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VAN DIE REPUBLIEK VAN SUID-AFRIKA

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DEPARTEMENT VAN DIE EERSTE MINISTER

No. 472. 24 Maart 1976.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 14 van 1976: Wysigingswet op Prokureurs, 1976.

DEPARTMENT OF THE PRIME MINISTER

No. 472. 24 March 1976.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 14 of 1976: Attorneys Amendment Act, 1976.

WET

Tot wysiging van die Toelating van Prokureurs, Notarisse en Transportbesorgers Wet, 1934, met betrekking tot die instellings waarby gelde gedeponeer of belê kan word; en om voorsiening te maak vir regspersone om as prokureurs, notarisse of transportbesorgers te praktiseer; tot wysiging van die Toelating van Prokureurs Wysigings- en Regspraktisyns-getrouheidsfondswet, 1941, om verdere voorsiening te maak vir die vrywaring van die Getrouheidswaarborgfonds vir Prokureurs, Notarisse en Transportbesorgers teen sekere eise; en om vir bykomstige aangeleenthede voorsiening te maak.

(*Afrikaanse teks deur die Staatspresident geteken.*)
(*Goedgekeur op* 8 *Maart* 1976.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 2 van Wet 23 van 1934, soos gewysig deur artikel 1 van Wet 63 van 1964, artikel 1 van Wet 26 van 1965, artikel 1 van Wet 67 van 1967 en artikel 1 van Wet 93 van 1970.

1. Artikel 2 van die Toelating van Prokureurs, Notarisse en Transportbesorgers Wet, 1934 (hieronder die Hoofwet genoem), word hierby gewysig—

(*a*) deur die omskrywing van „bank" te skrap;

(*b*) deur die omskrywing van „bankinstelling" deur die volgende omskrywing te vervang:

„ ‚bankinstelling' beteken 'n bankinstelling soos omskryf in artikel 1 van die Bankwet, 1965 (Wet No. 23 van 1965), en wat anders as voorlopig geregistreer is of wat geag word geregistreer te wees as 'n bankinstelling ingevolge artikel 4 van daardie Wet;";

(*c*) deur die omskrywing van „bouvereniging" deur die volgende omskrywing te vervang:

„ ‚bouvereniging' beteken 'n bouvereniging soos omskryf in artikel 1 en finaal geregistreer of geag geregistreer te wees as 'n permanente bouvereniging ingevolge artikel 5 van die Bouverenigingswet, 1965 (Wet No. 24 van 1965);"; en

(*d*) deur die volgende omskrywing na die omskrywing van „wetsgenootskap" in te voeg:

„ ‚professionele maatskappy' beteken 'n maatskappy in artikel 28*quat* bedoel;".

Vervanging van artikel 18 van Wet 23 van 1934, soos gewysig deur artikel 1 van Wet 22 van 1949, artikel 2 van Wet 31 van 1957, artikel 6 van Wet 67 van 1967, artikel 15 van Wet 70 van 1968 en artikel 6 van Wet 93 van 1970.

2. Artikel 18 van die Hoofwet word hierby deur die volgende artikel vervang:

„Alleen praktiserende prokureurs klerke onder leerkontrak te hê: Beperking van aantal klerke onder leerkontrak.

18. (1) Geen prokureur mag 'n klerk onder leerkontrak in diens hê of hou nie tensy sodanige prokureur werklik die professie van prokureur uitoefen, hetsy vir eie rekening of as vennoot in 'n prokureursfirma of as 'n lid van 'n professionele maatskappy of as Staatsprokureur of as een van die vier mees senior professionele assistente in die kantoor van die Staatsprokureur te Pretoria of as professionele assistent wat oor 'n tak van genoemde

ACT

To amend the Attorneys, Notaries and Conveyancers Admission Act, 1934, relating to the institutions at which moneys may be deposited or invested; and to provide for juristic persons to practise as attorneys, notaries or conveyancers; to amend the Attorneys' Admission Amendment and Legal Practitioners' Fidelity Fund Act, 1941, to further indemnify the Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund against certain claims; and to provide for incidental matters.

(*Afrikaans text signed by the State President.*)
(*Assented to* 8 *March* 1976.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Amendment of section 2 of Act 23 of 1934, as amended by section 1 of Act 63 of 1964, section 1 of Act 26 of 1965, section 1 of Act 67 of 1967 and section 1 of Act 93 of 1970.

1. Section 2 of the Attorneys, Notaries and Conveyancers Admission Act, 1934 (hereinafter referred to as the principal Act), is hereby amended—

(*a*) by the deletion of the definition of "bank";

(*b*) by the substitution for the definition of "banking institution" of the following definition:

" 'banking institution' means a banking institution as defined in section 1 of the Banks Act, 1965 (Act No. 23 of 1965), and which is registered, otherwise than provisionally, or which is deemed to be registered as a banking institution in terms of section 4 of that Act;";

(*c*) by the substitution for the definition of "building society" of the following definition:

" 'building society' means a building society as defined in section 1 and finally registered or deemed to be registered as a permanent building society in terms of section 5 of the Building Societies Act, 1965 (Act No. 24 of 1965);"; and

(*d*) by the insertion after the definition of "law society" of the following definition:

" 'professional company' means a company referred to in section 28*quat*;".

Substitution of section 18 of Act 23 of 1934, as amended by section 1 of Act 22 of 1949, section 2 of Act 31 of 1957, section 6 of Act 67 of 1967, section 15 of Act 70 of 1968 and section 6 of Act 93 of 1970.

"Only practising attorneys to have articled clerks: Restrictions on number of articled clerks.

2. The following section is hereby substituted for section 18 of the principal Act:

18. (1) No attorney shall have or retain any clerk under articles unless such attorney is actually practising the profession of attorney either on his own account or as a partner in a firm of attorneys or as a member of a professional company or as State Attorney or as one of the four most senior professional assistants in the office of the State Attorney at Pretoria or as professional assistant in charge of

kantoor toesig het of as een van die twee mees senior professionele assistente van sodanige professionele assistent wat oor so 'n tak toesig het, of in die geval van die Johannesburgse tak van genoemde kantoor, as een van die drie mees senior professionele assistente van die professionele assistent wat oor bedoelde tak toesig het, en—

(i) indien hy 'n prokureur is wat aldus vir eie rekening of as vennoot in 'n prokureursfirma of as 'n lid van 'n professionele maatskappy praktiseer, vir 'n tydperk van drie jaar onmiddellik voordat sodanige klerk onder leerkontrak geneem word of is, onafgebroke aldus gepraktiseer het;

(ii) indien hy die Staatsprokureur of 'n professionele assistent soos voormeld is, in die kantoor van die Staatsprokureur of 'n tak daarvan vir 'n tydperk van drie jaar onmiddellik voordat sodanige klerk onder leerkontrak geneem word, onafgebroke die professie van prokureur uitgeoefen het.

(2) Diens deur 'n klerk onder leerkontrak by 'n prokureur terwyl daardie prokureur nie sy professie uitoefen nie, hetsy vir eie rekening of as vennoot in 'n prokureursfirma of as 'n lid van 'n professionele maatskappy of as Staatsprokureur of as 'n professionele assistent bedoel in subartikel (1), word nie geag geldende of voldoende diens vir die doeleindes van hierdie Wet te wees nie.

(3) Geen prokureur mag meer as drie klerke gelyktydig onder leerkontrak hê nie: Met die verstande dat by die dood of terugtrekking uit besigheid van 'n prokureur enigeen van sy oorlewende of oorblywende vennote of 'n lid van 'n professionele maatskappy waarvan hy 'n lid was die cessie kan aanvaar van die leerkontrak van enige klerk wat by so 'n prokureur onder leerkontrak gedien het, alhoewel so 'n oorlewende of oorblywende vennoot of lid dan soveel klerke onder leerkontrak in diens het as die wet toelaat.

(4) Wanneer 'n leerkontrak om enige rede ingetrek, laat vaar of gecedeer word, moet die prokureur by wie sodanige klerk op die tydstip van sodanige intrekking, laatvaarding of cessie onder leerkontrak is, onverwyld die griffier van die provinsiale afdeling en die sekretaris van die wetsgenootskap by wie sodanige leerkontrak geregistreer of ingelewer is, skriftelik van sodanige intrekking, laatvaarding of cessie, na gelang van die geval, in kennis stel.".

Wysiging van artikel 21 van Wet 23 van 1934, soos gewysig deur artikel 2 van Wet 19 van 1941, artikel 10 van Wet 18 van 1956, artikel 3 van Wet 81 van 1962, artikel 9 van Wet 26 van 1965, artikel 8 van Wet 67 van 1967 en artikel 8 van Wet 93 van 1970.

3. Artikel 21 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

„(1) Geen persoon wat hom onder leerkontrak aan 'n prokureur verbind, mag gedurende sy dienstermyn sonder die vooraf verkreë skriftelike toestemming van die raad van die wetsgenootskap van die provinsie waarin gedien moet word enige amp beklee of enige besigheid hoegenaamd onderneem nie ander dan dié van klerk van daardie prokureur, sy vennoot of vennote (as daar is) of die professionele maatskappy waarvan so 'n prokureur 'n lid is, in die praktyk en diens van 'n prokureur, nog mag enige sodanige persoon gedurende sy dienstermyn enige geldelike belang in die praktyk en diens van 'n prokureur hê.".

any branch of the said office or as one of the two most senior professional assistants to such professional assistant in charge of such branch or, in the case of the Johannesburg branch of the said office, as one of the three most senior professional assistants to the professional assistant in charge of that branch, and has—

(i) if he is an attorney so practising on his own account or as a partner in a firm of attorneys or as a member of a professional company, so practised continuously for a period of three years immediately prior to taking such clerk under articles;

(ii) if he is the State Attorney or any professional assistant as aforesaid, practised the profession of attorney in the office of the State Attorney or any branch thereof continuously for a period of three years immediately prior to taking such clerk under articles.

(2) Service by any clerk under articles to an attorney while such attorney is not practising his profession on his own account or as a partner in a firm of attorneys or as a member of a professional company or as State Attorney or as any professional assistant referred to in subsection (1), shall not be deemed to be good or sufficient service for the purposes of this Act.

(3) No attorney shall at any one time have more than three articled clerks: Provided that on the death or retirement from practice of an attorney, any of his surviving or remaining partners, or any members of a professional company of which he was a member, may take cession of the articles of any clerk who may have been articled to such attorney, although such surviving or remaining partner or member may at the time have as many clerks articled to him as are by law allowed.

(4) Whenever articles of clerkship are for any reason cancelled, abandoned or ceded the attorney to whom such clerk is articled at the time of such cancellation, abandonment or cession shall forthwith notify the registrar of the provincial division and the secretary of the law society with whom such articles have been registered or lodged, in writing of such cancellation, abandonment or cession, as the case may be.".

Amendment of section 21 of Act 23 of 1934, as amended by section 10 of Act 18 of 1956, section 3 of Act 81 of 1962, section 9 of Act 26 of 1965, section 8 of Act 67 of 1967 and section 8 of Act 93 of 1970.

3. Section 21 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) No person who may become bound under articles of clerkship to any attorney shall, during his term of service, without the written consent of the council of the law society of the province in which such service is to be performed previously had and obtained, hold any office or engage in any business whatsoever other than that of clerk to such attorney, his partner or partners, if any, or the professional company of which such attorney is a member, in the practice and employment of an attorney, nor shall any such person during the term of such service have any pecuniary interest in the practice and employment of an attorney.".

Invoeging van artikel 28*quat* in Wet 23 van 1934.

4. Die volgende artikel word hierby in die Hoofwet na artikel 28*ter* ingevoeg:

„Regspersoon kan as prokureur, notaris of transportbesorger praktiseer.

28*quat*. (1) Ondanks andersluidende bepalings van hierdie Wet, kan 'n private maatskappy die praktyk van prokureur, notaris of transportbesorger voortsit—

(*a*) indien so 'n maatskappy as 'n private maatskappy, met 'n aandelekapitaal, kragtens die Maatskappywet, 1973 (Wet No. 61 van 1973), ingelyf en geregistreer is en sy akte van oprigting bepaal dat al die huidige en voormalige direkteure van die maatskappy gesamentlik met en afsonderlik van die maatskappy aanspreeklik is vir die skulde en verpligtinge van die maatskappy gedurende hulle ampstermyne aangegaan;

(*b*) indien slegs natuurlike persone wat prokureurs, notarisse of transportbesorgers is en wat in besit is van geldige getrouheidsfonds-sertifikate uitgereik ingevolge artikel 23 van die Toelating van Prokureurs Wysigings- en Regspraktisynsgetrouheidsfondswet, 1941 (Wet No. 19 van 1941), lede of aandeelhouers van die maatskappy of belanghebbendes in die aandele van die maatskappy is;

(*c*) indien die naam van die maatskappy uitsluitlik bestaan uit die naam of name van enige van die huidige of voormalige lede van die maatskappy of van persone wat, hetsy vir hulle eie rekening of in vennootskap, 'n praktyk voortgesit het wat redelikerwys as 'n voorganger van die praktyk van die maatskappy gesien kan word: Met dien verstande dat die woorde „en geassosieerdes" of „en maatskappy" by die naam van die maatskappy ingesluit kan word.

(2) Elke aandeelhouer van die maatskappy is 'n direkteur van die maatskappy, en slegs 'n aandeelhouer van die maatskappy is 'n direkteur daarvan.

(3) Indien 'n aandeelhouer van die maatskappy of belanghebbende in die aandele van die maatskappy ophou om aan 'n vereiste van subartikel (1) (*b*) te voldoen of te sterwe kom, kan hy of sy boedel, na gelang van die geval, vanaf die datum waarop hy ophou om aldus te voldoen of te sterwe kom, die betrokke aandele of belang in aandele in die maatskappy bly behou vir 'n tydperk van ses maande of vir so 'n langer tydperk as wat die raad van die wetsgenootskap van die provinsie waarin die maatskappy se geregistreerde kantoor geleë is, goedkeur.

(4) Daar is geen stemreg verbonde aan 'n aandeel wat ingevolge subartikel (3) gehou word nie en die houer van so 'n aandeel kan nie as direkteur van die maatskappy optree of regstreeks of onregstreeks enige direkteursgelde of vergoeding ontvang of deel in die inkomste of winste deur die maatskappy in sy praktyk as prokureur, notaris of transportbesorger verdien nie.

(5) Indien die statute van die maatskappy daarvoor voorsiening maak, kan die maatskappy, sonder bekragtiging deur 'n hof, die aandele wat ingevolge subartikel (3) in hom gehou word, koop op die voorwaardes wat hy goedvind, en die gemagtigde aandelekapitaal van die maatskappy word nie daardeur verminder nie.

(6) Aandele wat ingevolge subartikel (5) gekoop word, is beskikbaar vir toekenning ooreenkomstig die statute van die maatskappy.

Insertion of section 28*quat* in Act 23 of 1934.

4. The following section is hereby inserted in the principal Act after section 28*ter*:

"Juristic person may practise as attorney, notary or conveyancer.

28*quat*. (1) Notwithstanding anything to the contrary contained in this Act, a private company may conduct the practice of an attorney, notary or conveyancer—

(*a*) if such company is incorporated and registered as a private company under the Companies Act, 1973 (Act No. 61 of 1973), with a share capital, and its memorandum of association provides that all past and present directors of the company shall be liable jointly and severally with the company for the debts and liabilities of the company contracted during their periods of office;

(*b*) if only natural persons who are attorneys, notaries or conveyancers and who are in possession of current fidelity fund certificates issued in terms of section 23 of the Attorneys' Admission Amendment and Legal Practitioners' Fidelity Fund Act, 1941 (Act No. 19 of 1941), are members or shareholders of the company or persons having any interest in the shares of the company;

(*c*) if the name of the company consists solely of the name or names of any of the past or present members of the company or of persons who conducted, either for their own account or in partnership, any practice which may reasonably be regarded as a predecessor of the practice of the company: Provided that the words "and associates" or "and company" may be included in the name of the company.

(2) Every shareholder of the company shall be a director of the company, and only a shareholder of the company shall be a director thereof.

(3) If a shareholder of the company or a person having any interest in the shares of the company, ceases to conform to any requirement of subsection (1) (*b*) or dies, he or his estate, as the case may be, may, as from the date on which he ceases so to conform or dies, continue to hold the relevant shares or interest in the shares in the company for a period of six months or for such longer period as the council of the law society of the province in which the company's registered office is situate, may approve.

(4) No voting rights shall attach to any share held in terms of subsection (3) and the holder of any such share shall not act as a director of the company or receive, directly or indirectly, any director's fees or remuneration or participate in the income of or profits earned by the company in its practice as attorney, notary or conveyancer.

(5) If the articles of association of the company so provide, the company may, without confirmation by a court, upon such conditions as it may deem expedient, purchase the shares held in it in terms of subsection (3), and the authorized share capital of the company shall not be reduced thereby.

(6) Shares purchased in terms of subsection (5) shall be available for allotment in terms of the articles of association of the company.

(7) Indien die maatskappy ophou om aan 'n vereiste van subartikel (1) te voldoen, hou hy onverwyld op om as prokureur, notaris of transportbesorger te praktiseer, en word hy, vanaf die datum waarop hy ophou om aldus te voldoen, regtens nie as 'n prokureur, notaris of transportbesorger erken nie: Met die verstande dat die bepalings van hierdie subartikel nie gedurende die in subartikel (3) bedoelde of beoogde tydperk met betrekking tot 'n maatskappy van toepassing is nie slegs uit hoofde daarvan dat 'n aandeelhouer van die maatskappy of 'n belanghebbende in die aandele van die maatskappy opgehou het om 'n prokureur, notaris of transportbesorger te wees of om in besit van 'n in subartikel (1) (*b*) bedoelde getrouheidsfondssertifikaat te wees.

(8) 'n Verwysing in hierdie Wet of in 'n ander wet na 'n prokureur, notaris of transportbesorger of na 'n vennoot of vennootskap met betrekking tot prokureurs, notarisse of transportbesorgers, word geag 'n verwysing in te sluit na 'n maatskappy ingevolge hierdie artikel of na 'n lid van so 'n maatskappy, na gelang van die geval, tensy uit die samehang anders blyk.".

Wysiging van artikel 33 van Wet 23 van 1934, soos vervang deur artikel 17 van Wet 63 van 1964 en gewysig deur artikel 18 van Wet 26 van 1965 en artikel 14 van Wet 93 van 1970.

5. Artikel 33 van die Hoofwet word hierby gewysig—

(*a*) deur subartikel (1) deur die volgende subartikel te vervang:

„(1) Elke praktiserende prokureur, notaris en transportbesorger moet 'n aparte trustrekening by 'n bankinstelling in die Republiek open en hou en moet daarin die gelde wat hy op rekening van enige persoon hou of ontvang, deponeer.";

(*b*) deur paragraaf (*a*) van subartikel (2) deur die volgende paragraaf te vervang:

„(*a*) 'n Prokureur, notaris of transportbesorger kan enige gelde wat in sodanige trustrekening gedeponeer is en wat nie onmiddellik vir een of ander bepaalde doel benodig is nie in 'n aparte spaar- of ander rentegewende rekening wat deur hom geopen is by enige bankinstelling of bouvereniging belê.";

(*c*) deur daardie gedeelte van subartikel (7) wat die voorbehoudsbepaling voorafgaan deur die volgende te vervang:

„(7) Geen bedrag wat op kredit van so 'n trust- of spaar- of ander rentegewende rekening staan, word as deel van die bates van die betrokke prokureur, notaris of transportbesorger beskou nie, en geen sodanige bedrag kan op instansie van 'n skuldeiser van so 'n prokureur, notaris of transportbesorger in beslag geneem word nie:";

(*d*) deur paragraaf (*a*) van subartikel (9) deur die volgende paragraaf te vervang:

„(*a*) Indien 'n prokureur, notaris of transportbesorger te sterwe kom of insolvent raak of van die rol geskrap of in sy praktyk geskors word of deur 'n bevoegde hof onbevoeg verklaar word om sy eie sake te bestuur, of sy praktyk laat vaar of staak, of gelikwideer word of onder geregtelike bestuur, hetsy voorlopig of finaal, geplaas word, kan die Meester van die Hooggeregshof wat regsbevoegdheid het, op aansoek van die wetsgenootskap van die betrokke provinsie of van enigiemand wat 'n belang by so 'n prokureur, notaris of transportbesorger se trust- of spaar- of ander rentegewende rekening het, 'n *curator bonis* aanstel om bedoelde trust- of spaar- of ander rentegewende rekening te

(7) If the company ceases to conform to any requirement of subsection (1), it shall forthwith cease to practise as an attorney, notary or conveyancer, and shall, as from the date on which it ceases so to conform, not be recognized in law as an attorney, notary or conveyancer: Provided that the provisions of this subsection shall not, during the period referred to or contemplated in subsection (3), apply with reference to a company by reason only that a shareholder of the company or a person having any interest in the shares of the company has ceased to be an attorney, notary or conveyancer or to be in possession of a fidelity fund certificate referred to in subsection (1) (*b*).

(8) Any reference in this Act or in any other law to an attorney, notary or conveyancer or to a partner or partnership in relation to attorneys, notaries or conveyancers, shall be deemed to include a reference to a company under this section or to a member of such a company, as the case may be, unless the context otherwise indicates.".

Amendment of section 33 of Act 23 of 1934, as substituted by section 17 of Act 63 of 1964 and amended by section 18 of Act 26 of 1965 and section 14 of Act 93 of 1970.

5. Section 33 of the principal Act is hereby amended—

(*a*) by the substitution for subsection (1) of the following subsection:

"(1) Every practising attorney, notary and conveyancer shall open and keep a separate trust account at a banking institution in the Republic and shall deposit therein the moneys held or received by him on account of any person.";

(*b*) by the substitution for paragraph (*a*) of subsection (2) of the following paragraph:

"(*a*) Any attorney, notary or conveyancer may invest in a separate savings or other interest-bearing account opened by him with any banking institution or building society any moneys deposited in such trust account which are not immediately required for any particular purpose.";

(*c*) by the substitution for that part of subsection (7) preceding the proviso of the following:

"(7) No amount standing to the credit of such trust account or savings or other interest-bearing account shall be regarded as forming part of the assets 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:";

(*d*) by the substitution for paragraph (*a*) of subsection (9) of the following paragraph:

"(*a*) Upon the death or insolvency of 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, or ceasing to practise, or being wound up or placed under judicial management, whether provisionally or finally, the Master of the Supreme Court having jurisdiction may, upon application made by the law society of the province concerned or by any person having an interest in the trust account or savings or other interest-bearing account of such attorney, notary or conveyancer, appoint a *curator bonis* to control and administer such trust account or savings or other

beheer en te administreer, met die regte, pligte en bevoegdhede voorgeskryf by regulasie kragtens artikel 30 (1) (*f*), wat bedoelde Meester goedvind.";

(*e*) deur subartikel (10) deur die volgende subartikel te vervang:

„(10) 'n Bankinstelling of bouvereniging waar 'n prokureur, notaris of transportbesorger sodanige trust- of spaar- of ander rentegewende rekening hou, word nie, alleen weens die naam of beskrywing waaronder die rekening bekend staan, geag te weet dat die prokureur, notaris of transportbesorger nie geheel en al op alle gelde in enige sodanige rekening betaal of gekrediteer geregtig is nie: Met dien verstande dat geen bepalings van hierdie subartikel 'n bankinstelling of bouvereniging onthef van enige aanspreeklikheid of verpligting waaronder hy afgesien van hierdie Wet sou staan nie.";

(*f*) deur subartikel (11) deur die volgende subartikel te vervang:

„(11) Ondanks die bepalings van subartikel (10), het of verkry 'n bankinstelling of bouvereniging waar 'n prokureur, notaris of transportbesorger sodanige trust- of spaar- of ander rentegewende rekening hou, ten opsigte van enige aanspreeklikheid van die prokureur, notaris of transportbesorger teenoor sodanige bankinstelling of bouvereniging wat nie 'n aanspreeklikheid is wat ontstaan het uit of in verband met enige sodanige rekeninge nie, geen verhaal of reg, hetsy by wyse van skuldvergelyking, teeneis, koste of andersins, op gelde wat op kredit van enige sodanige rekening staan nie.";

(*g*) deur paragraaf (*a*) van subartikel (12) deur die volgende paragraaf te vervang:

„(*a*) dat 'n bankinstelling of bouvereniging enige reg wat bestaan by die inwerkingtreding van die Wysigingswet op die Toelating van Prokureurs, Notarisse en Transportbesorgers, 1964, ontneem word nie;"; en

(*h*) deur subartikel (14) deur die volgende subartikel te vervang:

„(14) Enige bankinstelling of bouvereniging waar 'n prokureur, notaris of transportbesorger sodanige trust- of spaar- of ander rentegewende rekening hou, moet, wanneer aldus gelas deur die raad van die wetsgenootskap van die provinsie waarin sodanige prokureur, notaris of transportbesorger praktiseer, aan sodanige raad 'n ondertekende sertifikaat van balans verstrek waarin gesertifiseer word die bedrag wat op kredit (of debet as dit die geval is) van sodanige trust- of spaar- of ander rentegewende rekening in sodanige bankinstelling of bouvereniging staan op die datum of datums wat deur die raad vermeld word.".

Wysiging van artikel 27 van Wet 19 van 1941, soos gewysig deur artikel 9 van Wet 81 van 1962 en artikel 10 van Wet 71 van 1971.

6. Artikel 27 van die Toelating van Prokureurs Wysigings- en Regspraktisyns-getrouheidsfondswet, 1941, word hierby gewysig deur subartikel (5) deur die volgende subartikel te vervang:

„(5) Geen reg van aksie bestaan teen die beheerraad nie ten opsigte van 'n verlies gely—

(*a*) deur die vrou van 'n prokureur, notaris of transportbesorger weens 'n diefstal deur daardie prokureur, notaris of transportbesorger gepleeg;

(*b*) deur 'n prokureur, notaris of transportbesorger weens 'n diefstal gepleeg deur 'n vennoot of werknemer van daardie prokureur, notaris of transportbesorger of deur 'n werknemer van 'n firma waarvan hy vennoot is;

interest-bearing account, with such of the rights, duties and powers prescribed by regulation under section 30 (1) (*f*), as the said Master may deem fit.";

(*e*) by the substitution for subsection (10) of the following subsection:

"(10) Any banking institution or building society at which an attorney, notary or conveyancer keeps such trust account or savings or other interest-bearing account shall not by reason only of the name or style by which the account is distinguished, be deemed to have knowledge that the attorney, notary or conveyancer is not entitled absolutely to all moneys paid or credited to any such account: Provided that nothing in this subsection contained shall relieve a banking institution or building society from any liability or obligation under which it would be apart from this Act.";

(*f*) by the substitution for subsection (11) of the following subsection:

"(11) Notwithstanding anything in subsection (10) contained, a banking institution or building society at which an attorney, notary or conveyancer keeps such trust account or savings or other interest-bearing account shall not, in respect of any liability of the attorney, notary or conveyancer to such banking institution or building society, not being a liability arising out of or in connection with any such account, have or obtain any recourse or right, whether by way of set-off, counter-claim, charge or otherwise against moneys standing to the credit of any such account.";

(*g*) by the substitution for paragraph (*a*) of subsection (12) of the following paragraph:

"(*a*) as depriving any banking institution or building society of any right existing at the commencement of the Attorneys, Notaries and Conveyancers Admission Amendment Act, 1964;"; and

(*h*) by the substitution for subsection (14) of the following subsection:

"(14) Any banking institution or building society at which an attorney, notary or conveyancer keeps such trust account or savings or other interest-bearing account shall, whenever so required by the council of the law society of the province in which such attorney, notary or conveyancer is practising, furnish to such council a signed certificate of balance certifying the amount standing to the credit (or debit if such be the case) of such trust account or savings or other interest-bearing account in such banking institution or building society as at such date or dates as may be specified by the council.".

Amendment of section 27 of Act 19 of 1941, as amended by section 9 of Act 81 of 1962 and section 10 of Act 71 of 1971.

6. Section 27 of the Attorneys' Admission Amendment and Legal Practitioners' Fidelity Fund Act, 1941, is hereby amended by the substitution for subsection (5) of the following subsection:

"(5) No right of action shall lie against the board of control in respect of any loss suffered—

(*a*) by the wife of an attorney, notary or conveyancer by reason of any theft committed by that attorney, notary or conveyancer;

(*b*) by any attorney, notary or conveyancer by reason of any theft committed by any partner or servant of that attorney, notary or conveyancer or by a servant of any firm in which he is a partner;

(*c*) deur 'n prokureur, notaris of transportbesorger weens 'n diefstal gepleeg deur 'n lid of werknemer van 'n professionele maatskappy soos omskryf in artikel 2 van die Hoofwet, waarvan hy 'n lid is.".

Kort titel.

7. Hierdie Wet heet die Wysigingswet op Prokureurs, 1976.

(*c*) by any attorney, notary or conveyancer by reason of any theft committed by any member or servant of a professional company as defined in section 2 of the principal Act, of which he is a member.".

Short title.

7. This Act shall be called the Attorneys Amendment Act, 1976.

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