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REPUBLIEK VAN SUID-AFRIKA

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STATE PRESIDENT'S OFFICE

No. 1411.

28 June 1985

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

No. 80 of 1985: Attorneys Amendment Act, 1985.

KANTOOR VAN DIE STAATSPRESIDENT

No. 1411.

28 Junie 1985

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

No. 80 van 1985: Wysigingswet op Prokureurs, 1985.

Act No. 80, 1985

ATTORNEYS AMENDMENT ACT, 1985

GENERAL EXPLANATORY NOTE:**[]**

Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Attorneys Act, 1979, so as to replace an obsolete expression; to further regulate the investment of money in and payments from the Attorneys, Notaries and Conveyancers Fidelity Guarantee Fund; to make further provision with regard to the payment of grants and honoraria from the said fund; and to increase the maximum fines which may be imposed by the council of a law society; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 19 June 1985.)

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

Amendment of
section 14 of
Act 53 of 1979.

1. Section 14 of the Attorneys Act, 1979 (hereinafter referred to as the principal Act), is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph: 5
 “(b) the practical bookkeeping necessary for the keeping of the **[books of account]** accounting records referred to in section 78 (4);”.

Substitution of
section 38 of
Act 53 of 1979.

2. The following section is hereby substituted for section 38 of the principal Act: 10

“Certificate in respect of liabilities of fund and investment of money in fund.

38. (1) The board of control shall appoint an actuary to determine on or before 31 March in any year the amount which in that actuary's opinion will be required during the next ensuing year ending on 31 December, for the purposes of the fund's obligations in terms of section 45, and such actuary shall furnish the board of control, on or before the first-mentioned date, with a certificate setting out the amount so determined. 15

(2) The board of control shall within 30 days after receipt thereof submit such certificate to the Minister, and the Minister shall, after receipt of the said certificate, determine the amount which in his opinion will be required during the said ensuing year for the purposes referred to in subsection (1). 20

(3) Such money in the fund as exceeds the amount determined under subsection (2) may be invested in the manner prescribed under section 81 (2) (b). 25

(4) So much of the amount determined in terms of subsection (2) as is not immediately required for the purposes referred to in subsection (1) in any financial year, as well as so much of the money referred to in subsection (3) as is not invested as contemplated in that subsection, shall, subject to the provisions of section 46, be invested in such Government and 30
other securities as may be prescribed. 35

WYSIGINGSWET OP PROKUREURS, 1985

Wet No. 80, 1985

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

WET

Tot wysiging van die Wet op Prokureurs, 1979, ten einde 'n verouderde uitdrukking te vervang; die belegging van geld in en betalings uit die Getrouheidswaarborgfonds vir Prokureurs, Notarisse en Transportbesorgers verder te reël; verdere voorsiening te maak met betrekking tot die betaling van toekennings en honoraria uit genoemde fonds; en die maksimum boetes wat deur die raad van 'n prokureursorde opgelê kan word, te verhoog; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 19 Junie 1985.)

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

1. Artikel 14 van die Wet op Prokureurs, 1979 (hieronder die Hoofwet genoem), word hierby gewysig deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:

“(b) die praktiese rekeningkunde wat nodig is vir die hou van die in artikel 78 (4) bedoelde **[rekeningboeke]** rekeningkundige aantekeninge;”.

Wysiging van
artikel 14 van
Wet 53 van 1979.

2. Artikel 38 van die Hoofwet word hierby deur die volgende 10 artikel vervang:

Vervanging van
artikel 38 van
Wet 53 van 1979.

“Sertifikaat ten opsigte van fonds se verpligtinge en belegging van geld in fonds.”

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38. (1) Die beheerraad moet 'n aktuaris aanstel om voor of op 31 Maart in elke jaar die bedrag te bepaal wat na die oordeel van daardie aktuaris gedurende die daaropvolgende jaar wat op 31 Desember eindig nodig sal wees vir die doeleindes van die fonds se verpligtinge ingevolge artikel 45, en daardie aktuaris moet voor of op eersgenoemde datum die beheerraad voorsien van 'n sertifikaat waarin die bedrag wat aldus bepaal is, vermeld word.

(2) Die beheerraad moet binne 30 dae na ontvangs daarvan sodanige sertifikaat aan die Minister voorlê, en die Minister moet na ontvangs van bedoelde sertifikaat die bedrag wat na sy oordeel gedurende bedoelde daaropvolgende jaar vir die doeleindes bedoel in subartikel (1) nodig sal wees, bepaal.

(3) Die geld in die fonds wat die bedrag wat kragtens subartikel (2) bepaal is, oorskry, kan op die wyse kragtens artikel 81 (2) (b) voorgeskryf, belê word.

(4) Soveel van die bedrag ingevolge subartikel (2) bepaal wat nie onmiddellik vir die doeleindes bedoel in subartikel (1) gedurende 'n finansiële jaar nodig is nie, sowel as soveel van die geld bedoel in subartikel (3) as wat nie soos in daardie subartikel beoog, belê word nie, moet behoudens die bepalinge van artikel 46 in die Regerings- en ander sekuriteite wat voorgeskryf word, belê word.”.

Act No. 80, 1985

ATTORNEYS AMENDMENT ACT, 1985

Amendment of
section 45 of
Act 53 of 1979.

3. Section 45 of the principal Act is hereby amended by the substitution for paragraph (j) of subsection (1) of the following paragraph:

“(j) in the discretion of the board of control, the defraying of the whole or any portion of the expenses **[, previously authorized by the board of control,]** incurred by any society for the purposes of **[section 78]** or in connection with any steps taken by it under section 22 (1), 78 or 83 (13);”.

Substitution of
section 46 of
Act 53 of 1979,
as amended by
section 3 of
Act 56 of 1983.

4. The following section is hereby substituted for section 46 of the principal Act:

“Board of control may make grants from fund for education or research in law and for enhancement of professional standards of practitioners.

46. The board of control may, **[without derogating from the purposes of section 26 and,]** if the amount of the fund **[as contemplated in section 43 is not less than R2 000 000]** exceeds the amount determined under section 38 (2), out of the **[fund]** excess in question—

(a) make grants with the approval of the Minister on such conditions as the board of control may determine with such approval—

(i) to any person **[or]**, any university established by an Act of Parliament **[or]**, any university college established under the Extension of University Education Act, 1959 (Act No. 45 of 1959), any university contemplated in section 2 (1) (aA) of this Act or section 3 (2) (a) (iii) of the Admission of Advocates Act, 1964 (Act No. 74 of 1964), or a person connected with any such university or university college or to any training centre in the Republic designated by the Minister for the purposes of—

[(i)] (aa) education or research in the science of law or in legal practice;

[(ii)] (bb) education or research in any related science or practice in so far as such education is given to a student of a law faculty at any such university or university college, or to a student at any such training centre **[in South Africa]**, or in so far as such research is done at any such university, university college or training centre;

(cc) the furtherance of the administration or dispensation of justice;

(ii) to any association or society of attorneys, notaries or conveyancers in a country which has been designated by the Minister by notice in the *Gazette* after consultation with the presidents of the various societies, for the purposes of enabling such association or society to establish or maintain a fund for facilitating the practice of law;

and may, with such approval, at any time when it deems fit, revoke such grant or any part thereof;

(b) pay an honorarium or compensation to any person for services rendered at the request of the board of control with the object of enhancing the professional standards of practitioners.”.

Amendment of
section 72 of
Act 53 of 1979.

5. Section 72 of the principal Act is hereby amended—

(a) by the substitution for subparagraph (i) of paragraph (a) of subsection (1) of the following subparagraph:

WYSIGINGSWET OP PROKUREURS, 1985

Wet No. 80, 1985

3. Artikel 45 van die Hoofwet word hierby gewysig deur paragraaf (j) van subartikel (1) deur die volgende paragraaf te vervang:

Wysiging van artikel 45 van Wet 53 van 1979.

- 5 “(j) na goedvinde van die beheerraad, die bestryding van die geheel of enige deel van die uitgawes [vooraf deur die beheerraad gemagtig,] deur 'n orde aangegaan vir die doeleindes van [artikel 78] of in verband met enige stappe deur hom gedoen kragtens artikel 22 (1), 78 of 83 (13);”.

10 4. Artikel 46 van die Hoofwet word hierby deur die volgende artikel vervang:

Vervanging van artikel 46 van Wet 53 van 1979, soos gewysig deur artikel 3 van Wet 56 van 1983.

- 15 “Beheerraad kan toekennings uit fonds doen vir regsopleiding of navorsing in die regte en vir verhoging van professionele standaarde van praktisyns.
- 20 46. Die beheerraad kan, **[sonder om afbreuk te doen aan die doeleindes van artikel 26 en]** indien die bedrag van die fonds **[soos in artikel 43 beoog, nie minder nie as R2 000 000 beloop]** die bedrag kragtens artikel 38 (2) bepaal, oorskry, uit die **[fonds] betrokke oorskot—**

(a) toekennings met die Minister se goedkeuring doen op die voorwaardes deur die beheerraad met sodanige goedkeuring bepaal—

- 25 (i) aan 'n persoon **[of]**, 'n universiteit by 'n Wet van die Parlement ingestel **[of]**, 'n universiteitskollege ingestel kragtens die Wet op Uitbreiding van Universiteitsopleiding, 1959 (Wet No. 45 van 1959), 'n universiteit beoog in artikel 2 (1) (aA) van hierdie Wet of artikel 3 (2) (a) (iii) van die Wet op die Toelating van Advokate, 1964 (Wet No. 74 van 1964), of 'n persoon verbonde aan so 'n universiteit of universiteitskollege of aan enige opleidingsentrum in die Republiek wat deur die Minister aangewys is vir die doeleindes van—

35 **[(i)] (aa)** opleiding of navorsing in die regswetenskap of -praktyk;

40 **[(ii)] (bb)** opleiding of navorsing in enige aanverwante wetenskap of praktyk vir sover daardie opleiding gegee word aan 'n student van 'n regsfa-kulteit aan so 'n universiteit of universiteitskollege, of aan 'n student aan so 'n opleidingsentrum **[in Suid-Afrika]**, of vir sover daardie navorsing gedoen word aan so 'n universiteit, universiteitskollege of opleidingsentrum;

45 (cc) die bevordering van die regspleging of die regsbedeling;

50 (ii) aan enige vereniging of orde van prokureurs, notaris se of transportbesorgers in 'n land wat deur die Minister, na oorleg met die presidente van die onderskeie ordes, by kennisgewing in die *Staatskoerant* aangewys is, ten einde so 'n vereniging of orde in staat te stel om 'n fonds ter bevordering van die reg te stig of in stand te hou,

55 en kan, met sodanige goedkeuring, te eniger tyd wanneer hy dit goedvind sodanige toekenning of 'n gedeelte daarvan intrek;

60 (b) 'n honorarium of vergoeding aan 'n persoon betaal vir dienste op versoek van die beheerraad gelewer met die doel om die professionele standaarde van praktisyns te verhoog.”.

65 5. Artikel 72 van die Hoofwet word hierby gewysig—

- (a) deur subparagraaf (i) van paragraaf (a) van subartikel (1) deur die volgende subparagraaf te vervang:

Wysiging van artikel 72 van Wet 53 van 1979.

Act No. 80, 1985

ATTORNEYS AMENDMENT ACT, 1985

Amendment of
section 78 of
Act 53 of 1979,
as amended by
section 1 of
Act 103 of 1983.

- “(i) impose upon him a fine not exceeding **[R500]**
R2 000; or”; and
(b) by the substitution for subparagraph (ii) of paragraph
(b) of subsection (1) of the following subparagraph:
“(ii) impose upon him a fine not exceeding **[R100]** 5
R400; or”.

6. Section 78 of the principal Act is hereby amended—

- (a) by the substitution for subsection (4) of the following
subsection:
“(4) Any practising practitioner shall keep proper 10
[books of account] accounting records containing par-
ticulars and information of any money received, held or
paid by him for or on account of any person, of any
money invested by him in terms of subsection (2) and
of any interest referred to in subsection (3) which is 15
paid over or credited to him.”;
(b) by the substitution for subsection (5) of the following
subsection:
“(5) The council of the society of the province in
which a practitioner practises may by itself or through 20
its nominee and at its own cost, inspect the **[books of
account]** accounting records of any practitioner in order
to satisfy itself that the provisions of subsections (1),
(3) and (4) are being observed, and, if on such inspec-
tion it is found that such practitioner has not complied 25
with such provisions, the council may write up the ac-
counting records of such practitioner and recover the
[cost] costs of the inspection or of such writing up, as
the case may be, from that practitioner.”; and
(c) by the substitution for the words preceding paragraph 30
(a) of subsection (6) of the following words:
“For the purposes of subsections (4) and (5),
[“books of account”] “accounting records” includ-
es any record or document kept by or in the custo-
dy or under the control of any practitioner which 35
relates to—”.

Amendment of
section 81 of
Act 53 of 1979,
as amended by
section 5 of
Act 76 of 1980,
section 4 of
Act 60 of 1982
and section 4 of
Act 56 of 1983.

7. Section 81 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (b) of subsection (2)
of the following paragraph:
“(b) the investment of **[so much of the fund as is not im- 40
mediately required for the purposes thereof]** the
money contemplated in section 38 (3);”; and
(b) by the insertion after paragraph (b) of subsection (2) of
the following paragraph:
“(bA) the investment of the money available for invest- 45
ment in terms of section 38 (4);”.

Short title and com-
mencement.

8. (1) This Act shall be called the Attorneys Amendment Act,
1985.
(2) Sections 2, 4 and 7 shall come into operation on a date
fixed by the State President by proclamation in the *Gazette*. 50
(3) Section 3 shall be deemed to have come into operation on
1 June 1979.

WYSIGINGSWET OP PROKUREURS, 1985

Wet No. 80, 1985

- “(i) hom ’n boete van hoogstens **[R500]** R2 000 oplê;
of”; en
(b) deur subparagraaf (ii) van paragraaf (b) van subartikel
(1) deur die volgende subparagraaf te vervang:
5 “(ii) hom ’n boete van hoogstens **[R100]** R400 oplê;
of”.

6. Artikel 78 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (4) deur die volgende subartikel te ver-
vang:

10 “(4) ’n Praktiserende praktisyn hou behoorlike **[re-
keningboeke]** rekeningkundige aantekeninge wat be-
sonderhede en inligting bevat betreffende enige gelde
deur hom ontvang, gehou of betaal vir of op rekening
van enigiemand, enige gelde deur hom ingevolge subar-
15 tikel (2) belê en enige rente in subartikel (3) bedoel
wat aan hom betaal word of waarmee hy gekrediteer
word.”;

- (b) deur subartikel (5) deur die volgende subartikel te ver-
vang:

20 “(5) Die raad van die orde van die provinsie waarin
’n praktisyn praktiseer, kan self of deur sy benoemde,
en op sy eie koste, die **[rekeningboeke]** rekeningkundige
aantekeninge van ’n praktisyn ondersoek ten einde
homself te oortuig dat aan die bepalings van subartikels
25 (1), (3) en (4) voldoen word, en, indien daar by so ’n
ondersoek bevind word dat so ’n praktisyn nie aan
daardie bepalings voldoen het nie, kan die raad die re-
keningkundige aantekeninge van so ’n praktisyn by-
werk en die koste van die ondersoek of van sodanige
30 bywerking, na gelang van die geval, op daardie prakti-
syn verhaal.”; en

- (c) deur die woorde wat paragraaf (a) van subartikel (6)
vooraangaan deur die volgende woorde te vervang:

35 “By die toepassing van subartikels (4) en (5) bete-
ken **“[rekeningboeke]”** “rekeningkundige aantekeninge”
ook enige aantekening of dokument ge-
hou deur of in die bewaring of onder die beheer
van ’n praktisyn en wat betrekking het op—”.

7. Artikel 81 van die Hoofwet word hierby gewysig—

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

“(b) die belegging van **[soveel van die fonds as wat vir
die doeleindes daarvan nie onmiddellik nodig is nie]**
die geld beoog in artikel 38 (3);”;

- 45 (b) deur na paragraaf (b) van subartikel (2) die volgende
paragraaf in te voeg:

“(bA) die belegging van geld wat ingevolge artikel 38 (4)
vir belegging beskikbaar is;”.

Wysiging van
artikel 78 van
Wet 53 van 1979,
soos gewysig deur
artikel 1 van
Wet 103 van 1983.

Wysiging van
artikel 81 van
Wet 53 van 1979,
soos gewysig deur
artikel 5 van
Wet 76 van 1980,
artikel 4 van
Wet 60 van 1982
en artikel 4 van
Wet 56 van 1983.

8. (1) Hierdie Wet heet die Wysigingswet op Prokureurs,
50 1985.

(2) Artikels 2, 4 en 7 tree in werking op ’n datum wat die
Staatspresident by proklamasie in die *Staatskoerant* bepaal.

(3) Artikel 3 word geag op 1 Junie 1979 in werking te getree
het.

Kort titel en inwer-
kingtreding.

