1. **LOCAL RULE PURSUANT TO RULE 1.5**

It is not the function of the Bar Council to consider the private affairs of its members in the absence of an allegation of improper or unprofessional conduct. If any creditor alleges that a member has failed to honour his commercial commitments, his creditor should take appropriate steps to recover moneys due to him.

1(a)

1. **LOCAL RULES PURSUANT TO UNIFORM RULE 1.8**

1.1 Applications to be recommended for the grant of Silk will be considered once a year.
1.2 Members wishing to apply must do so in writing addressed to the Chairman of the Bar Council and delivered to him on or before 15 April.

1.3 After 15 April, the Chairman may in his discretion invite any other members who are senior to the most junior applicant also to apply within such further time as he allows.

1.4 The Chairman shall not permit any application which he regards as unsuitable to go forward for further consideration.

1.5 Such applications as the Chairman permits to go forward will be referred to a committee of the Bar Council consisting of all the Silks elected or co-opted to the Council.

1.6 The committee will determine which, if any, of the applications referred to the committee will be recommended for the grant of Silk. The criteria to be applied is determined by the full Bar Council from time to time.

1.7 The Chairman will then notify the Judge President which members are recommended by the Bar Council for the grant of Silk.

1(b)

LOCAL RULES PURSUANT TO UNIFORM RULE 4.1
Amended at Bar Council meeting on 28 March 2000

1.1 Counsel are independent practitioners of advocacy.

1.2 The practice of advocacy is a referral profession, and accordingly, counsel do not solicit mandates, and only accept mandates on brief from attorneys admitted to practice.
1.3 Counsel are required to hold chambers at places approved by the Bar Council, from which places they conduct their practices.

1.4 As general rule, counsel consult with instructing attorneys, clients and witnesses at approved chambers.

1.5 Where circumstances arise which reasonably indicate that consultations cannot conveniently be conducted at counsels' chambers, counsel may direct that the consultations be conducted at some other appropriate place, which place may be the offices of the instructing attorney; provided that counsel, in directing that the consultations be conducted at some other appropriate place, shall not compromise their independent status.

LOCAL RULES PURSUANT TO UNIFORM RULE 4.22

4.22.1 Information made available to the public about members or groups of members:

4.22.1.1 must be accurate and objective;

4.22.1.2 must not harm or diminish the reputation or standing of the Bar, the Bench or the legal profession generally;

4.22.1.3 must not make comparisons, directly or indirectly, with other members or groups of members;

4.22.1.4 must not include statements about the quality of the member's work, size or success of his or her practice or success rate;

4.22.1.5 must not in relation to groups of members, amount to puffery or branding, suggest that the group in question has a particular
corporate identity or profile apart from its members, that it is better resourced, or has a more distinguished history or is composed of more able members than any other group;

4.22.1.6 may disclose a member's name, where he or she holds chambers, qualifications and specialities if any;

4.22.1.7 may in respect of a group of members, disclose its location, members' names and any other information about such members as is detailed in paragraph 4.22.1.6;

4.22.1.8 may in the case of members be recorded on a business card or in the case of groups in a brochure.

4.22 2. A member shall not in relation to his practice use any title other than "Advocate".

*Rule 4.22.1 amended at Bar Council meeting on 28/3/2000*

2. **LOCAL RULES PURSUANT TO UNIFORM RULES 7.7.2 AND 7.7.3**

2.1 Ad Rule 7.7.2

Fees become due at the end of the month in which they have been earned and shall be paid no later than 3 months and 7 days thereafter.

2.2 Ad Rule 7.7.3
The procedure in respect of defaulting attorneys is as follows:

**Overdue Fees**

If any fees which are, in terms of Rule 2.1 above, due to a member, remain unpaid on the seventh day of the fourth calendar month calculated from the first day of the month following the month in which the work was done in respect of which the fee is due, such member shall immediately notify the Secretary thereof on the prescribed form.

On receiving such notice of default the secretary shall immediately notify the practitioner concerned that he is in default and that, failing payment within 7 days of such notification, he shall be listed. If within that period the fees are not paid and there is no bona fide dispute between the member and the practitioner, which shall have been notified to the secretary, and if the secretary shall have received no written request for the exercise by the Bar Council of the hereinafter mentioned right to grant an extension, the secretary shall notify to each member in writing the fact of such default. From the date of such notification until such fees, together with all fees which shall have been notified to the secretary by members as being owing to them by the said practitioner shall have been paid, the said practitioner shall be listed.

Provided that the Bar Council may in its discretion grant to the practitioner in question on his application an extension of time for payment.

The disqualification of a practitioner who has been listed in the manner aforesaid shall remain in force until the secretary receives notice from all members concerned that all fees in arrears due to them have been paid.
LOCAL RULE PURSUANT TO UNIFORM RULE 7.7

2.3 Ad Rule 7.7.2

Where fees become due by agreement earlier than these rules provide a member shall not without the prior consent of the Bar Council be entitled to pursue the procedure of having a defaulting attorney placed on the list of defaulters for a failure to pay fees on such earlier agreed date.

3. LOCAL RULES IN RESPECT OF THE LEGAL RESOURCES CENTRE

3.1 members may accept full-time or part-time employment at a law centre provided that the law centre is one which has the approval of the Bar Council. As a member he shall be entitled to all benefits and be subject to all responsibilities or membership of the Society, and save as set out in this chapter, shall be subject to all the rules of the Society.

3.2 A member in the full-time employment of a law centre may appear as an advocate in a Court or Tribunal only upon the instructions of an attorney normally employed at that law centre and is neither bound nor, save with the permission of the Bar Council, permitted to accept a brief in any court in which he professes to practise other than a brief from an attorney normally employed at that law centre.
3.3 A member who accepts part-time employment at a law centre:

(a) must notify the council before accepting the part-time employment. of the terms thereof and subsequently of any proposed variation of those terms;

(b) must receive no reward in respect of that employment other than his remuneration as notified to the Bar Council.

3.4 The remuneration of a member employed full-time at a law centre may only be by way of salary paid by the law centre provided that such member may accept appointment as an arbitrator and, with the permission of the law centre, may retain all or part of the fees earned by him from such appointment. A member employed at a law centre may in no circumstances receive a fee directly from a lay client.

3.5 A member who is employed part-time at or who attends a law centre on a voluntary basis may accept paid instructions in proceedings from an attorney employed by the law centre if he has not himself advised the client on whose behalf he is briefed at the law centre in relation to those proceedings. Save as aforesaid the remuneration of a member who is employed part-time at a law centre shall also be only by way of salary.

3.6 A member whilst employed at a law centre may appear as an advocate in Courts or Tribunals in accordance with the following rules:

(a) He shall not save in special circumstances appear without an attorney or other representative or the law centre in attendance.

(b) In respect of each appearance as an advocate he must have a brief prepared in the name or the law centre and signed by an attorney employed by the law centre, indicating:
(i) the name of the case;
(ii) the Court or Tribunal;
(iii) his name;
(iv) the name of the law centre;
(v) the nature of the brief.

(c) The decision of the Court or Tribunal must be recorded on the brief which shall be returned to and kept by the law centre.

3.7 A member employed at or attending a law centre may do any of the renewing in connection with his work at the law centre without instructions of an attorney:

(a) Interview and take statements from clients or witnesses at his discretion.

(b) Write and sign letters on behalf or the law centre provided that he does not add after his name the description advocate.

(c) Carry on correspondence with third persons and negotiate settlements on behalf of clients of the law centre.

(d) Permit himself to be described as an advocate on letterheadings and other official publications used at or distributed by the centre.

(e) Draft letters on behalf of clients of the law centre for signature by them.

(f) Draft pleadings on behalf of clients of the law centre for signature for them.
4. LOCAL RULES PURSUANT TO UNIFORM RULE 6

5. LEGAL ASSISTANCE

5.1 Pro Deo Defences

55.1.1 It is the duty of all counsel to undertake pro deo defences when directed to do so by the Bar Council.

5.1.2 Once a pro deo brief has been accepted by a member, that brief remains his responsibility, and that brief cannot be relinquished without the prior leave of the pro deo secretary.

5.1.3 If a pro deo matter is postponed, it remains the responsibility of the member to whom it has been allocated. Accordingly if a proposed postponement date is unsuitable to the counsel, he should inform the court of such fact. If the court nonetheless fixes an unsuitable date, then this does not relieve pro deo counsel of his responsibility but it is a matter which may be brought to the attention of the pro deo secretary in terms of 6.1.2 above.

5.1.4 In a case where a death sentence is imposed counsel is obliged:-

(a) to inform his client of his rights in terms of section 316A of the Criminal Procedure Act, 51 of 1977, including the right to appeal to the Appellate Division, and if requested to do so, to note and thereafter prosecute the appeal;
(b) to prepare and submit a written address to the Appellate Division as provided for in section 316A(4) of the Act, when requested to do so;

(c) to prepare and present argument as envisaged in section 316A(6) of the Act, when requested to do so;

(d) if the death sentence is not upset either on appeal or review, to prepare and submit a petition for clemency to the State President when required to do so.

5.2 PRO BONO RULE

5.2.1 With effect from the 7 October 2005, every member is required to render a minimum of twenty hours pro bono service in each calendar year.

5.2.2 Where a member is reserved for a day in court, such day shall equate to 10 hours’ service.

5.2.3 For the purposes of this rule, the following work shall be regarded as pro bono service:

(a) on referral, and without remuneration, from attorneys employed at university law clinics;

(b) on referral, and without remuneration, from attorneys employed in non-governmental organisations;

(c) on referral from the Legal Aid Board or a Justice Centre;
(d) on nomination by the Johannesburg Bar Council to act in forma pauperis;

(e) on nomination by the Johannesburg Bar Council to act, without remuneration, as the mentor and/or leader of a junior member in a matter where the junior is acting pro bono;

(f) service, without remuneration or at a rate prescribed by law of general application, in any adjudicative capacity in any court or tribunal of the Republic of South Africa;

(g) service, without remuneration or at a rate prescribed by law of general application, in any court or tribunal of the Republic of South Africa in the capacity of acting prosecutor or acting family advocate;

(h) on referral, without remuneration, from an attorney who is acting pro bono on behalf of a client in a particular matter.

(i) on request, without remuneration, from a judge, magistrate or other presiding officer of any court or tribunal of the Republic of South Africa; and

(j) any work that, in the opinion of the Pro Bono Committee of the Bar Council (“the Committee”), is to be regarded as pro bono service.
5.2.4 Members may notify the Committee of their specific areas of interest for purposes of pro bono work.

5.2.5 A directory of members’ names and contact details (indicating Specific areas of interest, as notified to the Committee) will be Made available to each of the following, so that they can approach members directly to seek their services pro bono:

(a) the institutions referred to in paragraph 5.2.3 above;
(b) the person administering in forma pauperis nominations on behalf of the Johannesburg Bar Council; and
(c) the Law Society of the Northern Provinces, for distribution amongst its members.

5.2.6 The institutions and persons referred to in paragraph 5.2.5 above will be notified that they may refer to the Committee cases in which problems are encountered in the application or implementation of this rule.

5.2.7 Once a member has been appointed or has accepted a brief to act pro bono in accordance with this rule, such member:
(a) shall disclose this fact to the Court and to the member's opponent, if applicable; and

(b) may not relinquish the appointment or brief without the prior written consent of the Committee. The committee may dispose of such request in its discretion or may refer such request to the Bar Council (or its chairperson, in an urgent matter)

5.2.8 By the end of February every year, every member shall, in respect of the preceding calendar year (“the year under review”), file with the Bar Council a certificate in the form annexed hereto, marked “A”.

5.2.9 Such certificate shall be signed by the member and shall indicate the nature of the pro bono work done by the member during the year under review and the number of hours of pro bono service rendered.

5.2.10 Where such certificate discloses that the member has rendered fewer than 20 hours pro bono service during the year under review, the certificate shall in addition include an explanation for the member’s failure to render the prescribed minimum service.
5.2.11 Where such certificate discloses that more than 20 hours of pro bono service have been rendered during the year under review, the hours of service in excess of 20 may, if the member so indicates in writing, be carried forward and thus be claimed in the succeeding year in reduction of such member's prescribed minimum service in such succeeding year.

5.2.12 Where a member has not timeously filed his/her certificate with the Bar Council and no satisfactory explanation thereof has been provided, such failure will be regarded as unprofessional conduct.

5.2.13 Where such certificate discloses that the member has rendered less than 20 hours of pro bono service and no satisfactory explanation for the failure to render such service has been provided, such failure will be regarded as unprofessional conduct.

5.2.14 The Bar Council shall be entitled each year to exempt its chairperson and secretary and, in exceptional circumstances, other members of the Council and the Bar from the obligation to
render pro bono services for that year.

6. **LOCAL RULES - GENERAL**

6.1 **Assessors**

Save with the leave of the Bar Council, no member shall act as an assessor unless he has been a member of the Society for a period of at least one year.

7. **LOCAL RULES - GENERAL**

7.1 The Bar Council may in its discretion permit holders of University academic posts to be members of the Johannesburg Bar on such terms as to pupillage, chambers and subscriptions as the Bar Council may decide in each case.