

LEGAL PRACTICE COUNCIL
GENERAL NOTICE 3820 OF 2026

NATIONAL OFFICE

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THE SOUTH AFRICAN LEGAL PRACTICE COUNCIL
NOTICE IN TERMS OF SECTION 95(1) OF THE LEGAL PRACTICE ACT, 28 OF 2014

Notice is hereby given of amendments to Rules 1, 40.5 and 40.7 of the Legal Practice Council Rules made in terms of section 95(1) of the Legal Practice Act, 28 of 2014 (as amended).

Explanatory Note

Rule 40.5 of the Legal Practice Council Rules allows an investigating committee, where there is *prima facie* evidence of misconduct, to refer complaints for adjudication by a disciplinary committee. The rule does not differentiate between minor and serious offences. The Council has resolved to amend rule 40.5 to empower an investigating committee to differentiate between minor and serious transgressions, and to enable the finalisation of complaints of a minor transgression by the imposition of a sanction of either a caution, a warning or a fine by the investigating committee.

The resolution also proposes to include in the rules the definitions for '*minor transgression*' and '*serious transgression*'. This is to provide clear and precise guidelines for the investigation and adjudication of misconduct, and to ensure that investigative and disciplinary processes are proportionate to the nature of the misconduct.

Furthermore, to ensure alignment with the Legal Practice Council Code of Conduct, the Council has also resolved to include a definition of "*misconduct*" in the rules. This definition, as set out in paragraph 2A of the Code of Conduct, will serve to provide a clear framework for identifying and addressing breaches of professional conduct.

Amendment to Rule 1 (Definitions) of the Legal Practice Council Rules by the inclusion of the following new definitions:

- 1.26 '**minor transgression**' means conduct which, in the opinion of the investigating committee based on *prima facie* evidence, is misconduct of a minor nature which does not warrant a sanction more severe than those contained in rule 40.5.3.
- 1.27 '**Misconduct**' on the part of a legal practitioner, candidate legal practitioner or juristic entity will include (without limiting the generality of these Rules)-
 - 1.27.1 a breach of the Act or of the code or of any of the rules, or a failure to comply with the Act or the code or any rule with which it is the legal practitioner's, candidate legal practitioner's or juristic entity's duty to comply;

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

1.27.2 any conduct which would reasonably be considered as misconduct on the part of a legal practitioner, candidate legal practitioner or juristic entity or which tends to bring the legal profession into disrepute.

1.33 **'serious transgression'** means conduct which, in the opinion of the investigating committee based on *prima facie* evidence, is of such a nature that it may warrant a sanction more severe than those provided for minor transgressions in rule 40.5.3.

Amendment to Rule 40.5 of the Legal Practice Council Rules:

40.5 If after investigating allegations of misconduct against a respondent, the investigating committee is satisfied:

40.5.1 that the respondent, on the basis of available *prima facie* evidence, is guilty of misconduct which, on account of the nature of conduct, warrants misconduct proceedings, the investigating committee must refer the matter to the Council or to a committee of the Council established for that purpose for adjudication by a disciplinary committee;

40.5.2 that, notwithstanding the provisions of Rule 40.5.1 above, and upon reviewing the available *prima facie* evidence, the respondent's misconduct, while warranting misconduct proceedings, constitutes only a minor transgression, the following procedures may apply:

40.5.2.1 the investigating committee shall formulate the charges in respect of the transgression and determine an appropriate sanction, or combination of sanctions, from those provided for under Rule 40.5.3;

40.5.2.2 the investigating committee shall communicate both the charges and its proposed sanction to the respondent;

40.5.2.3 the respondent shall within 15 days from the date of receipt of the communication accept or reject the proposed sanction imposed by the investigating committee;

40.5.2.4 if the respondent accepts the proposed sanction in writing, or if no response is received from the respondent within 15 days from the date of receipt of the communication, the respondent shall be deemed to have been found guilty on the charges and the proposed sanction shall be deemed imposed by the investigating committee, and the matter shall be considered concluded; and

40.5.2.5 if the respondent rejects the proposed sanction in writing within 15 days from the date of receipt of the communication, the investigating committee must refer the matter to the Council, or to a committee of the Council as provided in rule 40.5.1. In such cases, the proposed sanction shall no longer be applicable to the matter.

- 40.5.3 if the respondent is deemed to be guilty of misconduct in terms of rule 40.5.2.4, the investigating committee may impose the following sanctions-
- 40.5.3.1. in the case of a legal practitioner:
- 40.5.3.1.1. a fine, payable to the Council, not exceeding the amount determined from time to time by the Minister in terms of section 40(3)(a) of the Act by notice in the Gazette, on the advice of the Council;
 - 40.5.3.1.2. a warning against certain conduct and order that such warning be endorsed against the legal practitioner's enrolment; or
 - 40.5.3.1.3. a caution or a reprimand;
- 40.5.3.2. in the case of a juristic entity:
- 40.5.3.2.1. a fine, payable to the Council, not exceeding the amount determined from time to time by the Minister in terms of section 40(3)(a) of the Act by notice in the Gazette, on the advice of the Council;
 - 40.5.3.2.2. a warning against certain conduct; or
 - 40.5.3.2.3. a caution or a reprimand;
- 40.5.3.3. in the case of a candidate legal practitioner:
- 40.5.3.3.1. a fine, payable to the Council, not exceeding the amount determined from time to time by the Minister in terms of section 40(3)(a) of the Act by notice in the Gazette, on the advice of the Council; or
 - 40.5.3.3.2. a caution or a reprimand.
- 40.5.4. that the complaint should be dismissed on the grounds that the conduct in question does not necessarily warrant misconduct proceedings, it must dismiss the complaint and inform the Council, the complainant and the respondent of its decision and the reasons therefor. Without limiting the discretion of the investigating committee, the following may be grounds for determining that the conduct in question does not warrant misconduct proceedings:
- 40.5.4.1. that the respondent is not guilty of misconduct; or
 - 40.5.4.2. that the respondent has given a reasonable explanation for his or her conduct; or
 - 40.5.4.3. that the conduct of which the respondent may be guilty is of an inconsequential nature; or
 - 40.5.4.4. that there is no reasonable prospect of success in preferring a charge of misconduct against the respondent;
 - 40.5.4.5. that the complaint is vexatious or that, in all the circumstances, it is not appropriate to charge the respondent with misconduct.

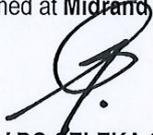
40.6. If the complainant is aggrieved by:

40.6.1 the manner in which the investigating committee conducted its investigation; or

40.6.2 the outcome of the investigation, he or she may appeal to the appeal tribunal in terms of section 41 of the Act.

40.7 When the Council, or a committee of the Council established for that purpose, receives a referral from the investigating committee in terms of rule 40.5.1 and rule 40.5.2.5, that the legal practitioner be charged with misconduct, it must refer the matter to a disciplinary committee for adjudication.

Signed at Midrand on 12 January 2026.



ADV PG SELEKA SC

Chairperson- Legal Practice Council