



**ADDRESS & CONTACT DETAILS**

**NATIONAL OFFICE**  
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Pretoria  
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To:  
All Legal Practitioners

1 November 2018

Re: Conversion of enrolment in terms of section 32 of the Legal Practice Act 28 of 2018 read with rules 30 and 32

Section 32 of the Legal Practice Act 28 of 2014 (the Act) has introduced a simplified manner for a legal practitioner on application to the Council to convert his or her enrolment as an attorney to that of an advocate with or without Fidelity Fund Certificate or vice versa. This memorandum is aimed at drawing attention of the legal practitioners to the applicable provisions of the Act, Regulations and Rules as well as the procedure to be followed when applying for conversion of enrolment.

1. Conversion of enrolment by Section 34(2)(a)(i) advocate (referral advocate) to section 34(2)(a)(ii) advocate (Trust Account Advocate)

Council has received some enquiries from advocates who would like to be enrolled as advocates envisaged in section 34(2)(a)(ii) of the Act (Trust Account Advocate). Advocates enrolled as such will be allowed to take instructions directly from public subject to condition that they may only render those legal services rendered by advocates before 1 November 2018 (section 34(2)(b)) and they may perform such functions ancillary to their instructions as are necessary to enable them to properly represent their clients (Rule 33), e.g. signing of pleadings.

Advocates will only be enrolled as Trust Account Advocates once they have complied with the provisions of regulation 7(9)(a) of Regulations under section 109(1)(a) of the Act (the Regulations). This means that such an advocate must have successfully completed a module in **attorneys' bookkeeping** referred to under regulation 6(10)(i) of the Regulations read with Rule 32.2.1.

**NB.** Advocates who have previously practised as attorneys, may apply for conversion without repeating the abovementioned bookkeeping module or the Legal Practice Management course.

Trust Account Advocates will have an impact on the Legal Practitioners' Fidelity Fund (LPFF) referred to under Chapter 6 of the Act. Trust Account Advocates like attorneys who practise on their own account or in partnership or as directors of juristic commercial entity (personal liability company) must, in terms of section 84(1) read with section 34(2)(b)(i) of the Act, be issued with a Fidelity Fund Certificate. Further, Trust account Advocates are

required to comply with the provisions of section 85(1)(b) of the Act read with Rule 27 and Rule 32.2.2 of the Rules under section 95(1) of the Act (the Rules) in that they must complete or be exempted from completing the Legal Practice Management Course within 12 months from the date of issue of the first Fidelity Fund Certificate.

NB. Advocates who are interested in this conversion should enquire, from the LEAD Division of the LSSA at [courses@LSSALEAD.org.za](mailto:courses@LSSALEAD.org.za) or Tel 012 441 4600, about the attorneys' bookkeeping module and the Legal Practice Management Course.

This means that application for Advocates admitted before 1 November 2018 is twofold: -

1. Advocates admitted and enrolled in terms of the Admission of Advocates Act 74 of 1964 must first submit a conversion application as referred to in section 32 of the Act. Such an application shall be in writing and must satisfy the requirements of rules 30.1 to 30.4.2 and 32.2 of the Rules, which means that the application should be made after successfully completing the module in attorneys' bookkeeping referred to under regulation 6(10)(i) of the Regulations read with Rule 32.2.1. The application fee of R690.00 prescribed in Rule 2.10 must also be paid to the LPC.
2. Upon receipt of an acceptance letter from the Council the Trust Account Advocate must then apply for a Fidelity Fund Certificates, which will be issued by the Council in terms of section 85(6). This application can be done electronically (when the LPFF application portal goes live mid November 2018) or manually on the form attached (Schedule 7B, in respect of Trust Account Advocates) as determined in terms of rule 49.
3. **Conversion applications and Fidelity Fund Certificate application forms must be forwarded to**

[directorgp@lpc.org.za](mailto:directorgp@lpc.org.za) – Gauteng, Limpopo, Mpumalanga, North West

[cls@capelawsoc.law.za](mailto:cls@capelawsoc.law.za) – Western Cape, Eastern Cape, Northern Cape

[pearl@lawsoc.co.za](mailto:pearl@lawsoc.co.za) - Kwazulu Natal

[director@fs-law.co.za](mailto:director@fs-law.co.za) – Free State, Northern Cape

NB. Application for Fidelity Fund Certificate in terms of section 85(1) read with section 85(6) must **ONLY** be made after approval of the application for conversion from being section 34(2)(a)(i) advocate (referral advocate) to a Trust Account Advocate in terms of rule 32.2 of the Rules.

2. **Conversion of enrolment by section 34(2)(a)(ii) advocate (Trust Account Advocate) to Section 34(2)(a)(i) advocate (referral advocate)**

Conversion of enrolment by Trust Account Advocate to referral advocate is regulated under rule 32.3. It is not necessary at this point to discuss this type of conversion because there are no such advocates at the moment.

**3. Conversion of an enrolment by an attorney to that of an advocate in terms of rule 30.1 to 30.4.3 and 32.1**

An attorney who wishes to convert to a trust account advocate or referral advocate and who has not practised as an advocate before, must likewise do so in terms of Rule 30. Such an attorney must have the right of appearance in the High Courts in terms of s25(2) of the Act or in terms of legislation applicable before the Act came into force and must have undergone such specialized training in advocacy as is required by pupils for admission as advocates, other than training in terms of a contract for the provision of practical vocational training under the supervision of a training supervisor (Rule 30.4.3.2).

**NB.** Attorneys who are interested in this conversion should enquire, from the General Council of the Bar (GCB) about the specialized training in advocacy as is required by pupils for admission as advocates.

**4. Conversion of enrolment by an advocate to that of an attorney in terms of rule 30.1 – 30.4.2 and 30.4.4**

It is required that an advocate who intends to convert his or her enrolment to that of an attorneys must have been enrolled as an advocate for a period of not less than 12 months, or 3 years in the case of an advocate who has been admitted and enrolled as such without having complied with the requirements of regulation 7 of the regulations under section 109(1)(a) of the Act or without having successfully completed a training course as contemplated in section 112(1)(a)(ii) of the Act (Rule 30.4.4.3).

**5. The importance of the Fidelity Fund Certificate**

Section 84(2) prohibits a legal practitioner referred to in section 84(1) (which includes Trust Account Advocates) or his / her employees to receive or hold funds or property in trust belonging to any other person unless such a practitioner is in possession of a fidelity fund certificate. Under the circumstances all advocates who would want to receive instructions directly from public must approach the LPC to apply for the 2019 Fidelity Fund Certificate before they accept instructions directly from public.

Kind regards,

**Ms. Kathleen Matolo - Dlepu**  
**Chairperson: Legal Practice Council**

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**CONVERSION: FROM REFERRAL ADVOCATE TO TRUST ACCOUNT ADVOCATE**

Application in terms of Rule 30.2, 30.4 and Rule 32.2 (Section 95(1)(x) read with Section 32(1)(b)) of the Legal Practice Act 28 of 2014

Personal particulars

Full Names: \_\_\_\_\_

Surname: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

ID No.: \_\_\_\_\_

Residential Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Are you in practice?: **YES / NO**

**If in Practice:**

Main Office: Physical Address: \_\_\_\_\_

Postal Address: \_\_\_\_\_

Tel. No.: \_\_\_\_\_

Mobile No.: \_\_\_\_\_

Fax No.: \_\_\_\_\_

E-mail/ other: \_\_\_\_\_

Are you employed by any person who does not practice?: **YES / NO**

Nature of employment: \_\_\_\_\_

Name of employer: \_\_\_\_\_

Business Address of employer: \_\_\_\_\_

Postal Address of employer: \_\_\_\_\_

\_\_\_\_\_

Tel No.: \_\_\_\_\_

**If not in Practice and about to commence practice:**

Business Address: \_\_\_\_\_

Personal Address: \_\_\_\_\_

Tel. No.: \_\_\_\_\_

E-mail/ other: \_\_\_\_\_

**The applicant must in a separate statement furnish the following information:**

1. Every court in which he or she has been admitted and an indication that he or she has not been admitted in any other court.
2. Provide a certificate signed by the registrar of every High court to which he or she applied for admission to practice, to the effect that no proceedings are pending or are contemplated to strike his or her name from the roll or to suspend him or her from practice.
3. Satisfies the Council that he or she has the knowledge of accounting necessary for the keeping of accounting records referred to in Section 87 of the Legal Practice Act and for compliance with the accounting rules published by the Council from time to time. Add proof that you have completed training pertaining to attorneys' bookkeeping as required in Rule 32.2.1.
4. Satisfies the Council that he or she has attended a legal practice management training course as contemplated by Section 85(1)(b) read with Rule 27.1 of the Legal Practice Act.
5. Attach proof of payment of the prescribed fee.
6. Attach proof of admission as an advocate.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



Schedule 7B  
(Rule 49)

### LEGAL PRACTITIONERS' FIDELITY FUND

#### APPLICATION FOR FIDELITY FUND CERTIFICATE IN TERMS OF THE LEGAL PRACTICE ACT, 2014 (ACT NO. 28 OF 2014)

**APPLICATION FORM FOR ADVOCATES** referred to in section 34(2)(b) of the Legal Practice Act

*PLEASE COMPLETE IN BLOCK LETTERS*

#### GENERAL INFORMATION

1. Full names of the applicant: \_\_\_\_\_  
Identity number: \_\_\_\_\_  
Practitioner reference number: \_\_\_\_\_
2. Physical address at which practice will be carried on (i.e. principal place of practice)  
\_\_\_\_\_  
\_\_\_\_\_  
Province: \_\_\_\_\_
3. Contact details:  
Postal address: \_\_\_\_\_  
Residential address: \_\_\_\_\_  
Docex address if applicable): \_\_\_\_\_  
Telephone (business): \_\_\_\_\_ (home): \_\_\_\_\_  
(fax): \_\_\_\_\_ (e-mail): \_\_\_\_\_

4. Any other physical address at which practice will be carried on, including province:  
 \_\_\_\_\_ Province: \_\_\_\_\_
5. If no Fidelity Fund Certificate has been obtained for the current year, state date on which the applicant will begin to practise: \_\_\_\_\_
6. If applicant ceased to practise, and intends to resume practising, state:  
 Name and address of former practice: \_\_\_\_\_  
 \_\_\_\_\_ Province: \_\_\_\_\_  
 When applicant ceased to practise: \_\_\_\_\_

**ADDITIONAL INFORMATION REQUIRED BY THE LEGAL PRACTITIONERS' FIDELITY FUND FOR RISK MANAGEMENT AND ANALYSIS**

7. Registration number with the Financial Intelligence Centre (attach proof): \_\_\_\_\_
8. Appointed auditor: \_\_\_\_\_ Practice registration number: \_\_\_\_\_  
 Firm name: \_\_\_\_\_  
 Physical address: \_\_\_\_\_  
 Postal address: \_\_\_\_\_  
 Telephone (business): \_\_\_\_\_ (fax): \_\_\_\_\_  
 E-mail address: \_\_\_\_\_
9. The applicant participated / did not participate in the automated monthly transfer system for the period from \_\_\_\_\_ 20\_\_\_\_ to \_\_\_\_\_ 20\_\_\_\_.
10. The applicant provides, or facilitates or arranges for the provision of, bridging finance to clients: YES / NO.
11. The applicant carried on the business of an investment practice during the year: YES / NO.

If yes, the investment practice registration in terms of the Financial Advisory and Intermediary Services Act, No. 37 of 2002, with the Financial Services Board is: \_\_\_\_\_

12. The applicant purchased / did not purchase -

12.1 insurance cover to protect against the possibility of misappropriation of trust money and property;

12.2 professional indemnity insurance cover

If such insurance was acquired, state in each case the extent of the cover, the name of the insurer and the policy number.

13. The legal practitioner is required to complete and return the attached risk questionnaire for analysis and risk management by the Attorneys Insurance Indemnity Fund.

#### **FINANCIAL INFORMATION**

14. As the legal practitioner I am responsible for ensuring that my trust accounts are maintained in compliance with the provisions of the Legal Practice Act, 28 of 2014 ("the Act") and the rules of the Legal Practice Council ("the Council"). I am responsible for the design, implementation and monitoring of accounting and internal control systems and the completion of the risk assessment of the firm.

14.1 I confirm that I have maintained the necessary accounting records as required in terms of sections 87(1) and 87(3) of the Council for the accounting period from 1 October 20\_\_\_\_ to 30 September 20\_\_\_\_.

14.2 **I certify that:**

14.2.1 the accounting records, to the best of my knowledge and belief, are in accordance with the terms of the Act and the rules of the Council;

14.2.2 any trust deficit was reported to the Council;

14.2.3 interest earned in terms of sections 86(5) of the Act was paid to the Council in full on a monthly basis;

14.2.4 the annual fees and charges are fully paid up.

14.3 state the amount (as per the bank statement) standing to the credit of the firm's trust banking account(s) and the amount of trust monies invested by the applicant's firm at the end of each quarter of this year, per financial institution:

Balance standing to the credit of the applicant's trust banking account(s)	(A) Section 86(1)	(B) Section 86(3)	(C) Section 86(4)	(D) Investments	(E) Estates	Total
Currency						
31 December 20__						
31 March 20__						
30 June 20__						
30 September 20__						
<b>TOTAL TRUST FUNDS</b>						

Trust banking account details	(A) Section 86(1)	(B) Section 86(3)	(C) Section 86(4)	(D) Investments	(E) Estates
Bank:					
Branch:					
Branch code:					
Account number:					
Credit interest rate:					
- at 31 March					

Balance standing to the credit of the applicant's trust banking account(s)	(A) Section 86(1)	(B) Section 86(3)	(C) Section 86(4)	(D) Investments	(E) Estates	(F) Property	Total
Bank service fee formula:							

14.4 **Analysis of section 86(4) investments by category at 30 September 20\_\_:**

Category	R	Distribution	Duration(average number of months)
Commercial			% months
Litigation			% months
Road Accident Fund			% months
Investments			% months
Estates			% months
Other: (Specify)			



		%	months
		%	months
		%	months
		%	months
<b>TOTAL</b>		<b>100%</b>	

14.5 I hereby authorise the above bank/s to provide the Legal Practitioners' Fidelity Fund with details of any changes to, and to certify, the above information, from time to time, as requested by the Fund.

I hereby authorise the Legal Practitioners' Fidelity Fund to negotiate with my bankers the terms relating to interest accruing on, and bank charges levied against, my trust current banking account(s).

SIGNED ON THIS \_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_ AT \_\_\_\_\_.

\_\_\_\_\_  
SIGNATURE OF APPLICANT