



---

## The implementation of the remaining chapters of the Legal Practice Act No. 28 of 2014, on 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 were implemented on the **1<sup>st</sup> of November 2018** thereby replacing the Attorneys Act 53 of 1979 in its entirety. (with some exclusions).

We have pleasure in confirming that the commencement of certain sections of the Legal Practice Act (28/2014) was proclaimed in Government Gazette no. 42003.

Chapter 6 and 7, which include section 63(1)(g) and section 86, came into effect on 1 November 2018.

Please find the link below to the Gazette dated 29 October 2018:

<http://www.lssa.org.za/upload/files/LPA/Proclamation42003%20of%2029%20October%202018.pdf>

We also enclose a link to Government Gazette no. 42002 which covers the Regulations under Section 109 (1) (bA) of the Legal Practice Act (28/2014):

<https://archive.opengazettes.org.za/archive/ZA/2018/government-gazette-ZA-vol-640-no-42002-dated-2018-10-29.pdf>

This letter serves to inform stakeholders of changes that were operationalised on the 1<sup>st</sup> 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 took effect on 1 November 2018:

1. Under Chapters 6 and 7 of the Legal Practice Act (LPA)
  - a. The Attorneys Fidelity Fund (AFF) became the Legal Practitioners Fidelity Fund (LPFF).
  - b. The four Law Societies were dissolved and will be replaced by nine Provincial Councils.
  - c. The nine Provincial Councils will fall under a new structure called the Legal Practice Council.
  - d. Trust interest which has been paid to Law Societies will now be payable directly to the Legal Practitioners Fidelity Fund (LPFF).

**Cape Town Office** +27 (0) 21 424 5351 **Fax** +27 (0) 21 423 4819 **Email** attorneys@fidfund.co.za **Website** www.fidfund.co.za  
**Physical** 5th Floor, Waalburg Building, 28 Wale Street, Cape Town, 8001, South Africa  
**Postal** P O Box 3062, Cape Town, 8000, South Africa **Docex** Docex 154, Cape Town

**Centurion Office** +27 (0) 12 622 3900 **Fax** +27 (0) 86 604 8452 **Email** attorneys@fidfund.co.za **Website** www.fidfund.co.za  
**Physical** 1256 Heuwel Avenue Centurion, 0127 South Africa.  
**Postal** P O Box 12189 Die Hoewes, 0163 Docex 24 Centurion

B M Molefe (Chief Executive Officer), A M Stansfield (Fund Management Executive), J M Losper (Claims Executive),  
J B de Beer (Risk Management Executive), P Z Ndimba (Senior Claims Manager), R Burawundi (Investment Executive),  
S D Maile (Board Secretary), M Tsogang (Acting Chief Information Officer), E N Kraai (Senior Human Resources Manager)



2. The following sections in the Attorneys Act are replaced by the following sections in the LPA:
  - i. Section 78(1) of the Attorneys Act was 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).*
  - ii. Section 78(2)(a) of the Attorneys Act was 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).*
  - iii. Section 78(2A) of the Attorneys Act was 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. It was resolved by the Attorneys Fidelity Fund's Board of Control at its meeting held on the 25<sup>th</sup> of March 2018 to exempt the implementation of section 86(5) until 1 March 2019. This decision was taken to ensure that the payment of this interest is synchronised with the tax year thereby reducing the administrative burden for practitioners and their clients. Due to this exemption, section 86(5) will only come into effect on 1 March 2019 and Practitioners and the Banks are not required to deduct and pay the 5% interest over to the Fund until 1 March 2019.
4. With effect from 1 March 2019, the Banks that have entered into a banking arrangement with the Fund 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. The LPFF is in the process of signing a Banking Arrangement, in terms of section 63(1)(g) of the LPA, with the following banks:
  - a. ABSA
  - b. Albaraka Bank
  - c. FNB
  - d. Grindrod Bank
  - e. HBZ Bank
  - f. Investec Bank
  - g. Mercantile Bank
  - h. Nedbank
  - i. Standard Bank
6. 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



**LEGAL  
PRACTITIONERS  
FIDELITY FUND**  
SOUTH AFRICA

- (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.
7. 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).
  8. 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.
  9. 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.
  10. 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

Legal Practitioners Fidelity Fund

November 2018