

# CONSTITUTION

OF THE

## JOHANNESBURG SOCIETY OF ADVOCATES

UPDATED JUNE 2015

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I. NAME AND OBJECTS

1. The name of the Society shall be "Johannesburg Society of Advocates" [*Amended at the AGM on 29 October 2009*] hereinafter referred to as "the Society".
2. In this Constitution unless the context otherwise requires "Society" means the Johannesburg Society of Advocates.

"Bar Council" means the Bar Council of the Society for the time being in office.

"Advocates who normally practise in the Division" means those advocates who are recognised for the time being by the Bar Council as normally practising in the Division provided that no person shall be recognised who:

- (a) does not occupy chambers within the Division;
- (b) does not hold himself available to undertake work appertaining to an advocate on behalf of the public; and
- (c) is not willing and available to accept the normal duties of the profession including *pro deo* work at the request of the Court.

For the purposes of this definition "chambers" means office accommodation approved by the Bar Council and includes accommodation occupied with the permission of the Bar Council in the Law Centre operating with the approval of the Bar Council; an advocate who holds door chambers with the permission of the Bar Council, is deemed to occupy chambers within the Division, and "work appertaining to an

advocate on behalf of the public" includes work with the permission of the Bar Council at the Law Centre operating with the approval of the Bar Council.

"Bar of the Division" means those advocates who normally practise in the Division.

"Division" means the area for the time being under the jurisdiction of the South Gauteng High Court, Johannesburg, or of any other Court which may replace such Local Division for such area.

*[Amended at the AGM on 29 October 2009]*

"General Council" means the General Council of the Bar of South Africa as constituted at Johannesburg on the 21st September 1946, a copy of whose Constitution is attached hereto.

"Member" or "members" means a member or the members, as the case may be, for the time being of the Society.

3. The objects of the Society are:-

- (a) The protection of the interests of the Bar of the Division and of members and pupil members in their professional capacity;
- (b) The supervision of the conduct of members and of pupil members;
- (c) The consideration and promotion of improvements in the teaching and practice of the law and in the administration of justice;

- (d) To be a constituent Bar of the General Council, and to collaborate with and to assist in the furtherance and promotion of such Council's objects;
  - (e) The maintenance of the rule of law;
  - (f) To make donations to such persons or bodies as the Bar in general meeting may approve;
4. (a) The Society and its members shall abide by and conform to the lawful decisions of the General Council.
- (b) The Bar Council shall from time to time appoint representatives to represent the Society on the General Council. Such representatives need not be members of the Society but must be members of a constituent Bar of the General Council. The reasonable travelling and out of pocket expenses of representatives attending meetings of the General Council shall be paid out of the funds of the Society.
- (c) The Society may not pay any remuneration, as defined in the Fourth Schedule of the Income Tax Act, to any employee, office bearer, member or other person which is excessive having regard to what is generally considered reasonable in the sector and having regard to the service rendered.

*[Amended at the AGM on 29 October 2010]*

## II. MEMBERS

5. (a) Until the 31st January 1973, any person who is duly enrolled as an advocate of the Supreme Court of South Africa and who normally practises or intends to practise as an advocate in the Division and who does not practise otherwise than as an advocate, shall be eligible for membership of the Society.
- (b) After the 31st January 1973, any person not being a member of the Society at the said date who:
- (i) has filed an application either before or after the said date to be enrolled as an advocate of the Supreme Court of South Africa; and
  - (ii) intends to practise as an advocate in any division of the Supreme Court; and
  - (iii) will not practise otherwise than as an advocate,
- shall be eligible for pupil membership of the Society as from the date on which his application was filed with the Registrar.
- (c) Any person wishing to be admitted as a pupil member of the Society shall apply in writing to the Bar Council, which, on being satisfied that the applicant complies with the requirements of subparagraph (b) and that he is a fit and proper person to become a pupil member of the Society, may admit such person to pupil membership.
- (d) During his period of pupil membership a pupil member shall:

- (i) subject to the payment of the prescribed fees, have access to the Library and Common Room;
- (ii) not be entitled to accept briefs from attorneys or to act as an advocate, save to the extent and in the circumstances which may be provided for from time to time by the General Council and approved by the Bar Council ;
- (iii) not be entitled to attend or vote at any general meeting of the Society;
- (iv) comply with all the requirements relating to training as an advocate which may from time to time be laid down by the General Council and approved by the Bar Council.

6. (a) Every advocate who:

- (i) has satisfied the Bar Council that he has complied with the requirements of the Society relating to the practical training of advocates or those of any Society which is a member of the General Council and which has been approved by the Society or that he has been exempted wholly or in part therefrom; and
- (ii) is prepared to accept this Constitution and the obligations imposed therein as binding on him;

may make application for membership of the Society in writing to the Secretary of the Society who shall submit the application to the next meeting of the Bar

Council. In the event of the Bar Council being of the opinion that the applicant possesses the necessary qualifications and is of good character, the Bar Council shall authorise his admission to membership of the Society and the Secretary shall forthwith notify the applicant that he may become a member subject to his signing the roll and paying the subscription for the current year prescribed in Clause 29. On complying with such notification (including the signing of the roll of members), the applicant shall become a member. No person shall become a member until he has duly signed the roll of members, provided, however, that where the applicant has, at any time, been admitted as an attorney, the Bar Council shall not authorise his admission to membership unless satisfied that he shall have ceased to have any capital invested in the business with which he was previously connected, or to be in any way interested therein, and provided that he has made a declaration to that effect in his application for admission to membership.

*[Amended at the AGM on 26 October 1990]*

- (b) A General Meeting of the Society may elect to Honorary Membership persons who have achieved distinction in the practice of law or the administration of justice. Honorary Membership shall not confer any rights under this Constitution.
- (c) Every advocate who:
  - (i) practises or has previously practised as an advocate and as a member of the Society,

- (ii) satisfies the requirements of clause 6(a)(i) and (ii) above,
- (iii) practises full-time as an advocate or its equivalent in a foreign jurisdiction or wishes to retire from full time practice as an advocate in South Africa, and
- (iv) who wishes to retain his/her association to the Johannesburg Society of Advocates

may make application for associate membership of the Society in writing to the Secretary of the Society who shall submit the application to the next meeting of the Bar Council. In the event of the Bar Council being of the opinion that the applicant satisfies the requirements of clauses 6(c)(i) – (iv) above then it shall authorise his/her admission to membership of the Society as an associate member on such terms and conditions – including as to payment of subscriptions and the holding of chambers – as the Bar Council may specify: Provided that, no person who was not previously a member of the Society shall become an associate member until she/he has signed the roll of members.

*[Amended at the AGM on 29 October 2010]*

7. If the Bar Council decides not to authorise any applicant's admission as a pupil member or as a member, the Secretary shall forthwith notify the applicant, who shall be entitled to appeal against such decision to the General Council. The provisions of Clause 23 shall apply, *mutatis mutandis*, to such appeal. If the General Council on such appeal so decides the applicant shall be entitled to become a pupil member or

a member as the case may be on the same conditions and as though his admission were authorised by the Bar Council.

8. The Secretary shall open and maintain in Johannesburg a roll of members. The roll shall be kept up to date by the Secretary by deleting the names of those who have ceased to be members and by permitting other persons to become members in terms of this Constitution. Upon signing the roll of members the signatories shall become bound by the provisions of this Constitution and be deemed to consent to the obligations imposed thereunder. The roll shall be headed:

*"We, the undersigned, having read the Constitution of the Johannesburg Society of Advocates, undertake to abide by that Constitution (and any amendments thereof as and when duly made) and by all decisions and actions lawfully taken thereunder."*

9. (a) Save with the special consent of the Bar Council no member shall hold a brief with or act professionally in any way in the Republic with any advocate who is not a practising member of a constituent Bar of the General Council, or, in Natal, with a person with whom the members of the Natal Constituent Bar may not hold a brief, provided that a member may hold a brief in a criminal matter for the State with an officer of the State.
- (b) Save with the special consent of the Bar Council no member shall occupy chambers in any building not approved for such purpose by the Bar Council.

10. Membership of the Society shall cease:

- (a) upon resignation duly accepted by the Bar Council;
- (b) upon expulsion in manner prescribed by this Constitution;
- (c) if the Bar Council decides on the ground that the member is no longer an advocate who normally practises in the Division;
- (d) if the Bar Council decides that the member has lost the necessary qualification for membership prescribed in Clauses 5 and 6.
- (e) if a member, upon delivery to the approved chambers held by that member of a demand to pay any sum due by that member to the Society, or to furnish any guarantee to the Society required to be furnished by that member in respect of
  - (i) bar subscriptions
  - (ii) rental dispersed by the Society in respect of office or parking space for and on behalf of that member;

fails within 30 days thereafter to pay the said sum, or fails to furnish the said guarantee; or fails to within the said period of 30 days to conclude a written agreement with the Bar Council, signed by the Chair of the Bar Council, to pay the said sum in monthly instalments not exceeding a duration of 12 months from the date of the agreement, or, in the event of the member having

concluded a written agreement as aforesaid, fails to pay the amount owing within 12 months from the date of the agreement.

Provided that in the case of (c) and (d) the member shall have the same right of appeal (*mutatis mutandis*) as in the case of expulsion, and provided further that cessation of membership shall in no way affect the member's liability for amounts owing to the Society or for any actions or conduct during his membership.

*[Amended at the SGM on 18 June 2015]*

11. Pupil membership of the Society shall cease:

- (a) upon resignation duly accepted by the Bar Council;
- (b) upon expulsion in manner prescribed by this Constitution;
- (c) if the Bar Council decides that the pupil member has lost the necessary qualification for membership prescribed in Clauses 5(b) and (c).

Provided that in the case of (b) and (c) the pupil member shall have the same right of appeal (*mutatis mutandis*) as in the case of expulsion and provided further that cessation of pupil membership shall in no way affect the pupil member's liability for amounts owing to the Society or for any actions or conduct during his pupil membership.

### III. BAR COUNCIL

12. 12.1. Subject to clause 18(ii), the property and management of the affairs of the Society shall vest in the Bar Council.

- 12.2. A Bar Council shall be constituted annually.
- 12.3. A duly constituted Bar Council shall remain in office until a new Bar Council has been constituted in terms of this Constitution.
- 12.4. A Bar Council, upon constitution, shall consist of sixteen members, of which eight shall be seniors and eight juniors, provided that a sufficient number of members are nominated. If fewer members are nominated, the Bar Council shall consist of such lesser number.
- 12.5. Of the 16 members of the Bar Council:
- 12.5.1 at least 8 shall be elected by the general membership; and
- 12.5.2. at least 8 shall be nominated by Advocates for Transformation (AFT).
- 12.6. AFT shall provide a list of the 8 members that it may nominate to the electoral officer in charge of the election on the first Monday following the declaration provided for in clause 13.1.(g) and upon provision of the list, the elected members and the AFT appointees shall constitute the Bar Council.
- 12.7. The Bar Council must appoint an electoral officer in charge of administration of the nominations and election, duly assisted by the Secretary. The electoral officer may carry out any function pertaining to the nominations and election reserved in terms hereof for the Secretary.

12.8. A quorum of the Bar Council shall at all times be fifty percent of its members.

12.9. The chairman, or in his absence, the vice-chairman, shall have a casting vote.

12.10. The provisions of clauses 12.5 and 12.6 shall remain in force indefinitely.

*[Amended at the SGM on 17 October 2013]*

13.1. The election of members of the Bar council shall take place in the following manner:

(a) Not less than three weeks before the date of the Annual General Meeting, the secretary shall by notice to the members call for nominations which shall be handed in to the Secretary not less than two weeks before the said meeting.

(b) Nominations shall be in writing and shall be signed by one proposer and one seconder, and the secretary shall accept no nomination unless consent to his nomination is signified in writing signed by the nominee.

(c) Not less than one week before the Annual General Meeting the secretary shall publish on the notice boards in the libraries the list of members whose nominations have been accepted.

- (d) Notwithstanding any such nomination and consent, any person nominated shall be entitled to withdraw his candidature at any time more than 4 days before the Annual General Meeting.
- (e) If there are more nominations than the number required to be elected the secretary shall, not less than four days before the Annual General Meeting, deliver to each member, or his clerk, a ballot paper containing a list of members nominated.
- (f) Members shall record their votes on the ballot paper, which must be handed to the Secretary not later than 15h00 on the second business day after the Annual General Meeting. Members shall be entitled to record a maximum of four votes in each category of seniors and juniors
- (g) The positions of seniors to be elected by the general membership of the Society to the Bar Council shall be filled by the members obtaining the highest number of votes among the seniors, and the positions of juniors shall be filled by the members obtaining the highest votes among the juniors and they shall be declared elected.
- (h) If at the close of the nominations as provided for in sub-clause (a) there are fewer nominations than the number to be elected, balloting shall be deferred until the Annual General Meeting, at which meeting the Chairman shall call for and accept further nominations. If as a result of such further nominations there are not more nominations than the number

to be elected the Chairman of the meeting shall forthwith declare the nominees to be duly elected.

13.2. The provisions of clause 13.1 shall not apply to the election of the 2008/2009 Bar Council and the election process that has been conducted prior to the amendment of clause 12 of the constitution is hereby rescinded.

13.3 The election of members of the 2008/2009 Bar Council shall take place in the following manner:-

- (a) At the 2008 Annual General Meeting ("the AGM") and thereafter by general notice, the secretary shall call for nominations;
- (b) nominations shall be in writing and shall be signed by one proposer and one seconder, and the secretary shall accept no nomination unless consent to his or her nomination is signified in writing signed by the nominee;
- (c) nominations shall be handed in to the secretary not more than five days after the AGM;
- (d) the secretary shall forthwith publish a list of members whose nominations have been accepted on the notice boards in the libraries;
- (e) If there are more nominations than the number required to be elected, the secretary shall not more than seven days after the AGM deliver a ballot paper to each member;

- (f) members shall record their votes on the ballot paper which may be handed to the secretary not later than eleven days after the said meeting;
  - (g) members shall be entitled to record a maximum of four votes in each category of seniors and of juniors;
  - (h) the four seniors obtaining the highest number of votes among the seniors and the four juniors obtaining the highest votes shall be declared to be duly elected;
  - (i) Advocates for Transformation ("AFT") shall submit a list of four seniors and four juniors to the secretary not more than five days after the Annual General meeting;
  - (j) the secretary shall on receipt thereof, forthwith publish the list of AFT nominations on the notice boards in the libraries;
  - (k) the eight elected members together with the eight members nominated by AFT shall constitute the Bar Council.
14. The members of the Bar Council shall retire annually on the completion of the constitution of the incoming Bar Council. All retiring members shall be eligible for re-election.
15. The Bar Council at its first meeting after election shall elect one of its members as Chairman and one as Vice-Chairman of the Bar Council for the ensuing year and may from time to time fill any casual vacancy in such offices.

16. In the event of the death or resignation of any member of the Bar Council, the Bar Council may appoint someone to serve as a member until the next annual election in due course of members of the Bar Council. In the event of incapacity or absence of any member of the Bar Council, the Bar Council may appoint someone to serve as a member during such incapacity or absence.
17. There shall be elected annually at the Annual General Meeting a Secretary, and, if necessary, Assistant Secretaries, to attend to the affairs of the Society and to act as a Secretary to the Bar Council. Any vacancies occurring during the year shall be filled by the Bar Council. The Bar Council may appoint such officials as it may from time to time consider necessary on such terms as it may decide.
18. (i) The Bar Council shall, subject to any directions that may be given to it by the Society in General Meeting, have the following powers and duties:-
  - (a) To frame such regulations and give such rulings as are necessary in its opinion for giving effect to the provisions of this Constitution.
  - (b) To frame such rules and to give such rulings relating to the members and pupil members in their professional capacity as it from time to time may deem advisable, and in particular to specify the books or records which shall be kept by members in respect of their professional activities.
  - (c) To represent the members of the Society in any matter of general concern to the Society, to exercise control over all members in matters affecting their professional status, rights, privileges and conduct and

subject to the provisions of this Constitution, to take such action as it deems fit.

- (d) To draw up minimum scales of fees for members.
- (e) To hear and settle disputes between members and other persons as to fees due to any member or as to any other matter affecting their professional relations.
- (f) To maintain a list of defaulting attorneys and to prescribe sanctions in regard to such attorneys in their relationship with members of the Society.
- (g) To regulate and control the finances of the Society.
- (h) To submit any matter for decision or opinion to the General Council.
- (i) To make contracts on behalf of the Society in regard to the Society's affairs and property.
- (j) To appoint sub-committees from members to assist the Bar Council in carrying out the objects of the Society.
- (k) To establish and maintain a Bar Benevolent Fund and Sick Benefit Fund for the purposes of assisting members and ex-members of the Society and members of their families and employees and ex-employees of the Society who, in its opinion, are in need of financial assistance and ought to receive assistance from such fund.

*[Amended at the AGM on 28 October 1988]*

- (l) Subject to the provisions of this Constitution, to maintain discipline among members and to prescribe and enforce sanctions for breaches of discipline.
- (m) To decide whether a person has the necessary qualifications prescribed by this Constitution for admission as a member.
- (n) To represent the Society in Court and in legal proceedings in so far as may be permitted by law in regard to any matter affecting the Society, the Bar of the Division and any member or other advocates of the Division.
- (o) To regulate and control access to and the use of the Bar Library and the Bar Common Room.
- (p) To establish and maintain an entertainment fund to which all members shall contribute an amount not exceeding One Rand per month and to use the monies whereof at the discretion of the Bar Council in paying for Bar functions.
- (q) To regulate and control the chambers occupied by members, and in particular:
  - (a) to occupy, lease and sub-lease premises for the purposes of providing suitable accommodation for members;

- (b) to require members to occupy chambers only in a building or buildings approved by the Bar Council.
- (r) To take up as Lessee any accommodation for the purpose of subletting such accommodation and to levy contributions from members in respect thereof and to let accommodation taken and controlled in the Council's leased chambers.
- (s) To make loans from the funds of the Society to such persons and upon such terms and conditions as the Bar Council sees fit.
- (t) To do all such other as may, in its opinion, further the objects of the Society or are necessary for or incidental to the carrying out of those objects or the above-mentioned powers.
- (u) The Bar Council shall not be entitled to exercise any power which it may have in relation to any particular matter other than contained in the approved budget which would have the effect of incurring any liability for the Society, the cumulative or aggregate value or amount of which would exceed R250 000,00 without the prior approval of a resolution of members taken at a general meeting of the society, or taken in writing and signed by a majority of the members.

*[Amended at the AGM on 30 October 2003.]*

- (v) To decide on appropriate accounting policies from time to time.

*[Inserted at the AGM on 23 October 2014.]*

- (ii) Until the Annual General Meeting in 2013 all regulations, rulings and decisions made and actions taken in pursuance of the above powers shall be of force and effect unless and until set aside by two-thirds of the members present and voting at a General Meeting of the Society duly convened in terms of this Constitution.
  
- (iii) Nothing in this clause shall be deemed to override the power of the Society in General Meeting to exercise any of the functions of the Bar Council or to take any action it may think fit within the scope of the Constitution.
  
- (iv) No member, secretary, assistant secretary of the Bar Council or any member of the Society to whom the Bar Council has delegated any of its functions, shall be liable in damages or otherwise for any loss, damage or misfortune whatsoever which shall happen in the execution of such functions, or in relation thereto or arising therefrom, and every such member of the Bar Council, secretary, assistant secretary and member of the Society shall be indemnified out of the funds of the Society against all liability, loss or expense incurred by him as such

*[Amended at the AGM on 30 October 1987]*

18bis. To utilise such assets of the Bar Benevolent Fund as may be necessary to meet the liabilities of the Society. The amount is not to exceed R500 000,00.

*[Amended at the AGM on 31 October 1997]*

19. The Bar Council may in all matters of common concern to the Johannesburg and Pretoria Bar, co-operate with the Pretoria Bar Council, and for this purpose may arrange joint meetings.
20. The Bar Council may delegate any of its functions to a [the] Committee of not less than two of the members of such Council but the Bar Council may at any time terminate or modify such delegation.
21. (a) The Bar Council shall meet[ing] from time to time as it may decide. The Chairman, or in his absence, the Vice-Chairman, or in his absence, a senior member present shall preside.

*[Amended at the AGM on 26 October 1990, amended at the AGM on 31 October 1997 and amended at the SGM on 25 September 2008.]*

- (b) Except in respect of items on an agenda for a Bar Council Meeting which the Chairman, Vice-Chairman or member due to preside at the meeting has deemed to be of a nature which should be kept confidential from the general membership, members may attend Bar Council meetings strictly in the capacity of observers.
- (c) An agenda for each meeting of the Bar Council, excluding confidential items as intended in (b), shall be placed on a notice board in the Library, The Chambers, 3 Protea Place, Sandown no later than the communication to each member of the Bar Council of the Agenda for each meeting. Such agenda shall also state the date, time and venue of the meeting.

- (d) Minutes of all meetings shall be kept and such minutes, excluding the minutes on confidential items as intended in (b), shall be available for inspection by members.

*[Amended at the AGM on 31 September 1997]*

#### IV. DISCIPLINE

22. (a) The Bar Council shall enquire into the professional conduct of any member or pupil member whenever it is in the opinion of the Bar Council desirable to do so. The Bar Council may delegate the aforesaid functions to any one or more members of the Society whether or not such members are members of the Bar Council. The member or members to whom the functions have been delegated shall be obliged to report the results of such enquiry and any recommendations which may be made to the Bar Council

*[Amended at the AGM on 30 October 1987]*

- (b) The procedure to be followed in such investigation shall in each case, be determined by the Bar Council or the member or members conducting the inquiry, in accordance with the nature of the matter to be investigated.

*[Amended at the AGM on 30 October 1987]*

- (c) If the Bar Council, having conducted an inquiry into the professional conduct of a member or pupil member, or having received a report from the member or members to whom its functions in that regard were delegated, decides that the member or pupil member has been guilty of conduct which, in its opinion, is

professional misconduct, it may admonish, suspend or expel such member or pupil member provided that no member or pupil member shall be suspended or expelled, unless not less than fifteen members of the Bar Council shall vote in favour thereof.

*[Amended at the AGM 30 October 1987 and at the AGM on 17 September 1998]*

- (d) No member shall be disqualified from taking part in any such investigation or decision referred to in this Clause by reason merely of the fact that he has received information, otherwise than in the course of the investigation, about any matter forming the subject matter of the investigation.

*[Amended at the AGM on 30 October 1987]*

- (e) It shall be the duty of every member and pupil member to furnish to the Bar Council or a member or members to whom the functions have been delegated under sub-clause (a) hereof, all such information as he may be called upon to furnish and to produce to the Bar Council or such member or members all such books, documents or other records as he may be called upon to produce.

*[Amended at the AGM on 30 October 1987]*

- (f) No member or pupil member shall be relieved of his obligations under sub-clause (e) hereof, by reason of the fact that the information, books, documents or records called for will or may relate to his own conduct in respect of which no charge has yet been formulated.

**23. Leave to appeal and appeal to General Council**

- (a) Any member or pupil member and any other person against whom a decision has been made by the Bar Council in terms of the preceding clause may, by notice in writing to the Secretary within seven days after notification of such decision, apply for leave to appeal against the decision to the General Council.
- (b) Upon receipt of such notice, the Secretary shall forward it to the Secretary of the General Council, together with all documents and notes of evidence relating to the matter.
- (c) Thereafter the General Council shall proceed to determine the application for leave to appeal and, should leave be granted, the appeal, in accordance with the bylaws and/or the specific requirements of the General Council.
- (d) The decision of the General Council on the application for leave to appeal and, should leave be granted, the appeal, shall be final and binding on the Society and all persons affected.

*[Amended at the SGM on 18 September 2014]*

## V. MEETINGS OF MEMBERS

24. Meetings of members of the Society shall be held: -

- (a) once a year during the month of October on such date as the Bar Council shall decide, such meeting being the Annual General Meeting;
- (b) when so ordered by the Bar Council;

- (c) on a requisition signed by not less than twenty members and handed in to the Secretary stating the purpose for which the meeting is required, on a date to be fixed by the Bar Council.
25. (a) At all meetings every member shall be entitled to vote, and the Chairman, or in his absence the Vice-Chairman, or in his absence the senior member present shall preside and have a deliberative and casting vote. The quorum shall be 60 members on the roll.

*[Amended at the AGM on 26 October 1990]*

- (b) If, within half an hour after the time appointed for the meeting, the quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to a day not earlier than 7 days and not later than 21 days, after the date of the meeting and if at such adjourned meeting a quorum is not present within half an hour of the time appointed for the meeting, the members present shall be a quorum.
26. The business of any meeting shall be such business as is specially mentioned in the notice convening the meeting and such other business as the Chairman may allow having regard to the notice convening the meeting.
27. At least seven days' clear notice shall be given of every meeting of members provided that in cases of urgency and if the matter to be considered is not a proposed amendment to this Constitution, shorter notice may be given subject to the approval of two members of the Bar Council. All such notices shall be in writing or

print, and shall be sent to every member, provided that no action of the meeting shall be invalidated by the mere fact that such notice has not been received by any member.

## VI. FINANCE

28. The property and funds of the Society shall be vested in the Bar Council which shall be capable of suing and being sued on behalf of the Society in the name of the Johannesburg Society of Advocates.

The Secretary for the time being shall accept services of process, and when authorised thereto by the Bar Council, sign all necessary powers for that purpose.

The Bar Library, presently housed in Innes Chambers, Johannesburg, shall be the property of the Society.

29. Each member shall be liable to pay such amounts as the Bar Council shall fix:
- (a) an entrance fee on joining the Society; and
  - (b) an annual subscription by way of 12 equal monthly instalments commencing on the 3rd of January and thereafter on the 3rd of each successive month in each year; provided that any member shall at any time be entitled to pay any number of instalments in advance; and
  - (c) contributions to the Bar Benevolent Fund as and when required by the Bar Council; and

(d) The Bar Council may determine different amounts for different members or categories of members and may grant any member or category of members remission of payment of those amounts in whole or in part.

30. The Secretary shall open and maintain a banking account in the name of the Johannesburg Society of Advocates in such bank as the Bar Council shall determine, which shall also decide how the banking account shall be operated upon.

## VII. GENERAL

31. Any matter affecting the Bar or any member or pupil member or other advocate in the Division may be brought before the Bar Council in writing by any person, and the Bar Council may, subject to the provisions of this Constitution, take such action thereon as it shall deem fit.

32. Not less than seven days before the Annual General Meeting the Bar Council shall present to the members a report dealing with matters affecting the Bar, the financial position of the Society and generally the activities of the Bar Council during the year. A copy of such report shall be sent by the Secretary to each member.

33. All notices of the Society sent to member's or pupil member's chambers shall be deemed to have been duly sent for the purposes of this Constitution.

34. This Constitution may be amended by a decision of the Society at a General Meeting duly convened in terms of this Constitution and any amendment of the Constitution shall be submitted to the Commissioner for The South African Revenue Service within 30 days of the amendment.

*[Amended at the SGM on 18 June 2015]*

35. All bye-laws, regulations, Bar Council rulings and instructions heretofore binding under the Constitution of the Society of Advocates of 1911 shall mutatis mutandis remain in operation and binding on members as though made under this Constitution except in so far as they are at variance with this Constitution and until rescinded in terms of this Constitution.
36. (a) Any profits or gains made by the Society shall be used by the Society solely for investment or for the attainment of its objects hereinbefore set out, and no part of such profits or gains shall be distributed to members or any other person.
- (b) In the event of the Society being dissolved, all assets of the Society remaining after satisfaction of its liabilities shall be transferred to some other association or associations having objects similar to those of the Society and which has been approved in terms of section 30 and/or 30B of the Income Tax Act, 1962.

*[Amended at the SGM on 18 June 2015]*

- (c) The Society shall not (directly or indirectly) distribute its funds or assets to any person, other than in the course of furthering its objectives.

*[Inserted at the SGM on 18 June 2015]*

- (d) The Society shall utilise substantially the whole of its funds for its principal object and no member shall (directly or indirectly) have any personal or private interest in the Society's funds or assets.

*[Inserted at the SGM on 18 June 2015]*

- (e) The Society shall comply with such reporting requirements as may be determined by the Commissioner for The South African Revenue Service from time to time, and shall not knowingly be a party to, or permit itself to be used as part of, an impermissible avoidance arrangement contemplated in Part IIA of Chapter III, or a transaction, operation or scheme contemplated in section 103(5) of the Income Tax Act, 1962.

*[Inserted at the SGM on 18 June 2015]*