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**POLICY ON
GCB
FINANCIAL
GOVERNANCE**

POLICY ON GCB FINANCIAL GOVERNANCE

1. The purpose of this policy is to take cognisance of the following:
 - 1.1 The need for appropriate and effective procedures to ensure fidelity in respect of all GCB financial transactions.
 - 1.2 To set norms and procedures to avoid unnecessary wastage and expenditure.
 - 1.3 To provide for planned expenditure in accordance with clear and detailed budgets.
 - 1.4 To establish norms and procedures in terms of which those who make financial decisions on behalf of the GCB are effectively accountable for them.
2. In accordance with tradition, the financial year is 1st May to 30 April.
3. Each year at the first meeting of the GCB (February) a proposed budget will be laid before the GCB for approval.
4. The draft budget will be composed on the basis of submissions made to the GCB Treasurer by no later than 15 January. Submissions to the Treasurer should set out in full proposed programmes of activities, the costs involved therein, and the sums which the GCB will be asked to appropriate for the purpose of those programmes of activities. Expenditure during the course of a fiscal year shall be strictly within the parameters of the budget and will not be exceeded, save upon the authority or resolution of the General Council.
5. Truly extraordinary unforeseen circumstances which require expenditure in the best interest of the Council and for which it is inappropriate to convene a special general meeting of the Council, may, within certain limits, be approved if the Executive is unanimous in the decision to cause such an expenditure to be incurred. The maximum expenditure in any one year for all kinds of such unforeseen outlay shall be a total of R50 000.00.

6. No disbursement shall be made by the GCB without the written authorisation by a member of the Executive on the prescribed form. The member of the Executive so authorising expenditure shall be responsible for taking reasonable steps to verify that the expenditure is appropriate, inasmuch as the debt being discharged is truly one for which the GCB is liable, and that the expenditure is within the budget for a given fiscal year. The executive secretary shall take steps to provide all necessary information when requisitioning a cheque and seeking authorisation to satisfy the signatory to the authorisation that the indebtedness is valid and that the expenditure is within budget.
7. The executive secretary shall prepare on a quarterly basis a summation of the total expenditure of the GCB during the year to that date, and in tabular form compare it with the budget. It shall be the responsibility of the Treasurer to monitor expenditure against the budget and to report thereon at each meeting of the General Council.
8. Where disbursements are made to office bearers of the General Council, they shall not themselves authorise the payments or sign the cheques effecting such disbursements.
9. Where persons render services on behalf of the GCB, as a general rule, the GCB shall reimburse actual expenditure within certain limits as set out in the "*Standard Accounting Policy*". Insofar as possible, individuals who would be entitled to claim reimbursement of expenditure should be requested to make their own arrangements and claim *ex post facto* by submitting the appropriate claim form, together with proof of payment in the form of original tax invoices and receipts. Appropriate steps should be taken both by the executive secretary and other office bearers of the GCB who are responsible for organising programmes of activity, especially in relation to expenditure on accommodation and travelling, but not exclusively so, that arrangements are made in such a way that wastage, for example, by way of accommodation and travelling expenditure being disbursed for individuals who do not turn up at the last moment, are avoided.

10. Travel abroad and related expenditure, by persons rendering service on behalf of the GCB, shall be authorised by the General Council *ad hoc*.
11. No persons who renders services on behalf of the GCB shall in any way directly or indirectly receive remuneration for such services. In the event that some exceptional circumstances warrant, in a specific instance, any qualification to this rule, it shall require authorisation by resolution of the General Council.
12. Office bearers of the General Council are under an obligation to exercise moderation and prudence in regard to the organisation of the events which would result in significant expenditure by the GCB, more particularly, in regard to events which result in the need for members to travel and be accommodated away from home.
13. The National Examination Board, the National Bursary Fund, the Advocacy Training Committee and the Editorial Committee of **Advocate** should compose further rules or procedures where appropriate and useful, relevant to their particular circumstances, consonant with this policy.

ROLAND SUTHERLAND SC
GCB TREASURER

(Approved: July 2001 AGM)

THE GENERAL COUNCIL OF THE BAR OF SOUTH AFRICA

STANDARD ACCOUNTING POLICY

The GCB will reimburse on the following basis reasonable expenditure incurred by members on GCB business:

All claims are to be submitted within one month of incurring the expenditure on the prescribed GCB claim form, accompanied by original VAT invoices for audit purposes.

ATTENDANCE AT EXECUTIVE COMMITTEE AND SPECIAL MEETINGS

The GCB will reimburse the following expenses subject to prior approval:

- Economy airfares in respect of delegates' from out-of-town.
- Hotel accommodation in respect of delegates' from out-of-town. All telephone and personal expenses will be for delegates' own account.

ANNUAL GENERAL MEETINGS

- Constituent Bars will be responsible for the expenses incurred by their members attending annual general meetings of the GCB.
- The GCB will reimburse the travelling and accommodation expenses of its executive members, editor (attends ex officio) and the executive secretary attending annual general meetings.

NATIONAL BAR EXAMINATION

The GCB will reimburse the following expenses subject to prior approval in respect of the NBEB:

- Travelling and accommodation expenses of the oral moderator.
- Travelling and accommodation expenses of Board members from out-of-town attending meetings of the NBEB.
- Travelling expenses only of pupils from smaller Bars who have to travel to bigger centres to attend oral examinations. Expenses are limited to the cost of an economy class ticket in respect of one oral examination.

ADVOCACY TRAINING

The GCB will reimburse the following expenses subject to prior approval:

PUPILS:

The GCB will fund the transport costs only of pupils from the smaller Bars to participate in training workshops in the event of the course not being offered at a particular Bar. Airfares are limited to economy class airfares.

Where possible, arrangements should be made for pupils to travel together.

Travelling by motor vehicle will be reimbursed at R1.50 per kilometre.

ADVOCACY TRAINING MEETINGS:

The GCB will reimburse the following:

- Economy airfares of members attending meetings.
- Should return flights be available, no accommodation expenses should be incurred.

TRAINERS ATTENDING WORKSHOPS:

The GCB will reimburse the following expenses of members from out-of-town attending workshops as arranged by the training co-ordinator:

- Economy class airfare.
- Reasonable accommodation expenses.

OVERSEAS SYMPOSIUMS/WORKSHOPS

The GCB will reimburse the following expenses of members attending overseas workshops, subject to prior approval by the GCB:

- Economy class airfare.
- Reasonable accommodation expenses.

Upgrades in respect of airfares and accommodation will be for delegates' own account.

GCB APPEALS

The GCB will reimburse tribunal members from out-of-town as follows:

- Travelling expenses.
- Should no return flights be available - accommodation costs.

INTERNATIONAL CONFERENCES

The GCB will reimburse the following expenditure of delegates, duly nominated by the executive to attend international conferences:

- Airfare.
- Reasonable hotel accommodation.
- Meals and transport costs.

ADVOCATE

The GCB will reimburse the following:

- Economy class airfares in respect of Editorial Committee members from out-of-town. Should return flights be available, no accommodation expenses should be incurred.

OTHER

Individual members on GCB business who need to stay over for more than one night, will be subsidised for meals up to a maximum amount of R100.00 per day.

GENERAL COUNCIL OF THE BAR OF SOUTH AFRICA

POLICY STATEMENT ON FUNDING OF DISCIPLINARY APPLICATIONS

1. Provided that the GCB has approved the institution of a disciplinary application by a constituent Bar, all disbursements incurred by that society in connection with such application (including attorneys' fees, but excluding counsel's fees) shall be paid on that society's behalf by the GCB or (if already paid by the society) reimbursed to the society by the GCB.
2. The society within whose area a disciplinary application is brought is expected to provide counsel to represent the applicant on a contingency or pro bono basis, whether such applicant is the society or the GCB. However, where a smaller Bar considers that compliance with this general policy would in a given instance make unfair demands on its members, the GCB will arrange for one or more members from another Bar to act in the application concerned.
3. Where in the GCB's opinion a disciplinary application is, by virtue of its complexity, volume or expected duration, likely to make excessive demands on counsel's time, the GCB shall, pending the recovery of any costs from the other party, remunerate such counsel in accordance with rates determined from time to time by the GCB (which rates may be lower than the fees ordinarily charged by counsel in that division).
4. Ordinarily, a matter which can be decided on the papers and in respect of which argument is not likely to last for more than two days will not be regarded as falling within the ambit of 3 above.
5. A constituent Bar is required to provide the GCB with regular progress reports relating to disciplinary applications instituted by that Bar as envisaged in paragraph one of the policy statement.
6. A constituent Bar is required to take all reasonable steps in pursuit of costs order granted in its favour in such an application and to account to the GCB in respect of such costs as the GCB might have paid.

*Approved : 1 April 2005
National Executive Committee meeting*

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**FORMAT FOR
PUPILAGE**

GENERAL COUNCIL OF THE BAR OF SOUTH AFRICA

PUPILAGE 2008 CIRCULAR NO. 2

FORMAT FOR PUPILAGE 2009

A. ENTRANCE TO PUPILAGE

1. Each Bar will be entitled to determine a limit to its numbers for pupillage, based on its own capacity.
2. Each Bar will be expected to subscribe to general guidelines to be drawn up by the GCB as to the criteria for choosing applicants where numbers exceed limits, which criteria are to be drawn up on the basis of *inter alia* the following factors (not necessarily stated in order of importance) :
 - (a) University results;
 - (b) Relevant previous experience;
 - (c) Race
 - (d) Gender
 - (e) Previous pupillage.

B. DATES, REGISTRATION AND UNIVERSITY INVOLVEMENT

1. Pupillage will extend over the period 15 January to 31 December of any year.
2. Subject to the individual discretion of each Bar, the cut-off date in any year for registration for Pupillage for the following year will be 30 September. Each applicant is to provide full details as prescribed by each individual Bar with the application for registration. Bars are advised to take great care with the full disclosure required of pupils in relation to misconduct as an attorney or as an advocate, criminal convictions and any problems that they know about in obtaining their University results.
3. Details of all applications are to be copied to the GCB.

4. It is recommended that individual Bars conduct interviews of each applicant.
5. Individual Bars are permitted to levy a registration fee over and above the examination fee, subject to the right of the GCB to determine a maximum amount.
6. The GCB has determined that a pupillage levy is payable by each pupil on commencement of pupillage. The levy for 2009 is R450.00 and is a contribution towards the printing and distribution costs of the course manuals. Bar Administrators are requested to collect this levy from pupils in January 2009. This levy may be waived by the Bar Council on application in individual circumstances which warrant a waiver.
7. Individual Bars are encouraged to arrange delegation visits to their local universities in mid-year to inform final-year students about the advantages and disadvantages of joining the Bar, and the practicalities of doing so (cut-off date for registration, period and content of pupillage, etc).

C. CURRICULUM

The curriculum for the examination is to be determined by the GCB in consultation with the National Bar Examination Board.

D. THE DRAFT PROGRAMME FOR PUPILAGE

1. 15 January to end January. Introduction to the Bar & orientation.
2. 1 February to end July. Twenty-four week workbook course together with Advocacy Training.
3. 1 July to end July. Pupils are entitled to take the days off to prepare for the examination. From 1st July the pupils who are granted partial exemption start pupillage.
4. Bar Examination in August followed by oral examinations in September
5. October (or September for those who have passed the Bar Examination outright) through to end of December :-

- 5.1 Advanced Advocacy Training, arranging chambers, lectures on practice, fees, fee and brief administration, VAT, Income Tax and District Levies.
- 5.2 Practice under the supervision of the pupil's mentor provided that such practice shall not prevent attendance at Advanced Advocacy Training.

E. CERTIFICATION

1. A pupil advocate is entitled to practice as a full member of a Bar once such pupil has fulfilled the following requirements :-
 - 1.1 the pupil has obtained a pass in the bar examination set by the National Bar Examination Board; and
 - 1.2 the pupil has satisfactorily attended the practical course in advocacy training and Advanced Advocacy training, conducted under the supervision of the National Advocacy Training Committee and has been assessed as competent by the Bar's Advocacy Training Committee; and
 - 1.3 the pupil has been issued with a certificate signed by the pupil's pupil mentor and the Bar's pupil co-ordinator (or a person appointed by the Bar's pupil co-ordinator) to the effect that the pupil has satisfactorily served the pupillage applicable to the pupil.

F. THE PRACTICE SUPERVISION SYSTEM

1. There should be one pupil mentor per pupil, subject to the discretion of each Bar to appoint more mentors than one per pupil.
2. The GCB is to draft guidelines for pupil mentors as to their responsibilities and functions, to be distributed to mentors annually.
3. In order to create more cohesion and a higher level of responsibility:
 - 3.1. Where possible, each Bar is to allocate a silk to an appropriate (the ratio to be determined on the basis of available numbers)

number of pupils and pupil mentors, e.g. one silk to every 6 pupils/mentors;

3.2 The allocated silk is then to assist with the practical training of the pupils allocated to him/her to the extent that this is appropriate and practicable;

3.3 The pupil mentor's certificate is to be co-signed by the particular silk.

4. Where possible, in order to spread the load, mentors and mentor-silks are not to be taken from the existing tutors and trainers.

G. PUPIL'S APPEARANCES

1. From the commencement of pupillage, pupils are entitled to appear with their pupil mentors or another member of the Bar approved by the mentor without remuneration.

2. After the first 6 months of pupillage, and provided the pupil has been issued a provisional certificate of appearance by the Bar, the pupil may appear independently of the pupil mentor, but only in that category of matters determined by the National Pupillage Sub-Committee from time to time, and subject to the following :-

2.1 The pupil remains subject to the overall supervision and direction of the pupil mentor.

2.2 The presiding judge or officer is informed before hand of the fact that the pupil is a pupil;

2.3 The pupil must in open court when placing himself or herself on record state clearly his/her status as a pupil;

2.4 A pupil in accepting a brief must put in on record to the instructing attorney that he/she is a pupil and must ensure that the attorney is fully aware thereof.

3. Pupils may take up part-time hourly-paid or otherwise casual employment during the first six months of pupillage provided that the employment activities are entirely outside ordinary office hours. Each Bar retains the right to require individual pupils to limit or terminate part-time activities in the event of these interfering with pupillage.

H. ALREADY-QUALIFIED LEGAL PRACTITIONERS WHO APPLY FOR MEMBERSHIP OF THE BAR

1. In principle, the period of a programme for Pupilage will be the same for pupils who have not yet qualified as legal practitioners as for pupils who have already qualified as legal practitioners, viz. 12 months.
2. Provision for partial exemption from this requirement is as follows :-
 - 2.1 No-one may be exempted from any of the requirements of pupilage if he or she has not practiced as a legal practitioner for at least 4 years.
 - 2.2 A legal practitioner who has practiced as such for a period of at least 4 years may apply to the Bar Council of the Bar which he/she wishes to join for partial exemption from the requirements of pupilage, subject thereto that :-
 - (a) No-one may be exempted from the requirement of having to pass the National Bar Exam;
 - (b) No-one may be exempted from the requirement of having to satisfactorily attend advanced practical advocacy training.
3. Notwithstanding anything contained in paragraphs H.1 and H.2 above, the Annual General Meeting of the GCB has the power to exempt any person from the requirements of pupilage.

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8 September 2008
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**GUIDELINES
FOR
COMPLETE
EXEMPTION
FROM
PUPILAGE**

GENERAL COUNCIL OF THE BAR OF SOUTH AFRICA

**GUIDELINES FOR COMPLETE EXEMPTION FROM THE REQUIREMENTS OF
PUPILAGE IN TERMS OF RULE 8.2.4**

1. **Nature of guidelines**

In terms of Rule 8.2.4 of the Uniform Rules of Professional Ethics, the GCB has a wide discretion to grant complete exemption from the requirements of pupillage. This discretion involves weighing various factors, the most important of which are set out below. No single factor is decisive. Where a minimum is specified, this may be departed from in exceptional circumstances.

2. **Academic qualifications**

2.1 The candidate must furnish full information concerning his/her academic qualifications.

2.2 Where the candidate's legal qualification is not an LLB from a South African university, the GCB will need to be satisfied that the candidate's qualification is of a nature and from an institution of a comparable standard to that of an LLB from a South African university. In this regard, compliance with the requirements of the Admission of Advocates Act will not per se be regarded as sufficient. The candidate must supply sufficient information to enable the GCB to satisfy itself on this matter.

3. **Legal practice**

The candidate must furnish full information concerning the duration and nature of his/her practice of law. Ordinarily a period of practice of at least ten years will be required.

4. **Advocacy practice**

The candidate must furnish full information concerning the duration and nature of his/her practice in the field of advocacy (whether as an advocate, attorney or otherwise). This is the most significant factor in the grant of complete exemption. Ordinarily a period of advocacy practice of at least eight years will be required. The candidate should furnish full information, including details of the various courts in which he/she has appeared and whether the appearance was alone or as leader or as junior. A summary must be furnished of ten matters in which the candidate has appeared (on his/her own or as a leader) during the candidate's period of advocacy practice. The ten matters should be those which the candidate regards as the most notable examples of his/her recent advocacy practice. Details should also be furnished of all reported matters in which the candidate has appeared.

5. **Knowledge of Constitution**

The candidate will be expected to demonstrate a working knowledge of the South African Constitution and its application in the courts. This might take the form of an academic qualification or practical experience.

6. **Integrity**

Unimpeachable integrity is expected. Any professional misconduct or disciplinary demeanor should be disclosed, as should details of any pending or contemplated disciplinary proceedings. Candidates should also furnish a certificate of good standing from any professional body to which they might belong.

7. **General ability**

The candidate is expected to have attained reasonable proficiency and expertise in legal practice. The information furnished in response to previous paragraphs should thus be sufficiently details to enable the GCB to assess the candidate's ability. Any further particulars which the candidate regards as relevant to this aspect should be furnished, eg academic experience, authorship of books and journals, delivery of papers, etc.

8. **Ethics**

Where complete exemption is granted, it is required that the candidate should obtain a copy of the Uniform Rules of Professional Ethics and the constitution and domestic rules of the Bar he or she joins, and that the candidate satisfy the chair of such Bar, within a reasonable time of taking up membership, that the candidate has thoroughly familiarized himself or herself with the contents thereof.