



**KWAZULU-NATAL  
ASSOCIATION  
OF  
PUBLIC SECTOR LAWYERS**

*uMthetho ungaphezu kwakho konke  
The Law reigns supreme  
Die oppergesag van die Reg*

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## **KwaZulu-Natal Association of Public Sector Lawyers (KAPSL)**

1. For the first time, since the establishment of the new democratic order in South Africa, lawyers attached to, and serving the executive and legislative branches of government in the Province of KwaZulu-Natal, have felt the need to voluntarily organise themselves into an association which attempts to set high standards for the provision of legal support services in the public sector in accordance with a strict and laudable *Code of Ethics* which is justiciable for purposes of disciplinary action against members of the Association.

The Association grew from the informal KwaZulu-Natal Public Sector Lawyers' Forum which has been functioning as a voluntary inter-governmental structure within the administration of the KwaZulu-Natal Provincial Government to co-ordinate the provision of legal services given the decentralised system of legal services currently obtaining in the administration of the Provincial Government. The KwaZulu-Natal Public Sector Lawyers' Forum continues to exist as a voluntary inter-governmental structure in order to co-ordinate the day to day functional work of public sector lawyers attached to the respective Provincial Departments.

The Association has an emphasis to organise and empower the public sector lawyers in KwaZulu-Natal and to serve and uphold the values and principles of Constitutionalism and the Rule of Law in the public sector (government).

There is currently no such all-embracing Association representing public sector lawyers in South Africa, neither nationally, nor in any other province. Lawyers (attorneys and advocates) working in the private sector are well catered for by their own associations (the various law societies for attorneys, and bar councils and societies of advocates for advocates). No similar bodies exist to cater for lawyers working in the public sector.

Internationally, there are similar organisations such as the Commonwealth Association of Public Sector Lawyers (CAPSL). The Association envisages applying for institutional membership of the

Commonwealth Association of Public Sector Lawyers and other international bodies catering for lawyers in the public sector.

The KwaZulu-Natal Association of Public Sector Lawyers is a “first” or a “pilot” for South Africa and for KwaZulu-Natal and envisages inspiring other provinces to establish similar bodies and, ultimately, a national (South African) association of public sector lawyers.

The KwaZulu-Natal Association of Public Sector Lawyers (KAPSL) is the representative body of the organised legal profession in the public sector in KwaZulu-Natal. The Association is an independent voluntary professional association regulated by its own Constitution.

**2.** Membership of the Association is open to all lawyers operating in the public sector in KwaZulu-Natal, including the Provincial Government (the various Provincial Departments), the Provincial Legislature, municipalities, provincial public entities, regional offices of national departments and Chapter 9 institutions operating in KwaZulu-Natal.

The idea is to be as inclusive as possible. The Constitution of the Association defines “*public sector lawyer*” as being “*any person in the employ of an organ of state who has a legal qualification*”.

Members of the Association –

**(1)** Affirm that our country, province and government is founded on –

- **democratic values;**
- the recognition of **human rights;**
- the recognition of the **need for moral regeneration;**
- the recognition of the **family;**
- the recognition of **freedom of religion and worship;**
- the principles of **mutual trust and co-operation;**
- **co-operative, responsible and accountable government and good governance;**
- the **Rule of Law;** and
- the recognition of, respect for, and loyalty to, the **Constitution of the Republic of South Africa, 1996**, as the supreme law of the Republic of South Africa.

**(2)** Commit themselves to **serve and uphold these values and principles** in providing **professional, non-partisan legal services and legal advice to government.**

**(3)** Subscribe and commit themselves to the **Legal Services Sector Charter** adopted in **December 2007**.

**(4)** Have attempted to set high standards for members for the provision of legal support services in the public sector in accordance with a strict and laudable **Code of Ethics** which is justiciable for purposes of disciplinary action against members of the Association.

***Any person in the employ of an organ of state who has a legal qualification is encouraged to join.***

See [www.KAPSL.org](http://www.KAPSL.org) for further details.

**3.** Joining the Association may assist to contribute indirectly to –

- (a) **Outcome 3** of the current Government Targets and Outcomes: *All people in South Africa are safe and feel safe;*
- (b) **Outcome 11** of the current Government Targets and Outcomes: *Create a better South Africa, a better Africa and a better world;* and
- (c) **Outcome 12** of the current Government Targets and Outcomes: *An efficient, effective and development oriented public service and an empowered, fair and inclusive citizenship.*

The reason for this is that the Association, amongst its members, also actively promotes the principles of *constitutionalism* and the *Rule of Law*. Where the principles of constitutionalism and the Rule of Law are promoted, *good governance* results, *people (citizens) feel safe and secure* and are free from arbitrary and unlawful State or Government action and intervention in their lives. Members of the Association –

- (a) are empowered by their interaction and networking with a wide range of public sector lawyers across the Province; and
- (b) also subscribe to a more rigorous code of conduct and ethics than that generally applicable to public servants in terms of the Code of Conduct for Public Servants – members of the Association are, in addition, subject to a strict and laudable Code of Ethics (in terms of the Constitution of the Association) which is justiciable for purposes of disciplinary action against members of the Association.

**4. KAPSL Members are currently (2011) involved in assisting the Provincial Government with presiding in disciplinary enquiries in an attempt to remove the backlog in finalising disciplinary matters.**

5. In attempting to exercise some sense of social responsibility and social conscience, and to exercise some activist role, KAPSL has recently launched a Legal Advice Centre/ Clinic in Uganda informal settlement, Umlazi.

The mandate of KAPSL as contained in its business plan includes providing basic legal and other assistance to previously disadvantaged individuals and communities. KAPSL intends, as part of rendering the abovementioned assistance, to set up community legal advice centres (law clinics) in certain parts of the province of KwaZulu-Natal. The envisaged legal advice centres would not deal only with legal problems affecting members of the community, but will also assist members of the community to unblock the blockages which normally stand between them and the social services that government has to offer. Put differently, through these centres, KAPSL also intends to accelerate access by members of underprivileged communities to government's socio-economic opportunities. ***The nature and context of this initiative makes it critical for both government and KAPSL to become social partners for the success of this project.***

As mentioned above, the law clinic seeks to assist persons from underprivileged communities with the following:

- Basic legal advice;
- Accelerating access to social services offered by government (social grants, IDs, birth certificates, etc.);
- Cross-cutting complaints relating to all spheres of government.

***Subject to funding and sponsorships and availability of KAPSL members, KAPSL intends to extend the concept of such Legal Advice Centres/ Clinics to other areas of the Province. A mobile Legal Advice Centre/ Clinic (staffed by KAPSL members), is also a possibility which could be synchronised to be on site when various government initiatives such as Operation Sukuma Sakhe visit particular areas.***

6. In order to achieve these laudable aims in partnering with government to assist government in furthering its objectives, KAPSL needs to increase its membership.

***All personnel in the public sector who have a legal qualification are encouraged to join KAPSL. Please contact our Secretary, Adv BW (Tumi) Tihale (refer to letterhead on first page of this document) or go to [www.KAPSL.org](http://www.KAPSL.org)***