



DUMISA BUHLE NTSEBEZA SC
C +27 82 467 2490 E ntsebeza@mweb.co.za

25 October 2019

Comrades,

RE: INVITATION TO MEMBERS OF PABASA TO APPLY FOR RECOMMENDATION FOR CONFERMENT OF THE STATUS

This is an invitation to members of PABASA, who consider that they qualify for recommendation to the President of the Republic of South Africa, for conferment of the status of SILK [Senior Counsel] on them, to apply to the PABASA Silk Committee, c/o The Chairman, Advocate Dumisa Buhle Ntsebeza SC, PABASA SILK COMMITTEE, 82 Maude Street, SANDTON, 2146. An appropriate Application form is attached hereto.

PABASA's Silk Committee policy is attached hereto as Annexure "PSC".

Applicants must make sure that they familiarise themselves with the contents of the Silk Policy as they apply and must ensure that they give an account of themselves, and their career details that they consider will be important in their applications for conferment of the status of Silk.

Applicants are welcome to scan and email their applications to:

patodjg@law.co.za and to ntsebeza@pabasa.co.za

All applications should be in by **NO LATER THAN FRIDAY the 29th NOVEMBER, 2019.**

Interviews will take place at the **SANDTON PABASA Chambers' Boardroom from 09h00 on Saturday, the 7th December 2019.**

Comrade, All Yours



Advocate Dumisa Buhle Ntsebeza SC
Chairman
PABASA Silk Committee
SANDTON
2146

PAN AFRICAN BAR ASSOCIATION OF SOUTH AFRICA
Reg No. 2018/12345678/12
82 Maude Street, Sandton, Gauteng, South Africa
T +27 10 900 2170
WWW.PABASA.CO.ZA

**PAN AFRICAN BAR ASSOCIATION OF SOUTH AFRICA
APPLICATION FOR SILK (SENIOR COUNSEL STATUS)**

Important Note: (a) Please note that it is preferable that your photograph appear on the Bar website and on the front page of this application. This is necessary due to the size of the bar and the need for you to be recognised by those who will comment on your application. For assistance in this regard please send a recent digital photograph to Charlotte Williams on admin@pabasa.co.za. (b) Any reference to seniority includes seniority as determined in the bars prior to joining PABASA

Name:		Cell Number:
Personal details		
1	Date of birth.	
2	Age at application for Silk	
3	Gender / or identification	
4	Previously disadvantaged individual.	
Academic qualifications:		
5	Year of matriculation.	
6	Year of LLB.	
7	Academic qualifications other than LLB, if any. State date and institutions.	
8	Academic honours - if any.	
9	Number of academic publications, if any - list all chronologically. Add annexures where the space on the form is insufficient	

Experience in Johannesburg before admission to Society of Advocates (Witwatersrand Division) ("the Society)	
10	Date of admission as advocate and Division of High Court.
11	Date of first admission to PABASA.
12	State any periods of absence from practice
13	Employment and professional history: 13.1 State any fact of importance, such as area of expertise; 13.2 Attainment of partnership; 13.3 Positions of leadership in the profession; 13.4 Disciplinary steps.
Experience as member of the Society	
14	14.1 Pupillage: Year of pupillage; and 14.2 Name of pupil mentor.
15	Donor of red bag and year of receipt.
16	16.1 If member of any other society of advocates give details 16.2 State reasons why application is made to this Society.
17	List all disciplinary matters, if any, overview of charges and outcome.
18	List all groups to which applicant belonged, and belongs in other Bars.

19	Name all members or members in other Bars who have been pupils of the applicant (state years).	
20	Name all junior members, who have been led by the applicant and their seniority	
21	Principal areas of practice. (If any area of practice is claimed to be of specialist nature, state specialty and identify the leaders in the field.	
22	Chronological list of reported cases. List chronologically in an annexure if more than 5.	
23	In annexure give overview of three most important / complex cases applicant appeared in within last three years, and identify crisply, the issues involved.	
24	Number of appearances each in Constitutional Court and in Supreme Court of Appeal and other appeal courts or tribunals without a leader.	
25	Give details of all judicial and quasi-judicial appointments, including appointments as arbitrator.	
References		
26	List all judges, arbitrators and chairs of tribunals before whom the applicant appeared in cases of substance, complexity, difficulty or sensitivity over the last three years.	
27	List all silks who have led the applicant and whom the applicant has appeared against over the last three years.	
28	List any unreported judgments of cases, or arbitration awards, of matters in which the applicant appeared and which she or he wishes to draw attention to the committee.	

29	Give details of all positions of leadership outside the bar.	
30	State sources of income other than practice as advocate, including directors' fees.	
31	Give details of all important outside achievements. List in annexure if necessary.	
Contribution to profession /transformation		
32	Give overview of service to the Society, e.g. membership of the Bar executive.	
33	Give overview of <i>pro bono</i> work. Attach pro bono certificates for the two previous years.	
34	Give overview of any transformation initiatives which applicant initiated or participated in.	

PAN AFRICAN BAR ASSOCIATION OF SOUTH AFRICA

CRITERIA AND PROCEDURES IN RESPECT OF THE CONFERMENT OF SILK

A. THE PURPOSE OF THE CONFERMENT OF SILK

1. The status of senior consultus, or silk, as it has become to be known, is a high honour conferred on an individual legal practitioner by the President of the Republic of South Africa ("the President"). The Legal Practice Act recognizes the conferment of silk.
2. PABASA, like any voluntary association discharges a responsibility, in accordance with tradition of recommending to the President advocates that it believes are worthy of the status of silk. PABASA views the conferment of this high honour as a critical responsibility in ensuring quality and recognising legal and leadership qualities of its members.
3. The Bar Association, after a rigorous selection process, makes recommendations to the President and the relevant Judge President or Deputy Judge President (reference henceforth being to the Judge President) of the Division where the legal practitioner practices. The relevant Judge Presidents, through whose intermediation the recommendation is conveyed to the President, are entitled to have unreserved confidence in the recommendations made by the Silk conferment committee of PABASA.

E: admin@pabasa.co.za W: www.pabasa.co.za

B. CRITERIA BY WHICH CANDIDATES FOR THE CONFERMENT OF SILK ARE JUDGED

1. PABASA recognises the importance of the status of silk in the profession. PABASA is also mindful of the history of discrimination in the profession and the historical complaints that have accompanied the conferment of silk. As a result, the criteria are designed to be a departure from how other Bars have dealt with the conferment of silk. They are designed to ensure that the process does not allow itself to be arbitrary and unconstitutionally discriminatory. The criteria as set out below are designed to operate as guidelines in respect of the nomination of members of the Bar as persons appropriate to recommend for the conferment of senior consultus status. The guidelines are not to be regarded as definitive or exhaustive and the weight to be attached to individual criteria may vary. It will be apparent that these criteria seek to guide the Silk Conferment Committee [THE SCC MAY CONSIST OF MEMBERS WHO ARE NOT SILK THEMSELVES- FOR EXAMPLE, EX JUDGES WHO NEVER WORE SILK] in either inviting legal practitioners to accept a recommendation or in considering applications made by its members for consideration in the conferment of silk in any given year.

2.

2.1 General criteria

2.1.1 the echelon of silks within the body of members of PABASA is reserved for those with recognised leadership qualities, unquestioned integrity and practise law at the highest level and with great skill.

E: admin@pabasa.co.za W: www.pabasa.co.za

2.1.2 In order to ensure absolute quality, this level of practice will necessarily comprise legal practitioners that have displayed admirable skill in the craft of advocacy and leadership in the profession.

2.1.3 as a result, only the most meritorious candidates in any particular year will be recommended for silk in any given year. However, no deserving candidate will be prejudiced simply because a few must be recommended.

2.1.4. If a candidate is not amongst the most meritorious candidates in a particular year, no recommendation in respect of that candidate will be made. It follows that a candidate who has not been recommended in any particular year will not enjoy any preference in any subsequent year in which the candidate may be nominated, by reason of the fact that the candidate had previously been nominated. However, if the candidate is invited by the Silk Conferment Committee, he/she, in all likelihood will be recommended to the President.

2.1.4 In deciding on the recommendations that may prudently be made for the conferment of silk in any given year, due regard shall be had to the racial and gender composition of the body of silks within PABASA. In addition, regard may be had to the specialised fields of practice by such candidate.

2.2 The criterion of the nature of practice

E: admin@pabasa.co.za W: www.pabasa.co.za

2.2.1 The practice should be a large one consisting of good quality work, having regard, inter alia, to the complexity of the work subject to clauses 2.2.2 and 2.2.3 below. Although preference will be accorded to practices which embody the whole spectrum of senior work available in the practice of law, due regard will be accorded to the expertise of a candidate in a specialised field of practice.

2.2.2 No particular area or type of practice (for example a so-called commercial practice) will be accorded any more or less weight than any other.

2.2.3 Consideration must be given to the reality of race-based and gender-based bias or skewing of briefing patterns which may tend to result in the exclusion of an otherwise worthy candidate from strong representation in certain areas of practice.

2.3 The criterion of integrity and honourable conduct

2.4 The criterion of seniority

Seniority is but one of the factors which are taken into account. However, PABASA recognises that the conferment of silk is no reward for long service, but a high honour given to advocates with an admirable skill in the practice of law. Therefore, subject to the caveat that seniority is not a determinative factor but is to be considered and weighed together with other criteria, candidates who have less than twelve years seniority will have to demonstrate

E: admin@pabasa.co.za W: www.pabasa.co.za

exceptional qualities, recognised widely for them to be invited or recommended for the conferment of silk.

2.5 The criterion that PABASA is willing to sponsor the candidate

2.5.1 The is much more than the criteria set out above in determining a candidate's suitability. It is not as tangible as the criteria may suggest.

2.5.2 A suitable candidate must be a person of real and perceived ability, utmost integrity, leadership qualities and maturity of judgment. He or she must have a proven track record in this regard.

2.5.3 In determining whether a candidate has the requisite leadership qualities, the Silk Conferment Committee will give due weight to the candidate's demonstrable commitment to law in society, transformation of the profession and society in general. In this regard, account will be taken of all relevant factors, including but not limited to:

2.5.3.1 the extent to which the candidate has actively played a mentoring role to juniors, in particular women junior members throughout his/her practice as an advocate and/or involved them in his/her practice; [THE PREMISE IS THAT THE BAR REFLECTS THE DEMOGRAPHICS I.T.O. RACE]

E: admin@pabasa.co.za W: www.pabasa.co.za

- 2.5.3.2 the degree to which the candidate has generally participated in the enhancement of transformation through the structures of PABASA or his/her previous Bar.
- 2.5.4 In determining a candidate's commitment to transformation under this criterion, the input of junior members who may have interacted with the candidate in the above respects (both in the candidate's chapter and otherwise) garnered by the chapter leaders in the application process, will be taken into account.
- 2.5.5 The Silk Conferment Committee will take due cognisance of the fact that a demonstrable commitment to transformation as a material aspect of the criterion of leadership is a fairly new criterion.
- 2.5.6 Experience as a legal practitioner prior to joining PABASA will be taken into account.
- 2.5.7 Recognising that the best interest of PABASA is served by a diverse leadership, consideration of race and gender must be taken into account in the selection of candidates for recommendation.

C. PROCEDURE TO BE FOLLOWED IN REGARD TO NOMINATIONS FOR THE CONFERMENT OF SILK

E: admin@pabasa.co.za W: www.pabasa.co.za

PABASA National Executive Council: M Sikhakhane SC (Chair); N Rajab-Budlender (Vice-Chair); X Sibeko (Secretary); E Baloyi-Mere (Deputy Secretary); S Budlender SC (Finance); D Mhango (Briefing Patterns); S Kazee (Gender and Equity); T Ngcukaitobi (Legal Education); G Malindi SC (Stakeholder Engagement)

1. The Executive of PABASA, shall, annually, invite suitable candidates and/or publish a notice to the membership inviting applications for silk to be lodged with the National Chair of PABASA. Any specific factor that may affect the process in the given year should be stated in the notice.
2. The Silk conferment committee shall comprise silks in the National Executive and up to three additional silks invited by the Chairperson. Two retired judges and another external [silk?] advocate shall also be invited as members of the Silk conferment committee.
3. A period of not less than four weeks must be granted for the receipt of applications and the closing date for the applications shall be stated in the notice.
4. An application shall consist of a memorandum by the applicant, stating the reasons why silk should be conferred on him or her. Attached to the memorandum shall be a completed application form. Application forms will be made available by the Executive at the offices of PABASA.
5. A candidate invited by the Silk conferment committee must still prepare a memorandum of acceptance of the invitation and complete the application form.
6. On the day after the closing date for the stated receipt of applications, the Chair shall compile a list of all the applicants in order of seniority, and the Chair shall cause the list to be published to the membership.
7. The completed application forms must be made available by the Chair for inspection by the membership in the national office of PABASA and other designated offices of the chapters.

E: admin@pabasa.co.za W: www.pabasa.co.za

PABASA National Executive Council: M Sikhakhane SC (Chair); N Rajab-Budlender (Vice-Chair); X Sibeko (Secretary); E Baloyi-Mere (Deputy Secretary); S Budlender SC (Finance); D Mhango (Briefing Patterns); S Kazee (Gender and Equity); T Ngcukaitobi (Legal Education); G Malindi SC (Stakeholder Engagement)

8. Any member, other than an applicant for silk, may, within seven days of the publication of the list, comment on any application. All such comments must be in writing, addressed to the National Chairperson of PABASA.
9. Any adverse comment on any application shall be referred by the Chairperson to the concerned applicant and such applicant may within seven days after the period for comments closed, respond thereto in writing.
 - 9.1 Within the period referred to in paragraph 7 above, each chapter must circulate the names of all the applicants for silk to each member of the chapter and request junior members to express their views, such as they may be, on each applicant to the chapter leader. Each chapter leader must ensure that there is a system in place in his or her chapter to collate the views of the junior members of the chapter.
10. The Silk conferment committee shall, within a reasonable time of the closing date on which applicants may respond to adverse comments, meet, deliberate and identify the applicants who are to be nominated for silk.
11. The Silk conferment committee shall, in the course of its deliberations:
 - 11.1 interview all chapter leaders or, if a given chapter leader is not a silk, a silk representing such chapter in respect of all applicants, and the chapter leader or silk shall convey the views of the silks

E: admin@pabasa.co.za W: www.pabasa.co.za

and juniors of his chapter and hand it to the Silk conferment committee the schedule referred to in paragraph 7.2??? and speak to it;

- 11.2 receive any comments from the relevant Judge President in respect of all applications;
 - 11.3 require each applicant to appear in person before the Silk conferment committee to be questioned on his or her application during which interview any adverse comments must be put to him or her. The Silk conferment committee may appoint a silk or silks to question the applicants but must ensure that each applicant is given the opportunity fully to deal with all adverse comments and to answer all questions put to him or her;
 - 11.4 not take into account any adverse comment that the candidate has not had an adequate opportunity to address.
12. Save as aforesaid, the deliberations of the Silk conferment committee will be private.
 13. The Silk conferment committee must publish the names of successful applicants not later than fourteen days after the closing date on which applicants may respond to adverse comments.
 14. Each unsuccessful applicant may within seven days after the date of publication of the names of the successful applicants, request the Chairperson to give reasons why the application was unsuccessful and the Chair shall be obliged to furnish such reasons, in writing, within a further fourteen days.

E: admin@pabasa.co.za W: www.pabasa.co.za

CONCLUSION

We will endeavour, at all times, to maintain the process to be as fair as possible. It must ensure that our promise to improve the standard of advocacy is fulfilled.

E: admin@pabasa.co.za W: www.pabasa.co.za

PABASA National Executive Council: M Sikhakhane SC (Chair); N Rajab-Budlender (Vice-Chair); X Sibeko (Secretary); E Baloyi-Mere (Deputy Secretary); S Budlender SC (Finance); D Mhango (Briefing Patterns); S Kazee (Gender and Equity); T Ngcukaitobi (Legal Education); G Malindi SC (Stakeholder Engagement)