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LAW SOCIETY
OF SOUTH AFRICA

LSSA NEWSLETTER
28 AUGUST 2017

COMMITTED TO BUILDING A BETTER LEGAL PROFESSION FOR ALL

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LATEST ON THE LEGAL PRACTICE ACT

Following an earlier six-month extension, Justice Minister Michael Masutha has granted a further extension until 31 October 2017 to the National Forum on the Legal Profession (NF) to present its recommendations to him in terms of s 97(1) and (2) of the Legal Practice Act. The NF is yet to finalise the agreements between it and the statutory provincial law societies on the transfer of staff and assets to the Legal Practice Council.

It is unclear at this stage whether this will impact on the implementation date of the Legal Practice Council, which is set for 1 August 2018. The next plenary meeting of the NF will be on 14 October 2017.

- Find background information and developments on the Legal Practice Act [here](#).

REVISED REGIONAL COURT PRACTICE DIRECTIVES

The Regional Court Presidents' Forum has issued revised practice directives which apply to all Regional Courts. The *4th Revision of the Civil Practice Directives for the Regional Courts 2017* and the *5th Revision of the Criminal Practice Directives for the Regional Courts 2017* come into operation on 1 September 2017.

- Download the *4th Revision of the Civil Practice Directives for the Regional Courts 2017* [here](#).

- Download the *5th Revision of the Criminal Practice Directives for the Regional Courts 2017* [here](#).

LSSA SEEKS LEVEL PLAYING FIELD FOR ATTORNEYS IN HIGHER COURTS

In commenting on the Legal Practice Amendment Bill [B11-2017], the LSSA has called for the playing fields to be levelled between attorneys and advocates as regards right of appearance in the higher courts.

- Read more [here](#).

NATIONAL WILLS WEEK: 11 TO 15 SEPTEMBER 2017

National Wills Week will take place from 11 to 15 September. The LSSA thanks the thousands of attorneys' firms and attorneys who will be drafting free basic wills for the public during that week.

- View the firms participating in National Wills Week [here](#).

PROFESSION MOURNS PASSING OF LSSA CEO, NIC SWART

The LSSA was deeply shocked and saddened at the sudden passing away of its CEO and Director of Legal Education and Development, Nic Swart, on 10 August 2017 in Gaborone, Botswana while attending the SADC Lawyers Association conference.

Speaking at his memorial service Chief Justice Mogoeng Mogoeng paid tribute to the role played by Mr Swart in his leadership of the profession, legal education, judicial skills training and in the briefing pattern initiative 'to make sure that South Africa becomes what it is envisioned to be in the Constitution'.

- LSSA shocked and saddened at passing of CEO, Nic Swart. Read press release [here](#).

- NADEL mourns the passing of the LSSA CEO Nic Swart. Read press release [here](#).

- Cape Law Society on the untimely passing away of Nic Swart, CEO of the Law Society of South Africa. Read press release [here](#).

- Black Lawyers Association is heartbroken by the sudden death of Mr Nic Swart. Read press release [here](#).

- Council and staff of the LSNP saddened at the passing of the CEO of the LSSA. Read press release [here](#).

- Council and staff of the Free State Law Society mourn the untimely death of Nic Swart. Read press release [here](#).

- Staff, councillors and members of the KwaZulu-Natal Law Society saddened by the loss of Nic Swart. Read press release [here](#).

SADC TRIBUNAL MATTER TO BE HEARD IN FEBRUARY 2018

The LSSA's matter to declare the actions of the President as well as the Ministers of Justice and International Relations and Cooperation in voting for, signing and planning to ratify the SADC Summit Protocol in 2014 as it relates to the SADC Tribunal, to be unconstitutional, will be heard by a Full Bench in the High Court: Gauteng Division on 5 to 7 February 2018. The 2014 Protocol deprives citizens in the SADC region - including South Africans - of the right to refer a dispute between citizens and their government to a regional court if they fail to find relief in their own courts.

Six Zimbabwean farmers have joined the matter as applicants, and the Centre for Applied Legal Studies (CALS) and the Southern Africa Litigation Centre (SALC) have been admitted as *amicus curiae*.

- Read more [here](#).

MAIL&GUARDIAN/LSSA LEGAL DISRUPTED: LEGAL TECH AND IMPLICATIONS

The Mail&Guardian/LSSA Legal Disrupted: Legal Tech and Implications one-day conference will focus on the future of the legal profession and law firms in South Africa amidst disruption, innovation and change.

- What is the impact of technology and innovation in the legal sector and what are their implications?
- How can you leverage on these innovative approaches in technology and innovation?
- How can legal tech, artificial intelligence be incorporated in functions such as legal advisory, analysis and business development?
- What are the tools, systems and best practices, lessons learned and successful strategies to win the game in today's competitive (or saturated) legal marketplace?
- What are the risks, costs and opportunities?
- How do you shape the legal future?

The Focus Rooms, Sunninghill on 29 September 2017. 10% discount for practising attorneys.

- View the programme, speakers and register online [here](#).

TAX INDABA: 75% DISCOUNT ON REGISTRATION BY SMALL FIRMS

The Tax Indaba will be held from 11 to 15 September 2017 at the Sandton Convention Centre. The LSSA is a participating professional body in the Tax Indaba. The organisers are offering a special discounted rate of R700 per day to practitioners from small firms (5 employees or less). When booking your ticket for the Tax Indaba, please use the SmallPractitioner2017 promotional code. Contact taxindaba@myplanner.co.za for assistance.

- Registration information [here](#).

- More about the Tax Indaba [here](#).

- View the programme [here](#).

LSSA COMMENTS: SECTIONAL TITLES AMENDMENT BILL AND COPYRIGHT AMENDMENT BILL

In its submissions of the Sectional Title Amendment Bill, the LSSA 'vigorously opposed' some sections and in a number of the sections, the LSSA was of the opinion that an affidavit from the developer should be required instead of a certificate from the conveyancer.

- Read the full submission [here](#).

On the Copyright Amendment Bill, the LSSA supported the comments made by the South African Institute of Intellectual Property Law (SAIIPL), as well as the comments made by Copyright Alliance.

In its submission, SAIIPL stated that the Bill, in its present form, is not suitable to be signed into law, that it will have far-reaching consequences and recommended that certain clauses be removed and others be re-drafted in order to avoid 'very undesirable consequences'.

- Read the full submission [here](#).

The Copyright Alliance stated that there are provisions in the Bill which, if not rectified, will effectively nullify the intentions of the DTI and will perpetuate the scourge that South African creators remain among the most vulnerable and under-compensated in our society.

- Read the full submission [here](#).

- View all LSSA comments and submission [here](#).

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:

Do all the services you provide fall within the ambit of the conduct of the profession?

The services provided by attorneys today have, in numerous ways, evolved from what they were in the past. This evolution and progression has affected both the content and the scope of the services provided by attorneys and is attributable to many factors, including the changing needs of the consumers of legal services, as well as legal practitioners identifying new areas in which they could potentially generate work. However, it must be noted that not all the extended services currently offered to the public and provided by some practitioners are what would traditionally be considered as falling within the scope of 'the conduct of the profession' or 'the scope of professional conduct' of an attorney. Practitioners must be aware that claims arising out of services not falling within the conduct of the profession and advice on foreign law (unless the practitioner is admitted in the respective jurisdiction) will not be covered under policy of the Attorneys Insurance Indemnity Fund. Some of the services (eg, investment advice, acting as an intermediary, broker or estate agent) not only carry their own unique risks, but also fall within the regulatory authority of entities outside of the legal profession.

- Read more [here](#).

Liability of directors of an incorporated law practice

There are conflicting views among legal practitioners as to whether the directors of an incorporated legal practice are liable for the debts and other liabilities of the practice or not. This difference of opinion is more accentuated in the case where one of the directors misappropriates or steals money from the firm's trust account. So are the directors of an incorporated legal practice personally liable for the debts and other liabilities of the practice? If so, to what extent and under what circumstances are they liable?

- Read more [here](#).

Consider this when verifying your mandate

When accepting instructions from a client it is important to verify all aspects of the mandate. In case of doubt, it is best to canvass this with the client, rather than assume that there is a meeting of minds between the client and yourself, this prudent approach will protect both you and the client's interests. While some may consider this approach rather tedious, a proper explanation of the rationale behind the verification will assure the client that every aspect of the matter is being properly interrogated.

- Read more [here](#).

Are you pursuing a legitimate professional indemnity claim?

The respective parties to a professional indemnity (PI) claim - the plaintiff's attorney, on the one hand, and the defendant (insured attorney), on the other - are opponents in the same manner as the opposing parties engaged in any other litigation. An in-depth examination of some of the claims notified to the Attorneys Insurance Indemnity Fund has revealed that this is not always the case. Cases have been found where the litigation is, unfortunately, brought by agreement between the supposed opponents. Furthermore, the litigation is not brought to pursue the interests of the plaintiff. In some instances, it is doubtful whether the plaintiff (as stated on the documents) is even aware of the litigation being pursued in his or her name.

- Read more [here](#).

- Access the full **Practice Management Toolkit** [here](#).

ENHANCE YOUR EXPERTISE - ATTEND A LEAD TRAINING EVENT

TWO WEBINARS - An hour of your time to catch up

Retirement Planning Webinar - 31 August at 16:00

They say the best time to start saving for retirement would have been when you started your first job. But you can catch up. Invest an hour in the LEAD Retirement Planning webinar on 31 August 2017 at 16:00 (1 hour presentation and 15 minutes of question time).

Understand the 'do's and don'ts' when planning for your retirement, taking into account current and proposed legislation that is likely to affect your income after retirement.

Registration closes at 10:00 on 29 August 2017.

- Read more and register online [here](#).

Labour Law Update Webinar - 20 September at 16:00

Catch up on the four latest and important labour law judgments with Adv Moksha Naidoo.

Discussions will focus on the implications of the judgments and the changes from past jurisprudence. The seminar will be a dialogue between participants and presenter and not a conventional lecture. Participants are encouraged to ask questions on any labour law issue or related topic discussed. Registration closes at 10:00 on 18 September 2017.

- Read more and register online [here](#).

UPCOMING SEMINARS, COURSES AND WORKSHOPS

- Debt Collecting in a Challenging Environment - book now to secure your place

This seminar will cover some of the basics of legal debt collection; the latest cases, new and proposed legislative changes (particularly the proposed changes to the Magistrates' Courts Act relating to debt collections) and the effect of the *University of Stellenbosch Law Clinic* Constitutional Court case.

- Read more [here](#).

Wills and Testamentary Trusts Seminar

A holistic approach to estate planning using wills and testamentary trusts, and including a discussion on case law, electronic wills and digital assets.

- Read more [here](#).

Advanced Insolvency Law Workshop with Prof Andre Boraine and a team of experts Pretoria: 18 - 21 September

The workshop will cover insolvency applications and consequential litigation; effects of insolvency on the insolvent, the solvent spouse and unexecuted contracts; impeachable transactions; insolvency meetings; interrogations and the proof of claims; rehabilitation; drafting of liquidation and distribution accounts; liquidation of companies and close corporations and the legal framework of business rescue.

- Read more, download the brochure and registration form [here](#).

RECENT PRESS RELEASES

30 July 2017 LSSA saddened at the passing of Judge Jake Mloi.
Read press release [here](#).

3 August 2017 Black Lawyers Association pays tribute to the late Judge Khalipi Jacob (Jake)

Moloi. Read press release [here](#).

8 August 2017 NADEL: Secret Ballot Vote - Let the People Come First. Read press release [here](#).

17 August 2017 NADEL is deeply appalled by the level of gender based violence in South Africa. Read press release [here](#).

18 August 2017 NADEL notes with dismay the statements made by Mr Sihle Zikalala. Read press release [here](#).

20 August 2017 Black Lawyers Association condemns the attack on Advocate Tembeka Ngcukaitobi by Sihle Zikalala. Read press release [here](#).

23 August 2017 Law Society adds its voice to condemn scourge of violence against women. Read press release [here](#).



Look out for the September issue of *De Rebus* available online on 1 September 2017 at www.derebus.org.za. Highlights will include:

- The SCA's interpretation of patent claims
- Different forms of money laundering
- Is there an onus to prove an impairment of dignity in discrimination cases?
- The legal framework for the acquisition by a company of its own shares
- Ways to curb expert bias
- Marital privilege or unfair discrimination on grounds of marital status? Section 198 of the CPA
- Time to apply for Fidelity Fund certificates

And all the usual columns and updates.



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