



REPUBLIC OF SOUTH AFRICA



GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

Selling price • Verkoopprys
(GST excluded/AVB uitgesluit)

Local **80c** Plaaslik

Other countries R1,10 Buitelands

Post free • Posvry

VOL. 313

CAPE TOWN, 3 JULY 1991

No. 13349

KAAPSTAD, 3 JULIE 1991

STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1498.

3 July 1991

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

No. 102 of 1991: Attorneys Amendment Act, 1991

No. 1498.

3 Julie 1991

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

No. 102 van 1991: Wysigingswet op Prokureurs, 1991

GENERAL EXPLANATORY NOTE:

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

 Words underlined with a solid line indicate insertions in existing enactments.

u

ACT

To amend the Attorneys Act, 1979, so as to further regulate the engagement of candidate attorneys; to provide that the Attorneys Fidelity Fund Board of Control may acquire or form, and administer, a public company, or establish a scheme, so as to provide insurance cover to practitioners; and to further regulate the powers of the council of a law society; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)
(Assented to 27 June 1991.)

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

Amendment of section 1 of Act 53 of 1979, as amended by section 1 of Act 87 of 1989

1. Section 1 of the Attorneys Act, 1979 (hereinafter referred to as the principal Act), is hereby amended by the insertion after the definition of “fund” of the following definition: 5

“ ‘law clinic’ means a centre for the practical legal education of students in the faculty of law at a university in the Republic, and includes a law centre controlled by a non-profit making organization which provides legal services to the public free of charge;” 10

Amendment of section 3 of Act 53 of 1979, as substituted by section 2 of Act 87 of 1989

2. Section 3 of the principal Act is hereby amended—

(a) by the substitution for paragraph (e) of subsection (1) of the following paragraph: 15

“(e) as Deputy State Attorney, Senior Assistant State Attorney or Assistant State Attorney in the office of the State Attorney or any branch thereof; **[and] or**”;

(b) by the insertion after paragraph (e) of subsection (1) of the following paragraph: 20

“(f) in the full-time employment of a law clinic, and if the council of the province in which that law clinic is operated, certifies that the law clinic concerned complies with the requirements prescribed by such council for the operation of such clinic; and—”;

(c) by the substitution for subparagraph (i) of paragraph (i) of subsection (1) of the following subparagraph: 25

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skrapings 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 die indiensneming van kandidaat-prokureurs verder te reël; voorsiening te maak dat die Raad van Beheer oor die Getrouheidsfonds vir Prokureurs 'n publieke maatskappy kan verkry of oprig, en administreer, of 'n skema kan stig, ten einde aan praktisyns versekeringsdekking te verskaf; en die bevoegdhede van die raad van 'n prokureursorde verder te reël; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Afrikaanse teks deur die Staatspresident geteken.)

(Goedgekeur op 27 Junie 1991.)

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

Wysiging van artikel 1 van Wet 53 van 1979, soos gewysig deur artikel 1 van Wet 87 van 1989

- 5 1. Artikel 1 van die Wet op Prokureurs, 1979 (hieronder die Hoofwet genoem), word hierby gewysig deur na die omskrywing van "raad" die volgende omskrywing in te voeg:

10 "regslynik" 'n sentrum vir die praktiese regsopleiding van studente aan die regs fakulteit van 'n universiteit in die Republiek, en sluit dit 'n regsentrum in wat beheer word deur 'n nie-winsgewende organisasie wat regsdienste kosteloos aan die publiek verskaf;"

Wysiging van artikel 3 van Wet 53 van 1979, soos vervang deur artikel 2 van Wet 87 van 1989

- 15 2. Artikel 3 van die Hoofwet word hierby gewysig—
(a) deur paragraaf (e) van subartikel (1) deur die volgende paragraaf te vervang:

"(e) as Adjunk-staatsprokureur, Senior Assistent-staatsprokureur of Assistent-staatsprokureur in die kantoor van die Staatsprokureur of 'n tak daarvan; **[en]** of";

- 20 (b) deur die volgende paragraaf na paragraaf (e) van subartikel (1) in te voeg:

"(f) in die voltydse diens van 'n regslynik, en indien die raad van die provinsie waarin daardie regslynik bedryf word, sertifiseer dat die betrokke regslynik voldoen aan die vereistes deur sodanige raad vir die bedryf van sodanige kliniek voorgeskryf; en—";

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

- “(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, or is employed full-time at a law clinic, so practised or been so employed for a period of three years or periods of three years in the aggregate during the preceding four years;” and 5
- (d) by the substitution for paragraphs (a) and (b) of subsection (3) of the following paragraphs, respectively:
- “(a) on the death or retirement from practice of any attorney, any of his surviving or remaining partners, **[or]** any member of the professional company of which he was a member or any other person who as an attorney is employed full-time at the law clinic concerned; 10
- (b) where an attorney has been debarred under section 72(1)(a)(iii) from continuing with a contract of articles, any of his partners, **[or]** any other member of the professional company of which he is a member or any other person who as an attorney is employed full-time at the law clinic concerned,” 15

Amendment of section 6 of Act 53 of 1979, as substituted by section 4 of Act 87 of 1989

3. Section 6 of the principal Act is hereby amended by the deletion of the word “or” at the end of paragraph (a) of subsection (1), the insertion of the word “or” 20 at the end of paragraph (b) of subsection (1), and the addition after paragraph (b) of subsection (1) of the following paragraph:

- “(c) in the case of a candidate attorney articled to an attorney employed full-time at a law clinic, under the direct personal supervision of that attorney or another attorney who is also employed full-time at the law clinic concerned.” 25

Insertion of section 40A in Act 53 of 1979

4. The following section is hereby inserted in the principal Act after section 40:

“Acquisition, forming and administration of insurance company or scheme 30

40A. The board of control may—

- (a) (i) acquire or form, and administer, a public company; or 35
(ii) together with any other person or institution establish a scheme, underwritten by a registered insurer, so as to provide insurance cover, subject to the provisions of the Insurance Act, 1943 (Act No. 27 of 1943), to practitioners in respect of claims which may proceed from the professional conduct of such practitioners; 40
- (b) enter into deeds of suretyship to the satisfaction of the Master of the Supreme Court so as to provide security on behalf of a practitioner in respect of work to be done by such practitioner as executor in the estate of a deceased person, or as trustee in an insolvent estate, or as curator to the person or property in the case of a person who is unable to manage his own affairs, or in any other similar capacity, or by any other person in such capacity where a practitioner acts as agent for the person 45 concerned; and
- (c) levy premiums and fees for the provision of such insurance or security, as the case may be.” 50

Amendment of section 69 of Act 53 of 1979, as amended by section 23 of Act 87 of 1989 50

5. Section 69 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (h) of the following paragraph:
“(h) prescribe the manner of assessment of the fees payable by any person to a practitioner in respect of the performance **[on behalf of such person]** of any work other than litigious work and in respect 55

- “(i) wat, 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, of wat voltyds in diens is by ’n regscliniek, vir ’n tydperk van drie jaar of vir tydperke wat in totaal drie jaar 5 beloop tydens die voorafgaande vier jaar aldus gepraktiseer het of in diens was”; en
- (d) deur paragrawe (a) en (b) van subartikel (3) deur onderskeidelik die volgende paragrawe te vervang:
- “(a) by die dood of staking van praktyk van ’n prokureur, enige van sy oorblywende of oorlewende vennote, **[of]** enige lid van die professionele maatskappy waarvan hy lid was of enige ander persoon wat as prokureur voltyds in diens is by die betrokke regscliniek;
- (b) waar ’n prokureur kragtens artikel 72(1)(a)(iii) verbied is om ’n leerkontrak voort te sit, enige van sy vennote, **[of]** enige ander lid 15 van die professionele maatskappy waarvan hy lid is of enige ander persoon wat as prokureur voltyds in diens is by die betrokke regscliniek.”.

Wysiging van artikel 6 van Wet 53 van 1979, soos vervang deur artikel 4 van Wet 87 van 1989

- 20 3. Artikel 6 van die Hoofwet word hierby gewysig deur die woord “of” aan die einde van paragraaf (a) van subartikel (1) te skrap, die uitdrukking “of” aan die einde van paragraaf (b) van subartikel (1) in te voeg, en na paragraaf (b) van subartikel (1) die volgende paragraaf by te voeg:
- “(c) in die geval van ’n kandidaat-prokureur wat kragtens ’n leerkontrak in diens is by ’n prokureur wat voltyds in diens is by ’n regscliniek, onder die direkte persoonlike toesig van daardie prokureur of ’n ander prokureur wat ook voltyds in diens is by die betrokke regscliniek.”.

Invoeging van artikel 40A in Wet 53 van 1979

4. Die volgende artikel word hierby in die Hoofwet na artikel 40 ingevoeg:
- 30 **“Verkryging, oprigting en administrasie van versekeringsmaatskappy of -skema**
- “40A. Die beheerraad kan—**
- (a) (i) ’n publieke maatskappy verkry of oprig, en administreer; of
- (ii) tesame met enige ander persoon of instelling ’n skema wat deur ’n 35 geregistreerde versekeraar onderskryf word, stig,
- ten einde, behoudens die bepalinge van die Versekeringswet, 1943 (Wet No. 27 van 1943), aan praktisyns versekeringsdekking te verskaf ten opsigte van eise wat uit die professionele optrede van sodanige praktisyns mag voortspruit;
- 40 (b) tot die tevredenheid van die Meester van die Hooggeregshof, aktes van waarborg aangaan ten einde namens ’n praktisyn sekuriteit te verskaf ten opsigte van werk wat verrig moet word deur sodanige praktisyn as eksekuteur in die boedel van ’n oorlede persoon, of as kurator in ’n insolvente boedel, of as kurator vir die persoon of eiendom in die geval 45 van ’n persoon wat nie sy eie belange kan behartig nie, of in enige ander soortgelyke hoedanigheid, of deur enige ander persoon tydens optrede in sodanige hoedanigheid waar ’n praktisyn as verteenwoordiger vir die betrokke persoon optree; en
- (c) premies en gelde vir die verskaffing van sodanige versekering of 50 sekuriteit, na gelang van die geval, hef.”.

Wysiging van artikel 69 van Wet 53 van 1979, soos gewysig deur artikel 23 van Wet 87 van 1989

5. Artikel 69 van die Hoofwet word hierby gewysig—
- (a) deur paragraaf (h) deur die volgende paragraaf te vervang:
- 55 “(h) die wyse van berekening voorskryf van die geld wat deur ’n persoon aan ’n praktisyn betaalbaar is ten opsigte van die verrigting **[ten behoeve van daardie persoon]** van ander werk as

of expenses reasonably incurred by such practitioner in connection with the performance of that work and, at the request of such person or practitioner, assess such fees in the prescribed manner;"; and

(b) by the insertion after paragraph (n) of the following paragraph, the existing paragraph (o) becoming paragraph (p):

"(o) prescribe the requirements to be complied with by a law clinic referred to in section 3(1)(f);".

Short title and commencement

6. (1) This Act shall be called the Attorneys Amendment Act, 1991, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act.

- hofwerk en ten opsigte van uitgawes redelikerwyse deur daardie praktisyn aangegaan in verband met die verrigting van daardie werk en, op versoek van daardie persoon of praktisyn, daardie geld op die voorgeskrewe wyse bereken;"; en
- 5 (b) deur na paragraaf (n) die volgende paragraaf in te voeg, terwyl die bestaande paragraaf (o) paragraaf (p) word:
- "(o) die vereistes voorskryf waaraan 'n regslyniek bedoel in artikel 3(1)(f) moet voldoen;".

Kort titel en inwerkingtreëding

- 10 6. (1) Hierdie Wet heet die Wysigingswet op Prokureurs, 1991, en tree in werking op 'n datum deur die Staatspresident by proklamasie in die *Staatskoerant* bepaal.
- (2) Verskillende datums kan aldus ten opsigte van verskillende bepalings van hierdie Wet bepaal word.