LAW SOCIETY OF SOUTH AFRICA:
LEGAL PRACTICE ACT ADVISORY

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Fifth meeting of the National Forum on the Legal Profession 23 April 2016

Parts 1 and 2 of Chapter 10 of the Legal Practice Act 28 of 2014 came into effect on 1 February 2015. This brought into being the National Forum on the Legal Profession.

Dear Colleagues

The National Forum on the Legal Profession (NF) held its fifth meeting on 23 April 2016 in Centurion and the first recommendations have emerged from its deliberations.

Nine Provincial Councils

The NF resolved to recommend to the Justice Minister that there should be nine provincial councils under the Legal Practice Council, one situated in each province.

The Governance Subcommittee of the NF has been debating the structure of the LPC over several meetings and has considered various options ranging from four provincial councils based on the jurisdiction of the current four provincial law societies, to six provincial councils. The majority of the subcommittee members finally resolved to recommend nine provincial councils (s 97(1)(a)(ii)). The NF must take into account s 23(2)(a) of the Legal Practice Act 28 of 2014 (the Act) which enjoins it to take into consideration the interests of legal practitioners, candidate legal practitioners and the public, as well as provincial needs, interests and sensitivities. Accessibility for the pubic and for practitioners is also paramount.

A provincial council will consist of between 8 to 12 council members. The proportion of attorneys to advocates at each provincial council will be determined by the number of attorneys and advocates in the province.

The NF also resolved to recommend that there should be committees (s 23(6)) at each seat of the High Court where there is no provincial council. The committee will consist of not fewer than four legal practitioners.

The functions which are to be performed at national level by the LPC and those that it can delegate to the provincial councils and the committees were allocated at the three levels. It was agreed that not all provincial councils and committees will necessarily perform the same delegated functions. The delegation of functions will be determined by considerations of what is practical and cost-effective.

An initial basic organogram for the LPC and provincial councils was approved on the above basis.

However, it was resolved that the NF will appoint an organisational development advisory company to interrogate the above structure for cost efficiency and effective functioning. This may eventually result in a different configuration of provincial councils and committees, as the cost of the structure will ultimately impact on the subscription to be paid by legal practitioners.

Elections of LPC councillors

Section 7 of the Act determines that 16 of the 23 councillors of the LPC will be legal practitioners (10 practising attorneys and 6 practising advocates). These 16 councillors must be **elected**. The NF resolved that *only practising legal practitioners* will be entitled to vote for council members.

The other seven council members are nominated as follows:
- 2 teachers of law (one law dean and one law teacher);
- 3 designated by the Justice Minister;
- 1 designated by Legal Aid South Africa; and
- 1 designated by the Legal Practitioners Fidelity Fund.

Code of Conduct and Rules

The NF considered a first draft of a Code of Conduct as well as rules that will apply to attorneys, advocates practising with trust accounts and referral advocates. This is an extensive work in progress and members of the NF have undertaken to consider the first draft and make preliminary comments to the Rules and Code of Conduct Committee next month.

The next meeting of the NF is scheduled for 2 July 2016.

We wish to remind you that the LSSA is committed to undertaking road shows across the country to inform practitioners of developments once a concrete picture emerges.

In the meantime, we invite you to communicate with us if you have questions or require information. You are welcome to e-mail us at contact@LSSA.org.za.

MAX BOQWANA and **JAN STEMMETT**
Chairperson and Deputy Chairperson of the LSSA National Forum Committee

25 April 2016