1. **Recommendations to the Minister**

   **Appendices to the Recommendations**

2. **Appendix A – Recommendation 1 – Election of the LPC**

3. **Appendix B – Recommendation 2 – Establishment of PCs**

4. **Appendix C – Recommendation 3 & 4 – Election of PCs**

5. **Appendix D – Recommendation 3 – Composition, Powers & Functions of the PCs**

6. **Appendix E – Recommendation 6 – PVT Requirements**

7. **Appendix F – Recommendation 6 – Right of Appearance**

8. **Appendix G – Recommendation 7 – Winding Up of the NF**

9. **Appendix H – Recommendation 8 – LPC Funding Model**

10. **Appendix I – Recommendation 8 – LPC Structure**

11. **Submissions – Practical Vocational Training**

   - LSSA
   - GCB/AFT
   - NFA
RECOMMENDATIONS TO THE MINISTER
OF JUSTICE AND CORRECTIONAL SERVICES

The National Forum on the Legal Profession (“the National forum”), established in terms of Chapter 10 of the Legal Practice Act 28 of 2014 (“the Act”), has the honour to make these recommendations to the Minister of Justice and Correctional Services (“the Minister”) in compliance with its obligations in terms of section 97(1) of the Legal Practice Act, 28 of 2014.

PURPOSE
Section 97(1)(a) read with s109 of the Act provides that the National Forum must, within 24 months after the commencement of chapter 10 of the Act (1 February 2015) make recommendations to the Minister on several issues as are listed under paragraphs (i) to (vii) of the same section. The 24 months’ time period was extended by the Minister to 31 July 2017.

The recommendations set out herein are submitted to the Minister in order to comply with the terms of reference of the National Forum in terms of s97 (1) (a) of the Act.

STRATEGIC FOCUS
These recommendations are aimed at the effective functioning of the South African Legal Practice Council (“the Council”) to be established in terms of Chapter 2 of the Act and its substructures, the Provincial Councils and are made in compliance with the specific provisions of the Act set out below.
The recommendations, if accepted, should enable the Minister to issue the required Regulations. In anticipation of the implementation of the Legal Practice Amendment Bill 2017 (“the Amendment Bill”) currently before Parliament and specifically the amendment sought by the Amendment Bill to s109(3) of the Act, the National Forum submits for the Minister’s consideration the draft Regulations attached as appendixes hereto. The Regulations should be promulgated in time for the Council and its substructures to become effectively established when Chapter 2 of the Act comes into effect, which will enable the Council to take over the regulation of the legal profession when s120(4) comes into operation.

RECOMMENDATION 1

Section 97(1) (a) (i): the National Forum must make recommendations to the Minister on an election procedure for purposes of constituting the Council.

1.1. RECOMMENDATION:

1.1.1. It is recommended that:-

1.1.1.1. The recommended procedure is in respect of the 16 (10 attorneys and 6 advocates) Legal Practitioners as contemplated under section 7(1) (a) read with section 94(1) (c) of the Act.

1.1.1.2. There shall be two separate voters’ rolls, the one for the advocates and the other for the attorneys. The advocates shall nominate their candidates and vote separately for their 6 representatives in the Council. Same shall apply to the attorneys who shall nominate and vote separately for their 10 representatives in the Council.

1.1.1.3. The first election shall take place within a period of 60 days from the date on which chapter 2 of the Act would have come into operation.

1.1.1.4. The Council (in respect to the first election of the National Forum) shall call upon members of the legal profession to nominate their preferred candidates to contest elections to serve in the Council. Each candidate shall be nominated and be supported by a practising Legal Practitioners in good standing with the Council (in respect of the first elections the provincial law society having jurisdiction over him or her).

1.1.1.5. There shall be a referee and scrutinisers, who shall be appointed by the Council or the National Forum to ensure that the elections are credible, free and fair.

1.1.1.6. Nominated candidates shall provide the Council or the National Forum (whichever is applicable) with their short profile or resume setting out their skills and accomplishments as well as experience and knowledge of the aspects set out section 7(2)(e) of the Act.
1.1.1.7. The Council’s attorneys’ composition component ratio shall be 70% / 30% race (Black and white respectively) and 50% / 50% gender representative.

1.1.1.8. The advocates’ component of the Council shall constitute of two black women, two black men, one white woman and one white man.

1.1.1.9. Each ballot paper shall contain a notice drawing the attention of the Legal Practitioners to the provisions of section 7(2) of the Act and the provisions shall be reproduced on the ballot paper for ease of reference of the Legal Practitioners.

1.1.1.10. The draft Regulation setting out the recommended election procedure and ballot paper for the election of the Legal Practitioners to the Council, is attached hereto as Appendix “A”.

1.2. MOTIVATION:

The reason for the recommendation is that s94 (1) (c) requires the Minister to make Regulations relating to a procedure for the election of Legal Practitioners to the Council as contemplated in s7 (1) (a). Furthermore one of the objects of the Council in terms of section 5(a) of the Act is to facilitate the realisation of the goal of a transformed and restructured legal profession that is accountable, efficient and independent. In order for the Council to be able to deliver on this mandate such a Council must earn legitimacy by being representative of the racial and gender composition of the population of the Republic of South Africa. Taking into account that the majority of the Legal Practitioners are the white minority a mechanism in the Regulations must be introduced through which the election of the Council will reflect the racial and gender composition of the Republic of South Africa. If this mechanism is not put in place the likelihood is that the Council composition will reflect the demographics of the legal profession. In the event that the Council does not reflect the demographic composition of the national population the general citizenry will not view it in good light, equally the black legal professionals will not have ownership of the Council and as a result the Council will lose the authority, respect and legitimacy to the detriment of its function.

The proposed ratios of 70% / 30% (Black and White) and 50% / 50% (Male and Female) representation in the Council constitutes a workable compromise. This takes into account the fact that in the past the law societies were predominantly white male until same was change in 1998 into 50% / 25% / 25%, 50% being for Non – BLA and Non – NADEL Legal Practitioners, 25% being for BLA and the other 25% being for NADEL. This arrangement resulted in about 50 / 50% between black and white in the governance of the attorneys profession. This recommendation
will now improve on the arrangement towards the reflection of the national demographics of the Republic.

Black people make up more than 90% of the South African population. The 70 / 30% ratio representation is recommended on the basis that race and gender composition of the Republic is not the only requirements to be taken into account when composing the Council. There are other requirements under section 7(2) like the objects of the Council, representation of persons with disabilities, provincial representation; and experience and knowledge of issues under paragraph (e).

1.3. IMPLEMENTATION:
If the recommendation is accepted, it is proposed that the Minister should issue the draft Regulation attached hereto as Appendix “A” to give effect thereto. The procedural requirements for the issuing of Regulations are set out in s94(2) & (3) and s109(2). In order to enable the Council to function effectively, the Regulation pertaining to this recommendation should become effective when Chapter 2 of the Act comes into operation in terms of s120(3). It is, however, important that when the remainder of the Act comes to operation in terms of s120(4), the Council must be ready to execute its regulatory functions to avoid lacunae in the management of its operations and the regulation of the profession.

1.4. ORGANISATIONAL AND PERSONNEL IMPLICATIONS
The proposed organisational structuring and personnel requirements of the Council and Provincial Councils as a whole are dealt with in Recommendation 8 below.

1.5. FINANCIAL IMPLICATIONS
The proposed costing requirements of the Council and Provincial Councils as a whole and the proposed funding of these structures are dealt with in Recommendation 8 below.

1.6. CONSTITUTIONAL IMPLICATIONS
This recommendation is made in accordance with the terms of reference afforded to the National Forum in terms of s97(1)(a)(i) of the Act. The organisational structuring of the Council and Provincial Councils in Recommendation 8 below, is designed to give effect to the purpose of the Act and the objects of the Council, which are in line with the Constitution. This
recommendation is therefore designed to augment the principles of the Constitution. The majority view of the National Forum is that these provisions are in accordance with the constitutional requirements. There is a minority view to the contrary, namely that all references to race, “black” and “white” in the proposed election procedure and any prescribed number of legal practitioners to be elected from any of these categories and from the ranks of female nominees according to the proposed election procedure, is unconstitutional.

1.7. PERSONS CONSULTED
The National Forum is composed of representatives of the main stakeholders in the legal profession, as determined in the Act. The organisations that designated the members of the National Forum as well as other organisations identified by the National Forum, were consulted in the deliberation process.

RECOMMENDATION 2
Section 97(1)(a)(ii): The National Forum must make recommendations to the Minister on the establishment of the Provincial Councils and their areas of jurisdiction, taking into account the factors referred to in section 23(2)(a).

2.1 RECOMMENDATION:
The National Forum recommends that:
2.1.1 Nine Provincial Councils should be established in terms of s23(1) of the Act, one in each province of South Africa.
2.1.2 The area of jurisdiction of each Provincial Council should be within the official boundary of the particular province.
2.1.3 Whilst the Legal Practice Council will most effectively be situated in Midrand, it is recommended that the offices of each of the Provincial Councils (PCs) should be situated in the following cities:
Gauteng PC to be situated in Pretoria.
Western Cape PC to be situated in Cape Town.
Free State PC to be situated in Bloemfontein.
KZN PC to be situated in Durban.
Mpumalanga PC to be situated in Nelspruit.
Eastern Cape PC to be situated in East London.
Limpopo PC to be situated in Polokwane.
North West PC to be situated in Mahikeng.
Northern Cape PC to be situated in Kimberley.

2.1.4 It is recommended that the Council should establish a committee in terms of s23(6), consisting of 2 attorneys and 2 advocates, at each place where there is a High Court but where there is not an office of a Provincial Council. These places, based on the current locations of High Courts, are Pietermaritzburg, Johannesburg, Grahamstown, Mthatha, Port Elizabeth, Thohoyandou and Mmabatho.

2.2 MOTIVATION:

2.2.1 The reason for the recommendation is that s94(1)(e) requires the Minister to make Regulations relating to the areas of jurisdiction of Provincial Councils as contemplated in s23(2)(b).

2.2.2 The establishment of a fully functional Provincial Council in each province will not only assist with the attainment of the Council’s objectives, but will also take care of provincial needs, interests and sensitivities as well as the interests of the public and Legal Practitioners.

2.2.3 The s23(6) committees at places where there are High Courts but where there is not an office of a Provincial Council, will perform limited functions delegated from Provincial Councils, will liaise with the High Courts and will serve the public and Legal Practitioners at local level.

2.3 IMPLEMENTATION:

2.3.1 If the recommendation is accepted, it is proposed that the Minister should issue the Regulation attached hereto as a draft in Appendix “B”, to establish the Provincial Councils and their areas of
jurisdiction, as required by s94(1)(e) read with s97(1)(a)(iii) of the Act. The procedural requirements for the issuing of Regulations are set out in s94(2) & (3) and s109(1).

2.3.2 In order to enable the Council to function effectively, the Regulation(s) pertaining to this recommendation should become effective as soon as possible after Chapter 2 is implemented in terms of s 120(3) and the Council is established. As soon as the first Council becomes functional, it should establish the 9 Provincial Councils in terms of s23(1), the Provincial Councils can be elected, staff can be appointed and infrastructure can be acquired.

2.3.3 It is essential that the Provincial Councils should be capable of functioning effectively when s120(4) comes into operation.

2.4 ORGANISATIONAL AND PERSONNEL IMPLICATIONS

The proposed organisational structuring and personnel requirements of the Council and Provincial Councils as a whole are dealt with in Recommendation 8 below.

2.5 FINANCIAL IMPLICATIONS

The proposed costing requirements of the Council and Provincial Councils as a whole and the proposed funding of these structures are dealt with in Recommendation 8 below.

2.6 CONSTITUTIONAL IMPLICATIONS

These recommendations are made in accordance with the terms of reference afforded to the National Forum in terms of s97(1)(a)(ii) of the Act. The organisational structuring of the Council and Provincial Councils in Recommendation 8 below, is designed to give effect to the purpose of the Act and the objects of the Council, which are in line with the Constitution. These recommendations are therefore designed to augment the principles of the Constitution and no negative constitutional implications are envisaged.

2.7 PERSONS CONSULTED

The National Forum is composed of representatives of the main stakeholders in the legal profession, as determined in the Act. The organisations that designated the members of the National Forum as well as other organisations identified by the National Forum, were consulted in the deliberation process.
RECOMMENDATION 3

Section 97(1)(a)(iii): The National Forum must make recommendations to the Minister on the composition, powers and functions of the Provincial Councils.

3.1. RECOMMENDATION:

The National Forum recommends that:

3.1.1 The Provincial Councils of KwaZulu Natal, Mpumalanga, Limpopo, North West, Free State, Northern Cape, Western Cape and Eastern Cape provinces should consist of ten Legal Practitioners each and that the Provincial Council of Gauteng province should consist of twelve Legal Practitioners.

3.1.2 The proportion of Attorneys and Advocates serving on each Provincial Council and the procedure for their election, are set out in Rule 16 of the draft Rules. Copies of draft Rule 16 and the draft ballot papers are contained in Appendix “C” hereto. The effect of Rule 16 is that the Provincial Councils will be composed as set out in the table below. In terms of Rule 16, 50% of the Legal Practitioners serving on each Provincial Council will be female and 50% will be male:

<table>
<thead>
<tr>
<th>COMPOSITION OF PROVINCIAL COUNCILS</th>
<th>EC</th>
<th>FS</th>
<th>GP</th>
<th>KZN</th>
<th>LP</th>
<th>MP</th>
<th>NC</th>
<th>NW</th>
<th>WC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorneys – Black</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Attorneys - White</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Advocates - Black</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Advocates - White</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Total Legal Practitioners</td>
<td>10</td>
<td>10</td>
<td>12</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
</tr>
</tbody>
</table>

3.1.3 It is recommended that the powers and functions of the Provincial Councils should be as set out in the draft Regulation contained in Appendix “D” hereto.

3.2. MOTIVATION:

3.2.1. The reason for these recommendations are that s109(1)(a) read with s97(1)(a)(iii) requires the Minister to make Regulations relating to the composition, powers and functions of Provincial Councils.
3.2.2. The number of Legal Practitioners who should serve on the Provincial Councils, is determined by the functions these Councils have to perform and by the need for them to be representative of race and gender as far as practicable.

3.3. IMPLEMENTATION:

3.3.1. If the recommendation is accepted, it is proposed that the Minister should issue the draft Regulation attached hereto as Appendix “D”, setting out the composition, powers and functions of the Provincial Councils, to give effect to the requirements of s109(1)(a) read with s97(1)(a)(iii). The procedural requirements for the issuing of Regulations are set out in s94(2) & (3) and s109(1).

3.3.2. To enable the Council to function effectively, the Regulation(s) pertaining to this recommendation should become effective by the time Chapter 2 of the Act comes into operation in terms of s120(3), in order that the Legal Practice Council can establish the Provincial Councils, elections of Provincial Councils can be held and the Provincial Councils can be fully functional when s120(4) comes into operation.

3.4. ORGANISATIONAL AND PERSONNEL IMPLICATIONS

The proposed organisational structuring and personnel requirements of the Council and Provincial Councils as a whole are dealt with in Recommendation 8 below.

3.5. FINANCIAL IMPLICATIONS

The proposed costing requirements of the Council and Provincial Councils as a whole and the proposed funding of these structures are dealt with in Recommendation 8 below.

3.6. CONSTITUTIONAL IMPLICATIONS

This recommendation is made in accordance with the terms of reference afforded to the National Forum in terms of s97(1)(a)(iii) of the Act. The organisational structuring of the Council and Provincial Councils in Recommendation 8 below, is designed to give effect to the purpose of the Act and the objects of the Council, which are in line with the Constitution. This recommendation is therefore designed to augment the principles of the Constitution and no negative constitutional implications are envisaged. There is a minority view to the contrary, namely that all references to race, “black” and “white” in the proposed election procedure and
any prescribed number of legal practitioners to be elected from any of these categories and from the ranks of female nominees according to the proposed election procedure, is unconstitutional.

3.7. PERSONS CONSULTED
The National Forum is composed of representatives of the main stakeholders in the legal profession, as determined in the Act. The organisations that designated the members of the National Forum as well as other organisations identified by the National Forum, were consulted in the deliberation process.

RECOMMENDATION 4
Section 97(1)(a)(iv): The National Forum must make recommendations to the Minister on the manner in which the Provincial Councils must be elected.

4.1. RECOMMENDATION:
S97(1)(a)(iv) of the Act requires the National Forum to recommend to the Minister the manner in which the Provincial Councils must be elected. Apart from the provisions of s97(1)(a)(iv) there are no other enabling provisions in the Act for the Minister to make Regulations on the manner of election of the Provincial Councils.

S97(1)(a)(iv) appears to be in conflict with s23(4) and s95(1)(j), which require the Council to make Rules to provide for the election of Provincial Councils. On this basis it is recommended that the election of Provincial Councils be dealt with in the Rules and not in the Regulations.

4.2. MOTIVATION:
The reason for the recommendation is that S97(1)(a)(iv) provides that the National Forum must make recommendations to the Minister on the manner in which the Provincial Councils must be elected, but there is no provision in s94 (which lists the required Regulations) for the election of Provincial Councils. S23(4) as well as s95(1)(j) requires that the election of Provincial Councils should be dealt with in the Rules. It is therefore recommended that the election procedure be contained in the Rules.
The National Forum has drafted Rules for the election of Provincial Councils, which are modelled on the election of the Legal Practitioners to serve on the Council. Rule 16 provides for the election of Provincial Councils. Copies of draft Rule 16 and the draft ballot papers are contained in Appendix “C” hereto.

RECOMMENDATION 5

Section 97(1)(a)(v): The National Forum must make recommendations to the Minister on 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.

5.1. RECOMMENDATION:

The National Forum was not able to reach consensus on recommendations relating to the practical vocational training requirements that candidate attorneys and pupils must comply with. The following 3 recommendations are submitted for consideration by the Minister. In addition, the National Forum also wishes to indicate that it is considering a draft compromise containing elements of the 3 recommendations, as described in paragraph 5.1.4 on page 22 below.

5.1.1  RECOMMENDATION BY THE LAW SOCIETY OF SOUTH AFRICA (LSSA), SUPPORTED BY THE NATIONAL BAR COUNCIL OF SOUTH AFRICA (NBCSA) ON THE FUTURE PRACTICAL VOCATIONAL TRAINING FOR ALL CANDIDATE LEGAL PRACTITIONERS, IN TERMS OF THE LEGAL PRACTICE ACT

5.1.1.1 General

- Access to the profession and a satisfactory standard of learning for practice are guiding principles.
- The model must apply to all candidate legal practitioners, providing for course and workplace training. The purpose is to promote a uniform, transformed legal profession.
- Training can take place through contact, distance and digital methods.
- Course and workplace training must take place in compliance with standards as set out in the Legal Practice Council (LPC) Rules.
- The provider is subject to accreditation by the LPC.
• After completion of Practical Vocational Training (PVT), the graduate will exercise a choice whether to continue as candidate attorney or pupil.

• Formative (on going) assessment will apply to both elements of PVT.

• Summative competency assessment in terms of section 28 the LPA that will be conducted under the auspices of the LPC, will determine readiness for admission.

5.1.1.2 Course work: Proposed modules

The following modules will initially form part of the mandatory PVT Course programme, learning to be acquired in accordance with standards as set out in the Rules and within the context of the areas of law that are relevant for practice, inter alia, family law:

• Special legal accounting for legal practitioners
• Constitutional law and customary law
• Alternative dispute resolution
• Advocacy skills including trial and motion court
• Civil procedure
• Criminal procedure
• Professional conduct and Legal ethics
• Legal writing and drafting
• Information and communication technology for practice and relevant aspects of cyber law
• Administration of estates

The LPC will review the module list from time to time.

Serious consideration must be given to additional training in relevant fields of practice e.g. Conveyancing, Drafting of contracts, which may be provided on a non-mandatory basis by the provider and/or at the early stage of mandatory Post qualification professional development (PPD) programmes.

Advanced training and specialisation will occur at post-qualification level.

Training must embrace a blended model of provision, which includes contact during the day and/or after hours, distance tuition and digital learning. The purpose is to create a flexible, accessible and affordable learning process and save costs without compromising quality.

Training must be based on clear, written, published and practice-directed learning outcomes.
Facilitators must have an appropriate level of experience and be able to impart knowledge and skills.

Training will be provided on the assumption that graduates have acquired the necessary and relevant theoretical basis during the LLB study.

5.1.1.3 Duration of coursework and assessment

The duration of coursework will be 400 (four hundred) notional hours (equivalent to 4 (four) months), to be completed within a maximum period of 3 (three) years, from date of first registration.

The training programme must provide for formative assessment.

The reason for the 3-year period is to provide sufficient time to candidate practitioners to comply with the obligation. Some might not be able to comply during the proposed minimum period due to financial, work or personal circumstances.

Failure to comply within the period of three years will require the repetition of the course programme. The reason is to ensure that learning is up to date with changing laws and procedures.

Summative assessment will take place under the auspices of the LPC.

5.1.1.4 Duration of workplace training

Workplace training will be for a 12 (twelve) month period. Course work may be completed in addition to or simultaneous with such period.

The LSSA proposes the following entities with regard to workplace training:

For candidate attorneys:

- private and State Attorneys' firms

For pupils:

- Registered practising advocates

For all candidate legal practitioners:

- Legal Aid institutions which are approved by the LPC for this purpose and which are supervised by a registered legal practitioner or
• Other institutions approved by the LPC which is supervised by a registered legal practitioner. This will create a mechanism to promote access, assuming that training in such a workplace will be in accordance with the standards as set out in the Rules.

5.1.1.5 Accreditation and quality assurance

The LPC will be responsible for the accreditation of training providers and exercise oversight over both elements of PVT in accordance with criteria and processes set out in the Rules.

5.1.1.6 Cost of course work

Current figures indicate that approximately 4 000 persons will require training per year.

Training of this intensive nature is costly, however shared and decentralised premises, online materials, visiting instructors and digital learning methods will contribute to savings that will further promote access.

The budget may be funded through tuition fees, salaries and grants from, for example, the LPC, Legal Practitioners Fidelity Fund (LPFF), SASSETA, government etc.

The provider may raise part of the cost through ‘third stream’ income derived from other training provision.

5.1.1.7 Remuneration of candidate practitioners

The LSSA is of the view that candidate legal practitioners should be remunerated. It is mindful of the current position in the advocates’ profession, but suggests that a solution be found. This could include an allowance from the supervising practitioner and/or voluntary association, a grant from the LPC, LPFF or SASSETA, or providing a limited right to practise.

5.1.1.8 Transitional role for LSSA-LEAD

It is proposed that the operation of the LSSA-L.E.A.D be extended for as long as it is required to meet the purposes of the LPA. Examinations and training programmes are already in place. Approval to provide training in 2018 can be applied for in terms of the current Attorneys Act, 1979. The LSSA Council will investigate a budget for the transitional arrangement.

5.1.1.9 Rules of the National Forum

The National Forum on the Legal Profession must ensure that the Rules for the implementation of the proposed model, apply to all candidate legal practitioners.
5.1.1.10 Draft Regulation

The draft Regulation based on the LSSA’s recommendation, is contained in Appendix “E1” attached hereto.

5.1.2 RECOMMENDATION BY THE GENERAL COUNCIL OF THE BAR OF SOUTH AFRICA (GCB) AND THE ADVOCATES FOR TRANSFORMATION (AFT)

5.1.2.1 These are the recommendations of the General Council of the Bar (GCB) and Advocates for Transformation (AFT) with regard to practical vocational training (PVT) for pupils. At present, no practical vocational training at all is required by law for admission as an advocate.

5.1.2.2 In considering what the PVT requirements for pupils should be, the GCB and AFT have been guided by two main considerations:

1. Persons who are admitted to practise as advocates must have the necessary skills to be able to provide an effective service to clients. This is in the interests of those clients, in the interests of the administration of justice, and in the interest of the right of access to justice; and

2. The PVT requirements must not inhibit access to the profession.

5.1.2.3 The latter consideration is particularly pressing because unlike candidate attorneys, pupils are not employed by a legal practitioner. They do not render legal services on behalf of a legal practitioner, they do not charge fees, and they do not earn an income. PVT for pupils therefore necessarily requires them to undergo a period during which they are not employed and do not have any income. The longer the period of practical vocational training, the more this will limit access to the profession for those who are not well-resourced.

5.1.2.4 The GCB and AFT propose the following with regard to PVT of pupils:

1. A pupil may not be admitted as an advocate unless he or she has:

   • undergone PVT which has been provided by or through a training institution accredited for this purpose by the Legal Practice Council (LPC);

   • undergone that training for a period of not less than six months on a full-time basis, or equivalent training on a part-time basis for not less than twelve months; and

   • passed a competency-based examination or assessment for pupils, which has been carried out by the LPC or an institution or organisation engaged or accredited by it to conduct the examination or
assessment on its behalf. AFT has resolved that an assessment, and not an examination, should be conducted. The GCB has not yet taken a position on this issue.

2. The practical vocational training should consist of the following elements:

- knowledge-based practical training;
- skill-based practical training, including practical training with regard to the organisation of the courts and of the practice of an advocate.

5.1.2.5 The first element of the training should ensure that pupils have the specific knowledge which is required for practice as an advocate (“coursework training”). The second element of the training (“workplace training”) should ensure that pupils have:

- an opportunity to learn and practise the core advocacy skills of legal writing and oral advocacy;
- the opportunity to learn practical aspects of the method and organisation of an advocate’s practice; the relationship between advocates, attorneys and clients; the system of courts in which they are likely to appear; and the core ethical rules for practise as an advocate.

5.1.2.6 As is provided by the Act, the assessment or examination should be undertaken by the LPC or institutions or organisations engaged or accredited by it for this purpose. The system of assessment or examination should involve moderation on a national basis, to ensure consistency across training institutions and across the country.

5.1.2.7 Draft Regulation
The draft Regulation based on the GCB and AFT’s recommendation, is contained in Appendix “E2” attached hereto.

5.1.3 RECOMMENDATION BY THE NATIONAL FORUM OF ADVOCATES (NFA)

5.1.3.1 The National Forum of Advocates (“NFA”) proposes a system of pupillage under the supervision of any structure which may be accredited by the Legal Practice Council (“hereinafter referred to as the relevant structure”), such as the NFA, which is able to present practical vocational training to pupils according to the requirements laid down by the Legal Practice Council.
5.1.3.2 The system is devised to impart the necessary **practical** knowledge to pupils to enable them to practice as advocates effectively and ethically. At the same time the system provides a mechanism for the **continued legal education** of advocates who are already in practice.

5.1.3.4 **Supervision of the pupillage system and continued legal education**

No single pupil masters should be allocated to single pupils because this would unnecessarily limit the number of pupils who may want to undergo pupillage. In the case of the NFA, the Bar Council envisages appointing a Legal Education Committee consisting of senior junior practicing advocates who would supervise pupillage and the continued legal education of practicing advocates.

5.1.3.5 **Syllabus for pupillage**

Firstly, the pupillage should not be a repetition of the university syllabus of the pupils. It should focus on practical aspects of advocates’ practice which the NFA regards as indispensable for advocates to practice effectively and ethically.

Secondly, the syllabus should be similar to the syllabus of candidate attorneys (not necessarily identical) to the extent that it should simplify the process of conversion from practicing as an advocate to practicing as an attorney, and to widen the spectrum of practical knowledge within the advocates’ profession.

5.1.3.6 **Presentation of the pupillage syllabus**

The relevant practical knowledge should be imparted to pupils by means of de-centralised lectures at seminars under the auspices of the NFA or any other accredited structure in the jurisdiction areas of various Divisions of the High Court of South Africa where the relevant structure has sufficient infrastructure to present the lectures/seminars as well as by means of compulsory controlled attendance of court proceedings. In the case of the NFA, it is envisaged that lectures will be given by judges, magistrates, senior counsel, law lecturers, prosecutors and/or any other persons who the Legal Education Committee approves as having suitable knowledge to impart the required knowledge to pupils. Pupils would be expected to approach the lecturers during the seminars with any enquiries regarding aspects broached during the seminars. Attendance of the seminars would be compulsory, and absence from any of the seminars or part thereof should only be condoned by the relevant structure on grounds which it regards as reasonably justifiable. Seminars should be held after normal business hours during weekdays, and on Saturdays dedicated for that purpose, to allow pupils, if they wish, to possibly pursue remunerated employment during normal office hours during the week when they are not attending court as part of their pupillage.

5.1.3.7 **Costs of the seminars, assessments and examinations**

The seminars should be advertised widely and be accessible to any interested person. Attendance fees for pupils and other attendees in respect of the seminars should be fixed from time to time by the Legal Practice Council in consultation with the relevant structure. Fees for assessments and examinations should also be fixed from time to time in the same way and
should be payable in advance by any person who applies to the relevant structure to be assessed/examined.

5.1.3.8 Assessments and examinations

- Assessments:

The relevant structure should be authorised to assess, on written application, the competence of any pupil at any stage during the period of pupillage, to appear in any proceedings in the forums allowed in terms of the Legal Practice Act for a reasonable fee, and to grant permission to such pupil to appear, subject to any conditions which the said structure may impose. This permission should not be granted in respect of the drafting of any process in court proceedings.

- Examinations:

No single central national admission examination should be held to test the competence of the pupils to practice effectively and ethically.

At the end of each series of seminars which covered the full syllabus of pupillage in a particular Division of the High Court, the relevant structure should conduct an open-book written examination of the pupils in that Division, followed by an oral examination. These examinations should both test the knowledge imparted during the seminars and experienced by means of the court attendances.

All pupils who have attended all seminars and court attendances except those for which they received written condonation of absence from the relevant structure, and have passed the written and oral admission examinations, should be allowed to be admitted and enrolled as practicing advocates subject only to the other legal requirements in the Legal Practice Act not related to practical vocational training.

There should be two admission examinations in each calendar year - one in May and one in November and pupils should be allowed to undergo any of these two examinations after having undergone at least four months of pupillage, subject to the authority of the relevant structure to grant exemption in that regard as set out in the next paragraph below.

5.1.3.9 Duration of pupillage

The total duration of the period of pupillage should not exceed twelve months unless special condonation is granted to a candidate by the Legal Practice Council on application by the candidate.

The relevant structure should be authorised by the Legal Practice Council, on good cause shown on application by any pupil, to exempt such pupil from attendance of any or all of the seminars and/or court attendances if it is of the opinion that such pupil has prior learning which would
*prima facie* enable such pupil to successfully undergo the written and oral examinations without having attended or be required to attend any or all of the seminars and/or court attendances.

5.1.3.10 Subject to what is said in the preceding paragraph above, attendance of at least the following before examination and assessment should be required:

7 days of High Court criminal trials,
7 days of Magistrates’ Court (district and/or regional) criminal matters, including at least two bail applications which should include at least one opposed bail application,
7 days of High Court civil trials,
7 days of Magistrates’ Court civil trials which should including at least 2 divorce matters,
7 days of High Court application hearings which should include opposed and unopposed matters and
7 days of Magistrate Court application hearings which have to include opposed and unopposed matters.

The subjects to be covered by the seminars should **include** the following (basic bookkeeping and administration of estates should also be considered):

1. **Professional Ethics**
   The applicable rules of ethics applicable to all advocates should be taught. Comprehensive knowledge of this topic, without having to refer to any source documents should be required.

2. **Practice Directives**
   The Practice Directives applicable in the relevant Division where the pupil will normally practice, as well as the Practice Directives of the Supreme Court of Appeal and the Constitutional Court should be taught.

3. **Advocacy skills**
   The following advocacy skills should be taught from a practical perspective with reference to the applicable law and practice in the relevant courts:

   3.1 **Setting up chambers and keeping required records**
      The basic requirements of functional chambers, including equipment and other infrastructure, basic computer literacy and keeping records should be taught.

   3.2 **Identifying the law relevant to each case and accessing/researching relevant legal sources**
      The ability to identify the law relevant to a specific case, and to access and research the relevant current legal position in available sources should be taught.

   3.3 **Effective consultation and taking of witness statements**
      Proper consultation and recording of witness statements should be taught.
3.4 Assessing the merits of a case and options for advice to the client
   The aspects to consider when assessing the merits of a client’s case and the options open
to the advocate about the advice to the client about possible steps to be taken by the
client to protect his /her/its interests should be taught. This should include reference to
aspects such as the *locus standi* of parties, jurisdiction, prescription and the search for
legal precedents.

3.5 Obtaining necessary evidence and witnesses
   Practical steps to be taken to obtain evidence and witnesses necessary to properly
advance the case of the client should be taught.

3.6 Preparing for trial
   Pupils should be taught how to organise their papers for trial, consult witnesses , revise
material, identify the strong and weak points of the own and opposing case and to plan
how to neutralise the opposing case and how to decide on the sequence and nature of
evidence to best present a client’s case to the court.

3.7 Presenting evidence to the court
   Pupils should be taught how to present all forms of necessary evidence to the court in
presenting their clients’ cases to the court and how to rebut the evidence presented by
the opposing party/parties.

3.8 Cross-examination
   Pupils should be taught the theory of effective cross-examination of witnesses and the
limitations to cross-examination.

3.9 Addressing the courts correctly and presenting argument to the courts
   Pupils should be taught how to correctly address the relevant courts when they are
entitled to speak , how and when to raise objections to the conduct of opposing counsel
or witnesses, or to inadmissible evidence and how to effectively structure and present
their arguments to a court.

3.10 Noting judgments
   Pupils should be taught how to effectively note judgements which are not handed down
in written form.

3.11 Applications for leave to appeal at the time of judgments.
   Pupils should be taught what steps should be taken and what preparations should be
made to be able to apply for leave to appeal immediately after judgment was handed
down.
4. Civil Practice-Motion Court
   4.1 Identifying motion procedure as the applicable form of litigating.
   4.2 The chronological procedural steps in Motion Court proceedings.
   4.3 Applications for interim relief/final relief: Formal requirements.
   4.4 Ex parte applications.
   4.5 Interlocutory applications and their distinctive characteristics and requirements.
   4.6 Specific types of applications most generally encountered in practice.
   4.7 Factual disputes arising in the application papers and applicable options to deal with them.
   4.8 Interest and costs.

5. Civil Practice-Action Procedure
   5.1 Identifying action procedure as the applicable form of litigating.
   5.2 The chronological procedural steps in action proceedings and the purpose of each.
   5.3 Interest and costs.

6. Criminal Law Practice
   6.1 How to handle every step in the normal procedural sequence of a criminal trial, including plea bargaining, all written documents to be drafted for the plea stage, deciding whether to give plea explanations or not, how to decide whether an accused client should testify in his/her defence or not.
   6.2 How to make applications relevant to criminal trials, such as for compelling the furnishing of further particulars of charges, discovery of documents by the State, referral of accused for psychiatric evaluation, recusal, special entries.
   6.3 How to handle inquests.

7. Legal Drafting.
   7.1 Civil Practice.
      Pupils should be taught how to draft all pleadings and notices in both application and action procedure.
   7.2 Criminal Procedure.
      Pupils should be taught how to draft all the documents necessary to conduct a criminal trial, as envisaged in paragraph 6 above.

8. Appeals.

   Pupils should be taught how to obtain and prepare all necessary documents for civil and criminal appeals, how and when to deliver them, as well as how and when to draft and deliver all necessary applications and heads of argument. The practical handling of bail appeals in criminal matters should be included in this module of the syllabus.

Pupils should be taught how to identify matters which are reviewable and to obtain and prepare all necessary documents for the review application, as well as how and when to draft and deliver the review application and heads of argument.

5.1.3.11 Continued legal education

Practicing advocates will be are required to ensure that they remain sufficiently informed of developments of the law to enable them to practice effectively and ethically in the branch(es) of law in which they practice. To this end, the seminars referred to above, which are primarily envisaged for the pupillage system, will create an ideal mechanism to ensure the continued legal education of practicing advocates, and they should receive credits in that regard for their continued practice to the extent that they attend these seminars. This will also provide a source of funding for the seminars and consequently for the pupillage system.

5.1.3.12 Draft Regulation

The Regulation based on the recommendation by the NFA is contained in Appendix “E3” attached hereto.

5.1.4 DRAFT COMPROMISE PROPOSAL STILL BEING CONSIDERED BY THE NATIONAL FORUM

5.1.4.1 As recent as 2 weeks before the submission of these recommendations, the draft compromise Regulation in Appendix “E4”, containing elements of the 3 recommendations in Appendixes “E1”, “E2” and “E3”, was submitted for consideration by the National Forum Plenary meeting on 14 October 2017.

5.1.4.2 The National Forum Plenary discussed the compromise proposal but due to time constraints and in order to allow members to obtain mandates from their constituencies, it was decided to defer further discussions for a later date. It was also decided to inform the Minister of this development and to request an indulgence from the Minister for more time to consider the draft compromise.

5.1.4.3 The draft compromise Regulation in Appendix “E4” is therefore not submitted as a recommendation, since it is still under consideration by the National Forum, but it is submitted for noting that the National Forum is seriously seeking a compromise.

5.2 IMPLEMENTATION:

It is proposed that the Minister should afford the National Forum more time to consider the draft compromise referred to in paragraph 5.1.4 above. If more time cannot be allowed for seeking consensus, the Minister should issue a Regulation to give effect to the preferred recommendation.

The procedural requirements for the issuing of Regulations are set out in s94(2) & (3) and s109(1). In order to enable the Council to function effectively, the Regulation(s) pertaining to this
recommendation should become effective when Chapter 2 is enacted or as soon as possible thereafter.

5.3 ORGANISATIONAL AND PERSONNEL IMPLICATIONS

The proposed organisational structuring and personnel requirements of the Council and Provincial Councils as a whole are dealt with in Recommendation 8 below.

5.4 FINANCIAL IMPLICATIONS

The proposed costing requirements of the Council and Provincial Councils as a whole and the proposed funding of these structures are dealt with in Recommendation 8 below.

5.5 CONSTITUTIONAL IMPLICATIONS

These recommendations are made in accordance with the terms of reference afforded to the National Forum in terms of s97(1)(a)(v) of the Act. The recommended practical vocational training provisions and structure are designed to give effect to the purpose of the Act and the objects of the Council, which are in line with the Constitution. These recommendations are therefore designed to augment the principles of the Constitution and no negative constitutional implications are envisaged.

5.6 PERSONS CONSULTED

The National Forum is composed of representatives of the main stakeholders in the legal profession, as determined in the Act. The organisations that designated the members of the National Forum as well as other organisations identified by the National Forum, were consulted in the deliberation process.

RECOMMENDATION 6

Section 97(1)(a)(vi): The National Forum must make recommendations to the Minister on the right of appearance of a candidate Legal Practitioner in court or any other institution.

6.1. RECOMMENDATION:

Since the right of appearance of candidate attorneys is comprehensively dealt with in s25(5) but no similar provision relating to pupils (candidate legal practitioners who wish to become
advocates) is contained in the Act, the National Forum has proposed the following amendment to the Act:

"(5)(a) A pupil is entitled to appear -

(i) in any court, other than the High Court, the Supreme Court of Appeal or the Constitutional Court; and

(ii) before any board, tribunal or similar institution on behalf of any person, subject to the approval of the person under whose supervision he or she is undergoing his or her practical vocational training.

(b) A pupil shall be entitled to be remunerated for any appearance in terms of paragraph (a) as provided for in terms of the rules."

Alternatively, if the amendment of s25(5) cannot be made, the draft Regulation contained in Appendix “F” is recommended for consideration and approval. However, in order for the Regulation to become effective, an amendment of the Act will still be required, because the Regulations cannot confer rights not provided for in the principal Act.

There is currently a divergence of opinion on the issue of practical vocational training to be completed by candidate legal practitioners. Please refer to paragraph 5 above. If the GCB’s proposal of a 6 month training period for pupils is accepted, they should not be allowed to appear in the High Court during the 6 month period. However, if the training period for pupils is going to be longer, a pupil should be allowed to appear in the High Court after 6 months practical vocational training, subject to the approval of the person under whose supervision he or she is undergoing his or her practical vocational training.

6.2. MOTIVATION:

The amendment of s25 set out above, alternatively the draft Regulation contained in Appendix “F”, is necessary to ensure statutory recognition of the right of pupils to appear in the lower courts and before tribunals on behalf of other persons and to earn fees, in order that:

1. the position of pupils can be regularised in relation to that of candidate attorneys;
2. the pupil can gain relevant experience and enhance his/her skills;
3. the pupil can earn fees whilst appearing in the lower courts and before tribunals, which will enhance the ability of LLB graduates to enter into the profession and will also enable the Council to standardise the periods of practical vocational training of candidate legal practitioners and pupils as far as practicable.

The principal Act currently only provides for the right of appearance of candidate attorneys, in s25(5). Although the principal Act requires the National Forum to make recommendations to the Minister regarding the right of appearance of candidate legal practitioners in court or any other institution (s97(1)(a)(vi) of the Act) and for the Council (or the National Forum, in terms of the Legal Practice Amendment Bill 2017) to provide for the remuneration of candidate legal practitioners (s27(2) read with s95(1)(o) of the principal Act), the principal Act does not provide for pupils’ right of appearance.

The omission in the principal Act cannot be remedied in the Regulations or the Rules by the Council; the Regulations and the Rules cannot confer rights not provided for in the Act.

6.3. **IMPLEMENTATION:**

If the recommendation is accepted, it is proposed that s25(5) of the Act should be amended as recommended, alternatively that the Minister should issue the Regulation contained in Appendix “F”, but the latter will still require an amendment of the Act for the reason set out in the previous paragraph. The procedural requirements for the issuing of Regulations are set out in s94(2) & (3) and s109(1). In order to enable pupils to appear in court and to earn fees, which will also enable the Council to standardise the periods of practical vocational training of candidate legal practitioners and pupils, it is essential that the amendment or the Regulation should become effective before s120(4) comes into operation.

6.4. **ORGANISATIONAL AND PERSONNEL IMPLICATIONS**

This recommendation has no organisational and personnel implications.

6.5. **FINANCIAL IMPLICATIONS**

This recommendation has no financial implications for the Council.
6.6. CONSTITUTIONAL IMPLICATIONS

This recommendation of the draft Regulation in Appendix “F” is made in accordance with the terms of reference afforded to the National Forum in terms of s97(1)(a)(vi) of the Act. The draft Regulation is designed to give effect to the purpose of the Act and the objects of the Council, which are in line with the Constitution. This recommendation is therefore designed to augment the principles of the Constitution and no negative constitutional implications are envisaged.

6.7. PERSONS CONSULTED

The National Forum is composed of representatives of the main stakeholders in the legal profession, as determined in the Act. The organisations that designated the members of the National Forum as well as other organisations identified by the National Forum, were consulted in the deliberation process.

RECOMMENDATION 7

Section 97(1)(a)(vii): The National Forum must make recommendations to the Minister on a mechanism to wind up the affairs of the National Forum.

7.1. RECOMMENDATION:

It is recommended that

7.1.1. The affairs of the National Forum must be wound up on the date of commencement of chapter 2 of the Act;

7.1.2. Balance of budgeted funds of the National Forum or monies defrayed from the budget vote of the Department in terms of section 108(2)(a) shall, after all the debts, liabilities and financial commitments of the National Forum has been satisfied, return to the Department;

7.1.3. Assets of the National Forum acquired through monies referred to under section 108(2)(a) and (b) of the Act, if any, shall be transferred to the Council. The full inventory of these assets will be recorded in the asset register, as per the Department of Justice, as at 1 February 2018.

7.1.4. The staff employed by the National Forum should be transferred to the Council; and

7.1.5. The provisions of section 197 of the Labour Relations Act shall be applicable to the transferred staff members but it will be the responsibility of the Council to place such transferred staff in the positions in which they appropriately qualify.
7.2. MOTIVATION:

The reasons for the recommendations are:-

7.2.1. In respect to assets:

This proposed mechanism gives certainty on what shall happen to the assets and it will ensure that all the assets are positively accounted for. The assets will also make it possible that the functions of the Council will commence immediately the Council is established.

7.2.2. In respect of staff:

The transfer of staff of the National Forum to the Council will ensure that when the Council is established it will be in a position to immediately commence with some of its administrative functions. These staff complement has acquired in-depth and technical knowledge in respect of the provisions of the Act when giving administrative and technical support to the National Forum. They have institutional knowledge and skills which will be helpful in putting in motion the functions of the Council.

7.3. IMPLEMENTATION:

If the recommendation is accepted, it is proposed that the Minister should issue the Regulation of which a draft is contained in Appendix “G”, to give effect to the recommendation. The procedural requirements for the issuing of Regulations are set out in s94(2) & (3) and s109(1). In order to enable the National Forum to attend to the deployment of its staff as well as those employees who must be transferred from the existing Law Societies to the new Council in terms of s97(2), in the interest of the effective functioning of the new regulatory structures, the Regulation should become effective as soon as Chapter 2 of the Act is implemented in terms of s120(3).

7.4. ORGANISATIONAL AND PERSONNEL IMPLICATIONS

The proposed organisational structuring and personnel requirements of the Council and Provincial Councils as a whole are dealt with in Recommendation 8 below.

7.5. FINANCIAL IMPLICATIONS

The proposed costing requirements of the Council and Provincial Councils as a whole and the proposed funding of these structures are dealt with in Recommendation 8 below.
7.6. **CONSTITUTIONAL IMPLICATIONS**

This recommendation is made in accordance with the terms of reference afforded to the National Forum in terms of s97(1)(a)(vii) of the Act. The organisational structuring of the Council and Provincial Councils in Recommendation 8 below is designed to give effect to the purpose of the Act and the objects of the Council, which are in line with the Constitution. This recommendation is therefore designed to augment the principles of the Constitution and no negative constitutional implications are envisaged.

7.7. **PERSONS CONSULTED**

The National Forum is composed of representatives of the main stakeholders in the legal profession, as determined in the Act. The organisations that designated the members of the National Forum as well as the Executive Officer and staff of the National Forum were consulted in the deliberation process.

**RECOMMENDATION 8**

Section 98(3): *The National Forum must, taking into account the provisions of this Act, conduct a cost analysis of the operation of the Council and Provincial Councils and make recommendations to the Minister for consideration by Parliament as contemplated in subsection (4), on the funding thereof, with a view to the effective and efficient implementation of the Act.*

8.1. **RECOMMENDATION:**

It is recommended that the Income and Funding Model of the Legal Practice Council and Provincial Councils as set out in Appendix “H” attached hereto be approved.

8.2. **MOTIVATION:**

8.2.1. The Income and Funding Model was developed following a comprehensive investigation into the existing governing structures in the legal profession as well as the infrastructural and staffing requirements of the new Council and its substructures, by organisational design experts LTS Consulting in consultation with the National Forum, the existing Law Societies and the Attorneys Development Fund (“AFF”). The experts also made use of various source documents provided by the NF, including the Act, the organogram of the new structures and the functions to be performed at the different levels thereof.
8.2.2. The report of the organisational design experts contained various recommendations, including the proposed infrastructure and staffing requirements of the different levels of the new governing structures as well as the costing thereof. The report was workshopped with the National Forum, the AFF and with negotiating teams of the existing Law Societies which were formed to negotiate the transfer of assets, rights, liabilities, obligations and staff from the Law Societies to the new Council and Provincial Councils in terms of s97(2) of the Act. Representatives of the Law Society of South Africa participated in some of the discussions and the Advocates organisations represented in the National Forum were also approached for input.

8.2.3. A Funding Task Team of the National Forum and the AFF developed the Income and Funding Model in Appendix “H”, taking into account the sources of funding of the existing governing structures of the profession, the assets of the profession, the funding requirements of the new Council and Provincial Councils, the purpose of the Act and the objects of the Council, including the need to promote access to the legal profession, in pursuit of a legal profession that broadly reflects the demographics of the Republic.

8.2.4. The Income and Funding Model was adjusted following discussions by the National Forum with the Law Societies about the staffing requirements of the new structures and the transfer of staff and assets from the Law Societies. From these discussions, the Staffing Structure of the Council and Provincial Councils in Appendix “I” was developed. This Staffing Structure also formed the basis of negotiations with the Law Societies, of transfer agreements in terms of s97(2).

8.2.5. In the Income and Funding Model, Appendix “H”, the following needs to be clarified:

- The income from levies on Legal Practitioners and administrative charges in the first year of operation is expected to amount to R130 100 000. The National Forum, mindful of the impact of high levies on Legal Practitioners and especially new entrants to the profession, recommends that the annual levy payable in the first year of operation should be R3 500 plus VAT for practising Legal Practitioners and R800 for non-practising ones.

- The National Forum accepted a recommendation from the AFF, based on past experience, to provide for a 5% default rate in the projected income.

- The expected income from the Legal Practitioners’ Fidelity Fund (“LPFF”) in the first year of operation is R90 000 000, of which R75 000 000 can be made available as an appropriation after approval of the annual budget of the Council in terms of s22(1)(b) of the Act. The remaining R15 000 000 will not be part of the annual appropriation, but can be refunded by the LPFF to the Council upon the rendering of invoices by the Council.
after completion of the work and incurring costs relating to inspections, curator services, striking and suspension of transgressing Legal Practitioners.

- The expected income dealt with in the previous paragraphs will be sufficient to cover the expected expenditure of the Council and a surplus of R5 657 269 is expected.

8.3. IMPLEMENTATION:

If the recommendation is accepted, it is proposed that the Minister should table the Funding Model in Parliament for consideration as contemplated in s98(3) and (4).

If the recommendation regarding the sources of funding is not accepted, the National Forum is available to enter into discussions to address the issue.

It is important that certainty about funding should be reached as soon as possible, to enable the Council to be established and to commence operations when Chapter 2 comes into operation in terms of s120(3) of the Act.

8.4. ORGANISATIONAL AND PERSONNEL IMPLICATIONS

The proposed organisational structuring and personnel requirements of the Council and Provincial Councils as a whole are dealt with in Appendix “I”.

8.5. FINANCIAL IMPLICATIONS

The proposed funding requirements of the Council and Provincial Councils as a whole are dealt with in Appendix “H”.

8.6. CONSTITUTIONAL IMPLICATIONS

This recommendation is made in accordance with the requirements of s98(3) of the Act. The organisational structuring of the Council and Provincial Councils in this Recommendation is designed to give effect to the purpose of the Act and the objects of the Council, which are in line with the Constitution. This recommendation is therefore designed to augment the principles of the Constitution and no negative constitutional implications are envisaged.
8.7. PERSONS CONSULTED

The National Forum is composed of representatives of the main stakeholders in the legal profession, as determined in the Act. The organisations that designated the members of the National Forum as well as other organisations identified by the National Forum, were consulted in the deliberation process. As indicated in paragraph 8.2.3 above, the Income and Funding Model in Appendix “H” was developed by a Funding Task Team of the National Forum and the AFF.

CONCLUSION

These recommendations are the result of contributions from many persons after careful consideration and thorough debate. We trust that it will find Favour with the Minister and that the work of the National Forum will assist to ensure a smooth transfer from the existing governing structures of the legal profession to the new Legal Practice Council and Provincial Councils which will achieve the objects set out in the Act, in the best interest of the public and the profession.

MR MAX BOQWANA
DEPUTY CHAIRPERSON OF THE NATIONAL FORUM

ADV. KGOMOTSO MOROKA SC
CHAIRPERSON OF THE NATIONAL FORUM

DATE: 24/10/2017

COMPiled By: MS CHARITY Nzuza
EXECUTIVE OFFICER – NATIONAL FORUM

(0822194637. cmhlnugu@justice.gov.za)
Regulations under section 109(1)(a) read with section 97(1) of the Legal Practice Act, 28 of 2014

It is hereby certified that, acting under the powers conferred by section 109(1)(a) of the Legal Practice Act, 28 of 2014, the Minister of Justice and Constitutional Development has made the following regulations in connection with the matters referred to therein.

Election of legal practitioners as members of the Legal Practice Council

1. The members of the Council referred to in section 7(1)(a) of the Act shall be elected in the manner determined in these regulations.

2. An election for members of the Council shall be held, in the manner prescribed in these regulations, in every third year after the year in which the first such election is held. Subject to regulation 23, the first election in terms of these regulations shall be held during November 2017 for the election of members of the Council to take office on the coming into effect of Chapter 2 of the Act. The term of office of those members of the Council who are referred to in section 7(1)(a) of the Act shall run from 1 February in the year in which they are elected to 31 January of the year in which their term of office terminates.

[Drafting note: these amendments depend on the Legal Practice Act being amended as proposed by the National Forum].

3. During September of each year in which an election is to be held, or at such other time as the Council may determine, the Council shall despatch a notice to every attorney and every advocate admitted to practice and enrolled on the practising roll calling for nominations of attorneys and advocates for election to the Council, such nominations to be received not later than a date stipulated in the notice but in any event not earlier than ten days from the date of the notice. The notice -

3.1 shall be sent by email to the email address of the legal practitioner concerned; where no email address has been provided to the Council by the legal practitioner concerned the notice shall be sent by prepaid post;

3.2 shall be published in the English language once in a journal published by the legal profession for attorneys practising in South Africa and once in a journal published by the legal profession for advocates practising in South Africa;
3.3 shall be published once in the government gazette on a date as close as possible to the date of dispatch of the notice;

3.4 shall give details of the number of vacancies on the Council for attorney members and advocate members respectively;

3.5 shall draw the attention of legal practitioners to the provisions of sections 7(2) and, 7(3) and section 8 of the Act.

4. Any two attorneys admitted to practice and enrolled on the practising roll may, in the manner prescribed, nominate any eligible attorney (other than themselves) as a member of the Council for the then ensuing period of office.

5. Any two advocates admitted to practice and enrolled on the practising roll may, in the manner prescribed, nominate any eligible advocate (other than themselves) as an advocate member of the Council for the then ensuing period of office.

6. Any such nomination shall be made over the signature of the two nominating individuals in a document which shall provide the following information in relation to each nominee named therein, in not more than 600 words and in such format as the Council may require-

6.1 his or her name;

6.2 in the case of an attorney, the name of the firm of which he or she is a proprietor or a member or by which he or she is employed, stating also the status of that attorney within the firm;

6.3 in the case of an advocate, whether he or she renders legal services in terms of section 34(1)(2)(a)(i) or section 34(2)a)(ii) of the Act, and in either case whether or not he or she has the status of Senior Counsel.

6.4 his or her race, gender, date of admission and enrolment and period in practice;

6.5 if he or she suffers from a disability and wishes to disclose that fact, a statement to that effect and the nature of the disability;

6.6 the address of his or her principal place of practice; and

6.7 his or her knowledge and experience in the matters set out in section 7(2)(e) of the Act
and on which shall be endorsed, over the signature of each nominee named therein, the acceptance of nomination by that nominee and his or her confirmation that the information given therein is correct and that he or she is not disqualified in terms of section 7(3) and section 8 of the Act from membership of the Council.

7. Originally signed nominations must be lodged with the Council by not later than the date stipulated in the notice referred to in regulation 3. Any nomination which does not comply substantially with the provisions of this regulation or which is not lodged within the prescribed time must not be recognised.

8. If the number of candidates who are nominated exceeds the number to be elected as attorney members or as advocate members, as the case may be, the Council must, within 14 days after the last day on which nominations are required to be lodged in terms of regulation 3, send to every legal practitioner eligible to vote, by email to the legal practitioner's email address or, where the legal practitioner has not appointed an email address, by prepaid post -

8.1 an envelope on which the address of the Council is printed, together with the words "voting papers", or, where the communication is by email, directions to the legal practitioner as to the size and format of an envelope to be created by the legal practitioner;

8.2 a smaller envelope on which is printed the words "ballot paper" and nothing else, or where the communication is by email, directions to the legal practitioner as to the size and format of an envelope to be created by the legal practitioner;

8.3 a printed declaration in such form as the Council may direct containing appropriate spaces for -

8.3.1 the surname and forenames of the voting legal practitioner and a statement whether he or she is an attorney or an advocate;

8.3.2 the date of signature by that legal practitioner and that legal practitioner's signature;

8.3.3 a declaration by the legal practitioner above his or her signature that he or she has not already voted in the election concerned;

8.4 a ballot paper, substantially in the form of Schedule 1 (in the case of the election of attorney members) or Schedule 2 (in the case of the election of advocate members), containing the surnames and forenames in alphabetical order by surname of the
nominated candidates and providing the information indicated in Schedule 1 or Schedule 2, as the case may be, and nothing more;

8.5 a written notice in such form as the Council may direct -

8.5.1 requesting the legal practitioner, if he or she wishes to record a vote -

8.5.1.1 place a cross on the accompanying ballot paper against the name of each candidate for whom the legal practitioner wishes to vote and so as to indicate a vote in favour of not more than the number of candidates for which there are vacancies, and to make no other mark or alteration on the ballot paper;

8.5.1.2 to place the ballot paper in the envelope marked "ballot paper";

8.5.1.3 to seal the envelope containing the ballot paper;

8.5.1.4 to complete and sign the form of declaration;

8.5.1.5 to place a completed and signed declaration, together with the envelope containing the ballot paper in and seal the envelope marked "voting papers";

8.5.1.6 to despatch the envelope marked "voting papers" with its contents to the Council so as to reach the Council not later than a date referred to in the notice;

8.5.2 drawing the attention of legal practitioners to the fact that the profiles of candidates, containing the information set out in regulation 6, will be published on the website of the Council for a period of 30 days commencing on the date of the written notice referred to in regulation 8.5.

9. The notice referred to in regulation 8.5 shall contain a warning that if a vote is cast in favour of more than the number of names referred to in regulation 8.5.1.1, or if any mark or alteration is made on the ballot paper other than the cross indicating a vote in favour of the candidates for whom the legal practitioner intends to vote, or if the declaration referred to in regulation 8.3 is not duly completed and signed by the voter, the ballot paper will be void.

10. The Council shall despatch separate notices to attorneys and advocates for purposes of any election in terms of these regulations, and all notifications shall distinguish clearly as
to whether they are intended for the election of an attorney or for the election of an advocate.

11. Within 7 days after the last date on which nominations were required to be lodged in terms of regulation 3 the chairperson of the Council ("the chairperson") shall in writing appoint a legal practitioner of more than fifteen years standing as a referee for the purpose of performing the duties assigned to a referee under these regulations. The referee shall not be a candidate for office or a legal practitioner who has nominated a candidate, or a member of the Council or of a Provincial Council, as the case may be.

12. On each day on which envelopes marked "voting papers" despatched to the Council are received by the Council, or if it is not practicable on that day, as soon as practicable thereafter, the chairperson shall, in the presence of the referee, open each such envelope and remove its contents. The chairperson and the referee shall then together examine each declaration form, shall verify, to such extent as may appear necessary, the information contained therein against the records of the Council and shall satisfy themselves that the declaration form has been duly completed and signed by the legal practitioner, failing which it will be regarded as invalid. In the event of a disagreement between the chairperson and the referee as to the validity or otherwise of any form of declaration, the view of the referee shall prevail and his or her judgment on the matter shall be final. The referee shall endorse with his or her signature each form of declaration found to be invalid, with the reason for the invalidity. The chairperson and the referee shall together note the name and surname of each legal practitioner who has submitted a declaration and envelope marked "ballot papers", as well as whether that legal practitioner is an attorney or an advocate, in a voting register kept by the referee.

13. The chairperson shall, in the presence of the referee, in respect of each declaration form found to be valid, place its accompanying envelope marked "ballot paper" unopened through a slot in a ballot box of a design and construction approved by the Council, which shall have been securely locked and sealed in advance by the chairperson. After placing the last of such envelopes duly received in the ballot box the chairperson shall, in the presence of the referee, securely seal the slot, and shall hand the key to the referee. The chairperson shall securely retain the ballot box, locked and sealed as aforesaid, and shall deliver the ballot box in that condition to the scrutinizers appointed in terms of regulation 15 on the day following the day referred to in regulation 8.5.1.6. Separate ballot boxes shall be kept for ballot papers in respect of attorneys and advocates respectively.
14. An envelope marked "ballot paper" which is accompanied by a form of declaration which has been found to be invalid shall not be placed in the ballot box but the chairperson shall, in the presence of the referee, replace in the envelope marked "voting papers" in which it was received each such envelope marked "ballot paper" unopened, together with its accompanying form of declaration endorsed by the referee as provided in regulation 122, shall securely seal all those documents and shall separately retain them, in the same manner mutatis mutandis as is provided for in regulation 13, for a period of three months after the date referred to in regulation 8.5.1.6. The chairperson shall thereafter destroy all of them unless ordered otherwise by an order of court; provided that if there should be a dispute regarding the validity of the form of declaration the documents shall be retained until the dispute has been resolved. The chairperson shall keep a separate record of the number of declarations and envelopes thus retained by him.

15. Prior to or on the date referred to in regulation 8.5.1.6 the Council shall appoint as scrutinizers to examine the ballot papers placed in the ballot box and of counting the votes received, not less than two legal practitioners, not being candidates for office or legal practitioners who have nominated candidates or who are members of the Council or of a Provincial Council, and none of whom shall be the legal practitioner appointed as referee under these regulations. Upon receipt by the scrutinizers of the ballot box they shall break the seal, open the ballot box and remove its contents. They shall then open each of the envelopes marked "ballot paper", remove the ballot paper contained therein, examine the ballot paper and satisfy themselves of its validity in accordance with these regulations or, if not so satisfied, reject the ballot paper after having endorsed on its reverse over their signatures the reason for its rejection. They shall then count the votes recorded in the remaining ballot papers and record the result in the presence of the chairperson and the referee. Thereafter they shall replace all the ballot papers, including those rejected, in the ballot box and shall lock and re-seal it, and hand it to the chairperson for safekeeping.

16. The number of attorney candidates in the respective categories indicated on the ballot paper who received the greatest number of votes of attorneys in diminishing order among the attorney candidates shall be deemed to have been elected as attorney members of the Council in those categories, and the advocate candidates in the respective categories indicated on the ballot paper who received the greatest number of votes of advocates in diminishing order among the advocate candidates shall be deemed to have been elected as advocate members of the Council in those categories.

17. If there is a tie between two or more candidates having the result of leaving undecided which of the candidates has been elected, in the relevant category, the question as to
which of them shall be deemed elected shall be determined immediately by lot drawn by
the scrutinizers in the manner determined by them.

18. Upon completion of their scrutiny the scrutinizers shall immediately report the result of the
election in writing to the chairperson and referee. The referee shall immediately
determine whether the election was conducted freely and fairly, and shall issue a signed
declaration in that regard to the chairperson. The report shall be signed by all of the
scrutinizers and shall contain the following particulars:

18.1 the total number of ballot papers received by them;

18.2 the numbers of ballot papers rejected and the grounds of rejection;

18.3 the total number of votes in favour of each candidate in each category;

18.4 the result of any lot drawn in terms of regulation 17;

18.5 the names of those candidates who are deemed to have been elected.

19. The chairperson shall, after receipt of the report of the scrutinizers and a declaration in
terms of regulation 18 that the election was conducted freely and fairly, cause each
candidate to be advised of the result of the election.

20. The report of the scrutinizers together with a declaration from the referee in terms of
regulation 18 that the election was conducted freely and fairly shall be conclusive as to the
result of the election, notwithstanding any informality.

21. The scrutinizers, having completed their scrutiny, shall return the ballot box containing the
examined ballot papers and which is locked in accordance with regulation 15 to the
chairperson, together with its key. The chairperson shall securely retain the ballot box in
that condition for a period of three months after the date referred to in regulation 8.5.1.6
and shall thereupon break the seal, unlock the box, empty it of its contents and destroy
the contents. The chairperson shall then also destroy all the valid declaration forms
received by the Council.

22. If an election is declared to be not free and fair by the referee in terms of regulation 18, or
by a court on application brought within one month of the announcement of the result, the
process for the election of members of the Council shall be conducted afresh.

23. The first election of members of the Council shall be conducted under the authority of the
National Forum on the Legal Profession established in terms of section 96(1) of the Act.
These regulations will apply, with the necessary changes required by the context, to the
first election, and a reference in these regulations to "the Council" and to the "chairperson"
will be deemed to be a reference to executive committee of the National Forum and to the
chairperson of the National Forum respectively.
Legal Practice Council

Ballot Paper - Attorneys

Every attorney who is on the roll of practising attorneys may vote for a maximum of ten candidates from the candidates listed below. Please note, however, that in order to comply with section 7(2)(a) of the Legal Practice Act 28 of 2014 (subject to the availability of the candidates) the four black1 women, three black men, one white woman and two white men with the highest number of votes in their respective categories will constitute the ten attorneys who will serve as members of the Legal Practice Council. A short profile of each candidate is available at www.lpc.org.za.

When voting, please take into account the provisions of section 7(2) of the Legal Practice Act:

S7(2) When constituting the Council the following factors must, as far as is practicable, be taken into account:

(a) the racial and gender composition of South Africa;
(b) the objects of the Council;
(c) representation of persons with disabilities;
(d) provincial representation; and
(e) experience and knowledge of—
   (i) the provision of legal services;
   (ii) the principles of promoting access to justice;
   (iii) legal education and training;

1 Black is used as defined in section 1 of the Broad-Based Black Economic Empowerment Act 53 of 2003, read with the Broad-Based Black Economic Empowerment Amendment Act 46 of 2013 as a generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent, or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date and such other persons as may be categorised as black persons for purposes of that legislation.
(iv) consumer affairs;
(v) civil and criminal proceedings and the functioning of the courts and tribunals in general;
(vi) the maintenance of professional standards of persons who provide legal services;
(vii) the handling of complaints; and
(viii) competition law.
Legal Practice Council

Ballot Paper - Advocates

Every advocate who is on the roll of practising advocate may vote for a maximum of six candidates from the candidates listed below. Please note, however, that in order to comply with section 7(2)(a) of the Legal Practice Act 28 of 2014 (subject to the availability of the candidates) the two black\(^1\) women, two black men, one white woman and one white man with the highest number of votes in their respective categories will constitute the six advocates who will serve as members of the Legal Practice Council. A short profile of each candidate is available at www.lpc.org.za.

A
B
C
D
E
F
G
H
I
J
K
L

When voting, please take into account the provisions of section 7(2) of the Legal Practice Act:

S7(2) When constituting the Council the following factors must, as far as is practicable, be taken into account:

(a) the racial and gender composition of South Africa;
(b) the objects of the Council;
(c) representation of persons with disabilities;
(d) provincial representation; and
(e) experience and knowledge of—
   (i) the provision of legal services;
   (ii) the principles of promoting access to justice;

\(^1\) Black is used as defined in section 1 of the Broad-Based Black Economic Empowerment Act 53 of 2003, read with the Broad-Based Black Economic Empowerment Amendment Act 46 of 2013 as a generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent, or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date and such other persons as may be categorised as black persons for purposes of that legislation.
(iii) legal education and training;
(iv) consumer affairs;
(v) civil and criminal proceedings and the functioning of the courts and tribunals in general;
(vi) the maintenance of professional standards of persons who provide legal services;
(vii) the handling of complaints; and
(viii) competition law.
Regulations under section 109(1)(a) read with section 97(1) of the Legal Practice Act, 28 of 2014

It is hereby certified that, acting under the powers conferred by section 109(1)(a) of the Legal Practice Act, 28 of 2014, the Minister of Justice and Constitutional Development, acting in consultation with the National Forum on the Legal Profession, has made the following regulations in connection with the matters referred to therein.

Establishment of Provincial Councils and areas of jurisdiction

1. Definitions

In these regulations, unless the context otherwise indicates -

1.1 "The Act" means the Legal Practice Act, 28 of 2014;

1.2 words and phrases defined in the Act shall have the same meanings assigned to them in these regulations.

2. Establishment of Provincial Councils

2.1 At the commencement of Chapter 2 of the Act the Council must establish nine Provincial Councils having jurisdiction in the areas designated in regulation 3.

2.2 Until otherwise determined by the Council, the Provincial Councils shall be composed of such individuals as are referred to in rule 16 of the rules of the Council made under the authority of section 95(1) of the Act, read with section 109(3) of the Act.

3. Areas of jurisdiction

The areas of jurisdiction of the Provincial Councils established in terms of regulation 2.1 shall coincide with the provincial boundaries of the province for which the Provincial Council is established.

4. Location of offices of Provincial Councils

Upon the establishment of further Provincial Councils, as contemplated in regulation 2.2, the office of the Provincial Council in respect of the province concerned shall be situated in the following centres:
4.1 Gauteng: Pretoria;
4.2 Western Cape: Cape Town;
4.3 Free State: Bloemfontein;
4.4 KwaZulu-Natal: Durban;
4.5 Mpumalanga: Nelspruit.
4.6 Eastern Cape: East London;
4.7 Limpopo: Polokwane
4.8 North West: Mahikeng
4.9 Northern Cape: Kimberley.

5. **Committees of the Provincial Council**

Every Provincial Council shall, upon its establishment, establish a committee of the Provincial Council at every centre within the province concerned at which there is a High Court but no office of the Provincial Council. Any such committee shall consist of two attorneys and two advocates, appointed by the Provincial Council for such periods as may be determined by the Provincial Council, and who shall have such powers and functions as are delegated to them by the Provincial Council.
The South African Legal Practice Council

Rules

made under the authority of section 95(1) of the Legal Practice Act, 28 of 2014
PART IV

PROVINCIAL COUNCILS

16. Election of Provincial Councils
[section 95(1)(j) read with section 23(4)]

16.1. A Provincial Council shall consist of such number of members as the Council may determine from time to time, elected in accordance with the provisions of this rule. A member of a Provincial Council shall hold office for a term of three years but may serve as a member for one further term if he or she is again so elected.

16.2. Until otherwise determined by the Council, every Provincial Council other than the Gauteng Provincial Council will comprise six attorneys and four advocates, and the Gauteng Provincial Council will comprise eight attorneys and four advocates, constituted in accordance with the principles set out in schedule 1 (in the case of attorney members) or schedule 2 (in the case of advocate members) respectively.

16.3. The provisions of sections 7(3), 8, 11 and 12 of the Act shall apply, with the necessary changes required by the context, to members of a Provincial Council.

16.4. Within 60 days after a Provincial Council has been established by the Council in terms of the Act the Council shall organise the holding of the first election for members of that Provincial Council. In respect of such election -

16.4.1. the provisions of this rule will apply;

16.4.2. a member of the Council who wishes to make himself or herself available for election as a member of the Provincial Council in whose area of jurisdiction he or she practises shall not be involved in any way in the conduct of the election of members of that Provincial Council.
16.5. An election for members of a Provincial Council shall be held, in the manner prescribed in these rules, in every third year after the year in which the first such election is held. The term of office of members of the Provincial shall run from the date of their election to the third anniversary of that date; provided that in the case of a member elected to fill a casual vacancy in the Provincial Council, the term of office of that member shall terminate on the date on which the office of the member replaced by him or her would have terminated. The member elected to fill a casual vacancy shall be eligible for re-election.

16.6. During September of each year in which an election is to be held, or at such other time as the Council may determine, the Council shall despatch a notice to every attorney and every advocate admitted to practice and enrolled on the practising roll in the area of jurisdiction of the Provincial Council concerned calling for nominations of attorneys and advocates for election to the Provincial Council, such nominations to be received not later than a date stipulated in the notice but in any event not earlier than ten days from the date of the notice. The notice –

16.6.1. shall be sent by email to the email address of the legal practitioner concerned; where no email address has been provided to the Council by the legal practitioner concerned the notice shall be sent by prepaid post;

16.6.2. shall be published in the English language once in a journal published by the legal profession for attorneys practising in South Africa and once in a journal published by the legal profession for advocates practising in South Africa;

16.6.3. shall be published once in the government gazette on a date as close as possible to the date of dispatch of the notice;

16.6.4. shall give details of the number of vacancies on the Provincial Council for attorney members and advocate members respectively.

16.7. Any two attorneys admitted to practice and enrolled on the practising roll and practising within the area of jurisdiction of the Provincial Council may, in the manner prescribed in this rule, nominate any eligible attorney (other
than themselves) as an attorney member of the Provincial Council for the then ensuing period of office.

16.8. Any two advocates admitted to practice and enrolled on the practising roll and practising within the area of jurisdiction of the Provincial Council may, in the manner prescribed in this rule, nominate any eligible advocate (other than themselves) as an advocate member of the Provincial Council for the then ensuing period of office.

16.9. Any such nomination shall be made over the signature of the two nominating individuals in a document which shall provide the following information in relation to each nominee named therein, in not more than 600 words and in such format as the Council may require -

16.9.1. his or her name;

16.9.2. In the case of an attorney, the name of the firm of which he or she is a proprietor or a member or by which he or she is employed, stating also the status of that attorney within the firm;

16.9.3. in the case of an advocate, whether he or she renders legal services in terms of section 34(1)(2)(a)(i) or section 34(2)a)(ii) of the Act, and in either case whether or not he or she has the status of Senior Counsel.

16.9.4. his or her race, gender, date of admission and enrolment and period in practice;

16.9.5. if he or she suffers from a disability and wishes to disclose that fact, a statement to that effect and the nature of the disability;

16.9.6. the address of his or her principal place of practice

and on which shall be endorsed, over the signature of each nominee named therein, the acceptance of nomination by that nominee and his or her confirmation that the information given therein is correct and that he or she is not disqualified from membership of the Provincial Council.
16.10. Originally signed nominations must be lodged with the Provincial Council by not later than the date stipulated in the notice referred to in rule 16.6. Any nomination which does not comply substantially with the provisions of this rule or which is not lodged within the prescribed time must not be recognised.

16.11. If no greater number of candidates is nominated than the number to be elected, then the candidates who are nominated will be deemed to have been elected.

16.12. If the number of candidates who are nominated exceeds the number to be elected as attorney members or as advocate members, as the case may be, the Council must, within 10 days after the last day on which nominations are required to be lodged in terms of rule 16.6, send to every legal practitioner eligible to vote, by email to the legal practitioner's email address or, where the legal practitioner has not appointed an email address, by prepaid post -

16.12.1. an envelope on which the address of the Council is printed, together with the words "voting papers", or, where the communication is by email, directions to the legal practitioner as to the size and format of an envelope to be used by the legal practitioner;

16.12.2. a smaller envelope on which is printed the words "ballot paper" and nothing else, or where the communication is by email, directions to the legal practitioner as to the size and format of an envelope to be created by the legal practitioner;

16.12.3. a printed declaration in such form as the Council may direct containing appropriate spaces for -

16.12.3.1. the surname and forenames of the voting legal practitioner and a statement whether he or she is an attorney or an advocate;

16.12.3.2. the date of signature by that legal practitioner and that legal practitioner's signature;
16.12.3.3. a declaration by the legal practitioner above his or her signature that he or she has not already voted in the election concerned;

16.12.4. a ballot paper, substantially in the form of Schedule 1 (in the case of the election of attorney members) or Schedule 2 (in the case of the election of advocate members), containing the surnames and forenames in alphabetical order by surname of the nominated candidates and providing the information indicated in Schedule 1 or Schedule 2, as the case may be, and nothing more;

16.12.5. a written notice in such form as the Provincial Council may direct

16.12.5.1. requesting the legal practitioner, if he or she wishes to record a vote -

16.12.5.1.1. place a cross on the accompanying ballot paper against the name of each candidate for whom the legal practitioner wishes to vote and so as to indicate a vote in favour of not more than the number of candidates for which there are vacancies, and to make no other mark or alteration on the ballot paper;

16.12.5.1.2. to place the ballot paper in the envelope marked "ballot paper";

16.12.5.1.3. to seal the envelope containing the ballot paper;

16.12.5.1.4. to complete and sign the form of declaration;

16.12.5.1.5. to place a completed and signed declaration, together with the envelope containing the ballot paper in and seal the envelope marked "voting papers";
16.12.5.1.6 to despatch the envelope marked "voting papers" with its contents to the Council so as to reach the Council not later than a date referred to in the notice;

16.12.5.2 drawing the attention of legal practitioners to the fact that the profiles of candidates, containing the information set out in rule 16.9, will be published on the website of the Council for a period of 30 days commencing on the date of the written notice referred to in rule 16.12.5.

16.13 The notice referred to in rule 16.12.5 shall contain a warning that if a vote is cast in favour of more than the number of names referred to in rule 16.12.5.1.1, or if any mark or alteration is made on the ballot paper other than the cross indicating a vote in favour of the candidates for whom the legal practitioner intends to vote, or if the declaration referred to in rule 16.12.3 is not duly completed and signed by the voter, the ballot paper will be void.

16.14 The Council shall despatch separate notices to attorneys and advocates for purposes of any election in terms of this rule, and all notifications shall distinguish clearly as to whether they are intended for the election of an attorney or for the election of an advocate.

16.15 Within 7 days after the last date on which nominations were required to be lodged in terms of rule 16.6 the chairperson of the Council ("the chairperson") shall in writing appoint a legal practitioner of more than fifteen years standing as a referee for the purpose of performing the duties assigned to a referee under these rules. The referee shall not be a candidate for office or a legal practitioner who has nominated a candidate, or a member of the Council or of a Provincial Council, as the case may be.

16.6 On each day on which envelopes marked "voting papers" despatched to the Provincial Council are received by the Council, or if it is not practicable on that day, as soon as practicable thereafter, the chairperson shall, in the presence of the referee, open each such envelope and remove its contents. The chairperson and the referee shall then together examine
each declaration form, shall verify, to such extent as may appear necessary, the information contained therein against the records of the Council and shall satisfy themselves that the declaration form has been duly completed and signed by the legal practitioner, failing which it will be regarded as invalid. In the event of a disagreement between the chairperson and the referee as to the validity or otherwise of any form of declaration, the view of the referee shall prevail and his or her judgment on the matter shall be final. The referee shall endorse with his or her signature each form of declaration found to be invalid, with the reason for the invalidity. The chairperson and the referee shall together note the name and surname of each legal practitioner who has submitted a declaration and envelope marked "ballot papers", as well as whether that legal practitioner is an attorney or an advocate, in a voting register kept by the referee.

16.17 The chairperson shall, in the presence of the referee, in respect of each declaration form found to be valid, place its accompanying envelope marked "ballot paper" unopened through a slot in a ballot box of a design and construction approved by the Council, which shall have been securely locked and sealed in advance by the chairperson and of which the chairperson. After placing the last of such envelopes duly received in the ballot box the chairperson shall, in the presence of the referee, securely seal the slot, and shall hand the key to the referee. The chairperson shall securely retain the ballot box, locked and sealed as aforesaid, and shall deliver the ballot box in that condition to the scrutiniizers appointed in terms of rule 16.19 on the day following the day referred to in rule 16.12.5.1.6. Separate ballot boxes shall be kept for ballot papers in respect of attorneys and advocates respectively.

16.18 An envelope marked "ballot paper" which is accompanied by a form of declaration which has been found to be invalid shall not be placed in the ballot box but the chairperson shall, in the presence of the referee, replace in the envelope marked "voting papers" in which it was received each such envelope marked "ballot paper" unopened, together with its accompanying form of declaration endorsed by the referee as provided in rule 16.16, shall securely seal all those documents and shall separately retain them in the same manner mutatis mutandis, as is provided for in rule 16.17, for a
period of three months after the date referred to in rule 16.12.5.1.6. The
chairperson shall thereafter destroy all of them unless ordered otherwise
by an order of court; provided that if there should be a dispute regarding
the validity of the form of declaration the documents shall be retained until
the dispute has been resolved. The chairperson shall keep a separate
record of the number of declarations and envelopes thus retained by him.

16.19 Prior to or on the date referred to in rule 13.12.5.16 the Council shall
appoint as scrutinizers to examine the ballot papers placed in the ballot
box and of counting the votes received, not less than two legal
practitioners, not being candidates for office or legal practitioners who have
nominated candidates or who are members of the Council or of a
Provincial Council, and none of whom shall be the legal practitioner
appointed as referee under these rules. Upon receipt by the scrutinizers of
the ballot box they shall break the seal, open the ballot box and remove its
contents. They shall then open each of the envelopes marked "ballot
paper", remove the ballot paper contained therein, examine the ballot
paper and satisfy themselves of its validity in accordance with these rules
or, if not so satisfied, reject the ballot paper after having endorsed on its
reverse over their signatures the reason for its rejection. They shall then
count the votes recorded in the remaining ballot papers and record the
result in the presence of the chairperson and the referee. Thereafter they
shall replace all the ballot papers, including those rejected, in the ballot box
and shall lock and re-seal it, and hand it to the chairperson for
safekeeping.

16.20 The number of attorney candidates in the respective categories indicated
on the ballot paper who received the greatest number of votes of attorneys
in diminishing order among the attorney candidates shall be deemed to
have been elected as attorney members of the Provincial Council in those
categories, and the advocate candidates in the respective categories
indicated on the ballot paper who received the greatest number of votes of
advocates in diminishing order among the advocate candidates shall be
deemed to have been elected as advocate members of the Provincial
Council in those categories. If there are insufficient candidates to fill a
particular category the Council shall co-opt a suitable candidate to fill the
vacancy, and the co-opted candidate shall be deemed to have been elected in accordance with these rules.

16.21 If there is a tie between two or more candidates having the result of leaving undecided which of the candidates has been elected, in the relevant category, the question as to which of them shall be deemed elected shall be determined immediately by lot drawn by the scrutinizers in the manner determined by them.

16.22 Upon completion of their scrutiny the scrutinizers shall immediately report the result of the election in writing to the chairperson and referee. The referee shall immediately determine whether the election was conducted freely and fairly, and shall issue a signed declaration in that regard to the chairperson. The report shall be signed by all of the scrutinizers and shall contain the following particulars:

16.22.1 the total number of ballot papers received by them;

16.22.2 the numbers of ballot papers rejected and the grounds of rejection;

16.22.3 the total number of votes in favour of each candidate in each category;

16.22.4 the result of any lot drawn in terms of rule 16.21;

16.22.5 the names of those candidates who are deemed to have been elected.

16.23 The chairperson shall, after receipt of the report of the scrutinizers and a declaration in terms of rule 16.22 that the election was conducted freely and fairly, cause each candidate to be advised of the result of the election.

16.24 The report of the scrutinizers together with a declaration from the referee in terms of rule 16.22 that the election was conducted freely and fairly shall be conclusive as to the result of the election, notwithstanding any informality.

16.25 The scrutinizers, having completed their scrutiny, shall return the ballot box containing the examined ballot papers and which is locked in accordance
with rule 16.19 to the chairperson, together with its key. The chairperson shall securely retain the ballot box in that condition for a period of three months after the date referred to in rule 16.12.5.1.6 and shall thereupon break the seal, unlock the box, empty it of its contents and destroy the contents. The chairperson shall then also destroy all the valid declaration forms received by the Council.

16.26 If an election is declared to be not free and fair by the referee in terms of rule 16.22, or by a court on application brought within one month of the announcement of the result, the process for the election of members of the Provincial Council shall be conducted afresh.
Provincial Council of [●]

Ballot Paper - Attorneys
(for use in elections for all Provincial Councils except for the Gauteng Provincial Council)

Every attorney who is on the roll of practising attorneys and who practises within the area of jurisdiction of the Provincial Council may vote for a maximum of six candidates from the candidates listed below. Please note, however, that in order to achieve an appropriate balance of race and gender in relation to the composition of the Provincial Council, and subject to the availability of candidates, the following individuals will constitute the six attorneys who will serve as members of the Provincial Council:

1. the two black women with the highest number of votes in this category;
2. the two black men with the highest number of votes in this category;
3. the white woman with the highest number of votes in this category;
4. the white man with the highest number of votes in this category.

A short profile of each candidate is available at www.lpc.co.za.

A  B  C  D  E  F  G

---

1 Black is used as defined in section 1 of the Broad-Based Black Economic Empowerment Act 53 of 2003, read with the Broad-Based Black Economic Empowerment Amendment Act 46 of 2013 as a generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent, or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date and such other persons as may be categorised as black persons for purposes of that legislation.
When voting, please take into account the following considerations in relation to the constitution of the Provincial Council:

(a) the racial and gender composition of South Africa;
(b) representation of persons with disabilities; and
(c) experience and knowledge of—
   (i) the provision of legal services;
   (ii) the principles of promoting access to justice;
   (iii) legal education and training;
   (iv) consumer affairs;
   (v) civil and criminal proceedings and the functioning of the courts and tribunals in general;
   (vi) the maintenance of professional standards of persons who provide legal services;
   (vii) the handling of complaints; and
   (viii) competition law.
Provincial Council of [●]

Ballot Paper - Advocates
(for use in elections for all Provincial Councils except for the Gauteng Provincial Council)

Every advocate who is on the roll of practising advocates and who practises within the area of jurisdiction of the Provincial Council may vote for a maximum of four candidates from the candidates listed below. Please note, however, that in order to achieve an appropriate balance of race and gender in relation to the composition of the Provincial Council, and subject to the availability of candidates, the following individuals will constitute the four advocates who will serve as members of the Provincial Council:

1. the black woman\(^2\) with the highest number of votes in this category;
2. the black man with the highest number of votes in this category;
3. the white woman with the highest number of votes in this category;
4. the white man with the highest number of votes in this category.

A short profile of each candidate is available at www.lpc.co.za.

A
B
C
D
E
F
G

When voting, please take into account the following considerations in relation to the constitution of the Provincial Council:
(a) the racial and gender composition of South Africa;
(b) representation of persons with disabilities; and
(c) experience and knowledge of—

\(^2\) Black is used as defined in section 1 of the Broad-Based Black Economic Empowerment Act 53 of 2003, read with the Broad-Based Black Economic Empowerment Amendment Act 46 of 2013 as a generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent, or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date and such other persons as may be categorised as black persons for purposes of that legislation.
(i) the provision of legal services;
(ii) the principles of promoting access to justice;
(iii) legal education and training;
(iv) consumer affairs;
(v) civil and criminal proceedings and the functioning of the courts and tribunals in general;
(vi) the maintenance of professional standards of persons who provide legal services;
(vii) the handling of complaints; and
(viii) competition law.
Provincial Council of Gauteng

Ballot Paper - Attorneys
(only for use in elections for the Gauteng Provincial Council)

Every attorney who is on the roll of practising attorneys and who practises within the area of jurisdiction of the Provincial Council may vote for a maximum of eight candidates from the candidates listed below. Please note, however, that in order to achieve an appropriate balance of race and gender in relation to the composition of the Provincial Council, and subject to the availability of candidates, the following individuals will constitute the eight attorneys who will serve as members of the Provincial Council:

1. the two black women\(^3\) with the highest number of votes in this category;
2. the two black men with the highest number of votes in this category;
3. the two white women with the highest number of votes in this category;
4. the two white men with the highest number of votes in this category.

A short profile of each candidate is available at www.lpc.co.za.

When voting, please take into account the following considerations in relation to the constitution of the Provincial Council:
(a) the racial and gender composition of South Africa;
(b) representation of persons with disabilities; and
(c) experience and knowledge of—

\(^3\) Black is used as defined in section 1 of the Broad-Based Black Economic Empowerment Act 53 of 2003, read with the Broad-Based Black Economic Empowerment Amendment Act 46 of 2013 as a generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent, or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date and such other persons as may be categorised as black persons for purposes of that legislation.
(i) the provision of legal services;
(ii) the principles of promoting access to justice;
(iii) legal education and training;
(iv) consumer affairs;
(v) civil and criminal proceedings and the functioning of the courts and tribunals in general;
(vi) the maintenance of professional standards of persons who provide legal services;
(vii) the handling of complaints; and
(viii) competition law.
Provincial Council of Gauteng

Ballot Paper - Advocates
(only for use in elections for the Gauteng Provincial Council)

Every advocate who is on the roll of practising advocates and who practises within the area of jurisdiction of the Provincial Council may vote for a maximum of four candidates from the candidates listed below. Please note, however, that in order to achieve an appropriate balance of race and gender in relation to the composition of the Provincial Council, and subject to the availability of candidates, the following individuals will constitute the four advocates who will serve as members of the Provincial Council:

1. the black woman\(^4\) with the highest number of votes in this category; the black man with the highest number of votes in this category;
2. the white woman with the highest number of votes in this category;
3. the white man with the highest number of votes in this category.

A short profile of each candidate is available at www.lpc.co.za.

When voting, please take into account the following considerations in relation to the constitution of the Provincial Council:
(a) the racial and gender composition of South Africa;
(b) representation of persons with disabilities; and
(c) experience and knowledge of—
   (i) the provision of legal services;
   (ii) the principles of promoting access to justice;

\(^4\) Black is used as defined in section 1 of the Broad-Based Black Economic Empowerment Act 53 of 2003, read with the Broad-Based Black Economic Empowerment Amendment Act 46 of 2013 as a generic term which means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent, or who became citizens of the Republic of South Africa by naturalisation before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date and such other persons as may be categorised as black persons for purposes of that legislation.
(iii) legal education and training;
(iv) consumer affairs;
(v) civil and criminal proceedings and the functioning of the courts and tribunals in general;
(vi) the maintenance of professional standards of persons who provide legal services;
(vii) the handling of complaints; and
(viii) competition law.
Regulations under section 109(1)(a) read with section 97(1) of the Legal Practice Act, 28 of 2014

It is hereby certified that, acting under the powers conferred by section 109(1)(a) of the Legal Practice Act, 28 of 2014, the Minister of Justice and Constitutional Development, acting in consultation with the National Forum on the Legal Profession, has made the following regulations in connection with the matters referred to therein.

The composition, powers and functions of the Provincial Councils

1. Definitions

In these regulations, unless the context otherwise indicates -

1.1 “The Act” means the Legal Practice Act, 28 of 2014;

1.2 words and phrases defined in the Act shall have the same meanings assigned to them in these regulations.

2. Composition of the Provincial Councils

Until otherwise determined by the Council the composition of each Provincial Council shall be as set out in the following table, elected in accordance with the provisions of rule 16 of the rules of the Council made under the authority of section 95(1) of the Act, read with section 109(3) of the Act:

<table>
<thead>
<tr>
<th>Composition of Provincial Councils</th>
<th>EC</th>
<th>FS</th>
<th>GP</th>
<th>KZN</th>
<th>LP</th>
<th>MP</th>
<th>NC</th>
<th>NW</th>
<th>WC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorneys - Black</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Attorneys - White</td>
<td>2</td>
<td>2</td>
<td>4</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Advocates - Black</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Advocates - White</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Total Legal Practitioners</td>
<td>10</td>
<td>10</td>
<td>12</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
<td>10</td>
</tr>
</tbody>
</table>
In terms of the provisions of rule 16, one-half of the legal practitioners serving each Provincial Council will be female and one-half will be male.

3. **Powers and functions of Provincial Councils**

Until otherwise determined by the Council, the following powers and functions shall be delegated in terms of section 23(1) of the Act to a Provincial Council in respect of legal practitioners who have registered a physical address within the area of jurisdiction of the Provincial Council:

3.1 the enrolment of duly admitted legal practitioners, and the maintenance of a roll of legal practitioners, in terms of section 6(3) of the Act;

3.2 to receive and process applications for admission by individuals to practise as legal practitioners, conveyancers or notaries, pursuant to the provisions of section 24(2) of the Act;

3.3 the registration and administration of practical vocational training contracts entered into pursuant to regulations made by the Minister in respect of practical vocational training requirements of candidate legal practitioners;

3.4 to receive and process applications by attorneys applying for certificates to appear in the High Court, the Supreme Court of Appeal or the Constitutional Court, as contemplated in section 25(4) of the Act;

3.5 to receive and process applications by candidate legal practitioners for certificates for the right of appearance in terms of section 25(5) of the Act, and to issue such certificates.

3.6 to establish committees of the Provincial Council to assist it in the exercise of its powers and the performance of its functions, as contemplated in section 23(6) of the Act, and to further delegate to any such committee any of the powers and functions delegated to the Provincial Council by the Council;

3.7 to receive applications for and, on good cause shown, grant exemption to candidate legal practitioners or legal practitioners from performing community service, as contemplated in section 29(3) of the Act;

3.8 to receive from the registrar of the High Court, and retain, the certified copies of court orders made by the High Court, as contemplated in section 30(5) of the Act;
3.9 to maintain the roll of legal practitioners in respect of legal practitioners, notaries and conveyancers within the area of jurisdiction of the Provincial Council, and to provide updated information in relation to the roll to the Council;

3.10 to cancel or suspend the enrolment of a legal practitioner in the circumstances contemplated in section 31 of the Act, subject to compliance by the Provincial Council with the provisions of section 31;

3.11 to receive and process applications for conversion of enrolment by legal practitioners, as contemplated in section 32 of the Act;

3.12 to receive applications for, and to approve, the establishment of law clinics, as contemplated by section 34(8) of the Act, subject to compliance with the provisions of that section;

3.13 to establish investigating committees and disciplinary committees, as contemplated in section 37 of the Act;

3.14 to conduct disciplinary hearings, as contemplated by section 39 of the Act and, for purposes of a hearing, subpoena persons to appear before the disciplinary committee, as contemplated in section 39(3) of the Act;

3.15 to institute urgent in legal proceedings in the High Court to suspend a legal practitioner from practice and to obtain alternative interim relief, in the circumstances contemplated in section 43 of the Act;

3.16 to receive and process applications for the issue of fidelity fund certificates to legal practitioners who are obliged to be in possession of a fidelity fund certificate, as contemplated in section 85 of the Act, and if satisfied as to the matters referred to in section 85(6), to issue the applicant with a fidelity fund certificate;

3.17 as contemplated in section 87(2) of the Act, to inspect, either itself or through its nominee, the accounting records of any trust account practice in order to satisfy itself that the provisions of section 86 and section 87(1) are being complied with;

3.18 to apply to the High Court to prohibit any legal practitioner referred to in section 84(1) of the Act from operating in any way on his or her trust account, and for an order appointing a curator bonis to administer and control that trust account, as contemplated in section 89 of the Act;
3.19 to apply to the High Court for an order appointing a curator bonis to control and administer the trust account of a legal practitioner in the circumstances contemplated in section 90 of the Act.

4. Further delegation not prohibited

Nothing in these regulations prohibits the Council from delegating further powers and functions to a Provincial Council pursuant to the powers given to the Council in section 6(1)(a)(x) of the Act.
Law Society of South Africa

Recommendation to the Minister of Justice and Constitutional Development
in terms of section 97(1)(a)(v) of the Legal Practice Act, 28 of 2014

Regulations made under section 26(1)(c) of the Legal Practice Act, 28 of 2014

Practical vocational training requirements for candidate legal practitioners

1. Duration of practical vocational training

1.1 Any person intending to be admitted and enrolled as a candidate legal practitioner must -

1.1.1 serve under a practical vocational training contract for a period of twelve months after that person has satisfied all the requirements for a degree referred to in sections 26(1)(a) or (b) of the Act; and

1.1.2 complete, to the satisfaction of the Council, during the service under a practical vocational training contract or within a period of not longer than twelve months after the termination of the practical vocational training contract, a full time period of structured course work, comprising compulsory modules on specific topics of not less than 400 notional hours duration in the aggregate over a period of not longer than six months.

1.2 For purposes of regulation 1.1.2 a notional hour of structured course work shall mean the notional duration allocated by the Council to a learning activity to be undertaken by a student to achieve a specified learning outcome, irrespective of the actual time taken by the individual to achieve that outcome.

1.3 The course of structured course work may be completed during the period of service under a practical vocational training contract, or separately therefrom, but a candidate legal practitioner may not embark on a course of structured course work before he or she has entered into a practical vocational training contract.

1.4 Subject to the provision of the Act, any period of service before the candidate has satisfied the requirements of the degrees referred to in regulation 1.1.1 shall not be regarded as good or sufficient service in terms of a practical vocational training contract, unless the Council otherwise determines in any particular case.
1.5 The Council may, on application and on good cause shown, and subject to such conditions as the Council may impose, reduce the duration of practical vocational training in any particular case.

2. Regulation of practical vocational training

2.1 The training of candidate legal practitioner, and service under a practical vocational training contract, shall be regulated by rules made by the Council from time to time.

2.2 Course work and workplace training must be in compliance with standards determined from time to time by the Council in the rules.

3. By whom candidate legal practitioners may be engaged

3.1 Candidate attorneys

3.1.1 A candidate attorney may be engaged or retained under a practical vocational training contract only -

3.1.1.1 by a person practising the profession of an attorney for his own account;

3.1.1.2 by a person practising the profession of an attorney as a partner in a firm of attorneys;

3.1.1.3 by a person practising the profession of an attorney as a member of a juristic entity;

3.1.1.4 by a person practising the profession of an attorney as State Attorney or as Deputy State Attorney in the office of the State Attorney or any branch thereof;

3.1.1.5 by a person practising the profession of an attorney if he or she is an attorney who has practised as a professional assistant in a firm for a period of five years within the preceding six years;

3.1.1.6 by a registered legal practitioner in the full time employ of a legal aid institution which has been approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged; or;

3.1.1.7 by a registered legal practitioner in the full time employ of any other institution approved by the Council for the purpose of engaging
candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged.

3.1.2 The person engaging the candidate attorney, as contemplated in regulation 3.1, must -

3.1.2.1 if that person is an attorney, save in the case of an attorney referred to in regulation 3.1.1.5, have practised as an attorney for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years;

3.1.2.2 in the case of an attorney referred to in regulation 3.1.1.5, have practised for the period specified in that regulation;

3.1.2.3 in the case of a registered legal practitioner referred to in regulations 3.1.1.6 and 3.1.1.7 who is an advocate, have practised in that capacity for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years.

3.1.3 Service by a candidate attorney to any legal practitioner while that legal practitioner is not practising the profession as described in regulation 3.1.1 shall not be deemed to be good or sufficient service for purposes of these regulations.

3.1.4 An attorney shall at no time have more than three candidate attorneys (and in the case of attorneys employed by entities referred to in regulations 3.1.1.6 and 3.1.1.7, six candidate attorneys or pupils in the aggregate) engaged or retained in terms of a practical vocational training contract: provided that -

3.1.4.1 on the death or retirement from practice of any attorney (or legal practitioner in the case of entities referred to in regulations 3.1.1.6, 3.1.1.7, 3.2.1.2 and 3.2.1.3) any of his or her surviving or remaining partners, any member of the commercial juristic entity of which he or she was a member, or any other person who as a legal practitioner is employed full time at the entity concerned; or

3.1.4.2 where an attorney has been debarred by the Council from continuing with a practical vocational training contract, any of his or her partners, any other member of the commercial juristic entity of which he or she is a member or (in the case of entities referred to in regulations 3.1.1.6 and
3.1.1.7) any other person who as a legal practitioner who is employed full time at the entity concerned may take cession of the practical vocational training contract of the candidate attorney, despite the fact that the cessionary may then have more than three candidate attorneys (or more than six candidate attorneys, as the case may be) under contract.

3.2 Pupils

3.2.1 A pupil may be engaged or retained under a practical vocational training contract only -

3.2.1.1 by an admitted advocate in practice;

3.2.1.2 by a registered legal practitioner in the full time employ of a legal aid institution which has been approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged; or

3.2.1.3 by a registered legal practitioner in the full time employ of any other institution approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged.

3.2.2 The person engaging the pupil, as contemplated in regulation 3.2.1 must -

3.2.2.1 if that person is an advocate, have practised in that capacity for a period not less than three years, or for periods of not less than three years in the aggregate during the preceding four years; or

3.2.2.2 in the case of a registered legal practitioner referred to in regulations 3.2.1.2 and 3.2.1.3 who is an advocate, have practised in that capacity for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years.

3.2.3 Service by a pupil to a legal practitioner while that legal practitioner is not practising the profession as described in regulation 3.2.2.1 shall not be deemed to be good or sufficient service for purposes of these regulations.

3.2.4 An advocate shall at no time have more than one pupil (and in the case of advocates employed by entities referred to in regulations 3.1.16, 3.1.1.7,
3.2.1.2 and 3.2.1.3, six candidate attorneys or pupils in the aggregate) engaged or retained in terms of a practical vocational training contract: provided that on the death or retirement from practice of an advocate or in the event of an advocate being debarred by the Council from continuing with a practical vocational training contract, any other qualifying advocate may take cession of the practical vocational training contract of the pupil for the period of the contract still remaining.

4. **Course work**

4.1 The course work programme to be attended by candidate legal practitioners shall comprise all of the following modules, attendance of which will be compulsory for candidate legal practitioners intending to be admitted as legal practitioners:

4.1.1 legal accounting for legal practitioners:

4.1.1.1 special legal accounting for advocates (pupils only, other than pupils wishing to be admitted as advocates referred to in section 34(2)(b) of the Act);

4.1.1.2 special legal accounting for attorneys and for advocates referred to in section 34(2)(b) of the Act;

4.1.2 advocacy skills, including trial and motion court proceedings;

4.1.3 alternative dispute resolution;

4.1.4 civil procedure;

4.1.5 criminal procedure;

4.1.6 professional conduct and legal ethics;

4.1.7 legal writing and drafting.

4.1.8 constitution of law and customary law;

4.1.9 information and communication technology for practice, and associated aspects of cyber law;

4.1.10 administration of estates.

4.2 The hours to be devoted to each of the modules referred to in regulation 4.1 by a candidate legal practitioner shall be as determined from time to time by the Council,
but the aggregate duration of attendance on modules by a candidate attorney or a pupil shall be not less than 400 notional hours.

4.3 Any module of course work may be presented through lectures, seminars or any forms of learning requiring the physical presence of a candidate legal practitioner, or in appropriate circumstances may be presented through approved distance-learning method or digital transmission, telephone or video conference link, audio-tape or electronic network. Course work may be presented during working hours or after hours.

4.4 All providers of structured course work for purposes of practical vocational training must be accredited by the Council and must have an appropriate level of experience to be able to impart knowledge and skills to candidate legal practitioners.

4.5 If a candidate legal practitioner fails to complete, to the satisfaction of the Council, a full time period of structured course work, as required in regulation 1.1.2, within a period of three years after the date of registration of a practical vocational training contract, he or she will be required to repeat the course work program to enable him or her to qualify for admission as a legal practitioner.

5. Assessment

Candidate legal practitioners will be subject to continuing assessment during their periods of practical vocational training, in relation to both their attendance at the course work program and during their service under a practical vocational training contract, in accordance with procedures determined by the Council. Any such assessment shall be in addition to, and apart from, the assessment of candidate legal practitioners as contemplated in section 28 of the Act.
General Council of the Bar and Advocates for Transformation

Recommendation to the Minister of Justice and Constitutional Development
in terms of section 97(1)(a)(v) of the Legal Practice Act, 28 of 2014

Regulations made under section 26(1)(c) of the Legal Practice Act, 28 of 2014

Practical vocational training requirements for candidate legal practitioners

1. Candidate attorneys

1.1 Duration of practical vocational training

1.1.1 Any person intending to be admitted and enrolled as an attorney must -

1.1.1.1 serve under a practical vocational training contract for a period of twelve months after that person has satisfied all the requirements for a degree referred to in sections 26(1)(a) or (b) of the Act; and

1.1.1.2 complete, to the satisfaction of the Council, during the service under a practical vocational training contract or within a period of not longer than twelve months after the termination of the practical vocational training contract, a full time period of structured course work, comprising compulsory modules on specific topics of not less than 400 notional hours duration in the aggregate over a period of not longer than six months.

1.1.2 For purposes of regulation 1.1.1.2 a notional hour of structured course work shall mean the notional duration allocated by the Council to a learning activity to be undertaken by a student to achieve a specified learning outcome, irrespective of the actual time taken by the individual to achieve that outcome.

1.1.3 The course of structured course work may be completed during the period of service under a practical vocational training contract, or separately therefrom, but a candidate attorney may not embark on a course of structured course work before he or she has entered into a practical vocational training contract.

1.1.4 Subject to the provision of the Act, any period of service before the candidate attorney has satisfied the requirements of the degrees referred to in regulation
1.1.1.1 shall not be regarded as good or sufficient service in terms of a practical vocational training contract, unless the Council otherwise determines in any particular case.

1.1.5 The Council may, on application and on good cause shown, and subject to such conditions as the Council may impose, reduce the duration of practical vocational training in any particular case.

1.2 By whom candidate attorneys may be engaged

1.2.1 A candidate attorney may be engaged or retained under a practical vocational training contract only -

1.2.1.1 by a person practising the profession of an attorney for his own account;

1.2.1.2 by a person practising the profession of an attorney as a partner in a firm of attorneys;

1.2.1.3 by a person practising the profession of an attorney as a member of a juristic entity;

1.2.1.4 by a person practising the profession of an attorney as State Attorney or as Deputy State Attorney in the office of the State Attorney or any branch thereof;

1.2.1.5 by a person practising the profession of an attorney if he or she is an attorney who has practised as a professional assistant in a firm for a period of five years within the preceding six years;

1.2.1.6 by a registered legal practitioner in the full time employ of a legal aid institution which has been approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged; or

1.2.1.7 by a registered legal practitioner in the full time employ of any other institution approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged.

1.2.2 The person engaging the candidate attorney, as contemplated in regulation 1.2.1, must -
1.2.2.1 if that person is an attorney, save in the case of an attorney referred to in regulation 1.2.1.5, have practised as an attorney for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years;

1.2.2.2 in the case of an attorney referred to in regulation 1.2.1.5, have practised for the period specified in that regulation;

1.2.2.3 in the case of a registered legal practitioner referred to in regulations 1.2.1.6 and 1.2.1.7 who is an advocate, have practised in that capacity for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years prior to being engaged by the entity concerned.

1.2.3 Service by a candidate attorney to any legal practitioner while that legal practitioner is not practising or has not practised the profession as described in regulation 1.2.1 shall not be deemed to be good or sufficient service for purposes of these regulations.

1.2.4 An attorney shall at no time have more than three candidate attorneys (and in the case of attorneys employed by entities referred to in regulations 1.2.1.6 and 1.2.1.7, six candidate attorneys or pupils in the aggregate) engaged or retained in terms of a practical vocational training contract: provided that -

1.2.4.1 on the death or retirement from practice of any attorney (or legal practitioner in the case of entities referred to in regulations 1.2.1.6, 1.2.1.7, 2.2.1.2 and 2.2.1.3) any of his or her surviving or remaining partners, any member of the commercial juristic entity of which he or she was a member, or any other person who as a legal practitioner is employed full time at the entity concerned; or

1.2.4.2 where an attorney has been debarred by the Council from continuing with a practical vocational training contract, any of his or her partners, any other member of the commercial juristic entity of which he or she is a member or (in the case of entities referred to in regulations 3.1.1.6 and 3.1.1.7) any other person who as a legal practitioner who is employed full time at the entity concerned

may take cession of the practical vocational training contract of the candidate attorney, despite the fact that the cessionary may then have more than three
candidate attorneys (or more than six candidate attorneys, as the case may be) under contract.

1.3 **Course work for candidate attorneys**

The course work programme to be attended by candidate attorneys shall comprise all of the following modules, attendance of which will be compulsory for candidate attorneys:

1.3.1 legal accounting for attorneys;

1.3.2 advocacy skills, including trial and motion court proceedings;

1.3.3 alternative dispute resolution;

1.3.4 civil procedure;

1.3.5 criminal procedure;

1.3.6 professional conduct and legal ethics;

1.3.7 legal writing and drafting.

1.3.8 constitutional law and customary law;

1.3.9 information and communication technology for practice, and associated aspects of cyber law;

1.3.10 administration of estates.

2. **Pupils**

2.1 **Duration of practical vocational training**

2.1.1 Any person intending to be admitted and enrolled as an advocate must -

2.1.1.1 serve under a practical vocational training contract for a period of not less than six months after that person has satisfied all the requirements for a degree referred to in sections 26(1)(a) or (b) of the Act; and

2.1.1.2 complete, to the satisfaction of the Council, during the service under a practical vocational training contract, a period of structured course work, comprising compulsory modules of specific topics of not less than 400
notional hours duration in the aggregate over a period of not longer than six months.

2.1.2 Any pupil may, instead of serving under a practical vocational training contract on a full-time basis for a period of six months, as provided for in regulation 2.1.1, elect to complete the practical vocational training on a part-time basis over a period of twelve months, provided that he or she completes a period of structured course work of not less than 400 notional hours duration in the aggregate during that period.

2.1.3 The provisions of regulations 1.1.2, 1.1.3, 1.1.4 and 1.1.5 will apply, with the necessary changes required by the context, to practical vocational training of pupils.

2.2 By whom pupils may be engaged

2.2.1 A pupil may be engaged or retained under a practical vocational training contract only -

2.2.1.1 by an admitted advocate in practice;

2.2.1.2 by a registered legal practitioner in the full time employ of a legal aid institution which has been approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged; or

2.2.1.3 by a registered legal practitioner in the full time employ of any other institution approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged.

2.2.2 The person engaging the pupil, as contemplated in regulation 2.2.1 must -

2.2.2.1 if that person is an advocate, have practised in that capacity for a period not less than three years, or for periods of not less than three years in the aggregate during the preceding four years; or

2.2.2.2 in the case of a registered legal practitioner referred to in regulations 2.2.1.2 and 2.2.1.3, have practised in that capacity for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years prior to being engaged by the entity concerned.
2.2.3 Service by a pupil to a legal practitioner while that legal practitioner is not practising or has not practised the profession as described in regulation 2.2.1 shall not be deemed to be good or sufficient service for purposes of these regulations.

2.2.4 An advocate shall at no time have more than one pupil (and in the case of advocates employed by entities referred to in regulations 12.1.6, 1.2.1.7, 2.2.1.2 and 2.2.1.3, six candidate attorneys or pupils in the aggregate) engaged or retained in terms of a practical vocational training contract: provided that on the death or retirement from practice of an advocate or in the event of an advocate being debarred by the Council from continuing with a practical vocational training contract, any other qualifying advocate may take cession of the practical vocational training contract of the pupil for the period of the contract still remaining.

2.3 **Course work for pupils**

The course work program to be attended by pupils shall comprise all of the following modules, attendance of which will be compulsory for pupils:

2.3.1 legal accounting for pupils:

2.3.1.1 special legal accounting for pupils other than pupils wishing to be admitted as advocates referred to in section 34(2)(b) of the Act;

2.3.1.2 special legal accounting for advocates referred to in section 34(2)(b) of the Act;

2.3.2 advocacy skills, including trial and motion court proceedings;

2.3.3 alternative dispute resolution;

2.3.4 civil procedure;

2.3.5 criminal procedure;

2.3.6 professional conduct and legal ethics;

2.3.7 legal writing and drafting;

2.3.8 constitutional law and customary law;
2.3.9 information and communication technology for practice, and associated aspects of cyber law.

[Details of these modules are subject to confirmation by the GCB and AFT].

3. Regulation of practical vocational training

3.1 The training of a candidate legal practitioner, and service under a practical vocational training contract, shall be regulated by rules made by the Council from time to time.

3.2 Course work and workplace training must be in compliance with standards determined from time to time by the Council in the rules.

4. General provisions

4.1 The hours to be devoted to each of the modules referred to in regulations 1.3 and 2.3 by a candidate legal practitioner shall be as determined from time to time by the Council, but the aggregate duration of attendance on modules by a candidate attorney or a pupil shall be not less than 400 notional hours.

4.2 Any module of course work may be presented through lectures, seminars or any forms of learning requiring the physical presence of a candidate legal practitioner, or in appropriate circumstances may be presented through approved distance-learning method or digital transmission, telephone or video conference link, audio-tape or electronic network. Course work may be presented during working hours or after hours.

4.3 All providers of structured course work for purposes of practical vocational training must be accredited by the Council and must have an appropriate level of experience to be able to impart knowledge and skills to candidate legal practitioners.

4.4 If a candidate legal practitioner fails to complete, to the satisfaction of the Council, a period of structured course work, as required in regulations 1.1.1.2 or 2.1.1.2, as the case may be within a period of three years after the date of registration of a practical vocational training contract, he or she will be required to repeat the course work program to enable him or her to qualify for admission as a legal practitioner.
5. **Assessment**

Candidate legal practitioners will be subject to continuing assessment during their periods of practical vocational training, in relation to both their attendance at the course work program and during their service under a practical vocational training contract, in accordance with procedures determined by the Council. Any such assessment shall be in addition to, and apart from, the assessment of candidate legal practitioners as contemplated in section 28 of the Act.
Draft regulations based on the NFA Proposal

National Forum on the Legal Profession

Recommendation to the Minister of Justice and Constitutional Development
in terms of section 97(1)(a)(v) of the Legal Practice Act, 28 of 2014

Regulations made under section 26(1)(c) of the Legal Practice Act, 28 of 2014

Practical vocational training requirements for candidate legal practitioners

1. Candidate attorneys

1.1 Duration of practical vocational training

1.1.1 Any person intending to be admitted and enrolled as an attorney must -

1.1.1.1 serve under a practical vocational training contract for a period of twelve months after that person has satisfied all the requirements for a degree referred to in sections 26(1)(a) or (b) of the Act; and

1.1.1.2 complete, to the satisfaction of the Council, during the service under a practical vocational training contract or within a period of not longer than twelve months after the termination of the practical vocational training contract, a full time period of structured course work, comprising compulsory modules on specific topics of not less than 400 notional hours duration in the aggregate over a period of not longer than six months.

1.1.2 For purposes of regulation 1.1.1.2 a notional hour of structured course work shall mean the notional duration allocated by the Council to a learning activity to be undertaken by a student to achieve a specified learning outcome, irrespective of the actual time taken by the individual to achieve that outcome.

1.1.3 The course of structured course work may be completed during the period of service under a practical vocational training contract, or separately therefrom, but a candidate attorney may not embark on a course of structured course work before he or she has entered into a practical vocational training contract.
1.1.4 Subject to the provision of the Act, any period of service under a practical vocational training contract before the candidate attorney has satisfied the requirements of the degrees referred to in regulation 1.1.1.1 shall not be regarded as good or sufficient service in terms of a practical vocational training contract, unless the Council otherwise determines in any particular case.

1.1.5 The Council may, on application and on good cause shown, and subject to such conditions as the Council may impose, reduce the duration of practical vocational training in any particular case.

1.2 By whom candidate attorneys may be engaged

1.2.1 A candidate attorney may be engaged or retained under a practical vocational training contract only -

1.2.1.1 by a person practising the profession of an attorney for his own account;

1.2.1.2 by a person practising the profession of an attorney as a partner in a firm of attorneys;

1.2.1.3 by a person practising the profession of an attorney as a member of a juristic entity;

1.2.1.4 by a person practising the profession of an attorney as State Attorney or as Deputy State Attorney in the office of the State Attorney or any branch thereof;

1.2.1.5 by a person practising the profession of an attorney if he or she is an attorney who has practised as a professional assistant in a firm for a period of five years within the preceding six years;

1.2.1.6 by a registered legal practitioner in the full time employ of a legal aid institution which has been approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged; or

1.2.1.7 by a registered legal practitioner in the full time employ of any other institution approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged.
1.2.2 The person engaging the candidate attorney, as contemplated in regulation 1.2.1, must -

1.2.2.1 if that person is an attorney, save in the case of an attorney referred to in regulation 1.2.1.5, have practised as an attorney for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years;

1.2.2.2 in the case of an attorney referred to in regulation 1.2.1.5, have practised for the period specified in that regulation;

1.2.2.3 in the case of a registered legal practitioner referred to in regulations 1.2.1.6 and 1.2.1.7 who is an advocate, have practised in that capacity for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years prior to being engaged by the entity concerned.

1.2.3 Service by a candidate attorney to any legal practitioner while that legal practitioner is not practising or has not practised the profession as described in regulation 1.2.1 shall not be deemed to be good or sufficient service for purposes of these regulations.

1.2.4 An attorney shall at no time have more than three candidate attorneys (and in the case of attorneys employed by entities referred to in regulations 1.2.1.6 and 1.2.1.7, six candidate attorneys or pupils in the aggregate) engaged or retained in terms of a practical vocational training contract: provided that -

1.2.4.1 on the death or retirement from practice of any attorney (or legal practitioner in the case of entities referred to in regulations 1.2.1.6, 1.2.1.7, 2.2.1.2 and 2.2.1.3) any of his or her surviving or remaining partners, any member of the commercial juristic entity of which he or she was a member, or any other person who as a legal practitioner is employed full time at the entity concerned; or

1.2.4.2 where an attorney has been debarred by the Council from continuing with a practical vocational training contract, any of his or her partners, any other member of the commercial juristic entity of which he or she is a member or (in the case of entities referred to in regulations 3.1.1.6 and 3.1.1.7) any other person who as a legal practitioner who is employed full time at the entity concerned
may take cession of the practical vocational training contract of the candidate attorney, despite the fact that the cessionary may then have more than three candidate attorneys (or more than six candidate attorneys, as the case may be) under contract.

1.3 **Course work for candidate attorneys**

The course work programme to be attended by candidate attorneys shall comprise all of the following modules, attendance of which will be compulsory for candidate attorneys:

1.3.1 Legal accounting for attorneys;

1.3.2 Advocacy skills, including trial and motion court proceedings;

1.3.3 Alternative dispute resolution;

1.3.4 Civil procedure;

1.3.5 Criminal procedure;

1.3.6 Professional conduct and legal ethics;

1.3.7 Legal writing and drafting.

1.3.8 Constitutional law and customary law;

1.3.9 Information and communication technology for practice, and associated aspects of cyber law;

1.3.10 Administration of estates.

2. **Pupils**

2.1 **Duration of practical vocational training**

2.1.1 Any person intending to be admitted and enrolled as an advocate must -

2.1.1.1 serve under a practical vocational training contract for a period of not less than six months after that person has satisfied all the requirements for a degree referred to in sections 26(1)(a) or (b) of the Act; and
2.1.1.2 complete, to the satisfaction of the Council, during the service under a practical vocational training contract, a period of structured course work, comprising compulsory modules of specific topics of not less than 400 notional hours duration in the aggregate over a period of not longer than six months, as well as compulsory attendance as an observer of proceedings in the High Court and in the magistrates' courts.

2.1.2 An entity referred to in regulation 2.2.1, if so authorised by the Council, may on good cause shown and on application by any pupil, exempt that pupil from attendance of any modules forming part of the structured course work, or any court attendances, if it is of the opinion that that pupil has prior learning or experience which would prima facie enable the pupil successfully to undergo assessments or examinations without having attended those modules or having attended court.

2.1.3 The provisions of regulations 1.1.2, 1.1.3, 1.1.4 and 1.1.5 will apply, with the necessary changes required by the context, to practical vocational training of pupils.

2.2 By whom pupils may be engaged

2.2.1 A pupil may be engaged or retained under a practical vocational training contract only by an entity accredited by the Council to provide practical vocational training specifically to pupils in accordance with the requirements laid down by the Council.

2.2.2 The persons engaged by the entities referred to in regulation 2.2.1 to provide practical vocational training to pupils must be under the supervision of an advocate who has practised in that capacity for a period of not less than three years or for periods of not less than three years in the aggregate during the preceding four years.

2.2.3 Unless the provisions of regulation 2.1.2 apply, service by a pupil otherwise than under a contract of practical vocational training in terms of regulation 2.2.1 shall not be deemed to be good or sufficient service for purposes of these regulations.

2.2.4 An entity referred to in regulation 2.2.1 shall at no time have more than the number of pupils engaged or retained in terms of a practical vocational training contract than is permitted under the terms of accreditation determined by the Council.
2.3 Course work for pupils

The course work program to be attended by pupils shall comprise all of the following modules, attendance of which will be compulsory for pupils unless they are specifically exempt therefrom:

2.3.1 Legal accounting for pupils:

2.3.1.1 Special legal accounting for pupils other than pupils wishing to be admitted as advocates referred to in section 34(2)(b) of the Act;

2.3.1.2 Special legal accounting for advocates referred to in section 34(2)(b) of the Act;

2.3.2 Professional ethics;

2.3.3 Practice directives, being the directives applicable in the relevant division of the High Court where the pupil would be expected to practise, as well as directives of the Supreme Court of Appeal and the Constitutional Court;

2.3.4 Advocacy skills in the widest sense.

2.3.5 Civil practice: Motion court.

2.3.6 Civil procedure: Action procedure.

2.3.7 Criminal law practice.

2.3.7.1 applications relevant to criminal trials, including applications to compel the furnishing of further particulars of charges, discovery of documents by the State, the referral of accused persons for psychiatric evaluation, recusal and special entries;

2.3.7.2 inquests.

2.3.8 Legal drafting.

2.3.9 Appeals.

2.3.10 Reviews.
2.4 Court attendance by pupils

Every pupil shall be required, during the course of his or her pupillage, unless exempted therefrom, to attend court proceedings as an observer prior to his or her undertaking any examination or assessment, which attendance will be compulsory and will be under the supervision of a practising advocate appointed by the entity referred to in regulation 2.2.1. The court proceedings to be attended by a pupil shall comprise at least the following:

2.4.1 High Court criminal trials (seven court days);

2.4.2 magistrates' court civil trials, which should include not less than two divorce matters (seven court days);

2.4.3 High Court application hearings, which should include opposed and unopposed applications (seven court days);

2.4.4 High Court civil trials (seven court days);

2.4.5 magistrates' court criminal trials (district or regional courts), which shall include at least two bail applications, one of which must be an opposed bail application (seven court days);

2.4.6 magistrates' court applications, which shall include opposed and unopposed applications (seven court days).

3. Regulation of practical vocational training

3.1 The training of a candidate legal practitioner, and service under a practical vocational training contract, shall be regulated by rules made by the Council from time to time.

3.2 Course work and workplace training must be in compliance with standards determined from time to time by the Council in the rules.

4. General provisions

4.1 The hours to be devoted to each of the modules referred to in regulations 1.3 and 2.3 by a candidate legal practitioner shall be as determined from time to time by the Council, but the aggregate duration of attendance on modules by a candidate
attorney or a pupil shall be not less than 400 notional hours in the case of candidate attorney and not less than 400 notional hours in the case of a pupil.

4.2 Any module of course work may be presented through lectures, seminars or any forms of learning requiring the physical presence of a candidate legal practitioner, or in appropriate circumstances may be presented through approved distance-learning method or digital transmission, telephone or video conference link, audio-tape or electronic network. Course work may be presented during working hours or after hours.

4.3 All providers of structured course work for purposes of practical vocational training must be accredited by the Council and must have an appropriate level of experience to be able to impart knowledge and skills to candidate legal practitioners.

4.4 If a candidate legal practitioner fails to complete, to the satisfaction of the Council, a period of structured course work, as required in regulations 1.1.1.2 or 2.1.1.2., as the case may be, within a period of three years after the date of registration of a practical vocational training contract, he or she will be required to repeat the course work program to enable him or her to qualify for admission as a legal practitioner.

5. **Assessment**

Candidate legal practitioners will be subject to continuing assessment during their periods of practical vocational training, in relation to both their attendance at the course work program and during their service under a practical vocational training contract, in accordance with procedures determined by the Council.
Compromise PVT Proposal – 1 October 2017

National Forum on the Legal Profession

Recommendation to the Minister of Justice and Constitutional Development
in terms of section 97(1)(a)(v) of the Legal Practice Act, 28 of 2014

Regulations made under section 26(1)(c) of the Legal Practice Act, 28 of 2014

Practical vocational training requirements for candidate legal practitioners

1. Candidate attorneys

1.1 Duration of practical vocational training

1.1.1 Any person intending to be admitted and enrolled as an attorney must -

1.1.1.1 serve under a practical vocational training contract with a person referred to in regulation 1.2 for a period of [●] months after that person has satisfied all the requirements for a degree referred to in sections 26(1)(a) or (b) of the Act; and

1.1.1.2 complete, to the satisfaction of the Council, during the service under a practical vocational training contract or within a period of not longer than twelve months after the termination of the practical vocational training contract, a programme of structured course work, comprising compulsory modules on specific topics, of not less than 400 notional hours duration in the aggregate over a period of not longer than six months.

1.1.2 For purposes of regulation 1.1.1.2 a notional hour of structured course work shall mean the notional duration allocated by the Council to a learning activity to be undertaken by a student to achieve a specified learning outcome, irrespective of the actual time taken by the individual to achieve that outcome.

1.1.3 The course of structured course work may be completed during the period of service under a practical vocational training contract, or separately therefrom, but a candidate attorney may not embark on a course of structured course work before he or she has entered into a practical vocational training contract.
1.1.4 Subject to the provision of the Act, any period of service before the candidate attorney has satisfied the requirements of the degrees referred to in regulation 1.1.1.1 shall not be regarded as good or sufficient service in terms of a practical vocational training contract, unless the Council otherwise determines in any particular case.

1.1.5 The Council may, on application and on good cause shown, and subject to such conditions as the Council may impose, reduce the duration of practical vocational training in any particular case, or may exempt a candidate attorney from attendance at any modules forming part of the structured course work if it is of the opinion that the candidate attorney has prior learning or experience which would enable the candidate attorney successfully to undergo assessment or examination without having attended those modules.

1.2 By whom candidate attorneys may be engaged

1.2.1 A candidate attorney may be engaged or retained under a practical vocational training contract only -

1.2.1.1 by a person practising the profession of an attorney for his own account;

1.2.1.2 by a person practising the profession of an attorney as a partner in a firm of attorneys;

1.2.1.3 by a person practising the profession of an attorney as a member of a juristic entity;

1.2.1.4 by a person practising the profession of an attorney as State Attorney or as Deputy State Attorney in the office of the State Attorney or any branch thereof;

1.2.1.5 by a person practising the profession of an attorney if he or she is an attorney who has practised as a professional assistant in a firm for a period of five years within the preceding six years;

1.2.1.6 by a registered legal practitioner in the full time employ of a legal aid institution which has been approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged; or

1.2.1.7 By a registered legal practitioner in the full time employ of any other institution approved by the Council for the purpose of engaging
candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged.

1.2.2 The person engaging the candidate attorney, as contemplated in regulation 1.2.1, must -

if that person is an attorney, save in the case of an attorney referred to in regulation 1.2.1.5, have practised as an attorney for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years;

1.2.2.1 in the case of an attorney referred to in regulation 1.2.1.5, have practised for the period specified in that regulation;

1.2.2.2 in the case of a registered legal practitioner referred to in regulations 1.2.1.6 and 1.2.1.7 who is an advocate, have practised in that capacity for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years prior to being engaged by the entity concerned.

1.2.3 Service by a candidate attorney to any legal practitioner while that legal practitioner is not practising or has not practised the profession as described in regulation 1.2.1 shall not be deemed to be good or sufficient service for purposes of these regulations.

1.2.4 An attorney shall at no time have more than three candidate attorneys (and in the case of attorneys employed by entities referred to in regulations 1.2.1.6 and 1.2.1.7, six candidate attorneys or pupils in the aggregate) engaged or retained in terms of a practical vocational training contract: provided that -

1.2.4.1 on the death or retirement from practice of any attorney (or legal practitioner in the case of entities referred to in regulations 1.2.1.6, 1.2.1.7, 2.2.1.2 and 2.2.1.3) any of his or her surviving or remaining partners, any member of the commercial juristic entity of which he or she was a member, or any other person who as a legal practitioner is employed full time at the entity concerned; or

1.2.4.2 where an attorney has been debarred by the Council from continuing with a practical vocational training contract, any of his or her partners, any other member of the commercial juristic entity of which he or she is a member or (in the case of entities referred to in regulations 3.1.1.6 and
3.1.1.7) any other person who as a legal practitioner who is employed full time at the entity concerned may take cession of the practical vocational training contract of the candidate attorney, despite the fact that the cessionary may then have more than three candidate attorneys (or more than six candidate attorneys, as the case may be) under contract.

1.3 Course work for candidate attorneys

1.3.1 The course work programme to be attended by candidate attorneys shall comprise all of the following modules, completion of which will be a requirement for candidate attorneys intending to be admitted and enrolled as attorneys:

1.3.1.1 legal accounting for attorneys;
1.3.1.2 advocacy skills, including trial and motion court proceedings;
1.3.1.3 alternative dispute resolution;
1.3.1.4 civil procedure;
1.3.1.5 criminal procedure;
1.3.1.6 professional conduct and legal ethics of attorneys;
1.3.1.7 legal writing and drafting.
1.3.1.8 constitutional law and customary law;
1.3.1.9 information and communication technology for practice, and associated aspects of cyber law;
1.3.1.10 administration of estates.

1.3.2 The course work modules referred to in regulations 1.3.1.1, 1.3.1.6 and 1.3.1.10 are applicable only to candidate attorneys. All other course work modules will be attended by candidate attorneys and pupils.
2. Pupils

2.1 Duration of practical vocational training

2.1.1 Any person intending to be admitted and enrolled as an advocate must -

2.1.1.1 serve under a practical vocational training contract continuous for a period of not less than [●] months after that person has satisfied all the requirements for a degree referred to in sections 26(1)(a) or (b) of the Act; and

2.1.1.2 complete, to the satisfaction of the Council, during the service under a practical vocational training contract, a period of structured course work, comprising compulsory modules of specific topics of not less than 400 notional hours duration in the aggregate over a period of not longer than six months.

2.1.2 Any pupil may, instead of serving under a practical vocational training contract on a full-time basis for a period of six months, as provided for in regulation 2.1.1.1, elect to complete the practical vocational training on a part-time basis over a period of [●] months, provided that he or she completes a period of structured course work of not less than 400 notional hours duration in the aggregate during that period.

2.1.3 The provisions of regulations 1.1.2, 1.1.3, 1.1.4 and 1.1.5 will apply, with the necessary changes required by the context, to practical vocational training of pupils.

2.2 By whom pupils may be engaged

2.2.1 A pupil may be engaged or retained under a practical vocational training contract only -

2.2.1.1 by an admitted advocate in practice;

2.2.1.2 by a registered legal practitioner in the full time employ of a legal aid institution which has been approved by the Council for the purpose of engaging candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged;

2.2.1.3 by a registered legal practitioner in the full time employ of any other institution approved by the Council for the purpose of engaging
candidate legal practitioners and who is responsible for supervising the training of candidate legal practitioners so engaged; or

2.2.1.4 By an entity accredited by the Council to provide practical vocational training specifically to pupils in accordance with requirements laid down by the Council.

2.2.2 The person or entity engaging the pupil, as contemplated in regulation 2.2.1 must -

2.2.2.1 if that person is an advocate, have practised in that capacity for a period not less than three years, or for periods of not less than three years in the aggregate during the preceding four years;

2.2.2.2 in the case of a registered legal practitioner referred to in regulations 2.2.1.2 and 2.2.1.3, have practised in that capacity for a period of not less than three years, or for periods of not less than three years in the aggregate during the preceding four years prior to being engaged by the entity concerned; or

2.2.2.3 in the case of an entity referred to in regulation 2.2.1.4, be under the supervision of an advocate who has practised in that capacity for a period of not less than three years or for periods of not less than three years in the aggregate during the preceding four years.

2.2.3 Service by a pupil otherwise then under a contract of practical vocational training in terms of 2.2.1 shall not be deemed to be good or sufficient service for purposes of these regulations.

2.2.4 An advocate shall at no time have more than one pupil (and in the case of advocates employed by entities referred to in regulations 1.2.1.6, 1.2.1.7, 2.2.1.2, 2.2.1.3 and 2.2.1.4, six candidate attorneys or pupils in the aggregate) engaged or retained in terms of a practical vocational training contract: provided that on the death or retirement from practice of an advocate or in the event of an advocate being debarred by the Council from continuing with a practical vocational training contract, any other qualifying advocate may take cession of the practical vocational training contract of the pupil for the period of the contract still remaining.
2.3 **Course work for pupils**

2.3.1 The course work program to be attended by pupils shall comprise all of the following modules, completion of which will be a requirement for pupils intending to be admitted and enrolled as advocates:

2.3.1.1 legal accounting for pupils:

2.3.1.1.1 special legal accounting for pupils other than pupils wishing to be admitted as advocates referred to in section 34(2)(b) of the Act;

2.3.1.1.2 special legal accounting for advocates referred to in section 34(2)(b) of the Act;

2.3.1.2 advocacy skills, including trial and motion court proceedings;

2.3.1.3 alternative dispute resolution;

2.3.1.4 civil procedure;

2.3.1.5 criminal procedure;

2.3.1.6 professional conduct and legal ethics of advocates;

2.3.1.7 legal writing and drafting;

2.3.1.8 constitutional law and customary law;

2.3.1.9 information and communication technology for practice, and associated aspects of cyber law.

[Details of these modules are subject to confirmation by the GCB and AFT and by the NFA].

2.3.2 The course work modules referred to in regulations 2.3.1.1 and 2.3.1.6 are applicable only to pupils. All other coursework modules are applicable to pupils and candidate attorneys.

3. **Regulation of practical vocational training**

3.1 The training of a candidate legal practitioner, and service under a practical vocational training contract, shall be regulated by rules made by the Council from time to time.
3.2 Course work and workplace training must be in compliance with standards determined from time to time by the Council in the rules.

4. **General provisions**

4.1 The hours to be devoted to each of the modules referred to in regulations 1.3 and 2.3 by a candidate legal practitioner shall be as determined from time to time by the Council, but the aggregate duration of attendance on modules by a candidate attorney or a pupil shall be not less than 400 notional hours.

4.2 Any module of course work may be presented through lectures, seminars or any forms of learning requiring the physical presence of a candidate legal practitioner, or in appropriate circumstances may be presented through approved distance-learning method or digital transmission, telephone or video conference link, audio-tape or electronic network. Course work may be presented during working hours or after hours.

4.3 All providers of structured course work for purposes of practical vocational training must be accredited by the Council and must have an appropriate level of experience to be able to impart the required knowledge and skills to candidate legal practitioners.

4.4 If a candidate legal practitioner fails to complete, to the satisfaction of the Council, a period of structured course work, as required in regulations 1.1.1.2 or 2.1.1.2. as the case may be, within a period of three years after the date of registration of a practical vocational training contract, he or she will be required to repeat the course work program to enable him or her to qualify for admission as a legal practitioner.

5. **Assessment**

Candidate legal practitioners will be subject to continuing assessment during their periods of practical vocational training, in relation to both their attendance at the course work programme and during their service under a practical vocational training contract, in accordance with procedures determined by the Council. Any such assessment shall be in addition to, and apart from, the assessment of candidate legal practitioners as contemplated in section 28 of the Act.
It is hereby certified that, acting under the powers conferred by section 109(1)(a) of the Legal Practice Act, 28 of 2014, the Minister of Justice and Constitutional Development, acting in consultation with the National Forum on the Legal Profession, has made the following regulations in connection with the matters referred to therein.

The right of appearance of candidate legal practitioners

1. Definitions

   In these regulations, unless the context otherwise indicates -

   1.1 "The Act" means the Legal Practice Act, 28 of 2014;

   1.2 words and phrases defined in the Act shall have the same meanings assigned to them in these regulations.

2. Candidate attorneys

   2.1 A candidate attorney is, subject to regulation 2.2, entitled to appear -

      2.1.1 in any court, other than the High Court, the Supreme Court of Appeal or the Constitutional Court; and

      2.1.2 before any board, tribunal or similar institution on behalf of any person instead of and on behalf of the person under whose supervision he or she is undergoing his or her practical vocational training.

   2.2 A candidate attorney may appear in a regional division established under section 2 of the Magistrates' Courts Act, 1944 (Act 32 of 1944), as contemplated in regulation 2.1, only if he or she has previously practised as an advocate for at least one year or has undergone at least one year of practical vocational training.

   2.3 A candidate attorney is entitled to be remunerated for any appearance in terms of regulation 2.1 as provided for in terms of the rules.
3. **Pupils**

3.1 A pupil is entitled to appear -

3.1.1 in any court, other than the High Court, the Supreme Court of Appeal or the Constitutional Court; and

3.1.2 before any board, tribunal or similar institution on behalf of any person

subject to the approval of the person under whose supervision he or she is undergoing his or her practical vocational training.

3.2 A pupil is entitled to be remunerated for any appearance in terms of regulation 3.1 as provided for in terms of the rules.
Regulations under section 109(1)(a) read with section 97(1) of the Legal Practice Act, 28 of 2014

It is hereby certified that, acting under the powers conferred by section 109(1)(a) of the Legal Practice Act, 28 of 2014, the Minister of Justice and Constitutional Development, acting in consultation with the National Forum on the Legal Profession, has made the following regulations in connection with the matters referred to therein.

Winding up of the affairs of the National Forum

1. Definitions

In these regulations, unless the context otherwise indicates -

1.1 "The Act" means the Legal Practice Act, 28 of 2014;

1.2 words and phrases defined in the Act shall have the same meanings assigned to them in these regulations.

2. Dissolution of National Forum

The National Forum shall be dissolved and shall cease to exist on the date referred to in section 96(4) of the Act.

3. Liabilities and obligations

Immediately prior to its dissolution all liabilities and obligations of the National Forum, of whatever nature, shall be settled by the National Forum so that at the date of dissolution the National Forum shall have no liabilities or obligations.

4. Assets and surplus funds

All assets of the National Forum, and all funds held by the National Forum, remaining after settlement of the liabilities and obligations in terms of regulation 3, shall be delivered to or paid to the Council immediately following the settlement of the liabilities and obligations of the National Forum.
“G”

5. **Staff**

The employment of all employees of the National Forum shall, on dissolution of the National Forum be transferred to the Council.
## Proposed Income Model

### All Legal Practitioners

<table>
<thead>
<tr>
<th>Practicing</th>
<th>Non Practising</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Attorneys</td>
<td>25 000</td>
<td>10 000</td>
</tr>
<tr>
<td>Advocates</td>
<td>4 000</td>
<td>4 000</td>
</tr>
<tr>
<td>Total</td>
<td>29 000</td>
<td>14 000</td>
</tr>
</tbody>
</table>

### Practising Legal Professionals

<table>
<thead>
<tr>
<th>Number</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Levies</td>
<td>29 000</td>
<td>3 500</td>
</tr>
<tr>
<td>Certificates, etc.</td>
<td>29 000</td>
<td>600</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Non Practising Legal Professionals

<table>
<thead>
<tr>
<th>Number</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Levies</td>
<td>14 000</td>
<td>800</td>
</tr>
<tr>
<td>Certificates, etc.</td>
<td>14 000</td>
<td>R</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Sub Total

130 100 000

### AFF

<table>
<thead>
<tr>
<th>Service</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Actuarial valuation</td>
<td>R 75 000 000</td>
</tr>
<tr>
<td>Curatorship</td>
<td>R 5 000 000</td>
</tr>
<tr>
<td>Inspection</td>
<td>R 2 500 000</td>
</tr>
<tr>
<td>Striking off</td>
<td>R 7 500 000</td>
</tr>
</tbody>
</table>

**Total AFF**

R 90 000 000

### Total Income

R 220 100 000

### Expenditure

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scenario 1</td>
<td>R 214 442 731</td>
</tr>
</tbody>
</table>

### Income less expenditure (Surplus)

R 5 657 269
### RECOMMENDATION 8 - APPENDIX I

**Scenario 1**

<table>
<thead>
<tr>
<th>Department</th>
<th>Job Role</th>
<th>National</th>
<th>EC</th>
<th>FS</th>
<th>GP</th>
<th>KZN</th>
<th>LP</th>
<th>MP</th>
<th>NC</th>
<th>NW</th>
<th>WC</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>2349</td>
<td>1448</td>
<td></td>
<td></td>
<td>15852</td>
<td>3922</td>
<td>1189</td>
<td>718</td>
<td>448</td>
<td>890</td>
<td>5716</td>
</tr>
<tr>
<td>Executive Office</td>
<td>Chief Executive/Director</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Operations Manager</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>General Admin</td>
<td>Secretary</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>REPORTS</td>
<td>Admin</td>
<td>5</td>
<td>1</td>
<td>1</td>
<td>12</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>Receptionist</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Media Officer</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Messenger</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Discipline</td>
<td>HoD</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Srn LO</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Snr Sec</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Legal Official</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Secretary</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Admin</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>5</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Training</td>
<td>HoD</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>HoD Manager</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Secretary</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Legal Official</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4</td>
</tr>
<tr>
<td>Professional Affairs</td>
<td>HoD</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Srn LO</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Snr Sec</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Legal Official</td>
<td>1</td>
<td>2</td>
<td>6</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>4</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Secretary</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Admin Clerk</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>6</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td>Finance</td>
<td>HoD/Manager</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Srn Accountant</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Admin Clerk</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Secretary</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Accountant</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Bookkeeper</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Cashier</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>Risk &amp; Compliance</td>
<td>HoD/Manager</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Srn Admin</td>
<td>2</td>
<td>2</td>
<td>1</td>
<td>10</td>
<td>3</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>4</td>
</tr>
<tr>
<td></td>
<td>Snr Sec</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>6</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Legal Official</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>6</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Auditor</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>6</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>Secretary</td>
<td>1</td>
<td>1</td>
<td>3</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Admin</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>6</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>ICT</td>
<td>HoD</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
</tr>
<tr>
<td>IT/Database</td>
<td>Snr Admin</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Snr IT Official</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>IT Official</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Secretary</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Human Resources</td>
<td>Manager</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Business Partner</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Admin</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Snr Librarian</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Librarian</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Call center</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Caterer</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Cleaner</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
</tbody>
</table>

| 55 | 27 | 20 | 108 | 42 | 13 | 12 | 12 | 13 | 49 | 351 |
FUTURE PRACTICAL VOCATIONAL TRAINING FOR ALL CANDIDATE LEGAL PRACTITIONERS, IN TERMS OF THE LEGAL PRACTICE ACT

POSITION ADOPTED BY THE COUNCIL OF THE LAW SOCIETY OF SOUTH AFRICA (LSSA) AT A MEETING OF THE COUNCIL ON 25 MAY 2017

(The resolution is supported by the constituents of the LSSA: Black Lawyers Association, National Association of Democratic Lawyers and Law Societies of the Cape, Free State, KwaZulu-Natal and Northern Provinces)

Sections 26, 27 and 28 of the Legal Practice Act, 2014

1. General

- Access to the profession and a satisfactory standard of learning for practice are guiding principles.
- The model must apply to all candidate legal practitioners, providing for course and workplace training. The purpose is to promote a uniform, transformed legal profession.
- Training can take place through contact, distance and digital methods.
- Course and workplace training must take place in compliance with standards as set out in the Legal Practice Council (LPC) Rules.
- The provider is subject to accreditation by the LPC.
- After completion of Practical Vocational Training (PVT), the graduate will exercise a choice whether to continue as candidate attorney or pupil.
- Formative (ongoing) assessment will apply to both elements of PVT.
- Summative competency assessment in terms of section 28 the LPA that will be conducted under the auspices of the LPC, will determine readiness for admission.
- The attorneys’ profession has available capacity for more than 4 000 candidate practitioners at 10 campuses. The provision includes staff, instructors, materials, e-learning production facility etc.
2. **Course work: Proposed modules**

The following modules will initially form part of the mandatory PVT Course programme, learning to be acquired in accordance with standards as set out in the Rules and within the context of the areas of law that are relevant for practice, inter alia, family law:

- Special legal accounting for legal practitioners
- Constitutional law and customary law
- Alternative dispute resolution
- Advocacy skills including trial and motion court
- Civil procedure
- Criminal procedure
- Professional conduct and Legal ethics
- Legal writing and drafting
- Information and communication technology for practice and relevant aspects of cyber law
- Administration of estates

The LPC will review the module list from time to time.

Serious consideration must be given to additional training in relevant fields of practice e.g. Conveyancing, Drafting of contracts, which may be provided on a non-mandatory basis by the provider and/or at the early stage of mandatory Post qualification professional development (PPD) programmes.

Advanced training and specialisation will occur at post-qualification level.

Training must embrace a blended model of provision, which includes contact during the day and/or after hours, distance tuition and digital learning. The purpose is to create a flexible, accessible and affordable learning process and save costs without compromising quality.
Training must be based on clear, written, published and practice-directed learning outcomes.

Facilitators must have an appropriate level of experience and be able to impart knowledge and skills.

Training will be provided on the assumption that graduates have acquired the necessary and relevant theoretical basis during the LLB study.

3. **Duration of coursework and assessment**

The duration of coursework will be 400 (four hundred) notional hours (equivalent to 4 (four) months), to be completed within a maximum period of 3 (three) years, from date of first registration.

The training programme must provide for formative assessment.

The reason for the 3-year period is to provide sufficient time to candidate practitioners to comply with the obligation. Some might not be able to comply during the proposed minimum period due to financial, work or personal circumstances.

Failure to comply within the period of three years will require the repetition of the course programme. The reason is to ensure that learning is up to date with changing laws and procedures.

Summative assessment will take place under the auspices of the LPC.

4. **Duration of workplace training**

Workplace training will be for a 12 (twelve) month period. Course work may be completed *in addition to or simultaneous* with such period.
The LSSA proposes the following entities with regard to workplace training:

For candidate attorneys:
- private and State Attorneys’ firms

For pupils:
- Registered practising advocates

For all candidate legal practitioners:
- Legal Aid institutions which are approved by the LPC for this purpose and which are supervised by a registered legal practitioner or
- Other institutions approved by the LPC which is supervised by a registered legal practitioner. This will create a mechanism to promote access, assuming that training in such a workplace will be in accordance with the standards as set out in the Rules.

5. **Accreditation and quality assurance**

The LPC will be responsible for the accreditation of training providers and exercise oversight over both elements of PVT in accordance with criteria and processes set out in the Rules.

6. **Cost of course work**

Current figures indicate that approximately 4 000 persons will require training per year.

Training of this intensive nature is costly, however shared and decentralised premises, online materials, visiting instructors and digital learning methods will contribute to savings that will further promote access.
The budget may be funded through tuition fees, salaries and grants from, for example, the LPC, Legal Practitioners Fidelity Fund (LPFF), SASSETA, government etc.

The provider may raise part of the cost through ‘third stream’ income derived from other training provision.

7. Remuneration of candidate practitioners

The LSSA is of the view that candidate legal practitioners should be remunerated. It is mindful of the current position in the advocates’ profession, but suggests that a solution be found. This could include an allowance from the supervising practitioner and/or voluntary association, a grant from the LPC, LPFF or SASSETA, or providing a limited right to practise.

8. Transitional role for LSSA-LEAD

It is proposed that the operation of the LSSA-L.E.A.D be extended for as long as it is required to meet the purposes of the LPA. Examinations and training programmes are already in place. Approval to provide training in 2018 can be applied for in terms of the current Attorneys Act, 1979. The LSSA Council will investigate a budget for the transitional arrangement.

9. Rules of the NF

The National Forum on the Legal Profession must ensure that the Rules for the implementation of the proposed model, apply to all candidate legal practitioners.
1. Section 97(1)(a)(v) of the Legal Practice Act requires the National Forum to make recommendations to the Minister on “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 practitioner”.

2. This memorandum sets out the recommendations of the General Council of the Bar (GCB) and Advocates for Transformation (AFT) with regard to practical vocational training (PVT) for pupils. At present, the law does not require any practical vocational training for admission as an advocate.

3. In considering what the PVT requirements for pupils should be, the GCB and AFT have been guided by two main considerations:

   3.1 Persons who are admitted to practise as advocates must have the necessary skills to be able to provide an effective service to clients. This is in the interests of those clients, in the interests of the administration of justice, and in the interest of the right of access to justice; and

   3.2 The PVT requirements must not inhibit access to the profession.

4. The latter consideration is particularly pressing because unlike candidate attorneys, pupils are not employed by a legal practitioner. They do not render legal services on behalf of a legal practitioner, they do not charge fees, and they do not earn an income. PVT for pupils therefore necessarily requires them to
undergo a period during which they are not employed and do not have any income. The longer the period of practical vocational training, the more this will limit access to the profession for those who are not well-resourced.

5. The GCB and AFT propose the following with regard to PVT of pupils.

6. A pupil may not be admitted as an advocate unless he or she has:

   6.1 undergone PVT which has been provided by or through a training institution accredited for this purpose by the Legal Practice Council (LPC);

   6.2 undergone that training for a period of not less than six months on a full-time basis, or equivalent training on a part-time basis for not less than twelve months;¹ and

   6.3 passed a competency-based examination or assessment for pupils, which has been carried out by the LPC or an entity engaged or accredited by it to conduct the examination or assessment on its behalf. The manner of assessment or examination remains to be discussed. The system of assessment or examination should involve moderation on a national basis, to ensure consistency across training institutions and across the country.

7. The practical vocational training should consist of the following elements:

   7.1 knowledge-based practical training;

¹ The option of part-time PVT over a period of not less than twelve months will increase access to the profession, by enabling some pupils to earn some income while they are undergoing PVT.
7.2 skill-based practical training, including practical training with regard to the organisation of the courts and of the practice of an advocate.

8. The first element of the training should ensure that pupils have the specific knowledge which is required for practice as an advocate (“coursework training”).

9. The second element of the training (“workplace training”) should ensure that pupils have

9.1 an opportunity to learn and practise the core advocacy skills of legal writing and oral advocacy;

9.2 the opportunity to learn practical aspects of the method and organisation of an advocate’s practice; the relationship between advocates, attorneys and clients; the system of courts in which they are likely to appear; and the core ethical rules for practise as an advocate.

THE PROPOSAL FOR GENERIC TRAINING OF CANDIDATE ATTORNEYS AND PUPILS

10. The LSSA has proposed that

10.1 All candidate legal practitioners must undergo PVT for a minimum of twelve months.

10.2 All candidate legal practitioners must undergo the same coursework.

---

2 It is possible that there could be some shared modules for candidate attorneys and pupils.
10.3 “After completion of PVT, the graduate will exercise a choice whether to continue as candidate attorney or pupil.”

11. We address this under three headings:

11.1 The content of PVT;

11.2 The lengthy of PVT;

11.3 The requirements of the Legal Practice Act.

The content of PVT

12. We have one legal profession, with two specialised branches. The primary focus of the two branches differs, and therefore their needs for PVT differ. If candidate attorneys and pupils receive identical coursework training, the inevitable result for each will be to water down the coursework training which they do require, and require them to undergo coursework training which they do not require.

13. An example of this is motion court practice. This is the core work of advocates, particularly young advocates. The current GCB coursework training therefore has a heavy focus on this. Most attorneys do not appear in motion court. Yet the LSSA proposal requires pupils and candidate attorneys to undergo the same coursework training in this regard.

14. Conversely, attorneys need extensive training in legal accounting and in administration of estates. Advocates do not need this. If they are required to undertake training in these areas, precious training time is wasted. If the
coursework for pupils excludes these matters, then there is no logical reason why other parts of coursework training should not also be adapted to recognise the different focus of the two branches.

15. The LSSA has proposed that the **workplace** element of PVT training will be different for candidate attorneys and pupils: candidate attorneys will be trained in attorneys’ firms, and pupils will be trained by practising advocates. We agree with this. However:

15.1 If the **workplace** training is to be different, there is no logic in requiring identical **coursework** training.

15.2 The LSSA has proposed that after PVT, candidate legal practitioners will opt to practise as attorneys or advocates. By then they will already have undergone workplace training. The result is that on the LSSA proposal, a candidate legal practitioner may receive workplace training as an advocate, and then be admitted as an attorney; or be trained as an attorney, and then be admitted as an advocate. There is no logic in this.

**The length of PVT**

16. Because pupils (unlike candidate attorneys) are not paid, the longer the period of practical vocational training is, the more this will limit access to the profession for those who are not well-resourced.
17. GCB pupillage is currently 12 months long. The GCB has resolved that, in the interests of facilitating access to the profession, it should be reduced and compressed to six months.³

18. The LSSA proposal requires pupillage of 12 months. This will perpetuate a key barrier to access to the profession. It has an anti-transformational result.

19. Candidate attorneys perform a dual function. They undergo training, and they also practise as lawyers: they provide legal services, on a paid basis, to clients. Their training is part-time. Pupils do not provide legal services to clients. All they do is undergo PVT. The training programme is full-time, intense and intensive.

20. There are therefore two reasons why pupillage does not need to be (and has never been) of the same length as the period served as a candidate attorney:

20.1 Pupils undergo full-time training; candidate attorneys undergo part-time training;

20.2 Advocates are litigation specialists, and pupils are trained for this purpose. Attorneys are generalists with a much wider scope of practice, and therefore require wider training.

21. For this reason, training of identical length is not justifiable.

³ Section 27(2) of the LPA provides that the rules made by the Council must regulate the payment of remuneration, allowances or stipends to all candidate legal practitioners, including the minimum amount payable. The Act does not authorise the Council to oblige a mentor to pay a candidate legal practitioner who is not employed by him or her. The Council or the state could pay a stipend. If that were to happen, this would make it possible to consider a longer pupillage. However, until this is assured, the six-month period is the only means to ensure that pupillage is not an unnecessary barrier to admission.
The requirements of the Legal Practice Act

22. The Act explicitly recognises, and makes provision for, the fact that we have one legal profession, with two specialised branches. The Act therefore distinguishes between candidate attorneys and pupils in their training:

22.1 A candidate “candidate legal practitioner” is defined in section 1 as “a person undergoing practical vocational training, either as a candidate attorney or as a pupil”.

22.2 A pupil is “a person undergoing practical vocational training with a view to being admitted and enrolled as an advocate”. A candidate attorney is “a person undergoing practical vocational training with a view to being admitted and enrolled as an attorney”. This is inconsistent with the notion of generic training, after which the candidate makes a choice as to the branch of the profession he or she will enter.

22.3 “Practical vocational training” is defined as training required in terms of the Act “to qualify as a candidate attorney or pupil in order to be admitted and enrolled as an attorney or advocate”. This plainly implies training for the branch of the profession to which the candidate will be admitted.

23. The proposal for generic training is inconsistent with the Act. Regulations made in accordance with that proposal would be ultra vires.

8 October 2017
National Forum of Advocates – Proposed pupillage as well as continued legal education for practicing advocates in terms of the Legal Practice Act

The National Forum of Advocates (“NFA”) proposes a system of pupillage under the supervision of any structure which may be accredited by the Legal Practice Council (“hereinafter referred to as the relevant structure”), such as the NFA, which is able to present practical vocational training to pupils according to the requirements laid down by the Legal Practice Council.

The system is devised to impart the necessary practical knowledge to pupils to enable them to practice as advocates effectively and ethically.

At the same time the system provides a mechanism for the continued legal education of advocates who are already in practice.

Supervision of the pupillage system and continued legal education.

No single pupil masters should be allocated to single pupils because this would unnecessarily limit the number of pupils who may want to undergo pupillage. In the case of the NFA, the Bar Council envisages appointing a Legal Education Committee consisting of senior junior practicing advocates which would supervise pupillage and the continued legal education of practicing advocates.

Syllabus for pupillage.

Firstly, the pupillage should not be a repetition of the university syllabus of the pupils. It should focus on practical aspects of advocates’ practice which the NFA regards as indispensable for advocates to practice effectively and ethically.

Secondly, the syllabus should be similar to the syllabus of candidate attorneys (not necessarily identical) to the extent that it should simplify the process of conversion from practicing as an advocate to practicing as an attorney, and to widen the spectrum of practical knowledge within the advocates’ profession.

Presentation of the pupillage syllabus.

The relevant practical knowledge should be imparted to pupils by means of de-centralised lectures at seminars under the auspices of the NFA or any other accredited structure in the jurisdiction areas of various Divisions of the High Court of South Africa where the relevant structure has sufficient infrastructure to present the lectures/seminars as well as by means of compulsory controlled attendance of court proceedings. In the case of the NFA, it is envisaged that lectures will be given by judges, magistrates, senior counsel, law lecturers, prosecutors and/or any other persons who the Legal Education Committee approves as
having suitable knowledge to impart the required knowledge to pupils. Pupils would be expected to approach the lecturers during the seminars with any enquiries regarding aspects broached during the seminars. Attendance of the seminars would be compulsory, and absence from any of the seminars or part thereof should only be condoned by the relevant structure on grounds which it regards as reasonably justifiable. Seminars should be held after normal business hours during weekdays, and on Saturdays dedicated for that purpose, to allow pupils, if they wish, to possibly pursue remunerated employment during normal office hours during the week when they are not attending court as part of their pupillage.

Costs of the seminars, assessments and examinations.

The seminars should be advertised widely and be accessible to any interested person. Attendance fees for pupils and other attendees in respect of the seminars should be fixed from time to time by the Legal Practice Council in consultation with the relevant structure. Fees for assessments and examinations should also be fixed from time to time in the same way and should be payable in advance by any person who applies to the relevant structure to be assessed/examined.

Assessments and examinations.

Assessments:

The relevant structure should be authorised to assess, on written application, the competence of any pupil at any stage during the period of pupillage, to appear in any proceedings in the forums allowed in terms of the Legal Practice Act for a reasonable fee, and to grant permission to such pupil to appear, subject to any conditions which the said structure may impose. This permission should not be granted in respect of the drafting of any process in court proceedings.

Examinations:

No single central national admission examination should be held to test the competence of the pupils to practice effectively and ethically.

At the end of each series of seminars which covered the full syllabus of pupillage in a particular Division of the High Court, the relevant structure should conduct an open-book written examination of the pupils in that Division, followed by an oral examination. These examinations should both test the knowledge imparted during the seminars and experienced by means of the court attendances.
All pupils who have attended all seminars and court attendances except those for which they received written condonation of absence from the relevant structure, and have passed the written and oral admission examinations, should be allowed to be admitted and enrolled as practicing advocates subject only to the other legal requirements in the Legal Practice Act not related to practical vocational training.

There should be two admission examinations in each calendar year - one in May and one in November and pupils should be allowed to undergo any of these two examinations after having undergone at least four months of pupillage, subject to the authority of the relevant structure to grant exemption in that regard as set out in the next paragraph below.

Duration of pupillage.

The total duration of the period of pupillage should not exceed twelve months unless special condonation is granted to a candidate by the Legal Practice Council on application by the candidate.

The relevant structure should be authorised by the Legal Practice Council, on good cause shown on application by any pupil, to exempt such pupil from attendance of any or all of the seminars and/or court attendances if it is of the opinion that such pupil has prior learning which would *prima facie* enable such pupil to successfully undergo the written and oral examinations without having attended or be required to attend any or all of the seminars and/or court attendances.

Subject to what is said in the preceding paragraph above, attendance of at least the following before examination and assessment should be required:

7 days of High Court criminal trials,

7 days of Magistrates’ Court (district and/or regional) criminal matters, including at least two bail applications which should include at least one opposed bail application,

7 days of High Court civil trials,

7 days of Magistrates’ Court civil trials which should including at least 2 divorce matters,

7 days of High Court application hearings which should include opposed and unopposed matters and

7 days of Magistrate Court application hearings which have to include opposed and unopposed matters.

The subjects to be covered by the seminars should *include* the following (basic bookkeeping and administration of estates should also be considered):

1. Professional Ethics.
The applicable rules of ethics applicable to all advocates, should be taught. Comprehensive knowledge of this topic, without having to refer to any source documents should be required.

2. Practice Directives.

The Practice Directives applicable in the relevant Division where the pupil will normally practice, as well as the Practice Directives of the Supreme Court of Appeal and the Constitutional Court should be taught.

3. Advocacy skills.

The following advocacy skills should be taught from a practical perspective with reference to the applicable law and practice in the relevant courts;

3.1 Setting up chambers and keeping required records.
   The basic requirements of functional chambers, including equipment and other infrastructure, basic computer literacy and keeping records should be taught.

3.2 Identifying the law relevant to each case and accessing/researching relevant legal sources.
   The ability to identify the law relevant to a specific case, and to access and research the relevant current legal position in available sources should be taught.

3.3 Effective consultation and taking of witness statements.
   Proper consultation and recording of witness statements should be taught.

3.4 Assessing the merits of a case and options for advice to the client.
   The aspects to consider when assessing the merits of a client’s case and the options open to the advocate about the advice to the client about possible steps to be taken by the client to protect his /her/its interests, should be taught. This should include reference to aspects such as the locus standi of parties, jurisdiction, prescription and the search for legal precedents.

3.5 Obtaining necessary evidence and witnesses.
   Practical steps to be taken to obtain evidence and witnesses necessary to properly advance the case of the client, should be taught.

3.6 Preparing for trial.
   Pupils should be taught how to organise their papers for trial, consult witnesses, revise material, identify the strong and weak points of the own and opposing case and to plan how to neutralise the opposing case and how to decide on the sequence and nature of evidence to best present a client’s case to the court.
3.7 Presenting evidence to the court.
Pupils should be taught how to present all forms of necessary evidence to the court in presenting their clients’ cases to the court and how to rebut the evidence presented by the opposing party/parties.

3.8 Cross-examination.
Pupils should be taught the theory of effective cross-examination of witnesses and the limitations to cross-examination.

3.9 Addressing the courts correctly and presenting argument to the courts.
Pupils should be taught how to correctly address the relevant courts when they are entitled to speak, how and when to raise objections to the conduct of opposing counsel or witnesses, or to inadmissible evidence and how to effectively structure and present their arguments to a court.

3.10 Noting judgments.
Pupils should be taught how to effectively note judgments which are not handed down in written form.

3.11 Applications for leave to appeal at the time of judgments.
Pupils should be taught what steps should be taken and what preparations should be made to be able to apply for leave to appeal immediately after judgment was handed down.

4. Civil Practice-Motion Court.
4.1 Identifying motion procedure as the applicable form of litigating.
4.2 The chronological procedural steps in Motion Court proceedings.
4.3 Applications for interim relief/final relief: Formal requirements.
4.4 Ex parte applications.
4.5 Interlocutory applications and their distinctive characteristics and requirements.
4.6 Specific types of applications most generally encountered in practice.
4.7 Factual disputes arising in the application papers and applicable options to deal with them.
4.8 Interest and costs.

5.1 Identifying action procedure as the applicable form of litigating.
5.2 The chronological procedural steps in action proceedings and the purpose of each.
5.3 Interest and costs.
6. **Criminal Law Practice.**

6.1 How to handle every step in the normal procedural sequence of a criminal trial, including plea bargaining, all written documents to be drafted for the plea stage, deciding whether to give plea explanations or not, how to decide whether an accused client should testify in his/her defence or not.

6.2 How to make applications relevant to criminal trials, such as for compelling the furnishing of further particulars of charges, discovery of documents by the State, referral of accused for psychiatric evaluation, recusal, special entries.

6.3 How to handle inquests.

7. **Legal Drafting.**

7.1 **Civil Practice.**

Pupils should be taught how to draft all pleadings and notices in both application and action procedure.

7.2 **Criminal Procedure.**

Pupils should be taught how to draft all the documents necessary to conduct a criminal trial, as envisaged in paragraph 6 above.

8. **Appeals.**

Pupils should be taught how to obtain and prepare all necessary documents for civil and criminal appeals, how and when to deliver them, as well as how and when to draft and deliver all necessary applications and heads of argument. The practical handling of bail appeals in criminal matters should be included in this module of the syllabus.

9. **Reviews.**

Pupils should be taught how to identify matters which are reviewable and to obtain and prepare all necessary documents for the review application, as well as how and when to draft and deliver the review application and heads of argument.

**Continued legal education.**

Practicing advocates will be are required to ensure that they remain sufficiently informed of developments of the law to enable them to practice effectively and ethically in the branch(es) of law in which they practice. To this end, the seminars referred to above, which are primarily envisaged for the pupillage system, will create an ideal mechanism to ensure the continued legal education of practicing advocates, and they should receive credits in
that regard for their continued practice to the extent that they attend these seminars. This will also provide a source of funding for the seminars and consequently for the pupillage system.