

Seventh meeting of the National Forum on the Legal Profession
26 November 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

At its seventh plenary meeting on 26 November 2016 since its establishment in March 2015, the [National Forum on the Legal Profession](#) (NF) refined its vision for nine fully functional provincial councils of the Legal Practice Council (LPC) once the Legal Practice Act 28 of 2014 comes into effect early in 2018.

The provincial councils will consist of 8 council members, except the Gauteng Provincial Council, which will have 12 council members to accommodate the large concentration of legal practitioners in that province.

A preliminary costing for the LPC based on a national council as well as nine fully functional provincial councils (and six committees) is estimated to be some R111 million for the first year. This will cover the regulatory as well as other functions of the LPC for the regulation of all legal practitioners – attorneys, advocates, candidate attorneys, pupil advocates and non-practising practitioners. The NF estimates there are 32 532 practising practitioners currently; 24 912 attorneys and 7 620 advocates.

The assumptions by the NF included that

- each province has a provincial council (PC) located at a High Court (with a High Court envisaged in Mbombela);
- each PC performs all functions;
- committees (in terms of s 23(6)) are located at every High Court which does not have a PC (three committees in the Eastern Cape, one in Gauteng, one in KwaZulu-Natal and one in Limpopo); and
- the committees will serve as service points only, with applications and requests sent to the relevant PC.

The NF is now working on the income assumptions for the LPC. Once this process is completed, the annual levy per legal practitioner will be determined.

Amendments to the Act

It was reported that a number of amendments to the LPA recommended by the NF to the Justice Department have been processed by the Department and will be ready by mid-December. The Department envisages that the amendments will be scheduled in the parliamentary programme early in 2017. Among the amendments proposed are those that will bring the LPC into effect in August 2017 so that it can run parallel with the statutory provincial law societies to allow for the election of council members and to ensure a proper transfer of all powers, functions, assets and so there is no vacuum between the two regulatory regimes. The hand-over from the provincial law societies must be completed by February 2018, when the LPC's powers will come into effect, the Law Societies will be abolished and the LPC will take over the regulation of the profession.

Read more on

► [the composition](#) of the National Forum

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

► [Download the Legal Practice Act](#)

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Election of council members

The Governance Subcommittee of the NF has been grappling with the election process for legal practitioners to elect the 16 elected council members to the LPC. This must comply with s 7 of the LPA.

The NF adopted the recommendation of the subcommittee that the principle of council representation as regards race and gender should be on the basis of 70:30 black to white and 50:50 male to female. The modalities on how these percentages will be achieved, taking into account all the other requirements set out in s 7, must still be determined.

Earlier this year, the NF agreed that only practising legal practitioners will be allowed to vote for the 16 legal practitioners on the LPC. The NF also agreed that there would be separate voters' rolls for attorneys and advocates. Attorneys will elect the 10 practising attorneys on the LPC and advocates would elect the 6 practising advocates. This can be reviewed after the first election if necessary.

The NF must also still determine the modalities for the election of council members for the Provincial Councils in terms of the specific criteria set out in s 23 of the Act. Among others, these indicate that 'provincial needs, interests and sensitivities' must be taken into account.

Transfer of staff and assets

The Admin and Human Resources Subcommittee of the NF is currently negotiation with the provincial law societies for the transfer of the staff and assets of the law societies to the LPC. It is envisaged that agreement in principle will be reached with the provincial law societies by the end of January 2017.

Education aspects

Agreement is still outstanding between the advocates' profession and the attorneys' profession on the practical vocational training requirements for the two branches of the profession.

Code of Conduct and Rules

The NF adopted the Code of Conduct for legal practitioners, candidate legal practitioners and juristic entities prepared by the Rules Subcommittee in terms of s 97 (1)(b) of the Act. The NF will publish the Code of Conduct and hand it to the LPC. In terms of s 36, the LPC must publish a draft of the Code of Conduct in the Government Gazette and call for comment in writing. The final code must then be gazetted. The Code of Conduct will serve as the prevailing standard of conduct for legal practitioners, candidate legal practitioners and juristic entities. Failure to adhere to the code will constitute misconduct.

The NF has also finalised most of the draft Rules (ss 95 and 109 (2)(a)). Once completed, these will be gazetted for comment and further amendments must also be published. In addition, Regulations in s 94 drafted by the NF must be approved by the Minister and Parliament. These must be gazetted before the LPC comes into effect.

► [Download the Code of Conduct here.](#)

Membership change

The Attorneys Fidelity Fund has replaced Abe Mathebula with Etienne Horn on the NF. Mr Mathebula has been recommended by the Judicial Service Commission for appointment to the Bench.

The next meeting of the NF will be on 28 January 2017. The for working committees will continue to meet in December 2016 in order to meet deadlines.

As in the past, we welcome your comments and questions. Please submit these to LSSA@LSSA.org.za

Regards

MAX BOQWANA and **JAN STEMMETT**
Chairperson and Deputy Chairperson of the LSSA National Forum Committee

30 November 2016

