


exempting the referral rule from the application of the Competition Act 89 of 1998. It held that the referral rule was the law of the land and that the commissioner was not entitled to refuse to exempt it.

Each party was ordered to pay its own costs of the appeal.

The SCA dismissed the cross-appeal, holding that the mere fact that the commissioner did not observe audi alteram partem did not by itself justify an inference of bias. The effect is that the prohibitions against partnerships, advertising, indiscriminate chamber location, and accepting briefs from defaulters, were also remitted to the commissioner for reconsideration. [Members are reminded that since the judgment of Roos J the prohibitions against advertising and accepting briefs from defaulters have in any event been scrapped.]

Each party was ordered to pay its own costs of the cross-appeal. 


## Arrest and detention of Zimbabwean judge

The General Council of the Bar of South Africa expressed its deep concern regarding the arrest and detention of a retired Zimbabwe judge on 13 September 2002. The media release reads as follows:

“Mr Justice Fergus Blackie (65) was taken from his home in a pre-dawn police raid. It has since been necessary for his family to institute habeas corpus proceedings to secure his safety and production before a court.


This development mirrors the sudden arrest and detention of the chairman and secretary of the Zimbabwe Law Society in July. In both incidents resort was had to police raids, seizure of leading members of the Zimbabwe legal community, and thereafter reference to possible criminal charges. It also follows steps taken over the past year against the judiciary resulting in seven resignations, and in relation to which the Chief Justice of South Africa last year in a public statement expressed serious concern.

At a world Bar gathering in Edinburgh in July, advocates and barristers from Australia, Hong Kong, Ireland, the Uni-

ted Kingdom, New Zealand and South Africa reiterated their solidarity with Zimbabwe’s legal profession in its endeavours to provide access to the courts and to serve the rule of law. This latest development is being taken up urgently by the GCB with the UN Special Rapporteur on the Independence of Lawyers and the Judiciary, Dato’ Param Kumaraswamy, the Human Rights Committee of the International Bar Association, and Bar organisations around the world.” 

## SA Fellowship of Advocacy Trainers

On 10 September 2002 at a function held for the advocacy trainers at the Johannesburg Bar, Willem van der Linde SC, chairman of the GCB, announced the establishment of the South African Fellowship of Advocacy Trainers. Its patron is Constitutional Court Justice Johann Kriegler, and its national convenor is Sharise Weiner SC, Johannesburg Bar.

The fellowship has established links with other advocacy training departments at the various referral Bars internationally and hopes to increase the “exchange” programme which the GCB presently has with the members of the IATC, Gray’s Inn, and the Faculty of Advocates, Scotland. Further proposals and ideas were explored at the Barristers’ and Advocates’ Forum at the IBA Conference in Durban on 24 October. An annual newsletter will be sent to the 220 South African advocacy trainers, who have since 1996 trained over 1000 pupils who have entered the profession. 

## Legal aid

*Extracts from the report of the the GCB’s representatives on the Legal Aid Board (LAB), Halima Saldulker and Philip Mokoena*

- The Legal Aid Board’s new premises are situated at 29 De Beer Street, Braamfontein; Private Bag X76, Braamfontein

2017; tel: 011877-2000; fax: 011877-2222. All postal and fax items are to be addressed to the Chief Executive Officer at the above address. Under no circumstances is any correspondence or account relating to any judicare matter to be addressed to any other postal address or fax number.

- During late 2001 the Legal Aid Board (LAB) undertook to review the judicare tariffs.

It has now approved an 8% tariff increase in respect of judicare work with effect from 1 July 2002. A circular to this effect will be distributed by the LAB.

- As part of the LAB’s vision to make justice more accessible to all of South Africa’s indigent the establishment of eight new justice centres is currently underway. There are presently 26 justice centres and it is envisaged that new centres will be established in Butterworth, Vryheid, Louis Trichardt, Lichtenburg, Upington, Worcester, and Lusikisiki.
- According to the CEO of the LAB, the prudent financial management at the LAB over the past year has resulted in the organisation’s being in the best financial state in its history. All the financial management and accounting issues that contributed to the collapse of the organisation have been dealt with and what remains for the future is good management.
- The LAB has re-engineered the existing processes of paying accounts and although this process sometimes attracts complaints, we are advised that the new method is much simpler and faster. This will result in accounts being paid within 30 days which is in accordance with accepted business practice.

Complaints have been received by the GCB’s representatives from the Port Elizabeth, Pretoria and Johannesburg Bars (members of the Scottish chambers) that their LAB accounts have not been paid within 30 days and these have been reported to the CEO of the LAB. We have been advised that the complaints are being dealt with.

We have received numerous complaints from the LAB that members are not complying with all the requirements when submitting their accounts and that this causes the delay in the payment of practitioner’s accounts. Bars are requested to bring to the notice of all their members the procedure for accounts enquiries as set out in the LAB’s Circular

no 4/2001. Numerous accounts have to be returned to practitioners who fail to comply with basic requirements, especially the requirement to include a photocopy of the bar coded LA1A cover sheet in respect of 2002 instructions whenever accounts or correspondence is sent to the Board. An updated version of a checklist designed to assist practitioners when submitting their accounts will be circulated to members.

- A new *Legal Aid Guide* was compiled during 2001 and ratified by parliament. Juta published the new guide which has been available to practitioners since July 2002.
- The sub-committee dealing with the amendments to the *Legal Aid Guide* has recommended the reduction of the membership of the LAB. As far as representation on the LAB of legal practitioners is concerned, the sub-committee has recommended the appointment of three legal practitioners nominated by the proposed Legal Practice Council (at least one of whom shall be from the referral profession). Legislation will have to be introduced in order to bring this amendment into operation.

With effect from July 2002 the *Legal Aid Guide* provisions will be strictly applied. When a practitioner signs the LA2 he/she accepts the terms and conditions of the *Legal Aid Guide* of 1996 and of 2002.

- Odette Geldenhuys, who was previously the director of the Access to Justice portfolio, has recently been appointed as the legal analyst of the LAB. Her portfolio inter alia includes the Legal Internship Pilot Project which will come into operation in August 2002 (advertisements for interns have already been placed in leading newspapers), and the Plea and Sentencing Bargaining Project which has been set up as a pilot project in Port Elizabeth and Empangeni.

The National Internship Pilot Project provides the context for LLB graduates to acquire practical experience and training in the legal profession. The interns will be paid R1 750 per month.


It is hoped that law graduates employed as interns will be a resource to be drawn upon for the provision of legal services to the poor. Internship is seen as a precursor to articles and pupillage.

The French government's Priority Solidarity Fund is providing the LAB with the funding for this project. This pilot project

is limited to 40 interns being placed at four justice centres.

- The activities of the GCB's representatives over the past year include inter alia the attendance at board meetings, workshops, opening of justice centres and serving on sub-committees of the LAB.

Halima Saldulker was appointed with Judge Francis to decide on a process to review executive management's contracts of employment. Together with Geoff Budlender, Halima Saldulker also serves on the sub-committee for the revision of the *Legal Aid Guide*. Philip Mokoena has been actively liaising with members of the Johannesburg Bar and the administration department of the LAB to facilitate the payment of LAB accounts. Both GCB representatives are also attending the combined LAB meetings with other role players, eg the Director of Public Prosecutions, the Department of Correctional Services, the Johannesburg Attorneys' Association, and the Criminal Bar.

- Many developments are taking place at the LAB and amongst these are the transformation of the LAB and the implementation of various models that will achieve better access to justice for the poor and the vulnerable in South Africa. 

## Stop press:

### *Forum for Barristers and Advocates*

The Forum for Barristers and Advocates of the International Bar Association resolved at its meeting held on 23 October 2002 in Durban to:

- condemn in the strongest terms the continued and escalating gross violations of human rights and the rule of law by the Government of Zimbabwe, including the unjustified arrest, imprisonment and prosecution of members of the justice system and other individuals;
- promote legal representation for members of the Zimbabwean justice system who face arrest, imprisonment and trial in similar circumstances;
- support the appointment of high-level IBA observers to attend appropriate court proceedings in which important human rights issues and questions relating to the rule of law in Zimbabwe are in issue;
- maintain close liaison with the Zimbabwe Law Society and Zimbabwe Bar to support Zimbabwe's legal practitioners in their endeavours to sustain an independent legal profession;
- support the UN Special Rapporteur on the Independence of Judges and Lawyers in his continued monitoring of, and reporting on, the conduct of the government of Zimbabwe towards lawyers and judges there;
- take note of the willingness of member Bars represented in the Forum for Barristers and Advocates to assist in providing the services of counsel as international observers in the trials referred to above.