

ANNEXURE A

REPUBLIC OF SOUTH AFRICA

LEGAL PRACTICE AMENDMENT BILL

(As introduced in the National Assembly (proposed section 75); explanatory summary of Bill published in Government Gazette No. of 2017) (The English text is the official text of the Bill)

(MINISTER OF JUSTICE AND CORRECTIONAL SERVICES)

[B —2017]

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments
_____ Words underlined with a solid line indicate insertions in existing enactments

BILL

To amend the Legal Practice Act, 2014, so as to further regulate the prescription of the areas of jurisdiction of the Provincial Councils; to provide that only practising legal practitioners may perform certain acts or render certain services; to further regulate the duties of banks in respect of trust accounts; to further regulate the duration of the National Forum on the Legal Profession; to further provide for the functions of the National Forum on the Legal Profession; to further provide for the dissolution date of the law societies; and to provide for matters connected therewith.

PARLIAMENT of the Republic of South Africa enacts as follows:—

Amendment of section 6 of Act 28 of 2014

1. Section 6 of the Legal Practice Act, 2014 (hereafter referred to as the principal Act), is hereby amended—

- (a) by the deletion in subsection (1)(a) of the word "and" at the end of subparagraph (xiii);
- (b) by the substitution in subsection (1)(a) for the full-stop at the end of subparagraph (xiv) of the expression "; and"; and
- (c) by the addition in subsection (1)(a) of the following subparagraph:

"(xv) establish, promote, administer, assist in the establishment, the promotion, or the administration of—

(aa) insurance schemes;

(bb) medical aid schemes or medical benefit schemes;

(cc) pension funds, provident funds, pension schemes or benevolent schemes,

for legal practitioners, former legal practitioners, for the employees of such legal practitioners, for the officials and employees of the Council and for the dependents of—

(A) legal practitioners;

(B) former legal practitioners,

(C) employees of legal practitioners; and

(D) officials and employees of the Council;".

Amendment of section 23 of Act 28 of 2014

2. Section 23 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (b) of the following paragraph:

"(b) The Minister **[must]** may, from time to time, prescribe the areas of jurisdiction of the Provincial Councils in consultation with the Council."

Amendment of section 33 of Act 28 of 2014

3. Section 33 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

"Subject to any other law no person other than a practising legal practitioner who has been admitted and enrolled as such in terms of this Act may, in expectation of any fee, commission, gain or reward—"; and

(b) by the substitution for subsection (3) of the following subsection:

"(3) No person may in expectation of any fee, commission, gain or reward, directly or indirectly, perform any act or render any service which in terms of any other law may only be done by an advocate, attorney, conveyancer or notary, unless that person is **[an]** a practising advocate, attorney, conveyancer or notary, as the case may be."

Amendment of section 91 of Act 28 of 2014

4. Section 91 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection—

"(4) Any bank at which a trust account practice keeps its trust account or any separate account forming part of its trust account, must, if so directed by the Council or the Board, furnish the Council or the Board with a signed **[statement]** transaction history of that account for the period determined by the Council or the Board, as the case may be.".

Amendment of section 96 of Act 28 of 2014

5. Section 96 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

"(4) The **[duration of the]** National Forum **[is for a period not exceeding three years and it]** ceases to exist on the date of the meeting with the Council as envisaged in section 105(3), or such other date as the Minister may determine after consultation with the National Forum **[commencement of Chapter 2]**".

Amendment of section 97 of Act 28 of 2014

6. Section 97 of the principal Act is hereby amended—

- (a) by the deletion in subsection (1)(a) of subparagraph (iv);
- (b) by the substitution in subsection (1)(a) for subparagraph (v) of the following subparagraph:

"(v) all the practical vocational training requirements that candidate attorneys or pupils must comply with before they can be admitted by the court as **[a]** legal practitioners;"

(c) by the substitution in subsection (1) for paragraph (c) of the following paragraph:

"(c) make rules, as provided for in section 109(2) and (3)."

(d) by the substitution in subsection (2) for paragraph (a) of the following paragraph:

"(2) (a) The National Forum must, within 24 months of the commencement of this Chapter, negotiate with, and reach an agreement with, the law societies referred to in section 56 of the Attorneys Act **[and any other similar statutory bodies still regulating the legal profession established in the former homelands]**, in respect of the transfer of their assets, rights, liabilities, obligations and staff, to the Council or Provincial Councils as well as a date on which the law societies shall be dissolved and such transfer effected: Provided that such date may not be later than six months after the date of commencement of Chapter 2."; and

(e) by the addition of the following subsection:

"(6) The National Forum must, at least six months before the date of commencement of Chapter 2, make recommendations to the Minister for purposes of making the regulations contemplated in section 94."

Amendment of section 109 of Act 28 of 2014

7. Section 109 of the principal Act is hereby amended—

(a) by the insertion in subsection (1) after paragraph (b) of the following paragraph:

"(bA) The Minister must, after receiving recommendations from the National Forum as contemplated in section 97(6), and in consultation with the National Forum, make the regulations contemplated in section 94 by publication in the *Gazette*, before the date of commencement of Chapter 2."; and

(b) by the addition of the following subsection:

"(3) The National Forum must, before the date of commencement of Chapter 2, make rules as contemplated in section 95 by publication in the *Gazette* and the provisions of subsection (2)(b), (c) and (d) apply with the changes required by the context."

Substitution of section 117 of Act 28 of 2014

8. The following section is hereby substituted for section 117 of the principal Act:

"Transitional provisions relating to existing law societies

117. The existing law societies must continue to perform their powers and functions until the **[commencement of Chapter 2]** date of transfer contemplated in section 97(2)(a)."

Short title

9. This Act is called the Legal Practice Amendment Act, 2017.