

The implementation of the remaining chapters of the Legal Practice Act No. 28 of 2014, scheduled for 1 November 2018, affects all Legal Practitioners

Following on many years of comments on the Legal Practice Bill, the Legal Practice Act No. 28 of 2014 was enacted on 22 September 2014 (Government Gazette No 38022). The remaining chapters of the Legal Practice Act are scheduled for implementation on the **1st of November 2018** thereby replacing the Attorneys Act 53 of 1979 in its entirety.

This letter serves to inform stakeholders of changes that are scheduled for operationalisation from the 1st of November 2018, with specific reference to Section 86 in its entirety, and Section 63 (1)(g) of the Legal Practice Act 28 of 2014.

The following changes are scheduled to take effect from 1 November 2018:

1. Under Chapter 7 of the Legal Practice Act (LPA)
   1. The Attorneys Fidelity Fund (AFF) will become the Legal Practitioners Fidelity Fund (LPFF).
   2. The four Law Societies will be dissolved and replaced by nine Provincial Councils.
   3. The nine Provincial Councils will fall under a new structure called the Legal Practice Council.
   4. Trust interest which has been paid to Law Societies will be payable directly to the Legal Practitioners Fidelity Fund (LPFF).
2. The following sections in the Attorneys Act will be replaced by the following sections in the LPA:
   * 1. Section 78(1) of the Attorneys Act will be replaced by Section 86(2) of the LPA. *(100% of trust interest earned, less approved recoverable bank charges, will be paid monthly to the LPFF* as provided for by Rule 54.14.16.1 made under the authority of Section 95 (1) of the Legal Practice Act, 28 of 2014*).*
     2. Section 78(2)(a) of the Attorneys Act will be replaced by Section 86(3) of the LPA. *(100% of trust interest earned will be paid on an annual basis to the LPFF* as provided for by Rule 54.14.16.3 made under the authority of Section 95 (1) of the Legal Practice Act, 28 of 2014*).*
     3. Section 78(2A) of the Attorneys Act will be replaced by Section 86(4) of the LPA. *(With effect from 1 March 2019, 5% of the trust interest earned will be paid monthly to the LPFF in terms of section 86(5)) and* as provided for by Rule 54.14.16.4 made under the authority of Section 95 (1) of the Legal Practice Act, 28 of 2014*.*
3. The AFF is in the process of signing a Banking Arrangement, in terms of section 63(1)(g) of the LPA, with the following banks:
   1. ABSA
   2. Albaraka Bank
   3. FNB
   4. Grindrod Bank
   5. HBZ Bank
   6. Investec Bank
   7. Mercantile Bank
   8. Nedbank
   9. Standard Bank
4. With effect from 1 March 2019, the banks that have entered into a banking arrangement as above will automatically sweep the 5% of trust interest earned on section 86(4) trust investments in terms of section 86(5) to the LPFF bank account.
5. In terms of Section 86(6), a legal practitioner referred to in Section 84(1) may not deposit money in terms of section 86(2) nor invest money in terms of Section 86(3) and (4) in accounts held at a bank which is not party to an arrangement as provided for in Section 63(1)(g), unless prior written consent of the LPFF has been obtained.
6. A legal practitioner referred to in Section 84(1) must comply with the terms of an arrangement concluded between the LPFF and a bank as provided for in section 63(1) (g).
7. The banks will be communicating with their practitioner clients directly in terms of how they will be accounting for and reporting on the 5% interest paid over to the LPFF.
8. The banks will be required by the South African Revenue Services (SARS) to issue an IT3b tax certificate to the legal practitioner or the legal practitioner's client for the 95% interest earned on any separate section 86(4) trust savings or other interest-bearing account. For example, if the interest for the month is R100, then the IT3b will be issued for R95.
9. The bank will issue an IT3b to the LPFF for 5% of the interest earned in the section 86(4) account. For example, if the interest for the month is R100, then the IT3b will be issued for R5.

We encourage you to visit the LSSA website to get an update on the workings of the National Forum and the latest update on the LPA using the following URL:

<http://www.lssa.org.za/legal-practitioners/advisories/misc/legal-practice-act-28-of-2014/misc/legal-practice-act>

Should you have any queries on how your bank will be handling the implementation of section 86 of the LPA, please contact your dedicated banker.

Robert Burawundi

Investment Executive