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## GOVERNMENT NOTICES

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### SOUTH AFRICAN QUALIFICATIONS AUTHORITY

No. 314

13 April 2015

In accordance with the National Qualifications Act, Act No 67 of 2008, the Directorate Registration and Recognition invites comment from interested parties on its intention to recommend the recognition of the following professional body and the registration of its designation/s on the NQF for the purposes of the said Act.

SAQA evaluated the application of the professional body against the *Policy & Criteria for Recognising a Professional Body and Registering a Professional Designation for the Purposes of the National Qualifications Framework Act, Act 67 of 2008* as approved by the SAQA Board. The evaluation focused on the following key areas as set out in the criteria:

- Governance, Management and Sustainability
- Disciplinary Matters and Accountability
- Data Management
- Continuing Professional Development
- Awarding of Professional Designations

#### LAW SOCIETY OF SOUTH AFRICA (LSSA)

Designation Title
Attorney

The complete application is available for viewing at SAQA.

Comment regarding the application should reach SAQA at the address below ***no later than 10 May 2015***. All correspondence should be marked and addressed to:

<p>Dr Jody P. Cedras SAQA Postnet Suite 248 Private Bag X06 Waterkloof 0145 or faxed to (012) 431 5144 e-mail: <a href="mailto:professionalbody@saqa.org.za">professionalbody@saqa.org.za</a></p>
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**PROFESSIONAL BODY RECOGNITION AND PROFESSIONAL DESIGNATION  
REGISTRATION****EVALUATION REPORT****1. NAME OF BODY: LAW SOCIETY OF SOUTH AFRICA (LSSA)**

- 1.1 LSSA applied to SAQA for recognition as a professional body and for the registration of one professional designation on the NQF in terms of the NQF Act, Act 67 of 2008.
- 1.2 The Directorate for Registration and Recognition (DRR) at SAQA evaluated the application against the *Policy and Criteria for Recognising a Professional Body and Registering a Professional Designation for the Purposes of the NQF Act*.

**2. BACKGROUND INFORMATION ON THE PROFESSIONAL BODY**

- 2.1 The Law Society of South Africa (LSSA) was established in March 1998. The LSSA has six constituent members – that is, the Black Lawyers Association; the National Association of Democratic Lawyers (NADEL); the Cape Law Society; the KwaZulu-Natal Law Society; the Law Society of the Free State; and the Law Society of the Northern Province.

The LSSA represents and promotes the common interests of the profession, having regard at all times to the broader interests of the public, whom the profession serves. The Legal Practice Act, Act 28 of 2014 which came into force on 22 September 2014 and take effect in staggered stages, will introduce far-reaching reforms.

This Act acknowledges that the legal profession is fragmented and divided with different laws applying in different parts of South Africa and that access to legal services and opportunities within the profession are restricted. The stated purpose of the Act is to create a single regulatory body, to ensure that legal services are accessible to the public and entry into the profession is unrestricted in order to bring the legal profession in line with the Constitution's transformative ideal. Up until such time, the LSSA will continue to act as the preferred representative to the profession.

- 2.2 Some of the LSSA's fundamental and long-term objectives include:

- Promote, on a national basis, the common interests of members and the welfare of the profession, having regard at all times to the broader interests of the public whom the profession serves, and to reconcile where they may conflict – the interests of the profession against those of the public;
- Safeguard and maintain the independence, objectivity and integrity of the profession;
- Maintain and enhance the professional standards, prestige and standing of the profession and of its members both nationally and internationally;
- Uphold and encourage the practice of law, and to promote and facilitate access into the profession; and
- Strive towards the achievement of a system of law that is fair, just, equitable, and free from unfair discrimination.

## 2.3 LSSA Membership

LSSA is registered as a Non-Profit Organisation (Reg. No. 021-221-NPO) with the Department of Social Development. It represents the interests of about 21 400 attorneys and 5 000 candidate attorneys. Attorneys enjoy representation by the LSSA through its six constituent members – namely:

- The Black Lawyers Association;
- The Cape Law Society;
- The KwaZulu-Natal Law Society;
- The Law Society of the Free State;
- The Law Society of the Northern Province; and
- The National Association of Democratic Lawyers (NADEL).

## 2.4 LSSA Affiliations

- LSSA has established a good working relationship with the General Council of the Bar
- Internationally, LSSA is affiliated with:

### International Lawyers for Africa (ILFA)

The LSSA is the country's representative for ILFA. This initiative was set up by leading law firms and academics in the UK with the aim to develop African lawyers' legal skills in international relations, trade, dispute resolution and finance.

### China-Africa Young Legal Professionals Exchange Program

The China Law Society, through the SADC Lawyers Association, invited the LSSA to nominate a young practicing attorney to attend the *"First Training under the auspice of the China-Africa Legal Forum"*.

### Irish Rule of Law International (IRLI)

IRLI is a joint initiative of the Law Society of Ireland and the Bar Council of Ireland, dedicated to promoting the rule of law in developing countries. Since 2002, the LSSA and the IRLI have partnered to provide a commercial training programme, reaching over 400 South African lawyers.

### SADC Lawyers Association (SADCLA)

LSSA was one of the founding members of the SADCLA in 1999.

### International Bar Association (IBA)

The LSSA is represented on the Council of the IBA. The LSSA has presented a number of initiatives with the IBA including the IBA Conference in Durban in 2002 and the IBA African Regional Forum in Cape Town in March 2010.

### Commonwealth Law Association

BICSI is a professional association supporting the information technology systems (ITS) industry. The ITS sector covers the spectrum of voice, data, electronic security, project management and audio and video technologies.

### International Association of Democratic Lawyers (IADL)

The LSSA supports the participation of the National Association of Democratic Lawyers (NADEL) in activities of its international counterpart, the IADL.

Cyrus R Vance Centre for International Justice of the New York City Bar

The SA Legal Fellows Program is administered by the Cyrus R Vance Centre for International Justice of the New York City Bar in partnership with the LSSA. It arranges for lawyers from historically disadvantaged backgrounds in South Africa to participate in working fellowship at corporate law firms and corporate legal departments in New York City (and possibly other international financial capitals) for one-year terms.

## 2.5 Education and Training

- The LSSA entered into a cooperation agreement with the University of Pretoria (UP) and Continuing Education at UP (CE). The LSSA has particular expertise regarding career-directed training for legal practitioners. UP has the expertise, experience and infrastructure to provide tertiary education and training as well as short courses. CE has the know-how and infrastructure to coordinate and administer events such as education, training and short courses. The parties wish to cooperate with each other in presenting short courses for mutual benefit.
- The LSSA signed a Memorandum of Agreement with the UNISA's Centre for Business Law (CBL). The CBL develops short learning programmes, compiles tuition materials, prepares and conducts assessments, and awards certificates in consultation with the LSSA.
- The LSSA does not act as a workplace provider for the delivery of learnerships; it however recognises suitable workplaces for workplace experience.
- The LSSA sets and administers the attorneys' admission examination as well as its own Board examination.

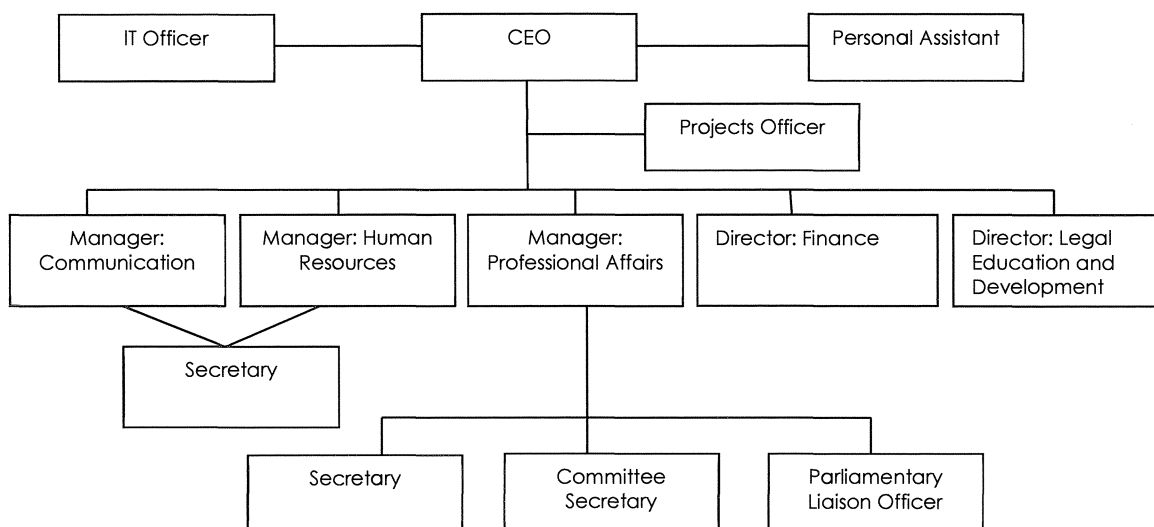
## 3. EVALUATION AGAINST SAQA CRITERIA

### 3.1 Governance, Management and Sustainability

- In terms of the Attorneys Act 53 of 1979, the four provincial Law Societies together with the Black Lawyers Association and the National Association of Democratic Lawyers govern the attorneys sector.
- The affairs of the LSSA are managed and controlled by a Council. The Council shall from among its members elect a President and one or more Vice-Presidents, who may also be the President and one or more Vice-Presidents of the Law Society involved.
- If the office of the President becomes vacant before his/her term of office has expired, the Council shall appoint a Vice-President for the unexpired part of the term, if there is more than one vice-president.
- If the office of the Vice-President becomes vacant before his/her term of office has expired, the Council shall appoint one of its members for the remaining part of the term.
- The LSSA Council may appoint committees to assist it in the carrying out of its duties, the performance of its functions and the exercise of its power. The

committees members may at any time be reduced or increased in relation to the duties and functions to be fulfilled.

- The following committees were created by the Council:
  - Directors Committee;
  - De Rebus Editorial Committee;
  - Audit and Remuneration Committee;
  - Human Resources Committee;
  - Standing Committee on Legal Education;
  - Management Committee;
- The diagram below sets out the staff that is responsible for the day-to-day running of the LSSA's affairs:



- The LSSA has offices which are situated at 304 Brooks Street; Menlo Park; Pretoria.
- Funding for the LSSA is generated primarily through annual registration fees and the proceeds from its annual conferences.
- The LSSA received a favourable audit report for the year ended 31 December 2012 with a surplus of R3 421 231. It places the Society on a financially sound footing to acquire adequate assets, settle its liabilities, serve its members and meet its financial obligations that occur in the normal running of a professional body.

### 3.2 Disciplinary Matters and Accountability

- Attorneys fall under the regulatory jurisdiction of the Provincial Law Society where they are registered. Complaints must therefore be lodged with the relevant provincial law society.
- In terms of the Attorneys Act, 1979, the provincial law societies will investigate all complaints against attorneys acting in an unprofessional manner.

- All complaints must be reduced to writing using the complaint form or compiling an affidavit.
- The complaint must give a brief and accurate account of the main issue regarding the matter, for instance, the attorney has overcharged; has failed persistently to respond to correspondence; has neglected to give due attention to a matter *et cetera*.
- The Provincial Law Society conducts investigations to decide whether disciplinary action is required.
- Based on the facts presented, by both the client and the attorney, the law society will decide whether to refer the matter to a disciplinary committee. This committee will either take a decision or, if of a serious nature, may refer the matter to the LSSA's Council for a decision.
- If the LSSA believes that there has been misconduct by an attorney, it will continue its investigations even if the complaint is withdrawn. The LSSA closes matters where there is no proof of allegations of unprofessional conduct. The complainant and the attorney are then advised in writing of the outcome.
- Where the attorney is found guilty of unprofessional conduct, appropriate sanction is imposed. The attorney however may appeal the decision.

### **3.3 Data Management**

The LSSA maintains an extensive electronic database of its members, consisting of personal details, designations awarded and Continuing Professional Development (CPD) activities. Members log onto the website using their secret code to view their personal data and load their CPD points as required.

### **3.4 Continuing Professional Development (CPD)**

- Attorneys are required to comply with the CPD requirements as set out in the LSSA's Mandatory Continuing Professional Development (MCPD) Policy.
- The MCPD policy is administered and overseen by the MCPD Authority which is composed of seven (7) members with substantial continuing professional education background. This Authority is accountable to the Council of the LSSA for the monitoring of MCPD activities of designees.
- The LSSA requires designees to maintain and submit a record of the CPD points or hours over a three year cycle (see Para 4.2), as a mandatory requirement for the re-certification process and the retention of the designation.
- In order to obtain CPD points or hours, designees need to be engaged in one of more of the following knowledge or skills activities such as:
  - Presenting to technical and professional conferences, seminars, colloquiums, educational meetings or refresher courses approved by the LSSA Council.
  - Delivering of a conference paper with a legal theme with a minimum of 2,000 words.

- Publishing articles in a law firm's newsletter that is circulated to at least five (5) other firms.
  - Developing vocational training material comprising at least 10,000 words of own intellectual input.
  - Providing mentorship and coaching to candidate attorneys doing their tutelage.
  - Participating in the professional committees of the LSSA or the provincial law societies.
- As a measure of ensuring a reliable Management Information System, the MCPD Authority carries out sampled annual audits to verify CPD information submitted by professionally registered members.
- In the event of continued non-submission or if inadequate compliance appears, the MCPD Authority will grant 90 days extension for compliance, failing which a recommendation for disciplinary action will be made to the relevant regulatory authority.

## **4 PROFESSIONAL DESIGNATIONS**

### **4.1 Designation Awarding Process**

- The admission requirements for attorneys in South Africa are prescribed by the Attorneys Act, Act 53 of 1979 and the Rules promulgated in terms of the Act.
- A candidate must be regarded as a fit and proper person by the High Court and the LSSA (and provincial law societies) before he/she can be admitted as an attorney. This requirement refers mainly to the moral integrity of a person, his/her characteristics and particularly honesty, which is considered to be an important prerequisite for practising as an attorney.

### **4.2 Designation to be Registered**

**Designation Title:** Attorney

<b>Underlying Qualification(s)</b>	<p>Bachelor of Laws (LLB) at Level 8</p> <p>The following exceptions apply to:</p> <ul style="list-style-type: none"> <li>• An applicant who has obtained a degree/s other than an LLB at a university in SA for a period of not less than five years and has satisfied the requirements of an LLB degree;</li> <li>• An applicant who has successfully completed a degree of the same status as the SA LLB degree at a university from the former TBVC states, which degree has been certified by a university in SA and the person has completed a supplementary examination (if required);</li> <li>• An applicant who has completed a degree which does not meet the requirements of an LLB degree at any university in SA;</li> <li>• An applicant who has completed a degree of the same status as the corresponding SA degree at a university from the former TBVC states, which does not meet the requirements of the SA LLB degree; OR</li> <li>• An applicant who has obtained with full university exemption.</li> </ul>
<b>Experiential Learning and Practical Experience</b>	<p>Applicants must complete practical legal training and articles as follows:</p> <ul style="list-style-type: none"> <li>• 2 years under a contract of articles (service at a private law firm or state attorney); OR</li> <li>• 3 years under a contract of articles (service at a private law firm or state attorney) or a service contract (community service at a legal aid institution), if the applicant: <ul style="list-style-type: none"> <li>- has completed a degree, which does not meet the requirements of an LLB degree, at any university in SA; or</li> <li>- has completed a degree of the same status as the corresponding SA degree at a university from the former TBVC states, which degree has been certified by a university in SA; or</li> <li>- has obtained a matric certificate and has served continuously for a period of at least 2 years as a clerk to any judge of the High Court, provided that the applicant enters into articles of clerkship within a period of one year after completing such; OR</li> </ul> </li> <li>• 5 years if the applicant does not have a degree but at least has a matric with full university exemption.</li> </ul>



<b>Board / Admission Examination / Assessment</b>	Candidates are required to write the Attorneys' Admission Examination which is administered and presented by LSSA. This examination is practice-oriented and consists of: <b>Paper 1:</b> Practice and Procedure (criminal procedure, supreme court procedure, magistrates' court procedure and motor vehicle accident claims) <b>Paper 2:</b> Wills and Estates <b>Paper 3:</b> Attorneys' practice, contracts and rules of conduct; and <b>Paper 4:</b> Legal bookkeeping
<b>Continuing Professional Development (CPD) Requirements</b>	Designees are required to complete and record a total of 36 CPD credits over a three year cycle, of which a maximum of 6 surplus CPD credits can be transferred to the next cycle.
<b>Application of Recognition of Prior Learning (RPL)</b>	Section 2A(c) of the Attorneys' Act 53 of 1979 makes provision that the LSSA may accept "at least 5 years' appropriate legal experience" for purposes of acknowledging their learning and thus exempting them from serving the 2 years required for articles of clerkship. Another area where RPL applies relates to the mandatory Practice Management Training (PMT). Candidates with for example a MBA may be exempted from the compulsory PMT by the LSSA.

## 5 RECOMMENDATION

It is recommended that:

- 5.1 LSSA be recognised as a Professional Body for the purposes of the NQF Act, Act 67 of 2008.
- 5.2 The following Professional Designation of the LSSA be registered:

Designation Title
Attorney