

Eighth meeting of the National Forum on the Legal Profession
6 May 2017

Parts 1 and 2 of Chapter 10 of the [Legal Practice Act 28 of 2014](#) came into effect on 1 February 2015.
This brought into being the National Forum on the Legal Profession.

The National Forum on the Legal Profession held its eighth meeting on 6 May 2017.

Having received a six-month extension from Justice Minister Michael Masutha to submit its recommendations to him, the [National Forum](#) (NF) is racing against time to finalise its recommendations before the extended deadline of 1 August 2017.

Although it has finalised most of the rules and regulations required, irreconcilable differences between attorneys and advocates as regards practical vocational training (PVT) are holding back some of the education-related rules, and thus the entire set from being gazetted for comment. NF Chairperson and Deputy Chairperson, Kgomoiso Moroka SC and Max Boqwana, will seek to break the deadlock on the PVT issues in order to finalise matters before the deadline.

Before the rules and regulations made by the NF in terms of s 109 can be presented to the Minister, they must be **gazetted for public comment**. These relate to

- (i) A competency-based examination or assessment for candidate legal practitioners, conveyancers and notaries;
- (ii) the minimum conditions and procedures for the registration and administration of practical vocational training;
- (iii) the procedure and directions pertaining to the assessment of persons undergoing practical vocational training;
- (iv) the criteria for a person, institution, organisation or association to qualify to conduct an assessment;
- (v) the procedures to be followed by disciplinary bodies;
- (vi) the manner and form in which complaints of misconduct relating to legal practitioners, candidate legal practitioners or juristic entities must be lodged with the Council; and
- (vii) any other matter in respect of which rules must be made in terms of [Chapter 10].

The LSSA will alert practitioners through an advisory once the rules are gazetted and practitioners will have 30 days to scrutinise the rules and submit comments to the NF.

In addition, the [Legal Practice Amendment Bill](#), which was submitted to Parliament at the end of April 2017, empowers the NF to make rules in terms of s 95, which must also be gazetted for comment. An amendment also empowers the NF to draft regulations in terms of s 94 for consideration by the Minister.

As regards the Bill, the NF will make submissions to Parliament on some omissions that still create technical anomalies.

The NF considered the recommendation that the Legal Practice Council (LPC) should convene an **annual general meeting of legal practitioners**. However, the general view was that the LPC is a regulatory body with the primary function of protecting the public. It will communicate with legal practitioners (attorneys and advocates), but the Legal Practice Act does not provide for an AGM to engage with them.

Besides some of the education-related issues, **the NF has finalised** and approved for submission to the Minister -

- the regulations relating to election procedures for the LPC and the ballot paper: the NF envisages that elections for the first LPC will be held soon after Chapter 2 of the Act, bringing the LPC into operation, comes into effect. In terms of the current timeframes, this is due to happen in February 2018. The Amendment Bill provides that the existing provincial law societies will continue to regulate attorneys for six months while the LPC is being set up before being abolished six months after Chapter 2 comes into effect. The LPC will then take over regulation of all legal practitioners;

Read more on
▶ [the composition](#) of the National Forum

▶ [the tasks](#) of the National Forum

▶ [Download the Legal Practice Act](#)

Contact the LSSA -
E-mail:
LSSA@LSSA.org.za
Tel: (012) 366 8800
Fax: (012) 362 0969

- the composition of the nine provincial councils (PCs): It is recommended that each PC should consist of six attorneys and four advocates, except the Gauteng PC which should consist of eight attorneys and four advocates;
- the powers and functions of the PCs,
- the seat of the LPC to be in Midrand;
- the seats of the PCs as follows:
 - Eastern Cape – East London;
 - Free State – Bloemfontein;
 - Gauteng – Pretoria;
 - KwaZulu-Natal -- Durban;
 - Limpopo – Polokwane;
 - Mpumalanga – Nelspruit;
 - North West – Mahikeng;
 - Northern Cape -- Kimberley;
 - Western Cape – Cape Town;
- the staffing requirements for the national and provincial offices; and
- the draft funding requirements and sources of funding for the LPC: Once all the education aspects have been finalised, the funding model will be completed and it will then be possible to set realistic annual levies for legal practitioners.

As regards the **certificate for right of appearance** in the higher courts for attorneys in s 25(3) of the LPA, the NF's Rules and Governance Committee has been requested to discuss this requirement, which could be regarded as an unfair discriminatory burden for attorneys.

New NF members

Two new members joined the NF – Mashudu Kutama replaced Lutendo Sigogo who resigned at the beginning of the year after becoming President of the Law Society of the Northern Provinces. Mr Kutama is a nominee of the LSSA (Black Lawyers Association). Matthew Klein replaced Mark Hawyres as representative of the National Bar Council of SA.

Should you have enquiries, please contact us at LSSA@LSSA.org.za
All developments relating to the Legal Practice Act can be accessed on the LSSA website under the 'Legal Practice Act' tab at www.LSSA.org.za

Regards

MAX BOQWANA and JAN STEMMETT

Chairperson and Deputy Chairperson of the LSSA National Forum Committee

8 May 2017