

**COMMENTS BY THE LAW SOCIETY OF SOUTH AFRICA ON
VARIOUS PROPOSED AMENDMENTS TO:
The Legal Practice Council Rules
And
The Legal Practice Council's Code of Conduct**

The Law Society of South Africa (LSSA) has considered the proposed amendment and hereby submit the following comments.

1. Proposed amendment of Rule 32.2.1 of the LPC Rules

The LSSA supports the proposed amendment to this Rule.

2. Proposed insertion of Rule 21.12 of the LPC Rules (study leave for candidate legal practitioners for competency-based examination)

The LSSA supports the insertion of this Rule.

3. Proposed amendment to Rule 21.11 of the LPC rules (Competency-based examinations or assessments)

The LSSA is of the view that provision should be made for legal practitioners to apply to the LPC to be exempted on good cause shown from the competency-based examinations, assessments or a programme of structured of structured coursework.

Many legal practitioners may have previously been in practice for many years and taken up employment as in-house counsel where they have gained suitable experience. There should be no need to for such legal practitioners to undergo competency-based examinations, assessments or a programme of structured of structured coursework when they wish to be enrolled again as practising legal practitioners.

4. Proposed amendment to Rule 22.1.2 of the LPC rules (Lodging, examination and registration of practical vocational training contract)

The LSSA supports the insertion of this Rule.

5. **Proposed amendment to Rule 22.1.5 of the LPC rules (Restriction of pecuniary interests of candidate attorneys)**

The LSSA supports the proposed amendment of this Rule.

6. **Proposed amendment to Rule 22.2.2 of the LPC rules (Lodging, examination and registration of practical vocational training contract for pupils)**

The LSSA supports the proposed amendment of this Rule.

7. **Proposed amendment to Rule 22.2.4 of the LPC rules (Restriction of pecuniary interests of pupil)**

The LSSA supports the proposed amendment of this Rule.

8. **Proposed amendment of the Rules 54.14.16.1 to Rules 54.14.16.5 relating to interest accrued trust banking account**

The LSSA does not support the proposed amendments to this Rule. Five working days are not realistic given realities of operating a legal practice, taking into account the challenges relating to loadshedding, administrative delays on the part of banks and the numerous regulatory obligations imposed on legal practitioners.

If the bank fails to execute the automated monthly transfer system, the legal practitioner remains responsible and would attract potential misconduct charges for failing to do so within the proposed five working day period.

The LSSA recommends that, if automated monthly transfers do not happen due to a failure on the part of the bank, the legal practitioners should be exempt from any adverse consequence.

9. **Proposed insertion of Clause 2A of the LPC Code of Conduct**

The LSSA supports the extension of this Rule to advocates and pupils.

10. Proposed amendment to Rule 16.3 of the Legal Practice Rules – election of provincial councils.

The LSSA supports the proposed amendment of this Rule.

11. Amendments to Rule 17.2.14.1

The LSSA is of the view that the proposed amendment will introduce a rigid requirement for the applicant that allows no room for delays on the part of the South African Police Services or an accredited verification service provider. Regrettably, it is common knowledge that the SAPS is not always reliable in providing the clearance certificates within reasonable timeframes.

The applicants may find themselves in situations where the application cannot be submitted due to their inability to obtain such clearance certificate. The LSSA recommends that full disclosure should be required on the part of the applicant taking into account that false statements would have adverse consequences for the applicant. The application should not be dependent upon the provision of a clearance certificate, more especially from SAPS.

Any attorney who fails to take such an oath seriously would face the consequence of perjury and the likelihood of being struck of the role. This is therefore a deterrent in itself. The need for such an amendment is somewhat excessive.

12. Amendment to Rule 17.6.3

The LSSA supports the proposed amendment of this Rule.