

SOUTH AFRICAN INSTITUTE OF CHARTERED ACCOUNTANTS (SAICA)

Comment Letter on the Legal Practice Amendment Bill, 2026 ("the Bill")

Date: 11 September 2026

Director-General: Department of Justice and Constitutional Development

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Subject: Comments on the Legal Practice Amendment Bill, 2026 (Published 07 August 2026)

INTRODUCTION

The South African Institute of Chartered Accountants ("SAICA") appreciates the opportunity to submit comments on the Legal Practice Amendment Bill, 2026 ("the Bill"), published for public comment on 7 August 2026.

SAICA members act in statutory, fiduciary or court-appointed capacities, including as executors, trustees, curators, liquidators and business rescue practitioners. Other members provide accounting, taxation, financial reporting, valuation, financial administration and related professional services in support of clients, office-holders and businesses.

SAICA's concerns relate principally to clause 7(c), which proposes to introduce section 33(1)(c) into the Legal Practice Act, 2014 ("the Act"), and clause 7(e), which proposes the insertion of section 33(5).

We would welcome the opportunity to engage further on any of the matters raised, and would be willing to discuss our comments in person or virtually if that would assist. Please do not hesitate to contact Nomandla Gumede at nomandlag@saica.co.za in this regard.



Thandokuhle Myoli

Head: Audit and Assurance

The South African Institute of Chartered Accountants ("SAICA")



GENERAL COMMENTS

1. SAICA supports the objective of protecting members of the public by ensuring that services reserved for legal practitioners are performed by appropriately qualified and regulated persons. SAICA also recognises the important role of the legal profession and does not seek to undermine the legitimate regulation of legal practice.
2. Clause 7(c) would reserve the drawing up or execution of specified documents to legal practitioners, while clause 7(e) would prohibit persons other than practising legal practitioners from advertising, touting for, or making known their preparedness to undertake specified work. The Department has indicated that the purpose of these amendments is to expand the work reserved for legal practitioners and to protect the public against exploitation by unqualified persons.
3. SAICA's concern is that the proposed provisions, particularly when read together, may extend beyond the legitimate protection of reserved legal services and may inadvertently restrict longstanding, legitimate activities undertaken by appropriately qualified and regulated professionals.
4. The amendments may have unintended consequences for members of the public, particularly small businesses, entrepreneurs, families undertaking succession planning, fiduciary practitioners, insolvency professionals and business rescue practitioners.
5. SAICA accordingly requests that the provisions be reconsidered to ensure that the regulatory objective is achieved without unnecessarily restricting lawful professional services or reducing consumer choice and access to appropriately regulated expertise.

GENERAL POLICY AND REGULATORY CONSIDERATIONS

6. SAICA acknowledges the importance of ensuring that persons providing legal services have the appropriate legal qualifications, are subject to professional regulation and are accountable for their conduct.
7. However, the existence of a legitimate regulatory objective does not necessarily mean that all activities associated with a particular transaction or matter should be reserved exclusively for one profession.
8. Modern professional services are increasingly multidisciplinary. Matters such as estate planning, business structuring, insolvency, business rescue, corporate governance and succession planning routinely require input from legal practitioners, chartered accountants, tax practitioners, financial advisers, valuers and other regulated professionals.
9. In these circumstances, a distinction should be drawn between:
 - (a) the provision of legal advice or legal services properly reserved for legal practitioners; and
 - (b) accounting, taxation, financial, fiduciary, valuation, governance and other professional services that may arise in connection with a matter but do not constitute the practice of law.
10. SAICA submits that the Bill should not inadvertently convert the provision of a professional service into reserved legal work merely because the service is connected with a transaction or matter that also has a legal dimension.

11. This distinction is particularly important where the affected professional is already subject to statutory or professional regulation, including competency requirements, ethical obligations, disciplinary processes and, where applicable, professional indemnity or other forms of accountability.
12. The Bill should therefore be sufficiently precise to ensure that it addresses the mischief identified by the Department without creating unnecessary uncertainty for other regulated professions.

SPECIFIC COMMENTS

CLAUSE 7(c): PROPOSED SECTION 33(1)(c)

Reservation of specified document-drafting activities

13. Clause 7(c) proposes the insertion of section 33(1)(c), which would prohibit a person other than a legal practitioner from drawing up or executing:
- (a) an agreement, deed or writing relating to immovable property or a right in or to immovable property;
 - (b) a will or other testamentary writing;
 - (c) a memorandum of incorporation or prospectus of a company; or
 - (d) an agreement, deed or writing relating to the creation or dissolution of a partnership or any variation of its terms.
14. SAICA notes that these categories are substantially similar to categories that were historically regulated under section 83(8) of the Attorneys Act, 1979. The former provision also contained specific exclusions and exemptions dealing, amongst other matters, with persons acting in statutory fiduciary capacities.
15. SAICA is concerned that the Bill reproduces the reservation of activities without sufficiently addressing the modern professional environment in which these services are provided.
16. The former Attorneys Act expressly recognised circumstances in which persons other than practising attorneys could undertake specified work, including persons acting as trustees, executors, administrators, curators and company liquidators in the course of their statutory duties. It also contained an exemption relating to responses to direct enquiries in the advertising context.

17. SAICA submission: that exemptions be included similar to the Attorneys Act, 1979
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Wills and estate planning

18. CA(SA)s and other appropriately regulated professionals frequently provide estate and succession planning services as part of broader financial, accounting and tax engagements.
19. Such engagements may include consideration of:
- (a) estate duty;
 - (b) capital gains tax;
 - (c) liquidity requirements;
 - (d) ownership structures;
 - (e) business succession;
 - (f) inter-generational wealth transfer;
 - (g) trusts and other succession structures; and
 - (h) the financial consequences of different testamentary arrangements.
20. These matters often require an integrated understanding of a client's financial, commercial and taxation circumstances.

21. SAICA recognises that the drafting of a will may involve legal considerations and that persons requiring legal advice should be able to obtain such advice from a practising legal practitioner.
22. However, SAICA is concerned that the proposed wording could operate so broadly that a CA(SA) who provides estate-planning services may be prohibited from assisting a client with the preparation of a testamentary document, even where the professional relationship is principally concerned with the client's financial and taxation affairs.
23. The provision may therefore unnecessarily disrupt established multidisciplinary estate-planning practices and require clients to engage additional professionals even where the relevant work is appropriately managed within an existing regulated professional relationship.

24. SAICA therefore recommends that the Department consider an appropriate exemption or clarification for regulated professionals providing estate-planning and succession-planning services, while preserving the requirement that legal advice or other reserved legal services be provided by practising legal practitioners.
25. At a minimum, the Bill should clarify whether the prohibition is intended to prevent all involvement by non-legal professionals in the preparation of testamentary documents, including where the professional is acting in another regulated capacity.

Memoranda of incorporation

26. SAICA members, particularly those operating in the small and medium practice sector, routinely assist entrepreneurs and small businesses with company formation, governance, accounting, tax and compliance matters.
27. In this context, members may assist clients with the establishment of companies and the preparation or amendment of memoranda of incorporation ("MOIs").
28. The proposed provision could prevent appropriately regulated accounting professionals from continuing to provide such services.
29. This may have a disproportionate impact on small businesses and entrepreneurs who often rely on a single trusted professional to assist with their accounting, tax, governance and business-structuring requirements.

30. **SAICA submission:** that the Department should be cognisant that the public interest is better served by allowing appropriately regulated professionals to assist with standard company-formation documentation, particularly where the service does not involve the provision of legal advice or representation.
31. The Bill should clearly distinguish between:
 - (a) the provision of legal advice concerning the legal consequences of an MOI; and
 - (b) administrative, accounting, governance or company-secretarial assistance in preparing or lodging an MOI.

Company prospectuses

32. SAICA notes that the proposed wording refers to the "drawing up" of a prospectus.

33. SAICA members may be involved in the preparation of financial information and disclosures that form part of corporate offering documentation.
34. Such work may include:
- (a) financial statements;
 - (b) financial reporting information;
 - (c) reporting accountant reports;
 - (d) financial forecasts and projections;
 - (e) valuation information;
 - (f) tax information; and
 - (g) other financial disclosures.
35. It is unclear whether the provision of such information, or the compilation of sections containing financial information, could be interpreted as “drawing up” a prospectus.
36. This uncertainty could have significant implications for accountants, auditors, reporting accountants, valuers, issuers and other professional advisers.
37. **SAICA submission:** that the Bill expressly clarify that the provision, preparation or assurance of accounting, auditing, reporting, taxation, valuation and other financial information for inclusion in a prospectus does not, by itself, constitute the drawing up of a prospectus for purposes of section 33(1)(c).

Partnership agreements

38. Accountants frequently advise small businesses, professional practices, family enterprises and other organisations on commercial structures and governance arrangements.
39. This may include assisting clients with partnership agreements and amendments, particularly where the services are integrated with accounting, taxation and business advisory services.
40. SAICA is concerned that the proposed provision may prohibit such assistance irrespective of whether any legal advice is provided.
41. **SAICA submission:** that the Department clarify the scope of the proposed restriction and distinguish legal advice and representation from accounting, tax, financial and business advisory services.

Immoveable property-related documents

42. SAICA recognises that transactions involving immovable property can have significant legal consequences and that certain conveyancing activities are appropriately reserved.

43. However, the phrase “any agreement, deed or writing relating to immovable property or the right in or to immovable property” is extremely broad.
44. The wording could potentially encompass documents that form part of accounting, tax, valuation, financial or commercial advisory work without constituting conveyancing or other legal practice.
45. **SAICA submission:** that the provision be narrowed to clearly identified legal instruments or activities that are intended to be reserved to legal practitioners.
46. The Bill should avoid an interpretation under which any document that merely relates to an immovable property transaction becomes reserved legal work.

CLAUSE 7(e): PROPOSED SECTION 33(5)

Advertising and communication of preparedness to undertake work

47. SAICA’s concern with proposed section 33(5) is principally the breadth of the prohibition and its potential application to professionals who are lawfully entitled to provide accounting, tax, fiduciary, insolvency, financial or business rescue services.
48. The proposed subsection prohibits a person other than a practising legal practitioner from canvassing, advertising, touting for, or making known their preparedness to undertake work in connection with:
- (a) the drawing up of a will or testamentary writing;
 - (b) the administration, liquidation or distribution of the estate of a deceased or insolvent person, a person with a mental disability or a person under another legal disability; or
 - (c) the judicial management or liquidation of a company.
49. SAICA further submits that the Bill should recognise that regulated accountants are not unqualified persons who require protection from performing work within their established professional competence.
50. CA(SA)s are subject to rigorous education, assessment, continuing professional development, ethical requirements and professional disciplinary processes. Many members also operate within additional statutory regulatory frameworks depending on the nature of their practice.
51. CA(SA)s accordingly possess specialised competencies in areas such as accounting, taxation, financial reporting, financial analysis, valuation, business restructuring, governance and financial administration.
52. In many circumstances, these competencies are directly relevant to the administration of estates, insolvency proceedings, liquidations, business restructuring and other matters referred to in proposed section 33(5).
53. It would therefore be disproportionate for legislation aimed at preventing the unauthorised provision of legal services to prevent regulated accountants from marketing services that fall within their lawful professional scope to provide.
54. **SAICA submission:** The legislation should therefore distinguish between:
55. (a) advertising an intention or preparedness to provide legal services reserved for practising legal practitioners; and

56. (b) advertising an intention or preparedness to provide accounting, taxation, financial, valuation, fiduciary, business rescue, insolvency or other services that the relevant professional is otherwise legally authorised and competent to provide.
57. SAICA submits that only the former should fall within the prohibition contemplated by section 33(5)

The breadth of the phrase “in connection with”

58. SAICA is particularly concerned by the phrase “in connection with”.
59. The phrase is sufficiently broad that it may encompass professional services that are not themselves legal services.
60. For example, accounting, taxation, valuation, financial reporting and financial administration services may be provided in connection with:
- (a) deceased estates;
 - (b) insolvent estates;
 - (c) liquidations;
 - (d) curatorships; and
 - (e) other fiduciary arrangements.
61. The fact that an accounting or taxation service is provided in connection with a deceased estate does not necessarily mean that the service constitutes legal practice.
62. Similarly, a CA(SA) may be appointed to perform accounting, financial reporting, taxation or financial administration services in relation to an insolvent estate without providing legal services.
63. SAICA therefore recommends that the prohibition be linked to the undertaking or representation of reserved legal work, rather than to services merely because they are “in connection with” a matter involving legal work.
64. This distinction is particularly important because uncertainty may expose regulated professionals to criminal or disciplinary consequences.
65. Section 93 of the Act provides for offences in respect of contraventions of the Act. The more serious the potential consequences of non-compliance, the greater the need for clear and precise legislative drafting.

66. SAICA recommends that section 33(5) be drafted so that it is clear that the prohibition applies where a person advertises or represents that they are prepared to undertake work that is reserved by law for practising legal practitioners, and not merely where the person’s services have a connection with such work.

STATUTORY AND COURT-APPOINTED OFFICE-HOLDERS

67. SAICA is concerned that the proposed wording does not adequately recognise the position of persons who are appointed to perform statutory or court-recognised functions.

68. SAICA members may lawfully act as:

- (a) executors;
- (b) administrators;
- (c) trustees;
- (d) curators;
- (e) liquidators; and
- (f) business rescue practitioners.

69. These appointments carry statutory duties and responsibilities and are often subject to oversight by the Master of the High Court, courts, creditors, regulatory authorities or other statutory bodies.

70. Such office-holders must be able to communicate their availability and competence to perform the functions for which they are legally authorised to act.

71. The former Attorneys Act recognised this issue by providing specific exceptions for persons acting in certain fiduciary capacities, including trustees, executors, administrators, curators and company liquidators acting in the course of their statutory duties.

72. SAICA recommends that the Bill expressly preserve the ability of statutory and court-appointed office-holders to advertise and communicate their availability to perform functions that they are legally authorised to perform.

HISTORICAL LEGISLATIVE POSITION AND THE NEED FOR APPROPRIATE EXEMPTIONS

73. SAICA notes that the proposed provisions bear significant similarities to provisions previously contained in section 83 of the Attorneys Act, 1979.

74. The former section 83 contained both substantive restrictions and specific exceptions. In particular, the advertising restriction in section 83(2) was accompanied by exceptions for direct enquiries and certain statutory or regulated entities. The document-drafting restriction in section 83(8) similarly recognised circumstances involving persons acting in statutory capacities.

75. SAICA considers this legislative history important because it demonstrates that restrictions of this nature have historically been balanced against the legitimate functions of other regulated professionals and statutory office-holders.

76. SAICA submission: that historical exemptions should not simply be reproduced without reconsideration. Rather, the modern legislative framework should preserve the underlying principle that a reservation of legal work should not unintentionally prevent a person from performing functions which another statute lawfully authorises that person to perform.

77. The proposed amendments should accordingly be considered alongside the Companies Act, Insolvency Act, Administration of Estates Act, Trust Property Control Act and other legislation that establishes statutory or fiduciary functions.

8. PROPOSED EXEMPTIONS AND CLARIFICATIONS

78. SAICA respectfully submits that the Bill should include appropriate exemptions or clarifications to avoid unintended consequences.

79. SAICA submission: proposed the following exemption

”(6) Subsections (1)(c) and (5) do not apply to—

- (a)** a person who, in response to a direct enquiry voluntarily made by another person, communicates that person’s preparedness to undertake work that the person is otherwise lawfully authorised to undertake;
- (b)** a person acting as executor, administrator, trustee, curator, liquidator or business rescue practitioner by virtue of an appointment in terms of any law, a will or an order of court, in respect of work performed in that capacity;
- (c)** a person acting as an agent or employee of a person referred to in paragraph (b), to the extent that the person is performing functions lawfully delegated to that person;
- (d)** the provision of accounting, auditing, taxation, financial reporting, valuation, financial administration or other professional services that do not constitute the provision of legal services reserved by law for a practising legal practitioner; and
- (e)** such other categories of regulated professional services as may be prescribed following consultation with the relevant professional bodies.”

NEED FOR GREATER PRECISION AND LEGAL CERTAINTY

80. SAICA recommends that the Department review the drafting of clauses 7(c) and 7(e) against the principle of legal certainty.

81. The proposed provisions should make it clear:

- (a) what activities are reserved exclusively for practising legal practitioners;
- (b) what constitutes “drawing up or executing” a document;
- (c) what constitutes “advertising” or “making known” preparedness;
- (d) whether providing financial or other professional information for a document constitutes drawing up that document;
- (e) how the provisions apply to statutory office-holders;
- (f) how the provisions interact with other legislation regulating professional functions; and
- (g) whether business rescue is intended to fall within the proposed restrictions.

82. Clear drafting is particularly important where contraventions may result in criminal or disciplinary consequences.

83. SAICA accordingly recommends that the Department consider incorporating definitions or explanatory provisions where necessary to ensure consistent interpretation and enforcement.

10. IMPACT ON SMALL AND MEDIUM PRACTICES AND ACCESS TO PROFESSIONAL SERVICES

84. SAICA is also concerned about the potential impact of the amendments on small and medium-sized practices and their clients.
85. Small and medium-sized businesses frequently rely on a CA(SA) as a trusted professional adviser for a broad range of interconnected services, including accounting, tax, governance, business structuring and succession planning.
86. Requiring clients to engage separate professionals for every component of a transaction may increase costs, create administrative duplication and reduce accessibility, particularly for small businesses and individuals.
87. This is not to suggest that legal advice should be provided by persons who are not qualified to provide it. Rather, the regulatory framework should facilitate appropriate multidisciplinary collaboration while preserving the distinct professional responsibilities of each profession.
88. The Department's stated objective of improving access to justice and addressing practical challenges in the legal profession should be considered alongside the potential impact of the amendments on access to other regulated professional services.

89. SAICA recommends that the Department undertake an appropriate impact assessment of the proposed reservation of work, particularly in relation to small businesses, entrepreneurs, families and fiduciary and insolvency services.

FURTHER CONSULTATION AND IMPACT ASSESSMENT

90. Given the potential implications of clauses 7(c) and 7(e), SAICA respectfully requests further consultation with affected stakeholders before these provisions are finalised.
91. SAICA requests that the Department:
- (a) clarify the specific policy objective and mischief that clauses 7(c) and 7(e) seek to address;
 - (b) identify evidence of consumer harm or unauthorised practice that has necessitated the proposed expansion of reserved work;
 - (c) provide or make available any socio-economic impact assessment undertaken in relation to the provisions;
 - (d) consult with SAICA and other affected professional bodies;
 - (e) engage with representative bodies in the fiduciary, insolvency and business rescue sectors; and
 - (f) consider whether the same policy objectives can be achieved through less restrictive and more targeted measures.
92. SAICA would welcome an opportunity to participate in further technical discussions on the wording of the proposed amendments.

13. CONCLUSION

93. SAICA supports the legitimate objective of protecting members of the public from persons who are not appropriately qualified or authorised to provide legal services.

94. SAICA further recognises that certain legal services should appropriately remain reserved for practising legal practitioners.
95. However, SAICA is concerned that clauses 7(c) and 7(e), in their current form, may extend beyond that legitimate objective and may unintentionally restrict activities lawfully performed by appropriately qualified and regulated professionals.
96. The concern is particularly significant where CA(SA)s and other regulated professionals act in statutory, fiduciary or court-appointed capacities, or provide accounting, taxation, financial reporting, valuation and related professional services in connection with matters that also have a legal dimension.
97. SAICA, therefore, respectfully recommends that the Bill be amended to ensure a clear distinction between:
- (a) legal services reserved for practising legal practitioners; and
 - (b) professional services that fall within the lawful scope of other regulated professions.
98. SAICA further recommends that appropriate exemptions and safeguards be incorporated to preserve the legitimate functions of statutory office-holders, fiduciary practitioners, insolvency professionals and business rescue practitioners.
99. SAICA believes that a carefully calibrated approach would protect members of the public while maintaining access to a range of appropriately regulated professional services and avoiding unintended restrictions on multidisciplinary professional practice.
100. SAICA would welcome the opportunity to engage further with the Department of Justice and Constitutional Development and other affected stakeholders on the proposed amendments and to make oral submissions should further consultation be undertaken.