

# Community service legislated for legal practitioners in South Africa

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After almost 15 years of negotiation, the Legal Practice Act No 28 of 2014 went into effect on 1 February 2015. Its objective was to transform the legal profession in line with the constitution, bringing about an independent legal profession that reflects the diversity of South Africa. One of the fundamental changes was to bring the legal profession under a single bar from a split bar, with all legal professionals referred to as 'legal practitioners', and to create the Legal Practice Council, which regulates all legal practitioners.

Some of the provisions of the act did not come into operation until November 2018. One was section 29, covering community services for legal practitioners, which states:

'(1) The Minister must, after consultation with the Council, prescribe the requirements for community service from a date to be determined by the Minister, and such requirements may include –

- (a) community service as a component of practical vocational training by candidate legal practitioners; or
- (b) a minimum period of recurring community service by practising legal practitioners upon which continued enrolment as a legal practitioner is dependent.

(2) Community service for the purposes of this section may include, but is not limited, to the following:

- (a) Service in the State, approved by the Minister, in consultation with the Council;
- (b) service at the South African Human Rights Commission;
- (c) service, without any remuneration, as a judicial officer in the case of legal practitioners, including as a commissioner in the small claims courts;

(d) the provision of legal education and training on behalf of the Council, or on behalf of an academic institution or non-governmental organisation; or

(e) any other service which the candidate legal practitioner or the legal practitioner may want to perform, with the approval of the Minister.

(3) The Council may, on application and on good cause shown, exempt any candidate legal practitioner or legal practitioner from performing community service, as set out in the rules.'

This is the first time in South Africa that community service will become a compulsory part of the practice of legal practitioners and trainee attorneys. The responsible minister, the Minister of Justice and Constitutional Development, has not yet prescribed the requirements for community service.

Questions being asked by the legal profession are whether 'community service' and 'pro bono legal service' are synonymous and whether 'community service' includes 'pro bono legal service' or whether the two are separate. Fortunately, there is still a critical opportunity for legal practitioners to shape the content of community service as the Minister may only prescribe requirements for it after consultation with the Legal Practice Council. Practitioners should therefore participate in and communicate with the Legal Practice Council, (itself a new entity) about the content, practice and values of community service.

The challenge for legal practitioners is to ensure that the South African definition of community service relates to law-related work so that the limited time that all legal practitioners have will be spent on providing specialist legal skills and not on non-law-related work for civic, charitable, governmental, educational, public service or campaign organisations.