

A PROFESSION IN TRANSITION

- a changing landscape

Written by Franci Leppan

The Legal Practice Act 28 of 2014

The primary purpose of the law is to create order and regulate society. It is therefore inevitable that, in the dynamic world of today, the law and the practice thereof would be subject to change, innovation and transformation. The legal profession in South Africa is currently going through such transformation, which not only changes the landscape of practice, but also aims to promote certain constitutionally entrenched values.

I interviewed Richard Scott, a previous chairperson and current councillor of the Law Society of South Africa (LSSA), and current member of the LSSA's Management and Transitional Committees to get some first-hand input on the practical implications of the Legal Practice Act 28 of 2014 (LPA).

In terms of the current dispensation, a distinction between the two professions: that of an attorney and that of an advocate, exists. Attorneys may practice for their own account or in juristic entities with other attorneys and may be briefed by the public directly. The operation of a trust

account, subject to compliance and regulation to obtain a Fidelity Fund Certificate, is mandatory.

Advocates, on the other hand always practice for their own account, may not be briefed directly by the public and most importantly do not operate trust accounts.

The two professions are and have always been subject to their own regulatory bodies and rules. This is going to change when the LPA becomes effective.

The need for change

The objectives of the LPA include, at its core, the unification of the professions, to ensure a transformed and restructured legal profession which can be regulated as one.

It is envisaged that this new dispensation will promote the standardisation, integrity and status of the legal profession. It is fundamentally aimed at upholding Constitutional values such as the independence of the legal profession, access to justice and the advancement of the rule of law.

Expected changes

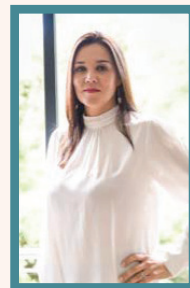
The advent of the LPA has ushered in important and significant changes, as follows:

1. There will no longer be a distinction between the two professions of attorney and advocate and the term "Legal Practitioner" will, in future, include both professions;
2. Legal practitioners will, in future include:
 - 2.1 attorneys,
 - 2.2 advocates with trust accounts and
 - 2.3 advocates without trust accounts.
3. A Legal Practice Council, as a single regulatory body, will be constituted during the latter part of the year (August 2018);
4. All current Provincial Law Societies will be dissolved by 31 October 2018 to be replaced by the Legal Practice Council;
5. The creation of the Legal Services Ombud, which will be independent and subject only to the Constitution and the law, aimed at promoting public interest in the rendering of legal services and to attend to complaints of the public;
6. A standardised Code of Conduct, applicable to all legal practitioners has been promulgated and will come into operation on the coming into being of the Legal Practice Council;
7. Fees are to be regulated: a tariff to be prescribed by Section 35 of the LPA will come into operation in future, upon the Minister receiving input from the Rules Board and the South African Law Reform Commission.

Effect on auditing of attorney trust accounts

Any changes resulting from the LPA will occur post 31 October 2018. Attorneys with trust accounts will continue to be subject to an audit engagement, with advocates with trust accounts featuring in these audit engagements post 31 March 2019.

The future is never a known quantity and the application and practical implication of legislation always leave room for possible problems and creative solutions. It is imperative that a close eye be kept on the changes as they unfold and the impact thereof on future auditing engagements.



Franci Leppan is qualified as both an attorney and conveyancer and has been in practice for 18 years.

She started her career in litigation and general practice and established her own legal firm, Leppan Attorneys, in 2010. She is based in Pietermaritzburg and her firm specialises in legal cost consulting and conveyancing.

She presents lectures on legal costs for the KwaZulu-Natal Law Society. She also presents workshops on Attorney's Practice at Auditing firms.