



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

As 'n Nuusblad by die Poskantoor Geregistreer

Registered at the Post Office as a Newspaper

PRYS 40c PRICE
Plus AVB/GST
BUITELANDS 50c ABROAD
POSVRY · POST FREE

Vol. 230

KAAPSTAD, 15 AUGUSTUS 1984

No. 9358

CAPE TOWN, 15 AUGUST 1984

KANTOOR VAN DIE EERSTE MINISTER

OFFICE OF THE PRIME MINISTER

No. 1686.

15 Augustus 1984

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15 August 1984

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

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

—No. 108 van 1984: Wysigingswet op Prokureurs, 1984.

No. 108 of 1984: Attorneys Amendment Act, 1984.

ATTORNEYS AMENDMENT ACT, 1984

Act No. 108, 1984

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 provide for the recognition of degrees and examinations of universities in certain other countries for purposes connected with the duration of service under articles of clerkship, the submission of information to law societies before articles are entered into, the appearance of articed clerks before courts and other institutions, the termination of articles and the admission of attorneys; to increase by one the number of persons at the Johannesburg branch of the State Attorney by whom articed clerks may be engaged; to make other provision in respect of fees payable to a law society for the issue of a certificate that an articed clerk is entitled to appear before certain courts and institutions; to further regulate the admission of attorneys, and to make express provision for the readmission of attorneys, notaries and conveyancers; to further regulate the removal of attorneys from the roll of attorneys; and to delete the requirement that the Minister of Justice in prescribing fees shall consult with the judges-president, and to extend the said Minister's power to prescribe fees; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 12 July 1984.)

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

1. Section 2 of the Attorneys Act, 1979 (hereinafter referred to as the principal Act), is hereby amended—
- 5 (a) by the insertion in subsection (1) after paragraph (a) of the following paragraph:
“(aA) two years after he has satisfied all the requirements for a degree or degrees of a university in a country which may be designated by the Minister, after consultation with the presidents of the various societies, by notice in the *Gazette*, and in respect of which a university in the Republic with a faculty of law has certified that the syllabus of instruction and the standard of training thereof, together with a supplementary examination (if any) required by the latter university, the requirements of which have been satisfied by that person, are equivalent or superior to those required for the degree referred to in paragraph (a);”;
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- 20 (b) by the substitution for paragraph (c) of subsection (1) of the following paragraph:
“(c) three years after he has satisfied all the requirements for any degree, other than an honorary degree, of any university in the Republic or has pass-
- Amendment of section 2 of Act 53 of 1979.

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- ed an examination conducted by such a university and certified by [such] the Board referred to in paragraph (a) to be equivalent or superior to the examination for such a degree, but has not satisfied the requirements of paragraph (a), (aA) or (b);"; and
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- (c) by the insertion in subsection (1) after paragraph (c) of the following paragraph:
- 10 "(cA) three years after he has satisfied all the requirements for any degree other than an honorary degree, or for other such degrees, of a university in a country designated under paragraph (aA), and in respect of which degree or degrees a university in the Republic has certified that the syllabus of instruction and the standard of training thereof are equivalent or superior to those required for a corresponding degree of such university in the Republic, or after he has passed an examination or examinations conducted by a university in a country so designated and certified by the Board referred to in paragraph (a) to be equivalent or superior to the examination for a degree referred to in paragraph (c), but has not satisfied the requirements of paragraph (a), (aA), (b) or (c);".
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- 25 **2.** Section 3 of the principal Act is hereby amended by the substitution for paragraph (h) of subsection (1) of the following paragraph: Amendment of section 3 of Act 53 of 1979.
- 30 "(h) in the case of the Johannesburg branch of the said office, as one of the [three] four most senior professional assistants to the professional assistant in charge of that branch; and —".
- 35 **3.** Section 4 of the principal Act is hereby amended by the substitution for subparagraph (ii) of paragraph (b) of the following subparagraph: Amendment of section 4 of Act 53 of 1979.
- 40 "(ii) satisfied all the requirements for a degree, other than an honorary degree, at any university in the Republic, or for a degree or degrees referred to in paragraph (aA) or (cA) of section 2 (1), in respect of which a certification in accordance with those respective paragraphs has been done."
- 45 **4.** Section 8 of the principal Act is hereby amended— Amendment of section 8 of Act 53 of 1979, as amended by section 1 of Act 56 of 1983.
- (a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:
- 50 "(b) has satisfied all the requirements for [a] the degree referred to in paragraph (a) of section 2 (1) [(a)], or for a degree or degrees referred to in paragraph (aA) of that section in respect of which a certification in accordance with that paragraph has been done, and has served at least one year under his articles;"; and
- (b) by the substitution for subsection (3) of the following subsection:
- 55 "(3) The secretary of the society concerned shall, upon the written application of the principal of any clerk referred to in subsection (1) and upon the payment of the [amount of R10,00] fees prescribed under section 80 (bA), issue to such clerk a certificate that he complies with the provisions of [that] subsection (1).".
- 60 **5.** Section 11 of the principal Act is hereby amended by the substitution in subsection (3) for the words preceding paragraph (a) of the following words: Amendment of section 11 of Act 53 of 1979.
- "If a person who has served any period under articles of

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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) [(a) or (c)], 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—”.

- 10 6. Section 13 of the principal Act is hereby amended—
 (a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

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 and section 2 of Act 56 of 1983.

- 15 “(b) shall, if a university in South Africa which has a law faculty has certified that an examination which he has passed in any country or territory is, in so far as it relates to the syllabus of instruction and the standard of training, together with a supplementary examination (if any) required by that university, the requirements of which have been satisfied by that person, equivalent [to] or superior to the examination which is required for the degree mentioned in section 2 (1) (a) and which has been recognized by the Board for the Recognition of Examinations in Law established by section 16 of the Universities Act, 1955 (Act No. 61 of 1955), be exempted from satisfying the requirements for the degree mentioned in the said section 2 (1) (a);”;

- 20 and
 (b) by the substitution for subsection (3) of the following subsection:

- 25 “(3) The court may, on the application of an articled clerk who has satisfied all the requirements for a degree referred to in paragraph (a) or (c) of section 2 (1) [(a) or (c)], or for 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, and subject to such conditions as the court may impose, order that the whole or any part of the period served by that clerk under articles before he satisfied such requirements or became so entitled, shall, for the purpose of his admission and enrolment as an attorney, be regarded as having been served after and under articles entered into after he satisfied such requirements or became so entitled.”.

7. The following section is hereby substituted for section 15 of the principal Act:

Substitution of section 15 of Act 53 of 1979.

- 50 “Admission and readmission of attorneys. 15. (1) Unless cause to the contrary to its satisfaction is shown, the court shall on application in accordance with this Act, admit and enrol any person as an attorney if—
 (a) such person, in the discretion of the court, is a fit and proper person to be so admitted and enrolled; and
 55 (b) the court is satisfied that such person has satisfied the following requirements or, where applicable, has been exempted therefrom in terms of the provisions of this Act, namely that such person—
 60 [(a) is a fit and proper person to be so admitted and enrolled;
 (b)] (i) is 21 years of age or older;
 [(c)] (ii) (a) is a South African citizen or has been lawfully admitted to the Re-

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public for permanent residence therein and is ordinarily resident in the Republic; or

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(bb) is a citizen of a state the territory of which formerly formed part of the Republic, and belongs to such category of persons, and complies with such conditions, as may be determined by the Minister, after consultation with the presidents of the various societies, by notice in *the Gazette*;

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[(d)] (iii) (aa) has satisfied all the requirements for a degree referred to in section 2 (1) (a) after pursuing for that degree a course of study referred to in that section; or

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(bb) has satisfied all the requirements for a degree or degrees referred to in paragraph (aA) of section 2 (1) in respect of which a certification in accordance with that paragraph has been done; or

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(cc) has previously been admitted as an advocate or is entitled to be so admitted;

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[(e)] (iv) has passed the practical examinations referred to in section 14 (1) (a), (b) and (c);

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[(f)] (v) has passed examinations in the Afrikaans and English language which the joint matriculation board referred to in section 15 of the Universities Act, 1955 (Act No. 61 of 1955), certified to be of equivalent or superior standard to one or other of the examinations in the said languages conducted at the matriculation examination referred to in section 2 (1) (d), or is by regulation made under section 81 (1) (i) exempted from passing in any of or both such examinations; and

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[(g)] (vi) completed his service under articles within the period of 3 years preceding his application to the court or within the further period allowed by the court in terms of subsection (2).

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(2) The court may in its discretion, on the application of any person and on good cause shown, allow a further period in addition to the period of 3 years referred to in subsection (1) [(g)] (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.

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(3) A court may, on application made in accordance with this Act, readmit and re-enrol any person who was previously admitted and enrolled as an attorney and has been removed from or struck off the roll, as an attorney, if—

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(a) such person, in the discretion of the court, is a fit and proper person to be so readmitted and re-enrolled; and
(b) the court is satisfied that he has complied with the provisions of subsection (1) (b) (ii)."

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

Substitution of section 18 of Act 53 of 1979.

- “Admission and readmission of notaries and conveyancers.”
- 5 18. (1) The court may on application made in the prescribed manner admit and enrol any person as a notary or conveyancer if the court is satisfied that—
- 10 (a) he is an attorney admitted by such court to practise as an attorney;
- (b) no order of court striking his name off the roll of attorneys or suspending him from practice as an attorney is in operation in respect of him;
- 15 (c) no proceedings are pending to strike his name off the roll of attorneys or to suspend him from practice; and
- (d) he has passed the practical examination prescribed by section 14 (1) (d) or (e), as the case may be, or is exempted therefrom under the provisions of this Act.
- (2) The court may on application made in the prescribed manner readmit and re-enrol as a notary or conveyancer, as the case may be, any person who was previously admitted and enrolled as a notary or conveyancer and has been removed from or struck off the roll, if—
- 20 (a) he, in the discretion of the court, is a fit and proper person to be so readmitted and re-enrolled; and
- 25 (b) the court is satisfied that such person has complied with the provisions of paragraphs (a), (b) and (c) of subsection (1).”

- 30 9. Section 22 of the principal Act is hereby amended—
- (a) by the substitution for subparagraph (ii) of paragraph (a) of subsection (1) of the following subparagraph:
- 35 “(ii) in the case of a person who is not a South African citizen, other than a person contemplated in subparagraph (iii), if he has failed to obtain a certificate of naturalization in terms of the South African Citizenship Act, 1949 (Act No. 44 of 1949), within a period of six years from the date on which he was admitted to the Republic for permanent residence therein, or within such further period as the court may for good cause allow;”
- 40 (b) by the addition to paragraph (a) of subsection (1) of the following subparagraph:
- 45 “(iii) in the case of a person referred to in item (bb) of section 15 (1) (b) (ii), if he is no longer a citizen of any state referred to in that item, or has ceased to belong to a category of persons or to comply with conditions determined in terms of that item;” and
- 50 (c) by the substitution for paragraph (d) of subsection (1) of the following paragraph:
- “(d) if [the court is satisfied that] he, in the discretion of the court, is not a fit and proper person to continue to practise as an attorney.”

Amendment of section 22 of Act 53 of 1979, as amended by section 4 of Act 76 of 1980.

- 55 10. Section 80 of the principal Act is hereby amended—
- (a) by the substitution for the words preceding paragraph (a) of the following words:
- 60 “The Minister may, after consultation with [the judges-president of the various courts and] the presidents of the various societies, by notice in the

Amendment of section 80 of Act 53 of 1979.

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Gazette prescribe a scale of fees which shall be paid in respect of the—"; and

(b) by the insertion after paragraph (b) of the following paragraph:

5 "(bA) issuing of a certificate in terms of section 8 (3);".

11. (1) This Act shall be called the Attorneys Amendment Act, 1984. Short title and commencement.

(2) Sections 4 (b) and 10 shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.