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STATE PRESIDENT'S OFFICE

No. 1282.

20 July 1993

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

No. 115 of 1993: Attorneys Amendment Act, 1993.

KANTOOR VAN DIE STAATSPRESIDENT

No. 1282.

20 Julie 1993

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

No. 115 van 1993: Wysigingswet op Prokureurs, 1993.

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.

ACT

To amend the Attorneys Act, 1979, in order to amend, insert or delete certain definitions; to further regulate the duration of service under articles of clerkship; to provide for exemption from service under articles of clerkship; to provide for certain information to be submitted to a society before the performance of community service; to provide for the lodging, examination and registration of contracts of service; to further regulate the supervision of candidate attorneys; to further regulate absence from office of candidate attorneys; to further regulate the right of appearance of candidate attorneys; to restrict the pecuniary interests of candidate attorneys in the organization or institution where they perform community service; to regulate the termination of a contract of service; to further regulate removal from the roll of advocates; to further regulate the performance of irregular service; to further regulate practical examinations; to further regulate the admission of attorneys; to delete obsolete provisions; to further regulate the prescribing of fees; and to make further provision for the prescribing of regulations; to amend the Magistrates' Courts Act, 1944, so as to make provision for the appearance of candidate attorneys performing community service in magistrates' courts; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 9 July 1993.)

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 and section 1 of Act 102 of 1991

1. Section 1 of the Attorneys Act, 1979 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the insertion after the definition of "advocate" of the following definition:

"'appropriate legal experience' means any service which is related to the application of the law and which is prescribed by the Minister;";

(b) by the insertion after the definition of "building society" of the following definition:

"'community service' means full-time service related to the application of the law and performed—"

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skrap-
pings uit bestaande verordeninge aan.

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

WET

Tot wysiging van die Wet op Prokureurs, 1979, ten einde sekere omskrywings te wysig, in te voeg of te skrap; die duur van diens kragtens leerkontrak verder te reël; voorsiening te maak vir vrystelling van diens onder leerkontrak; voorsiening te maak dat sekere inligting voor die verrigting van gemeenskapsdiens aan 'n orde voorgelê moet word; voorsiening te maak vir die inlewering, ondersoek en registrasie van dienskontrakte; die toesig oor kandidaat-prokureurs verder te reël; afwesigheid van diens van kandidaat-prokureurs verder te reël; die verskyningsbevoegdheid van kandidaat-prokureurs verder te reël; die geldelike belange van kandidaat-prokureurs in die instelling of inrigting waar hulle gemeenskapsdiens verrig, te beperk; die beëindiging van 'n dienskontrak te reël; verwydering van die rol van advokate verder te reël; die verrigting van ongereelde diens verder te reël; praktiese eksamens verder te reël; die toelating van prokureurs verder te reël; verouderde bepalings te skrap; die voorskryf van gelde verder te reël; en verdere voorsiening te maak vir die voorskryf van regulasies; tot wysiging van die Wet op Landdroshowe, 1944, ten einde voorsiening te maak vir die verskyning van kandidaat-prokureurs wat gemeenskapsdiens verrig in landdroshowe; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 9 Julie 1993.)

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 en artikel 1 van Wet 102 van 1991

- 5 1. Artikel 1 van die Wet op Prokureurs, 1979 (hieronder die Hoofwet
genoem), word hierby gewysig—
- (a) deur na die omskrywing van “bouvereniging” die volgende omskry-
wing in te voeg:
- 10 “ ‘dienskontrak’ ’n skriftelike ooreenkoms waarkragtens ’n
kandidaat-prokureur wat gemeenskapsdiens wil verrig, verplig is
om ’n prinsipaal vir ’n bepaalde tydperk ooreenkomstig hierdie
Wet te dien;”;
- (b) deur die omskrywing van “Gebied” te skrap;
- (c) deur voor die omskrywing van “getrouheidsfondssertifikaat” die vol-
15 gende omskrywing in te voeg:
- “ ‘gemeenskapsdiens’ voltydse diens wat verband hou met die
toepassing van die reg en verrig—

- (a) at a law clinic in respect of which 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; or
- (b) on behalf of and under the control of the Legal Aid Board established under section 2 of the Legal Aid Act, 1969 (Act No. 22 of 1969), and which is approved for this purpose by the Minister;";
- (c) by the substitution for the definition of "candidate attorney" of the following definition:
 - " 'candidate attorney' means any person bound to serve under articles of clerkship or to perform community service under a contract of service;"
- (d) by the insertion after the definition of "candidate attorney" of the following definition:
 - " 'contract of service' means any contract in writing under which a candidate attorney who wishes to perform community service, is bound to serve a principal for a specified period in accordance with this Act;"
- (e) by the substitution for the definition of "principal" of the following definition:
 - " 'principal', in relation to—
 - (a) a candidate attorney, means the attorney who is being served by such candidate attorney under articles of clerkship **[and, in relation to]**;
 - (b) a former candidate attorney referred to in section 8(4), means the practitioner concerned so referred to;
 - (c) a candidate attorney performing community service, means an attorney who is employed full-time at a law clinic or an office of the Legal Aid Board established under section 2 of the Legal Aid Act, 1969 (Act No. 22 of 1969), and who has 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
 - (d) a former candidate attorney referred to in section 8(4) performing community service, means the practitioner concerned so referred to;"
- (f) by the deletion of the definitions of "province", "Republic" and "Territory".

Amendment of section 2 of Act 53 of 1979, as amended by section 1 of Act 108 of 1984

2. Section 2 of the principal Act is hereby amended by the insertion after subsection (1) of the following subsection:

"(1A) Any person intending to be admitted as an attorney and who has not served articles of clerkship in terms of subsection (1), and has satisfied all the requirements for a degree referred to in paragraph (a) or (aA) of subsection (1) or has become entitled to be admitted as an advocate of the Supreme Court, shall serve under articles of clerkship for a period of one year and shall in addition thereto—

- (a) attend a training course approved by the society concerned for an uninterrupted period of at least four months and complete such course to the satisfaction of that society; or
- (b) perform community service approved by the society concerned in terms of a contract of service for an uninterrupted period of at least one year to the satisfaction of that society."

Insertion of section 2A in Act 53 of 1979

3. The following section is hereby inserted in the principal Act after section 2:

"Exemption from service under articles of clerkship

2A. Any person intending to be admitted as an attorney and who has satisfied all of the requirements for a degree referred to in paragraph

- (a) by 'n regslynik ten opsigte waarvan 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 lynik voorgeskryf; of
- 5 (b) ten behoeve en onder die beheer van die Regshulpraad ingestel by artikel 2 van die Wet op Regshulp, 1969 (Wet No. 22 van 1969), en wat vir hierdie doel deur die Minister goedgekeur is;";
- 10 (d) deur die omskrywing van "kandidaat-prokureur" deur die volgende omskrywing te vervang:
 " 'kandidaat-prokureur' iemand wat gebonde is om kragtens 'n leerkontrak te dien of kragtens 'n dienskontrak gemeenskapsdiens te verrig;";
- 15 (e) deur die omskrywing van "prinsipaal" deur die volgende omskrywing te vervang:
 " 'prinsipaal', met betrekking tot—
- (a) 'n kandidaat-prokureur, die prokureur wat deur daardie kandidaat-prokureur kragtens 'n leerkontrak gedien word [en, met betrekking tot];
- 20 (b) 'n voormalige kandidaat-prokureur in artikel 8(4) vermeld, die betrokke praktisyn aldus vermeld;
- (c) 'n kandidaat-prokureur wat gemeenskapsdiens verrig, 'n prokureur wat voltyds in diens is by 'n regslynik of 'n kantoor van die Regshulpraad ingestel by artikel 2 van die
- 25 Wet op Regshulp, 1969 (Wet No. 22 van 1969), en wat vir 'n tydperk van drie jaar of vir tydperke wat in totaal drie jaar beloop tydens die voorafgaande vier jaar aldus gepraktiseer het of in diens was; en
- (d) 'n voormalige kandidaat-prokureur in artikel 8(4) vermeld wat gemeenskapsdiens verrig, die betrokke praktisyn aldus vermeld;";
- 30 (f) deur die omskrywings van "provinsie" en "Republiek" te skrap; en
- (g) deur na die omskrywing van "sekretaris" die volgende omskrywing in te voeg:
- 35 " 'toepaslike regsondervinding' enige diens wat met die toepassing van die reg verband hou en wat deur die Minister voorgeskryf word;".

Wysiging van artikel 2 van Wet 53 van 1979, soos gewysig deur artikel 1 van Wet 108 van 1984

- 40 2. Artikel 2 van die Hoofwet word hierby gewysig deur na subartikel (1) die volgende subartikel in te voeg:
- "(1A) Iemand wat as prokureur toegelaat wil word en wat nie diens kragtens 'n leerkontrak ingevolge subartikel (1) verrig het nie, en aan al die vereistes vir 'n in paragraaf (a) of (aA) van subartikel (1) bedoelde graad
- 45 voldoen het of geregtig geword het om as advokaat van die Hooggeregshof toegelaat te word, verrig diens kragtens 'n leerkontrak vir 'n tydperk van een jaar en moet daarbenewens—
- (a) 'n opleidingskursus wat deur die betrokke orde goedgekeur is, bywoon vir 'n ononderbroke tydperk van minstens vier maande en sodanige
- 50 kursus ten genoeg van daardie orde voltooi; of
- (b) gemeenskapsdiens wat deur die betrokke orde goedgekeur is ingevolge 'n dienskontrak vir 'n ononderbroke tydperk van minstens een jaar ten genoeg van daardie orde verrig."

Invoeging van artikel 2A in Wet 53 van 1979

- 55 3. Die volgende artikel word hierby na artikel 2 van die Hoofwet ingevoeg:

"Vrystelling van diens onder leerkontrak

2A. Iemand wat as prokureur toegelaat wil word en wat aan al die vereistes vir 'n in paragraaf (a) of (aA) van artikel 2(1) bedoelde

- (a) or (aA) of section 2(1) or who has become entitled to be admitted as an advocate of the Supreme Court and who—
- (a) (i) has attended a training course approved by the society concerned for an uninterrupted period of at least four months and has completed such course to the satisfaction of that society; and 5
 - (ii) has performed community service in terms of a contract of service for an uninterrupted period of at least one year to the satisfaction of that society; or
 - (b) has performed community service in terms of a contract of service for an uninterrupted period of at least two years to the satisfaction of the society concerned; or 10
 - (c) has, to the satisfaction of the society concerned, gained at least five years' appropriate legal experience, 15
- is exempted from service under articles of clerkship in terms of section 2(1), and from the provisions of section 2(1A).”.

Insertion of section 4A in Act 53 of 1979

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

“Information which shall be submitted to a society before performance of community service 20

- 4A.** A candidate attorney intending to perform community service shall submit to the secretary of the society of the province in which the community service is to be performed, the following, namely—
- (a) his birth certificate or other proof to the satisfaction of the society of his date of birth; 25
 - (b) proof to the satisfaction of the society that he—
 - (i) is a fit and proper person;
 - (ii) has satisfied all the requirements for a degree referred to in paragraphs (a) or (aA) of section 2(1) or has become entitled to be admitted as an advocate of the Supreme Court; and 30
 - (c) the contract of service in which the date is mentioned upon which he will commence community service and at which law clinic or office of the Legal Aid Board, as the case may be, he intends performing community service.”.

Substitution of section 5 of Act 53 of 1979, as amended by section 3 of Act 87 of 1989 35

5. The following section is hereby substituted for section 5 of the principal Act:

“Lodging, examination and registration of articles or contract of service

- 5. (1)** The original of any articles of clerkship or contract of service shall within two months of the date thereof be lodged by the principal concerned with the secretary of the society of the province in which the service under such articles or contract of service is to be performed. 40
- (2)** The secretary of the society concerned shall, on payment of the fees prescribed under section 80, examine any articles or contract of service lodged with him and shall, if he is satisfied that the articles are or contract of service is in order and that the council has no objection to the registration thereof, on payment of the fees so prescribed register such articles or contract of service and shall advise the [attorney] principal and candidate attorney concerned of such registration in writing by certified post. 45 50
- (3)** If articles of clerkship are or a contract of service is not registered within two months of the date thereof, any service thereunder shall be deemed to commence on the date of registration thereof.”.

graad voldoen het of wat geregtig geword het om as advokaat van die Hooggeregshof toegelaat te word, en wat—

- 5 (a) (i) 'n opleidingskursus wat deur die betrokke orde goedgekeur is, bygewoon het vir 'n ononderbroke tydperk van minstens vier maande en sodanige kursus ten genoeg van daardie orde voltooi het; en
- (ii) gemeenskapsdiens ingevolge 'n dienskontrak vir 'n ononderbroke tydperk van minstens een jaar ten genoeg van daardie orde verrig het; of
- 10 (b) gemeenskapsdiens ingevolge 'n dienskontrak vir 'n ononderbroke tydperk van minstens twee jaar ten genoeg van die betrokke orde verrig het; of
- (c) ten genoeg van die betrokke orde minstens vyf jaar toepaslike regsondervinding opgedoen het,
- 15 word van diens kragtens leerkontrak ingevolge artikel 2(1), en van die bepalings van artikel 2(1A), vrygestel.”.

Invoeging van artikel 4A in Wet 53 van 1979

4. Die volgende artikel word hierby na artikel 4 van die Hoofwet ingevoeg:

20 **“Inligting wat voor verrigting van gemeenskapsdiens aan orde voorgelê moet word**

4A. 'n Kandidaat-prokureur wat gemeenskapsdiens wil verrig, lê aan die sekretaris van die orde van die provinsie waarin die gemeenskapsdiens verrig sal word, die volgende voor, naamlik—

- 25 (a) sy geboortesertifikaat of ander bewys ten genoeg van die orde van sy geboortedatum;
- (b) bewys ten genoeg van die orde dat hy—
- (i) 'n geskikte en gepaste persoon is; en
- (ii) aan al die vereistes vir 'n in paragraaf (a) of (aA) van artikel 2(1) bedoelde graad voldoen het of geregtig geword het om
- 30 as advokaat van die Hooggeregshof toegelaat te word; en
- (c) die dienskontrak waarin vermeld word die datum waarop hy met gemeenskapsdiens begin en by welke regslynklynk of kantoor van die Regshulptraad, na gelang van die geval, hy beoog om gemeenskapsdiens te verrig.”.

35 **Vervanging van artikel 5 van Wet 53 van 1979, soos gewysig deur artikel 3 van Wet 87 van 1989**

5. Artikel 5 van die Hoofwet word hierby deur die volgende artikel vervang:

“Inlewering, ondersoek en registrasie van leerkontrak of dienskontrak

40 **5. (1)** Die oorspronklike leerkontrak of dienskontrak moet binne twee maande vanaf die datum daarvan deur die betrokke prinsipaal ingelewer word by die sekretaris van die orde van die provinsie waarin kragtens die leerkontrak of dienskontrak gedien moet word.

45 (2) Die sekretaris van die betrokke orde moet, teen betaling van die gelde kragtens artikel 80 voorgeskryf, 'n leerkontrak of dienskontrak wat by hom ingelewer is, ondersoek en moet, indien hy oortuig is dat die kontrak in orde is en dat die raad geen beswaar teen die registrasie daarvan het nie, daardie leerkontrak of dienskontrak teen betaling van die gelde aldus voorgeskryf, registreer, en die betrokke [prokureur] prinsipaal en kandidaat-prokureur skriftelik per gesertifiseerde pos van die registrasie in kennis stel.

50 (3) Indien 'n leerkontrak of dienskontrak nie binne twee maande vanaf die datum daarvan geregistreer word nie, word enige diens daarkragtens, geag op die datum van registrasie daarvan te begin.”.

Amendment of section 6 of Act 53 of 1979, as amended by section 4 of Act 87 of 1989 and section 3 of Act 102 of 1991

6. Section 6 of the principal Act is hereby amended by the addition of the following subsection:

- “(3) A candidate attorney performing community service shall during the whole term of service specified in the contract of service, serve—
- (a) in the office of the law clinic under the direct personal supervision of his principal, or of an attorney or advocate, who is also employed full-time at the law clinic concerned; or
 - (b) in the office of the Legal Aid Board under the direct personal supervision of his principal, or of an attorney or advocate, who is also employed full-time at the relevant office of the Legal Aid Board.”.

Amendment of section 7 of Act 53 of 1979, as substituted by section 5 of Act 87 of 1989

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

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

“(1) Subject to the provisions of subsection (2), a candidate attorney may, with the consent of his principal, absent himself from office for a period which does not, or for periods which in the aggregate do not, exceed thirty working days in any one year of the articles of clerkship or contract of service.”;

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

“(ii) where the period of absence from office exceeds, or the periods of absence from office in the aggregate exceed, thirty working days in any one year of the articles of clerkship or contract of service,”; and

(c) by the substitution for subsections (3), (4) and (5) of the following subsections, respectively:

“(3) If any period of absence from office exceeds, or the periods of absence from office in the aggregate exceed, thirty working days in any one year of articles of clerkship or contract of service, the period in excess of thirty working days shall be added to the period for which the candidate attorney is bound to serve under articles or contract of service.

(4) Notwithstanding the provisions of section 6, one half of any period of absence from the office of his principal by a candidate attorney as a result of training undergone by him in the South African Defence Force in terms of section 3 of the Defence Act, 1957 (Act No. 44 of 1957), shall, subject to a maximum period of three months, be deemed to have been served under such articles of clerkship or contract of service.

(5) Notwithstanding the provisions of section 6, any period of absence not exceeding six months of a candidate attorney from the office of his principal for the purpose of attending a training course approved by the society concerned, shall, if that candidate attorney has completed that course to the satisfaction of that society, be deemed to have been served under articles of clerkship or contract of service: Provided that in the case of a candidate attorney referred to in sections 2(1A) and 2A the period of attending a training course shall not be deemed to be a period that that candidate attorney has served under articles of clerkship or contract of service.”.

Amendment of section 8 of Act 53 of 1979, as substituted by section 6 of Act 87 of 1989

8. Section 8 of the principal Act is hereby amended—

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

“(ii) has served for at least one year under his articles or contract of service; or”; and

Wysiging van artikel 6 van Wet 53 van 1979, soos gewysig deur artikel 4 van Wet 87 van 1989 en artikel 3 van Wet 102 van 1991

6. Artikel 6 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

- 5 “(3) ’n Kandidaat-prokureur wat gemeenskapsdiens verrig, moet gedurende die hele tydperk in die betrokke dienskontrak bepaal, dien—
- (a) in die kantoor van die regskliniek onder die direkte persoonlike toesig van sy prinsipaal, of van ’n prokureur of advokaat, wat ook voltyds in diens is by die betrokke regskliniek; of
- 10 (b) in ’n kantoor van die Regshulpraad onder die direkte persoonlike toesig van sy prinsipaal of van ’n prokureur of advokaat, wat ook voltyds in diens is by die betrokke kantoor van die Regshulpraad.”.

Wysiging van artikel 7 van Wet 53 van 1979, soos vervang deur artikel 5 van Wet 87 van 1989

15 7. Artikel 7 van die Hoofwet word hierby gewysig—

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

20 “(1) Behoudens die bepalings van subartikel (2) mag ’n kandidaat-prokureur met die toestemming van sy prinsipaal vir ’n tydperk wat, of tydperke wat in totaal, nie dertig werksdae in enige jaar van die leerkontrak of dienskontrak te bowe gaan nie, van diens afwesig wees.”;

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

25 “(ii) waar die tydperk van afwesigheid van diens of tydperke van afwesigheid van diens in totaal dertig werksdae in enige jaar van die leerkontrak of dienskontrak te bowe gaan,”; en

(c) deur subartikels (3), (4) en (5) deur onderskeidelik die volgende subartikels te vervang:

30 “(3) Indien ’n tydperk van afwesigheid van diens of die tydperke van afwesigheid van diens in totaal dertig werksdae in enige jaar van die leerkontrak of dienskontrak te bowe gaan, word die tydperk wat dertig werksdae te bowe gaan by die tydperk gevoeg waartydens die kandidaat-prokureur kragtens leerkontrak of dienskontrak moet dien.

35 (4) Ondanks die bepalings van artikel 6 word die helfte van ’n tydperk van afwesigheid van die kantoor van sy prinsipaal van ’n kandidaat-prokureur as gevolg van opleiding deur hom in die Suid-Afrikaanse Weermag ondergaan ingevolge artikel 3 van die Verdedigingswet, 1957 (Wet No. 44 van 1957), maar hoogstens drie maande, geag kragtens daardie leerkontrak of dienskontrak gedien te gewees het.

40 (5) Ondanks die bepalings van artikel 6 word ’n tydperk van afwesigheid van hoogstens 6 maande van die kantoor van sy prinsipaal van ’n kandidaat-prokureur vir die bywoning van ’n opleidingskursus wat deur die betrokke orde goedgekeur is, geag, indien daardie kandidaat-prokureur daardie kursus ten genoeë van daardie orde voltooi het, kragtens leerkontrak of dienskontrak gedien te gewees het: Met dien verstande dat in die geval van ’n

45 kandidaat-prokureur bedoel in artikels 2(1A) en 2A die tydperk van bywoning van ’n opleidingskursus nie geag word ’n tydperk te wees wat daardie kandidaat-prokureur kragtens leerkontrak of dienskon-

50 trak gedien het nie.”.

Wysiging van artikel 8 van Wet 53 van 1979, soos vervang deur artikel 6 van Wet 87 van 1989

55 8. Artikel 8 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (ii) van subartikel (1) deur die volgende paragraaf te vervang:

“(ii) minstens een jaar lank kragtens sy leerkontrak of dienskontrak gedien het; of”; en

- (b) by the substitution for paragraph (a) of subsection (4) of the following paragraph:

“(a) Any candidate attorney who is entitled to appear as contemplated in subsection (1), shall at the expiry of his articles or contract of service, and provided he remains in the employ of the attorney who was his principal immediately before such expiry, or provided he remains in the service of the law clinic or the Legal Aid Board concerned, as the case may be, remain so entitled until he is admitted as an attorney, but not for longer than six months.”.

Substitution of section 9 of Act 53 of 1979, as substituted by section 7 of Act 87 of 1989

9. The following section is hereby substituted for section 9 of the principal Act:

“Restriction of pecuniary interests of candidate attorneys

9. (1) A candidate attorney shall not have any pecuniary interest in the practice and service of an attorney, or in the organization or institution where he performs community service, and shall not, without the prior written consent of the council of the society of the province in which he performs service under the articles or contract of service, hold or occupy any office or engage in any other business other than that of candidate attorney.

(2) If any candidate attorney contravenes the provisions of subsection (1), the articles or contract of service shall be void *ab initio* and service rendered thereunder shall be ineffectual unless the court on good cause shown otherwise directs.”.

Substitution of section 11 of Act 53 of 1979, as amended by section 5 of Act 108 of 1984 and section 9 of Act 87 of 1989

10. The following section is hereby substituted for section 11 of the principal Act:

“Termination of articles or contract of service

11. (1) If articles of clerkship are or a contract of service is for any reason cancelled, abandoned or ceded, the ~~attorney to~~ principal with whom the candidate attorney concerned is ~~articled~~ serving at that time shall forthwith in writing notify the secretary of the society of such cancellation, abandonment or cession.

(2) If articles of clerkship have or a contract of service has been cancelled or abandoned before completion thereof, the court may in its discretion on the application of the person who served under such articles or contract of service and subject to such conditions as the court may impose, order that for the purposes of this Act, the whole or such part of the period served under such articles or contract of service as the court deems fit, be added to any period served by that person under articles or a contract of service entered into after the first-mentioned articles were or contract of service was cancelled or abandoned, and any period so added shall for the purposes of this Act be deemed to have been served under the last-mentioned articles or contract of service and continuously with any period served thereunder.

(3) If a person who has served any period under articles of clerkship which were cancelled or abandoned before completion thereof, has satisfied all the requirements for a degree referred to in paragraph (a) or (c) of section 2(1), or a degree or degrees referred to in paragraph (aA) or (cA) of that section in respect of which a certification in accordance with those respective paragraphs has been done, or is entitled to be admitted as an advocate, the court may, on the application of such person and subject to such conditions as the court may impose, order—

- (b) deur paragraaf (a) van subartikel (4) deur die volgende paragraaf te vervang:

5 “(a) ’n Kandidaat-prokureur wat geregtig is om te verskyn soos in subartikel (1) beoog, bly by die verstryking van sy leerkontrak of dienskontrak, en mits hy aanbly in die diens van die prokureur wat sy prinsipaal onmiddellik voor daardie verstryking was, of
10 aanbly in die diens van die betrokke regslyniek of die Regshulp-raad, na gelang van die geval, aldus geregtig totdat hy as prokureur toegelaat word, maar nie vir langer as ses maande nie.”.

Vervanging van artikel 9 van Wet 53 van 1979, soos vervang deur artikel 7 van Wet 87 van 1989

9. Artikel 9 van die Hoofwet word hierby deur die volgende artikel vervang:

“Beperking van geldelike belange van kandidaat-prokureurs

15 9. (1) ’n Kandidaat-prokureur mag nie ’n geldelike belang in die praktyk en diens van ’n prokureur, of in die inrigting of instelling waar hy gemeenskapsdiens verrig, hê nie en mag nie, sonder die voorafverkreë skriftelike toestemming van die raad van die orde van die provinsie waarin hy kragtens die leerkontrak of dienskontrak
20 dien, enige ander amp beklee of besigheid dryf behalwe dié van kandidaat-prokureur nie.

25 (2) Indien ’n kandidaat-prokureur die bepalings van subartikel (1) oortree, is die leerkontrak of dienskontrak van die aanvang af nietig en is enige diens daaronder verrig ongeldig tensy die hof om gegronde redes anders gelas.”.

Vervanging van artikel 11 van Wet 53 van 1979, soos gewysig deur artikel 5 van Wet 108 van 1984 en artikel 9 van Wet 87 van 1989

10. Artikel 11 van die Hoofwet word hierby deur die volgende artikel vervang:

“Beëindiging van leerkontrak of dienskontrak

30 11. (1) Indien ’n leerkontrak of dienskontrak om enige rede ingetrek, laat vaar of oorgedra word, stel die [prokureur] prinsipaal by wie die betrokke kandidaat-prokureur op daardie tydstep in diens is, onverwyld die sekretaris van die orde skriftelik van die intrekking, laatvaarding of oordrag in kennis.

35 (2) Indien ’n leerkontrak of dienskontrak voor voltooiing daarvan ingetrek of laat vaar is, kan die hof na goeiddunke, op aansoek van die persoon wat onder daardie leerkontrak of dienskontrak gedien het en op die voorwaardes wat die hof oplê, beveel dat vir die doeleindes van hierdie Wet die geheel of die gedeelte van die
40 tydperk wat kragtens daardie leerkontrak of dienskontrak gedien is wat die hof goeievind, gevoeg word by enige tydperk wat daardie persoon gedien het kragtens ’n leerkontrak of dienskontrak wat aangegaan is nadat eersgenoemde leerkontrak of dienskontrak ingetrek of laat vaar is, en ’n tydperk wat aldus bygevoeg word, word by
45 die toepassing van hierdie Wet geag gedien te wees kragtens laasgenoemde leerkontrak of dienskontrak en aaneenlopend met enige tydperk daarkragtens gedien.

50 (3) Indien iemand wat ’n tydperk gedien het kragtens ’n leerkontrak wat ingetrek of laat vaar is voordat dit voltooi is, aan al die vereistes van ’n in paragraaf (a) of (c) van artikel 2(1) bedoelde graad, of van ’n in paragraaf (aA) of (cA) van daardie artikel bedoelde graad of grade ten opsigte waarvan ’n sertifisering ooreenkomstig daardie onderskeie paragrawe gedoen is, voldoen het, of
55 geregtig is om as ’n advokaat toegelaat te word, kan die hof, op aansoek van so iemand en onderworpe aan die voorwaardes wat die hof oplê, beveel—

- (a) that, for the purposes of this Act, the whole of the period so served or such part thereof as the court deems fit be added to any period served by such person after he satisfied such requirements or became so entitled under articles of clerkship entered into after the first-mentioned articles were cancelled or abandoned, and thereafter any period so added shall be deemed to have been served— 5
- (i) after he satisfied such requirements or became so entitled; and
- (ii) under the articles entered into after the first-mentioned articles were cancelled or abandoned and continuously with any period served thereunder; 10
- (b) if the period served by such person under the first-mentioned articles of clerkship is equal to or exceeds the period which he would, at the time of the making of the application, be required to serve under articles of clerkship in terms of this Act, that the period so served be considered as adequate service under articles for the purposes of this Act, and thereafter any period so served by such person shall be deemed to have been served after and under articles entered into after he satisfied such requirements or became so entitled.”. 15 20

Substitution of section 12 of Act 53 of 1979, as substituted by section 1 of Act 13 of 1990

11. The following section is hereby substituted for section 12 of the principal Act: 25

“Registration of articles or contract of service entered into by advocate

12. Any person admitted to practice as an advocate shall not be allowed to register articles or a contract of service in terms of the provisions of this Act, unless his name has on his own application been removed from the roll of advocates.”. 30

Amendment of section 13 of Act 53 of 1979, as amended by section 2 of Act 76 of 1980, section 1 of Act 60 of 1982, section 2 of Act 56 of 1983, section 6 of Act 108 of 1984 and section 10 of Act 87 of 1989

12. Section 13 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: 35

“(2) If any person has not served regularly as a candidate attorney, the court, if satisfied that such irregular service was occasioned by sufficient cause, that such service is substantially equivalent to regular service, and that the society concerned has had due notice of the application, may permit such person, on such conditions as it may deem fit, to apply for admission as an attorney as if he had served regularly under articles or a contract of service.”. 40

Amendment of section 14 of Act 53 of 1979, as amended by section 1 of Act 80 of 1985

13. Section 14 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection: 45

“(3) An examination referred to in subsection (1) shall not be conducted in respect of any person unless he satisfies the examiners concerned that he—

(a) has complied with the provisions of this Act in regard to service under articles or a contract of service; or **[that he]**

(b) is serving under articles or contract of service and has so served for a continuous period of not less than six months; or **[that he]** 50

(c) is, under the provisions of this Act, exempt from service under articles; or

- (a) dat, by die toepassing van hierdie Wet, die hele tydperk aldus gedien of dié deel daarvan wat die hof goedvind, gevoeg word by enige tydperk deur so iemand gedien nadat hy aan daardie vereistes voldoen het of aldus geregtig geword het kragtens 'n leerkontrak wat aangegaan is nadat eersgenoemde leerkontrak ingetrek of laat vaar is, en daarna word enige tydperk aldus bygevoeg, geag gedien te wees—
- (i) nadat hy aan daardie vereistes voldoen of aldus geregtig geword het; en
- (ii) onder die leerkontrak wat aangegaan is nadat eersgenoemde leerkontrak ingetrek of laat vaar is en aaneenlopend met enige tydperk daaronder gedien;
- (b) indien die tydperk wat deur so iemand kragtens eersbedoelde leerkontrak gedien is, gelyk is aan die tydperk of die tydperk oorskry wat hy, wanneer die aansoek gedoen word, ingevolge hierdie Wet kragtens leerkontrak sou moes dien, dat die tydperk aldus gedien by die toepassing van hierdie Wet as voldoende diens kragtens leerkontrak beskou word, en daarna word enige tydperk aldus deur so iemand gedien, geag gedien te gewees het nadat, en kragtens 'n leerkontrak aangegaan nadat, hy aan daardie vereistes voldoen het of aldus geregtig geword het.”.

Vervanging van artikel 12 van Wet 53 van 1979, soos vervang deur artikel 1 van Wet 13 van 1990

11. Artikel 12 van die Hoofwet word hierby deur die volgende artikel vervang:

“Registrasie van leerkontrak of dienskontrak deur advokaat gesluit

12. Iemand wat toegelaat is om as 'n advokaat te praktiseer, word nie toegelaat om ingevolge die bepalings van hierdie Wet 'n leerkontrak of dienskontrak te laat registreer nie tensy sy naam op sy eie aansoek van die rol van advokate verwyder is.”.

Wysiging van artikel 13 van Wet 53 van 1979, soos gewysig deur artikel 2 van Wet 76 van 1980, artikel 1 van Wet 60 van 1982, artikel 2 van Wet 56 van 1983, artikel 6 van Wet 108 van 1984 en artikel 10 van Wet 87 van 1989

12. Artikel 13 van die Hoofwet word hierby gewysig deur subartikel (2) deur die volgende subartikel te vervang:

- “(2) Indien iemand nie gereeld diens as kandidaat-prokureur verrig het nie, kan die hof, indien hy oortuig is dat daar gegronde rede vir die ongereelde diens was, dat daardie diens in hoofsaak gelykstaande met gereelde diens is, en dat die betrokke orde behoorlik in kennis gestel is van die aansoek, so iemand toelaat om, op die voorwaardes wat die hof goedvind, aansoek om toelating as prokureur te doen asof hy gereeld diens kragtens leerkontrak of dienskontrak verrig het.”.

Wysiging van artikel 14 van Wet 53 van 1979, soos gewysig deur artikel 1 van Wet 80 van 1985

13. Artikel 14 van die Hoofwet word hierby gewysig deur subartikel (3) deur die volgende subartikel te vervang:

- “(3) 'n In subartikel (1) bedoelde eksamen word nie ten opsigte van iemand afgeneem nie tensy hy die betrokke eksaminatore oortuig dat hy—
- (a) aan die bepalings van hierdie Wet met betrekking tot diens kragtens 'n leerkontrak of dienskontrak voldoen het; of **[dat hy]**
- (b) kragtens leerkontrak of dienskontrak dien en aldus vir 'n ononderbroke tydperk van minstens ses maande gedien het; of **[dat hy]**
- (c) kragtens die bepalings van hierdie Wet van diens kragtens leerkontrak vrygestel is; of

(d) has attended a training course approved by the society concerned for an uninterrupted period of at least four months and has completed such course to the satisfaction of that society.”.

Amendment of section 15 of Act 53 of 1979, as substituted by section 7 of Act 108 of 1984

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14. Section 15 of the principal Act is hereby amended—

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

“(vi) completed his service under articles or contract of service, or has complied with the provisions of section 2(1A), within the 10
period of three years preceding his application to the court or within the further period allowed by the court in terms of subsection (2).”;

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

“(2) The court may in its discretion, on the application of any person 15
and on good cause shown, allow a further period in addition to the period of three years referred to in subsection (1)(b)(vi), within which the applicant may apply for admission as an attorney, subject to such conditions, if any, as it may deem fit, including a condition relating to further service under articles or contract of service.” 20

Amendment of section 56 of Act 53 of 1979

15. Section 56 of the principal Act is hereby amended by the deletion of paragraph (e).

Amendment of section 71 of Act 53 of 1979, as amended by section 24 of Act 87 of 1989

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16. Section 71 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A council may in the prescribed manner inquire into cases of alleged unprofessional or dishonourable or unworthy conduct on the part of any attorney, notary or conveyancer whose name has been placed on the roll of 30
any court within the province of its society, whether or not he is a member of such society, or of any person serving articles of clerkship or a contract of service with a member of its society, or of any former candidate attorney referred to in section 8(4).”.

Amendment of section 72 of Act 53 of 1979, as amended by section 5 of Act 80 of 1989 and section 25 of Act 87 of 1989

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17. Section 72 of the principal Act is hereby amended by the substitution for subparagraph (i) of paragraph (b) of subsection (1) of the following subparagraph:

“(i) cancel or suspend his articles of clerkship or contract of service;”.

Amendment of section 74 of Act 53 of 1979, as amended by section 26 of Act 87 of 1989

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18. Section 74 of the principal Act is hereby amended—

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

“(b) service under articles of clerkship or a contract of service and the circumstances under and the conditions on which articles of clerkship or a contract of service may be cancelled by the council;” 45

(b) by the deletion of subparagraph (iv) of paragraph (a) of subsection (3); and

(c) by the substitution for subsection (6) of the following subsection: 50

“(6) In this section ‘High Court’ means any high court constituted in terms of [section 171 of the Development of Self-government for Native Nations in South West Africa Act, 1968 (Act No. 54 of 1968), or] section 34(1) of the [Black Homelands] Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971).” 55

- (d) 'n opleidingskursus wat deur die betrokke orde goedgekeur is, byge-
 woon het vir 'n ononderbroke tydperk van minstens vier maande en
 sodanige kursus ten genoeë van daardie orde voltooi het.”.

**Wysiging van artikel 15 van Wet 53 van 1979, soos vervang deur artikel 7 van Wet
 5 108 van 1984**

14. Artikel 15 van die Hoofwet word hierby gewysig—

- (a) deur subparagraaf (vi) van paragraaf (b) van subartikel (1) deur die
 volgende subparagraaf te vervang:
 10 “(vi) sy diens onder leerkontrak of dienskontrak voltooi het, of
voldoen het aan die bepalings van artikel 2(1A), binne die
 tydperk van drie jaar wat sy aansoek by die hof voorafgaan of
 binne die verdere tydperk deur die hof ingevolge subartikel
 (2) toegelaat.”; en
 15 (b) deur subartikel (2) deur die volgende subartikel te vervang;
 “(2) Die hof kan na goedvinde, op aansoek van iemand en by
 bewys van gegronde rede, 'n verdere tydperk benewens die
 tydperk van drie jaar in subartikel (1)(b)(vi) vermeld, toelaat
 20 waarbinne so iemand om toelating as prokureur aansoek kan
 doen, onderworpe aan die voorwaardes, as daar is, wat die hof
 goedvind, met inbegrip van 'n voorwaarde met betrekking tot
 verdere diens onder leerkontrak of dienskontrak.”.

Wysiging van artikel 56 van Wet 53 van 1979

15. Artikel 56 van die Hoofwet word hierby gewysig deur paragraaf (e) te
 skrap.

**25 Wysiging van artikel 71 van Wet 53 van 1979, soos gewysig deur artikel 24 van
 Wet 87 van 1989**

16. Artikel 71 van die Hoofwet word hierby gewysig deur subartikel (1) deur
 die volgende subartikel te vervang:
 30 “(1) 'n Raad kan op die voorgeskrewe wyse ondersoek instel na
 beweerde gevalle van onprofessionele of oneerbare of onbetaamlike gedrag
 van die kant van enige prokureur, notaris of transportbesorger wie se naam
 geplaas is op die rol van enige hof in die provinsie van sy orde, of hy 'n lid
 van so 'n orde is al dan nie, of van enigiemand wat 'n lid van sy orde
 35 kragtens 'n leerkontrak of dienskontrak dien, of van enige voormalige
 kandidaat-prokureur in artikel 8(4) vermeld.”.

**Wysiging van artikel 72 van Wet 53 van 1979, soos gewysig deur artikel 5 van Wet
 80 van 1989 en artikel 25 van Wet 87 van 1989**

17. Artikel 72 van die Hoofwet word hierby gewysig deur subparagraaf (i) van
 paragraaf (b) van subartikel (1) deur die volgende subparagraaf te vervang:
 40 “(i) sy leerkontrak of dienskontrak opskort of intrek;”.

**Wysiging van artikel 74 van Wet 53 van 1979, soos gewysig deur artikel 26 van
 Wet 87 van 1989**

18. Artikel 74 van die Hoofwet word hierby gewysig—
 45 (a) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te
 vervang:
 “(b) diens onder 'n leerkontrak of dienskontrak en die omstan-
 dighede waaronder en die voorwaardes waarop 'n leerkon-
 trak of dienskontrak deur die raad ingetrek kan word;”;
 50 (b) deur subparagraaf (iv) van paragraaf (a) van subartikel (3) te skrap; en
 (c) deur subartikel (6) deur die volgende subartikel te vervang:
 “(6) In hierdie artikel beteken 'hoërhof' enige hoërhof ingestel
 ingevolge [artikel 171 van die Wet op die Ontwikkeling van
 Self-bestuur vir Naturellevolke in Suidwes-Afrika, 1968 (Wet No.
 54 van 1968), of] artikel 34(1) van die Grondwet van die [Swart
 55 Tuislande] Selfregerende Gebiede, 1971 (Wet No. 21 van 1971).”.

Amendment of section 80 of Act 53 of 1979, as amended by section 10 of Act 108 of 1984

19. Section 80 of the principal Act is hereby amended by the substitution for paragraphs (a) and (b) of the following paragraphs, respectively:

- “(a) examination of articles of clerkship or a contract of service in terms of section 5; 5
 (b) registration of articles of clerkship or a contract of service.”.

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, section 4 of Act 56 of 1983, section 7 of Act 80 of 1985 and section 29 of Act 87 of 1989 10

20. Section 81 of the principal Act is hereby amended by the insertion after paragraph (a) of subsection (1) of the following paragraph:

- “(b) the service which is recognized as appropriate legal experience for the purposes of section 2A(c) and the period which may expire between the date on which such service has been completed and the date on which exemption from articles of clerkship may be granted;” 15

Substitution of section 11 of Act 87 of 1989

21. The following section is hereby substituted for section 11 of the Attorneys Amendment Act, 1989:

“Amendment of section 15 of Act 53 of 1979, as substituted by section 7 of Act 108 of 1984 20

11. Section 15 of the principal Act is hereby amended by the insertion after subparagraph (iv) of paragraph (b) of subsection (1) of the following subparagraph:

- (ivA) (aa) during his term of service under articles or contract of service, or after the expiry of his articles or contract of service; or 25
 (bb) after he has been exempted in terms of this Act from service under articles of clerkship, 30

has attended a training course approved by the society of the province in which he completed his service under articles or contract of service, or, in the case of section 2A(c), has attended a training course approved by the society of the province in which the candidate attorney intends to practise, and has completed such training course to the satisfaction of that society: Provided that this subparagraph shall not apply to a person who attended a training course referred to in section 2(1A)(a) or 2A(a)(i) and who has completed such course to the satisfaction of the society concerned.” 35

Substitution of section 21 of Act 32 of 1944, as substituted by section 35 of Act 87 of 1989 40

22. The following section is hereby substituted for section 21 of the Magistrates' Courts Act, 1944:

“Candidate attorneys

21. A candidate attorney as defined in section 1 of the Attorneys Act, 1979 (Act No. 53 of 1979), may, subject to section 8 of that Act, appear instead and on behalf of the attorney to whom he has been articulated, or under whom he serves community service in terms of a contract of service, in any proceedings in any court.” 45

Wysiging van artikel 80 van Wet 53 van 1979, soos gewysig deur artikel 10 van Wet 108 van 1984

19. Artikel 80 van die Hoofwet word hierby gewysig deur paragrawe (a) en (b) deur onderskeidelik die volgende paragrawe te vervang:

- 5 “(a) ondersoek van ’n leerkontrak of dienskontrak ingevolge artikel 5;
 (b) registrasie van ’n leerkontrak of dienskontrak.”.

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, artikel 4 van Wet 56 van 1983, artikel 7 van Wet 80 van 1985 en artikel 29 van Wet 87 van 1989

- 10 20. Artikel 81 van die Hoofwet word hierby gewysig deur na paragraaf (a) van subartikel (1) die volgende paragraaf in te voeg:

15 “(b) die diens wat vir doeleindes van artikel 2A(c) as toepaslike regsonder-
 vinding erken word, en die tydperk wat kan verloop tussen die datum
 waarop sodanige diens voltooi is en die datum waarop vrystelling van
 leerkontrak verleen word;”.

Vervanging van artikel 11 van Wet 87 van 1989

21. Artikel 11 van die Wysigingswet op Prokureurs, 1989, word hierby deur die volgende artikel vervang:

- 20 “Wysiging van artikel 15 van Wet 53 van 1979, soos vervang deur artikel 7 van Wet 108 van 1984

11. Artikel 15 van die Hoofwet word hierby gewysig deur na subparagraaf (iv) van paragraaf (b) van subartikel (1) die volgende subparagraaf in te voeg:

- 25 “(ivA) (aa) gedurende sy tydperk van diens kragtens leerkontrak of dienskontrak, of na die verstryking van sy leerkontrak of dienskontrak; of

 (bb) nadat hy ingevolge hierdie Wet van diens kragtens leerkontrak vrygestel is,

- 30 ’n opleidingskursus goedgekeur deur die orde van die provinsie waarin hy sy diens onder leerkontrak of dienskontrak voltooi, of, in die geval van artikel 2A(c), ’n opleidingskursus goedgekeur deur die orde van die provinsie waarin die kandidaat-prokureur wil praktiseer, bygewoon en ten genoeë van daardie orde voltooi het: Met dien verstande dat hierdie subparagraaf nie van toepassing is nie op
 35 ’n persoon wat ’n opleidingskursus bedoel in artikels 2(1A)(a) of 2A(a)(i) bygewoon het en sodanige kursus ten genoeë van die betrokke orde voltooi het;”.

Vervanging van artikel 21 van Wet 32 van 1944, soos vervang deur artikel 35 van Wet 87 van 1989

- 40 22. Artikel 21 van die Wet op Landdroshowe, 1944, word hierby deur die volgende artikel vervang:

“Kandidaat-prokureurs

- 45 21. ’n Kandidaat-prokureur soos in artikel 1 van die Wet op Prokureurs, 1979 (Wet No. 53 van 1979), omskryf, kan, behoudens artikel 8 van daardie Wet, in plaas van en namens die prokureur by wie hy onder leerkontrak in diens is, of onder wie hy ingevolge ’n dienskontrak gemeenskapsdiens verrig, in enige prosies in ’n hof verskyn.”.

Saving

23. The provisions of this Act shall, in so far as they can be applied, also be applicable to a candidate attorney who, at the commencement of this Act, is serving under articles of clerkship.

Short title and commencement

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24. (1) This Act shall be called the Attorneys Amendment Act, 1993, 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.

Voorbehoud

23. Die bepalings van hierdie Wet is, vir sover dit toegepas kan word, ook van toepassing op 'n kandidaat-prokureur wat by die inwerkingtreding van hierdie Wet besig is om diens kragtens leerkontrak te verrig.

5 Kort titel en inwerkingtreding

24. (1) Hierdie Wet heet die Wysigingswet op Prokureurs, 1993, 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 10 hierdie Wet bepaal word.

