

**REPORT TO THE MINISTER OF JUSTICE AND COORECTIONAL SERVICES IN  
TERMS OF SECTION 98 (4) OF THE LEGAL PRACTICE ACT 2014 (LPA)**

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**A. INTRODUCTION AND BACKGROUND**

1. The National Forum on the Legal Profession (National Forum) was inaugurated by the Minister of Justice and Correctional Services (the Minister) on the 31<sup>st</sup> March 2015 in terms of Section 98 (4) of the Legal Practice Act 28 of 2015 (LPA). The National Forum must in terms of Section 98(4) after its establishment, submit a report to the Minister every six months on its activities. Pursuant to such a peremptory provision the National Forum provides the report as set out fully hereunder. The report was due on the 1<sup>st</sup> August 2015.

**THRUST OF THE REPORT**

2. This submission records the following:
  - the final list of the members of the National Forum;
  - the issues raised at the inaugural meeting and responses thereto;
  - the activities that took place between inaugural meeting of the National Forum and its latest meeting on the 18<sup>th</sup> July 2015;
  - the substantive issues raised at the meeting of the 18<sup>th</sup> July 2015;
  - the program, work- plan and work-committees created on the 18<sup>th</sup> July 2015.

## **MEMBERSHIP OF THE NF**

3. The inaugural meeting of the National Forum took place on the 31<sup>st</sup> March 2015. The issue relating to membership arose especially in the following respects:
  - the need for gender balance in the composition of the National Forum;
  - the need for alternates to attend the meeting on behalf of the permanent members in their absence.
  
4. Two changes have now been affected on the list in an effect to ensure greater representation of women in the forum. The Law Society of South Africa (LSSA) and the General Council of the Bar of South Africa (GCB) have now re-adjusted their membership accordingly. Mr Richard Scott of the LSSA has been replaced by Mrs Manette Strauss. Adv Ismail Jamie SC of the LSSA has stepped down in favour of a female designate. GCB is yet to announce his replacement.
  
5. For the purpose of complete record the final list of the members is attracted hereto as Annexure A.
  
6. The issue of alternatives was postponed to the meeting of the 18<sup>th</sup> July 2015 and is dealt with fully in the subsequent paragraphs of this report.

## **ACTIVITIES BETWEEN THE MEETINGS**

7. The convening and preparations for the subsequent meeting vests on the Chairperson and her Deputy. In preparation for the meeting, the following was attended to:
- the analysis of the Act and isolation of the tasks to be undertaken by the National Forum. A copy of the list is annexed, marked “B”;
  - the creation of proposed working Committees to address contents of Annexure “A”, members of the Working Committees are reflected herein below;
  - the preliminary terms of reference of each Committee; a set of which is enclosed herewith as Annexure “C”;
  - the meeting with the Human Resource team of Department of Justice and Constitutional Development to consider the Job Profile of the Executive Officer and the Chief Financial Officer of the National Forum, which are the urgent post to assist with the work of the National Forum.
8. Pursuant thereto, an Agenda for the meeting of the 18<sup>th</sup> July 2014 was prepared.

## **NATIONAL FORUM MEETING: 18<sup>TH</sup> JULY 2015**

9. This meeting considered the following aspects:

- the finalization of the membership;
- the secretariat of the National Forum;
- the proposed Working Committees of the National Forum;
- the future meetings of the National Forum.

(i) Membership

The membership of the National Forum was considered and confirmed subject to changes referred to hereinbefore.

Further, the meeting resolved that the members of the National Forum shall have no alternates. The basis for this decision is that this is not provided in the LPA and that such an approach would cause disruptions in the process. It was further resolved, though, that the Constituencies with single members may, with the consent of the Chairperson, bring an observer in instances where the main member is unavailable.

(ii) The Secretariat of the National Forum

The meeting accepted the offer from the Department of Justice and Constitutional Development to utilize the offices of the South African Law Commission for its meetings and operations.

The meeting noted the budget allocated for the NF for the financial year 2015/2016 to be the sum of R17.9 million; this money excluding funds from the NF in line with Section 108(2)(b) of the Act.

The appointment of the Executive Officer and Chief Financial Officer were considered to be a matter of urgency. The meeting expressed a view that it would be preferable to have these two officers seconded either from the Constituencies and/or the Department of Justice. The HR Committee has already been provided with the short list of candidates for purposes of interview.

Support staff including Researchers, shall be appointed by the Executive Officer once he/she is appointed.

(iii) Proposed Working Committees of the National Forum

The following Committees were considered and approved by the meeting:

(a) The Executive Committee

This Committee's main responsibilities will be to:

- co-ordinate and facilitate the work of the National Forum and its various Committees;
- prepare and report to the Minister.

It is constituted by the Chairperson, Deputy Chairperson and the Executive Officer.

(b) The Administration and Human Resources Committee

This Committee will deal with:

- administration of the National Forum;
- Human Resources requirements of National Forum;
- stakeholder relation management and matters set out in the draft terms of reference.

The following persons constitute the Committee:

- Mr Lutendo Sigogo;
- Advocate Dali Mpofu SC;
- Advocate Dumisa Ntsebeza SC;
- Ms Janine Myburgh;
- Mr Krish Govender.

(c) The Governance Committee

This Committee will consider mainly:

- the future governance structure of the Legal Practice Council;
- the number, power and jurisdiction of Provincial Councils;
- the need or otherwise of a legal practitioners representative body; and
- other matters set out in the terms of reference including elections and elections procedures.

The following persons constitute the members of the Committee:

- Mr Jan Stemmet;
- Mr Jan Maree;
- Ms Martha Mbhele;
- Mr Abe Mathebula;
- Adv Jurgens Prinsloo SC;
- Ms Thina Siwendu;
- Adv Greg Harpur SC;
- Adv Willem van der Linde SC;
- Adv Dumisa Ntsebeza SC;
- Adv Thami Ngcongwane SC.

(d) The Rules and Code of Conduct Committee

The Committee will be responsible for:

- developing a Code of Conduct and ethics rules;
- roles, responsibilities and powers of disciplinary bodies;
- the lodging of complaints against legal practitioners and other matters set out in the terms of reference (LPA).

The following persons are the Committee members:

- Mr Jan Stemmet;
- Ms Janine Myburgh;
- Adv Jurgens Prinsloo SC;
- Adv Mark Hawyes;

- Mr Lutendo Sigogo;
- Ms Thina Siwendu;
- Adv Greg Harpur SC;
- Ms Manette Strauss.

(e) The Education; Standard and Accreditation Committee

The Committee will deal with aspects and rules relating to:

- assessment of quality of legal education;
- practical vocational training, competency based examination / assessment, etc.
- accreditation of education providers and other matters set out in the terms of reference and the Act.

The following members serve in the Committee:

- Mr Jan Maree;
- Adv Brian Nair;
- Prof Managay Reddi;
- Adv Mark Hawyes;
- Mr Abe Mathebula;
- Adv Dali Mpofu;
- Adv Willem van der Linde;
- Mr Krish Govender;
- Ms Martha Mbhele.

## **GENERAL**

10. The various convenors are coordinating meetings of the Committees to commence in earnest with their work. The Committees shall report to be plenary of the National Forum in November 2015 and thereafter in February 2016.

## **CONCLUSION**

11. We wish to acknowledge the role played by Mr Klaas Mokaba in assisting the Forum to take off, the staff of the Department of Justice for their co-operation and support and importantly, the members of the legal profession for putting the interest of the country in general and the legal profession in particular above their parochial interest.
12. We confirm that the work has now formally commenced and hope the spirit of co-operation displayed thus far will hopefully endure until the task assigned to us is completed.

**Adv Kgomotso Moroka**

**Chair – National Forum**

**Mr Max Boqwana**

**Deputy Chair – National Forum**

**30 July 2015**

Name	Designated by
Ms Kgomotso Moroka SC Chairperson	Minister
Mr Max Boqwana Deputy Chairperson	LSSA - Nadel
Ms Thina Siwendu	Minister
Mr Jan Stemmett	LSSA - Law Society of the Northern Provinces
Mr Krish Govender	LSSA - Nadel
Mr Jan Maree	LSSA - Law Society of the Free State
Ms Martha Mbhele	LSSA - Black Lawyers Association

**Annexure "A"**  
**Members of the National Forum on the Legal Profession**

Ms Janine Myburgh	LSSA - Cape Law Society
Ms Manette Strauss	LSSA - KwaZulu-Natal Law Society
Mr Lutendo Sigogo	LSSA - Black Lawyers Association
Mr Willem van der Linde SC	General Council of the Bar
* To be replaced by a female designate	General Council of the Bar
Mr Greg Harpur SC	General Council of the Bar
Mr Thami Ncongwane SC	General Council of the Bar
Mr Dali Mpofu SC	General Council of the Bar
Mr Mark Hawyes	National Bar Council of SA
Mr Jurgens Prinsloo SC	National Forum of Advocates
Mr Dumisa Ntsebeza SC	Advocates for Transformation
Mr Brian Nair	Legal Aid South Africa
Mr Abe Mathebula	Attorneys Fidelity Fund Board
Prof Managay Reddi	South African Law Deans Association

**Annexure “B”**

<b>National Forum on the Legal Profession</b>	
<b>Schedule of tasks from 1 February 2015 to 31 January 2017</b>	
<b>Task</b>	<b>Section in Legal Practice Act</b>
Constitute NF and determines first agenda	96
Determine meeting procedure and keep records	106(2),(3)
Hold regular NF meetings for NF: at least 4 per	105(1)
Report to Minister	98(4)
Establish Committees	98(1)a
Delegate functions to committees	98(1)(b)
Determine remuneration and honorarium	97(2)(e),(f)
Appoint CEO, staff and conclude performance agreements	98 (2)(a)(b)
Determine NF meeting logistics, members / code of conduct	N/A
Reach consensus on statement of principles for process as envisaged in LPA	N/A
Consultation, research, investigation	N/A
Identify service providers	98(2)(c)
Contract with service providers	98(2)(c)
Determine structure and functions of LPC /provincial council	98(3)
Conduct cost analysis LPC/provincial councils	98(3)

Consider and make recommendations on elections: LPC/provincial councils	97(1)(a)(i)
Consider and make recommendations on composition/powers/functions jurisdiction of provincial councils	97(1)(a)(ii),(iv)
Negotiate and agree with statutory law societies on transfer of staff and assets,	97(2)(a)
Negotiate and agree on transfer of non-statutory functions	97(2)(b)
Refer issues to arbitration if necessary (transfer issues)	97(4)
Determine measures for efficient transition/hand-over when Chapter 2 becomes law	
Consider and make recommendations on right of appearance	97(1)(a)(vi)
Consider and make recommendations on assessments	109(2)(a)(i)
Make rules on the criteria for the conductors of assessments	109(2)(a)(iv)
Make rules (publish) on assessments	109(2)(a)(i),(iii)
Consider and make recommendations on practical vocational training (PVT)	97(1)(a)(v)
Make rules on PVT: registration, administration	109(2)(a)(ii)
Make recommendations on post-qualification professional development (PPD)	(to be added as task in Act)
Make rules on PPD accreditation, administration	(to be added as task in Act)
Develop code of conduct	97(1)(b)
Publish code of conduct	97(1)(b)
Develop rules for disciplinary bodies	109(2)(a)(v)
Make rules for disciplinary bodies	109(2)(a)(v)
Determine rules on manner/form for lodging complaint	109(2)(a)(vi)

Make rules on manner/form for complaints	109 (2)(a)(vi)
Make rules on other matters	109(2)(a)(vii)
Recommendation on winding down of NF	92(1)(a)(vii)
Recommend extension of period if necessary	97(5)

### National Forum on the Legal Profession: Committees Terms of Reference

<b>EXECUTIVE COMMITTEE:</b> Report to the Minister, oversight and communication			
<b>ADMIN AND HR COMMITTEE</b>	<b>GOVERNANCE COMMITTEE</b>	<b>EDUCATION, STANDARDS AND ACCREDITATION COMMITTEE</b>	<b>RULES/CODE OF CONDUCT COMMITTEE</b>
Determine meeting procedure and keep records	Structure of LPC	Quality of the LLB degree	Develop Code of Conduct (To be Gazetted)
<ul style="list-style-type: none"> <li>• Appointment and duties of EO</li> <li>• Determine remuneration and conditions of service of staff (In consultation with DG)</li> </ul>	<ul style="list-style-type: none"> <li>• Establishment of provincial councils</li> <li>• Areas of jurisdiction of provincial councils</li> <li>• Composition of provincial councils</li> </ul>	Recommendations on <ul style="list-style-type: none"> <li>• practical vocational training for candidate legal practitioners; and</li> <li>• right of appearance of candidate legal practitioners.</li> </ul>	Rules for procedure to be followed by disciplinary bodies.  (To be Gazetted)
Researchers	Delegation of powers and functions to provincial council	Rules for conditions and procedures for the registration and administration of practical vocational	Rules for the lodging of complaints of misconduct by legal

		training (To be Gazetted)	practitioners. (To be Gazetted)
Secondments and employment from existing structures (In consultation with DG)	<ul style="list-style-type: none"> <li>• Cost analysis of LPC and provincial councils.</li> <li>• Make recommendations on funding to Minister/Parliament.</li> </ul>	Rules for competency-based examinations/assessments (To be Gazetted)	Rules relating to any other matter – Transitional rules drafted to be adopted by the LPC. (To be Gazetted)
Consultation	<ul style="list-style-type: none"> <li>• Election procedure for LPC</li> <li>• Election procedure for provincial councils</li> </ul>	Rules for procedure and direction relating to assessment of persons undergoing practical vocational training. (To be Gazetted)	Any amendments to the LPA.
Conclude service provider agreements (In consultation with DG)		Rules for the criteria for a person, institution, organisation or association to qualify to conduct assessments. (To be Gazetted)	
IT and national database		Mobility between branches of the profession	
Budget (In consultation with DG)		Compulsory post-qualification professional development (not strictly duty of NF but a task of the LPC, including accreditation of institutions to provide	

		CPPD)	
Negotiate transfer of staff and assets with statutory law societies and others, and reach agreement.  Refer issues to arbitration		Compulsory practice management training	
Recommend extension of 24-month period if necessary		Foreign qualifications  (not strictly duty of NF but a task of the LPC)	
Handover plan at meeting with LPC			
Mechanism for winding-up of NF			