less than fifty members the Committee shall convene a Special General Meeting to consider the matters specified in the requisition. The meeting shall be upon not less than seven days notice, which shall state the purpose of the meeting, and such Special Meeting shall be held within twenty-one days from the date of receipt of the requisition. Should there be no quorum present at any such meeting, it shall be dissolved. (*As amended at the Annual General Meeting of 7 November 2002*).

9. DEFAULTERS Any member whose subscription shall be in arrears for a period of six months, and who shall not hereafter pay such subscription within 14 days of the posting to him of written request for payment, may be removed from the list of members by the Committee.

10. RESIGNATIONS Any member desiring to resign from the Association may do so on giving notice to the Secretary but such person shall remain liable for any subscription or subscriptions which fell due prior to the date of such resignation.

11. VOTING

a. Every member of the Association, not being an articled clerk, present at a meeting and not in arrears with his subscription shall have one vote. No voting by proxy shall be permitted. In the event of an equality of votes, the Chairman shall have a casting as well as a deliberative vote.
b. The majority at any meeting may demand that voting be by ballot.
c. In completing the voting paper for the election of the members of the Committee, a member entitled to vote shall vote for not less than six and not more than twelve of the candidates proposed for election. If a voting paper does not comply with the above it shall be disregarded.

12. LEGAL PROCEEDINGS The Association may sue or be sued in its own name in any Court of competent jurisdiction.

13. FUNCTION A function, the nature, cost and venue to be determined by the Committee in their discretion shall be held. Members who attend the function shall be required to contribute an amount to be determined by the Committee to the cost of that function. (*As amended at Extraordinary General Meeting on 29 May 1990*).

14. AMENDMENTS This Constitution may be amended, altered or added to at any Annual General Meeting or any General Meeting specially called for such purpose. Any such alterations or additions shall not be deemed to be passed unless approved by two-thirds of the members present at such meeting. No proposed alteration or amendment shall be considered at any meeting unless the proposed amendment or alteration has been notified to members in writing not less than fourteen days before the date of the meeting. (*As amended at the Annual General Meeting of 7 November 2002*).

15. LIABILITY OF MEMBERS The liability of a member for the obligations of the Association shall be limited to the amount of his unpaid subscription. The Johannesburg Attorneys Association is an Association not for gain, and a corporate body with legal personality separate from its members, the assets and liabilities of which are separate from its members and in which no member shall ever obtain an interest, which assets shall upon dissolution not evolve upon its members but shall be donated to other associations not for gain with similar objects and interests as the Association.

16. INTERPRETATION OF RULES In the case of doubt as to the meaning or interpretation of the Constitution and any Rules framed thereunder the Committee shall be the final arbiter and its decision shall be binding upon members

17. MEANING OF JOHANNESBURG The word "*Johannesburg*" wherever used in this Constitution shall mean the magisterial districts of Johannesburg and Randburg.

18. NOTICES Whenever notice of any matter or thing is to be given to members it shall be deemed to have been duly given if posted or delivered to Docex or despatched by e-mail or via telefax to members at the address recorded in the Association's offices and shall be deemed to have been received two days after the date on which such notice was posted, delivered or despatched. (*As amended at General Meeting of 15 October 1998*).

RECENT

Sheriffs Office Johannesburg South: Office Closure (http://www.jaa.org.za/doc-manager/sheriffs-office-johannesburg-south-office-closure/)

December 20, 2018

Request for comment: Proposed amendments to paragraphs 7 and 11(b) of part I of Table A (General Provisions); Item 10 of III (Defended Actions) of Annexure 2 to the Magistrates' court Rules; Items 1,2, and 3 of Section B (Drafting and Drawing) and Item 1 of Section D (Miscellaneous) of Uniform Rule 70 (http://www.jaa.org.za/doc-manager/request-for-comment-

012 323 2520 ppv@ppv.co.za

Our Constitution

1. NAME: The name of the Association is PRETORIA ATTORNEYS ASSOCIATION ("PAA").
2. OFFICES: The offices of the PAA shall be in Pretoria
3. OBJECTS: The objects of the PAA are the following:
    1. To promote the common interest of persons practising as Attorneys in Pretoria.
    2. To co-operate with other Attorneys Associations as well as with other professional structures created by statute.
    3. To make representations on behalf of members to Government Departments, professional structures in the legal profession and other bodies or persons;
    4. To establish closer relations and association between members of the legal profession whether professionally, socially or otherwise;
    5. To foster legal studies and to grant bursaries to needy students;
    6. To consider legislation and to make representations, if necessary, in connection therewith;
    7. To promote transformation in the legal profession with emphasis on gender equality, people with disabilities and previously disadvantaged individuals;
    8. To relieve cases of hardship and distress amongst members of the PAA and their families and to make donations in this regard to such members and to create a Benevolent Fund;
    9. To mediate between members and adjust and settle differences between them whenever called upon by such members;
    10. To afford opportunity for the expression of the views of members on matters affecting the legal profession;
    11. To acquire any rights or privileges which the PAA may regard as necessary or convenient for its purposes;
    12. To purchase, hire or otherwise acquire, any movable or immovable property and to erect buildings thereon and to sell, improve or lease or otherwise deal with all or any of the property or assets of the PAA;
    13. To collect, canvass for and to accept subscriptions, donations, bequests, endowments and benefits or any nature of the PAA from any person or body and from any source whatever;
    14. To raise or borrow money from time to time in such manner as the PAA may think fit, and to mortga hypothecate all or any of the property of the PAA present as well as future;

15. To promote continuing legal educations;
16. To keep members informed of matters affecting the profession.
17. To arrange meetings of its members for social, educational or professional purposes;
18. To circulate information to members of interest in their practices to them electronically and otherwise;
19. To establish a fund for the purposes of carrying out the objects of the PAA and to make such payments as may be deemed necessary;
20. Subject to the provision that the PAA shall not distribute any of its profits or gains to any person and may utilize its funds only for investment or its objects, to make such presentations and or donations to members and employess of PAA, senior Civil Servants and other public officials associated with the profession, to make such monetary contributions to Christmas parties given by Government Departments associated with the profession and to give such tokens of appreciation and/or sympathy as the Committee in its absolute discretion may think fit;
21. To do all such other things as are incidental or conductive to the attainment of these objects;
22. To enforce the PAA's code of conduct, a copy of which is annexed hereto and marked Schedule 3.
23. To determine and implement measures in order to ensure member's compliancy with the code of conduct.

4. MEMBERSHIP: The PAA shall consist of members, honorary members and associate members.
    1. The members of the PAA shall be such persons practising (whether as principles or otherwise) as Attorneys in Pretoria who apply for membership and whose applications may be accepted by the Committee;
    2. The honorary members of the PAA shall be those persons not being eligible for membership who by reason of their services whether to the PAA or to the Legal profession generally may be elected by a General Meeting of the PAA as honorary members. Honorary Membership shall be conferred for life and shall confer on such person all the rights, and privileges of membership, and impose on him all the obligations thereof save that he/she shall not be required to pay any subscriptions;
    3. Candidate Attorneys serving Articles of Clerkship with Attorneys practising in Pretoria shall be eligible for PAA membership;
5. CESSATION OF MEMBERSHIP: A member or associate member shall cease to be a member or associate member as the case may be of the PAA under any of the following circumstances;
    1. He/she resigned from such membership and his/her resignation is accepted by the Committee;
    2. His/her subscription hereafter provided for is in arrear for a period of 6 (six) months and he/she shall fail, notwithstanding demand, to pay the amount of the arrears and the committee resolves that his/her membership of the PAA be terminated;
    3. He be expelled from the PAA by resolution of the PAA at a General Meeting of the PAA. The resolution for such expulsion shall only be deemed to have been passed if it is approved by two-thirds of the members present as such meeting;
    4. A member who, despite a warning and/of discussion and direction, is found guilty of unethical and/or improper and/or unseemly conduct in contravention of the code of conduct and his/her membership is suspended or terminated by the committee.
6. SUBSCRIPTION: A subscription is determined by the Annual General Meeting from time to time shall be paid by each member except honorary and associate members, who shall not pay a subscription as determined by the Annual General Meeting from time to time. The financial year of the PAA shall commence on the first day of June in each year and subscriptions shall be due and payable on such date: provided that for the purpose of clause 12 (a) and clause 5 (c) hereof, a member shall not be regarded as being in arrear unless his/her subscription remains unpaid for 14 (fourteen) days after written notice has been given to him by the PAA that his/her subscription is actually in arrears, and provided further that the committee referred to in clause 7 below, shall be entitled to at any time to increase the subscription for the ensuing year by an amount not exceeding 10% (ten percent) of the then current subscription.
7. MANAGEMENT:
    1. 1. The affairs of the PAA shall be managed by a Committee consisting of a Chairman, a Vice-Chairman, a Secretary and a Treasurer and 10 (ten) committee members, all of whom shall be elected from those members referred to in Rule 4 (a) at the Annual General Meeting of the PAA, or at any other meeting of the PAA specially called for such purpose;
        2. The General Meeting shall first out of those persons nominated in terms of clause 7 (c) hereof elect 14 (fourteen) persons to hold office as members of the committee until the next annual meeting. If there be an equality of votes for the last one re places in such committee revoting shall take

place in which all the members present at the meeting shall be entitled to take part as to which of the nominees who have received such equal
number of votes shall be elected to the committee.

3. A member who, with the object of gaining election to the Committee, or of advancing his prospects of election, canvasses for votes, or offers any
inducement or assistance, or in any other way promotes or is a party to the promotion of his own candidature, other than by accepting or indicating
the he/she is prepared to accept nomination, shall be guilty of unprofessional conduct and not be allowed to take part in the elections so canvassed
for. If however, such a member was elected and then found guilty, and notwithstanding any punishment opposed on him/her, he/she will summarily
be removed from office by the Committee at a special Committee meeting convened for the purpose of considering his/her removal, provided that
the quorum at any such meeting shall be 10 (ten) members of the Committee, exclusive of the member whose removal is so considered, present at
the commencement of the meeting.

4. No member shall be allowed to take part in an election for election as a Committee member if such a member is doing so directly or indirectly in
the name of a political party, union, pressure group or cultural or religious organisation. If a member was elected with the support of any such
organisation the same removal procedure will apply as stated above with reference to a member who has canvassed for his/her election.

2. The members of the PAA shall be entitled to nominate persons out of the 14 (fourteen) members so elected to the committee to hold office as
Chairman, Vice-Chairman, Secretary and Treasurer respectfully until such next annual meeting. Each such nominee shall be both proposed and
seconded and shall accept such nomination before he/she shall be regarded as a candidate for such office;

3. 1. If there is only on candidate for any of such offices he/she shall be deemed to have been unanimously elected but if there be more than one
candidate for such office voting shall forthwith take place and the candidate receiving the greatest or greater number of votes shall be deemed to
have been elected. If there be an equality of votes the successful candidate shall be determined by the drawing of a lot;

2. At a Committee meeting 6 (six) members shall be required to form a quorum;

3. The Committee may from time to time co-opt members to serve on the Committee.

4. The Committee may from time to time co-opt a representative from the associate members to attend Comittee Meetings. Such co-opted member
shall have the right to vote on all matters pertaining to associate members. The Chairman's ruling as to what shall constitute a matter pertaining to
associate members shall be final.

4. Each Committee shall hold office for only one year but the retiring members shall be eligible for re-election provided that if the Association fails at the
annual meeting in any year to elect a new committee the retiring committee shall forthwith convene a further General Meeting for the purpose of
holding such election and pending the holding of such further meeting shall continue in office. If no new Committee is elected at such further meeting
or at an adjournment thereof the retiring committee shall be deemed to have been re-elected for a further year and the retiring officers shall continue
to hold the same office for such further year.

5. All nominations for the Committee shall be in writing and forwarded with the nominee's acceptance to the Secretary not less than 7 (seven) days
before the date of the Annual General Meeting, and the names of the persons nominated shall be notified to members not less than 3 (three) days
before the date of the meeting;

6. In the event of any vacancy or vacancies occurring on the Committee or among the officers of the PAA the remaining of members of the PAA shall
have the power to fill any such vacancy or vacancies, provided, however, that at that time there be sufficient remaining members of the committee
to constitute a quorum. The member or officer so elected shall hold office on the same terms as the member whose place he/she takes and shall
serve only until the next Annual General Meeting. If the remaining members of the Committee do not constitute a quorum they shall have no power to
fill vacancies on the committee and may only function until such time as a General Meeting to fill the vacancies can be convened. It shall be the duty
of such remaining members to convene such General Meeting at the earliest possible date;

7. Any member of the committee (including an officer of the PAA) may be removed from his/her office as such by a resolution passed by a majority of
two- thirds of the members present at a General Meeting of the PAA called for such purpose.

8. POWER AND DUTIES OF THE COMMITTEE: The Committee shall conduct all the affairs of the PAA and be entitled to do all matters and things not specially required to be done at a General Meeting or not expressly required to be otherwise performed. Without limiting their rights of management, the Committee shall have the following special powers:

    1. To convene meetings;
    2. To appoint, remove and determine the duties, salaries or remuneration of the employees;
    3. To hold and have the custody and control of the funds and other property of the PAA;
    4. To open a banking account which shall be operated on by the joint signatures of any 2 (two) of the following officers, namely – The Chairman,
    Vice-Chairman, Treasurer and Secretary for the time being;
    5. To appoint sub-committees and delegate any of its powers to such sub-committees;
    6. Subject to the constitution for the time being in force to frame and promulgate regulations for the conduct of the business of the PAA and to do all
    other things that it may consider conducive to the interest or good management of the PAA or the promotion of its objects;
    7. The Committee may direct and conduct any enquiry into any complaint received regarding a member's alleged conduct contrary to the code of
    conduct;
    8. Any such member or number of members of the Committee or any other person so co-opted and or appointed may conduct the investigation. Any
    member of the PAA subjected to such enquiry is compelled to, on demand submit all documentation and information required by the committee.

9. MEETINGS:

    1. Unless otherwise decided by the Committee, there shall be held monthly meetings of the members of the PAA of which at least 7 (seven) days notice
    shall be given. The Committee shall have full power and authority at any time to call special meetings of the members of the PAA of which at least 7
    (seven) days notice shall be given;
    2. An Annual General Meeting shall be held not later than the 31st October in each and every year, at which the election of the Committee shall take
    place and the report of the Committee together with the balance sheet and account shall be presented;
    3. Notice convening the annual General Meeting shall be given to members not less than 20 (twenty) calendar days before such meeting;
    4. When requested by not less than twelve members the Committee shall convene a special General Meeting to consider the matters desired by the
    requisition, which meeting shall be upon not less than 7 (seven) days notice, and shall state the purpose of the meeting, and such special meeting
    shall be held within 20 (twenty) days from the date of requisition;
    5. A quorum of members shall be not less than 10 (ten) of the members of the membership roll of the PAA. If within a quarter of an hour from the time
    appointed for the meeting a quorum is not present, the meeting, if convened upon requisition of members, shall be dissolved. In any other case it shall
    stand adjourned to a day not earlier than 7 (seven) days and not later than 20 (twenty) days after the date of the meeting and if at such adjourned
    meeting a quorum is not present within a quarter of an hour from the time appointed for the meeting, the members present shall be a quorum. Where
    a meeting has been adjourned as aforesaid written notice shall forthwith be given to members of the date, time and place to which the meeting has
    been adjourned and the matter before the meeting when it was adjourned;
    6. Associate members shall be entitled to attend all meeting of members, but shall be obliged to retire therefrom when called upon to do so by the
    Chairman;
    7. All notices referred to in this paragraph shall be sent in writing via electronic mail.

10. DEFAULTERS: Any member whose subscription is in arrear for a period of 6 (six) months and who shall not thereafter pay such subscription within 14 (fourteen) days of the posting to him of a written request for payment, may be removed from the list of members by the Committee.

11. RESIGNATION: Any member desiring to resign from the Association may do so on giving notice in writing to the Secretary but such person shall remain liable for any subscription or subscriptions which fall due prior to the date

of such resignation.

12. VOTING:

    1. Every member of the PAA, not being an Associate member, present at a meeting and not in arrear with his/her subscriptions, shall have one vote. No voting by proxy shall be permitted. In the event of an equality of votes at any meeting including an Annual General Meeting, a special general meeting, a meeting of the Executive Committee, or a meeting of a subcommittee the Chairman shall have a casting vote as well as a deliberate vote;
    2. The majority at any meeting may demand that voting be by ballot.

13. BODY CORPORATE: The Association shall be a body corporate, shall have perpetual succession, shall own all its property in its own name as distinct from its members, may sue or be sued in any competent Court of Law in the name of the PAA and shall not carry on any business that has for its object the acquisition of gain by the PAA.

14. AMENDMENTS: The Constitution may be amended, altered or added to at any Annual General Meeting or any General Meeting specifically called for such purpose. Any such alterations or additions must be approved by two-thirds pf the members present as such meeting. No proposed alteration or amendment shall be considered at any such meeting unless the proposed amendment or alteration has been notified to members in writing not less than 2 (two) weeks before the date of the meeting.

15. LIABILITY: The liability of a member for the obligations of the Society shall be limited to the amount of his/her unpaid subscriptions.

16. INTERPRETATION OF RULES: In case of doubt as to the meaning or interpretation of this Constitution, and any rules or codes framed thereunder the Committee shall be the arbiter, and their decision shall be binding upon members, subject to an appeal to a General Meeting.

17. DISCIPLINARY POWERS:

    1. The Committee may find a member guilty of unethical and/or unseemly conduct which is contrary to the code of conduct and may:

        1. refer the complaint to the Law Society or any subsequent statutory body governing members for investigation;
        and or
    2. issue a warning;

and or

    1. enter into discussion with the relevant parties in order to try to reconcile the parties;

and or

    1. give directives to resolve any problems;

and or

    1. suspend the member for a specified period;

and or

    1. terminate the member's membership

    2. Every member will be entitled to display the emblem of the PAA on its letterhead and other material subject to any directive of the Committee and/or directives of the Committee;
    3. Every member is compelled to subject him or herself to the code of conduct and to sign the code of conduct on request, failing which the membership of such member shall be terminated. Should new proposed members refuse to sign the code of conduct their membership will not be accepted;
    4. Every member indemnifies the PAA, the Executive Committee thereof as well as any other member of the PAA or any other member which may be involved in the investigation or discussion as hereinbefore previously mentioned for any loss and/or damages whatsoever except damages caused intentionally or through gross negligence.

Adopted at the 66th Annual General Meeting of the Association held on 25 October 2012.

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THE GAUTENG ATTORNEYS' ASSOCIATION

CONSTITUTION

1. PREAMBLE

Whereas the Executive Board Members of the Pretoria Attorneys' Association ("PAA") and the Johannesburg Attorneys' Association ("JAA") had on the 2nd of February 2018 and at Midrand envisioned the formation of the Gauteng Attorneys' Association ("GAA");

And whereas the JAA and PAA recognise the common purpose and objects of the respective Associations and in light of the transformation and restructuring of the Legal Profession by the Legal Practice Act 28 of 2014 as consolidated or re-enacted from time to time, which Act shall include the reference to the Regulations.

And whereas the GAA intends to facilitate and enhance an independent legal profession for the Province of Gauteng, that broadly reflects the diversity of the Republic.

And whereas the founding members of the GAA recognise the constitutional right to freedom of trade, occupation and profession and to practice the trade of a legal practitioner;

And whereas the GAA will comprise a federation of the JAA , PAA and similar Associations, where each individual association shall keep its individual identity and members, and which Associations shall form part of this larger Association all of which shall work towards common goals and purposes as set out hereunder;

Now the signatories hereto constitute an attorneys' association and hereby adopt the constitution of the GAA.

2. **NAME**:

The name of the Association is the GAUTENG ATTORNEYS' ASSOCIATION ("GAA") hereinafter referred to as either "the GAA" or "the Association".

3. **DEFINITIONS:**

3.1. "Executive" or "Executive Member" of the Association means the steering committee approved at an AGM, SGM or Special Meeting called for this purpose and the aforesaid phrases are used interchangeably.

3.2 Any expression which denotes any gender, includes the other genders. A natural person includes a juristic person and *vice versa* and the singular includes the plural and *vice versa*.

3.3. Unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or where the last day falls on a day that is not a business day, the next succeeding business day

4. **OFFICE / PREMISES**:

The office / premises of the GAA shall be the office /premises of the JAA, or the PAA until such time as an office is identified and approved at the first Annual General Meeting ("AGM") of the GAA.

5. **OBJECTS**:

The objects of the GAA are the following:

5.1. To express its views on matters of common concern to its members and to make representations on behalf of members to any and all bodies and/or organisations such as Government Departments, professional structures in the legal profession and other bodies or persons, provided that in doing so, the Association shall not express its views or make representations on matters not directly or indirectly affecting its members or their practices.

5.2. To co-operate with other Attorneys' Associations as well as with other professional structures created by statute.

5.3. To make representations on behalf of its members to Government Departments, professional structures in the legal profession and other bodies or persons;

5.4. To establish closer relations and association between members of the legal profession whether professionally, socially or otherwise;

5.5. To foster legal studies and to grant bursaries to needy students;

5.6. To consider legislation and to make representations, if necessary, in connection therewith;

5.7. To promote transformation in the legal profession with emphasis on gender equality, people with disabilities and previously disadvantaged individuals;

5.8. To relieve cases of hardship and distress amongst members of the GAA and their families and to make donations in this regard to such members and to create a Benevolent Fund;

5.9. To mediate between members and adjust and settle differences between them whenever called upon by such members;

5.10. To afford opportunity for the expression of the views of members on matters affecting the legal profession;

5.11. To acquire any rights or privileges which the GAA may regard as necessary or convenient for its purposes;

5.12. To purchase, hire or otherwise acquire, any movable or immovable property and to erect buildings thereon and to sell, improve or lease or otherwise deal with all or any of the property or assets of the GAA;

5.13. To collect, canvass for and to accept subscriptions, donations, bequests, endowments and benefits of any nature for the GAA from any person or body and from any source whatsoever;

5.14. To raise or borrow money from time to time in such a manner as the GAA may think fit, and to mortgage or hypothecate all or any of the present or future property of the GAA;

5.15. To invest monies of the Association in such securities and unit trusts as may be determined by the executive from time to time.

5.16. To become incorporated or registered under the Companies Act 71 of 2008, as amended, consolidated or re-enacted from time to time including all schedules or regulations to such act, or under any Act dealing with the incorporation of societies of this kind.

5.17. To promote continuing legal education;

5.18. To keep members informed on matters affecting the legal profession.

5.19. To arrange meetings of its members for social, educational or professional purposes;

5.20. To conduct lectures, symposia, seminars and study courses for its members;

5.21. From time to time, at the discretion of the executive, to make donations to institutions, bodies corporates, Welfare Organisations and/or Universities or other institutions of higher learning, where this is considered necessary to further the interests of the profession, or of its members, provided that the Association shall not be permitted to distribute any of its profits or gains to any person, but shall be required to utilise its funds solely for investment purposes, or to promote the objects for which it has been established and upon its winding up or dissolution, it shall be obliged to transfer its assets remaining after the satisfaction of its liabilities to a similar Association or ;

5.22. To act in the general interest of members and the profession and to ensure that state mechanisms, including the Constitution of the Republic of South Africa, fundamental human rights, legislation, the judicial system, the common law and the rule of law are maintained, upheld and developed in such a manner so as to protect and promote the general wellbeing of the profession, including safeguarding the interests of attorneys to make their skills available to those requiring their legal expertise in any manner whatsoever.

5.23 To engage the Association in legal proceedings in any capacity which the Executive may deem necessary so as to advance, protect, uphold or develop the objects and interests of the Association and/or the interests of its members;

5.24 To circulate information electronically, or otherwise, which may be of interest to members in their practices;

5.25 To establish a fund for the purposes of carrying out the objects of the GAA and to make such payments as may be deemed necessary;

5.26 To not distribute any of its profits or gains to any person and to utilise its funds solely for investment purposes or for the promotion of its objects and to make such representations and or donations to members and employees of the GAA, senior civil servants and other public officials associated with the profession and to make such monetary contributions towards functions organised by Government Departments associated with the profession and to give such tokens of appreciation and/or sympathy as the Executive in its absolute discretion may think fit;

5.27 To do all such other things as are incidental or conducive to the attainment of these objects.

6. **MEMBERSHIP**:

6.1. The members of the GAA shall be practising attorneys who are members of the individual associations forming part of the federation of associations, which comprise the GAA. The said members accept the principles contained herein and by being - members, accept to abide by this Constitution;

6.2. The honorary members of the GAA shall be those persons, who in discretion of the Executive, have by reason of their services, contributed to the legal profession generally or to its individual Attorney's Association. Honorary membership shall be for life and shall confer on such a person all the rights and privileges of membership and impose on such a person all the duties and obligations pertaining thereto, save for the fact that such a person shall not be required to pay any subscriptions;

6.3. The associate members of the GAA shall be practising attorneys who are not yet members of the individual associations, forming part of this Federation or Associations, on account of the fact that the area in which the said members practice does not have an attorney'

association. Such an associate member will join as a member of the PAA or JAA, or any other Association forming part of this Federation of Associations until such time as an Association has been formed in the jurisdiction in which the associate member is practising.

6.4 A candidate Attorney serving articles of clerkship with a Legal Practitioner who is a registered member of either of the individual associations, shall be eligible for GAA membership.

7. **CESSATION OF MEMBERSHIP**:

7.1. A member shall cease to be a member of the GAA if;

(a) He resigns as a member of his individual Attorneys' Association and/or his resignation is accepted by the Executive;

(b) His subscription with either the GAA or his/ individual Attorneys' Association is in arrears for a period of 6 (six) months and he fails, notwithstanding demand for payment, to pay the amount of the arrears and the Executive resolves that his membership of the GAA be terminated;

(c) He is expelled from the GAA by resolution of the GAA at a General Meeting of the GAA, or expelled by his individual Attorneys' Association. The resolution for such expulsion shall only be deemed to have been passed if it is approved by a majority of the members present at a such meeting;

(d) Despite a warning and/or discussion and direction, is found guilty of unethical and/or improper and/or unseemly conduct and his membership is suspended or terminated by the Executive or his individual Attorneys' Association.

(e) He has been struck off or suspended from the Roll of Attorneys

(f) He is a member of another association of which the aims and objectives are found to be in conflict with the aims and objectives of this Association.

8. **SUBSCRIPTION**:

8.1. A subscription may be determined by the Executive if, and when it is deemed necessary to do so, which subscription from time to time, shall be paid by each member except for an honorary member.

8.2. The financial year-end of the GAA shall commence on the first day of June in each year and shall end on the last day of June each year and subscriptions shall be due and payable on such date: provided that for the purpose of this clause 8, a member shall not be regarded as being in arrears unless his subscription remains unpaid for 14 (fourteen) days after written notice has been given to him by the GAA that his subscription is actually in arrears.

8.3. The Executive shall take due consideration of the rates of inflation and the requirements of the Association, and shall give notice to its members before the end of April each year of any increase in subscriptions.

9. **MANAGEMENT**:

9.1. The affairs of the GAA shall be managed by an Executive consisting of the Chairperson and Vice-Chairperson (or their respective proxies) of each individual Association which forms part of the Federation. The first members of the Executive shall be elected by the signatories hereto, and will hold office for one year until the next AGM.

9.2. Out of these Executive Members a Chairperson, Vice Chairperson, Secretary and a Treasurer shall be nominated to manage the GAA,

assisted by an Executive of 8 (eight) members, all of whom shall be elected from those members eligible to be members of this Association, at the AGM of the GAA, or at any other meeting of the GAA specially called for such purpose. Each such nominee shall be both proposed and seconded and shall accept such nomination before he shall be regarded as a candidate for such office;

9.3. The Executive has the right to co-opt members to the Executive.

9.4. The Executive has the right to co-opt members from Associations who join this Association to effect proper representation of the new Associations.

9.5. Each Executive member shall hold office for a 2 (two) year period, but the retiring members shall be eligible for re-election;

9.6. The General Meeting shall first out of those persons nominated in terms of this clause 9, elect 12 (twelve) persons to hold office as members of the Executive until the next AGM.

9.7. No member of the Executive shall hold office as Chairperson for more than 3 (three) consecutive years. If any of these offices shall become vacant between elections, the Executive shall be entitled to fill the vacancy. All existing office bearers and sub-Executive members shall hold office until the formal appointments are made at the first Executive meeting after the AGM.

9.8. A member who, with the object of gaining election to the Executive, or of advancing his prospects of election, canvasses for votes, or offers any inducement or assistance, or in any other way promotes or is a party to the promotion of his own candidature, other than by accepting or indicating that he is prepared to accept nomination, shall be guilty of unprofessional conduct and shall not be allowed to take part in such an election. If however, such a member was elected and then found guilty,

and notwithstanding any punishment imposed on him, he shall summarily be removed from office at a special Executive meeting convened for the purpose of considering his removal, provided that the quorum at any such meeting shall be 8 (eight) members of the Executive, exclusive of the member whose removal is so considered, present at the commencement of the meeting.

9.9. No member shall be allowed to take part in an election as an Executive member, if such a member is doing so directly or indirectly in the name of a political party, union, pressure group, or cultural or religious organisation. If a member was elected with the support of any such organisation, the same removal procedure shall apply as stated in clause 9.8 above.

9.10. (i) If there is only one candidate nominated for any such office he shall be deemed to have been unanimously elected, but if there is more than one candidate nominated for such office, voting shall forthwith take place and the candidate receiving the greater or greatest number of votes shall be deemed to have been elected. If there is an equality of votes, the existing Chairperson shall have a casting vote-.

(ii) 6 (six) Executive members shall be required to form a quorum at an Executive Meeting;

(iii) The Executive may from time to time co-opt members- to serve on the Executive, as set out in clause 9.4 above.

(iv) Such co-opted member shall have the right to vote on all matters affecting the Association

9.11. Each Executive member shall hold office for only two years, but the retiring member shall be eligible for re-election, provided that if the Association fails at the AGM in any year to elect a new Executive, the

retiring Executive shall forthwith convene a further General Meeting for the purpose of holding such election and pending the holding of such further meeting, such member shall continue in office. If no new Executive is elected at such further meeting, or at an adjournment thereof, the retiring Executive shall be deemed to have been re-elected for a further year and the retiring officer shall continue to hold the same office for such further year.

9.12. All nominations for the Executive shall be in writing and forwarded with the nominee's acceptance to the Secretary not less than 14 (fourteen) days before the date of the AGM, and the names of the persons nominated shall be notified to members not less than 7 (seven) days before the date of the meeting;

9.13. In the event of any vacancy, or vacancies occurring on the Executive, or among the Executive Members of the GAA, the remaining members of the GAA shall have the power to fill any such vacancy or vacancies. The member or officer so elected shall hold office on the same terms and conditions as the member whose place he takes and shall serve only until the next AGM. If the remaining members of the Executive do not constitute a quorum they shall have no power to fill vacancies on the Executive and may only function until such time as a General Meeting to fill the vacancies can be convened. It shall be the duty of such remaining members to convene such General Meeting at the earliest possible date;

9.14. Any member of the Executive (including an officer of the GAA) may be removed from his office as such by a resolution passed by a two thirds majority of the members present at a General Meeting of the GAA called for such purpose;

9.15. Any member who misses 3 (three) consecutive meetings of the Executive, without leave of absence or reasonable excuse, shall automatically be disqualified from office and the Executive shall be

entitled to replace such member in terms of this constitution. Any member attending less than 50% of Executive Meetings from date of election to the next AGM, without prior leave of absence, or reasonable excuse from the Executive, shall not be eligible to stand again for re-election to the Executive the following year.

9.16. The composition of the Executive shall comprise at least one member representing an Association. In the event of an Association nominating more than 1(one) person for the election to the Executive, then only the candidates who received the most votes in a contested election, shall be eligible for membership of the Executive.

9.17. Minutes shall be taken at every meeting and be kept by the Secretary of the GAA. Minutes of each meeting are to be provided to Executive members 7 (seven) days before the following meeting. Said Minutes are to be confirmed at the said following meeting of the Executive.

10. POWERS AND DUTIES OF THE EXECUTIVE:

The Executive shall conduct all the affairs of the GAA and be entitled to attend to all matters and things not specially required to be done at a General Meeting, or not expressly required to be otherwise performed. Without limiting its rights of management, the Executive shall have the following special powers:

(a) To convene meetings;

(b) To appoint, remove and determine the duties, salaries or remuneration of employees of the GAA;

(c) To hold and have custody and control of the funds and other property of the GAA;

(d) To open a banking account which shall be operated on by the joint signatures of any 2 (two) of the following Executive Members, namely -- The Chairperson, Vice-Chairperson, Treasurer and Secretary for the time being;

(e) To appoint sub-Executives and delegate any of its powers to such Executives;

(f) Subject to the constitution for the time being in force, to frame and promulgate regulations for the conduct of the business of the GAA and to do all other things that it may consider conducive to the interest or good management of the GAA or the promotion of its objects;

(g) To promulgate regulations regarding remuneration and calculation of an honorarium towards its executive.

(h) To direct and conduct any enquiry into any complaint received regarding a member's alleged conduct contrary to the provisions of this constitution;

(i) To compel any member of the GAA subjected to such enquiry to submit on demand all documentation and information required by the Executive to investigate such a complaint;

(j) To review the annual subscription payable in terms of this constitution, from time to time and to alter the subscription payable in terms of this constitution as it deems fits, due regard being had to the rate of inflation and the requirements of the Association.

(j) To impose special levies upon the members of the GAA from time to time should it be in the interest of promoting the objects of the GAA.

11. MEETINGS:

11.1. Unless otherwise decided by the Executive, there shall be held bi-monthly meetings of the members of the GAA of which at least 7 (seven) days' notice shall be given. The Executive shall have full power and authority at any time to call special meetings of the members of the GAA, of which at least 7 (seven) days' notice shall be given;

11.2. An AGM shall be held not later than the 30th of November in each and every year, at which –

(i) the election of the Executive shall take place; and

(ii) the report of the Executive, together with the balance sheet and accounts shall be presented;

11.3. Notice convening the AGM shall be given to members not less than 14 (fourteen) days before such meeting;

11.4. When requested by not less than 10 (ten) members, the Executive shall convene a Special General Meeting ("SGM") to consider the matters desired by the requisition, which meeting shall be upon not less than 7 (seven) days' notice, and shall state the purpose of the meeting, and such SGM shall be held within 20 (twenty) days from the date of requisition;

11.5. A quorum of members shall not be less than 8 (eight) members personally present. Should there be no quorum present at any AGM or SGM , the meeting shall, subject to this paragraph, stand adjourned until a date to be agreed upon at such meeting (for which purpose those present shall be deemed to be a quorum) and at such a resumed meeting, those present shall form a quorum, regardless of the number. At least 7(seven) days' notice of such adjournment shall be given to members.

11.6. Upon receipt of a requisition signed by not less than 15 (fifteen) members, the Executive shall convene a SGM to consider the matters specified in the requisition. The meeting shall be called upon not less than 7 (seven) days' notice, which shall state the purpose of the meeting and any such SGM shall be held within 21 (twenty) one) days from the date of receipt of the requisition. Should there be no quorum present at any such meeting, it shall be dissolved.

11.7. Associate Members shall be entitled to attend all meetings of members, but shall be obliged to retire therefrom when called upon to do so by the Chairperson;

11.8. All notices referred to in this paragraph shall be sent in writing via electronic mail.

11.9. If and when an urgent matter necessitates, decisions may be made via round robining, provided that the requisite quorum of Executive members have received written notice at least 24 (twenty four) hours prior to the consideration of the matter. A successful decision can only be taken with the approval of more than 50% (fifty percent) of the members having voted in favour of the decision.

12. **DEFAULTERS:**

Any member whose subscription is in arrears for a period of 6 (six) months and who shall not thereafter pay such subscription within 14 (fourteen) days of a written request for payment, may be removed from the list of members by the Executive.

13. **RESIGNATION:**

Any member desiring to resign from the Association may do so in writing to the Secretary of the GAA, but such person shall remain liable for any

subscription, or subscriptions which fall due prior to the date of such resignation.

14. VOTING:

14. Every member of the Association, not being an articled clerk / candidate attorney, present at a meeting and not in arrears with his subscriptions, shall have one vote. No voting by proxy shall be permitted. In the event of an equality of votes at any meeting, including an AGM, a SGM, a meeting of the Executive, or a meeting of any sub-Executive, the Chairman shall have a casting vote, as well as a deliberative vote. In completing the voting paper for the election of the members of the Executive, a member entitled to vote, shall vote for not less than 4 (four) and not more than 12 (twelve) of the candidates proposed for election. If a voting paper does not comply with the requirements of this Clause, it shall be disregarded;

14.2. The majority of members present in person at any meeting may demand that voting be by secret ballot.

15. BODY CORPORATE:

The Association is a body corporate, shall have perpetual succession, shall own all its property in its own name as distinct from its members, may sue or be sued in any competent Court of Law in its own name and shall not carry on any business that has for its object the acquisition of gain by the GAA.

16. AMENDMENTS TO THE CONSTITUTION:

The Constitution may be amended, or altered at any AGM or SGM specifically called for such purpose. Any such amendments, alterations, or additions must be approved by a two-thirds majority of the members present at such meeting. No proposed amendment, alteration, or addition shall be considered at any such meeting, unless the proposed amendment, alteration, or addition

has been notified to members in writing not less than 14 (fourteen) days before the date of the meeting.

17. **LIABILITY**:

17.1. Should it be found that any Executive Member has acted *mala fide* or was vexatious to such an extent that the Association had suffered damages, the Executive shall have the right to decide whether said Executive Member will be held responsible for the said damages.

17.2. The liability of a member for the obligations of the Association shall be limited to the amount of his unpaid subscriptions. The Association is an association not for gain, and a corporate body with legal personality distinct from its members, the assets and liabilities of which are separate from its members and in respect of which no member shall ever obtain an interest, which assets shall upon its dissolution, not devolve upon its members, but shall be transferred to another association, not for gain, with similar objects and interests as that of the Association.

18. **INTERPRETATION OF RULES**:

If there is any doubt as to the meaning or interpretation of this Constitution, and any rules or codes framed thereunder, the Executive shall be the arbiter, and its decision shall be binding upon the members of the Association, subject to an appeal made at a General Meeting of the Association.

SIGNED AT Kenilworth ON THIS 19th DAY OF July 2018

ANTON THERON

CHANTELLE GLADWIN- WOOD

TIAAN JOUBERT

JACQUES TARICA

YUSUF WADEE

DAWIE BEKKER

DAWIE BEYERS

JESSIE NAICKER

KATHERINE GASCOIGNE

MILLIE-SHANTALL LURIE

RIANA HEUNIS