
Advisory

17 September 2021

Opening of trust account

Section 84(1) of the Legal Practice Act provides inter alia that every attorney or any advocate referred to in section 34(2)(b) of the Act (commonly referred to as a trust account advocate) who practices or is deemed to practise for his or her own account, either alone or in partnership, or as a director of a practice which is a juristic entity, must be in possession of a Fidelity Fund Certificate.

Section 86 of the Act provides inter alia that:

1. every legal practitioner referred to in section 84(1) must operate a trust account; and
2. every trust account practice must keep a trust account at a bank with which the Legal Practitioners Fidelity Fund has an arrangement as provided in section 63(1)(g) of the Act and must deposit any money held on behalf of any person into that account.

In terms of Rule 54.16.1 of the Rules promulgated under the Act, every firm shall notify the Council in writing of the name and address of the bank or banks at which its trust banking account or accounts are kept and shall notify the Council immediately of any change in the name and address of e such bank or banks.

Rule 54.34 provides that an office opened by a firm which for the first time opens a practice within the jurisdiction of a Provincial Council, shall be designated as a main office of the firm in that jurisdiction, and the firm shall ensure that banking accounts are opened in that jurisdiction.

The Council is aware that a number of legal practitioners have failed to notify the Council of all required details of their trust accounts, particularly where they operate more than one account.

In an effort to ensure compliance with the provisions of the Act and Rules, the Legal Practice Council requests that legal practitioners inform the Legal Practice Council of any new trust accounts opened and the reasons for changing firm's trust accounts.

Issued by the Legal Practice Council