

COMMITTED TO BUILDING A BETTER LEGAL PROFESSION FOR ALL

IN THIS EDITION

1. Update on RAF matter: Mabunda Inc & Others v RAF
2. Guidelines on key compliance requirements for legal practitioners as employers
3. Covid-19 alert level 3 regulations
4. Call for comment on criteria for conferment of Senior Attorney and Senior Counsel
5. Call for comment: application for accreditation to present practical vocational training structured programmes
6. Child Justice Amendment Act
7. Property Practitioners' Regulations out for comment
8. Misinformation disinformation feature
9. Risk Alert Bulletin
10. Keep updated with LEAD training
11. *De Rebus*

UPDATE ON RAF MATTER: MABUNDA INC & OTHERS V RAF

The Law Society of South Africa (LSSA) was an *amicus* in Mabunda Inc & Others v RAF, relating to the decision by the Road Accident Fund (RAF) to dispose of their panel attorneys. Judgment was delivered on 1 June 2020 in favour of the applicants.

In her judgment at the Gauteng High Court (Pretoria), Judge Wendy Hughes ruled that there should be a six-month reprieve for the attorneys. The attorneys sought the decision of 18 and 20 February calling on the panel to hand over their current files be reviewed and set aside as constitutionally invalid, along with the cancellation of the tender and the RAF's decision to dispense with the services of the panel from 1 June.

Judge Hughes noted that the RAF had failed to demonstrate the rationality of the decisions it has taken and decided it was necessary to retain the status quo for at least six months with the panel attorneys' present contract. 'This will enable the RAF to reconsider its position and retain the social responsibility net in place protecting the public,' Judge Hughes said.

The RAF was ordered to fulfill all its obligations to the attorneys in terms of the existing service level agreement. It was also ordered to pay the costs of the review applications.

The RAF has filed an application for leave to appeal. The matter is being heard today, 9 June 2020. We will keep you updated on the developments.

[Click here to view the court papers.](#)

GUIDELINES ON KEY COMPLIANCE REQUIREMENTS FOR LEGAL PRACTITIONERS AS EMPLOYERS

Law firms and legal practitioners with employees (practitioners) can render permitted services subject to several directions issued by the Minister of Employment and Labour, Thulas Nxesi, dated 4 June 2020 (the Directions). The purpose of the directions is 'to stipulate measures that must be taken by employers in order to protect the health and safety of workers and members of the public who enter their workplaces or are exposed to their working activities'.

The LSSA has compiled a guideline on the key compliance requirements for legal practitioners as employees. The guideline includes how to do a risk assessment, how to implement a phased-in plan and also includes the key requirements of reopening practice.

[Click here to view the guideline.](#)

COVID-19 ALERT LEVEL 3 REGULATIONS

We have compiled a summary of some of the provisions (the forms, where applicable, appear in Annexure A of the Regulations):

From 1 June 2020, Alert Level 3 applies to all provinces, metropolitan areas and districts, but the Minister of Cooperative Government and Traditional Affairs (GOGTA) may declare, by notice in the Government Gazette, a geographical area or cluster of geographical areas a hotspot, where additional restrictions may apply. GG 43364 contains a list of areas that had already been declared as hotspots. Amendments to the lockdown Regulations (GG 43258 of 29 April 2020) to deal with Alert Level 3, appear in GG 43364 dated 28 May 2020.

- Business and other institutions may operate, except for those listed in Table 2 (which include restaurants, short term letting for leisure purposes, hairdressing and beauty treatments, tourist attractions and entertainment activities).
- A plan for the phased-in return of employees (Annexure E) must be developed and retained for inspection.
- Movement of people in and out of hotspots may be restricted.
- People may travel to perform permitted services; to and from work; to buy goods and obtain services.
- Learners and students may attend schools and learning institutions, once these are open.
- Places of worship may be attended in the same province.
- Movement between provinces, metropolitan areas and districts and hotspots is prohibited, but there are exceptions.
- Movement of children is allowed between co-holders of parental responsibilities or caregivers in the same metropolitan area or district, if they are in possession of (a) a court order; (b) a parental responsibilities agreement or parenting plan registered with the family advocate; or (c) a permit by a magistrate (Form 3) if (a) and (b) are not available. A birth certificate or certified copy thereof to prove a legitimate relationship and written reasons why the movement of the child is necessary are required.

[Click here to read the full summary](#)

[Download the regulations here.](#)

CALL FOR COMMENT ON CRITERIA FOR CONFERMENT OF SENIOR ATTORNEY AND SENIOR COUNSEL

The Legal Practice Council (LPC) has extended the time frame for comment on the draft criteria and procedures for the conferment of Senior Counsel and Senior Attorney status. Comments can be sent to Kris Devan at kris@LSSA.org.za before 23 June. The LSSA will collate the comments and submit consolidated comment on behalf of the attorneys' profession. Alternatively, comment can be sent directly to the LPC no later than 30 June via e-mail to rules@lpc.org.za.

The LPC recognises that due to the lockdown, members of the profession did not have ample opportunity to participate.

[Click here to read the draft criteria.](#)

CALL FOR COMMENT: APPLICATION FOR ACCREDITATION TO PRESENT PRACTICAL VOCATIONAL TRAINING STRUCTURED PROGRAMMES

The LPC has also extended the deadline for comment on the draft guideline for application for accreditation to present Practical Vocational Training programmes for 2021 and thereafter. Comments can be sent to Kris Devan at kris@LSSA.org.za no later than 23 June 2020 or directly to the LPC on or before 30 June.

[Click here to view the draft guideline.](#)

CHILD JUSTICE AMENDMENT ACT

The Child Justice Amendment Act, 2019, appears in Government Gazette 43402 dated 4 June 2020. The Amendment Act, among other, raises the minimum age of criminal capacity from 10 to 12 years, regulates the prosecution of children between the ages of 12 and 14 years, regulates the proof of criminal capacity and deals with diversion of matters.

[Click here to download and view GG 43402.](#)

PROPERTY PRACTITIONERS' REGULATIONS OUT FOR COMMENT

Draft regulations aimed at giving practical effect to the 2019 Property Practitioners Act were gazetted in early March for comment. Once in force, the new statute will repeal and replace the 1976 Estate Agency Affairs Act. Among other things the proposed new regulations prescribe the procedures to be followed when applying for an exemption from any of the new Act's provisions; objecting to an exemption; applying for a Fidelity Fund certificate; claiming from the Fidelity Fund; opening and operating a trust account; and handling disputes. Attorneys are urged to send comments to Kris Devan at kris@LSSA.org.za by 15 July 2020.

[Click here to read the regulations.](#)

MISINFORMATION DISINFORMATION FEATURE

The LSSA in media partnership with Business Day, has scheduled to publish a special 'Misinformation Disinformation' feature on 30 June 2020.

The focus of the feature will be on:

- Misinformation - false or inaccurate information that is shared accidentally.
- Disinformation - false or misleading information which is spread deliberately to deceive and generally referred to as lying and propaganda.

Law firms are invited to advertise alongside the LSSA feature through a standard Business Day advertisement.

Should you choose to advertise in this legal feature, you can book directly with Michael Anthony, the Business Day media representative, by 12 June 2020 on e-mail anthonyadvertising1@telkomsa.net, tel: 011 432 6681 or mobile: 083 764 8454 / 072 108 0617 / 079 840 1237. The complete advertising material required can be e-mailed to Michael by 26 June 2020.

Here are some standard Business Day advertisements to choose from:

- (A-6 square advert cost R 15 210 excluding Vat)
- (A-6 portrait advert cost R 20 280 excluding Vat)
- (A-5 portrait advert cost R 27 040 excluding Vat)
- (A-4 portrait advert cost R 45 630 excluding Vat)

RISK ALERT BULLETIN

In the June 2020 issue:

- Amendments to the LPIIF policies
- Keeping proper consultation notes saves the day: The defence to a professional negligence claim turns on the attorney's consultation notes
- Integrity as a lifelong commitment in the legal profession
- Arguments for a delay in the completion of prescription and expiry periods during the lockdown period

[Download the June 2020 issue of the Risk Alert Bulletin here.](#)

FOLLOW US ON SOCIAL MEDIA

Due to the pandemic, public offices close overnight because of coronavirus infections and for decontamination. We endeavour to keep you abreast at all times via our social media platforms. Please follow us on [Facebook](#), [Instagram](#), [LinkedIn](#) and [Twitter](#) for the latest information.

KEEP UPDATED WITH LEAD TRAINING

LEAD has been accredited as a legal education training provider by the Legal Practice Council for 2020.

ADVANCED SHORT COURSE IN BUSINESS RESCUE PRACTICE AUGUST - OCTOBER 2020

The course will give you the necessary skills to act as a business rescue practitioner and fulfill your duties in accordance with the letter and spirit of the law. You will also be able to advise and protect the interests of your clients who may find themselves involved in business rescue proceedings as directors, creditors, shareholders or employees of a company in financial distress.

[Click here to register for the course.](#)

LEAD will also offer the following online courses in 2020:

- Medical law - 17 August
- Accounts Management - 14 September
- Office Administration - 14 September

DE REBUS

www.derebus.org.za

Did you miss the latest issue of De Rebus? You can read it at www.derebus.org.za

Can you afford not to have this valuable information at your fingertips? If you would like to receive a free digital copy, [click here to opt in.](#)

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