

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1411.

28 June 1985

No. 1411.

28 Junie 1985

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

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

80 of 1985: Attorneys Amendment Act, 1985.

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 25

(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).

(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 35 other securities as may be prescribed.”.

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:

Act No. 80, 1985

ATTORNEYS AMENDMENT ACT, 1985

- “(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]** **R400**; or”.

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

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 particulars 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 inspection it is found that such practitioner has not complied **25** with such provisions, the council may write up the accounting 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” includes any record or document kept by or in the custody 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 commencement.

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.