

South African Attorneys Association

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## CONSTITUTION OF THE SOUTH AFRICAN ATTORNEYS ASSOCIATION

### 1. PREAMBLE

WHEREAS the need was identified to establish an association of attorneys to promote, maintain and to enhance the standards, prestige, image, general interests of the profession and further related objectives having regard at all times to the broader interest of the public whom the profession serve;

NOW the signatories hereof constitute an Attorneys Association and hereby adopt the constitution of this Association.

### 2. NAME

The name of the association hereby constituted shall be the South African Attorneys Association (hereinafter referred to as "the Association").

### 3. GENERAL POWERS

The Association shall have the following powers in addition to other powers specifically conferred upon it in terms of this Constitution:

- 3.1 to purchase, hire, exchange, accept donations of, receive grants and honoraria, or otherwise acquire, sell, let, exchange, mortgage, pledge, donate or otherwise dispose of movable and immovable property of all kinds or any rights or interest therein or any other asset of any kind;
- 3.2 to borrow and, if deemed desirable, to secure the repayment of money in such manner as it may deem fit, to guarantee or secure the acts of and payments due by others, and to lend money against such security, if any, as it may deem fit;
- 3.3 to acquire, encumber, apply or dispose of and generally to deal with any funds in any manner as it may deem fit, but always in accordance with the aims and objectives of the Association as set out herein;

- 3.4 to enter into all such contracts and do all such other acts and things as may be necessary or expedient from time to time to achieve the aims and objectives of the Association as set out herein;
- 3.5 to institute, conduct, defend, settle or abandon any legal proceedings by or against the Association in any manner as it may deem fit, but always so as to achieve the aims and objectives of the Association as set out herein;
- 3.6 to open, operate and close savings and other accounts with any financial institution, to buy or sell or otherwise deal with shares or stock or debentures or bonds or any other interest in any company or other body corporate or government agency, and generally to invest the funds and other assets of the Association in such a manner as it may deem fit, but always in accordance with the aims and objectives of the Association as set out herein;
- 3.7 generally to do all such things as may be necessary or expedient in order to carry out or further any of the aims or objectives of the Association.

#### **4. AREA OF OPERATION**

- 4.1 The head office of the Association shall be situated in the Gauteng Province, Republic of South Africa or any other place as the Association may decide from time to time.
- 4.2 The National Management Committee, established in terms of clause 8 hereof, shall establish branch offices of the Association in at least each province of the Republic of South Africa or in any further region as may be required.
- 4.3 The Association shall operate throughout the territory of the Republic of South Africa.

#### **5. AIMS AND OBJECTIVES**

The Association has the following fundamental, enduring and long-term aims and objectives, namely:

- 5.1 to promote on a national basis the common interests of members having regard at all times to the broader interest of the public whom the member serves, and to endeavour to reconcile, where they may conflict, the interest of the members and the public;
- 5.2 to safeguard and maintain the independence, objectivity and integrity of the members;

- 5.3 to maintain and enhance the professional standards, prestige and standing of the profession and of members nationally, which standards shall be reviewed from time to time to take into account the objectives of paragraph 5.1;
- 5.4 to uphold and encourage the practice of law, and to promote and facilitate access to the profession;
- 5.5 promote access to justice and the Courts;
- 5.6 promote legal education and continuing legal education, practical legal training research in the science of law and in legal practice;
- 5.7 to uphold, safeguard and advance the rule of law, the administration of justice, the Constitution and the laws of the Republic of South Africa;
- 5.8 to initiate, consider, promote, support, oppose or endeavour to modify legislation, whether existing or proposed;
- 5.9 to initiate, consider, promote, support, oppose or endeavour to modify proposed reforms or changes in law, practice, procedure and the administration of justice;
- 5.10 to strive towards the achievement of a system of law that is fair, just, equitable, certain and free from unfair discrimination;
- 5.11 to represent generally the views of members on a national basis;
- 5.12 to promote and encourage unity between members irrespective of race, colour, gender or creed.

## **6. MEMBERSHIP AND GENERAL MEETINGS**

- 6.1 Membership of the Association shall be open to all attorneys and candidate attorneys:
  - 6.1.1 irrespective of colour, race, gender or creed;
  - 6.1.2 who are practicing or non-practicing members of any Statutory Law Society, duly constituted in South Africa or, in the event that the Attorneys Act of 1979 is repealed after the adoption of this constitution, is registered as a practising or non-practising attorney or candidate attorney in terms of the legislation to be introduced;
  - 6.1.3 who accept the principles contained herein; and
  - 6.1.4 who agree to abide by this constitution.

- 6.2 Membership shall require the completion of the requisite application form and payment of the requisite subscription.
- 6.3 Members shall enjoy the right to attend all meetings. At the annual general meeting, members may exercise their right to determine the policy of the organization.
- 6.4 Attorneys and candidate attorneys who apply for membership must confirm, in the application form, that he/she is not a member of an association of which the aims and objectives are in conflict with the aims and objectives of the Association.

## **7. TERMINATION OF MEMBERSHIP**

- 7.1 Termination of membership, may occur under the following circumstances :-
  - 7.1.1 misconduct;
  - 7.1.2 insanity;
  - 7.1.3 resignation;
  - 7.1.4 expulsion;
  - 7.1.5 removal from the roll of attorneys;
  - 7.1.6 death; or
  - 7.1.7 conducting himself/herself contrary to the aims and objectives of the Association or contrary to the provisions hereof.
- 7.2 On the decision of the National Management Committee, the Association shall be entitled to expel any member on just cause shown.

## **8. MANAGEMENT**

- 8.1 The control of the Association shall vest in a National Management Committee ("NMC") which Committee shall manage, govern and control the Association.
- 8.2 The NMC shall comprise of not less than nine (9) members and not more than thirteen (13) members, subject thereto that the NMC shall have a representative from each province in the Republic of South Africa. Should the number of NMC members fall below nine (9) members, the remaining NMC members may nominate one or more persons to fill the resultant vacancy or vacancies, subject to provincial representation, until an election is held by the members of the Association to elect new members to represent them on the NMC.

- 8.3.1 Elections for NMC membership, in respect of those whose term of office has expired, shall be held once during every calendar year.
- 8.3.2 The first members of the NMC shall be elected by the signatories hereof.
- 8.4 The term of office of NMC members is three (3) years. Members shall not be entitled to serve more than three (3) terms.
- 8.5 The NMC shall appoint an executive committee of four (4) persons being one a representative for the provinces of Gauteng, Limpopo, Mpumalanga and North West, one a representative for the province of the Free State, one a representative for the province of Kwazulu-Natal and one a representative for the provinces of the Eastern, Western and Northern Cape. The executive committee shall:
  - 8.5.1 perform such tasks as the NMC may entrust to it and such tasks on behalf of the NMC between NMC meetings as may be necessary, and
  - 8.5.2 meet as often as it may be necessary to give effect to its foregoing powers and duties.
- 8.6 The Association has the right to form sub-committees to be known as Provincial Management Committees ("PMC"). These sub-committees shall perform such duties as may be assigned or delegated to them by the NMC.
- 8.7 The members of the PMC shall be elected by the members of the Association from the geographical area chosen by the NMC, which the PMC will represent.
- 8.8 The PMC shall comprise of such number of members, to be determined by the NMC for the first appointment of members serving on the PMC and thereafter by the region in consultation with the NMC.
- 8.9 The term of office of members of a PMC shall be three (3) years. Members shall not be entitled to serve more than three (3) terms.

## **9. POWERS OF THE NATIONAL MANAGEMENT COMMITTEE**

- 9.1 The NMC shall be vested with all such power and authority that it requires to enable it to achieve the objectives set out above.
- 9.2 The NMC shall have the power to raise funds in such manner as it deems appropriate.
- 9.3 The NMC shall have the right to make by-laws and/or regulations for the proper management of the Association including procedures relating to the application, approval and termination of membership and the election of members of the NMC and PMC.

- 9.4 The NMC shall determine the powers and functions of all NMC office bearers.
- 9.5 The NMC is vested with executive powers to take decisions on behalf of and in the best interests of the Association and its members, provided that it is understood that the NMC is subservient to the Association and the Association may insist that decisions taken by the NMC should be reviewed. The Association may by majority decision, instruct the NMC to act or desist.
- 9.6 The procedures and constitution of a PMC must be approved by the Association.
- 9.7 The NMC may:
- 9.7.1 examine and take appropriate action in regard to legislation and administration of justice;
  - 9.7.2 formulate evidence for submission to Government or Provincial Commissions or Committees or other bodies;
  - 9.7.3 express its opinion in such quarters as it deems, from time to time, to be desirable;
  - 9.7.4 make or join in making representations to Ministers or other persons or bodies on matters relating to the legal profession or members thereof;
  - 9.7.5 appoint such committees or sub-committees and employees as it may consider to be necessary from time to time with power to co-opt or delegate to any committee or sub-committee or employee, such powers and functions as the NMC may determine from time to time;
  - 9.7.6 generally take such steps as it deems necessary to promote the objects of NMC;
  - 9.7.7 delegate such powers it deems fit to Exco or a PMC;
  - 9.7.8 appoint committees to investigate, inform on or advise the NMC, a PMC or the Association on any matter referred to it by the NMC; and/or
  - 9.7.9 exercise all powers as assigned to it in terms of this Constitution.

## **10. MEETINGS AND PROCEDURES OF THE NMC AND A PMC**

- 10.1 The NMC and PMC shall hold at least one ordinary meeting every sixty (60) days.

- 10.2 The majority of members of the NMC or PMC shall form a quorum at any meeting of the NMC or PMC, present in person or by proxy, provided that if, within thirty (30) minutes from the time appointed for a meeting, a quorum is not present, the meeting shall stand adjourned to the same day in the next week, at the same time and place or, if that day be a public holiday, to the next succeeding day other than a Saturday, Sunday or public holiday. If, at such adjourned meeting, a quorum is not present within thirty (30) minutes from the time appointed for the meeting, the members then present in person or by proxy shall be a quorum.
- 10.3 Within seven (7) days of the first NMC or PMC meeting, the members thereof shall meet and elect from its members a Chairperson (or "President" if they prefer) and Vice-Chairperson ("Vice-President" if they prefer). The Chairperson and Vice-Chairperson elected shall hold office as such until a new Chairperson and Vice-Chairperson are elected.
- 10.4 All matters at any meeting of the members of the NMC or PMC shall be determined by a majority of those present and voting.
- 10.5 The members of the NMC or PMC may from time to time appoint a Secretary and a Treasurer, or a Secretary/Treasurer.
- 10.6 Should a member of the NMC or PMC fail to attend three (3) consecutive NMC or PMC meetings without having applied for and obtaining leave of absence from the NMC or PMC as the case may be, then such member shall automatically cease to be a member of the NMC or PMC. In such event the NMC or PMC concerned shall be entitled to replace the defaulting member. The remaining NMC or PMC members may nominate one or more persons to fill the resultant vacancy or vacancies, who shall serve until the next election.
- 10.7 Minutes are to be taken at every meeting of the NMC and PMC to record the proceedings and must be kept by the Secretary of the NMC at the offices of the NMC. Minutes of each meeting are to be furnished to members at least two weeks before the next meeting. The Minutes are to be confirmed as a true record of proceedings of the NMC and PMC at the next meeting of the committee concerned.
- 10.8 The chairperson, or two (2) members of either the NMC or the PMC or any ten (10) members of the Association, may call a special meeting upon fourteen (14) days written notice. Such notice shall list all issues to be discussed.
- 10.9 The chairperson shall act as the chairperson of the relevant management committee. If the chairperson does not attend a meeting, then members of the committee who are present shall elect a Chairperson for the meeting from those present. A quorum as prescribed in 10.2 above shall be required.

10.10 If necessary and if urgent, decisions may be made via round robin by the members of the NMC or PMC, after all members of the relevant committee have received at least 24 hours written notice of the subject matter which requires an urgent decision. In this instance, for a decision to be binding, 50% plus 1 member of the NMC or the PMC, as the case may be, must have voted in favor of the decision.

## **11. ANNUAL GENERAL MEETINGS**

11.1 The Annual General Meeting shall be held once every year on a date and at a place to be determined by the NMC.

11.2 Such Annual General Meeting shall deal with the following matters, inter alia :

11.2.1 discussion of items on the Agenda;

11.2.2 read and confirm the minutes of the previous meeting with matters arising;

11.2.3 chairperson's report;

11.2.4 treasurer's report;

11.2.5 amendments to the constitution that members may want to make;

11.2.6 elect new office bearers including an accounting officer; and/or

11.2.7 any general issue which a member wishes to raise.

11.3 Candidate attorneys are not allowed to vote but every other member who has paid his or her subscription fees for the year, shall be entitled to one vote.

11.4 Members shall receive not less than fourteen (14) days written notice of any meeting of any PMC or of the NMC, except in cases of emergency.

11.5 Such notice shall be sent to the address of the member as it appears on the records of the secretary of the Association.

11.6 The Chairperson of the PMC or the NMC, as the case may be, shall be deemed to have the power to decide, as a first agenda item, what constitutes an emergency and those present and voting at the meeting (provided there is a quorum) may condone short notice.

11.7 Every member of the Association shall have the right to :-

11.7.1 take part in the formulation and discussion of the policy of the Association;



11.7.2 be elected to any committee, commission or delegation of the association;  
and/or

11.7.3 submit proposals on any matter that may be relevant to the Association.

11.8 fifteen (15) members present shall constitute a quorum at an Annual General Meeting or Special General Meeting.

## **12. FINANCE**

12.1 An accounting officer shall be appointed at the Annual General Meeting. His or her duty is to audit and check on the finances of the Association. He may be paid for his services from the funds of the Association.

12.2 The treasurer shall control the day-to-day finances of the Association and keep proper records of all the finances.

12.3 The financial year of the Association ends on the last day of February.

12.4 If required, the accounting records and reports of the Association must be ready to be handed over to the Director of Non-profit Organisations within six (6) months after the financial year end.

12.5 If the Association has funds that can be invested, such funds may only be invested by the NMC with registered financial institutions.

## **13. SUBSCRIPTIONS**

13.1 Each member shall pay as an annual subscription for membership of the Association, such sum as may be determined from time to time by the NMC.

13.2 Subscriptions shall be paid annually in advance before the 31st of August of each year.

13.3 Upon subscriptions being paid by members to and received by the NMC, the NMC shall pay a portion of the subscription to the PMC, being such an amount as is determined from time to time by the NMC.

## **14. AMENDMENTS TO THE CONSTITUTION**

The Constitution may be amended by resolution. Such resolution must be approved by not less than two thirds of the membership, present in person or by proxy, or represented at the Annual General Meeting or Special General Meeting. Moreover, notice of such proposed amendment must be dispatched so that members receive at least fourteen (14) days notice of the proposed amendment. No member shall be entitled to make use of more than five (5) proxies.

## **15. INDEMNITY**

Every member, officer or servant of the Association shall be indemnified by the Association against all claims, costs, losses and expenses which he or she may incur or become liable for by reason of any act or omission or thing done by him or her as such in the discharge of his or her duties, unless the loss in question is caused by his or her own gross negligence, dishonesty or breach of trust.

## **16. LIMITATION**

The liability of members is limited to the amount of their unpaid subscriptions or other monies owing by them to the Association.