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LEGAL PRACTICE COUNCIL

NOTICE 4258 OF 2026

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THE SOUTH AFRICAN LEGAL PRACTICE COUNCIL
NOTICE IN TERMS OF SECTION 36(1), 36(4) AND 36(5) OF THE LEGAL PRACTICE ACT, 28 OF 2014

PROPOSED AMENDMENT OF THE CODE OF CONDUCT FOR ALL LEGAL PRACTITIONERS, CANDIDATE LEGAL PRACTITIONERS AND JURISTIC ENTITIES: INSERTION OF PARAGRAPHS 1.2A, 1.20A, 27.3A, 27.3B, AND AMENDMENT OF PARAGRAPHS 27.3, 34.2, 35 AND 43.3 (BRIEFS FROM ARBITRATION BODIES AND RECOGNISED MEDIATION BODIES)

Notice is hereby given that the Council intends to amend the Code of Conduct for all Legal Practitioners, Candidate Legal Practitioners and Juristic Entities as amended ("the Code"), made under the authority of section 36(1) of the Act, by the insertion of new paragraphs 1.2A and 1.20A in Part I of the Code (Definitions); the amendment of paragraphs 27.3, 34.2, and 35; the insertion of new paragraphs 27.3A, and 27.3B in Part IV of the Code (Conduct of advocates contemplated in section 34(2)(a)(i) of the Act); and the amendment of paragraph 43.3 in Part V of the Code (Conduct of advocates contemplated in section 34(2)(a)(ii) of the Act), in the following respects:

Explanatory Note

Words in italics and underlined with a solid line indicate proposed insertions to the existing text of the Code.

Words in bold type in square brackets **[ ]** indicate proposed deletions from the existing text of the Code.

Proposed amendment to paragraph 1 (Definitions) of Part I of the Code: insertion of paragraph 1.2A after paragraph 1.2 and of paragraph 1.20A after paragraph 1.20

1 **Definitions**

In this code, unless the context otherwise indicates:

[.....]

1.2 'advocate' means a legal practitioner who is admitted and enrolled as such under the Act;

1.2A *'arbitration body' means an institution or entity which administers arbitrations and which is recognised by the Council, as suitably qualified to appoint or to provide arbitrators or umpires at the request of a party to a dispute, or which is established or recognised in terms of any law;*

[.....]

1.20 'main office' means the premises at and from which the practice of a firm is as a whole administered and controlled, including such premises in two or more buildings situated in sufficiently close proximity to one

Executive Committee: Adv Pule Seleka (SC) – Chairperson, Dr Llewelyn Curlewis - Deputy Chairperson, Adv Craig Watt-Pringle (SC), Mr Martus De Wet, Ms Nonduduzo Khanyile, Mr Sello Phajane, Adv. Matshoge Chabedi (SC), Acting Executive Officer: Ms. Pearl Arnold Mfusi

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another to allow the administration of that practice as a single composite entity, and includes premises declared or determined as such in terms of accounting rules 54.2 or 54.5, as the case may be;

1.20A *'mediation body' means an institution or entity which administers mediations, which is recognised by the Council in terms of paragraph 27.3B and which-*

1.20A.1 *is established or recognised in terms of any law;*

1.20A.2 *provides a court-annexed or court-referred mediation service in terms of the rules or a practice directive of any court;*

1.20A.3 *is a mediation organisation recognised in terms of a mediation directive or protocol of a Division of the High Court, or is accredited by, or is a member in good standing of, such an organisation or of a body which accredits mediators and which is itself recognised by the Council for that purpose; or*

1.20A.4 *is a mediation institution in another country and is recognised as such in that country,*

provided that an institution or entity shall not be a mediation body for purposes of this code merely because it describes or holds itself out as such, or where it is in substance a single legal practitioner or mediator practising under any other name or style in order to circumvent paragraph 27.2;

[.....]

Proposed amendment to paragraph 27 (Acceptance of briefs: the referral rule) of Part IV of the Code: amendment of paragraphs 27.3 and insertion of paragraphs 27.3A and 27.3B after paragraph 27.3

27 **Acceptance of briefs: the referral rule**

[.....]

27.3 Counsel who act as arbitrators **[or umpires]**, *umpires or mediators* shall do so only on receipt of a brief from the parties' attorneys, or on receipt of instructions from an arbitration body *or, in the case of a brief to act as a mediator or co-mediator, from a mediation body, subject to paragraph 27.3A*.

27.3A *Counsel who accept instructions from a mediation body as contemplated in paragraph 27.3 shall-*

27.3A.1 *accept such instructions only to act as a mediator or co-mediator, which includes the drafting of a settlement agreement arising from a mediation conducted by counsel and any preparatory or reporting work directly related to the mediation;*

27.3A.2 *not accept from a mediation body a brief to represent any party to the mediation or to perform any other litigious or non-litigious work, to which paragraph 27.2 continues to apply;*

27.3A.3 *not pay or allow, directly or indirectly, any commission, referral fee, rebate or other share of counsel's fees to a mediation body or to any other person in respect of the referral or briefing of mediation work;*

27.3A.4 *obtain and retain a written record of the terms of the appointment, recording the identity of the parties, the issues referred to mediation, the fee or rate agreed and the source of the funds from which counsel's fees are to be paid;*

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27.3A.5 before the mediation commences, disclose to the parties in writing that counsel is briefed by the mediation body and not on the instructions of an attorney, that no commission, referral fee or fee-sharing arrangement exists, and the basis on which counsel's fees are to be charged; and

27.3A.6 comply with the provisions of paragraphs 34.5, 58 and 59 of this code in respect of all mediation work so accepted,

and the provisions of paragraphs 12 and 18.22 of this code apply, with the necessary changes required by the context, to counsel in respect of mediation work accepted from a mediation body.

27.3B The Council, for purposes of paragraph 27.3 and the definition of 'mediation body' in paragraph 1.20A-

27.3B.1 shall keep and publish a list of the mediation bodies recognised by it, and an institution or entity which does not appear on the list is not a mediation body for purposes of this code;

27.3B.2 may recognise as a mediation body an institution or entity contemplated in paragraph 1.20A.1, 1.20A.2, 1.20A.3 or 1.20A.4 which maintains a separate account or other arrangement for the receipt and payment of mediators' fees from which the fees due to counsel are paid to counsel without deduction, save for any administration fee of the body disclosed to counsel in writing in advance;

27.3B.3 may recognise, for purposes of paragraph 1.20A.3, a body which accredits mediators and whose standards of accreditation the Council considers to be equivalent, including standards which require the mediation organisations accredited by it to maintain an arrangement contemplated in paragraph 27.3B.2;

27.3B.4 may, of its own accord or on written representations made to it, suspend or withdraw the recognition of a mediation body which has failed to pay fees due to counsel, has failed to maintain the arrangement contemplated in paragraph 27.3B.2, has solicited or received any commission, referral fee, rebate or other share of counsel's fees, has touted or facilitated touting for professional work, or which no longer falls within paragraph 1.20A; and

27.3B.5 shall, within three years after paragraphs 27.3A and 27.3B come into operation, review the operation of those paragraphs.

Proposed amendment to paragraph 34 (Marking briefs and submitting fees accounts) of Part IV of the Code: amendment of paragraph 34.2

34 **Marking briefs and submitting fees accounts**

[.....]

34.2 Counsel shall render accounts to the instructing attorney **[or arbitration body]**, *arbitration body or mediation body* contemplated in paragraph 27.3, and shall receive payment only from the instructing attorney **[or arbitration body]**, *arbitration body or mediation body*.

[.....]

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Proposed amendment to paragraph 35 (Recovery by counsel of fees owing and payable) of Part IV of the Code

35 **Recovery by counsel of fees owing and payable**

Counsel may sue an attorney **[or arbitration body]**, *arbitration body or mediation body* for fees due and payable to him or her.

Proposed amendment to paragraph 43 (Acceptance of briefs and instructions) of Part V of the Code: amendment of paragraph 43.3

43 **Acceptance of briefs and instructions**

[.....]

43.3 Where a trust account advocate accepts a brief from an attorney or from an arbitration body *or mediation body* as contemplated in paragraph 27.3, the trust account advocate shall receive deposits and payment of accounts only from or through the instructing attorney or from or through the arbitration body *or mediation body* which gave the brief to him or her, except where the attorney or arbitration body *or mediation body*, for reasons of insolvency or for any other reason, is unable to pay, in which circumstances, with leave from the authorised sub-structure of the Council, a trust account advocate may receive payments due from another source in discharge of the indebtedness of the attorney or arbitration body *or mediation body*.

[.....]

In terms of section 36(5) of the Act, legal practitioners and any other interested persons are hereby invited to submit comment to the Council in writing on the proposed amendments.

Please note that all comments must be sent by email to rules@lpc.org.za by no later than **30 November 2026.**

Signed at **Midrand** on **26 October 2026.**

ADV PG SELEKA SC
Chairperson: Legal Practice Council