

CHAMBER OF ADVOCATES - STATUTE

CHAMBER OF ADVOCATES
MALTA

STATUTES

AGM Amendments (January 2017)

CHAMBER OF ADVOCATES - STATUTE

These statutes were originally approved on the 13 January 1872 when it was deemed advisable to constitute the CHAMBER OF ADVOCATES in terms of the then established laws and regulations, whereby the Advocates who were associates of and contributing members to the maintenance of the Chamber granted to them by Government Letter of 9 January 1861 – containing the express declaration and intelligence that the dispositions contained in the said letter are to remain fully operative – assembled in the 18 January 1877 meeting, have adopted the following Statutes.

These statutes were subsequently amended in the meetings of 1 July 1878, 5 January, 1880, 6 November, 1898, 19 October, 1901, 26 October, 1901, 3 November, 1912, 3 January, 1913, 28 January 1916, 19 January 1952, October, 1966, 20 and 27 December 1966; 15 December 2002; and 7 February 2017.

In this 2017 version the Statutes have been amended to include more detailed regulation that the Chamber considers more appropriate to address the requirements of better and more transparent governance of the Chamber.

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INTERPRETATION

1. Interpretation

- 1.1 Unless the contrary appears from the context, in these Statutes:
- (a) any reference to any law, rule, or regulation shall be a reference to such law, rule or regulation as may be amended, modified, or substituted from time to time, and where a reference is made to a principal law it shall include a reference to any subsidiary legislation made thereunder;
 - (b) The use of the masculine gender shall include the feminine gender; and
 - (c) The use of the plural shall include the singular and vice-versa.

OBJECTS

2. The objects of the Chamber of Advocates

- 2.1 The Objects of the Chamber of Advocates are the following:
- (a) to safeguard and protect the dignity, honour and reputation of the profession of advocate;
 - (b) to encourage an independent, strong, diverse and effective legal profession;
 - (c) to promote and maintain adherence to high professional principles and rules of ethical behaviour by advocates;
 - (d) to enhance the level and standard of competence and skill within the profession;
 - (e) to act a professional body for the profession of advocate.
- 2.2 The Chamber shall have such other objects and purposes as may be vested by law in the Chamber from time to time.
- 2.3 It shall be the principal attribution of the Chamber, and the main duty of the Council, to safeguard the honour, dignity, and rights of Advocates as a moral (juridical) body and without regard to private relations, and to supervise the carrying out of their duties owed by the same to such body.

MEMBERSHIP

3. Admission to Membership

- 3.1 Any person who is an eligible candidate shall upon application be admitted to membership of the Chamber.
- 3.2 Any person admitted to membership of the Chamber shall abide by these Statutes and any regulations made by virtue of the powers contained in these Statutes.
- 3.3 Upon an application by its partners, the Council shall also admit to membership a law firm . In the instance where a law firm is admitted to membership, any advocate who is a partner, employed or engaged by said law firm shall be elected to membership of the Chamber, provided that such individual would have been eligible to admission in his or her personal capacity
- 3.4 In this Article, the term “eligible candidate” shall mean any person who according to applicable legislation is in possession of a warrant and entitled to practise the profession of Advocate in Malta, or a Registered European Legal Professional, and in respect of whom there is no ground for expulsion from membership under Article 12 .

4. Subscriptions

- 4.1 A member shall pay an annual subscription to the Chamber of such amount as may be specified by the Council from time to time.
- 4.2 In the case where a law firm is elected to membership the subscription shall be equivalent to the prevailing subscription for individuals multiplied by the number of partners and other lawyers

employed or engaged by the law firm; or such other amount as the Council may determine from time to time.

4.3 The Council may divide members into different classes to specify different rates of subscription.

5. The Roll

5.1 The Chamber shall maintain a register (hereinafter referred to as the "Roll") in which it shall enter the details of members including the name and address (both the postal address and an electronic mail address) of a member ("his or her registered address"); the date when he or she became a member, in the event of employment the firm or other entity where such member is employed, and such other details as may be prescribed by law from time to time or as the Council may from time to time determine.

5.2 The address of a member to be registered is -

- (a) for any member practising in Malta, the address of the main office where he or she practises;
- (b) an electronic mail address;
- (c) for any member employed, the address where he or she is employed;
- (d) for any member resident, but not practising or employed, in Malta, the address of his or her residence;
- (e) In the case of a law firm the address of the main office in Malta from where the firm practices; or
- (f) In the case of any member who is neither practising, employed nor resident in Malta, any address in Malta nominated by him or her, together with his or her address outside Malta.

6. Associate members

6.1 The Council may elect trainee lawyers as associate members of the Chamber for such period, and against such subscription fees, as it thinks fit.

6.2 No person shall remain an associate member upon becoming an eligible candidate.

6.3 For the purpose of this Article any person who has been admitted to an under-graduate course in law at the University of Malta or other academic institution recognised by the Council, has successfully read law for at least three years, and has been admitted to training by a member who is an Advocate of at least 5 years standing or a law firm, shall be considered a trainee lawyer.

6.4 The Council may make rules to regulate training of trainee lawyers.

7. Change of address or other details

7.1 A member who changes his or her registered address or other details shall inform the Council.

8. Roll to be conclusive

8.1 The Roll shall be deemed for all purposes to contain a correct list of members, their registered addresses and details.

8.2 The Council shall make the Roll available for public inspection electronically.

9. Suspension of membership

9.1 Membership shall automatically be suspended, and the member suspended from exercising any membership rights or privileges, if -

- (a) he or she is suspended from practice as an Advocate; or
- (b) his or her registration as a registered European lawyer or a registered foreign lawyer is suspended.

10. Suspension of privileges

10.1 The Council may for such period, not exceeding 30 days in any calendar year, and for such reasons as it considers appropriate suspend a member from using the facilities of the Chamber, or exercising some or all of the other rights or privileges of membership, so long as he or she has been given-

- (a) not less than 10 days' notice in writing of the proposed suspension; and

- (b) a reasonable opportunity to make representations concerning the proposed suspension.

11. Automatic termination of membership

11.1 Subject to the provisions of any other provision of this statute, membership shall be automatically terminated, without affecting any liability to pay any outstanding subscription, if the member -

- (a) is in arrears with subscription for a specified period (which must be not less than two(2) years);
- (b) is struck from the Roll; or
- (c) ceases to be registered as a registered European lawyer or a registered foreign lawyer.

11.2 Membership shall not be terminated under the provisions of Article 11 (a) unless -

- (a) the member has received written notice of the arrears; and
- (b) has been given not less than seven days in which to settle the arrears.

12. Expulsion from membership

12.1 The Council may expel from the Chamber any member who –

- (a) has been suspended from practice;
- (b) has had his or her registration as a registered European lawyer or registered foreign lawyer suspended;
- (c) is a person subject to mental incapacitation under applicable law;
- (d) has had an executive order made against him or her for the attachment of personal assets and such order remains undischarged for more than 90 days.

12.2 The powers in Articles 12.1(a) and 12.1(b) may be exercised whether or not the member has been or is suspended from membership under the provisions of Article 9 above.

12.3 The Council may expel a member whose conduct as such appears to render him or her unfit to remain a member, so long as –

- (a) he or she has been given not less than 14 days' notice in writing of the proposed expulsion; and
- (b) he or she has been given a reasonable opportunity to make representations concerning the proposed expulsion.

12.4 The power in Article 12.3 may be exercised whether or not the member has been or is suspended under Article 9.

12.5 Expulsion under this Article shall not affect liability to pay any outstanding subscription.

13. Honorary membership of the Chamber

13.1 The Council may for such period as it thinks fit elect as an honorary member of the Chamber a person who is either -

- (a) a lawyer in any jurisdiction who is not otherwise eligible for election as a member of the Chamber, and
- (b) a person (whether or not an Advocate) who -
 - (i) has rendered distinguished service to the Chamber or to the Law,
 - (ii) is able to assist the Chamber in promoting its objects, or
 - (iii) is otherwise deserving of recognition by the Chamber on account of his or her distinction or eminence.

13.2 The Council shall decide the privileges of honorary members of the Chamber.

ANNUAL GENERAL MEETINGS

14. Date of annual general meeting

14.1 There shall be an annual general meeting of the Chamber which shall be held by not later than the 30 June of every calendar year.

15. Preliminary notice of annual general meeting

- 15.1 Preliminary notice of an annual general meeting shall be published at least 42 clear days before the date of the meeting. It shall be sufficient for the Council to publish such preliminary notice on the web-site of the Chamber.
- 15.2 The preliminary notice shall state the date scheduled for the meeting and shall give members 12 days' notice to notify the Council of any motions which members may wish to move at that meeting.

16. Notices of motion

- 16.1 Ten or more members may give written notice of an appropriate motion to be moved at the annual general meeting.
- 16.2 The Secretary General must receive the notice of a motion at least 30 clear days before the date of the meeting.
- 16.3 A statement of up to 1000 words about the motion may accompany the notice.

17. Notice of the annual general meeting

- 17.1 Notice of the annual general meeting shall be published at least 14 clear days before the date of the meeting.
- 17.2 The notice shall state, the date, time and place of the meeting and shall set out the agenda of the meeting together with any appropriate motion to be moved at the meeting and the names of the members who have given notice of it.
- 17.3 The Secretary General shall remove from any appropriate motion, or statement received Article 16, material which might, in his or her opinion, be unlawful to publish, and his or her decision in this respect shall be final.
- 17.4 If substantially the whole motion consists of material falling within Article 17.3 above, it shall not be included in the notice of the meeting.
- 17.5 Any statement received to accompany the notice of a motion under Article 17.3 shall be published at the same time as the notice of the meeting.
- 17.6 The Council may publish at the same time as the notice of the meeting a statement of up to 1000 words on any motion.
- 17.7 It shall be sufficient for the purposes of this statute to publish any notice required for convening a general meeting by sending members an electronic mail and by making the same available on the web-site of the Chamber, provided that the inadvertent omission to give notice to one or more members by electronic mail shall not invalidate a meeting.

18. Chairman of the Meeting

- 18.1 The meeting shall be chaired by the then President of the Council or in the absence of the President, as provided in Article 29 these Statutes.

19. Business of the annual general meeting

- 19.1 The business at an annual general meeting shall be -

- (a) The Annual Report of the Council, which shall be put to the meeting to be received;
- a. The Financial Statements for the immediately preceding financial year together with the Auditors report thereon shall be put to the meeting to be received;
 - b. Any business introduced by the Council shall be taken.
 - c. Appropriate motions received under this Article 16, the text of which has been published, shall be considered.
 - d. The election of the Council as may be required by these statutes;
- 19.2 No other business which is not included in the notice convening the annual general meeting shall be taken.

ANNUAL REPORT

20. Preparation of Annual Report

- 20.1 The Council shall prepare a report, to be called the Annual Report, on an annual basis setting out the work undertaken by the council during the immediately preceding year and the financial statements of the Chamber for the immediately preceding year.
- 20.2 The Annual Report shall be published by the Council on the Chamber's website at least seven (7) days before the date scheduled for the annual general meeting.
- 20.3 Hard copies of the annual report shall be made available on request to any member and at the annual general meeting.

EXTRAORDINARY GENERAL MEETINGS

21. Extraordinary general meeting convened by the Council

- 21.1 An extraordinary general meeting may be called by the Council at any time.

22. Extraordinary general meeting requisitioned by members

- 22.1 Twenty-five or more members may at any time by requisition sent to the Secretary General require the Council to call an extraordinary general meeting to consider a motion set out in the requisition. The requisition shall also contain a statement not exceeding 1000 words on the motion set out in the requisition, and setting out the reasons why the requisitionists consider that the matter is of such significance or urgency that its consideration cannot be addressed at an annual general meeting.
- 22.2 If the Council, upon due consideration, reasonably believes that the matter which the requisitionists wish to be placed before the extraordinary general meeting is not of the significance or of an urgency which cannot reasonably wait for the annual general meeting to be held, it may decide not to call an extraordinary general meeting and to place the matter before the next following annual general meeting.
- 22.3 The requisition of an extraordinary general meeting made after the Preliminary notice of an annual general meeting has been given shall for all intents and purposes be deemed as a motion for an annual general meeting.

22.4 Subject to the provisions of Article 22.2 above, the Council may, but in the event of the receipt of a requisition subscribed by not less than 75 members shall, within 14 days after such receipt of a requisition call a meeting accordingly, to be held within 42 clear days after receipt of the requisition.

22.5 Where a notice has been received under Article 22.4, it shall be the duty of the Council to call the meeting accordingly.

23. Notice of extraordinary general meeting

23.1 Notice of every extraordinary general meeting, stating any motion to be moved, and stating on whose requisition (if any) it is called, shall be published at least 28 clear days before the date of the meeting.

23.2 The Secretary General shall remove from the text of any motion, or statement received material which it might, in his or her opinion, be unlawful to publish, and his or her decision in this respect shall be final.

23.3 Any statement received under Article 23.2 above shall be published at the same time as the notice of the meeting.

23.4 The Council may publish at the same time as the notice of the meeting a statement of up to 1000 words on the motion.

24. Limitation of business at extraordinary general meeting

24.1 No business shall be transacted at an extraordinary general meeting other than that of which notice has been given.

25. Order of business at extraordinary general meeting

25.1 At extraordinary general meetings the order of business shall, so far as applicable, be the same as at annual general meetings.

PROCEDURES FOR ALL GENERAL MEETINGS

26. Venue

26.1 All general meetings shall be held at such place decided by the Council and notified in the notice calling the meeting.

27. Quorum

27.1 Subject to the provisions of Article 27.3 below, the quorum for all general meetings shall be 50 members.

27.2 No business shall be transacted at a general meeting unless a quorum is present at the time the meeting proceeds to business.

27.3 If 50 or more members are not present within 15 minutes after the time appointed for a general meeting

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- (a) an extraordinary general meeting called on requisition shall not be held;
- (b) an annual general meeting, or an extraordinary general meeting convened by the Council, shall be adjourned to the same day in the next week at the Chamber's Premises, when the members present shall in any event constitute a quorum.

28. Restrictions as to matters previously discussed

28.1 No motion -

- (a) in substance reversing a resolution passed by a previous general meeting; or
- (b) re-proposing a resolution not carried by a previous general meeting.

shall, except by permission of the Council, be considered at any general meeting held within 12 months of that previous general meeting.

29. Chairing

29.1 At all general meetings the Chair shall devolve to the following members in order, if present and willing to act –

- (a) the President;
- (b) the Vice President;
- (c) a Council member chosen by the Council; and
- (d) a member of the Chamber chosen by the meeting, if no Council members are present.

30. Moving of motions

30.1 A members' motion of which notice has been given may be moved by -

- (a) any member party to the notice or requisition;
- (b) any member authorised by a member falling within paragraph (a) above, if no such member is present; or
- (c) any member present, in the absence of any member within (a) or (b) above .

31. Rules of debate

31.1 Subject to the overriding discretion of the Chair to regulate the business of the meeting, the following rules of debate at general meetings shall apply.

Length of speeches and right to speak again

31.2 The mover of a motion (other than one proposing the closure or proposing an adjournment) shall not without the permission of the Chair speak for more than ten minutes when moving the motion.

31.3 No other speaker shall speak for more than five minutes without the permission of the Chair.

31.4 No member shall speak more than once on the same question, other than -

- (a) the mover of a motion in reply to the debate on the motion;
- (b) with the permission of the Chair, a member who wishes to speak in explanation, but such a member shall not introduce any new matter;
- (c) the mover of the main motion, after a motion that the question be now put has been passed, but before the motion (or amendment, as the case may be) itself is put to the vote.

Closure of debate

31.5 A member who has not spoken in the debate and wishes to move the closure of the debate shall do so by moving that -

- (a) the question be now put; or
- (b) the meeting proceed to the next business.
- (c) A closure motion shall be seconded by a member who has not spoken in the debate.

Amendments

- 31.6 No amendment to a motion may be moved unless at least 72 hours' notice of it has been given to the Chair.
- 31.7 All amendments proposed require that they be seconded.
- 31.8 An amendment shall be within the scope of the motion and be in the proper form of an amendment.
- 31.9 Only one amendment may be discussed at any one time, except with the permission of the Chair.
- 31.10 If an amendment is carried, the motion as amended shall become the main question which is the subject of the debate, and may not be further amended.

Rules of order

- 31.11 The Chair may call the attention of the meeting to continued irrelevance, repetition, unbecoming language or any breach of order on the part of a member and may direct the member to discontinue his or her speech or leave the meeting.

32. Adjournment

- 32.1 Every general meeting may adjourn by resolution.
- 32.2 If a general meeting is adjourned, the business of the adjourned meeting shall be stated before the adjournment and entered in the minutes.
- 32.3 No business shall take place at an adjourned general meeting other than that stated and entered under Article 32.2.
- 32.4 Notice shall be published of the adjournment of any general meeting.

33. Voting

- 33.1 All questions at a general meeting shall be decided by a show of hands by the majority of the members present and entitled to vote, except where otherwise provided by the Statutes.
- 33.2 The Chair shall have a second, or casting, vote if there is a tie.

34. Procedure for voting

- 34.1 Voting shall, subject to what is otherwise stated in these Statutes in particular cases, be taken either by a show hands or by ballot, provided that a motion put to the vote shall first be taken by a show of hands and in the event that not less than 25 members so request a ballot is then taken. The Council may introduce the facility of electronic voting to enable members to exercise their vote remotely, and the Council shall, for this purpose be authorised to make such rules as it may consider appropriate to introduce electronic voting. .
- 34.2 The Secretary General shall send details of the agenda of the meeting on which a vote is required to every member, which shall include -
- (a) a statement of the question which is the subject of the ballot ("the question") or information where this may be accessed electronically;
 - (b) the date by which votes must be cast (if an when remote/electronic voting has been introduced);
 - (c) instructions on how to vote; and
 - (d) details of the address or web voting page to be used by members in registering their votes (if an when remote/electronic voting has been introduced) .

- 34.3 The Council may publish a statement of up to 1000 words on the question.
- 34.4 Those members who oppose the Council's position on the question shall be entitled to have a joint statement of up to 1000 words on the question published.
- 34.5 Any issue on entitlement to a statement and the arrangements for issuing it shall be decided conclusively by the President.
- 34.6 In the event of a ballot, the Electoral Commissioner shall be responsible for receiving and counting votes in the ballot and certifying the result.
- 34.7 Voting by Ballot shall not take place by post.
- 34.8 The report of the Electoral Commissioner on a membership ballot shall contain:
- (a) the total number of votes cast;
 - (b) the number of voting papers received and the grounds of rejection;
 - (c) the total number of valid votes cast in favour of the motion; and
 - (d) the total number of valid votes cast against the motion.
- 34.9 The question shall be deemed to have been decided accordingly by the meeting at which it was considered.
- 34.10 If there is a tie in the ballot, the Chair of the meeting at which the question was considered shall have a second, or casting, vote.
- 34.11 The report of the Electoral Commissioner shall be published as soon as practicable after it has been received.
- 34.12 The Electoral Commissioner shall retain information as to how votes have been cast for one month after the making of its report, following which the information shall be deleted or destroyed.

35. Adoption of resolutions

- 35.1 Subject to the other provisions of these statutes, the following resolutions shall become binding immediately -
- (a) the making, revocation or amendment of these Statutes;
 - (b) a resolution proposed by the Council and carried at the meeting when it was proposed;
 - (c) a resolution carried as a result of a membership vote whether by show of hands or ballot.
- 35.2 The Council shall have power to adopt any other resolution with immediate binding effect, unless these statutes otherwise determine.
- 35.3 Save for what is stated in Articles 35.1 and 35.2, each resolution passed at a general meeting shall be binding, unless within three months of the passing of the resolution the Council calls a general meeting (to be held not later than 70 days from the date of the Council's resolution) to re-consider it.

36. Chair's decision final

- 36.1 The Chair's decision shall be final on all questions of procedure or order.

37. Irregularities

- 37.1 The validity of the proceedings at any general meeting shall not be affected by an irregularity in the convening of the meeting or during the meeting, unless the irregularity is complained of at the time, when the Chair's decision on the complaint shall be final.

37.2 Accidental failure to give notice of a general meeting to a member shall not invalidate the meeting.

38. Minutes

38.1 Minutes of all general meetings shall be kept and signed by the Chair at the next general meeting, when they shall be deemed to be conclusive.

ACCOUNTS AND AUDIT

39. Accounts

39.1 The Council shall ensure that proper accounts are kept of the Chamber's income and expenditure, and its property, assets and liabilities.

40. Auditors

40.1 The auditors shall be appointed by the Council on the recommendation of the Audit Committee.

40.2 The auditors shall be certified auditors authorised as such under applicable law.

40.3 The auditors may tender their written resignation at any time to the Secretary General.

41. Audit of accounts

41.1 The income and expenditure accounts and the balance sheet (the "financial statements") of the Chamber for the previous year ended on 31 December (or such other financial year as the Council may adopt) shall in each year be delivered to the auditors to be examined, audited and signed by them.

41.2 The signed financial statements shall be published on the Chamber's website and shall form part of the Annual Report and hard copies of the signed accounts shall be made available to any member on request.

42. Presentation of accounts to annual general meeting

42.1 The signed financial statements shall be put to the annual general meeting for discussion and to be received by members.

42.2 The Council may circulate a summary of the financial statements with the notice of the annual general meeting, so long as hard copies of the signed accounts are available to any member on request and available at the meeting.

THE COUNCIL

43. Composition

43.1 The Council shall be elected by the members, and shall consist of 10 elected members and not more than three (3) co-opted members.

43.2 The Council, once elected shall have the power to co-opt up three (3) others members to the Council, if in the opinion of the Council, there are certain parts of the profession that are not properly represented in the Council or in the event that in the opinion of the Council there are skills required in the Council which the elected members between them may not possess.

43.3 The Council shall be competent to act until reduced below the number of 5, provided that the Council may at any time co-opt as many members as there are vacancies of elected members in the Council.

43.4 A co-opted member of the Council shall have the same powers and responsibilities as an elected member, and once co-opted to the Council no distinction shall be made between, elected and co-opted Council members. A co-opted member's term of office on the Council shall cease upon the next annual general meeting when elections to the Council are due according to these Statutes.

44. Election date

44.1 The Council shall whenever an election is due to be held due to the expiry of the term of office of the Council in accordance with article 72 in accordance with these Statutes publish a notice stating the date when an election for the Council is to be held and that day shall be not later than 30 days following the Annual General Meeting set for that particular year.

45. Preliminary notice of election

45.1 Preliminary notice of an election shall be published at least 70 clear days before the election date.

45.2 The preliminary notice of each election shall state -

- (1) the number of vacancies to be filled;
- (2) the reason for each vacancy; and
- (3) a date, at least 42 clear days before the election date, by which nominations of candidates must be received.

46. Nomination of candidates

46.1 Ten members may nominate any other eligible member for election.

47. Eligibility of candidates

47.1 Subject to the provisions of these Statutes, a member shall be eligible for election or co-option to the Council only if he or she is registered with and a fully paid up member of the Chamber;

47.2 A member who is an employee of the Chamber shall be eligible for election to the Council but if elected shall (notwithstanding any other disqualification in accordance with these Statutes be disqualified from exercising any Council functions until his or her employment with the Chamber has ceased.

48. Eligibility for re-election

48.1 All retiring or resigning members of the Council shall be eligible for re-election, unless otherwise provided in these Statutes and Bye Laws.

49. Eligibility to nominate and vote

49.1 Only members whose registration with the Chamber is fully paid up and in order may -

- (a) nominate a candidate for election to the Council; and
- (b) vote in any ballot held for elections.

50. Disqualification for election

50.1 Subject to the provisions of article 51, a member shall not be eligible for election as a Council member if there exist circumstances which would render that member subject to expulsion from membership in accordance with the provisions of article 12 of these Statutes:

- (a) he or she has had an executive order made against him or her for the attachment of personal assets and such order remains undischarged;
- (b) he or she is subject to any incapacitation orders under applicable law; and

- (c) he or she is suspended from practice or is otherwise still subject of disciplinary proceedings by the Chamber or other competent authority;
- (d) her or she is otherwise subject to expulsion from membership under these statutes.

50.2 A member's ineligibility under these Statutes under the provisions of article 50.1(a) shall end -

- (a) on the date of annulment, if the executive order is annulled either on the ground that he or she ought not to have been subject to that order, or that his or her debts have been discharged in full; or
- (b) if he or she is discharged; at the end of five years from the date of discharge

50.3 A member's ineligibility under Article 50.1(c) shall end -

- (a) on the date that the suspension is over; or
- (b) on the date that the disciplinary proceedings are over if those proceedings are favourable to the member; or in the case where a member is found guilty, the date which is 12 months from the date upon which the penalty or other punishment is discharged.

51. Nomination form

51.1 Nominations (on a form obtainable from him or her) shall be sent to the Secretary General to be received by a date at least 42 clear days before the election date ("the last date for nominations").

51.2 The nomination form shall require -

- (a) the name and registered address of the candidate;
- (b) the names and registered addresses of the nominators;
- (c) any relevant information required in accordance with Articles 52 to 57 of these Statutes; and such other information as the Council may from time to time require.
- (d) a statement of the candidate's consent.

51.3 Each candidate may not later than seven days after the last date for nominations supply a statement of not more than 1000 words, together with a photograph, for circulation by the Secretary General with the voting papers or voting information.

51.4 The Secretary General shall remove from any statement material which, in his or her opinion, it might be unlawful to publish, and his or her decision in this respect shall be final.

52. Declaration of criminal convictions

52.1 Each candidate shall on or before the last date for nominations disclose in writing to the Secretary General, in such manner as the Secretary General shall require in the nomination form, any relevant criminal conviction against the candidate.

52.2 In this Article, "relevant criminal conviction" means any criminal conviction before a court, other than one –

- (a) for which an absolute or conditional discharge was imposed; and
- (b) for a motoring offence, except where a sentence of disqualification from driving for more than 12 months was imposed.

53. Declaration of adverse findings

53.1 Each candidate shall on or before the last date for nominations disclose in writing to the Secretary General, in such manner as the Secretary General shall require in the nomination form, any adverse findings made against the candidate by the Chamber or other competent authority.

53.2 In this Article, "adverse findings" means any findings or order of the Chamber or other competent authority which led to the candidate –

- (a) being struck from the Roll of Practising Advocates, but only if his or her subsequent restoration to the Roll took place within five years ending on the last day for nominations;
- (b) being suspended from practice, either indefinitely or for a specified period, but only if the suspension ceased within five years ending on the last date for nominations;
- (c) being ordered to make payment of a financial penalty, but only if the order was made within five years ending on the last date for nominations.

54. Declaration of practising certificate conditions

54.1 Each candidate shall on or before the last date for nominations disclose in writing to the Secretary General, in such manner as the Secretary General shall require in the nomination form, any conditions currently placed on the candidate's practising certificate relating to practice only in approved employment.

55. Declaration of criminal and other proceedings

55.1 Each candidate shall on or before the last date for nominations disclose in writing to the Secretary General, in such manner as the Secretary General shall require in the nomination form –

- (a) any current criminal proceedings against the candidate before any court; or
- (b) any other criminal proceedings before a court which have been formally commenced, but where the case has not yet begun to be heard.

55.2 In this Rule, "formally commenced" means, in relation to the candidate, the commencement of proceedings by –

- (a) the filing of a sworn application or the taking of the equivalent step in a court; or
- (b) being charged with a criminal offence in the jurisdiction of a court.

56. Declaration of regulatory proceedings

56.1 Each candidate shall on or before the last date for nominations disclose in writing to the Secretary General, in such manner as the Secretary General shall require in the nomination form, any current or pending regulatory proceedings against the candidate.

56.2 In this Article, "current or pending regulatory proceedings" means any regulatory proceedings which are currently taking place, or where notice has been given to the candidate that such proceedings are to be taken, before -

- (a) the competent organs of the Chamber;
- (b) the committee of Advocates of the Council for the Administration of Justice; or
- (c) any other regulatory body exercising statutory powers to whose jurisdiction the candidate is subject.

57. Declaration of investigations

57.1 Each candidate shall on or before the last date for nominations disclose in writing to the Secretary General, in such manner as the Secretary General shall require in the nomination form, any relevant investigation of which the candidate is, or might reasonably be taken to be, aware.

57.2 In this Rule, "any relevant investigation" means any investigation being carried out wholly or partly in relation to the candidate by the police or other statutory law enforcement agency.

58. Unopposed elections

58.1 If the number of candidates duly nominated for election does not exceed the number of vacancies, then -

- (a) if the vacancy arises by retirement in rotation, the person nominated shall be elected from the end of the annual general meeting and the election shall be declared to the annual general meeting;

- (b) if the vacancy is a casual vacancy, the person nominated shall be deemed elected from the day after the last date for receipt of nominations, and the election shall be published as soon as practicable.

59. Ballot in contested elections

59.1 In the event that there are more candidates than there are vacancies than an election shall be held in accordance with the provisions set out below in this Article 59.

59.2 Subject to the provisions of Article 0, the Secretary General shall at least 20 days before the election make available at an address to be set out in the Preliminary Notice of Election, voting papers that may be collected by members eligible to vote in the election.

59.3 The voting paper shall contain -

- (a) the candidates' names in alphabetical order and their registered addresses;
- (b) the date on or before which the voting paper must be cast and received by the Electoral Commissioner; and
- (c) instructions on how to vote.

59.4 The Secretary General shall make available, for consultation by members, in a prominent place at the address from where voting papers are to be collected in accordance with Article 59.2, in such form as he or she shall decide –

- (a) any statement and photograph received from each candidate under these Statutes; and
- (b) a statement of any matters disclosed by any of the candidates in that election in accordance with these Statutes or, where no matters were so disclosed, a statement to that effect.

60. Electronic voting on an optional basis

60.1 Until and unless electronic voting is introduced as the sole method of voting, any member eligible to vote in an election ballot shall do so by ballot, that is by casting the voting paper obtained in accordance with the provisions of article 59.

60.2 The Council may also introduce optional voting in elections by electronic means, provided that all votes cast electronically shall be transmitted to the Electoral Commissioner not later than the date on or before which voting papers must be received by the Electoral Commissioner.

60.3 A member who has returned a voting paper in an election ballot shall not also vote electronically in the ballot, and a member who has voted electronically in a ballot shall not also return a voting paper in the ballot.

61. Introduction of electronic voting as sole method of voting in an election

61.1 The Council may, if it considers it practicable to do so, introduce electronic voting as the sole method of voting in an election ballot (subject to making reasonable arrangements for those members with a disability to be able to vote by other means).

61.2 If the Council has exercised the power in Article 61.1, the provisions of these Statutes relating to voting by ballot papers shall be interpreted, with the necessary adaptations, as referring solely to the casting of votes electronically.

62. Accidental omissions

62.1 Accidental omission by the Council, the Electoral Commissioner or the Secretary General to comply with any of these articles in connection with voting papers or voting in elections shall not invalidate an election.

63. Completion of voting papers

63.1 A member wishing to vote in an election shall complete the voting paper by -

- (a) personally placing a mark on the voting paper opposite the name of the candidate for whom he or she wishes to vote;
- (b) inserting his or her address in the place provided (unless it has already
- (c) been so inserted); and
- (d) personally signing the voting paper in the place provided.

64. Return of voting papers

64.1 All voting papers shall be cast in a sealed box under the authority of the Electoral Commissioner to be made available for members to cast their votes for 5 days before the election date.

65. Duplicate voting papers

65.1 Where voting papers are being used, a duplicate voting paper shall be made available to any member on request if it appears to the satisfaction of the Secretary General that the original has not been collected or has otherwise has been spoilt, lost or destroyed.

66. Scrutiny of votes

66.1 The Electoral Commissioner shall be responsible for receiving the voting papers or electronic votes (if applicable) in an election ballot, examining and counting them and certifying the result.

66.2 The Electoral Commissioner shall reject any voting paper which -

- (a) is unsigned;
- (b) is improperly completed;
- (c) does not bear the member's address as at the time the voting paper was sent to him or her; or
- (d) is ambiguous.

66.3 In an election the candidates obtaining the highest number of votes shall be elected. Where two candidates obtain the same number of votes and there is a tie, the election shall be decided by the drawing of lots, the draw being made by the responsible officer acting on behalf of the Electoral Commissioner, and a statement to this effect shall be made in the Electoral Commissioner's report.

67. Electoral Commissioner's report

67.1 The Electoral Commissioner's report on the ballot shall contain -

- (a) the total number of voting papers or, if applicable, electronic votes received;
- (b) the number of voting papers rejected and the grounds of rejection;
- (c) the total number of votes cast for each candidate; and
- (d) the name(s) of the candidate(s) elected.

67.2 Subject to no challenge requisition being received under Article 68, the Electoral Commissioner's report shall be conclusive despite any irregularity.

67.3 The report of the Electoral Commissioner shall be published as soon as may be following the election date.

67.4 Once the count has been completed and the result of the ballot ascertained, the Electoral Commissioner shall retain the voting papers or records of electronic votes for one month after the date of publication of its report, following which, in the absence of a challenge, they shall be destroyed or deleted.

68. Challenge to election

- 68.1 Any candidate in an election may within 14 days of the publication of the Electoral Commissioner's report challenge the result of the election and require the matter to be referred to a challenge committee ("the committee") constituted in accordance with Article 69 of these Statutes.
- 68.2 The challenge requisition shall be sent to the Secretary General.

69. Challenge committee

- 69.1 The committee shall consist of three senior practising advocates having at least 10 years professional experience nominated as to one by the person making the challenge, one by the council as elected and the third to be selected by the two nominated members of the committee.
- 69.2 The Secretary General shall convene a preliminary meeting of the committee to be held within 14 days after the date of receipt of the requisition ("the requisition date"), and at that meeting the committee shall elect its own chair.
- 69.3 The parties to the challenge procedure ("the parties") shall be the candidates in the election and the Secretary General, but any candidate not wishing to take part in the proceedings may so indicate to the secretary of the committee ("the secretary").
- 69.4 If a candidate has indicated that he or she does not wish to take part in the challenge proceedings, he or she shall not be entitled -
- (a) to appear before, or submit representations to, the committee,
 - (b) to be sent the papers for the meeting of the challenge committee when the challenge will be determined.
- 69.5 The parties (other than a candidate who has indicated he or she does not wish to take part) shall be entitled, subject to the directions of the committee, to submit written and oral representations to the committee on the challenge.
- 69.6 The Electoral Commissioner shall not be represented at the meeting of the committee when the challenge is to be determined, but shall supply such information and copies of documents relating to the election concerned as the committee shall require.
- 69.7 The timetable for the stages in determining a challenge shall be as follows –
- (a) The secretary shall within 21 days after the requisition date notify the parties of the timetable for the challenge, and of the directions of the committee.
 - (b) The parties shall send representations to the secretary, to be received within 35 days after the requisition date, and by the same date shall supply copies of those representations to the other parties.
 - (c) The secretary shall within 42 days after the requisition date supply the parties with copies of the agenda papers for the meeting of the committee when the challenge is to be determined.
 - (d) The meeting of the committee to determine the challenge shall be held within 49 days after the requisition date.
 - (e) The decision of the committee shall within 56 days after the requisition date be notified to the parties.

70. Challenge committee powers

- 70.1 In the challenge it shall be for the candidate making the challenge to satisfy the committee, on the balance of probabilities test, that the election should be set aside.
- 70.2 The committee shall not set aside any election unless it is satisfied, on the balance of probabilities test –
- (a) that the alleged defect complained of affected the result of the election; or
 - (b) if the alleged defect did not affect the result, that the election was not conducted substantially in accordance with these Statutes.

- 70.3 The committee shall, if it sets aside an election, give directions about the conduct and timetable for the new election which shall be held, and the relevant provisions of these Statutes shall apply to the new election in accordance with those directions.
- 70.4 The committee may dismiss summarily any challenge based on any ground other than the conduct of the election process.
- 70.5 The term, "conduct of the election process" includes (without limitation) -
- (a) the arrangements for the preparation, printing and collection of voting papers,
 - (b) the counting and sorting of returned voting papers and
 - (c) arrangements made for electronic voting.
- 70.6 The committee may also dismiss summarily any challenge which -
- (a) it deems to be vexatious; or
 - (b) which appears to it to have no realistic chance of success.
- 70.7 The committee shall reach its decisions by majority vote and, subject to the provisions of this Article, shall regulate its own procedure.
- 70.8 The committee shall give reasons for its decisions, which shall be notified to the parties.
- 70.9 A summary of the decision of the committee, settled by the chair, shall be published on the Chamber's website as soon as possible after it has been given, and copies of the full decision shall be supplied to any member on request.
- 70.10 The decisions of the committee shall be final.

71. Officers and Committees of the Council

- 71.1 The Council shall at its first meeting after an annual general meeting elect from amongst its number the following officers:
- (a) the President;
 - (b) the Vice-President;
 - (c) the Secretary General;
 - (d) the External Relations officer;
 - (e) the Financial Officer;
 - (f) the Education Officer; and
 - (g) the Ethics officer.
- 71.2 The Council shall appoint an audit committee to be composed of not less than three Council Members and shall provide the audit committee with such terms of reference relating to financial matters and risk evaluation as it considers appropriate from time to time.
- 71.3 The Council shall appoint such committees from amongst council members as it may consider appropriate from time to time. A committee appointed by the Council shall have such powers, not exceeding those of the Council, as the Council may delegate to it and shall have such terms of reference as may be determined by the Council from time to time.

72. Term of Office of Council Members

- 72.1 The term of office of the Council following an election shall be three years, unless a member of the council is previously removed, resigns or otherwise ceases to be a member of the council in accordance with the provisions of these Statutes.

72.2 A Council member shall vacate office automatically if he or she -

- (a) dies;
- (b) resigns;
- (c) retires at the end of his or her term of office;
- (d) ceases to be a member of the Chamber;
- (e) is absent without the consent of the Council from three consecutive Council meetings;
- (f) is removed from office in accordance with the provisions of these Statutes.
- (g) he or she has been convicted of any criminal offence in any court, other than -
 - (i) one leading to an absolute or conditional discharge,
 - (ii) a motoring offence where a fine or disqualification from driving for 12 months or less was imposed;
- (h) he or she has been the subject of events that would have rendered him or her ineligible to be elected to the Council.

72.3 A resolution of the Council declaring the reason for a vacation of office shall be conclusive.

73. Removal of Council members

73.1 Subject to Article 73.2, the Council may -

- (a) by two-thirds majority of those present and voting (excluding the member concerned); and
- (b) at a meeting convened on not less than 21 days' notice remove a Council member from office if he or she is to have seriously breached the Code of Ethics for Advocates or to have otherwise seriously conducted himself in a manner which places the profession in disrepute or in breach of any guideline of conduct previously made by the Council.

73.2 No Council member may be removed from office under this Article unless –

- (a) he or she has been given not less than 21 days' notice in writing of the proposal to suspend him from office, together with a reasonably sufficient statement of the reasons for the proposal; and
- (b) he or she has been given a reasonable opportunity to make representations to the Council, either in person or by a legal representative as he or she shall decide, on the subject of the proposed removal.

73.3 A Council member who is the subject of the removal procedure in this Article shall be automatically suspended while the procedure is followed and the consequences of suspension stated in these statutes shall apply to the member during such suspension as if he had been suspended under Article 74.

74. Suspension of Council members

74.1 Subject to the provisions of Article 74.2, the Council may if it considers it appropriate to do so in the circumstances suspend from acting any Council member who is the subject of -

- (a) an investigation by the Council, or by such other person or body as may be authorised by the Council, into any allegation that he or she has breached the Code of Ethics for Advocates or other rules or guidelines that may from time to time be promulgated by the Council either for practising advocates generally or for members of the Council;
- (b) criminal proceedings in any court; or
- (c) disciplinary proceedings before any competent authority having jurisdiction over Advocates with respect to their conduct and ethics.

74.2 No Council member may be suspended under Article 74.1 unless –

- (a) he or she has been given not less than 21 days' notice in writing of the proposal to suspend him or her from office, together with a reasonably sufficient statement of the reasons for the proposal; and
- (b) he or she has been afforded a reasonable opportunity to make representations to the Council, either in person or by a legal representative as he or she shall decide, on the subject of the proposed suspension.

74.3 Any suspension under the provisions of Article 74.1 shall terminate on the conclusion of the investigation or proceedings concerned, without prejudice to any further suspension which will then apply if the Council, or other person or body concerned, has recommended following the investigation that the member be removed.

74.4 A Council member suspended under Article 74.1 shall not -

- (a) carry out any Council or other Chamber duties;
- (b) go onto Chamber premises (other than those members' facilities;
- (c) generally open to members of the Chamber), and
- (d) refrain from contact with staff of the Chamber, except to the extent permitted by the Council.

74.5 Suspension of a Council member under Article 74.1 shall automatically act to suspend a member from acting as President, Vice President or other office within the Council to which he or she may have been appointed.

COUNCIL PROCEDURES

75. Regulations

75.1 The Council may make, vary, suspend and revoke regulations for its meetings and proceedings, for the appointment of committees, and generally for the management of the Chamber, if consistent with these Statutes.

76. Admission of members to Council meetings

76.1 Regulations shall permit members to attend Council meetings, subject to conditions as the Council may from time to time determine.

77. Audit Committee

77.1 The Council shall by Regulations establish an Audit Committee from amongst its members, not being any member sitting on any Finance Committee to report to the Council on -

- (a) external and internal audit matters;
- (b) financial control;
- (c) value-for-money issues related to the Chamber's expenditure; and
- (d) matters of risk management, in particular reputational and operational risk.

78. Membership Committee

78.1 The Council shall by Regulations establish a committee ("the Membership Committee") to

- (a) keep under review the size of the Council;
- (b) keep under review the representative nature and extent of the Council in the context of the profession as a whole; and
- (c) advise the Council on the designation of sections, groups, associations and other bodies to be represented by organisational seats.

79. Compensation in respect of Council members

79.1 Members on the Council shall not be entitled to any remuneration or other emoluments from the Chamber.

79.2 Reasonable travelling and out-of-pocket expenses fixed by the Council shall be paid to Council members and members of Council and Society bodies for attending meetings of the Council and those bodies or otherwise being engaged on the Society's business.

80. Minutes of Council meetings

80.1 Minutes of every Council meeting shall be taken and once confirmed signed by the chair of that or the next meeting.

MISCELLANEOUS

81. Staff

81.1 The Council may engage, recruit and employ such staff as they shall think fit, and pay to them such salaries and other emoluments as it considers appropriate.

81.2 The Council may from time to time delegate such functions, powers and authorities to such officers, employees or other agents engaged by the Council as the Council shall consider appropriate.

82. Notices

82.1 Any notice sent to a member by post, addressed to him or her with his or her name and registered address, shall be deemed to have been properly given on the day immediately following that of dispatch.

82.2 Subject to any specific requirement in these Statutes, any notice or other document required by these Statutes to be published may be published -

- (a) on the Chamber's website; or
- (b) published by such other means, or combination of means, as the Council may direct.

83. Electronic communications

83.1 In these Statutes, subject to any express provision to the contrary -

- (a) any reference to a document includes a document in electronic form; and
- (b) any reference to a procedure carried out in writing includes a procedure carried out wholly or partly using one or more documents in electronic form or using electronic communications.

84. Commencement

84.1 These Statutes shall come into force on being made, when the Statutes currently in force and all amendments to them, shall be revoked, but without affecting the validity of anything done under them.

The following acts shall be considered as reprehensible and derogatory of the honour and dignity of the Legal Profession and as such subject to disciplinary action by the Chamber:

- a) The taking over of patronage where the advocate or advocates who had formerly directed such patronage had not given their consent or have not been fully satisfied (except where there is valid reason for non-payment), or where there do not exist valid reasons which require the pressing and urgent necessity of patronage, and in default of payment or in the event of urgent necessity, the advocate shall be about to take over or who has taken over patronage shall fail in his duties where he does not give preventive and timely notice to his colleague or colleagues who had formerly directed such patronage.
- b) The acceptance of consulting, on the same matter, clients who are already assisted without preventively informing the other advocates;
- c) The abuse of money or other substances of which the advocate comes into possession or has to hold in connection or by reason of his office, or the use of the same, if not on behalf of and for the purpose indicated to him by the client or clients who have made the delivery thereof;
- d) The abuse of the client's trust whether directly or indirectly and whether for one's own benefit or for that of third parties;
- e) The exploitation to one's own benefit of third parties who are not so entitled, of information which comes to the knowledge of the advocate by reason of the exercise of his legal profession;
- f) The denigration or criticism made with third parties of the professional ability or of the character of one's own colleagues;
- g) The participation, direct or indirect, in operations or transactions or delegations or deputations in which the advocate intervenes also as legal consultant unless he preventively and in a detailed manner discloses to all the parties concerned his interest in his extra-professional capacity;
- h) The legal consultancy to persons whose interest are incompatible with each other;
- i) The abusive communication with the opposing party without the knowledge of the latter's advocate;

j) The preventive contracting, direct and indirect, of stipulations “quotae litis” or the payment to third parties who are not advocates of a part of the judicial and extra-judicial costs.

k) The clear adhesion, directed towards the purpose of preserving or obtaining clients, to the acceptance of legal fees which are less than those fixed by tariffs, resulting from various instances of such abuse, or even from the fact that one’s own clients (even without mentioning the identity of the advocate) indicate either verbally or in writing the possibility of legal assistance against payment of legal fees which are less than those fixed by tariff.

l) The direct and indirect use agents or go-betweens and persons for the soliciting of clients or of work;

m) The giving of professional propaganda, whether personally or through third parties, whether verbally or in writing, direct or indirect, and including also the persistent mention and insistence made by clients (even if the identity of the advocate is not mentioned), in the sense that one’s own advocate would be available, and provided that the participation to public discussions or the contribution to articles and monographs on legal issues, also on newspapers and magazines not specializing on the subject, will not be in violation of this provision where such are of a standard and quality which go beyond mere divulgation;

n) Any violation of the Code of ethics for Lawyers as drawn up, from time to time, in accordance with the Commission for the Administration of Justice Act, Chapter 369, which Act is deemed to form an integral part of these statutes

o) Any other act which is held to be seriously reprehensible or derogatory of the honor and dignity of the legal profession and which is in breach of the principles of professional ethics.

Any allegations have to be made in writing and must be addressed to the Secretary of the Chamber and should contain sufficient information in order to give rise to an exhaustive and expeditious investigation; saving the right of the Committee to commence and continue investigations “ex officio”.