BUITENGEWONE EXTRAORDINARY

# Staatskoerant

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## DEPARTEMENT VAN JUSTISIE.

Onderstaande Wetsontwerpe word ter algemene inligting gepubliseer:—



## DEPARTEMENT VAN MYNWESE.

Onderstaande Wetsontwerp word ter algemene inligting gepubliseer:—



## DEPARTMENT OF JUSTICE.

The following Bills are published for general information:—



## DEPARTMENT OF MINES.



The following Bill is published for general information:—

# WETSONTWERP

**Tot wysiging van die reg op bydraende nalatigheid en die reg op die aanspreeklikheid van persone wat gesamentlik of afsonderlik vir dieselfde skade uit delik aanspreeklik is, en om vir daarmee in verband staande aangeleenthede voorsiening te maak.**

(*Ingedien te word deur die* MINISTER VAN JUSTISIE.)

DIT WORD BEPAAL deur Haar Majesteit die Koningin, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg:—

Verdeling van aanspreeklikheid in geval van bydraende nalatigheid.

**1.** (1) (*a*) Waar iemand skade ly wat deels aan sy eie skuld en deels aan die skuld van 'n ander persoon te wyte is, word 'n vordering ten opsigte van bedoelde skade nie ten gevolge van die skuld van die eiser verydel nie, maar word die skadevergoeding wat ten opsigte daarvan toegeken word, tot so 'n mate deur die hof verminder as wat die hof, met inagneming van die mate van die eiser se skuld met betrekking tot die skade, regverdig en billik ag.

(*b*) By die toepassing van paragraaf (*a*) kan skade geag word aan iemand se skuld te wyte te wees ondanks die feit dat 'n ander persoon 'n geleentheid gehad het om die gevolge daarvan te vermy en nalatiglik of agtelosiglik versuim het om dit te doen.

(2) Skadevergoeding wat deur iemand verhaalbaar is as gevolg van die dood of besering van 'n ander persoon, word deur die hof verminder tot so 'n mate as wat die hof, met inagneming van die mate van bedoelde oorlede of beseerde persoon se skuld met betrekking tot die gebeurtenis wat die dood of besering tot gevolg gehad het, regverdig en billik ag.

(3) Wanneer skadevergoeding wat aan iemand toegeken word ingevolge die bepalings van sub-artikel (1) of (2) verminder word, moet die hof die totale skadevergoeding wat verhaalbaar sou gewees het indien die eiser of die oorlede of beseerde persoon, na gelang van die geval, geen skuld daaraan gehad het nie, bepaal en aanteken.

(4) Waar in 'n geval waarop die bepalings van sub-artikel (1) van toepassing is, een van die persone wat skuld het, aanspreeklikheid teenoor 'n eiser ontduik deur te pleit en te bewys dat die tydperk waarbinne ingevolge een of ander wetsbepaling 'n geding ingestel moes gewees het of kennis in verband met so 'n geding gegee moes gewees het, oorskry is, is so 'n persoon nie geregtig om ingevolge die bepalings van bedoelde sub-artikel skadevergoeding op bedoelde eiser te verhaal nie.

(5) By die toepassing van hierdie artikel beteken „skuld" nalatigheid, versuim van 'n statutêre plig of ander handeling of versuim wat aanspreeklikheid uit delik laat ontstaan of wat, as dit nie vir die bepalings van hierdie artikel was nie, die verweer van bydraende nalatigheid sou laat ontstaan het, en ook 'n handeling of versuim van 'n persoon waarvoor 'n party middellik aanspreeklik is.

Gedinge teen en bydraes tussen gesamentlike en afsonderlike daders.

**2.** (1) Waar dit beweer word dat twee of meer persone gesamentlik of afsonderlik aanspreeklik is teenoor 'n derde persoon (hierna in hierdie artikel die eiser genoem) vir dieselfde skade, kan sulke persone (hierna in hierdie artikel mededaders genoem) gesamentlik of in die alternatief of sowel gesamentlik as in die alternatief in dieselfde aksie aangespreek word.

(2) Kennis van 'n aksie kan te eniger tyd voor die sluiting van pleitstukke in bedoelde aksie—

(*a*) deur die eiser;

(*b*) deur 'n mededader wat in bedoelde aksie aangespreek word,

aan 'n mededader wat nie in bedoelde aksie aangespreek word nie, gegee word en bedoelde mededader kan daarop tot die aksie toetree.

(3) Die hof kan op aansoek van die eiser of 'n mededader in 'n aksie beveel dat afsonderlike verhore plaasvind, of die ander bevel in hierdie verband uitreik wat die hof regverdig en billik ag.

(4) (*a*) Indien 'n mededader nie in die eerste aksie wat teen 'n ander mededader ingestel word, aangespreek word

# BILL

**To amend the law relating to contributory negligence and the law relating to the liability of persons jointly or severally liable in delict for the same damage, and to provide for matters incidental thereto.**

*(To be introduced by the* MINISTER OF JUSTICE.)

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

**Apportionment of liability in case of contributory negligence.**

**1.** (1) (*a*) Where any person suffers damage which is caused partly by his own fault and partly by the fault of any other person, a claim in respect of that damage shall not be defeated by reason of the fault of the plaintiff, but the damages awarded in respect thereof shall be reduced by the court to such extent as the court may deem just and equitable having regard to the degree in which the plaintiff was at fault in relation to the damage.

(*b*) Damage may for the purpose of paragraph (*a*) be regarded as having been caused by a person's fault notwithstanding the fact that another person had an opportunity of avoiding the consequences thereof and negligently or carelessly failed to do so.

(2) Damages recoverable by any person in consequence of the death of or injury to another person shall be reduced by the court to such extent as the court may deem just and equitable having regard to the degree in which such deceased or injured person was at fault in relation to the occurrence which resulted in the death or injury.

(3) When damages awarded to any person are reduced by virtue of the provisions of sub-section (1) or (2), the court shall determine and record the total damages which would have been recoverable if the plaintiff or the person killed or injured, as the case may be, had not been at fault.

(4) Where in any case to which the provisions of sub-section (1) apply, one of the persons at fault avoids liability to any plaintiff by pleading and proving that the time within which proceedings should have been instituted or notice should have been given in connection with such proceedings in terms of any law, has been exceeded, such person shall not be entitled to recover damages from that plaintiff by virtue of the provisions of the said sub-section.

(5) For the purposes of this section "fault" means negligence, breach of statutory duty or other act or omission which gives rise to delictual liability or would, but for the provisions of this section, give rise to the defence of contributory negligence, and includes any act or omission of a person for which a party is vicariously responsible.

**Proceedings against and contributions between joint and several wrongdoers.**

**2.** (1) Where it is alleged that two or more persons are jointly or severally liable to a third person (hereinafter in this section referred to as the plaintiff) for the same damage, such persons (hereinafter in this section referred to as joint wrongdoers) may be sued jointly or in the alternative or both jointly and in the alternative in the same action.

(2) Notice of any action may at any time before the close of pleadings in that action be given—

(*a*) by the plaintiff;

(*b*) by any joint wrongdoer who is sued in that action, to any joint wrongdoer who is not sued in that action, and such joint wrongdoer may thereupon intervene as a defendant in that action.

(3) The Court may on the application of the plaintiff or any joint wrongdoer in any action order that separate trials be held, or make such other order in this regard as it may consider just and expedient.

(4) (*a*) If a joint wrongdoer is not sued in the first action instituted against another joint wrongdoer and no

nie en daar geen kennis ingevolge paragraaf (*a*) van sub-artikel (2) aan hom gegee word nie, mag die eiser hom daarna nie aanspreek nie behalwe met verlof van die hof verleen op aanvoering van grondige redes waarom kennis soos voormeld nie gegee is nie.

(*b*) Indien geen kennis ingevolge paragraaf (*a*) of (*b*) van sub-artikel (2) aan 'n mededader wat nie deur die eiser aangespreek word, gegee word nie, word geen geding vir 'n bydrae deur 'n mededader kragtens sub-artikel (6) teen hom ingestel nie behalwe met verlof van die hof verleen op aanvoering van grondige redes waarom kennis nie ingevolge paragraaf (*b*) van sub-artikel (2) aan hom gegee is nie.

(5) In enige daaropvolgende aksie teen 'n ander mededader, word 'n bedrag wat op 'n mededader in 'n vorige aksie verhaal is, geag aangewend te gewees het ter betaling van die koste wat in die vorige aksie toegeken is voor vereffening van die in bedoelde aksie toegekende skadevergoeding, en die hof kan in die daaropvolgende aksie bedoelde ander mededader beveel om die geheel of 'n gedeelte van die koste wat teen die mededader in die vorige aksie toegeken is en nie op hom verhaal is nie, te betaal, en enige koste wat ingevolge so 'n bevel betaal word, kan deur bedoelde ander mededader op die mededader in die vorige aksie verhaal word.

(6) (*a*) Indien vonnis in 'n aksie teen 'n mededader gegee word vir die volle bedrag van die skade wat die eiser gely het, kan bedoelde mededader, behoudens die bepalings van paragraaf (*b*) van sub-artikel (4), van enige ander mededader wat nie in bedoelde aksie aangespreek is nie, 'n bydrae ten opsigte van sy verantwoordelikheid vir bedoelde skade vorder, en in 'n aksie vir die verhaal van so 'n bydrae kan die hof die bedrag toeken wat die hof, met inagneming van die mate van bedoelde ander mededader se skuld met betrekking tot die skade wat die eiser gely het en van die volle bedrag van die skade wat gely is, regverdig en billik ag: Met dien verstande dat, indien eersbedoelde mededader die vonnisskuld nie ten volle betaal het nie, 'n mededader teen wie so 'n toekenning gemaak word, sy bydrae in die mate waarin die bedrag deur eersbedoelde mededader betaal, kortkom op die volle bedrag van die vonnisskuld, direk aan die eiser kan betaal, en so 'n betaling word teen die vonnisskuld verreken.

(*b*) Behoudens die bepalings van paragraaf (*c*), is die tydperk van bevrydende verjaring ten opsigte van 'n vordering vir 'n bydrae twaalf maande bereken vanaf die datum van die vonnis ten opsigte waarvan 'n bydrae gevorder word of, waar appèl teen so 'n vonnis aangeteken word, die datum van die finale vonnis op appèl.

(*c*) Indien in die geval van 'n mededader die tydperk van bevrydende verjaring met betrekking tot 'n aksie wat teen hom deur die eiser ingestel mag word, deur 'n wetsbepaling beheers word wat 'n tydperk van minder as twaalf maande voorskryf as die tydperk waarbinne geregtelike stappe teen hom ingestel moet word of waarbinne kennis gegee moet word dat stappe teen hom ingestel gaan word, dan is die bepalings van so 'n wetsbepaling *mutatis mutandis* van toepassing met betrekking tot 'n aksie vir 'n bydrae deur 'n mededader, en word die betrokke tydperk of tydperke bereken vanaf die datum van die vonnis soos voormeld instede van die datum van die oorspronklike eisoorsaak.

(*d*) 'n Mededader van wie 'n bydrae gevorder word, kan teen die mededader wat die bydrae vorder enige verweer opwerp wat laasgenoemde teen die eiser kon opgewerp het.

(7) (*a*) Indien vonnis ten gunste van die eiser teen twee of meer mededaders gegee word, kan die hof—

(i) beveel dat bedoelde mededaders die bedrag van die toegekende skadevergoeding gesamentlik en afsonderlik betaal, sodat as die een betaal die ander bevry word;

(ii) die toegekende skadevergoeding tussen bedoelde mededaders verdeel in die verhouding wat die hof, met inagneming van die mate van iedere mededader se skuld met betrekking tot die skade wat die eiser gely het en van die volle bedrag van die toegekende skadevergoeding, regverdig en billik ag, en vonnis teen iedere mededader gee

notice is given to him in terms of paragraph (*a*) of sub-section (2), the plaintiff shall not thereafter sue him except with the leave of the court on good cause shown as to why notice was not given as aforesaid.

(*b*) If no notice is under paragraph (*a*) or (*b*) of sub-section (2) given to a joint wrongdoer who is not sued by the plaintiff, no proceedings for a contribution shall be instituted against him under sub-section (6) by any joint wrongdoer except with the leave of the court as to why notice was not given to him under paragraph (*b*) of sub-section (2).

(5) In any subsequent action against another joint wrongdoer, any amount recovered from any joint wrongdoer in a former action shall be deemed to have been applied towards the payment of the costs awarded in the former action in priority to the liquidation of the damages awarded in that action, and the court may in the subsequent action order that other joint wrongdoer to pay the whole or any part of the costs awarded against and not recovered from the joint wrongdoer in the former action, and any costs paid in pursuance of such an order may be recoverd by that other joint wrongdoer from the joint wrongdoer in the former action.

(6) (*a*) If judgment is given in any action against any joint wrongdoer for the full amount of the damage suffered by the plaintiff, the said joint wrongdoer may, subject to the provisions of paragraph (*b*) of sub-section (4), claim from any other joint wrongdoer who has not been sued in that action a contribution in respect of his responsibility for such damage, and the court may in any action for the recovery of such a contribution award such amount as it may deem just and equitable having regard to the degree in which that other joint wrongdoer was at fault in relation to the damage suffered by the plaintiff and to the full amount of the damages awarded: Provided that any joint wrongdoer against whom such an award is made may, if the firstmentioned joint wrongdoer has not paid the judgment debt if full, pay his contribution to the plaintiff direct to the extent that the amount paid by the firstmentioned wrongdoer falls short of the full amount of the judgment debt, and any such payment shall be set off against the judgment debt.

(*b*) Subject to the provisions of paragraph (*c*), the period of extinctive prescription in respect of a claim for a contribution shall be twelve months calculated from the date of the judgment in respect of which a contribution is claimed or, where an appeal is made against such judgment, the date of the final judgment on appeal.

(*c*) If in the case of any joint wrongdoer, the period of extinctive prescription in relation to any action which may be instituted against him by the plaintiff, is governed by a law which prescribes a period of less than twelve months as the period within which legal proceedings shall be instituted against him or within which notice shall be given that proceedings will be instituted against him, the provisions of such law shall apply *mutatis mutandis* in relation to any action for a contribution by a joint wrongdoer, the period or periods concerned being calculated from the date of the judgment as aforesaid instead of from the date of the original cause of action.

(*d*) Any joint wrongdoer from whom a contribution is claimed may raise against the joint wrongdoer who claims the contribution any defence which the latter could have raised against the plaintiff.

(7) (*a*) If a judgment is given in favour of the plaintiff against two or more joint wrongdoers, the court may—

(i) order that such joint wrongdoers pay the amount of the damages awarded jointly and severally, the one paying the other to be absolved;

(ii) apportion the damages awarded against the said joint wrongdoers in such proportions as the court may deem just and equitable having regard to the degree in which each joint wrongdoer was at fault in relation to the damage suffered by the plaintiff and to the full amount of the damages awarded, and give judgment separately against each joint wrongdoer for the amount so appor-

vir die aldus toegewysde bedrag: Met dien verstande dat enige bedrag wat die eiser nie op een of ander mededader uit hoofde van so 'n vonnis kan verhaal nie (met inbegrip van enige koste deur die eiser aangegaan in 'n poging om bedoelde bedrag te verhaal en nie op bedoelde mededader verhaal nie) hetsy as gevolg van bedoelde mededader se insolvensie of andersins, kan deur die eiser op die ander mededaders verhaal word in die verhouding wat die hof, met inagneming van die mate van idereen van bedoelde ander mededaders se skuld met betrekking tot die skade wat die eiser gely het en van bedoelde bedrag, regverdig en billik ag;

(iii) waar die hof vonnis teen die mededaders gesamentlik en afsonderlik soos voormeld gee, op versoek van enigeen van die mededaders, vir die doeleindes van paragraaf (*b*), die skadevergoeding wat *inter se* betaalbaar is, tussen die mededaders verdeel in die verhouding wat die hof, met inagneming van die mate van iedere mededader se skuld met betrekking tot die skade wat die eiser gely het en van die volle bedrag van die toegekende skadevergoeding, regverdig en billik ag;

(iv) die bevel met betrekking tot koste uitreik wat die hof regverdig ag, met inbegrip van 'n bevel dat die mededaders teen wie die hof vonnis gee, die eiser se koste gesamentlik en afsonderlik moet betaal, sodat as die een betaal die ander bevry word, en dat indien een van die onsuksesvolle mededaders meer as sy *pro rata* deel van die eiser se koste betaal, hy geregtig sal wees om op iedereen van die ander onsuksesvolle mededaders sy *pro rata* deel van sodanige oorbetaling te verhaal.

(*b*) 'n Mededader wat meer betaal as die bedrag wat kragtens sub-paragraaf (iii) van paragraaf (*a*) aan hom toegewys is, kan op 'n mededader wat minder dan of niks van die bedrag wat aldus aan hom toegewys is, betaal het, 'n bydrae van 'n bedrag van hoogstens die verskil tussen die bedrag aldus aan laasgenoemde mededader toegewys en die bedrag deur hom betaal, indien daar is, of die verskil tussen die bedrag deur eersgenoemde mededader betaal en die aan hom toegewysde bedrag, na gelang van watter bedrag minder is, verhaal.

(*c*) Die bepalings van paragrawe (*b*) en (*c*) van sub-artikel (6) is *mutatis mutandis* van toepassing op 'n vordering vir 'n bydrae kragtens paragraaf (*b*) van hierdie sub-artikel.

(8) Indien vonnis ten gunste van 'n mededader gegee word of indien 'n mededader van die instansie vrygestel word, kan die hof die bevel met betrekking tot koste uitreik wat hy regverdig ag, met inbegrip van 'n bevel—

(*a*) dat die eiser bedoelde mededader se koste betaal; of

(*b*) dat die onsuksesvolle mededaders die koste van die suksesvolle mededaders gesamentlik en afsonderlik moet betaal, sodat as die een betaal die ander bevry word, en dat indien een van die onsuksesvolle mededaders meer as sy *pro rata* deel van die suksesvolle mededader se koste betaal, hy geregtig sal wees om op iedereen van die ander onsuksesvolle mededaders sy *pro rata* deel van sodanige oorbetaling te verhaal, en dat indien die suksesvolle mededader nie in staat is om die geheel of 'n gedeelte van sy koste op die onsuksesvolle mededaders te verhaal nie, hy geregtig sal wees om die deel van sy koste wat hy nie in staat is om op die onsuksesvolle mededaders te verhaal nie, of die eiser te verhaal.

(9) Indien ten gevolge van die bepalings van 'n ooreenkoms tussen 'n mededader en die eiser, eersgenoemde vrygestel is van aanspreeklikheid vir die skade wat die eiser gely het of sy aanspreeklikheid daarvoor tot 'n ooreengekome bedrag beperk is, is soveel van daardie gedeelte van die skadevergoeding wat, as dit nie vir bedoelde ooreenkoms was nie, ingevolge sub-artikel (6) op bedoelde mededader verhaal kon geword het of ingevolge sub-paragraaf (ii) of (iii) van paragraaf (*a*) van sub-artikel (7) aan hom toegewys kon geword het, as wat die bedrag, indien daar is, waarvoor hy ingevolge bedoelde ooreenkoms aanspreeklik is, nie deur die eiser op enige ander mededader verhaalbaar nie.

tioned: Provided that any amount which the plaintiff is unable to recover from any joint wrongdoer under a judgment so given (including any costs incurred by the plaintiff in an attempt to recover the said amount and not recovered from the said joint wrongdoer) whether by reason of the said joint wrongdoer's insolvency or otherwise, may be recovered by the plaintiff from the other joint wrongdoers in such proportion as the court may deem just and equitable having regard to the degree in which each of those other joint wrongdoers was at fault in relation to the damage suffered by the plaintiff and to the said amount;

(iii) where it gives judgment against the joint wrongdoers jointly and severally as aforesaid, at the request of any one of the joint wrongdoers, apportion, for the purposes of paragraph (*b*), the damages payable *inter se* amongst the joint wrongdoers, in such proportion as the court may deem just and equitable having regard to the degree in which each joint wrongdoer was at fault in relation to the damage suffered by the plaintiff and to the full amount of the damages awarded;

(iv) make such order as to costs as it may consider just, including an order that the joint wrongdoers against whom it gives judgment shall pay the plaintiff's costs jointly and severally, the one paying the other to be absolved, and that if one of the unsuccessful joint wrongdoers pays more than his *pro rata* share of the plaintiff's costs, that he shall be entitled to recover from each of the other unsuccessful joint wrongdoers his *pro rata* share of such excess.

(*b*) Any joint wrongdoer who pays more than the amount apportioned to him under sub-paragraph (iii) of paragraph (*a*) may recover from any joint wrongdoer who has paid less than or nothing of the amount so apportioned to him, a contribution of an amount not exceeding the difference between the amount so apportioned to the lastmentioned joint wrongdoer and the amount paid by him, if any, or the difference between the amount paid by the firstmentioned joint wrongdoer and the amount apportioned to him whichever is less.

(*c*) The provisions of paragraphs (*b*) and (*c*) of sub-section (6) shall apply *mutatis mutandis* to any claim for a contribution under paragraph (*b*) of this sub-section.

(8) If judgment is given in favour of any joint wrongdoer or if any joint wrongdoer is absolved from the instance, the court may make such order as to costs as it may consider just, including an order—

(*a*) that the plaintiff pay such joint wrongdoer's costs; or

(*b*) that the unsuccessful joint wrongdoers pay the costs of the successful joint wrongdoer jointly and severally, the one paying the other to be absolved, and that if one of the unsuccessful joint wrongdoers pays more than his *pro rata* share of the costs of the successful joint wrongdoer, that he shall be entitled to recover from each of the other unsuccessful joint wrongdoers his *pro rata* share of such excess, and that if the successful joint wrongdoer is unable to recover the whole or any part of his costs from the unsuccessful joint wrongdoers, that he shall be entitled to recover from the plaintiff such part of his costs as he is unable to recover from the unsuccessful joint wrongdoers.

(9) If by reason of the terms of an agreement between a joint wrongdoer and the plaintiff the former is exempt from liability for the damage suffered by the plaintiff or his liability therefore is limited to an agreed amount, so much of that portion of the damages which, but for the said agreement, could have been recovered from the said joint wrongdoer in terms of sub-section (6) or could have been apportioned to him in terms of sub-paragraph (ii) or (iii) of paragraph (*a*) of sub-section (7), as exceeds the amount, if any, for which he is liable in terms of the said agreement, shall not be recoverable by the plaintiff from any other joint wrongdoer.

(10) (*a*) Wanneer 'n mededader wat kragtens een of ander bepaling van hierdie artikel geregtig is om 'n bydrae van 'n ander mededader te vorder, nie in staat is om bedoelde bydrae of 'n bedrag daarvan op daardie ander mededader te verhaal nie, hetsy as gevolg van laasgenoemde se insolvensie of andersins, kan hy op enige ander mededader so 'n gedeelte van daardie bydrae of daardie bedrag daarvan verhaal as wat die hof, met inagneming van die mate van daardie ander mededader se skuld met betrekking tot die skade wat die eiser gely het en van die volle bedrag van bedoelde bydrae of bedoelde bedrag daarvan, na gelang van die geval, regverdig en billik ag.

(*b*) Koste wat deur 'n mededader aangegaan word in 'n poging om 'n bydrae op 'n ander mededader te verhaal, en wat nie op daardie mededader verhaal word nie, word by die toepassing van paragraaf (*a*), by die bedrag van bedoelde bydrae gevoeg.

(11) Indien 'n mededader ooreenkom om aan die eiser 'n som geld in volle vereffening van eiser se vordering te betaal, is die bepalings van sub-artikel (6) *mutatis mutandis* van toepassing asof vonnis deur 'n bevoegde hof teen bedoelde mededader vir bedoelde som geld gegee was, en by bedoelde toepassing van die bepalings van genoemde sub-artikel (6), word 'n verwysing daarin na die datum van die vonnis uitgelê as 'n verwysing na die datum van die ooreenkoms.

(12) By die toepassing van hierdie artikel kan iemand as 'n mededader beskou word ondanks die feit dat 'n ander persoon 'n geleentheid gehad het om die gevolge van sy onregmatige daad te vermy en nalatiglik of agtelosiglik versuim het om dit te doen.

Toepassing van bepalings van artikel 2 op aanspreeklikheid ingevolge Wet 29 van 1942 opgelê.

**3.** Die bepalings van artikel *twee* is ook van toepassing met betrekking tot enige aanspreeklikheid wat ingevolge die Motorvoertuigassuransiewet, 1942 (Wet No. 29 van 1942), aan die Staat of 'n persoon ten opsigte van verlies of skade wat veroorsaak is of voortvloei uit die bestuur van 'n motorvoertuig, opgelê word.

Voorbehoude.

**4.** (1) Die bepalings van hierdie Wet—

(*a*) is nie van toepassing ten opsigte van 'n onregmatige daad wat voor die datum van inwerkingtreding van hierdie Wet gepleeg is nie;

(*b*) het nie die uitwerking om 'n verweer wat uit hoofde van 'n kontrak ontstaan, te verydel nie;

(*c*) het nie die uitwerking om die bedrag van skadevergoeding bo enige maksimum wat in 'n ooreenkoms of 'n wetsbepaling wat ten opsigte van 'n vordering vir skadevergoeding van toepassing is, te verhoog nie.

(2) Geen bepaling van hierdie Wet doen enige afbreuk aan die bepalings van enige hofreël wat voor die datum van die inwerkingtreding van hierdie Wet kragtens artikel *honderd-en-agt* van die „Zuid-Afrika Wet, 1909", afgekondig is nie.

Hierdie Wet bind die Staat.

**5.** Hierdie Wet bind die Staat.

Kort titel.

**6.** Hierdie Wet heet die Wet op Verdeling van Skadevergoeding, 1956.

(10) (*a*) Whenever a joint wrongdoer who is entitled under any provision of this section to claim a contribution from another joint wrongdoer is unable to recover that contribution or any amount thereof from that other joint wrongdoer, whether by reason of the latter's insolvency or otherwise, he may recover from any other joint wrongdoer such portion of that contribution or that amount thereof as the court may deem just and equitable having regard to the degree in which that other joint wrongdoer was at fault in relation to the damage suffered by the plaintiff and to the full amount of the said contribution or the said amount thereof, as the case may be.

(*b*) Any costs incurred by a joint wrongdoer in an attempt to recover any contribution from any other joint wrongdoer, and not recovered from that joint wrongdoer, shall for the purpose of paragraph (*a*), be added to the amount of that contribution.

(11) If any joint wrongdoer agrees to pay to the plaintiff a sum of money in full settlement of the plaintiff's claim, the provisions of sub-section (6) shall apply *mutatis mutandis* as if judgment had been given by a competent court against such joint wrongdoer for that sum of money, and in the said application of the provisions of the said sub-section (6), any reference therein to the date of the judgment shall be construed as a reference to the date of the agreement.

(12) A person may for the purposes of this section be regarded as a joint wrongdoer notwithstanding the fact that another person had an opportunity of avoiding the consequences of his wrongful act and negligently or carelessly failed to do so.

Application of provisions of section 2 to liability imposed in terms of Act 29 of 1942.

**3.** The provisions of section *two* shall apply also in relation to any liability imposed in terms of the Motor Vehicle Insurance Act, 1942 (Act No. 29 of 1942), on the State or any person in respect of loss or damage caused by or arising out of the driving of a motor vehicle.

Savings.

**4.** (1) The provisions of this Act shall not—

(*a*) apply in respect of any wrongful act committed before the date of commencement of this Act;

(*b*) operate to defeat any defence arising under a contract;

(*c*) operate to increase the amount of damages beyond any maximum prescribed in any agreement or any law applicable in respect of any claim for damages.

(2) Nothing in this Act contained shall derogate in any manner from the provisions of any rule of court promulgated before the date of commencement of this Act under section *one hundred and eight* of the South Africa Act, 1909.

This Act binds the State.

**5.** This Act binds the State.

Short title.

**6.** This Act shall be called the Apportionment of Damages Act, 1956.

# WETSONTWERP

**Tot wysiging van die Toelating van Prokureurs, Notarisse en Transportbesorgers Wet, 1934, die Toelating van Prokureurs Wysigings- en Regspraktisyns-getrouheidsfondswet, 1941, en die Wysigingswet op Toelating van Advokate, 1946.**

(*Deur die* MINISTER VAN JUSTISIE *ingedien te word.*)

DIT WORD BEPAAL deur Haar Majesteit die Koningin, die Senaat en die Volksraad van die Unie van Suid-Afrika as volg:—

Wysiging van artikel 4 van Wet 23 van 1934.

**1.** (1) Artikel *vier* van die Toelating van Prokureurs, Notarisse en Transportbesorgers Wet, 1934 (hieronder die Hoofwet genoem) word hierby gewysig—

(*a*) deur die woorde „of albei" te skrap;

(*b*) deur na die woord „kan" die woorde „binne 'n tydperk van twee jaar vanaf die datum van voltooiing van so 'n leerkontrak of binne die verdere tydperk deur die hof ingevolge sub-artikel (3) van artikel *negentien*, toegelaat," in te voeg; en

(*c*) deur aan die einde daarvan die volgende voorbehoudsbepaling by te voeg:

„Met dien verstande dat iemand bedoel in sub-paragraaf (ii) van paragraaf (*a*) van artikel *dertien* nie aldus toegelaat en ingeskryf word nie tensy die hof oortuig is dat hy dan 'n Suid-Afrikaanse burger is".

(2) Die wysiging by paragraaf (*b*) van sub-artikel (1) ingevoer, is nie van toepassing ten opsigte van 'n persoon wat 'n leerkontrak voor die eerste dag van Januarie 1957, aangegaan het nie.

Wysiging van artikel 8 van Wet 23 van 1934.

**2.** Artikel *agt* van die Hoofwet word hierby gewysig—

(*a*) deur aan die end van paragraaf (*b*) die woord „of" te skrap;

(*b*) deur paragraaf (*c*) te skrap;

(*c*) deur die woorde „of prokureur (na die geval mag wees)" te skrap; en

(*d*) deur die volgende sub-artikel daarby te voeg, terwyl die bestaande artikel sub-artikel (1) word:

„(2) Iemand wat as prokureur van die Hoëhof van die gebied Suidwes-Afrika toegelaat en ingeskryf is, word van diens onder leerkontrak vrygestel.".

Wysiging van artikel 10 van Wet 23 van 1934.

**3.** Artikel *tien* van die Hoofwet word hierby deur die volgende artikel vervang:

„Eksamens in regte.

**10.** Behoudens die bepalings van hierdie deel van hierdie Wet word niemand as prokureur toegelaat nie tensy hy—

(*a*) (i) in die eksamen in regte, bekend as die Prokureurs Toelatingseksamen, afgeneem deur en onder toesig van die Gesamentlike Komitee vir Professionele Eksamens ingestel ingevolge artikel *drie-en-twintig* van die ‚Universiteit van Zuid Afrika Wet, 1916' (Wet No. 12 van 1916) geslaag het; of

(ii) in 'n eksamen in regte deur 'n universiteit, gesertifiseer deur genoemde Gesamentlike Komitee as gelyk aan of hoër as die eksamen bedoel in sub-paragraaf (i) geslaag het; of

(iii) aan al die vereistes vir 'n graad in regte voorgeskryf by regulasie uitgevaardig kragtens paragraaf (*f*) van artikel *dertig* voldoen het; en

(*b*) in die praktiese eksamen bedoel in paragraaf (*a*) van artikel *sewe-en-twintig* geslaag het.".

Wysiging van artikel 11 van Wet 23 van 1934.

**4.** Artikel *elf* van die Hoofwet word hierby gewysig deur die woorde „dele I en II van die prokureurstoelatingseksamen" deur die woorde „die eksamens bedoel in paragraaf (*a*) van artikel *tien*" te vervang.

# BILL

**To amend the Attorneys, Notaries and Conveyancers Act, 1934, the Attorneys Admission Amendment and Legal Fidelity Fund Act, 1941, and the Admission of Advocates Amendment Act, 1946.**

(*To be introduced by the* MINISTER OF JUSTICE.)

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Amendment of section 4 of Act 23 of 1934.

**1.** (1) Section *four* of the Attorneys, Notaries and Conveyancers Act, 1934 (hereinafter referred to as the principal Act) is hereby amended—

(*a*) by the substitution for the words "or both" of the word "of";

(*b*) by the insertion after the word "may" of the words "within a period of two years from the date of the completion of such articles or within the further period allowed by the court in terms of sub-section (3) of section *nineteen*,"; and

(*c*) by the addition at the end thereof of the following proviso:

"Provided that a person referred to in sub-paragraph (ii) of paragraph (*a*) of section *thirteen* shall not be so admitted and enrolled unless the court is satisfied that he is then a South African citizen.".

(2) The amendment effected by paragraph (*b*) of sub-section (1) shall not apply in respect of any person who entered into articles of clerkship prior to the first day of January, 1957.

Amendment of section 8 of Act 23 of 1934.

**2.** Section *eight* of the principal Act is hereby amended—

(*a*) by the deletion at the end of paragraph (*b*) of the word "or";

(*b*) by the deletion of paragraph (*c*);

(*c*) by the deletion of the words "or attorney (as the case may be)"; and

(*d*) by the addition thereto of the following sub-section, the existing section becoming sub-section (1):

"(2) Any person who has been admitted and enrolled as an attorney of the High Court of the territory of South-West Africa, shall be exempted from service under articles.".

Amendment of section 10 of Act 23 of 1934.

**3.** The following section is hereby substituted for section *ten* of the principal Act:

"Examinations in law.

**10.** Subject to the provisions of this part of this Act, no person shall be admitted as an attorney unless he has—

(*a*) (i) passed the examination in law known as the Attorneys' Admission Examination conducted and controlled by the Joint Committee for Professional Examinations established under section *twenty-three* of the University of South Africa Act, 1916 (Act No. 12 of 1916); or

(ii) passed an examination in law by a university certified by the said Joint Committee to be the equivalent or superior to the examination referred to in sub-paragraph (i); or

(iii) satisfied all the requirements for the degree in law prescribed by regulation made under paragraph (*f*) of section *thirty*; and

(*b*) passed the practical examination referred to in paragraph (*a*) of section *twenty-seven*.".

Amendment of section 11 of Act 23 of 1934.

**4.** Section *eleven* of the principal Act is hereby amended by the substitution for the words "Parts I and II of the Attorneys' Admission Examination" of the words "the examinations referred to in paragraph (*a*) of section *ten*".

Wysiging van artikel 12 van Wet 23 van 1934.

**5.** Artikel *twaalf* van die Hoofwet word hierby gewysig—

(*a*) deur in sub-artikel (1) die woorde „Dele I en II van die prokureurstoelatingseksamen" deur die woorde „die eksamens bedoel in paragraaf (*a*) van artikel *tien*" te vervang; en

(*b*) deur in sub-artikel (2) na die woord „gemeld" die woorde „of 'n gedeelte daarvan" in te voeg.

Wysiging van artikel 13 van Wet 23 van 1934.

**6.** Artikel *dertien* van die Hoofwet word hierby gewysig—

(*a*) deur paragraaf (*a*) deur die volgende paragraaf te vervang:

„(*a*) bewys dat hy—

(i) 'n Suid-Afrikaanse burger, 'n burger van 'n gemenebes-land of 'n burger van die Republiek Ierland is; of

(ii) 'n Onderdaan van die Nederlande is;";

(*b*) deur in sub-paragraaf (i) van paragraaf (*c*) die woorde „voornoemde gemeenskaplike komitee" deur die woorde „genoemde gemeenskaplike matrikulasie-raad", te vervang; en

(*c*) deur in sub-paragraaf (ii) van genoemde paragraaf die woorde „'n graad behaal het" deur die woorde „aan al die vereistes vir 'n graad" te vervang, en deur na die woord „Unie" die woorde „voldoen het" in te voeg.

Wysiging van artikel 16 van Wet 23 van 1934.

**7.** Artikel *sestien* van die Hoofwet word hierby gewysig deur die volgende sub-artikel daarby te voeg:

„(4) Indien die prokureur onder wie 'n ingeskrewe klerk gedien het, oorlede is, of vir enige ander rede opgehou het om te praktiseer, word cessie van die leerkontrak van so 'n klerk geag regtens verly te gewees het indien dit namens so 'n prokureur deur sy regsverteenwoordiger of die president of sekretaris van die betrokke wetsgenootskap onderteken is, en 'n sertifikaat gegee onder handtekening van so 'n regsverteenwoordiger, president of sekretaris bevattende die besonderhede uiteengesit in sub-artikel (2), word geag 'n in genoemde sub-artikel en sub-artikel (3) bedoelde beëdigde verklaring te wees.".

Wysiging van artikel 19 van Wet 23 van 1934.

**8.** Artikel *negentien* van die Hoofwet word hierby gewysig deur die volgende sub-artikel daarby te voeg:

„(3) Die hof kan, op aansoek van iemand wat gedoen word binne twee jaar vanaf die datum van die voltooiing van sy leerkontrak bedoel in artikels *vyf* en *ses*, die verdere tydperk na verstryking van die tydperk van twee jaar vanaf voltooiing van sy leerkontrak, waarbinne die aansoeker om toelating as 'n prokureur ingevolge artikel *vier* kan aansoek doen, wat die hof goedvind, toelaat, en indien so 'n verdere tydperk toegelaat word, kan die hof, na goeddunke, die voorwaardes wat hy goedvind oplê, met inbegrip van 'n voorwaarde met betrekking tot verdere diens onder leerkontrak.".

Wysiging van artikel 20 van Wet 23 van 1934 soos gewysig deur artikel 2 van Wet 22 van 1949.

**9.** Artikel *twintig* van die Hoofwet word hierby gewysig—

(*a*) deur die woorde „en in die Provinsie Natal in sodanige stad dien en die hof en sodanige kursus van lesings bywoon as deur die reëls van die hof van die Natalse Provinsiale Afdeling voorgeskryf mag word" te skrap;

(*b*) deur in paragraaf (*a*) die woorde „dele I en II van die prokureurs toelatingseksamen" deur die woorde „een van die eksamens bedoel in paragraaf (*a*) van artikel *tien*" te vervang; en

(*c*) deur in genoemde paragraaf die woord „vyfjarige" te skrap.

Wysiging van artikel 21 van Wet 23 van 1934.

**10.** Artikel *een-en-twintig* van die Hoofwet word hierby gewysig deur sub-artikel (3) deur die volgende sub-artikel te vervang:

„(3) 'n Klerk onder leerkontrak wat—

(*a*) ingevolge artikel *twintig* geregtig geword het op betaling van die in daardie artikel bedoelde salaris; of

(*b*) ingevolge die Eerste Bylae by hierdie Wet, 'n leerkontrak van drie jaar moet uitdien, minstens twee jaar van sy leerkontrak uitgedien het; of

(*c*) deur 'n afdeling van die Hooggeregshof van Suid-Afrika as advokaat toegelaat is of geregtig is om aldus toegelaat te word; of

(*d*) aan al die vereistes voldoen het vir die graad voorgeskryf by kragtens paragraaf (*f*) van artikel *dertig* uitgevaardigde regulasies, en minstens een jaar van sy leerkontrak uitgedien het,

**5.** Section *twelve* of the principal Act is hereby amended— Amendment of section 12 of Act 23 of 1934.

(*a*) by the substitution in sub-section (1) for the words "Parts I and II of the Attorneys' Admission Examination" of the words "the examinations referred to in paragraph (*a*) of section *ten*"; and

(*b*) by the insertion in sub-section (2) after the word "*twenty-seven*" of the words "or any part thereof".

**6.** Section *thirteen* of the principal Act is hereby amended— Amendment of section 13 of Act 23 of 1934.

(*a*) by the substitution for paragraph (*a*) of the following paragraph:

"(*a*) proof that he is—

(i) a South African citizen, a citizen of a commonwealth country or a citizen of the Republic of Ireland; or

(ii) a subject of the Netherlands;";

(*b*) by the substitution in sub-paragraph (i) of paragraph (*c*) for the words "joint committee aforesaid" of the words "said joint matriculation board"; and

(*c*) by the substitution in sub-paragraph (ii) of the said paragraph for the word "taken" of the words "satisfied all the requirements for".

**7.** Section *sixteen* of the principal Act is hereby amended by the addition thereto of the following sub-section: Amendment of section 16 of Act 23 of 1934.

"(4) If the attorney under whom an articled clerk has served, has died, or for any other reason discontinued practice, cession of the articles of such clerk shall be deemed to be validly executed if it is signed on behalf of such attorney by his legal representative or the president or secretary of the law society concerned, and a certificate given under the hand of such legal representative, president or secretary containing the particulars set forth in sub-section (2), shall be deemed to be an affidavit referred to in that sub-section and sub-section (3).".

**8.** Section *nineteen* of the principal Act is hereby amended by the addition thereto of the following sub-section: Amendment of section 19 of Act 23 of 1934.

"(3) The court may, on the application of any person made within two years from the date of the completion of his articles of clerkship referred to in sections *five* and *six*, allow such further period after the expiration of the period of two years from the completion of his articles of clerkship, within which the applicant may apply for admission as an attorney under section *four*, as the court may deem fit, and if such further period is allowed, the court may, in its discretion, impose such conditions as it may deem fit including a condition relating to the service of further articles.".

**9.** Section *twenty* of the principal Act is hereby amended— Amendment of section 20 of Act 23 of 1934 as amended by section 2 of Act 22 of 1949.

(*a*) by the deletion of the words "and in the Province of Natal serve in such town and attend the court and such course of lectures as may be prescribed by the rules of court of the Natal Provincial Division";

(*b*) by the substitution in paragraph (*a*) for the words "parts I and II of the Attorneys' Admission Examination" of the words "any of the examinations referred to in paragraph (*a*) of section *ten*"; and

(*c*) by the deletion in the said paragraph of the words "five years of".

**10.** Section *twenty-one* of the principal Act is hereby amended by the substitution for sub-section (3) of the following sub-section: Amendment of section 21 of Act 23 of 1934.

"(3) Any articled clerk who—

(*a*) has in terms of section *twenty* become entitled to payment of the salary referred to in the said section; or

(*b*) being bound in terms of the First Schedule to this Act to serve articles for a period of three years, has served at least two years of his articles; or

(*c*) was admitted as an advocate by any division of the Supreme Court of South Africa or who is entitled to be so admitted; or

(*d*) has satisfied all the requirements for the degree prescribed by regulations made under paragraph (*f*) of section *thirty* and has served at least one year of his articles,

is geregtig om in plaas van en ten behoewe van sy prinsipaal in enige hof, behalwe 'n afdeling van die Hooggeregshof van Suid-Afrika en die hof van 'n streekafdeling ingestel ingevolge artikel *twee* van die Magistraatshowewet, 1944 (Wet No. 32 van 1944), en voor enige raad, geregshof of soortgelyke liggaam waarin of voor wie sy prinsipaal geregtig is om te verskyn, te verskyn, en sy prinsipaal is geregtig om die gelde vir sodanige verskyning te bereken asof hyself verskyn het.".

Wysiging van artikel 23 van Wet 23 van 1934.

**11.** Artikel *drie-en-twintig* van die Hoofwet word hierby gewysig deur aan die end van paragraaf (*c*) die woorde „of ingevolge regulasies uitgevaardig kragtens paragraaf (*e*) van artikel *dertig*, daarvan vrygestel is" by te voeg.

Wysiging van artikel 24 van Wet 23 van 1934.

**12.** Artikel *vier-en-twintig* van die Hoofwet word hierby gewysig deur aan die einde van paragraaf (*c*) die woorde „of ingevolge regulasies uitgevaardig kragtens paragraaf (*e*) van artikel *dertig*, daarvan vrygestel is." by te voeg.

Wysiging van artikel 25 van Wet 23 van 1934.

**13.** Artikel *vyf-en-twintig* van die Hoofwet word hierby gewysig—

(*a*) deur in sub-artikel (1) die woorde „dat geen saak aanhangig is" deur die woorde „'n sertifikaat van die sekretaris van die wetsgenootskap van elke provinsie waarin hy toegelaat of ingeskryf is ten effekte dat geen saak hangende is of beoog word nie" te vervang;

(*b*) deur die voorbehoudsbepaling by genoemde sub-artikel deur die volgende voorbehoudsbepaling te vervang:

„Met dien verstande dat so 'n applikant, alvorens hy sy aansoek doen, minstens sewe dae skriftelike kennis aan die wetsgenootskap van die provinsie waarin so 'n ander hof geleë is, moet gee, en wanneer hy sy aansoek indien, die ingevolge paragraaf (*f*) van artikel *nege-en-twintig*, voorgeskrewe gelde moet betaal.".

Wysiging van artikel 27 van Wet 23 van 1934.

**14.** Artikel *sewe-en-twintig* van die Hoofwet word hierby gewysig deur aan die end van paragraaf (*a*) die woorde „en sodanige praktiese boekhou as wat nodig mag wees vir die hou van die rekeningboeke bedoel in sub-artikel (1) van artikel *drie-en-dertig*" by te voeg.

Wysiging van artikel 29 van Wet 23 van 1934.

**15.** Artikel *nege-en-twintig* van die Hoofwet word hierby gewysig deur die volgende paragraaf by sub-artikel (1) te voeg:

„(*f*) inskrywing as prokureur, notaris of transportbesorger ingevolge artikel *vyf-en-twintig*.".

Wysiging van artikel 30 van Wet 23 van 1934.

**16.** Artikel *dertig* van die Hoofwet word hiermee gewysig—

(*a*) deur na die woord „wetsgenootskappe" die woorde „die verskillende universiteite in Suid-Afrika wat regsfakulteite het en die Gemeenskaplike Komitee vir Professionele Eksamens ingestel ingevolge artikel *drie-en-twintig* van die „Universiteit van Zuid-Afrika Wet, 1916" (Wet No. 12 van 1916)" in te voeg;

(*b*) deur in paragraaf (*d*) na die woord „gemeld", waar dit vir die tweede maal voorkom, die woorde „of 'n gedeelte daarvan" in te voeg; en

(*c*) deur die volgende paragrawe daarby te voeg:

„(*e*) die omstandighede waaronder iemand, vir die doel van toelating as notaris of transportbesorger ingevolge artikels *drie-en-twintig* en *vier-en-twintig*, onderskeidelik, daarvan vrygestel word om te slaag in die praktiese eksamen bedoel in paragrawe (*b*) en (*c*), onderskeidelik, van artikel *sewe-en-twintig*;

(*f*) die in sub-paragraaf (iii) van paragraaf (*a*) van artikel *tien* bedoelde graad in regte en die vereistes vir so 'n graad;

(*g*) die regte, pligte en bevoegdhede van 'n ingevolge paragraaf (*b*) van sub-artikel (3)*bis* van artikel *drie-en-dertig* aangestelde *curator bonis*.".

Wysiging van artikel 33 van Wet 23 van 1934.

**17.** Artikel *drie-en-dertig* van die Hoofwet word hierby gewysig—

(*a*) deur sub-artikel (3) deur die volgende sub-artikel te vervang:

„(3) Geen bedrag wat op krediet van so 'n trustrekening in die bank staan, word geag deel van die

shall be entitled to appear in any court, other than any division of the Supreme Court of South Africa or the court of a regional division established under section *two* of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), and before any board, tribunal or similar body in or before which his principal is entitled to appear instead of and on behalf of such principal who shall be entitled to charge the fees for such appearance as if he himself had appeared.".

Amendment of section 23 of Act 23 of 1934.

**11.** Section *twenty-three* of the principal Act is hereby amended by the insertion in paragraph (*c*) after the word "passed" of the words "or is in terms of regulations made under paragraph (*e*) of section *thirty* exempted from".

Amendment of section 24 of Act 23 of 1934.

**12.** Section *twenty-four* of the principal Act is hereby amended by the insertion in paragraph (*c*) after the word "passed" of the words "or is in terms of regulations made under paragraph (*e*) of section *thirty* exempted from".

Amendment of section 25 of Act 23 of 1934.

**13.** Section *twenty-five* of the principal Act is hereby amended—

(*a*) by the substitution in sub-section (1) for the words "that no proceedings are pending" of the words "a certificate under the hand of the secretary of the law society of each province in which he has been admitted or enrolled to the effect that no proceedings are pending or contemplated"; and

(*b*) by the substitution for the proviso to the said sub-section of the following proviso:

"Provided that such applicant shall, before making his application, give not less than seven days notice in writing to the law society of the province in which such other court is situated, and, when submitting his application, pay the fees prescribed under paragraph (*f*) of section *twenty-nine*.".

Amendment of section 27 of Act 23 of 1934.

**14.** Section *twenty-seven* of the principal Act is hereby amended by the addition to paragraph (*a*) of the words "and of such practical bookkeeping as may be necessary for the keeping of the books of account referred to in sub-section (1) of section *thirty-three*".

Amendment of section 29 of Act 23 of 1934.

**15.** Section *twenty-nine* of the principal Act is hereby amended by the addition to sub-section (1) of the following paragraph:

"(*f*) enrolment as an attorney, notary or conveyancer under section *twenty-five*.".

Amendment of section 30 of Act 23 of 1934.

**16.** Section *thirty* of the principal Act is hereby amended—

(*a*) by the insertion after the word "societies" of the words ", the several universities in South Africa having faculties in law, and the Joint Committee for Professional Examinations established under section *twenty-three* of the University of South Africa Act, 1916 (Act No. 12 of 1916)";

(*b*) by the insertion in paragraph (*d*) after the word "*twenty-seven*" of the words "or any part thereof"; and

(*c*) by the addition thereto of the following paragraphs:

"(*e*) the circumstances under which any person shall, for the purposes of admission as a notary or conveyancer under sections *twenty-three* or *twenty-four*, respectiyely, be exempted from passing the practical examination referred to in paragraphs (*b*) or (*c*), respectively, of section *twenty-seven*;

(*f*) the degree in law referred to in sub-paragraph (iii) of paragraph (*a*) of section *ten* and the requirements for such a degree;

(*g*) the rights, duties and powers of a *curator bonis* appointed under paragraph (*b*) of sub-section (3)*bis* of section *thirty-three*.".

Amendment of section 33 of Act 23 of 1934.

**17.** Section *thirty-three* of the principal Act is hereby amended—

(*a*) by the substitution for sub-section (3) of the following sub-section:

"(3) No amount standing to the credit of such trust account in the bank shall form part of the assets

bates van die betrokke prokureur, notaris of transportbesorger te wees nie, en geen sodanige bedrag kan op instansie van 'n skuldeiser van so 'n prokureur, notaris of transportbesorger in beslag geneem word nie: Met dien verstande dat enige oorskot wat oorbly na betaling deur 'n *curator bonis*, aangestel kragtens paragrawe (*a*) of (*b*) van sub-artikel (3)*bis*, van die eise van alle persone wie se gelde in so 'n trustrekening gedeponeer is, of daarin gedeponeer moes gewees het, geag word deel van die bates van so 'n prokureur, notaris of transportbesorger te wees."; en

(*b*) deur die volgende sub-artikel na sub-artikel (3) in te voeg:

„(3)*bis* (*a*) Op aansoek van die wetsgenootskap van die betrokke provinsie en as goeie gronde daarvoor aangevoer word, kan die hof 'n prokureur, notaris of transportbesorger verbied om op enige wyse op sy trustrekening te opereer en 'n *curator bonis* aanstel om so 'n trustrekening te beheer en te administreer, met die regte, pligte en bevoegdhede met betrekking daartoe wat die hof goedvind.

(*b*) Indien 'n prokureur, notaris of transportbesorger te sterwe kom of insolvent raak of van sy boedel afstand doen of van die rol geskrap of van sy praktyk geskors word of deur 'n bevoegde hof onbevoeg verklaar word om sy eie sake te bestuur, of sy praktyk verlaat, kan die hof op aansoek van die wetsgenootskap van die betrokke provinsie of van enigiemand wat 'n belang by so 'n prokureur, notaris of transportbesorger se trustrekening het, 'n *curator bonis* aanstel om bedoelde trustrekening te beheer en te administreer, met sodanige van die regte, pligte en magte voorgeskryf by regulasie kragtens paragraaf (*g*) van artikel *dertig*, as wat die hof goedvind.".

Wysiging van die Eerste Bylae by Wet 23 van 1934.

**18.** Die Eerste Bylae by die Hoofwet word hierby gewysig—

(*a*) deur in paragraaf 1 na die woord „wat" die woorde „aan al die vereistes vir" in te voeg en die woord „behaal" deur die woord „voldoen" te vervang;

(*b*) deur in paragraaf 2 die woorde „enige graad behaal het in daardie paragraaf gemeld" deur die woorde „aan al die vereistes vir 'n in daardie paragraaf bedoelde graad voldoen het" te vervang;

(*c*) deur in paragraaf 4 na die woord „Unie" die woorde „of wat aan al die vereistes vir die graad in regte voorgeskryf by regulasie uitgevaardig kragtens paragraaf (*f*) van artikel *dertig* voldoen het,"; en

(*d*) deur in paragraaf 6 die woorde „die eksamen" deur die woorde „een of ander van die eksamens" te vervang.

Wysiging van artikel 22 van Wet 19 van 1941.

**19.** Artikel *twee-en-twintig* van die Toelating van Prokureurs Wysigings- en Regspraktisynsgetrouheidsfondswet, 1941, word hierby gewysig—

(*a*) deur in sub-artikel (1) die woorde „die som van tien pond" deur die woorde „die som wat van tyd tot tyd deur die beheerraad vasgestel word" te vervang; en

(*b*) deur die voorbehoudsbepaling by bedoelde artikel deur die volgende voorbehoudsbepalings te vervang:

„Met dien verstande dat tot tyd en wyl die bedrag van die fonds, met inbegrip van beleggings daarvan en na aftrekking van alle onbetaalde eise en ander uitstaande laste teen die fonds op die voorafgaande een-en-dertigste dag van Desember minder as vyfhonderdduisend pond is, so 'n jaarlikse bydrae minstens tien pond moet wees: Met dien verstande voorts dat indien so 'n prokureur, notaris of transportbesorger op of na die eerste dag van Julie begin praktiseer, hy die helfte van die aldus vasgestelde bedrag, ten opsigte van daardie jaar, betaal.".

Herroeping van artikel 24 van Wet 19 van 1941.

**20.** Artikel *vier-en-twintig* van die Toelating van Prokureurs Wysigings- en Regspraktisynsgetrouheidsfondswet, 1941, word hierby herroep.

Wysiging van artikel 26 van Wet 19 van 1941.

**21.** Artikel *ses-en-twintig* van die Toelating van Prokureurs Wysigings- en Regspraktisynsgetrouheidsfondswet, 1941, word hierby gewysig—

(*a*) deur aan die end van paragraaf (*b*) van sub-artikel (3) die volgende voorbehoudsbepaling by te voeg:

of the attorney, notary or conveyancer concerned and no such amount shall be liable to attachment at the instance of any creditor of such attorney, notary or conveyancer: Provided that any excess remaining after payment by a *curator bonis*, appointed in terms of paragraph (*a*) or (*b*) of sub-section (3)*bis*, of the claims of all persons whose monies have, or should have, been deposited in such trust account, shall be deemed to form part of the assets of such attorney, notary or conveyancer."; and

(*b*) by the insertion after sub-section (3) of the following sub-section:

"(3)*bis* (*a*) Upon application made by the law society of the province concerned, and upon good cause shown, the court may prohibit any attorney, notary or conveyancer from operating in any way on his trust account and may appoint a *curator bonis* to control and administer such trust account with such rights, duties and powers, in relation thereto, as the court may deem fit.

(*b*) Upon the death or insolvency of or the assignment of his estate by an attorney, notary or conveyancer or in the event of an attorney, notary or conveyancer being struck off the roll or being suspended from practice or being declared by a court of competent jurisdiction to be incapable of managing his own affairs, or abandoning his practice, the court may, upon application made by the law society of the province concerned or by any person having an interest in the trust account of such attorney, notary or conveyancer, appoint a *curator bonis* to control and administer such trust account with such of the rights, duties and powers prescribed by regulation under paragraph (*g*) of section *thirty*, as the court may deem fit.".

Amendment of the First Schedule to Act 23 of 1934.

**18.** The First Schedule to the principal Act is hereby amended—

(*a*) by the substitution in paragraph 1 for the word "taken" of the words "satisfied all the requirements for";

(*b*) by the substitution in paragraph 2 for the word "taken" of the words "satisfied all the requirements for";

(*c*) by the insertion in paragraph 4 after the word "Union" of the words "or who has satisfied all the requirements for the degree in law prescribed by regulation made under paragraph (*f*) of section *thirty*"; and

(*d*) by the substitution in paragraph 6 for the words "the examination" of the words "any of the examinations".

Amendment of section 22 of Act 19 of 1941.

**19.** Section *twenty-two* of the Attorneys' Admission and Legal Practitioners' Fidelity Fund Act, 1941, is hereby amended—

(*a*) by the substitution in sub-section (1) for the words "a sum of ten pounds" of the words "such sum as shall by fixed by the board of control from time to time"; and

(*b*) by the substitution for the proviso to the said sub-section of the following proviso:

"Provided that until such time as the amount of the fund, including any investments thereof, and after deducting the amount of all unpaid claims and other liabilities outstanding against the fund at the preceding thirty-first day of December, amounts to less than five hundred thousand pounds, such annual contribution shall be not less than ten pounds: Provided further that if such attorney, notary or conveyancer commences to practise on or after the first day of July, he shall, in respect of that year, pay half the amount of the contribution which has been so fixed.".

Repeal of section 24 of Act 19 of 1941.

**20.** Section *twenty-four* of the Attorneys' Admission Amendment and Legal Practitioners' Fidelity Fund Act, 1941, is hereby repealed.

Amendment of section 26 of Act 19 of 1941.

**21.** Section *twenty-six* of the Attorneys' Admission Amendment and Legal Practitioners' Fidelity Fund Act, 1941, is hereby amended—

(*a*) by the addition at the end of paragraph (*b*) of sub-section (3) of the following proviso:

„Met dien verstande dat indien bedoelde raad oortuig is dat, inagnemende al die omstandighede, 'n eis so spoedig doenlik ingedien is, hy, na goeddunke, bedoelde tydperk van drie maande kan verleng."; en

(*b*) deur die volgende sub-artikel daarby te voeg:

„(4) 'n Eis om vergoeding ingevolge hierdie artikel is beperk, in die geval van geld wat aan 'n prokureur, notaris of transportbesorger toevertrou is, tot 'n bedrag gelyk aan die bedrag wat werklik oorhandig is, sonder rente, en, in die geval van sekuriteite of ander goed, tot 'n bedrag gelyk aan die gemiddelde markwaarde van bedoelde sekuriteite of goed op die datum waarop lewering daarvan vir die eerste maal skriftelik aangevra word, of, indien daar geen gemiddelde markwaarde is nie, die billike markwaarde op bedoelde datum van bedoelde sekuriteite of ander goed, sonder rente.".

Wysiging van artikel 40 van Wet 19 van 1941.

**22.** Artikel *veertig* van die Toelating van Prokureurs Wysigings- en Regspraktisynsgetrouheidsfondswet, 1941, word hierby gewysig deur die volgende paragraaf na paragraaf (*h*) van sub-artikel (1) in te voeg:

„(*h*)*bis* om die beheerraad of enige komitee daarvan te magtig om 'n persoon wie se getuienis nodig geag word om bedoelde raad of komitee in staat te stel om oor die geldigheid van 'n eis wat met betrekking tot die fonds ingedien is, te besluit, te dagvaar en onder eed te ondervra;".

Wysiging van artikel 1 van Wet 39 van 1946.

**23.** Artikel *een* van die Wysigingswet op Toelating van Advokate, 1946, word hierby gewysig deur na die woord „praktyk" die woorde „van advokaat" in te voeg en die woorde „die graad Baccalaureus Legum van 'n universiteit binne die Unie deur die aflê van 'n eksamen verkry" deur die woorde „aan al die vereistes vir die graad Baccalaureus Legum van 'n universiteit binne die Unie voldoen" te vervang.

Datum van inwerkingtreding van sekere artikels.

**24.** Artikels *een* tot en met *agtien* van hierdie Wet tree nie voor die eerste dag van Januarie 1957 in werking nie.

Kort titel.

**25.** Hierdie Wet heet die Wysigingswet op Regspraktisyns, 1956.

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# WETSONTWERP

**Tot wysiging van die Wet op Edelgesteentes, 1927.**

(*Deur die* MINISTER VAN MYNWESE *ingedien te word.*)

DIT WORD BEPAAL deur Haar Majesteit die Koningin, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg:—

Wysiging van artikel 8 van Wet 44 van 1927, soos deur artikel 2 van Wet 38 van 1937 gewysig.

**1.** Artikel *agt* van die Wet op Edelgesteentes, 1927 (hieronder die Hoofwet genoem), word hiermee gewysig deur in sub-artikel (2) die woorde „een maand" deur die woorde „drie maande" te vervang.

Wysiging van artikel 38 van Wet 44 van 1927.

**2.** Artikel *agt-en-dertig* van die Hoofwet word hiermee gewysig deur die woord „honderd-vyf-en-dertigduisend" deur die woorde „tweehonderd-en-vyftien duisend" te vervang.

Wysiging van artikel 73 van Wet 44 van 1927, soos deur artikel 5 van Wet 38 van 1937 gewysig.

**3.** Artikel *drie-en-sewentig* van die Hoofwet word hiermee gewysig—

(*a*) deur in paragraaf (*c*) van sub-artikel (3) die woorde „kragtens artikel *dertien* of *negentien* of kragtens 'n vorige wet verleende ontdekkers- of eienaarskleims is en" te skrap; en

(*b*) deur aan die end van bedoelde sub-artikel die woorde „en mag, ondanks die bepalings van artikel *sewe-en-sestig*, magtiging verleen vir die verkryging deur oordrag van meer as twaalf kleims.".

Kort titel.

**4.** Hierdie Wet heet die Wysigingswet op Edelgesteentes, 1956.

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"Provided that if the said board is satisfied that, having regard to all the circumstances, a claim has been lodged as soon as practicable, it may, in its discretion, extend the said period of three months."; and

(*b*) by the addition thereto of the following sub-section:

"(4) A claim for reimbursement under this section shall be limited, in the case of money entrusted to an attorney, notary or conveyancer, to an amount equal to the amount actually handed over without interest and, in the case of securities or other property, to an amount equal to the middle market value of such securities or property at the date when written demand is first made for their delivery, or, if there be no middle market value, the fair market value as at that date of such securities or other property, without interest.".

Amendment of section 40 of Act 19 of 1941.

**22.** Section *forty* of the Attorneys' Admission and Legal Practitioners' Fidelity Fund Act, 1941, is hereby amended by the insertion in sub-section (1) after paragraph (*h*) of the following paragraph:

"(*h*)*bis* empowering the board of control or any committee thereof to subpoena and to examine on oath any person whose evidence is deemed necessary to enable the said board or committee to decide upon the validity or any claim submitted in relation to the fund;".

Amendment of section 1 of Act 39 of 1946.

**23.** Section *one* of the Admission of Advocates Amendment Act, 1946, is hereby amended by the substitution for the words "obtained by examination the degree of Bachelor of Laws from" of the words "satisfied all the requirements for the degree of Bachelor of Laws of".

Date of commencement of certain sections.

**24.** Sections *one* to *eighteen* inclusive shall not come into operation until the first day of January, 1957.

Short title.

**25.** This Act shall be called the Legal Practitioners' Amendment Act, 1956.

# BILL

**To amend the Precious Stones Act, 1927.**

(*To be introduced by the* MINISTER OF MINES.)

BE IT ENACTED by the Queen's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:—

Amendment of section 8 of Act 44 of 1927, as amended by section 2 of Act 38 of 1937.

**1.** Section *eight* of the Precious Stones Act, 1927 (hereinafter referred to as the principal Act), is hereby amended by the substitution in sub-section (2) for the words "one month" of the words "three months".

Amendment of section 38 of Act 44 of 1927.

**2.** Section *thirty-eight* of the principal Act is hereby amended by the substitution for the words "one hundred and thirty-five" of the words "two hundred and fifteen".

Amendment of section 73 of Act 44 of 1927, as amended by section 5 of Act 38 of 1937.

**3.** Section *seventy-three* of the principal Act is hereby amended—

(*a*) by the deletion in paragraph (*c*) of sub-section (3) of the words "being discoverers' or owners' claims granted under section *thirteen* or *nineteen* or under any prior law"; and

(*b*) by the addition at the end of the said sub-section of the words "and may, notwithstanding anything contained in section *sixty-seven*, authorize the acquisition by transfer of more than twelve claims.".

Short title.

**4.** This Act shall be called the Precious Stones Amendment Act, 1956.

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Government Gazette. Vol. 182 Dec. 1955.

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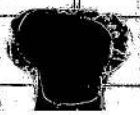

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