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LAW SOCIETY
OF SOUTH AFRICA

LSSA NEWSLETTER
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COMMITTED TO **BUILDING** A BETTER LEGAL PROFESSION FOR ALL

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LATEST ON THE LEGAL PRACTICE ACT

The election process for Council members for the new Legal Practice Council is underway following a nomination process earlier this month. Voting closes on Wednesday, 3 October at 12 noon. Voting can take place at any of the 74 polling stations, or by Fastmail, Docex or courier. The lists of candidates (attorneys and advocates) standing for election to the Council, as well as their profiles, list of polling stations, ballot papers, declaration form and National Forum communiques relating to the election process can be accessed on the LSSA website.

[Read more and download the relevant documents here.](#)

ROAD ACCIDENT BENEFIT SCHEME (RABS) BILL UPDATE

As reported during July 2018, the Parliamentary Portfolio Committee on Transport (the Committee) declared the Road Accident Benefit Scheme Bill (the Bill) desirable, notwithstanding serious concerns that were raised regarding the proposed scheme by LSSA in written submissions made in 2014 and 2017 and in an oral presentation in May 2018 at the commencement of public hearings held by the Committee.

Since then the LSSA has attended as an observer all the Committee meetings held in Parliament over the past several weeks and which culminated in a meeting on 13 September 2018 when the Committee completed the A-List procedure, thus paving the way for the Bill to be considered by the National Assembly during the fourth term, which starts on 8 of October 2018.

The Bill, *inter alia*, provides for no fault compensation, no general damages for pain and suffering, no lump sums (all benefits paid by way of pensions that cease on the death of the beneficiary), no common law rights to claim damages not covered by RABS (the guilty motorist bears no financial responsibility and gets the same benefits as the innocent victim, at the latter's expense), medial tariffs that will not be acceptable to private health care practitioners meaning public health care, Administrator not liable to pay for the claimant's legal or expert costs in presenting a claim or appealing a decision and no access to court except on review.

The Bill, in its current format, will have far-reaching effects on members of the public who will have to process their claims without a lawyer, except for those wealthy enough to afford a lawyer.

The LSSA has been actively involved in opposing the Bill from inception and is currently weighing up all potential options to ensure that the rights of innocent road accident victims are sufficiently protected as envisaged under the Constitution.

SMALL CLAIMS COURT SERVICE

Attorneys who wish to serve as Small Claims Court Commissioners must complete the prescribed application form and submit it to the Court Manager at the Magistrate's Office where they wish to serve.

A letter of good standing or a recommendation letter from the relevant Law Society (or provincial Council, as envisaged under the Legal Practice Act), must be submitted with the application.

Attorneys must, pursuant to s 9(2) of the Small Claims Court Act 61 of 1984 (the Act), be qualified to be admitted to practise as an attorney and have practised as an attorney for an uninterrupted period of at least five years, amongst other requirements. Commissioners are appointed on a voluntary basis and are not remunerated. Commissioners hold office at the Minister's discretion, who may at any time withdraw the appointment if, in his opinion, there is sufficient reason for doing so.

Section 9(1)(c) of the Act provides that a commissioner

appointed by the Minister in respect of specific court shall be deemed to be appointed for any court established under s 2 in that province (inserted by s18 of Act 42 of 2013).

[Download the prescribed application form here.](#)

DATABASE OF ARBITRATORS

The LSSA is currently in the process of updating its database of arbitrators, which will be used as its primary source when the LSSA is called upon to appoint or nominate arbitrators in contractual and other disputes.

Attorneys wishing to be included as part of the database are requested to provide us with the following details;

Full names

Name of firm

Date of admission

Telephone number

Email address

Website address

Field of speciality

Details of arbitration courses attended, if any.

Please forward details to Kris Devan at: Kris@LSSA.org.za

NEW IN THE LSSA PRACTICE MANAGEMENT TOOLKIT

A compendium of practice management articles written by experts for *De Rebus* to support you in your practice. Recent additions to the toolkit include the following:

Bringing advancing technology in litigation - time to explore electronic discovery

South Africa is already experiencing a 'drain' of data in global cases whereby lawyers and providers from other jurisdictions have to arrange to collect data from SA and then ship it back to their own country for processing, hosting and reviewing. In other words, SA is losing valuable business, which extends to arbitrations and other forms of alternative dispute resolution, as they often follow the High Court Rules. South Africa cannot be a true international center for dispute resolution until eDiscovery is adopted and incorporated into the Uniform Rules, as well as other forms of dispute resolution.

[Read more here.](#)

Succession planning in law firms: Some points to ponder

Over the years of activity in the profession, the practitioner would have built up a substantial practice and a good client base. What will happen to the practice after the practitioner leaves? What, if anything, should the practitioner consider ahead of leaving practice to ensure the successful continued existence of the firm? This consideration is the subject matter of this article and it is hoped that

the questions raised will assist in focusing the attention of legal practitioners to this important matter. Thomas Harban from the Attorneys Insurance Indemnity Fund looks at succession planning in the context of law firms.

[Read more here.](#)

Who is responsible for accounting records?

More often than not, legal practitioners outsource their accounting duties to qualified accountants or bookkeepers. Reasons for the outsourcing will, for obvious reasons, differ from one legal practitioner to another. Reasons range from an inability to prepare and/or balance books, to the need by the legal practitioner to focus on their area of expertise. In this article, the Practitioner Support Unit of the Attorneys Fidelity Fund seeks to clarify who is responsible for accounting records, and what should happen to the accounting records at any given point.

[Read more here](#)

Some red flag risk areas to keep a look out for in clients

This is focused on the internal control processes that law firms can implement in order to avoid or mitigate risks. The legal services rendered are aimed at carrying out mandates given by clients to the firm. The focus of this article is on the areas legal practitioners should consider when deciding whether to accept an instruction from a client.

[Read more here.](#)

RECENT PRESS RELEASES

25 September 2018: Notification issued by the statutory component Council members (non-BLA and non-NADEL) of the LSSA previously on the Legal Practice Council elections.

[Read press release](#)

17 September 2018: Joint statement by BLA and NADEL on the election of the South African Legal Practice Council.

[Read statement here.](#)

5 September 2018: Cape Law Society: Expropriation without compensation.

[Read press release.](#)

4 September 2018: LSSA welcomes election process for Legal Practice Council; urges practitioners to participate.

[Read press release.](#)

4 September 2018: Black Lawyers Association endorses rewriting of Attorneys Admission Examination.

[Read press release.](#)

17 August 2018: Get your will drafted for free by an attorney during National Wills Week: 17 to 21 September 2018.

[Read press release.](#)

14 August 2018: Law Society welcomes Constitutional Court judgment on National Director of Public Prosecutions.

[Read press release.](#)

7 August 2018: Nadel condemns the attack on Bolivarian Republic of Venezuela.

[Read press release](#)

4 August 2018: Law Society calls for accountability for unconstitutional and unlawful immunity for Dr Grace Mugabe.

[Read press release.](#)

LEAD: CATCH UP ON THE LATEST DEVELOPMENTS ON DEBT COLLECTION

LEAD's debt collection seminar will focus on the latest cases, new and proposed legislative changes (particularly the changes to the Magistrates' Courts Act relating to debt collections) and the effect of the *University of Stellenbosch Law Clinic* Constitutional Court case. Bloemfontein: 9 October; Pretoria: 16 October; Johannesburg: 17 October; East London: 24 October; Port Elizabeth: 25 October; Durban: 30 October; Cape Town: 2 November.

[Download the brochure and registration form here.](#)

Other seminars/courses on offer until the end of the year are:

Protection of Personal Information Act (POPI) - Midrand: 30 October

Risk Management - Durban: 10 October and Midrand: 23 November

Engineering and Construction Contracts - Midrand: 06-07 November

Civil Mediation - Midrand: 05-09 November

Divorce Mediation - Nelspruit: 15-19 October and East London: 12-16 November

Contact seminars@LSSALEAD.org.za for more information.

[View the full LEAD training calendar for legal practitioners here.](#)

[View the LEAD training calendar for support staff here.](#)