

## **LSSA makes further submissions on the LPB; comments on submissions by the Attorneys Fidelity Fund**

The Law Society of South Africa (LSSA) last month made further submissions on the Legal Practice Bill (B20 of 2012) to the Justice Portfolio Committee. These submissions responded to a number of questions raised by the committee during oral hearings in February. In a separate annexure, the LSSA also responded to the oral and written submissions made by the Attorneys Fidelity Fund (AFF).

The LSSA pointed out that the oral and written submissions it made in February covered mostly principled issues of governance and regulation. The May document focused on some of the practical matters relevant to the governance of the profession in future. The LSSA stressed that it remained committed to engaging with the committee, not only to share the experience gathered and the results of research conducted, but also to explore the best possible methods that will suit a constitutional democratic South Africa.

The LSSA provided statistics on gender and race transformation in the attorneys' profession over the past few years. It also included statistics on first-year LLB students registered at universities, law graduates, demographics of candidates registering articles in the profession, as well as admissions to the profession in specific years. These statistics show that, at these levels, female and black candidates are well represented in the numbers graduating and entering the profession. For example, in 1998 71% of attorneys admitted that year were white. This percentage had dropped to 53% by 2011. Women made up 37% of the candidates entering the profession in 1998. By 2011 this had increased to 56%. Currently, 41% of attorneys are white men and 24% black men; 23% are white women and 12% are black women.

The LSSA stressed that, although there has been a significant improvement in historically disadvantaged candidates entering the profession, many challenges still exist to improve this growth further.

The LSSA submissions also covered the role played by the attorneys' profession in promoting access to justice; fee structures and the role of advocates in that equation; the process of unifying the rules of the provincial law societies into a uniform set, while taking into account issues of competition; the current funding of the attorneys' profession, as well as statistics relating to disciplinary offences by attorneys and how these are dealt with by the statutory provincial law societies.

In its comments responding to the AFF's submissions, the LSSA pointed out that the history of the AFF was intrinsically linked to that of the profession. Almost 70 years ago the legal profession had lobbied parliament to set up the fund in order to ensure protection for the public against theft by attorneys. To date, this objective remains key to the existence of the profession and its credibility in the eyes of the public.

The LSSA dealt with what it termed 'misconceptions and inaccuracies' in the AFF's submissions. The LSSA stressed that 'the well-being of the AFF was and is in the interest of the profession as much as the public. Part of the protection of the public is vested in the law societies, which are duty bound to regulate the profession in the interests of the public; a function which justifies financing by the AFF.'

On whether or not the monies in the AFF are 'public funds', the LSSA noted that the fund was initially one to which attorneys contributed. Later, when trust fund interest was used in South Africa to boost the AFF, such interest was, and still is, derived from deposits by attorneys' clients. While such clients are members of the public, any view that such interest is 'public money' is misdirected. The legislation intended that such interest should vest in the AFF.

The LSSA noted: 'The attorneys in South Africa have, in the past, been called upon to contribute to the AFF, and they may in future be called upon to do so again, should there be a shortfall. The profession has a vested interest in ensuring that the AFF is safeguarded for its clients.'

- The LSSA's May submissions on the Bill will be covered more fully in the next issue of *De Rebus*. In the meantime, the submissions can be viewed on the LSSA website at [www.LSSA.org.za](http://www.LSSA.org.za)

- See p 4.