



LAW SOCIETY
OF SOUTH AFRICA

**GUIDELINES
FOR CONVERSION OF ENROLMENT
OF LEGAL PRACTITIONERS - ADVOCATES**

Introduction

1. The Legal Practice Act 28 of 2014 (“the LPA”) provides for High Courts to admit legal practitioners to practise, and to authorise the Legal Practice Council (“the Council”) to enrol those legal practitioners. It is a two-step process: admission to practise *and* authorisation to be enrolled. ¹
2. Thereafter, all matters pertaining to the enrolment of legal practitioners are determined by the Council. ²

Legal practitioners: three categories of admission and enrolment

3. There are three categories of admission and enrolment status contemplated in the LPA.
 - 3.1. The **first category** are those advocates, attorneys, conveyancers and notaries who were in practise before the date referred to in section 120 (4) of the LPA; see s 114 (1).

Those people are the practitioners who had been admitted and enrolled before 1 November 2018. They get automatic enrolment with the Council. This category is closed.
 - 3.2. The **second category** are those advocates, attorneys, conveyancers or notaries who were entitled to be admitted before the date referred to in section 120 (4), but who had not yet been admitted. They are entitled to be admitted in terms of the LPA; see section 115.

Those were the practitioners eligible for admission and enrolment on 1 November 2018 but whose applications for admission and enrolment were still to be heard. They get enrolled after admission by the High Court, which considered the admission requirements formerly applicable under the old law. This category is also closed now.

3.3. The **third category** are those candidate legal practitioners (advocates and attorneys) who fall entirely under the new LPA. Those are practitioners who commenced practical vocational training, either as candidate attorneys or pupils, generally, but not necessarily, shortly before or after 1 November 2018. They get admitted if they comply with section 24 read with section 26 of the LPA. This category is current.

Three forms of legal practice

4. Among the three categories of admission and enrolment status, legal practitioners now have a choice of three forms of legal practice. The three forms are attorneys, advocates and advocates with trust accounts. Section 30 of the LPA deals with enrolment. ³
5. Section 34 deals with the forms of legal practice. ⁴
6. It is not difficult to predict that initially those practitioners who were admitted and enrolled before 1 November 2018 are unlikely to convert their enrolment without a great deal of thoughtful consideration. As such, I predict a reasonably conservative approach will be adopted by this category of legal practitioner.
7. With regard to the other two categories, since these legal practitioners tend to be much younger than the first category, I predict there will be quite a significant movement concerning their enrolment paradoxically precisely because of their *own* thoughtful consideration.
8. I say this from experience of many advocates like myself. We first qualified as attorneys, were admitted as attorneys, only later to have our names removed from the attorneys' roll to become advocates. Some of our colleagues at the Bar later resigned, removed their

names from the advocates' roll, and had themselves admitted as attorneys. There has always been two-way traffic between the professions of advocates and attorneys.

9. **These guidelines focus on advocates changing their enrolment.** The guidelines set out the steps to achieve a successful conversion of enrolment.

Advocates conversion of enrolment

10. Conversion of enrolment is dealt with specifically in section 32 of the LPA. The section applies to all legal practitioners. ⁵
11. At any time, an advocate may apply to the Council to convert his or her enrolment to an attorney in terms of section 32 (1)(a) or to an advocate with a trust account in terms of section 32 (1)(b). The Council has determined the rules and payment of fees for the conversion of enrolments.
12. So, what must an advocate do to convert enrolment from one form of practice to another?

34 Forms of legal practice

- (1) An attorney may render legal services in expectation of any fee, commission, gain, or reward as contemplated in this Act or any other applicable law, upon receipt of a request directly from the public for that service.
- (2) (a) An advocate may render legal services in expectation of a fee, commission, gain or reward as contemplated in this Act or any other applicable law-
- (i) upon receipt of a brief from an attorney; or
 - (ii) upon receipt of a request directly from a member of the public or from a justice centre for that service, subject to paragraph (b).
- (b) An advocate contemplated in paragraph (a) (ii) may only render those legal services rendered by advocates before the commencement of this Act as determined by the Council in the rules, if he or she-
- (i) is in possession of a Fidelity Fund certificate and conducts his or her practice in accordance with the relevant provisions of Chapter 7, with particular reference to sections 84, 85, 86 and 87;
 - (ii) has notified the Council thereof in terms of section 30 (1) (b) (ii).
- (c) An advocate may render legal services in criminal or civil matters in expectation of a fee, commission, gain or reward as contemplated in this Act or any other applicable law upon receipt of a request directly from a justice centre for that service, in which event the provisions of paragraph (b) do not apply.

Sub-sections (3) to (9) omitted.

Conversion from advocate to attorney and conversion from advocate to an advocate with a fidelity fund certificate (trust account): section 32 (1)(a) and section 32(1)(b)

13. To convert an enrolment from an advocate to an attorney or to an advocate with a trust account, one must apply to the Council.
14. The applicant must comply with Part VII, sections 30 and 32 of the *Rules in terms of Sections 95(1), 95(3) and 109(2) of the Act published under GenN 401 of 2018*. The Rules were published and amended frequently. ¹ The latest version of those Rules is set out in the **endnotes**. ⁶
15. The two most exacting requirements in the process to convert an enrolment are the knowledge of accounting for the keeping of accounting records referred to in section 87 of the LPA, and, proof of attendance at a legal practice management course as contemplated in section 85(1)(b) of the LPA.

CONVERSION APPLICATION PROCEDURE

16. First, the advocate/applicant must prepare an application for conversion in writing which contains the information set out below. ²
17. An advocate already admitted and enrolled to practise as a legal practitioner may apply to the Council to convert his or her enrolment to that of an attorney. The application falls under Rule 30.1.2. So, the advocate must apply to through the Provincial Council where he or she intends to practise.

¹ Published under GenN 401 in GG 41781 of 20 July 2018 as amended by GenN 812 in GG 42127 of 21 December 2018, GenN 57 in GG 42210 of 1 February 2019, GN 1432 in GG 42829 of 8 November 2019, GenN 720 in GG 42919 of 20 December 2019.

² Presently the Council may publish a template application form in terms of Rule 30.3. However, for the present one must follow the technicalities in the Rules as set out in these guidelines.

18. The application must be in writing. The following details must be included in the written document.

Applicant's full name

date of birth

identity number

residential address

Whether Applicant is **in practice** or is about to **commence practice**.

IF NOT IN PRACTICE

business address (if any) and,

personal address (must disclose)

telephone numbers (if any) – preferably at least a mobile telephone number

IF IN PRACTICE

physical address of main office

postal address of main office

telephone numbers of main office

fax numbers (if any) of main office

email addresses of main office

other electronic communication contact particulars (if any) of main office

mobile telephone numbers of main office and applicant

Form of practice

The Applicant must state whether he or she practices as an advocate and whether he or she conducts practice as a referral advocate contemplated in section 34(2)(a)(i) of the LPA or as an advocate with a fidelity fund certificate (trust account) contemplated in section 34(2)(a)(ii) of the LPA.

The Applicant must also state whether he or she is employed by any person who does not practise.

If so, the Applicant must state the nature of his or her employment and the name and business address and postal address and telephone numbers, if any, of his or her employer.

The Applicant must state the name of every court ³ in which he or she has been admitted, and must state that he or she has not been admitted in any other court. ⁷

Attachments to the application

The Applicant must attach proof of payment of the prescribed fee. ⁸

The Applicant must attach a certificate signed by the Registrar of every High Court to which the Applicant applied for admission to practise that no proceedings are pending or are contemplated to strike the name of the Applicant off the roll or to suspend the applicant from practice.

The Applicant must attach proof to the satisfaction of the Council that the Applicant has passed the examination required to be passed by attorneys so as to reflect that the Applicant has the required knowledge of accounting for the keeping of accounting records referred to in section 87 of the LPA ⁹ and for compliance with the accounting rules published by the Council from time to time.

The Applicant must attach proof to the satisfaction of the Council that the Applicant has attended a legal practice management course as contemplated in section 85(1)(b) of the LPA. ¹⁰

Proof to the satisfaction of the Council that the Applicant has been enrolled as an advocate for a period of not less than 12 months, or 3 years in the case of an advocate who has been admitted and enrolled as such without having complied with the requirements of regulation 7 ¹¹ of the regulations under section 109(1)(a) of the LPA ¹² or without having successfully completed a training course as contemplated in section 112(1)(a)(ii) of the LPA. ¹³

Finally, the Applicant must **sign** the application **and date the application**.

19. The Council may determine other requirements in terms of Rule 30.4.4.4. But these will be published in the Government Gazette.

The requirements of bookkeeping and practice management

20. The Council is in the process of amending Regulations 6 and 7. Part of the amendments will change the bookkeeping to trust account management. Applicants are advised to wait until those amendments become effective. Trust account management is practical. Bookkeeping is nowadays a function of a good computer programme.

³ It is recommended that Applicants use the **Renaming of Courts: Directive 3 of 2014**, published on 28 February 2014, to establish the correct name of the Court as it is now. A copy of the Directive is set out in the **endnotes**.

21. The practice management course is an important course. It deals with gearing one's business, how to deal with set-up costs, how to comply with the regulatory environment and how to get clients and maintain a good client base. The course is currently run by the Law Society of South Africa through its Schools for Legal Practice.
22. It is imperative for an advocate who seeks to convert enrolment to an attorney or to an advocate with a fidelity fund certificate to attend one of those courses.
23. Finally, an applicant who seeks to convert an enrolment from one form of legal practice to another, needs to read the Legal Practice Act, its rules and regulations. That way the applicant will be assured that he or she has prepared properly to approach the relevant Provincial Council to convert the enrolment.

Nicholas J. Tee
 Chambers, Sandton
 23 March 2020

ENDNOTES

¹ 24 **Admission and enrolment**

- (1) A person may only practise as a legal practitioner if he or she is admitted and enrolled to practise as such in terms of this Act.
- (2) The High Court must admit to practise *and* authorise to be enrolled as a legal practitioner, conveyancer or notary or any person who, upon application, satisfies the court that he or she-
 - (a) is duly qualified as set out in **section 26**;
 - (b) is a-
 - (i) South African citizen; or
 - (ii) permanent resident in the Republic;
 - (c) is a fit and proper person to be so admitted; and
- (d) has served a copy of the application on the Council, containing the information as determined in the rules within the time period determined in the rules.

² **6 Powers and functions of Council**

- (3) The Council must, subject to this Act-
 - (a) enrol a duly admitted legal practitioner as such; and
 - (b) keep a Roll of legal practitioners and decide on-
 - (i) the form of the certificates and the Roll to be kept;
 - (ii) the maintenance of the Roll or issuing of certificates; and
 - (iii) the reviewing of the Roll and the manner in which alterations may be made to the

 Roll.

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30 Enrolment with Council

- (1)
 - (a) A person duly admitted by the High Court and authorised to be enrolled to practise as a legal practitioner must apply to the Council in the manner determined in the rules, for the enrolment of his or her name on the Roll.
 - (b) The application referred to in paragraph (a) must-
 - (i) be accompanied by the fee determined in the rules;
 - (ii) indicate whether the applicant intends to practise as an attorney or an advocate and, in the case of an advocate, whether he or she intends practising with or without a Fidelity Fund certificate; and
 - (iii) be submitted to the Council in the manner determined in the rules through the Provincial Council where the legal practitioner intends to practise.
- (2) The Council must enrol the applicant as an attorney, advocate, notary or conveyancer, as the case may be, if he or she complies with the provisions of this Act.
- (3) The Council must keep a Roll of Legal Practitioners, as determined in the rules, which must reflect-
 - (a) the particulars of practising and non-practising legal practitioners and, in the case of advocates, whether they practise with or without a Fidelity Fund certificate;
 - (b) the name of every person admitted as a legal practitioner in terms of this Act and the particulars of the order of court in terms of which he or she was admitted;
 - (c) the name of every person readmitted as a legal practitioner and the particulars of the order of court in terms of which he or she was readmitted;
 - (d) the names of all persons who were admitted and enrolled as legal practitioners before the commencement of this Act, and the particulars of the orders of court admitting them;
 - (e) the particulars of any order of court in terms of which any legal practitioner has been suspended, whether the order was made before or after the commencement of this Act, or particulars of any court order in terms of which the name of any such person has been ordered to be struck off the Roll;
 - (f) **any conversion of enrolment as contemplated in section 32;**
 - (g) any amendment or endorsement against the enrolment of a legal practitioner as contemplated in section 40 (3) (a) (v);
 - (h) the particulars of every attorney who has been issued with a certificate relating to right of appearance in the High Court, the Supreme Court of Appeal and the Constitutional Court referred to in section 25 (3); and
 - (i) **the particulars of every advocate who practises with a Fidelity Fund certificate as contemplated in section 34 (2) (b).**
- (4) Any document issued by the Council in terms of which it is certified that-
 - (a) a person has been admitted and enrolled to practise as a legal practitioner;
 - (b) a person has been readmitted to practise as a legal practitioner;
 - (c) a person has been suspended from practice as a legal practitioner; or
 - (d) the name of a person has been struck off the Roll,
 is, on its mere production, *prima facie* proof of the facts stated therein.
- (5) The registrar of the Division of the High Court which makes an order-
 - (a) admitting and authorising a person to practise and be enrolled as a legal practitioner;
 - (b) readmitting and authorising a person to practise and be enrolled as a legal practitioner; or
 . . .

must immediately, after the making of that order, forward a certified copy thereof to the Council through the Provincial Council having jurisdiction.

4 **34 Forms of legal practice**

- (1) An attorney may render legal services in expectation of any fee, commission, gain, or reward as contemplated in this Act or any other applicable law, upon receipt of a request directly from the public for that service.
- (2) (a) An advocate may render legal services in expectation of a fee, commission, gain or reward as contemplated in this Act or any other applicable law-
- (i) upon receipt of a brief from an attorney; or
- (ii) upon receipt of a request directly from a member of the public or from a justice centre for that service, subject to paragraph (b).
- (b) An advocate contemplated in paragraph (a) (ii) may only render those legal services rendered by advocates before the commencement of this Act as determined by the Council in the rules, if he or she-
- (i) is in possession of a Fidelity Fund certificate and conducts his or her practice in accordance with the relevant provisions of **Chapter 7**, with particular reference to **sections 84, 85, 86 and 87**;
- (ii) **has notified the Council thereof in terms of section 30 (1) (b) (ii).**
- (c) An advocate may render legal services in criminal or civil matters in expectation of a fee, commission, gain or reward as contemplated in this Act or any other applicable law upon receipt of a request directly from a justice centre for that service, in which event the provisions of paragraph (b) do not apply.
- (3) The Council must make rules relating to the briefing of advocates-
- (a) by attorneys; and
- (b) directly by members of the public.
- (4) ...
- (5) ...
- (6) Advocates may only practise-
- (a) for their own account and as such may not make over to, share or divide any portion of their professional fee whether by way of partnership, commission, allowance or otherwise;
- (b) as part of a law clinic established in terms of subsection (8);
- (c) as part of Legal Aid South Africa; or
- (d) as an advocate in the full-time employment of the State as a state advocate or the South African Human Rights Commission.
- (9) The Council must, within two years after the commencement of Chapter 2 of this Act, investigate and make recommendations to the Minister on-
- (a) the creation of other forms of legal practice, including-
- (i) limited liability legal practices;
- (ii) multi-disciplinary practices; and
- (b) the statutory recognition of paralegals, taking into account best international practices, the public interest and the interests of the legal profession, with the view to legislative and other interventions in order to improve access to the legal profession and access to justice generally.

5 **32 Conversion of enrolment**

- (1) (a) A legal practitioner may, at any time, as determined in the rules and upon payment of

the fee determined by the Council in the rules, apply to the Council to convert his or her enrolment as an attorney to that of an advocate and *vice versa*.

- (b) An advocate practising as such referred to in **section 34 (2) (a) (i)** may, at any time, as determined in the rules and upon payment of the fee determined by the Council in the rules, apply to the Council for the conversion of his or her enrolment to that of an advocate practising as such referred to in **section 34 (2) (a) (ii)** and *vice versa*.

- (2) The Council may impose any conditions as it considers appropriate to give effect to the conversion and the provisions of this Act relating to enrolment.
- (3) The Council may make rules setting out the circumstances under which a legal practitioner can apply for the conversion of his or her enrolment and any requirements such legal practitioner must comply with.

⁶ **30 Application for conversion of enrolment by attorneys and advocates**
[section 95(1)(x) read with section 32(1)(a)]

- 30.1 Any person duly admitted by the High Court and enrolled to practise as a legal practitioner under the Act may, in the manner prescribed by rule 30.1.2, apply to the Council, through the Provincial Council where the legal practitioner intends to practise, to convert his or her enrolment as an attorney to that of an advocate, and *vice versa*.
- 30.2 An application for conversion in terms of rule 30.1 shall be in writing and shall contain the following information in respect of the applicant-
- 30.2.1 his or her full names, date of birth, identity number and residential address;
- 30.2.2 whether or not he or she practises or is about to commence practice;
- 30.2.3 if he or she does not practise, his or her business address and personal address and telephone numbers, if any;
- 30.2.4 the physical address of his or her main office and its postal address, and telephone numbers, mobile telephone numbers, fax numbers, email addresses and other electronic communication contact particulars, if any;
- 30.2.5 whether he or she conducts practice as an attorney or as an advocate and, in the case of an advocate, whether he or she conducts practice-
- 30.2.5.1 in the manner contemplated in section 34(2)(a)(i) of the Act; or
- 30.2.5.2 in the manner contemplated in section 34(2)(a)(ii) of the Act;
- 30.2.6 if he or she is employed by any person who does not practise, the nature of his or her employment and the name and business address and postal address and telephone numbers, if any, of his or her employer;
- 30.2.7 every court in which he or she has been admitted, and a statement that he or she has not been admitted in any other court.
- 30.3 The Council may require that information referred to in rule 30.2 be submitted in a form to be determined by the Council.
- 30.4 The application referred to in rule 30.1 must be signed by the applicant, and must be accompanied by the following-
- 30.4.1 proof of payment of the prescribed fee;
- 30.4.2 a certificate signed by the registrar of every High Court to which the applicant applied for admission to practise that no proceedings are pending or are contemplated to strike the name of the applicant off the roll or to suspend the applicant from practice;
- 30.4.3 where the applicant is an attorney applying to convert his or her enrolment to that of an advocate-
- 30.4.3.1 a statement indicating whether he or she intends to practise as an advocate and, if

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- so, whether he or she intends to practise with or without a fidelity fund certificate;
- 30.4.3.2 proof to the satisfaction of the Council that he or she has the right of appearance in the High Court, the Supreme Court of Appeal and the Constitutional Court in terms of section 25(2) of the Act or in terms of any legislation in force prior to the coming into force of the Act and has undergone such specialised training in advocacy as is required by pupils for admission as advocates, other than training in terms of a contract for the provision of practical vocational training under the supervision of a training supervisor, as provided for in the rules;
- 30.4.3.3 such other requirements as the Council may determine.
- 30.4.4 where the applicant is an advocate applying to convert his or her enrolment to that of an attorney, proof to the satisfaction of the Council-
- 30.4.4.1 that the applicant has passed the examination required to be passed by attorneys so as to reflect that the applicant has the required knowledge of accounting for the keeping of accounting records referred to in section 87 of the Act and for compliance with the accounting rules published by the Council from time to time;
- 30.4.4.2 that the applicant has attended a legal practice management course as contemplated in section 85(1)(b) of the Act;
- 30.4.4.3 that the applicant has been enrolled as an advocate for a period of not less than 12 months, or 3 years in the case of an advocate who has been admitted and enrolled as such without having complied with the requirements of regulation 7 of the regulations under section 109(1)(a) of the Act or without having successfully completed a training course as contemplated in section 112(1)(a)(ii) of the Act;
- 30.4.4.4 such other requirements as the Council may determine.
- 30.5 Where the applicant is an attorney, and the Council is satisfied that the applicant is entitled to convert his or her enrolment to that of an advocate, the Council shall remove the name of the applicant from the roll of attorneys and shall place the name of the applicant on the roll of advocates intending to practice without a fidelity fund certificate, or with a fidelity fund certificate, as the case may be.
- 30.6 Where the applicant is an advocate, and the Council is satisfied that the applicant is entitled to convert his or her enrolment to that of an attorney, the Council shall remove the name of the applicant from the roll of advocates and place the name of the applicant on the roll of attorneys.

On **28 February 2014**, under the **Renaming of Courts: Directive 3 of 2014**,
the Chief Justice issued the following directive:

The [Superior Courts] Act created a single High Court, with various divisions constituted in terms of section 6 of the Act. In this regard all court processes in the High Court shall be headed in accordance with the Act; and all court processes shall be as headed as follows:

- (a) 'IN THE HIGH COURT OF SOUTH AFRICA'
EASTERN CAPE DIVISION, GRAHAMSTOWN
- (b) 'IN THE HIGH COURT OF SOUTH AFRICA'
EASTERN CAPE LOCAL DIVISION, BHISHO
- (c) 'IN THE HIGH COURT OF SOUTH AFRICA'
EASTERN CAPE LOCAL DIVISION, MTHATHA
- (d) 'IN THE HIGH COURT OF SOUTH AFRICA'
EASTERN CAPE LOCAL DIVISION, PORT ELIZABETH
- (e) 'IN THE HIGH COURT OF SOUTH AFRICA'
FREE STATE DIVISION, BLOEMFONTEIN
- (f) 'IN THE HIGH COURT OF SOUTH AFRICA'
GAUTENG DIVISION, PRETORIA
- (g) 'IN THE HIGH COURT OF SOUTH AFRICA'
GAUTENG LOCAL DIVISION, JOHANNESBURG
- (h) 'IN THE HIGH COURT OF SOUTH AFRICA'
GAUTENG DIVISION, PRETORIA (Functioning as LIMPOPO DIVISION,
POLOKWANE)
- (i) 'IN THE HIGH COURT OF SOUTH AFRICA'
GAUTENG DIVISION, PRETORIA (Functioning as LIMPOPO LOCAL DIVISION,
THOHOYANDOU)
- (j) 'IN THE HIGH COURT OF SOUTH AFRICA'
GAUTENG DIVISION, PRETORIA (Functioning as MPUMALANGA DIVISION,
NELSPRUIT)
- (k) 'IN THE HIGH COURT OF SOUTH AFRICA'
KWAZULU-NATAL DIVISION, PIETERMARITZBURG
- (l) 'IN THE HIGH COURT OF SOUTH AFRICA'
KWAZULU-NATAL LOCAL DIVISION, DURBAN
- (m) 'IN THE HIGH COURT OF SOUTH AFRICA'
NORTHERN CAPE DIVISION, KIMBERLEY
- (n) 'IN THE HIGH COURT OF SOUTH AFRICA'
NORTH WEST DIVISION, MAHIKENG
- (o) 'IN THE HIGH COURT OF SOUTH AFRICA'
WESTERN CAPE DIVISION, CAPE TOWN."

PART II
Fees and Charges (rules 2-7)

2 Application fees

[section 95(1) read with section 6(4)(a)]

The following fees (which are inclusive of value-added tax) shall be payable on application to the Council in respect of the matters referred to below:

2.1	the registration of a practical vocational training contract, and the examination fee of any such contract;	R345
2.2	issuing of a certificate of good standing;	R175
2.3	cession of a practical vocational training contract, and the examination fee in respect thereof;	R345
2.4	enrolment of a legal practitioner or re-enrolment of a person whose name was removed from the roll as a legal practitioner or as a notary or conveyancer at his or her own request;	R460
2.5	re-enrolment as a legal practitioner, and/or as a notary or conveyancer, subsequent to the name of that legal practitioner being struck off the roll;	R2 875
2.6	enrolment as a notary;	R690
2.7	enrolment as a conveyancer;	R690
2.8	registration for the legal practice management course in terms of section 26(1)(c)(ii) of the Act or application for exemption from attendance at the course;	R460
2.9	conversion of enrolment in terms of section 32(1)(a) of the Act;	R690
2.10	conversion of enrolment by an advocate in terms of section 32(1)(b) of the Act.	R690

⁹ 87 **Accounting**

- (1) A trust account practice must keep proper accounting records containing particulars and information in respect of-
- (a) money received and paid on its own account;
 - (b) any money received, held or paid on account of any person;
 - (c) money invested in a trust account or other interest-bearing account referred to in section 86; and
 - (d) any interest on money so invested which is paid over or credited to it.
- (2) (a) The Council or the Board may, itself or through its nominee, at the cost of the Council or the Board, inspect the accounting records of any trust account practice in order to satisfy itself that the provisions of section 86 and subsection (1) are being complied with.
- (b) If on an inspection it is found that these provisions have not been complied with, the Council or the Board may write up the accounting records of the trust account practice and recover the costs of the inspection and the writing up of the accounting records from the trust account practice concerned.
- (3) For the purposes of subsections (1) and (2), 'accounting records' include any record or document kept by or in the custody or under the control of any trust account practice which relates to-
- (a) money held in trust;
 - (b) money invested in terms of section 86 (2), (3) or (4) and interest thereon;
 - (c) any estate of a deceased person or any insolvent estate or any estate placed under

-
- curatorship, in respect of which an attorney in the trust account practice is the executor, trustee or curator or which he or she administers on behalf of the executor, trustee or curator; or
- (d) the affairs of the trust account practice.
- (4) (a) Any money held in the trust account of a trust account practice in respect of which the identity of the owner is unknown or which is unclaimed after one year, must, after the second annual closing of the accounting records of the trust account practice following the date upon which those funds were deposited in the trust account of the trust account practice, be paid over to the Fund by the trust account practice.
- (b) Nothing in this subsection deprives the owner of the money contemplated in paragraph (a) of the right to claim from the Fund any portion as he or she may prove an entitlement to.
- (5) (a) Despite section 37 (2) (a), any attorney or an advocate referred to in section 34 (2) (b) or an employee of a trust account practice must, at the request of the Council or the Board, or the person authorised thereto by the Council or the Board, produce for inspection a book, document or article which is in the possession, custody or under the control of that legal practitioner or such employee, which book, document or article relates to the trust account practice or former trust account practice of such attorney or advocate: Provided that the Council or the Board or person authorised by the Council or the Board may make copies of such book, document or article and remove the copies from the premises of that attorney, advocate or trust account practice.
- (b) The legal practitioner referred to in paragraph (a) or employee in question may not, subject to the provisions of any other law, refuse to produce the book, document or article, even though he or she is of the opinion that it contains confidential information belonging to or concerning his or her client.
- (6) Any person who performs any function under this section, may not disclose any information which he or she obtained in the performance of such a function except-
- (a) for the purposes of an investigation or hearing by a disciplinary body;
- (b) to any person authorised thereto by the Council or the Board who of necessity requires it for the performance of his or her functions under this Act;
- (c) if he or she is a person who of necessity supplies it in the performance of his or her functions under this Act;
- (d) when required to do so by order of a court of law;
- (e) at the written request of the Ombud; or
- (f) at the written request of the National Prosecuting Authority or any competent authority which requires it for the institution of an investigation with a view to the institution of any criminal prosecution.

¹⁰ **85 Application for and issue of Fidelity Fund certificates**

- (1) (a) A legal practitioner who is obliged in terms of section 84 (1) to be in possession of a Fidelity Fund certificate must apply to the Council for such a certificate as determined in the rules.
- (b) Every legal practitioner referred to in paragraph (a) who, for the first time, practises as such, must, within the period and after payment of the fee determined by the Council in the rules, complete a legal practice management course approved by the Council determined in the rules.

¹¹ **7 Practical vocational training requirements that pupils must comply with before they can be admitted by the court as legal practitioners**

- (1) A person intending to be admitted and enrolled as an advocate must-
- (a) serve under a practical vocational training contract with a person referred to in subregulation (4) for an uninterrupted period of 12 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
- (b) prior to or during service under a practical vocational training contract complete a

programme of structured course work, comprising compulsory modules, of not less than 400 notional hours duration in the aggregate over a period of no longer than six months.

- (2) Attendance at any training course approved by any existing society of advocates, the National Bar Council of South Africa or the General Council of the Bar for which the pupil registered before the date referred to in section 120(4) of the Act and in respect of which the required attendance was completed within a period of 12 months after that date is regarded for purposes of these Regulations as compliance with the requirements of subregulation (1)(b).
- (3) Subject to the provisions of the Act, any period of service before the pupil has satisfied the requirements of the degrees referred to in subregulation (1) is not regarded as good or sufficient service in terms of a practical vocational training contract.
- (4) A pupil may be engaged or retained under a practical vocational training contract by an advocate-
 - (a) who is enrolled and practising as such; or
 - (b) in the full time employ of, or who is a member of-
 - (i) Legal Aid South Africa, established in terms of the Legal Aid South Africa Act, 2014 (Act 39 of 2014);
 - (ii) a legal aid institution which has been approved by the Council for the purpose of engaging pupils and who is responsible for supervising the training of pupils so engaged; or
 - (iii) any other institution approved by the Council for the purpose of engaging pupils and who is responsible for supervising the training of pupils so engaged.
- (5) An advocate engaging a pupil-
 - (a) as contemplated in subregulation (4)(a) must have practised as an advocate 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; and
 - (b) as contemplated in subregulation (4)(b) must have practised as an advocate 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 Legal Aid South Africa or the institution concerned.
- (6) Service by a pupil to an advocate while that advocate is not practising or has not practised as provided for in subregulation (5) is not deemed to be service under a practical vocational training contract for purposes of these Regulations.
- (7) An advocate referred to in subregulation (4)(a) may, at no time, have more than one pupil and an advocate referred to in subregulation (4)(b) may, at no time, have more than six pupils in the aggregate engaged or retained in terms of a practical vocational training contract.
- (8) When an advocate dies or retires from practice or has been struck off the Roll any advocate who complies with the requirements of these Regulations may take cession of the practical vocational training contract of the pupil, despite the fact that the cessionary may then have more than one or six, as the case may be, pupils, under contract.
- (9) The compulsory course work referred to in subregulation (1) must be standardised and uniform and comprise the following modules:
 - (a) for pupils intending the [sic] be admitted as advocates referred to in **section 34(2)(b)** of the Act, bookkeeping as contemplated in **regulation 6(10)(i)** (attorneys' bookkeeping);
 - (b) advocacy skills, including trial and motion court proceedings and attendance of court proceedings;
 - (c) alternative dispute resolution;
 - (d) civil procedure;
 - (e) criminal procedure;
 - (f) professional conduct and legal ethics of advocates;
 - (g) legal writing and drafting;
 - (h) constitutional law and customary law; and
 - (i) information and communication technology for practice, and associated aspects of cyber law.
- (10) The training provided in terms of this Regulation must be standardised by the Council in terms of

norms and standards.

¹² **109 Rules and regulations**

- (1) (a) The Minister must, within six months after receiving recommendations from the National Forum as provided for in section 97 (1) (a), make regulations by publication in the Gazette, in consultation with the National Forum, in order to give effect to the recommendations of the National Forum as contemplated in section 97 (1) (a).

¹³ **112 Transitional provisions in relation to qualifications**

- (1) Notwithstanding anything to the contrary in this Act-

- (a) (i) the training course presented at a Practical Legal Training School of the Law Society of South Africa, for purposes of the Attorneys Act; or
(ii) any other training course approved by any existing society or the General Council of the Bar,

before the date referred to in section 120 (4) for the purpose of training persons to qualify as legal practitioners, must be regarded as having been presented or approved pursuant to the regulations pertaining to practical vocational training in terms of this Act; and

- (b) any period of practical vocational training undergone with an attorney or advocate before the date referred to in section 120 (4) must be regarded as having been a period of practical vocational training under supervision of a legal practitioner.