

# LAW SOCIETY OF SOUTH AFRICA: LEGAL PRACTICE ACT ADVISORY



## Sixth meeting of the National Forum on the Legal Profession 3 September 2016

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.

Dear Colleagues

The [National Forum](#) on the Legal Profession (NF) held its sixth plenary meeting on 3 September 2016.

At the meeting, the NF continued to grapple with the rules for legal practitioners, the staffing and costs relating to the Legal Practice Council (LPC) as well as where provincial councils and committees will be located in the new dispensation.

The NF must make recommendations to Justice Minister Michael Masutha before 1 February 2017. It had agreed at its meeting in April this year to recommend nine provincial councils as well as an additional six committees at each High Court seat where there is no provincial council, to the Minister. At the meeting on 3 September, the committees were defined further when the NF agreed that each committee would comprise two legal practitioners (an attorney and an advocate), a third legal practitioner nominated by the relevant provincial council, as well as two staff members. The purpose of the committees is to provide access to practitioners and to members of the public in places where there are no provincial offices or councils of the LPC.

As regards **elections**, some progress has been made in that it was resolved that, for the first election of the LPC, there would be separate voters' rolls for attorneys and advocates. Attorneys would vote for the 10 practising attorneys on the LPC and advocates would vote for the 6 practising advocates. This would be reviewed after the first election when the LPC would consider whether there should be one voters' roll.

The mechanics of how the elections would be conducted, how diversity and skills mix of councillors will be ensured and whether there is an opportunity in the Act for a body such as an electoral college, will still be discussed. In the meantime the NF is researching elections in other jurisdictions, particularly in African jurisdictions.

Although the issue of **foreign legal practitioners** does arise in the NF, the Act makes provision that the Minister may, *in* consultation with the Minister of Trade and Industry and *after* consultation with the LPC, and having regard to any relevant international commitments of the Government, make regulations with respect to foreign legal practitioners. It is, therefore, not within the scope of the NF to do so.

A **three-person team** - which includes attorneys Jan Stemmett and Lutendo Sigogo as well as advocate Elizabeth Baloyi-Mere - was tasked to start drafting the submissions to the Minister.

Advocates Elizabeth Baloyi-Mere and Roseline Nyman have been appointed to the NF in the place of Dali Mpofo SC and Thami Ncongwane SC.

The **subcommittees** of the NF continue to meet regularly to deal with the tasks allocated to them.

The **Admin and HR subcommittee** has commenced negotiations with the statutory provincial law societies for the transfer of staff and assets to the LPC.

The **Rules and Code of Conduct** subcommittee has drafted the Code of Conduct. Some of the issues being discussed include whether the rules relating to advocates with trust accounts should be aligned with attorneys rather than with those for advocates. One example is whether they should be permitted to charge a collapse fee.

After some consultation, the subcommittee agreed that the Code of Conduct would state that all legal practitioners – attorneys and advocates – would robe in the lower courts in the new dispensation.

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

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

▶ Download the  
[Legal Practice Act](#)

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The **Governance subcommittee** is discussing provincial councils and committees and the allocation of functions to these. It is also investigating elections and voting. This committee has a further subcommittee - the Costing Committee - which is working with external consultants investigating various costs scenarios for the new structures.

The **Education subcommittee** is working to finalise a position on practical vocational training (articles and pupillage) in the new dispensation.

The next meeting of the NF plenary will be on 26 November 2016.

We invite you to communicate with us if you have questions or require information. You are welcome to e-mail us at [contact@LSSA.org.za](mailto:contact@LSSA.org.za).

**MAX BOQWANA** and **JAN STEMMETT**

Chairperson and Deputy Chairperson of the LSSA National Forum Committee

5 September 2016