



## NATIONAL FORUM ON THE LEGAL PROFESSION

Spooral Park Building  
Ground Floor  
2007 Lenchen Avenue South  
Centurion

### ► Members of National Forum (NF)

- ❖ Adv. Kgomo Mokoena SC - Chairperson (Minister's Representative)
- ❖ Mr Max Boqwana - Deputy Chairperson LSSA / NADEL
- ❖ Mr Krish Govender LSSA / NADEL
- ❖ Ms Kathleen Matolo - Dlepu LSSA / Black Lawyers Association
- ❖ Mr Mashudu Kutama LSSA / Black Lawyers Association
- ❖ Ms Manette Strauss LSSA / KZN Law Society
- ❖ Ms Janine Myburgh LSSA / Cape Law Society
- ❖ Mr Jan Stemmett LSSA / Law Soc of Northern Provinces
- ❖ Mr Jan Maree LSSA / Free State Law Society
- ❖ Mr Etienne Horn Attorneys Fidelity Fund



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Spooral Park Building  
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Centurion

### ► Members of National Forum (Continues)

- ❖ Adv. Dumisa Ntsebeza SC  
Advocates for Transformation
- ❖ Adv. Makhanani Baloyi-Mere  
Advocates for Transformation
- ❖ Adv. Greg Harpur SC  
General Council of the Bar
- ❖ Adv. Geoff Budlender SC  
General Council of the Bar
- ❖ Adv. Roseline Nyman SC  
General Council of the Bar
- ❖ Adv. Anna Anandale SC  
General Council of the Bar
- ❖ Adv. Jurg Prinsloo SC  
National Forum of Advocates
- ❖ Adv. Mathew Klein  
National Bar Council of SA
- ❖ Prof Managay Reddi  
SA Law Deans
- ❖ Mr Brian Nair  
Legal Aid SA



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Centurion

### TERMS OF REFERENCE - NATIONAL FORUM

Are as set out in Chapter 10 of the Legal Practice Act :

Sec 97 (1) The National Forum must, within 24 months after the commencement of this Chapter:

(a) make recommendations to the Minister on the following:

- (i) An election procedure for purposes of constituting the Council;
- (ii) the establishment of the Provincial Councils and their areas of jurisdiction, taking into account the factors referred to in section 23(2)(a);
- (iii) the composition, powers and functions of the Provincial Councils;
- (iv) the manner in which the Provincial Councils must be elected;
- (v) 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;



## NATIONAL FORUM ON THE LEGAL PROFESSION

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Centurion

### THE NATIONAL FORUM ON THE LEGAL PROFESSION

- ▶ National Forum on the Legal Profession was established by the [Legal Practice Act, 2014 \(Act 28 of 2014\)](#), as a body corporate with full legal capacity
- ▶ The role of the National Forum is set out in section 97 of the Legal Practice Act, 2014 (the Act), and among others, it is to make recommendations to the Minister on issues that will facilitate the establishment of the permanent structures to regulate the legal profession, as envisaged in the Act.



## NATIONAL FORUM ON THE LEGAL PROFESSION

Spooral Park Building  
Ground Floor  
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Centurion

(vi) the right of appearance of a candidate legal practitioner in court or any other institution; and

(vii) a mechanism to wind up the affairs of the National Forum;

(b) prepare and publish a code of conduct for legal practitioners, candidate legal practitioners and juristic entities; and

(c) make rules, as provided for in section 109(2). (by publication in the Gazette)

(2) (a) The National Forum must, within 24 months of the commencement of this Chapter, negotiate with and reach an agreement with the law societies referred to in section 56 of the Attorneys Act and any other similar statutory bodies still regulating the legal profession established in the former homelands, in respect of the transfer of their assets, rights, liabilities, obligations and staff, to the Council or Provincial Councils.



## NATIONAL FORUM ON THE LEGAL PROFESSION

Spooral Park Building  
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Centurion

In fulfilling its mandate, as per the terms of reference set out above, the NF established committees to deal with all issues, and thereafter, send them to Plenary for approval. The Committees that were established are:

### Governance Committee

- ▶ The Committee deliberated and finalized recommendations with the Elections of the Legal Practice Council (LPC) and its Provincial Councils (PC)
- ▶ The Committee further deliberated and finalized recommendations on the number, jurisdiction and functions of the Provincial Councils
- ▶ The Committee developed an organogram, did an organizational design and a costing analysis of the operation of the LPC and the PCs.
- ▶ The Committee proposed a funding model in consultation with the Attorney Fidelity Fund.



## NATIONAL FORUM ON THE LEGAL PROFESSION

Spooral Park Building  
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### Rules & Code of Conduct Committee

- ▶ The Committee deliberated, developed and published a Code of Conduct for all legal practitioners which incorporates the broad principles and values enshrined in our Constitution.
- ▶ The Committee deliberated and produced a set of rules that will be applicable to both attorneys and advocates.
- ▶ deliberated on specific rules including:-
  - ▶ The convening and conduct of meetings of the Legal Practice Council;
  - ▶ The appointment of the Executive Officer and staff and their conditions of their service;



## NATIONAL FORUM ON THE LEGAL PROFESSION

Spooral Park Building  
Ground Floor  
2007 Lenchen Avenue South  
Centurion

- ▶ The establishment of an executive committee (EXCO) and committees;
- ▶ A procedure for the election of Provincial Councils;
- ▶ The admission of legal practitioners (LPs);
- ▶ The keeping of a roll of LPs;
- ▶ The conversion of an Attorney's enrolment to that of an Advocate and *vice versa*;
- ▶ Rules regarding briefing of Advocates by Attorneys and by the public;
- ▶ Rules regarding legal services which may be rendered by Attorneys, referral Advocates (s34(2)(a) and Advocates with Trust Accounts (s34(2)(b));
- ▶ Rules under section 95 and regulations under section 94 in order to prepare for a smooth transition to the LPC - subject to LPA Amendment Bill being approved





## NATIONAL FORUM ON THE LEGAL PROFESSION

Spooral Park Building  
Ground Floor  
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Centurion

- ▶ The approval for the establishment of law clinics, the services which may not be rendered by law clinics and the engagement of Candidate LPs;
- ▶ The procedure to be followed by disciplinary bodies for receiving and dealing with complaints of misconduct;
- ▶ The lodging of appeals by LPs, candidate LPs, juristic entity to an appeal tribunal;
- ▶ The election of LPs to the Board of the Fidelity Fund;
- ▶ Applications for Fidelity Fund certificates



## NATIONAL FORUM ON THE LEGAL PROFESSION

Spooral Park Building  
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Centurion

### Education, Accreditation and Standards Committee

This Committee has dealt with aspects and rules relating to:

- ▶ The assessment of quality of legal education;
- ▶ the setting of standards for purposes of admission as legal practitioner
- ▶ practical vocational training (PVT), competency based examination / assessment, dealing with workplace training, and the nature and duration of the contract and regulations of the outcome
- ▶ accreditation of education providers and other matters set out in the terms of reference and the Act
- ▶ NF has deliberated on practical vocational training requirements that candidate attorneys or pupils must comply with before admission by the court as legal practitioners
- ▶ No agreement was reached by attorneys and advocate members of the National Forum
- ▶ NF held a further consultation meeting with the attorneys and advocate representatives and it became clear that the various positions debated were very far apart
- ▶ NF concluded they had reached a deadlock and resolved to send the three proposals to the Minister for his review.



## NATIONAL FORUM ON THE LEGAL PROFESSION

Spooral Park Building  
Ground Floor  
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Centurion

### Administration and Human Resources Committee

- ▶ This Committee engaged the Law societies and various stakeholders regarding the transfer of assets, liabilities, obligations and staff to the Council or Provincial Councils.
- ▶ Quantifying all assets (liquid and non-liquid) of the various statutory Law Societies and to consider the process of transferring them to the LPC
- ▶ Negotiations with the Law societies are on going.



## NATIONAL FORUM ON THE LEGAL PROFESSION

Spooral Park Building  
Ground Floor  
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Centurion

### PROGRESS THUS FAR:

NF has finalized the following Regulations, and they will be sent to the Minister, for his approval.

#### 1. The elections procedure of the LPC and the PCs

- ▶ a separate voters roll for practicing attorneys and advocates
- ▶ Demographic composition of the LPC and PCs (refer to section 7 (2) of the LPA)
  - ▶ 70: 30 rule (Black : White)
  - ▶ 50: 50 (Female : Male)

#### 2. The establishment, jurisdiction and functions of 9 Provincial Councils, in line with the 9 provinces



## NATIONAL FORUM ON THE LEGAL PROFESSION

Spooral Park Building  
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Centurion

- ▶ Code of Conduct - The document was approved by the NF Plenary and was published in Government Gazette No. 40610 dated 10 February 2017.
  - ▶ The right of appearance of a candidate legal practitioners in a court or any other institution
3. The NF has also finalised some rules in terms of section 109 (2) (a) of the LPA, as follows:
- ▶ The criteria for a person, institution, organisation to qualify to conduct an assessment
  - ▶ The procedures to be followed by disciplinary bodies
  - ▶ The manner and form for complaints of misconduct of legal practitioners to be lodged with the Council

These rules will be published in the Gazette, comments will be received and reviewed by NF.

The rules relating to practical vocational training (sec 109 (2)(a)(i - iii) have been put aside as there was a deadlock as set out above



## NATIONAL FORUM ON THE LEGAL PROFESSION

Spooral Park Building  
Ground Floor  
2007 Lenchen Avenue South  
Centurion

#### **4. The NF has almost completed rules in terms of section 95 of the LPA ((awaiting approval of the Legal Practice Amendment Bill).**

- ▶ These rules are allocated to the LPC in terms of the LPA
- ▶ NF is of the view that these rules must be finalised before the LPC comes into office (as per LP Amendment Bill)
- ▶ These rules will be tabled for approval by NF Plenary.
- ▶ Rules will be published in the Gazette, comments will be sought, and reviewed by NF

#### **5. Regulations in terms of section 94 of the LPA (awaiting approval of the Legal Practice Amendment Bill.**

- ▶ The Regulations are allocated to the LPC in terms of the LPA
- ▶ NF is of the view that these regulations must be finalised before the LPC comes into office (as per LP Amendment Bill)
- ▶ The Regulations have been approved by Plenary and will be sent to the Minister for his approval

Item 4 and 5 above excludes all rules and regulations affected by the practical vocational training deadlock.



## NATIONAL FORUM ON THE LEGAL PROFESSION

Spooral Park Building  
Ground Floor  
2007 Lenchen Avenue South  
Centurion

6. NF has prepared draft agreements to be signed by the Law Societies, if agreement is reached in respect to the transfer of assets, liabilities, obligations and staff.

- ▶ The NF has held seven negotiations meetings with the Law societies
- ▶ The NF has recommended the nine seats of the Provincial Councils and the National seat of the Legal Practice Council
- ▶ Negotiations are on going and focus specifically on the transfer of assets and employees of the existing law societies
- ▶ NF Plenary has approved a mechanism of the winding of its affairs and will sent to the Minister by no later than 31 October 2017.



## NATIONAL FORUM ON THE LEGAL PROFESSION

Spooral Park Building  
Ground Floor  
2007 Lenchen Avenue South  
Centurion

- ▶ The NF Plenary has finalised and approved the seats of the LPC and its PC, as follows (in consultation with the Law Societies):
  - ▶ LPC (National seat) - Midrand
  - ▶ Gauteng - Pretoria (current LSNP office)
  - ▶ Western Cape - Cape Town (current CLS office)
  - ▶ Free State - Bloemfontein (current FSLS office)
  - ▶ Kwazulu Natal - Durban
  - ▶ Limpopo - Polokwane
  - ▶ Mpumalanga - Nelspruit
  - ▶ Eastern Cape - East London
  - ▶ North West - Mafikeng
  - ▶ Northern Cape - Kimberly