

1. **CONSTITUTION OF THE LAW SOCIETY OF SOUTH AFRICA**

Preamble

2. We the representatives of the Association of Law Societies, the Black Lawyers Association, the National Association of Democratic Lawyers and the constituent members of the Association of Law Societies, in recognising the divisions of the past,

commit ourselves to building an organised legal profession which is non-racial, non-sexist, democratic, representative, transparent and accountable to its members and the public whom it serves,

having met in Cape Town on 27 July 1996 to discuss the restructuring of the attorneys' profession and its governing bodies and having adopted at such meeting the attached Statement of Principles being Annexure I hereto

having agreed in principle to the creation of a new national statutory structure with nine provincial structures with a national executive body and provincial executive bodies to govern the profession

having agreed that the new national structure shall be neither unitary nor federal but could comprise elements of both

hereby agree as follows:-

a. **Name and Nature**

The participating members now hereby create the Law Society of South Africa, a body corporate established by voluntary association and having perpetual succession.

b. **Definitions**

In this Constitution, save where the context otherwise indicates-

2.1 **"the Act"** means the Attorneys Act, Act No 53 of 1979;

2.2 **"the Association of Law Societies"** means the Association of Law Societies of the Republic of South Africa now in existence, established as a voluntary association and having as its members the statutory law societies;

2.3 **"the Black Lawyers Association"** means the voluntary association of that name and having as its members attorneys, advocates and other lawyers;

2.4 **"constituent member"** means a participating member of the Law Society, as referred to in clause 3.1, and such further members as may be admitted in terms of clause 3.2;

2.5 **"council"** means the Council of the Law Society, constituted in terms of clause 8;

2.6 **"executive director"** means the person appointed in terms of clause 18.1;

2.7 **"fidelity fund"**

means the fund recognised by section 25 of the Act;

- 2.8 **"the Law Society of the Cape of Good Hope"** means the law society as contemplated in section 56(a) of the Act;
- 2.9 **"the Law Society of the Orange Free State"** means the law society as contemplated in section 56(b) of the Act;
- 2.10 **"the Law Society of the Transvaal"** means the law society as contemplated in section 56(c) of the Act;
- 2.11 **"the Natal Law Society"** means the law society as contemplated in section 56(d) of the Act;
- 2.12 **"the National Association of Democratic Lawyers"** means the voluntary association of that name and having as its members attorneys, advocates and other lawyers, persons and associations committed to its objectives;
- 2.13 **"the Law Society"** means the Law Society of South Africa, established in terms of this Constitution;
- 2.14 **"the management committee"** means a committee as defined and referred to in clause 16 hereof;
- 2.15 **"participating members"** means the Black Lawyers Association, the Law Society of the Cape of Good Hope, the Law Society of the Orange Free State, the Law Society of the Transvaal, the Natal Law Society and the National Association of Democratic Lawyers.
- 2.16 **"profession"** means the profession of an attorney, notary or conveyancer as defined in the Act or in any other law in force in South Africa at the effective date of this Constitution;
- 2.17 **"the statutory law societies"** means collectively the Law Society of the Cape of Good Hope, the Law Society of the Orange Free State, the Law Society of the Transvaal, and the Natal Law Society;
- 2.18 **"year"** means a calendar year, from and including the first day of January until and including the last day of December.

c. **Membership**

- 3.1 The Black Lawyers Association, the Law Society of the Cape of Good Hope, the Law Society of the Orange Free State, the Law Society of the Transvaal, the Natal Law Society and the National Association of Democratic Lawyers shall be the participating members of the Law Society.
- 3.2 The Council shall have the power, with the unanimous approval of the participating members, to admit as members of the Law Society other similar societies or legal organisations, upon such terms and with such rights and obligations as may be decided upon.
- 3.3 The Council may, with the unanimous approval of the participating members, withdraw the membership or amend the terms of membership of any member holding membership in terms of clause 3.2.

d. **Undertaking by Participating Members**

The participating members agree and undertake that after the signing of this Constitution by all of them and within a reasonable period, each participating member will take all steps necessary to give effect to the

principle of equal representation contemplated in the Statement of Principles on the council of each statutory law society, the relative proportions of representatives to accord as far as practicable with the proportions within the council, namely 25% being practising attorneys who are members of the Black Lawyers Association; 25% being practising attorneys who are members of the National Association of Democratic Lawyers; and 30% being practising attorneys who are not members of either the Black Lawyers Association or the National Association of Democratic Lawyers.

e. **Aims and Objectives**

- 5.1 The Law Society has the following fundamental, enduring and long-term aims and objectives, namely:
 - 5.1.1 to promote on a national basis the common interests of members of the profession and the welfare of the profession, having regard at all times to the broader interests of the public whom the profession serves, and to endeavour to reconcile, where they may conflict, the interests of the profession and the public;
 - 5.1.2 to safeguard and maintain the independence, objectivity and integrity of the profession;
 - 5.1.3 to maintain and enhance the professional standards, prestige and standing of the profession and of its members both nationally and internationally, which standards shall be reviewed from time to time to take into account the objectives of paragraph 5.1.4;
 - 5.1.4 to uphold and encourage the practice of law, and to promote and facilitate access to the profession;
 - 5.1.5 to provide, where it deems it appropriate so to do, voluntary services in the interest of the public;
 - 5.1.6 promote legal aid and the accessibility of all to the law and the courts;
 - 5.1.7 promote legal education and continuing legal education, practical legal training, research in the science of law and in legal practice and in any related science or practice, research in technology as it relates to legal practice, procedure and the administration of justice, and the practical application of technology in those fields;
 - 5.1.8 to encourage the study and development of customary legal systems and their application in practice, and to seek harmonisation, and where appropriate integration, of those systems with the common and statutory law of the Republic of South Africa;
 - 5.1.9 to uphold, safeguard and advance the rule of law, the administration of justice, the Constitution and the laws of the Republic of South Africa;
 - 5.1.10 to initiate, consider, promote, support, oppose or endeavour to modify legislation, whether existing or proposed;
 - 5.1.11 to initiate, consider, promote, support, oppose or endeavour to modify proposed reforms or changes in law, practice, procedure

- and the administration of justice;
- 5.1.12 to secure throughout the Republic of South Africa, in so far as it is practicable, uniformity, simplicity and efficiency in the practice of law, in legal procedure and in the administration of justice;
 - 5.1.13 to strive towards the achievement of a system of law that is fair, just, equitable, certain and free from unfair discrimination;
 - 5.1.14 to represent generally the views of the profession on a national basis;
 - 5.1.15 to nominate, elect, appoint or delegate persons to represent the profession or any part or division thereof at any conference or meeting or on any commission, advisory body, committee, commission of inquiry or similar body or proceeding established, convened or instituted by any government or other authority, institution or organisation, whether of a public or private character, for the purpose of considering any matter relating to law, practice, procedure or the administration of justice or any other matter, of whatever nature falling within the aims and objectives of the Law Society;
 - 5.1.16 to co-operate or liaise with any fund or other body established for the purpose of guaranteeing the fidelity of practitioners of the profession; 5.1.17 to deal with any matter referred to it by the Council or governing body of any constituent member; and 5.1.18 to take up membership of or otherwise to co-operate with any other organisation or body whether within or outside the Republic of South Africa, including organisations or bodies of an international character and, without derogating from the generality of the foregoing, to combine, affiliate or merge with any other organisation or body of similar nature to its own and having objects similar to and reconcilable with its own, whether or not its field of operations extends beyond the borders of the Republic of South Africa as they may from time to time be established.
- 5.2 Law Society has the following specific, immediate and short-term aims and objectives, namely:
- 5.2.1 to promote and encourage unity between the constituent members and to overcome the divisions created by the past;
 - 5.2.2 to promote, advance and assist in the drafting of legislation within a period not exceeding 24 (twenty four) months, which legislation would form the basis of a new Attorneys Act, and to urge acceptance thereof within the legal profession and amongst all interested parties;
 - 5.2.3 to promote the expeditious promulgation of the legislation in 5.2.2 above;
 - 5.2.4 to ensure that the legislation as envisaged in paragraph 5.2.2 will provide for governing bodies which are legitimate, representative, accountable and transparent, and which will, after an interim period of limited duration and following upon promulgation of the legislation, be elected by a democratic procedure;
 - 5.2.5 to ensure that the new legislation will provide that the governing bodies envisaged in paragraph 5.2.4 will be bound by and be committed to the fundamental, enduring and long-term aims and objectives set out in paragraphs 5.1.1 to 5.1.18;

- 5.2.6 ensure that the legislation will provide that the governing bodies as envisaged in paragraph 5.2.4 will consist of one national statutory body and nine provincial statutory bodies, which national body and provincial bodies will have the powers and functions allocated to them as set out in paragraphs 6.5 and 6.6; and
- 5.2.7 to continue to hold, administer and deal with the assets and liabilities of the Association of Law Societies, its infrastructure, its agreements and commitments, and all of its projects and activities, in a manner as deemed fit by the Council of the Law Society.

f. **Designated Powers**

- 6.1 Save as expressly otherwise provided herein, the autonomy of the participating members shall not in any way be altered, abridged or curtailed until such time as new legislation as envisaged in paragraphs 5.2.2 to 5.2.6 has been promulgated to constitute a new Attorneys Act.
- 6.2 The statutory law societies shall continue to function within the areas of jurisdiction designated to them by the Act and with the powers vested in them in terms of the Act, subject to any amending legislation as contemplated in paragraphs 5.2.2 to 5.2.6 above.
- 6.3 Each constituent member undertakes, insofar as it does not conflict with any statutory duties, obligations and responsibilities imposed on it in terms of the Act or any other law, to observe and to be bound by and to give effect to all decisions of the Council properly made in terms of this Constitution.
- 6.4 The Law Society shall have the powers conferred on it in this Constitution.
- 6.5 The national statutory body to be created by legislation as envisaged in paragraph 5.2.6 shall have the general powers referred to in paragraphs 7.1 to 7.8, mutatis mutandis, and in addition shall have the following powers:
 - 6.5.1 to speak for the attorneys' profession nationally;
 - 6.5.2 to propose to the Minister and parliament all amendments to the Attorneys Act;
 - 6.5.3 to liaise with central government insofar as it relates to the functions of the attorneys' profession;
 - 6.5.4 to determine uniform rules relating to ethics, marketing and accounting;
 - 6.5.5 to determine the national policy to be applied in regard to access to the profession;
 - 6.5.6 to co-ordinate and organise practical legal training for candidate attorneys, as well as continuing legal education;
 - 6.5.7 to engage in the determination and formulation of curricula and syllabi of legal education;
 - 6.5.8 to control and regulate the admission examinations to the profession on a national basis;
 - 6.5.9 to raise funds to enable it to carry out its functions, such power to consist of the right to levy the provincial bodies on

- an agreed formula;
- 6.5.10 prescribe the requirements to be complied with by law clinics;
- 6.5.11 to prescribe the policy to be applied nationally to disciplinary hearings;
- 6.5.12 to make rules as to:
 - 6.5.12.1 service under articles of clerkship or contracts of service, and the circumstances under and the conditions on which articles or such contracts may be cancelled;
 - 6.5.12.2 conditions relating to conduct and activities on which persons other than practitioners may be employed by practitioners to assist them in their practices; and
- 6.5.13 to make rules to give effect to the aims and objectives, and the powers as set out in this Constitution, which rules shall be binding on attorneys.
- 6.6 The nine provincial statutory bodies to be created by legislation as envisaged in paragraph 5.2.6 shall have the general powers referred to in paragraphs 7.1 to 7.6 and 7.8, *mutatis mutandis*, and in addition shall have the following powers:
 - 6.6.1 to be responsible for disciplinary matters, supervisory functions and the discipline of members, subject however to the Act and the new Attorneys Act contemplated in paragraph 5.2.2, and the rules and the regulations which may be prescribed by the national statutory body in terms of their specified rule-making powers;
 - 6.6.2 to control contracts of articles of clerkship, admission applications and other applications pertaining to practitioners and candidate attorneys, referred to in the Act and the new Attorneys Act contemplated in paragraph 5.2.2, and subject to the Act and such new Act and the rules and the regulations to be prescribed by the national statutory body again within their specified rule-making powers;
 - 6.6.3 to maintain a register of members, who shall be the practitioners as currently defined in the Act;
 - 6.6.4 to levy subscriptions on their members, to fund themselves through commission obtained from the Fidelity Fund, and to budget and control their own finances;
 - 6.6.5 to organise and assist local associations of attorneys, and legal circles;
 - 6.6.6 to maintain, amend and create rules for the proper governing of the legal profession within the geographical areas where they have jurisdiction, to give effect to the powers granted to the provincial statutory bodies subject to the Act and the new Attorneys Act contemplated in paragraph 5.2.2 and the rules and regulations prescribed by the national statutory body within their specified rule-making powers;
 - 6.6.7 to co-ordinate the admission examinations to the profession at provincial level;
 - 6.6.8 to be represented on the Board of Control of the Fidelity Fund and to elect and maintain delegates to the Fidelity Fund Board of Control;
 - 6.6.9 to acquire, control and maintain their own assets in the way contemplated in the Act;

- 6.6.10 to retain all powers allocated to the statutory law societies in the Act at the effective date of this Constitution, except those to be exercised by the national statutory body as contemplated in paragraph 6.5; and
- 6.6.11 to exercise any of the above functions and powers in co-operation with or by way of delegation to any other provincial statutory body/bodies

g. **General Powers**

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

- 7.1 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 interests therein or any other asset of any kind;
- 7.2 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;
- 7.3 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 Law Society as set out herein;
- 7.4 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 Law Society as set out herein;
- 7.5 to institute, conduct, defend, settle or abandon any legal proceedings by or against the Law Society in any manner as it may deem fit, but always so as to achieve the aims and objectives of the Law Society as set out herein;
- 7.6 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 Law Society in such manner as it may deem fit, but always in accordance with the aims and objectives of the Law Society as set out herein;
- 7.7 to take all steps necessary to enter and record the name of the Law Society in respect of all assets, liabilities, agreements and commitments, and all projects and activities currently held, undertaken or performed by the Association of Law Societies, as the holder of the rights and/or obligations concerned; and
- 7.8 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 Law Society.

h. **Council and Control**

- 8.1 The control of the Law Society shall vest in a Council which shall determine the policy of the Law Society in accordance with its aims and objectives as set out herein, and which shall as far as legally possible carry out the functions of and exercise the powers of the Law Society as set out herein.
- 8.2 The Council shall consist of 20 (twenty) practising attorneys of whom:
- 8.2.1 5 (five) shall be nominated by the Black Lawyers Association and 5 (five) shall be nominated by the National Association of Democratic Lawyers on the basis that their representatives shall, as far as possible, be geographically spread over the country;
- 8.2.2 1 (one) of the 10 (ten) persons mentioned in paragraph 8.2.1 shall be nominated jointly by the Black Lawyers Association and the National Association of Democratic Lawyers to act as Co-chairperson of the Council;
- 8.2.3 9 (nine) shall be nominated by the statutory law societies in the following manner:
- (three) by the Law Society of the Cape of Good Hope, to be representative of the three provinces within its area of jurisdiction;
- 4 (four) by the Law Society of the Transvaal, to be representative of the four provinces within its area of jurisdiction;
- 1 (one) by the Natal Law Society; and
- 1 (one) by the Law Society of the Orange Free State.
- 8.2.4.18.2.4 1 (one) person shall be nominated by the statutory law societies, to act as the other Co-chairperson of the Council.
- 8.3 Persons nominated by the statutory law societies in terms of paragraphs 8.2.3 and 8.2.4 shall not be members of the Black Lawyers Association and/or the National Association of Democratic Lawyers.
- 8.4 Each participating member shall nominate one or more alternates for each member nominated by it in terms of paragraphs 8.2.1, 8.2.3 and 8.2.4 who may act as a member of the Council in the absence of a member holding office in terms hereof.
- 8.5 If the position on the Council of any member holding office in terms hereof becomes vacant during his/her term of office, the vacancy shall be filled by a member nominated by the participating member which nominated him/her
- 8.6 The individual members will serve on the Council at the pleasure of their nominating participating members and can be replaced at any time by the participating member which nominated such individual members.
- 8.7 The council shall continue to exist until it is replaced as provided for in the new Attorneys Act.
- 8.8 All notices and communications with regard to the meetings of the Council shall be deemed to have been properly issued to

and received by any member of the Council if despatched by ordinary mail, Docex (or a similar delivery service), courier or fax to the address nominated in writing by the member of the Council, which nomination shall be made as soon as possible after appointment to the Council.

i. **Meetings of Council**

- 9.1 The Council shall hold an annual general meeting, at such place and at such time as is determined by the Council from time to time.
- 9.2 All attorney members of the governing bodies of the participating members who are not members of the Council of the Law Society shall be invited to attend the annual meeting as observers.
- 9.3 The Council shall hold not less than 5 (five) additional meetings during each year at the offices of the Law Society, or at such other place as the Council may decide.
- 9.4 If so required by any two participating members by notice in writing to the Executive Director, specifying the nature of the business to be considered, the Council shall, within 4 (four) weeks of receipt of such notice, hold a special meeting at such time and place as may be determined by the Co-chairpersons. No business other than that specified in the aforesaid notice may be considered at such special meeting.
- 9.5 At each annual general meeting -
 - 9.5.1 the Co-chairpersons shall present -
 - 9.5.1.1 their annual report in respect of their term of office; and
 - 9.5.1.2 the audited financial statements of the Law Society for the preceding year;
 - 9.5.2 the chairman of each standing committee appointed by the Council shall present to the Council a report on the activities of his/her committee during its term of office; and
 - 9.5.3 the Council shall appoint, or shall delegate to the management committee the duty to appoint auditors for the current year.

j. **Co-Chairpersons**

The Co-chairpersons shall preside at all Council meetings on a six-monthly alternating basis.

k. **Quorum of Council**

- 11.1A quorum at a meeting of the Council shall consist of twelve council members, inclusive of the Co-chairperson presiding at the meeting, comprising 3 (three) members representing each of the Black Lawyers Association and the National Association of Democratic Lawyers and 6 (six) members representing the statutory law societies. Once a meeting has been validly constituted, it will remain so constituted notwithstanding a change in the number of council members present at any time.
- 11.2If at the commencement of any council meeting a quorum is not present, the meeting shall stand adjourned for a period of 14

(fourteen) days. All council members shall be notified of the date, time and venue when and where the meeting shall reconvene, and at the commencement of the reconvened meeting after this period, it shall be considered duly constituted if those present represent at least 2 (two) of the organisations comprising the Black Lawyers Association, National Association of Democratic Lawyers, and the statutory law societies (taken as a single organisation for the purpose of this provision) irrespective of the number of council members present.

11.3 Notwithstanding the provisions of paragraphs 12.1 and 12.2, decisions taken at a reconvened Council meeting as contemplated in paragraph 11.2 by a simple majority of votes from each of the organisations represented at the meeting shall be deemed to be decisions by substantial consensus

I. Decisions of Council and Management Committee

12.1 Subject to the provisions of paragraph 11.3 and paragraphs 12.3 to 12.7, the participating members declare it to be their intention that all decisions of the Council and of the management committee shall be taken by substantial consensus, until such time as a democratically elected council as envisaged in paragraph 5.2.4 has been constituted.

12.2 Substantial consensus shall be deemed to have been achieved if a majority of the combined Council members from the Black Lawyers Association and the National Association of Democratic Lawyers and the majority of the Council members from the statutory law societies, present at any meeting of the Council or the management committee, are in agreement on any particular issue.

12.3 Should the management committee at any meeting not be able to reach substantial consensus on any issue, the meeting shall stand adjourned for a period of 14 (fourteen) days. All management committee members shall be notified of the date, time and venue when and where the meeting shall reconvene. At the reconvened meeting after the said period, a decision taken on the basis of a simple majority of those present shall be deemed to be a decision by substantial consensus.

12.4 Should the Council be unable to reach substantial consensus on any issue, any member of the Council shall be entitled to call for a vote on the issue. If the result of the vote is that a majority of the Council members present at the meeting vote in favour of the issue, each participating member shall be requested to advise before the next meeting of the Council whether it supports or opposes the issue voted on, whether with or without amendment or qualification.

12.5 The Council shall again debate the issue at its next meeting and attempt to find substantial consensus on it as provided for in 12.2.

12.6 Subject to the provisions of paragraph 11.3, until an issue is supported by the substantial consensus of the Council it may not be adopted as a decision of the Council.

12.7 In order to avoid the calling of meetings of the Council or of a committee more often than is necessary, a resolution signed by all

members of the body concerned, whether it be recorded on one or more documents, shall be regarded in all respects as if it had been formally passed at a meeting of the body concerned, provided that faxed, telegraphic, or telexed approval of such resolutions shall be regarded as equivalent to signature by each member of such body

m. **Persons who may be invited to attend Council Meetings**

13.1 For deliberative and consultative purposes the Council may invite any persons, including representatives of government departments or other bodies, to attend its meetings

13.2 Those attending in terms of paragraph 13.1 shall not be entitled to vote.

n. **Notices of Motion or Special Business**

Notice in writing of any motion or special business shall be given by any member of the Council to the Executive Director at least 14 (fourteen) days before the day on which the meeting of the Council is to be held. Such notice of motion or notice of special business shall contain the terms of any resolution to be proposed. Non-observance of the provisions of this paragraph can be condoned only by a resolution of the Council taken prior to or at the meeting at which the motion or the special business is discussed or is to be discussed.

o. **Offices**

The offices of the Law Society shall be at such place or places as shall from time to time be determined by the Council.

p. **Management Committee**

16.1 The management committee will be the following persons: (a) the co-chairperson nominated by the statutory law societies; (b) the co-chairperson from BLA or NADEL; (c) three members of the council from the statutory law societies; (d) one council member from BLA and/or NADEL, but being a member of the co-chairperson's organisation; (e) two other council members from the BLA and/or NADEL of which the co-chairperson is not a member;

which shall:

16.1.1 advise the Co-chairpersons on any Law Society matters on which they may seek its advice; and

16.1.2 perform such tasks as the Council may entrust to it; and

16.1.3 act on behalf of the Council between Council meetings on such matters as the Co-chairpersons may determine.

16.2 The management committee shall meet as often as it shall deem it necessary to give effect to its foregoing powers and duties.

q. **Directorate**

- 17.1 The full-time directorate of the Law Society shall manage the business of the Law Society in accordance with the strategy and policy of the Law Society as determined from time to time by the Council and subject to such directives as may from time to time be issued to it by the Council.
- 17.2 The initial full-time directorate of the Law Society shall be the directorate of the Association of Law Societies taken over by the Law Society in terms of paragraph 7.7 above, as thereafter restructured or changed from time to time by the Council in terms of paragraph 18.4 below.
- 17.3 Without derogating from the generality of paragraph 17.1, the functions of the directorate shall include supervision of the implementation of decisions of the Council and the initiation and supervision of action taken within the strategy and policy guidelines laid down by the Council.
- 17.4 The directorate shall liaise with the chairpersons of committees appointed by the Council or by the Co-chairpersons to assist them in co-ordinating the work of, defining the priorities and establishing goals for their committees.
- 17.5 The directorate shall be responsible for managing the financial affairs of the Law Society within the limits of its approved budget, and for the keeping of proper books and records of all financial business of the Law Society. The Executive Director shall submit audited financial statements for each year to the Council at the annual general meeting during the succeeding year, and interim financial statements whenever required by the Council.

r. **Appointment of Executive Director and Staff**

- 18.1 The Council shall have the power from time to time to appoint an Executive Director of the Law Society who shall be the chief executive officer of the Law Society and who shall perform such duties as are assigned to him/her by this Constitution and as may be assigned to him/her by the Council, the Co-chairpersons, or the management committee.
- 18.2 The Council shall have the power to appoint from time to time such additional executive officers and such other officials and staff as it may deem fit.
- 18.3 Appointments made by the Council in terms of this clause shall be at such remuneration and on such further terms and conditions as the Council may deem fit in each case.
- 18.4 The Executive Director, the executive officers and other officials and staff of the Association of Law Societies taken over in terms of paragraph 17.2 above, shall perform the duties contemplated above in such manner and on such terms and conditions as may be agreed upon, subject to the Council's right to restructure the directorate thus taken over from the Association of Law Societies, to retrench any Association of Law Societies' officials and staff and to appoint others to give effect to the Council's restructuring of the directorate of the Law Society.

s. **Committees appointed by the Council**

- 19.1 The Council or, between meetings of the Council in regard to ad hoc matters which in the opinion of the Co-chairpersons require urgent attention, the Co-chairpersons in consultation with each other and with the management committee, may appoint committees not necessarily from among members of the Council, and, save to the extent that the Council, or the Co-chairpersons where they have appointed the committee, may expressly limit the powers of any committee, a committee shall have power on behalf of the Law Society to take such action in the name of the Law Society as falls within its terms of reference. Committees appointed with executive powers shall consist exclusively of attorneys, whereas advisory committees may also include expert members who are not attorneys.
- 19.2 In the event of any doubt or dispute as to the extent of the powers of a committee, such dispute shall be determined by the management committee unless the Council is in session at the time that such dispute arises, in which event it shall be determined by the Council.
- 19.3 Unless a committee decides for good reason that its deliberations are confidential, any member of the council of a constituent member shall be entitled to attend, as an observer, with the right to speak but without the right to vote, at any meeting of such a committee.
- 19.4 The Council may rescind or amend any decision taken by any of its committees.

t. **Finance**

- 20.1 Each of the statutory law societies shall contribute to the Law Society such amount per capita of its individual members as may be determined by the Council from time to time.
- 20.2 No part of the funds of the Law Society shall be utilised other than in accordance with the powers or for the objects of the Law Society
- 20.3 The Law Society shall, upon its winding up or liquidation, and where it has no legal successor in title, be obliged to distribute and transfer its assets remaining after the satisfaction of its liabilities to the statutory law societies on a pro rata per capita basis.
- 20.4 A banking account shall be opened in the name of the Law Society in which all its funds shall be deposited. This account shall be operated upon such terms and conditions and in such manner as may from time to time be decided upon by the Council.
- 20.5 The Executive Director shall be responsible for the keeping of proper books and records of all the financial business of the Law Society and shall submit audited financial statements for each financial year to the Council at the next annual meeting and interim financial statements whenever required by the Council.
- 20.6 When special funds are required for promoting or opposing legislation or for promoting any of the objects of the Law Society, each of the constituent members may be called upon by the Council for a special contribution to defray expenditure incurred or to be incurred in connection therewith, provided that such

contribution shall first be unanimously approved by the constituent members.

u. **Amendment of Constitution**

The Council may, with the consent of all of the councils of the constituent members, from time to time amend this Constitution, provided always that at least two months' written notice has been given to each constituent member of the proposed amendment. A constituent member shall be entitled to waive such notice, or to accept a shorter period.

v. **Interpretation**

In the event of any conflict between the provisions of the Statement of Principles and the provisions of this Constitution, this Constitution shall take precedence.

w. **Effective Date**

This Constitution shall become operative and binding on the signatories hereto on the 16th day of March, 1998.

ANNEXURE I

Statement of principles agreed upon at the joint meeting held in Cape Town between representatives of the BLA, NADEL, The Constituent Members of the AIS and the ALS

The meeting confirms the principles agreed upon as follows:

- x. There shall be one national statutory structure with nine provincial sub-structures.
 - y. The constitution of the national structure is to be neither unitary nor federal but could comprise elements of both.
 - z. The details of the powers, mode of operation and authority of the national and provincial structures is to be further debated when the drafts become available.
 - aa. Membership of the national body will comprise practising attorneys and in addition attorneys who have been declared members in terms of existing legislation or who have existing membership rights.
 - bb. The sub-structures shall be empowered to collect subscriptions levied by the national body and additionally to levy subscriptions on their own members.
 - cc. The sub-structures shall register members who practise within their area of jurisdiction and shall furnish the national structure with the information necessary for it to compile a national register.

- dd. Members shall have the right to elect their representatives to the National Executive Committee and their own provincial executive committee.
- ee. Interim structure The Executive Committee of the national structure shall consist of 20 members who shall be comprised of: 30% BLA / NADEL members 30% current ALS members who are not affiliated to BLA or NADEL. The Executive Committees of the provincial sub-structures shall be comprised of: 30% BLA/ NADEL members 30% of members who are not affiliated to BLA and NADEL as far as is practical. The above composition of both national and provincial Executive Committees shall endure for a limited period. All decisions of the said committees shall be taken on the basis of substantial consensus.
- ff. The parties undertake to do all things necessary to give effect to the foregoing principles. In particular, all parties undertake to put the matter before their constituent members at special or general meetings as soon as reasonably possible and to use their best endeavours to motivate their acceptance of the said principles by their constituent members.
- gg. A technical committee will be mandated to draft all documentation necessary to give effect to the foregoing, including legislation.
- hh. The Minister will be apprised of the Statement of Principles and appropriate public announcements will be made.

Signed at Cape Town on 27 July 1996.

Adv. J Poswa - SC President, BLA

Mr S Nkanunu - President, Nadel

Mr A.M.J. Pinnock - President, ALS

Mr A.J. Landman - President, Law Society of the Cape of Good Hope

Mrs E.D. duPlessis - President Law Society of the Transvaal

Mr F. Sithole - President, Natal Law Society

Mr R.D.B. Bekker - President, Law Society of the Orange Free State

**Amendment of the Constitution of the Association of Law Societies
whereas**

The Law Society of the Cape of Good Hope, the Law Society of the Transvaal, the Natal Law Society and the Law Society of the Orange Free State, being the constituent societies and the founding members of the Association of Law Societies

have agreed with the Black Lawyers Association and the National Association of Democratic Lawyers to restructure the attorneys' profession in South Africa and its governing bodies; and

have agreed in principle to the creation of a new national statutory structure with nine provincial structures, with a national executive body and provincial executive bodies to govern the profession; and

have duly authorised their respective Presidents to execute this document;

Therefore it is agreed as follows:

- ii. The constitution of the Association of Law Societies is hereby amended to conform to the new Constitution of the Law Society of South Africa annexed hereto.
- jj. The Association of Law Societies is hereby transformed to form the Law Society of South Africa, and its name is changed accordingly.
- kk. The constituent societies shall continue to function within the areas of jurisdiction designated to them by the Attorneys Act, Act No 53 of 1979, and with the powers vested in them by the Attorneys Act, until such time as a new Attorneys Act as contemplated in the new Constitution annexed hereto has been promulgated.

ANNEXURE III

Adoption of the Constitution of the Law Society of South Africa

Whereas

The Black Lawyers Association, the Law Society of the Cape of Good Hope, the Law Society of the Orange Free State, the Law Society of the Transvaal, the Natal Law Society and the National Association of Democratic Lawyers, being the participating members of the Law Society of South Africa.

have agreed to restructure the attorneys' profession in South Africa and its governing bodies; and

have agreed in principle to the creation of a new national statutory structure with nine provincial structures, with a national executive body and provincial executive bodies to govern the profession; and

have duly authorised their respective Presidents to execute this document;

Therefore it is hereby agreed as follows:

ll. A new national structure is hereby constituted by the transformation of the Association of Law Societies, the new national structure to be known as the Law Society of South Africa and to have nine provincial structures with a national executive body and nine provincial executive bodies, henceforth to govern the attorneys' profession in South Africa.

mm. The Constitution of the Law Society of South Africa, annexed hereto, is hereby adopted as the Constitution of the new national structure with its nine provincial structures.

nn. The participating members shall henceforth co-operate in accordance with the provisions of the Constitution, annexed hereto, to give effect to the provisions of the Constitution.